



cleanup at the property in anticipation of renting it out. The debris was being collected and occasional final painting and touchup work was being done where A-Team Pest Control had gotten dirt on the home. Inspector Clark requested Mr. Herrera sign two documents, misrepresenting what they were. Mr. Herrera showed Mr. Clark the Certified Renovator and Certified Firm Certificates.

3. Mr. Clark then contacted Mr. David Fiala, the owner of LHP. Mr. Fiala informed Mr. Clark that he would be arriving at the home shortly and asked for him not to bother the staff unless it was absolutely necessary.

4. When Mr. Fiala arrived, Mr. Clark had already completed his inspection. Mr. Clark never reviewed the inspection with Mr. Fiala or Mr. Herrera.

## **II. Procedural Background**

5. On May 29, 2014, the EPA initiated a proceeding for the assessment of a civil penalty by filing a formal complaint (the "Complaint"). The EPA charged LHP for allegedly failing to comply with the regulatory requirements of 40 C.F.R Part 745 and proposed a total civil penalty of Twenty-Six Thousand Eight Hundred and Forty Dollars (\$24,840) for the alleged violations.

6. On March 23, 2015, LHP filed an answer to the Complaint and asked for the Complaint to be dismissed with prejudice.

7. On April 10, 2015, at the request of the involved parties, an Order initiating Alternative Dispute Resolution was entered. The process was extended for an additional month and the parties subsequently entered into negotiations in July to settle the matter, and even got as far as to draft a Consent Agreement and Final Order on two separate occasions. However, due to an inability to reach an agreement, the Complainant moved forward with the proceedings.

8. On September 3, 2015 the Complainant's Initial Prehearing Exchange was filed. The Prehearing Exchange laid out the witnesses intended to be called and other important information from the Complainant's case.

9. On September 25, the Respondent filed Respondent's Initial Prehearing Exchange. The Prehearing Exchange laid out the potential witnesses to be called and factual information the respondent felt to be relevant to the claim at issue.

10. On October 8, 2015, the Complainant's Rebuttal to the Prehearing Exchange was filed. The rebuttal described the expected testimony of Ms. Candace Bednar and an attachment of her curriculum vitae.

#### **LEGAL STANDARD**

Pursuant to Rule 56, a party is entitled to summary judgment if "there is no genuine issue as to any material fact and . . . the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (quoting Fed. R. Civ. P. 56(c)).

The moving party does not need to negate the nonmoving party's claims via showing "the absence of a genuine issue of material fact." *Id.* Rather, "the burden on the moving party may be discharged by 'showing' . . . that there is an absence of evidence to support the nonmoving party's case." *Id.* at 325. Indeed, "the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment." *Bloom v. Metro Heart Group of St. Louis, Inc.*, 440 F.3d 1025, 1029 (8th Cir. 2006) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986)).

## ARGUMENT

LHP has obtained several Affidavits from individuals with specific knowledge as to the condition of the home prior to its purchase by LHP. See Affidavits attached and incorporated hereto as **Group Exhibit A**. For the reasons articulated herein and in the attached materials, the EPA's Complaint has no factual basis and, without proof of the validity of the violation, there is no case and the Court should enter summary judgment with respect to the claim.

### **I. RRP Requirements Do Not Apply.**

The Renovation, Repair, and Painting Rule ("RRP") requires renovation companies to be registered and follow lead-safe work practices while doing renovation. According to the regulation, "Renovations must be performed by certified firms using certified renovators as directed in § 745.89." "Renovation" or "Renovation Activity" means the modification of any existing structure, or portion of an existing structure, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement, but does not include minor repair and maintenance activities. Renovation includes, but is not limited to, the following:

- (A) Removal, Modification, or repairs of painted surfaces or painted components, modification of painted doors, surface restoration, window repair, surface preparation activity includes sanding, scraping, or other similar activities having the potential of generating paint dust. *Id.*

In order for the requirements to be in effect, several things had to have been presently occurring and observed on November 9, 2012. First, there had to be renovation activities occurring. Mr. Clark claims that there was "scraping," however, outside of his accusation there is no evidence to back this claim up, and in fact there are several statements made in the affidavits that attribute the paint chips and debris observed outside of the home as preexisting conditions and not work done by LHP. What Mr. Clark did observe but did not include in his report was that LHP was

applying paint during his November 9, 2012 inspection. This activity does not constitute a renovation activity, and thus no RRP requirement of signage, warnings, or plastic was required.

