



U. S. ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

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BY HAND

June 29, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (Mail Code: ORA18-1)
Boston, Massachusetts 02109-3912

Re: *In the Matter of Private Reserve Properties, LLC.*
Docket No: TSCA-01-2012-0055

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are the original and one copy of an Administrative Complaint and Notice of Opportunity for Hearing.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laura J. Beveridge".

Laura J. Beveridge
Enforcement Counsel

cc: Kenneth C. Trinque (Private Reserve Properties, LLC)

Enclosures



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Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

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Laura J. Beveridge
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____))
IN THE MATTER OF))
))
PRIVATE RESERVE PROPERTIES, LLC))
))
))
Respondent.))
_____)

Docket No. TSCA-01-2012-0055

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity to Request a Hearing has been sent to the following persons on the date noted below:

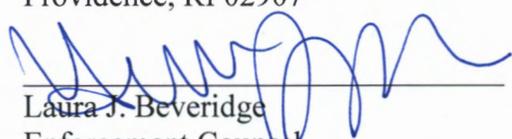
Original and one copy,
hand-delivered:

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, by Certified Mail,
Return Receipt Requested, with
copy of 40 C.F.R. Part 22:

Kenneth C. Trinque
Registered Agent
Private Reserve Properties, LLC
59 Elmwood Avenue
Providence, RI 02907

Dated: 6/29/2012



Laura J. Beveridge
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912
Tel (617) 918-1345
Fax (617) 918-0345

II. NATURE OF THE ACTION

2. Private Reserve Properties, LLC (“PRP”), the Respondent in this action, is hereby notified of Complainant’s determination that it has violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. § 4851 et seq., and the federal regulations promulgated thereunder, entitled “Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property,” as set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”). Complainant seeks civil penalties in the amount of \$421,900 pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides that violations of Section 409 of TSCA, 15 U.S.C. § 2689, are subject to the assessment by Complainant of civil and/or criminal penalties. In support of this Complaint, Complainant alleges the following:

III. STATUTORY AND REGULATORY BACKGROUND

A. FEDERAL LEAD DISCLOSURE LAW

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children, that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint, and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental of homes and apartments. To carry out this purpose, the Act gave EPA regulatory authority to require the disclosure of information related to lead-based paint and lead-based paint hazards upon the sale or leasing of residential property. 42 U.S.C. § 4852d(a).

4. In 1996, EPA promulgated regulations implementing the disclosure requirements of Section 1018, 42 U.S.C. § 4852d. These regulations are set forth in the Disclosure Rule at 40 C.F.R. Part 745, Subpart F.

5. Housing stock that falls within the statutory and regulatory definition of “target housing” is subject to the Disclosure Rule. “Target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled (unless any child who is less than six years old resides or is expected to reside in such housing) or any 0-bedroom dwelling. See 15 U.S.C. § 2681(17); 40 C.F.R. § 745.103.

6. Before a lessee is obligated under contract to lease target housing, the Disclosure Rule requires lessors to, among other things:

- (a) provide the lessee with an EPA-approved lead hazard information pamphlet;
- (b) include, within or as an attachment to the lease contract, a Lead Warning Statement;
- (c) disclose to the lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased;
- (d) provide the lessee with any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased; and
- (e) include, within or as an attachment to the lease contract, either a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based hazards in the target housing, or a statement that no such records are available.

See 40 C.F.R. §§ 745.107, 745.113.

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), each failure to comply with a requirement of the Disclosure Rule constitutes a violation of Section 409 of TSCA, 15 U.S.C. § 2689.

8. Any person who violates a provision of Section 409 of TSCA, 15 U.S.C. § 2689, is liable to the United States for a civil monetary penalty. 15 U.S.C. § 2615(a)(1); 40 C.F.R. § 745.118.

9. Violations of the Disclosure Rule occurring on or after January 13, 2009, are subject to penalties up to \$16,000 per violation. See 42 U.S.C. § 4852d(b)(5); 40 C.F.R. Part 19; 40 C.F.R. § 745.118(f), see also 73 Fed. Reg. 75340 (Dec. 11, 2008) (final rule adjusting civil penalties for inflation as mandated by Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701).

B. RHODE ISLAND LEAD DISCLOSURE REQUIREMENTS

10. In 2005, the State of Rhode Island enacted the Lead Hazard Mitigation Act, R.I. GEN. LAWS § 42-128.1-5, to prevent lead poisoning and educate prospective purchasers and lessees about the hazards associated with lead-based paint. State regulations promulgated by the Rhode Island Housing Resources Commission (“HRC”) implementing the Lead Hazard Mitigation Act require owners of rental properties built before 1978 to: (1) complete an approved lead awareness seminar; (2) hire a licensed lead inspector to perform an Independent Clearance Inspection to assess compliance with state lead mitigation standards; (3) obtain a Certificate of Conformance; (4) provide prospective tenants with an HRC-approved information pamphlet about lead hazards and a copy of the most recent Independent Inspection Clearance Report, and (5) have tenants sign a lead disclosure form. See generally, R.I. Admin. Code 37-1-4:6.

