

October 29, 2019

Attorney General Maura Healey
One Ashburton Place
Boston MA 02108

Re: Lead Paint

Dear Attorney General Healey,

The undersigned civil rights, community, housing, and public health organizations ask for your leadership in ending lead paint poisoning in Massachusetts. Specifically, we urge you to file a lawsuit to hold lead paint companies accountable for their deliberately deceptive marketing campaigns in our Commonwealth.

I. The Devastating Harm Caused By Lead Paint Exposure In Massachusetts

As your office is well aware, lead-based paint is on the walls and windows of 70% of the Commonwealth housing stock, causing untold harm to Massachusetts children. Currently, more than 3,000 of those children have blood lead levels above the federal threshold of concern, and at least 500 require urgent medical attention.¹ Victims of this persistent, preventable scourge are disproportionately children of color and immigrants living in low-income neighborhoods. While lead poisoning affects children of every socio-economic level, those living in poverty are far more likely to be acutely poisoned.

It is estimated that 10% of Massachusetts children born in 2019 will be harmed by exposure to lead-based paint.² In addition to the devastating human costs of this exposure, there are significant economic costs to the Commonwealth: an estimated \$276.7 million dollars each year in state and local costs for healthcare and education expenses, social assistance, reduced productivity, and premature mortality.³

II. Cutting-Edge Litigation In California

Last February, we met with members of your legal team to urge your office to take on the lead paint industry. As we noted at that time, there is precedent for such action in California, where ten cities and counties successfully sued lead paint manufacturers under a public nuisance theory. The Santa Clara County Superior Court determined that the three defendant manufacturers (The Sherwin-Williams Company; ConAgra Grocery Products Company; and NL Industries, Inc.) had spent decades marketing their lead-

¹ See MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH CHILDHOOD LEAD POISONING PREVENTION PROGRAM, Screening and Prevalence Statistics (2017 Calendar Year Data), available at https://www.mass.gov/files/documents/2018/09/19/cy17-screening-and-prevalence_0.pdf).

² See ALTARUM, Value of Lead Prevention, Massachusetts, available at <http://valueofleadprevention.org/calculations.php?state=Massachusetts>.

³ *Id.*

based paint to consumers, despite full knowledge that children would be irreversibly harmed. An appellate court substantially upheld the Superior Court ruling,⁴ and two years later, the parties entered into a final settlement agreement under which the Defendants will pay \$305 million to fund the removal of lead paint from the walls and windows in the ten plaintiff jurisdictions.

It is our understanding that other states, such as Michigan, are now considering filing their own public nuisance lawsuits. Unfortunately, in Massachusetts, we are still using low-income minority children as “canaries in the mine,” and suing one landlord at a time. We urge you to change this inefficient and inadequate mode of relief. Specifically, we are asking you to seek broad-based compensation from those who aggressively promoted a product for use inside homes, hospitals, and schools that would poison generation after generation.

We stand ready to assist you in any way that we can. To that end, we request a meeting with you and your legal team to discuss in greater detail why such a lawsuit is imperative in Massachusetts, and how we can partner to ensure success in this effort.

We look forward to hearing from your office on the proposed dates.

Respectfully submitted,

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⁴ *People of the State of California v. ConAgra Grocery Products et al.*, 17 Cal. App 5th 51, 227 Cal Rptr 3d.449 (2017).

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