Mr. Clark omitted pertinent facts in his report. The most damaging omission is the fact that the home had recently been bought by LHP, and the crew was in a clean-up process. Instead, Mr. Clark represented the pictures he submitted with his report as the work or mess created by the crew. This representation ultimately caused the photographs he submitted to be negatively viewed, and harmed LHP.

Mr. Clark's report is disingenuous because it suggests that LHP should have been following RRP protocol at the time of inspection. However, in a situation where there was no scraping, different guidelines apply. While all parties agree that there was debris and paint scrapings on the ground surrounding the home, without the EPA having any argument as to when or how they came to be, there is no argument of material fact.

**A. There has been no proof as to the violation of any regulation.**

Outside of the report that was submitted by Mr. Clark, there has been no further information provided to this point that would lend to LHP violating any RRP regulations. In order for there to have been a violation, the rules would have had to apply. Without that premise, the EPA has no case. Besides the false statement by Mr. Clark in his report that he saw the workers at the home scraping paint, there is no additional corroborating testimony or evidence. None of the pictures in the report show anyone scraping paint. In fact, Mr. Fiala has a picture which shows the relevant portion of the house before the November 9, 2012 inspection; that picture depicts the relevant portion as grey concrete blocks. The picture that the EPA took on November 9, 2012 shows the same portion as completely white with crew members working to apply the final coat of paint.

**II. Affidavits eliminate any issue of material fact.**

There are multiple affidavits and other materials being offered in this matter, each of which offers information as to the state of 800 A Street prior to work being done at the home and while work was being done at the home. See **Group Exhibit B**. This information is instrumental in establishing that there was no violation of RRP regulations and no violation observed on November 9<sup>th</sup>, 2012.

### **CONCLUSION**

WHEREFORE, Respondent LHP, LLC respectfully request that the Honorable Administrative Law Judge find that the claimed EPA violations have no merit, grant the instant Motion for Summary Judgment, and for all further and other relief deemed just and equitable.

Respectfully Submitted,

By: /s/ Cynthia Rote  
An Attorney for LHP, LLC

DELANEY LAW, PC  
Attorney No. 44350  
444 N. Wabash Ave, Ste 300  
Chicago, Illinois 606011  
(312) 276-0263

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of LHP, LLC )  
 ) Docket No. TSCA-07-2014-0029  
130 N.27<sup>TH</sup> Street, #6 )  
Lincoln, Nebraska )  
 )  
Respondent )

TO:  
Sybil Anderson, Headquarters Hearing Clerk      Robert W. Richards, Attorney  
Office of Administrative Law Judges      U.S. Environmental Protection Agency  
U.S. Environmental Protection Agency      11201 Renner Boulevard  
Ronald Reagan Building, Room M1200      Lenexa, Kansas 66219  
1300 Pennsylvania Avenue, NW  
Washington, DC 20004

NOTICE OF FILING

PLEASE TAKE NOTICE, on November 20, 2015, the Respondent in the above captioned matter has sent for filing its Motion for Summary Judgment, in the United States Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, copies of which are attached hereto.

Delaney Law, P.C.  
Attorney No. 44350  
Attorneys for: Plaintiff  
444 North Wabash Ave., Suite 300  
Chicago, Illinois 60611  
(312) 276-0263

CERTIFICATE OF SERVICE

I, Eliza Wronska, certifies that she caused one original and one copy to be served upon the Office of Administrative Law Judges (address above) and one copy to be served upon Complainant (address above) on November 20, 2015 via Federal Express.

  
\_\_\_\_\_

## AFFIDAVIT OF DAVID FIALA

I, **David Fiala**, on oath state:

1. I am over the age of eighteen, competent to make this affidavit, and have personal knowledge of the facts as set forth in this Affidavit.