11. The Independent Clearance Inspection required by HRC regulations consists of verification that the property owner has completed the lead awareness training, the results of visual inspection and dust testing performed by a licensed

independent lead inspector, and an evaluation of any supporting laboratory documentation. R.I. Admin. Code 37-1-4:6E.

12. The lead hazard information pamphlet required by HRC for use in rental transactions in Rhode Island is EPA's lead hazard information pamphlet, "Protect Your Family from Lead in Your Home." See www.health.ri.gov/healthrisks/poisoning/lead/for/landlords.

13. The sample lead disclosure form approved for use in Rhode Island rental transactions is the model disclosure form provided by EPA. See www.health.ri.gov/healthrisks/poisoning/lead/for/landlords.

14. In addition to an Independent Clearance Inspection Report and a Certificate of Conformance, lessors may have additional reports or records pertaining to lead-based paint and/or lead-based paint hazards issued by state or federal government agencies, courts, independent contractors, or other entities.

15. Reports and records pertaining to lead-based paint and/or lead-based paint hazards in target housing that are required by Rhode Island's lead disclosure laws or provided to lessors by state or federal agencies or courts, as well as any other available reports or records related to lead-based paint and/or lead-based paint hazards in the target housing, are subject to the federal disclosure requirements and related penalty provisions set forth in Section 1018 of the Act, 42 U.S.C. § 4852(d), and 40 C.F.R Part 745, Subpart F. See Section III.A, supra.

IV. GENERAL ALLEGATIONS

16. Respondent PRP is a limited liability company organized under the laws of the State of Rhode Island.

17. PRP's principal place of business is 59 Elmwood Avenue, Providence, Rhode Island.
18. Kenneth C. Trinque is the sole member of PRP.
19. PRP owns approximately 50 properties with approximately 130 dwelling units in Providence, Rhode Island.
20. On May 19, 2011, EPA conducted an inspection to document and verify PRP's compliance with Section 1018 of the Act, 42 U.S.C. § 4852d, and the Disclosure Rule (hereinafter the "Inspection").
21. The Inspection was conducted at PRP's office located at 59 Elmwood Avenue in Providence, Rhode Island.
22. During the Inspection, EPA reviewed a representative sample of lease transaction documents provided by Kenneth Trinque and interviewed Mr. Trinque to evaluate PRP's compliance with federal lead disclosure requirements.
23. Subsequent to the Inspection, EPA obtained and reviewed additional lease transaction documents for properties owned by PRP.
24. Lease transactions reviewed by EPA during and subsequent to the Inspection include those identified in Table 1, below.

Table 1

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street ¹	3	12/6/2010
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010

¹ The lease contract dated December 6, 2010, for Hamilton Street, Unit 3, does not include the street number. Rhode Island property records indicate that the property owned by PRP on Hamilton Street is number 122. When referred to herein, the street number is provided in parenthesis.

Address	Unit #	Date Lease Signed
136 Progress Street (134 Progress Avenue) ²	3	9/23/2010
42 Redwing Street ³	(1)	12/2/2009
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
67 (65) Robin Street ⁴	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011
36 Lenox Avenue	2	9/25/2009

25. At all times relevant to this Complaint, PRP was the “owner” as defined by 40 C.F.R. § 745.103, of the residential properties, and all dwelling units therein, identified in Table 1, supra.

26. At all times relevant to this Complaint, PRP offered for lease the properties, and/or dwelling units within, identified in Table 1. PRP is identified as the “landlord” on each of the lease contracts listed in Table 1. Each lease in Table 1 was signed on behalf of PRP by a property manager (or agent) or by Kenneth Trinque, sole member of PRP.

27. PRP is therefore the “lessor,” as defined by 40 C.F.R. § 745.103, of the properties and dwelling units therein identified in Table 1.

² Rhode Island property records indicate that the correct street address for the property referred to by PRP in lease contracts and documents provided to EPA as either “136 Progress Street” or “134/136 Progress” is 134 Progress Avenue. When referred to herein, the official address appears in parenthesis following the address as stated in the original document.

³ The lease contract dated December 2, 2009, for 42 Redwing Street does not identify the dwelling unit. PRP has confirmed that the unit number for this lease contract is #1. When referred to herein the unit number for this lease is provided in parenthesis.

⁴ Rhode Island property records indicate that the correct address of the property owned by PRP and identified in the lease contract dated May 6, 2009, as “67 Robin Street” is 65 Robin Street. When referred to herein, the correct street number for this property is provided in parenthesis.

28. All of the properties and dwelling units identified in Table 1, were built before 1978 and are therefore “target housing” as defined by 40 C.F.R. § 745.103.

29. Many of the lease contracts reviewed by EPA and identified in Table 1 list children under the age of 18 among the individuals entitled to occupy the property or dwelling unit subject to the contract.

30. Each of the lease contracts identified in Table 2, below, lists children under the age of six, who are most likely to be adversely affected by the presence of lead-based paint and/or lead-based paint hazards, among the individuals entitled to occupy the property or dwelling unit under the contract.

