

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

STATE OF VERMONT, )  
Plaintiff, )  
 )  
 v. ) Washington Superior Court  
 ) Docket No. 670-10-08 Wncv  
STOR A LOT VT, LLC, )  
Defendant. )

**COMPLAINT**

NOW COMES the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and pursuant to the Vermont Lead Law, 18 V.S.A. Chapter 38; and the Vermont Consumer Fraud Act, 9 V.S.A. Chapter 63; hereby makes the following Complaint against Stor A Lot VT, LLC who is the owner of a rental property in Montpelier, Vermont and has failed to file an affidavit of essential maintenance practices as required by 18 V.S.A. § 1759(b).<sup>1</sup>

**ALLEGATIONS**

*The Parties*

1. Stor A Lot VT, LLC (“Defendant”) is the owner of a rental property located at 278 East Montpelier Road, Montpelier, Vermont 05651 (“the property”). Upon information and belief, Defendant is a limited liability company with its principal place of business in Silver Springs, Maryland.

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<sup>1</sup> Unless otherwise noted, the statutory cites in the Allegations and Causes of Action are to the Lead Poisoning Law that was in effect at the time the Defendant failed to act in accordance with the law. Requests for Relief, and the cites therein, reflect amendments that went into effect on July 1, 2008.

2. The property is pre-1978 “rental target housing” within the meaning of Vermont’s Lead Poisoning Law, 18 V.S.A. § 1751(19), and is subject to the requirements of 18 V.S.A. Chapter 38.
3. The Attorney General has the right to appear in any civil action in which the State, in his judgment, has an interest. 3 V.S.A. § 157.
4. The Attorney General has an interest in ensuring that landlords comply with Vermont laws regarding habitability of housing.

***Statutory Scheme***

5. Lead-based paint in housing, the focus of the Vermont Lead Law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
6. The Lead Law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
7. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
8. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. §§ 1759(a)(2), (4) and (7).

9. The Vermont Lead Law also requires that owners of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owners' insurance carrier. 18 V.S.A. § 1759(b).
10. A violation of the EMP requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
11. The Vermont Consumer Fraud Act, 9 V.S.A, Chapter 63, prohibits unfair and deceptive acts and practices, including the offering for rent, or the renting of, target housing that is noncompliant with the Lead Law.
12. Violations of the Consumer Fraud Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

***Facts relating to Defendant***

13. Defendant is the owner of the property which it has in the past and continues presently to rent and offer for rent.
14. The Vermont Department of Health advised Defendant by letter dated February 6, 2008 of its obligations under Vermont law and its failure to perform EMPs at the property.
15. Defendant did not respond the Vermont Department of Health's February 6, 2008 letter.

16. The Vermont Department of Health has no evidence demonstrating that Defendant maintained the property in accordance with Vermont's Lead Law during the past three years.
17. The Vermont Department of Health has no evidence demonstrating that Defendant performed EMPs at the property during the past three years.
18. The Vermont Department of Health has no evidence demonstrating that Defendant filed any affidavits attesting to EMP performance on the property with its insurance carrier during the past three years.

**FIRST CAUSE OF ACTION – Failure to perform essential maintenance practices**

19. The Lead Law requires that EMPs specified in 18 V.S.A. § 1759 be performed at all rental target housing and that affidavits attesting to EMP performance be filed with the Vermont Department of Health and the property owner's liability insurance carrier. 18 V.S.A. § 1759.
20. Defendant violated Vermont's Lead Law, 18 V.S.A. Chapter 38, by:
  - a. Failing to perform EMPs at the property for the last three years;
  - b. Failing to file with the Department of Health affidavits attesting to EMP performance for the property during any of the last three years; and
  - c. Failing to file with its liability insurance carrier affidavits attesting to EMP performance for the property for the last three years.

## SECOND CAUSE OF ACTION – Consumer Fraud Act

21. The Vermont Consumer Fraud Act, 9 V.S.A., Chapter 63, prohibits unfair and deceptive acts and practices in commerce that include the rental of, or offering for rent, housing that is noncompliant with the Lead Law.
22. By renting to tenants, and by offering for rent, property that was not in compliance with the Lead Law, Defendant engaged in deceptive acts and practices in commerce in violation of the Consumer Fraud Act, 9 V.S.A. § 2453(a), in that it misrepresented a material condition of the rentals.
23. By renting to tenants, and by offering for rent, property that was not in compliance with the Lead Law, Defendant engaged in unfair acts and practices in commerce in violation of the Consumer Fraud Act, 9 V.S.A. § 2453(a), in that its actions amounted to *per se* non-compliance with existing law.

### RELIEF SOUGHT

WHEREFORE, based on the allegations set forth above, the State respectfully asks the Court to award the following relief:

1. An Order finding that Defendant violated 18 V.S.A. § 1759 and 9 V.S.A. § 2453(a) and that the violations are continuing.
2. An Order requiring Defendants: (1) to identify all rental units built prior to 1978 in Vermont in which it has an ownership interest or responsibility for maintenance, (2) to immediately comply with 18 V.S.A. § 1759 as to all units in which it has an

ownership interest or responsibility for maintenance unless EMP obligations are specifically excepted in the maintenance contract.

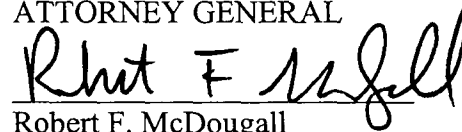
3. Civil penalties of not more than \$10,000.00 for each violation of the Lead Law.
4. Civil penalties of not more than \$10,000.00 for each violation of the Consumer Fraud Act.
5. An Order requiring reimbursement to the State for the reasonable value of its services and its expenses in investigating and prosecuting this action.
6. Such other relief as the Court may deem just and appropriate.

DATED at Montpelier, Vermont this 7<sup>th</sup> day of October, 2008.

Respectfully submitted,

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:



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