2. I am a manger and shareholder of LHP, LLC.

3. There were paint chips and debris at 800 A Street in Lincoln Nebraska at the time of purchase in September 2012. This was inside the home but mostly on the exterior around the porches, in the garage, under the steps, and all around the exterior of the home until the cleanup that occurred on November 9, 2012 and the days following.

4. On November 9, 2012, there was no scraping being done at 800 A Street. When I received a call from Mr. Clark I requested that, unless I have no choice, he was to leave our staff alone and I would get there as soon as I could. We were working to finish the last coat of paint that day due to expected storms and cold temperatures.

5. When I arrived, Mr. Clark was sitting in his car waiting for me. He did not communicate to me that any work was being performed incorrectly. I communicated that we were working on the final coat of paint and picking up existing debris. Based upon my training, picking up the existing debris was not required, but the right thing to do.

6. When Mr. Clark was about to leave on November 9, 2012, he asked me to sign a document that was partially covered, but would not let me read it. I reached out, but Mr. Clark pulled back three (3) times before he said that the EPA could fine us large amounts of money if I did not sign the document.

7. Mr. Clark stated that I would be provided a copy of the document in a blue folder that he would provide. However, when I received the folder, no copy was included.

## GROUP EXHIBIT A

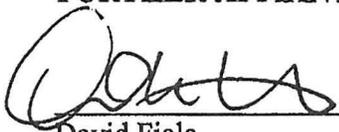
8. It was not until 2013 when I learned of the contents of the EPA report from the inspection and alleged violations. I provided a before-picture that showed the area the EPA alleges was being scraped as grey concrete blocks prior to being painted on November 8, 2012.

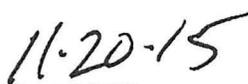
9. The picture the EPA provides in its allegations of scraping shows the entire area as white with workers working on the final coat of paint on November 9, 2012. Additional simple information that I provided Mr. Clark at the inspection are not contained in his report, and many items have no basis in fact.

10. Based on my training and communication directly with the EPA, our actions were not in violation of any rules. Please find the included recording of a phone call with the EPA hotline which I recorded in Nebraska.

11. If called to testify in this matter I would testify to the same facts as set forth herein.

**FURTHER AFFIANT SAYETH NAUGHT**

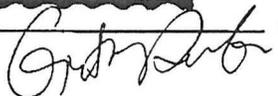
  
\_\_\_\_\_  
David Fiala

  
\_\_\_\_\_  
Date

Signed and sworn before me this <sup>20<sup>th</sup></sup> day of November 2015.



Notary Public



## *EPA Cornhusker Kick-In*

The EPA appears to be targeting Lincoln to generate revenue and work against public safety by complicating their interpretations of their Lead Paint Renovation Repair and Paint Program (“RRP”) creating uncertainty and ambiguity in order to pursue unfair fines with what appears to be unethical or unlawful means.

The EPA has refused to provide evidence or FOIA requests providing transparency to their actions citing attorney client privilege which does not and cannot apply to what is requested. Over the past three years the EPA stopped providing information on either legitimate enforcement or the victims of the apparent EPA targeting. The EPA is withholding or destroying evidence for the cases they take on against American citizens or businesses.

In the fall of 2012 a local small business we will note as “LLC” purchased a neglected property for \$37,000 in an older neighborhood near downtown. This story is about this small business and property.

LLC is a small business formed in Lincoln Nebraska that purchases properties and they only work on their own properties not seeking public work. This small business was following the EPA procedures based on EPA approved training and/or direct EPA communication they received in regard to disrupting lead painted surfaces over a required size.

Part of the EPA rules include that paint chips or debris that was already on the ground, on the floor or concrete surface that may have accumulated over years is not something subject to EPA scrutiny or RRP rules. The property owner is okay to clean it up the best they can or leave it because this is not disrupting a painted surface. If an entity or individual falls under certain guidelines then there are no rules for the special group nor enforcement. This makes the program unfair but also not truly focused on the safety of young children, rather focused on extorting capital from the American People or Businesses in order to avoid litigious expensive defending of the EPA actions.