Table 2

Address	Unit #	Lease Date	Age of Youngest Occupant
(122) Hamilton Street	3	12/6/2010	1 year
9 Leah Street	1	6/18/2010	4 years
42 Redwing Street	3	12/8/2010	3 years
38 Seabury Street	2	12/17/2010	2 months
38 Seabury Street	2	3/2/2011	1 year
188 ½ Waverly Street	1	8/5/10	3 years

31. Each of the lease contracts identified in Table 3, below, lists children between the ages of six and eighteen, who are still vulnerable to the adverse effects of lead exposure due to their physical development, or individuals of unspecified age, among those entitled to occupy the property or dwelling unit under the contract.

Table 3

Address	Unit #	Date Lease Signed	Age of Youngest Occupant
67 (65) Robin Street	-	5/6/2009	not specified
2 Ware Court	-	1/23/2009	not specified
2 Ware Court	6	12/9/2010	8 years
188 Waverly Street	2	3/9/2011	13 years
36 Lenox Avenue	2	9/25/2009	not specified

32. None of the lease transactions identified in Table 1, supra, which includes each of the lease transactions listing children under the age of 18 (see Tables 2 and 3), comply with the federal lead disclosure requirements set forth in Section 1018 of the Act, 42 U.S.C. §4852d, and 40 C.F.R. Part 745, Subpart F.

33. With the exception of the lease transaction for 36 Lenox Avenue, Unit 2, dated September 25, 2009, none of the lease transactions identified in Table 1 were accompanied by a signed disclosure form, nor did PRP supply any other evidence, establishing that PRP provided prospective tenants with a copy of EPA's pamphlet, "Protect Your Family from Lead in Your Home," or an equivalent lead hazard information pamphlet approved by EPA, before each lessee became contractually obligated to lease a particular property or dwelling unit. See 40 C.F.R. § 745.107(a)(1); 40 C.F.R. § 745.113(4), (6).

34. With the exception of the lease transaction for 36 Lenox Avenue, Unit 2, dated September 25, 2009, none of the leases transactions identified in Table 1 included – either as an attachment or within the lease contract itself – the "Lead Warning Statement" required by 40 C.F.R. § 745.113(b)(1).

35. With the exception of the lease transaction for 36 Lenox Avenue, Unit 2, dated September 25, 2009, none of the lease transactions identified in Table 1 were accompanied by a statement – either as an attachment or within the lease contract itself – disclosing the presence of lead-based paint and/or lead-based paint hazards or indicating that the lessor had no knowledge of lead-based paint and/or lead-based paint hazards. See 40 C.F.R. § 745.113(b)(2), (4), (6).

36. A disclosure form similar to that available on EPA's website and required by Rhode Island state law accompanied the lease for 36 Lenox Avenue, Unit 2, dated September 25, 2009.

37. The disclosure form, signed by Kenneth Trinque, sole member of PRP, and the lessee on September 25, 2009, indicates that PRP provided the lessee with the lead hazard information pamphlet required by 40 C.F.R. § 745.107(a)(1), the "Lead Warning Statement" required by 40 C.F.R. § 745.113(b)(1), and the disclosure statement required by 40 C.F.R. § 745.113(b)(2).

38. On the signed disclosure form for 36 Lenox Avenue, Unit 2, Mr. Trinque checked and initialed the box indicating PRP had no reports or records pertaining to lead-based paint or lead-based paint hazards.

39. However, approximately 6 months earlier, on March 19, 2009, HRC issued a Certificate of Conformance for 36 Lenox Avenue, Unit 2.

40. Under Rhode Island state law, to get a Certificate of Conformance, a lessor must have an Independent Clearance Inspection Report verifying that the property owner has completed a lead awareness seminar, evaluating the results of visual inspection and dust testing performed by a licensed independent lead inspector, and analyzing any supporting laboratory documentation. The Independent Clearance Inspection Report and any related reports or records are subject to the federal Disclosure Rule. See Section III.B, supra.

41. PRP did not, as required by 40 C.F.R. § 745.107(a)(4), provide the lessee with the Certificate of Conformance issued by HRC on March 19, 2009, the related Independent Clearance Inspection Report, or any other reports or records pertaining to

lead-based paint or lead-based paint hazards in the target housing before the lessee became contractually obligated to lease 36 Lenox Avenue, Unit 2, on September 25, 2009.

42. PRP did not list the Certificate of Conformance for 36 Lenox Avenue, Unit 2, the related Independent Clearance Inspection Report, or any other reports or records in an attachment to or within the lease contract for 36 Lenox Avenue, Unit 2, dated September 25, 2009, as required by 40 C.F.R. § 745.113(b)(3).

43. During the Inspection, PRP provided EPA with Certificates of Conformance issued by HRC for each of the properties or dwelling units identified in Table 4, below.

