

City of New Haven

Toni N. Harp – Mayor



PRESS RELEASE

For IMMEDIATE RELEASE
July 16, 2019

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CITY ATTORNEYS FILE MOTIONS HIGHLIGHTING FLAWS IN LEAD CASE; CITY CONTINUES PROCESS TO AMEND LEAD PAINT ORDINANCE

New Haven – City attorneys filed two motions today in connection with the matter known as Smith vs. City of New Haven pending before Judge John L. Cordani of the Superior Court/Housing Session. The City’s motions address flaws in the Legal Assistance Association’s (LAA) pleadings in the matter purporting to seek class action status for New Haven children exposed to sources of toxic lead.

Although Mayor Harp has publicly committed to and begun the process of implementing the relief requested by LAA, which includes inspection of the homes of any child under the age of six with a blood lead level equal to or greater than five micrograms per deciliter of whole blood, the case remains pending; the City took action today to preserve its right to complete the legislative and administrative processes necessary to implement new policy.

“The City is embroiled in this litigation because a policy was originally implemented without seeking or documenting proper authorization and without consideration of available resources. As we clarify the City’s policies and procedures, it is my intention to do so in an orderly, sequential fashion.” Mayor Harp said. “I reached out to the Legal Assistance Association requesting reasonable breathing room for the City to complete its process. That overture resulted in demands from Attorney Marx that significantly exceed the original request for relief and are most appropriately addressed by the Board of Alders and the City’s Health Department.”

The Board of Alders awaits proposed comprehensive changes to the ordinance, which it anticipates considering at its August meeting. The City’s Health Department is developing clear policies and procedures to implement inspections as promised by Mayor Harp. Those policies will be finalized following completion of the Alders’ legislative process.

“I want to see the City’s resources, both human and financial, focused on the children,” said Mayor Harp. “That is why I decided not to appeal Judge Cordani’s decision.”

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The Legal Assistance Association’s motion for Class Certification is overly broad, city attorneys argued. The City’s motion in opposition filed today further details the material flaws and the need for clarity.

“I would like to have the Legal Assistance Association as a partner in addressing this public health issue – we all have an interest in making New Haven a lead-safe city,” Mayor Harp added.

To accomplish Mayor Harp’s lead-safe goal, the City will need to coordinate with health care providers, state and federal public health agencies, and community advocates.

As recommended by the Centers for Disease Control and Prevention, education is the first action for preventing child exposure to lead toxins. The City wishes to help parents and landlords understand how they can prevent childhood lead poisoning. The City’s Health Department will be vigilant but will avoid being alarmist.

All chipping or peeling paint is not lead-based. For example, although lead paint was found on the premises where the named plaintiff in the Legal Assistance Association’s lawsuit lives, all such paint is intact. Proper abatement of such intact lead-based paint can include encapsulating the surface with a liquid encapsulant such as “lead-bloc” and similar products approved by the Connecticut Department of Public Health.

No defective lead-based paint was found in the apartment of the named plaintiff. None of the window frames, typical “chewable” surfaces, was found to contain lead.

In his decision, Judge Cordani stated that the court “studiously avoided substituting its substantive judgments for those of the legislative body” and suggested that the City amend its ordinance. The City has taken this advice seriously and is carefully, thoughtfully and comprehensively reviewing the law to make appropriate changes in accordance with the legislative process.

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