An EPA inspection in 2012 is when this story began, and now for nearly 3 years the EPA has pursued fines based upon false representations holding a Small Business accountable for an existing issue with egregious penalties sought all while LLC was doing what everyone wants, cleaning up and improving a neglected property. The EPA should want the right thing to happen but instead the EPA is focused on funding itself off of Lincoln.

This story illustrates such a waste of tax payer money for a situation where the EPA is so out-of-bounds showing up when someone is cleaning up a property and taking action against them accusing them causing decades of neglect and an act that would warrant an egregious fine larger than penalties for some major crimes.

## **GROUP EXHIBIT B**

The first picture below is a real estate listing picture taken in early 2012 of which LLC purchased this home. This picture does not look as bad as the condition the property was in, but note paint is missing which flaked or peeled off. Note the concrete blocks at the foundation, then note the next picture below. LLC was working on painting the second and final coats, then there is also a picture of a window. THESE TWO PICTURES are the EPA evidence used to note the RRP EPA lead paint rules. The EPA report noted LLC admitted it was scraping peeling paint on the house in this picture which is clearly false. This inspector took approximately 40 pictures and was standing right by the location where he is saying LLC was scraping paint but chose to not take a picture of that area up close while he was standing right there. The EPA inspector chose to take a very far away picture to illustrate his false allegation, in fact went very very far away to take this picture. Even from far away the picture is clearly a freshly painted surface of the concrete blocks seen on the before picture. LLC was not scraping paint and therefore EPA alleged violations pursued for several years are based upon false, knowingly false, EPA representations of fact.



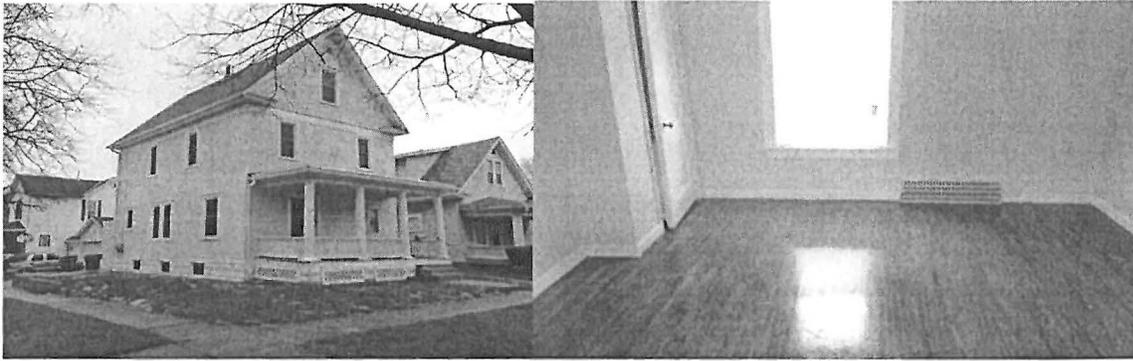
When painted surfaces are not being disturbed (scraped for example) on a job at this point the EPA rules used here no longer apply. Only disclosures moving forward to residents or tenants about lead paint hazards in pre 1978 built properties, which LHP provides the EPA disclosures, pamphlets and receive signatures from tenants. Their leases contain the required EPA lead paint disclosures. Areas around the garage, in the garage and under the back steps is where plywood was used in construction and the largest amount of paint had flaked off the house over time, and where the wind would blow to result in a lot of accumulation of debris around and under the back steps and garage. The EPA inspector took many pictures of the existing old debris that came from in the garage, under the steps and around the back steps where items accumulated for years, and obviously there for a long time. This property appeared to be what it was, a property neglected for a decades where paint had flaked off the house. The EPA for example, is alleging violations and hefty fines for not having plastic on the ground for example. Common sense is how can someone clean up a place if we put plastic on top of it, this is what makes the EPA actions not only appear unlawful, they are so ridiculous and stupid in this instance and instances like it.