Table 4

Address	Unit #	Date Lease Signed
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010
136 Progress Street (134 Progress Avenue)	3	9/23/2010
42 Redwing Street	(1)	12/2/2009
67 (65) Robin Street	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009

44. None of the lease transactions identified in Table 4, were accompanied by a signed disclosure form, nor did PRP supply any other evidence, establishing that PRP provided prospective tenants with either the Certificate of Conformance, a copy of the Independent Clearance Inspection Report, or any other available records and reports pertaining to lead-based paint and/or lead-based hazards before the lessee became contractually obligated to lease a particular property or dwelling unit. See 40 C.F.R. § 745.107(a)(2),(4); § 745.113(b)(4)(6).

45. Nor were any of the leases identified in Table 4 accompanied by a statement – either as an attachment or in the lease contract itself – listing the records or reports available to PRP pertaining to lead-based paint or lead-based paint hazards. See 40 C.F.R. § 745.113(b)(3).

46. PRP did not provide EPA with any documents pertaining to lead-based paint or lead-based paint hazards for the lease transactions identified in Table 5, below.

Table 5

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street	3	12/6/2010
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011

47. None of the lease transactions identified in Table 5 were accompanied by a signed disclosure form, nor did PRP supply any other evidence, establishing that PRP provided prospective tenants with a statement – either as an attachment or within the lease contract itself – listing available records or reports pertaining to lead-based paint and/or lead-based paint hazards or certifying that no such records were available.

40 C.F.R. § 745.113(b)(3).

48. Prior to the Inspection, Mr. Trinque told EPA that he was not aware of the federal lead disclosure law.

49. However, PRP received a Certificate of Conformance from HRC for 2 Ware Court on December 1, 2008, several months before executing any of the leases identified in Table 1, *supra*. See R.I. Admin. Code 37-1-4:6 (requiring property owners

to complete lead awareness training prior to receipt of Certificate of Conformance).

Approximately three months later, on March 19, 2009, PRP received a Certificate of Conformance for 36 Lenox Avenue, Unit 2.

50. In addition, documents reviewed by EPA during and subsequent to the Inspection include two completed lead disclosure forms – one dated March 27, 2009 for 31 Gilmore Street, Unit 3, and one dated September 25, 2009 for 36 Lenox Avenue, Unit 2. Each disclosure form was signed by the lessees and either an agent of PRP or Kenneth Trinqué, sole member of PRP.

51. PRP's receipt of Certificates of Conformance for 2 Ware Court on December 8, 2008, and 36 Lenox Avenue on March 19, 2009, and the signed disclosure forms for 31 Gilmore Street, Unit 3, dated March 27, 2009, and 36 Lenox Avenue, Unit 2, dated September 25, 2009, establish that PRP was aware of the federal disclosure requirements prior to engaging in the leases transactions identified in Tables 1-5, supra.

V. VIOLATIONS

52. Complainant has identified the following violations of the Act and the Disclosure Rule based on the Inspection as well as other information and documents obtained from Respondent PRP and/or other sources.

FIRST COUNT:

Failure to Provide Lead Hazard Information Pamphlet

53. Complainant incorporates by reference Paragraphs 1 through 52.

54. Pursuant to 40 C.F.R. § 745.107(a)(1), lessors must provide lessees with an EPA-approved lead hazard information pamphlet, such as the EPA pamphlet entitled "Protect Your Family From Lead in Your Home" or an equivalent pamphlet approved for use in particular states by EPA, before a lessee is obligated under contract to lease target

housing. In Rhode Island, the approved lead hazard information pamphlet is the EPA pamphlet. See Paragraph 12, *supra*.

55. Respondent PRP failed to provide the lessees in each of the fifteen lease transactions identified in Table 6, below, with an EPA-approved lead hazard information pamphlet before those lessees became contractually obligated to lease target housing. 40 C.F.R. § 745.107(a)(1).

Table 6

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street	3	12/6/2010
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010
136 Progress Street (134 Progress Avenue)	3	9/23/2010
42 Redwing Street	(1)	12/2/2009
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
67 (65) Robin Street	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011

56. Each failure to provide the lessees identified in Table 6 with an EPA-approved lead hazard information pamphlet constitutes a separate violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 15 violations.

SECOND COUNT:
Failure to Include Lead Warning Statement

57. Complainant incorporates by reference Paragraphs 1 through 56.

58. The Disclosure Rule provides that each contract to lease target housing must include – either as an attachment or within the lease contract itself – the “Lead Warning Statement” set forth in 40 C.F.R. § 745.113(b)(1).

59. Respondent PRP failed to include the “Lead Warning Statement” required by 40 C.F.R. § 745.113(b)(1) as an attachment or within the lease contract for each of the fifteen lease transactions identified in Table 7, below.

Table 7

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street	3	12/6/2010
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010
136 Progress Street (134 Progress Avenue)	3	9/23/2010
42 Redwing Street	(1)	12/2/2009
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
67 (65) Robin Street	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011

60. Each failure to include the “Lead Warning Statement” required by 40 C.F.R. § 745.113(b)(1) as an attachment to or within the lease contracts identified in Table 7 constitutes a separate violation of 40 C.F.R. § 745.113(b)(1) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 15 violations.

