

*BA*

STATE OF VERMONT

SUPERIOR COURT 2011-08-31  
Washington Unit

CIVIL DIVISION  
Docket No. Wncv  
*5028-11 proposed*

STATE OF VERMONT, *ORDER* )  
Plaintiff, )  
 )  
v. )  
 )  
JANE OSGATHARP, )  
Defendant. )

**STIPULATION OF SETTLEMENT AND CONSENT DECREE**

To resolve the allegations in the Complaint filed in the above captioned matter, Plaintiff State of Vermont and Defendant Jane Osgatharp (hereinafter "Defendant") stipulate and agree to the following:

1. Defendant shall complete all essential maintenance practices ("EMPs") at the five properties listed in Attachment A of the Complaint ("the properties") as follows:
  - a. Any EMP work necessary at the properties will be completed by an individual who is certified by the Vermont Department of Health to perform EMPs.
  - b. Priority for completion of EMPs at the properties shall be given to any properties where children are known to reside, particularly if the children are age 6 or younger.
  - c. Not later than **August 15, 2011**, Defendant shall complete all EMPs required by the lead law at the properties.
  - d. Not later than **August 20, 2011**, Defendant will file with the Vermont Department of Health and with Defendants' insurance carrier, and will give a copy to an adult in each rented unit of any of the properties, a completed EMP compliance statement for each of the properties, and will also provide a copy of the completed EMP

Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609

compliance statement to the Office of the Attorney General at the following address:  
Robert F. McDougall, Assistant Attorney General, Office of the Attorney General,  
109 State Street, Montpelier, Vermont 05609.

2. Defendant shall not rent, or offer for rent, any unit which becomes vacant in a property that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.
3. Defendant shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as the Defendant maintains any ownership or property management service interest in the properties and in any other pre-1978 rental housing in which the Defendant acquires an ownership interest.

#### **PENALTIES**

4. No later than **August 31, 2011**, Defendant shall pay the sum of two thousand dollars (\$2,000) to the State of Vermont. Payment shall be made to the "State of Vermont" and shall be sent to: Robert F. McDougall, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.
5. In addition to the payment described in paragraph 4, not later than **October 31, 2011**, Defendant shall expend at least seven thousand dollars (\$7,000.00), including the actual cost of materials and the actual (or if the work is done by employees of Defendant, the reasonable) cost of labor, on any or all of the following lead hazard reduction improvements at any of the properties or in any other pre-1978 rental housing in which Defendant acquires an interest:
  - a. Replacement of painted windows;
  - b. Replacement of painted doors;

Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609

- c. Covering of painted exterior walls with siding; and
- d. Replacement or covering of interior or exterior (including porch) floors and stairs with permanent carpeting or other permanent floor covering;  
*provided that* the building component in question was installed and first painted before 1978; *and further provided that* Defendant may submit for prior approval other potential lead hazard reduction improvements (e.g. soil coverage) to the Attorney General's Office, which shall have complete discretion to determine whether the improvements count toward the required expenditure.

6. Defendant shall provide written documentation of the expenditures to the Attorney General's Office at the address provided in paragraph 1(f) by **October 31, 2011**.

7. If Defendant anticipates not being able to fully comply with paragraphs 5 and 6 by October 31, 2011, solely due to delays relating to obtaining zoning or permit approval for the work to be performed, Defendant may request an extension of the October 31, 2011 deadline from the Attorney General's Office; such request shall be made no later than **October 20, 2011**.

#### **OTHER RELIEF**

8. Defendant may not sell any of the properties unless all obligations in paragraphs 1, 4, 5 and 6 have been completed or this Consent Decree is amended in writing to transfer to the buyer or other transferee all remaining obligations.

9. Transfer of ownership of any of the properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.

10. This Consent Decree shall not affect marketability of title.

11. Nothing in this Consent Decree in any way affects Defendant's other obligations under state, local, or federal law.

12. If Defendant shall, at any time in the future, fail to comply with the terms and conditions of this Consent Decree, then each future failure of Defendant to comply with the terms and conditions of this Consent Decree shall constitute a separate civil action for which the State of Vermont may pursue additional civil penalties beyond the civil penalty outlined herein.

#### STIPULATION

Defendant Jane Osgatharp acknowledges receipt of and voluntarily agrees to the terms of this Consent Decree and waives any formal service requirements of the Complaint, Consent Decree, and Decree, Order and Final Judgment.

DATED at Montpelier, Vermont this 31 day of July, 2011.

Jane Osgatharp  
Jane Osgatharp

Approved as to form:

DATED at Worcester, Vermont this 21 day of August, 2011.

Jeffrey P. Kilgore, Esq.  
Jeffrey P. Kilgore, Esq.

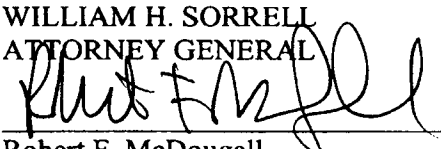
ACCEPTED on behalf of the State of Vermont:

DATED at Montpelier, Vermont this 9<sup>th</sup> day of August, 2011.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:

  
Robert F. McDougall  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, Vermont 05609

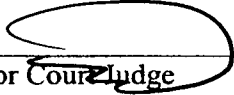
Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609

**DECREE, ORDER AND FINAL JUDGMENT**

This Consent Decree is accepted and entered as a Decree, Order and Final Judgment of this Court in the matter of: *State of Vermont v. Jane Osgatharp*, Docket No. 502-8-11 Wncv.

SO ORDERED.

DATED at Montpelier, Vermont this 15 day of August, 2011.

  
\_\_\_\_\_  
Washington Superior Court Judge

Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609