THIRD COUNT:
Failure to Disclose Presence of Lead-Based Paint
and/or Lead-Based Paint Hazards

61. Complainant incorporates by reference Paragraphs 1 through 60.

62. Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing must include – either as an attachment or within the lease contract itself – a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards or indicating that the lessor has no knowledge of lead-based paint or lead-based paint hazards in the target housing.

63. Respondent PRP failed to include the disclosure statement required by 40 C.F.R. § 745.113(b)(2) as an attachment or within the lease contracts for each of the fifteen lease transactions identified in Table 8.

Table 8

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street	3	12/6/2010
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010
136 Progress Street (134 Progress Avenue)	3	9/23/2010
42 Redwing Street	(1)	12/2/2009
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
67 (65) Robin Street	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011

64. Each failure to include the required lead disclosure statement for the lease transactions identified in Table 8 constitutes a separate violation of 40 C.F.R.

§ 745.113(b)(2) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 15 violations.

FOURTH COUNT:
Failure to Provide Available Records and Reports

65. Complainant incorporates by reference Paragraphs 1 through 64.

66. Pursuant to 40 C.F.R. § 745.107(a)(4), a lessor must provide the lessee with any available records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing being leased before the lessee becomes contractually obligated to lease that target housing.

67. Respondent PRP did not, as required by 40 C.F.R. § 745.107(a)(4), provide lessees with all available records or reports pertaining to lead-based paint and/or lead-based paint hazards before the lessees became contractually obligated to lease the target housing identified in Table 9, below. The records and reports available to PRP for the properties and/or dwelling units identified in Table 9 include, but are not limited to, the relevant Certificate of Conformance issued by HRC, the Independent Clearance Inspection Report, and any supporting documentation or laboratory results. See Section III.B & Paragraphs 40-45, supra.

Table 9

Address	Unit #	Date Lease Signed
36 Lenox Avenue	2	9/25/2009
9 Leah Street	1	6/18/2010
9 Leah Street	2	12/10/2010
136 Progress Street (134 Progress Avenue)	3	9/23/2010
42 Redwing Street	(1)	12/2/2009
67 (65) Robin Street	-	5/6/2009
38 Seabury Street	2	12/17/2010
38 Seabury Street	2	3/2/2011
2 Ware Court	-	1/23/2009

68. Each failure to provide the lessees who leased the target housing identified in Table 9 with available records and reports pertaining to lead-based paint and/or lead-based paint hazards constitutes a separate violation of 40 C.F.R. § 745.107(a)(4) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 9 violations.

FIFTH COUNT:
Failure to Certify that No Records or Reports Are Available

69. Complainant incorporates by reference Paragraphs 1 through 68.

70. The Disclosure Rule requires lessors to list all available records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing in an attachment to or within the lease contract itself. 40 C.F.R. § 745.113(b)(3). If no such records or reports are available, lessors must include a statement – either as an attachment or within the lease contract itself – so indicating. See 40 C.F.R. § 745.113(b)(3).

71. Respondent PRP failed to include a statement, as required by 40 C.F.R. § 745.113(b)(3), listing available records and reports pertaining to lead-based paint or lead-based paint hazards or certifying that no such records were available for the target housing subject to the lease transactions indentified in Table 10, below.

Table 10

Address	Unit #	Date Lease Signed
31 Gilmore Street	1	2/9/2011
(122) Hamilton Street	3	12/6/2010
42 Redwing Street	2	3/26/2010
42 Redwing Street	3	12/8/2010
2 Ware Court	6	12/9/2010
188 ½ Waverly Street	1	8/5/10
188 Waverly Street	2	3/9/2011

72. Each failure to include a statement listing available records or reports pertaining to lead-based paint and/or lead based paint hazards or indicating that no such records or reports were available for the target housing identified in Table 10 constitutes a separate violation of 40 C.F.R. § 745.113(b)(3) and Section 409 of TSCA, 42 U.S.C. § 2689, for a total of 7 violations.

VI. PROPOSED PENALTY

73. Based on the violations described in this Complaint, a total civil penalty of \$421,900 is hereby proposed to be assessed against Respondent PRP. The proposed civil penalty has been determined in accordance with Section 16 of TSCA, 15 U.S.C. § 2615, the provisions of 40 C.F.R. § 745.118(f), as well as the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19.

74. In determining the amount of any penalty to be assessed, Section 16 of TSCA requires Complainant to consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, its ability to pay, the effect of the proposed penalty on its ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

75. To assess a penalty for the violations alleged in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's December 2007 Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy (the "ERPP"), a copy of which is enclosed with this Complaint. The ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

76. The penalties proposed for each of the violations alleged in this Complaint are set forth, below:

Count	Regulation Violated	Description	Penalty
1	40 C.F.R. § 745.107(a)(1)	Failure to Provide Lead Hazard Information Pamphlet	\$144,200
2	40 C.F.R. § 745.113(b)(1)	Failure to Include Lead Warning Statement	\$104,950

3	40 C.F.R. § 745.113(b)(2)	Failure to Disclose Presence of Lead-Based Paint or Hazards	\$77,930
4	40 C.F.R. § 745.107(a)(4)	Failure to Provide Available Records and Reports	\$82,020
5	40 C.F.R. § 745.113(b)(3)	Failure to Certify No Records or Reports Were Available	\$12,800
		Total	\$421,900

The document marked as Attachment A to this Complaint provides a more detailed explanation of the penalty proposed herein. The proposed penalty was developed based upon the best information available to Complainant but may be adjusted if Respondent establishes a *bona fide* claim of inability to pay or other issues relevant to determining an appropriate penalty.

VII. QUICK RESOLUTION

77. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's, or certified check payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint (TSCA-01-2012-0055) and should be forwarded to:

U.S. Environmental Protection Agency
 Fines and Penalties
 Cincinnati Finance Center
 P.O. Box 979077
 St. Louis, MO 63197-9000

In addition, at the time of payment, Respondent should also forward notice of payment of the civil penalty as well as copies of the payment check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

and

Laura J. Beveridge
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, Massachusetts 02109-3912

If payment is made within thirty (30) days of receipt of the Complaint, Respondent need not file an Answer. If Respondent agrees to pay the penalty but needs additional time, Respondent may file a statement to that effect with the Regional Hearing Clerk within thirty (30) days of receipt of the Complaint. In that event, Respondent need not file an Answer, as described in the following section of this Complaint, and will be allowed sixty (60) days from receipt of the Complaint to pay the penalty. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondent to default. See 40 C.F.R. § 22.18(a).

78. Any settlement in this matter shall be made final by the issuance of a written Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

VIII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

79. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint. Any such hearing would be conducted in accordance with EPA's Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of

which is enclosed with this Complaint. Any request for a hearing must be included in Respondent's written Answer to this Complaint ("Answer") and filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.

80. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. The failure of Respondent to deny an allegation contained in the Complaint constitutes an admission of that allegation. The Answer must also state the circumstances or arguments alleged to constitute the grounds of any defense; the facts that Respondent disputes; the basis for opposing any proposed penalty; and whether a hearing is requested. See 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

81. Respondent shall send the original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to the Regional Hearing Clerk at the following address:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

Respondent shall also serve a copy of the Answer, as well as a copy of all other documents that Respondent files in this action, to Laura J. Beveridge, the attorney assigned to represent Complainant and the person who is designated to receive service in this matter under 40 C.F.R. § 22.5(c)(4), at the following address:

Laura J. Beveridge
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, Massachusetts 02109-3912

82. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules of Practice. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent, without further proceedings, thirty (30) days after the default order becomes final.

IX. OPPORTUNITY FOR INFORMAL SETTLEMENT CONFERENCE

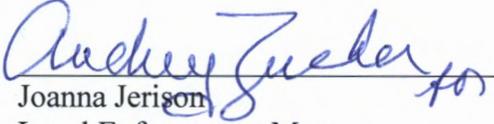
83. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with Complainant or her designee concerning the violations alleged in this Complaint. Such conference provides Respondent with an opportunity to respond informally to the allegations, and to provide whatever additional information may be relevant to the disposition of this matter. EPA has the authority to adjust penalties, where appropriate, to reflect any settlement reached in an informal conference. The terms of such an agreement would be embodied in a binding Consent Agreement and Final Order approved by the Regional Judicial Officer, EPA Region 1.

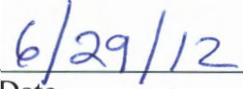
84. To explore the possibility of settlement, Respondent or Respondent's counsel should contact Laura J. Beveridge, the attorney of record, at the address cited above or by calling (617) 918-1345. Please note that a request for an informal settlement

conference does not extend the period within which a written Answer must be submitted in order to avoid default.

X. CONTINUED COMPLIANCE OBLIGATION

85. Neither assessment nor payment of an administrative penalty shall affect Respondent's continuing obligation to comply with all applicable requirements of federal law.


Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1


Date

ATTACHMENT A

In the Matter of Private Reserve Properties, LLC Docket Number TSCA-01-2012-0055

PROPOSED PENALTY SUMMARY

Pursuant to EPA's December 2007 *Section 1018 Disclosure Rule Enforcement Response and Penalty Policy* ("ERPP"), EPA proposes a civil penalty in the amount of four hundred twenty-one thousand and nine hundred dollars (\$421,900) to be assessed against Private Reserve Properties, LLC ("PRP") as follows¹:

FIRST COUNT: FAILURE TO PROVIDE LEAD HAZARD INFORMATION PAMPHLET

Provision Violated: 40 C.F.R. § 745.107(a)(1) requires lessors to provide lessees with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use by EPA.

Circumstance Level: Failure to provide a lessee with an EPA-approved lead hazard information pamphlet results in a *high probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 1* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

¹ Section 1018(b)(5) of the Act provides that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation shall be no more than \$10,000. Penalties of up to \$11,000 per violation may be assessed for violations occurring between July 28, 1997, and January 12, 2009, pursuant to 40 C.F.R. § 745.118(f), the Debt Collection Improvement Act of 1996, found at 31 U.S.C. § 3701, and 40 C.F.R. Part 19. Effective January 12, 2009, the maximum penalty per violation is \$16,000. 73 Fed. Reg. 75340-46 (December 11, 2008) and 40 C.F.R. Part 19.

As described in Paragraphs 53 through 56 of the Complaint, Respondent PRP failed to provide the EPA-approved lead hazard information pamphlet required by 40 C.F.R. § 745.107(a)(1) to lessees who leased the target housing listed below:

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
31 Gilmore Street	1	2/9/2011	None	Minor	\$2,840
(122) Hamilton Street	3	12/6/2010	1 year	Major	\$16,000
9 Leah Street	1	6/18/2010	4 years	Major	\$16,000
9 Leah Street	2	12/10/2010	None	Minor	\$2,840
136 Progress Street (134 Progress Avenue)	3	9/23/2010	None	Minor	\$2,840
42 Redwing Street	(1)	12/2/2009	None	Minor	\$2,840
42 Redwing Street	2	3/26/2010	None	Minor	\$2,840
42 Redwing Street	3	12/8/2010	3 years	Major	\$16,000
67 (65) Robin Street	-	5/6/2009	Unknown	Significant	\$8,500
38 Seabury Street	2	12/17/2010	2 months	Major	\$16,000
38 Seabury Street	2	3/2/2011	1 year	Major	\$16,000
2 Ware Court	-	1/23/2009	Unknown	Significant	\$8,500
2 Ware Court	6	12/9/2010	8 years	Significant	\$8,500
188 ½ Waverly Street	1	8/5/10	3 years	Major	\$16,000
188 Waverly Street	2	3/9/2011	13 years	Significant	\$8,500

Accordingly, the total proposed penalty for the violations alleged in the First Count is \$144,200.

SECOND COUNT: FAILURE TO INCLUDE LEAD WARNING STATEMENT

Provision Violated: 40 C.F.R. § 745.113(b)(1) requires that each contract to lease target housing include – either as an attachment or within the lease contract itself – the Lead Warning Statement set forth in 40 C.F.R. § 745.113(b)(1).

Circumstance Level: Failure to include the Lead Warning Statement in the language of the lease contract, or an attachment thereto, results in a *high probability* of impairing a lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(1) is a *Level 2* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical

development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

As described in Paragraphs 57 through 60 of the Complaint, Respondent PRP failed to include the Lead Warning Statement required by 40 C.F.R. § 745.113(b)(1) in the lease contract, or as an attachment to the lease contract, for the target housing listed below:

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
31 Gilmore Street	1	2/9/2011	None	Minor	\$1,710
(122) Hamilton Street	3	12/6/2010	1 year	Major	\$11,340
9 Leah Street	1	6/18/2010	4 years	Major	\$11,340
9 Leah Street	2	12/10/2010	None	Minor	\$1,710
136 Progress Street (134 Progress Avenue)	3	9/23/2010	None	Minor	\$1,710
42 Redwing Street	(1)	12/2/2009	None	Minor	\$1,710
42 Redwing Street	2	3/26/2010	None	Minor	\$1,710
42 Redwing Street	3	12/8/2010	3 years	Major	\$11,340
67 (65) Robin Street	-	5/6/2009	Unknown	Significant	\$7,090
38 Seabury Street	2	12/17/2010	2 months	Major	\$11,340
38 Seabury Street	2	3/2/2011	1 year	Major	\$11,340
2 Ware Court	-	1/23/2009	Unknown	Significant	\$7,090
2 Ware Court	6	12/9/2010	8 years	Significant	\$7,090
188 ½ Waverly Street	1	8/5/10	3 years	Major	\$11,340
188 Waverly Street	2	3/9/2011	13 years	Significant	\$7,090

Accordingly, the total proposed penalty for the violations alleged in the Second Count is \$104,950.

THIRD COUNT: FAILURE TO DISCLOSE PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS

Provision Violated: 40 C.F.R. § 745.113(b)(2) requires lessors to include a statement – either as an attachment or in the lease contract itself – disclosing the presence of any known lead-based paint and/or lead-based paint hazards or indicating that the lessor has no knowledge of lead-based paint or lead-based paint hazards in the target housing.

Circumstance Level: Failure to include the statement required by 40 C.F.R. § 745.113(b)(2) disclosing the presence of any known lead-based paint and/or lead-based paint hazards or indicating that the lessor has no knowledge of lead-based paint and/or lead-based paint in the

target housing results in *a medium probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(2)/(a)(4) is a *Level 3* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

As described in Paragraphs 61 through 64 of the Complaint, Respondent PRP failed to include a statement – either as an attachment or in the lease contract itself – disclosing the presence of any known lead-based paint and/or lead-based paint hazards, or indicating that it had no knowledge of lead-based paint or lead-based paint hazards in the target housing listed below:

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
31 Gilmore Street	1	2/9/2011	None	Minor	\$850
(122) Hamilton Street	3	12/6/2010	1 year	Major	\$8,500
9 Leah Street	1	6/18/2010	4 years	Major	\$8,500
9 Leah Street	2	12/10/2010	None	Minor	\$850
136 Progress Street (134 Progress Avenue)	3	9/23/2010	None	Minor	\$850
42 Redwing Street	(1)	12/2/2009	None	Minor	\$850
42 Redwing Street	2	3/26/2010	None	Minor	\$850
42 Redwing Street	3	12/8/2010	3 years	Major	\$8,500
67 (65) Robin Street	-	5/6/2009	Unknown	Significant	\$5,670
38 Seabury Street	2	12/17/2010	2 months	Major	\$8,500
38 Seabury Street	2	3/2/2011	1 year	Major	\$8,500
2 Ware Court	-	1/23/2009	Unknown	Significant	\$5,670
2 Ware Court	6	12/9/2010	8 years	Significant	\$5,670
188 ½ Waverly Street	1	8/5/10	3 years	Major	\$8,500
188 Waverly Street	2	3/9/2011	13 years	Significant	\$5,670

Accordingly, the total proposed penalty for the violations alleged in the Third Count is \$77,930.

FOURTH COUNT: FAILURE TO PROVIDE AVAILABLE RECORDS AND REPORTS

Provisions Violated: 40 C.F.R. § 745.107(a)(4) requires lessors to provide lessees with available records or reports pertaining to lead-based paint and/or lead-based paint hazards before the lessee becomes contractually obligated to lease the target housing. This requirement includes records or reports concerning common areas. The requirement also includes records or reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

Circumstance Level: Failure to provide information about any known lead-based paint and/or lead-based paint hazards represents the greatest deviation from the Disclosure Rule requirements. Failure to provide available records or reports regarding lead-based paint and/or lead-based paint hazards has a *high probability* of impairing a lessee’s ability to properly assess and weigh potential health risks when leasing target housing and greatly increases the likelihood of exposure to lead-based paint hazards. As a result, under the ERPP, Appendix B, a violation of 40 C.F.R. § 745.107(a)(4) is a *Level 1* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

As described in Paragraphs 65 through 68 of the Complaint, Respondent PRP failed to provide lessees in the following transactions with available records or reports pertaining to lead-based paint and/or lead-based paint hazards as required by 40 C.F.R. § 745.104(a)(4):

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
9 Leah Street	1	6/18/2010	4 years	Major	\$16,000
9 Leah Street	2	12/10/2010	None	Minor	\$2,840
136 Progress Street (134 Progress Avenue)	3	9/23/2010	None	Minor	\$2,840
42 Redwing Street	(1)	12/2/2009	None	Minor	\$2,840
67 (65) Robin Street	-	5/6/2009	Unknown	Significant	\$8,500
38 Seabury Street	2	12/17/2010	2 months	Major	\$16,000

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
38 Seabury Street	2	3/2/2011	1 year	Major	\$16,000
2 Ware Court	-	1/23/2009	Unknown	Significant	\$8,500
36 Lenox Avenue	2	9/25/2009	Unknown	Significant	\$8,500

Accordingly, the total proposed penalty for the violations alleged in the Fourth Count is \$82,020.

FIFTH COUNT: FAILURE TO CERTIFY THAT NO RECORDS OR REPORTS ARE AVAILABLE

Provisions Violated: 40 C.F.R. § 745.113(b)(3) requires lessors to list available records or reports pertaining to lead-based paint and/or lead-based paint hazards within the target housing. If no such documents are available, lessors must include a signed statement – either as an attachment or in the lease contract itself – indicating that no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the target housing are available.

Circumstance Level: Failure to include a list of available records or reports in a contract to lease target housing has a *low probability* of impairing a lessee’s ability to properly assess and weigh potential health risks when leasing target housing, but could potentially increase the likelihood of exposure to lead-based paint hazards. As a result, under the ERPP, Appendix B, a violation of 40 C.F.R. § 745.113(b)(3) is a *Level 5* violation.

Extent of Harm: The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. Where the age of the youngest individual residing in the target housing is not known, EPA may use a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

As described in Paragraphs 69 through 72 of the Complaint, Respondent PRP failed to include a statement – either as an attachment or in the lease contract itself – indicating that no such reports or records were available, as required by 40 C.F.R. § 745.113(b)(3), for the target housing listed below:

Address	Unit #	Lease Date	Age of Youngest Child	Extent of Harm	Gravity-Based Penalty
31 Gilmore Street	1	2/9/2011	None	Minor	\$290
(122) Hamilton Street	3	12/6/2010	1 year	Major	\$2,840
42 Redwing Street	2	3/26/2010	None	Minor	\$290
42 Redwing Street	3	12/8/2010	3 years	Major	\$2,840
2 Ware Court	6	12/9/2010	8 years	Significant	\$1,850
188 ½ Waverly Street	1	8/5/10	3 years	Major	\$2,840
188 Waverly Street	2	3/9/2011	13 years	Significant	\$1,850

Accordingly, the total proposed penalty for the violations alleged in the Fifth Count is \$12,800.