LLC clearly communicated to the inspector the truth, that our training noted that existing debris in a situation like this was to either be left or get it cleaned up the best you can, bagged, and discarded but RRP rules or procedures do not apply because the renovator/owner did not disrupt it. This is also an example where the previous Opt Out by the owner could have applied, and poses no hazard when properties are vacant. Common sense would be if the EPA Inspector, Mr Paul Clark, chose to not believe a property owner nor note what the property owner provided to him in an EPA report used to pursue hefty fines, the inspector would have at least went and asked the neighbors, or call the realtor to verify the information we provided him was accurate. Mr Paul Clark responded to the property owner that this was not necessary, also responded via email a week after the inspection that he did not need our report, nor pictures of our finished product illustrating our compliance and that we chose to spend days cleaning up what had accumulated for years at this property. Frankly LLC made a hell of an unsafe property very safe if worried about neighborhood kids coming to this house without parent supervision and eating paint chips of the ground in the dirt, debris which had been there for years.

The EPA notified LLC nearly 9 months following the inspection of their allegations; the inspector did not note LLC was doing anything incorrectly or not doing the right things for the situation on the 11-9-12 inspection. There is a reason, they were not. The inspector understood LLC just purchased the house and two pictures above and picture below, taken by the EPA, is of a primer painted 800 A Street taken by the EPA. The EPA claims LHP, LLC was scraping paint and the rules applied of which they are applying fines nearly to the extent of the purchase price of the home. The EPA evidence and violations are clearly bogus. The EPA refuses to-date to acknowledge the communication of facts, and refused to provide specific reports and communication requested surrounding the inspector, and has refused to provide information on others they have been doing this to. The EPA has noted attorney client privilege on both public information and specific information to the case involving LLC, or they have denied items exist so they have likely destroyed evidence. The EPA website last shown actions, which are public record, were in 2012. An appropriate analogy to this EPA action is like fining someone \$6,000 for littering for each bag

of trash they have when their name is on the adopt-a-highway sign and they are picking up trash. This is that stupid and a disgusting action of this Federal Government organization.

You can see the before picture above, and then the LLC owned property in 2013 Prior to Occupancy as an example of the interior and exterior safe, clean condition due to the work of a Lincoln Small Business.



The clean safe change is a very welcome improvement for the older part of Lincoln. Proof supporting our communication is common sense and undeniable, but the EPA continues to harrass in a very litigious nature wanting a settlement amount to be paid to support future EPA endeavors of this kind. This needs to be stopped.

The EPA is asserting that LLC caused paint chips and debris to be on the ground, behind the steps, in the garage and so on which was an accumulation of decades of neglect of this property. The EPA has simple chosen to not believe the first hand evidence/communication we have provided them and holding a property owenr responsible for something they did not due, rather LLC mitgated a siutation deserving a pat on the back, not years of litigious Federal Governement harrassment and what only appears to be a denial of rights provided to everyone.

Below is a copy of a letter from the real estate agent requested following the EPA notification of violations and intent to pursue large fines. The grid of EPA fines pursued and explanations of them following.



Pioneer Greens Office  
4501 South 86th Street  
Lincoln, Nebraska 68526-9227  
402-436-4663  
402-436-3199 fax  
www.homerealestate.com

10-8-13

RE: 800 A. Street Lincoln

I'm writing this letter in regards to the property at 800 A. Street in Lincoln, Nebraska. I personally showed this property in August 2012 & also did a walk through in September 2012, prior to the sale and closing. I also did go past the property on numerous occasions after the sale. I recently viewed photo's that the current owner, LHP, LLC has shared with me. This house did have the majority of the exterior paint with missing, peeling or chipping paint at the time of the sale. I have at least 3 exterior photo's from that time showing the exterior of the house. This property was sold in "as-is" condition at that time.

Please let me know if you have any questions that I can answer for you.

Thank you,

A handwritten signature in cursive script that reads "Anita M. Rockenbach".

Anita M Rockenbach  
Home Real Estate- Agent  
402-450-5897  
[Anita.Rockenbach@homerealestate.com](mailto:Anita.Rockenbach@homerealestate.com)



**HOME Real Estate's Mission**

*To provide each individual outstanding service and exceptional opportunities in real estate through our commitment to professional and ethical performance by our entire organization.*

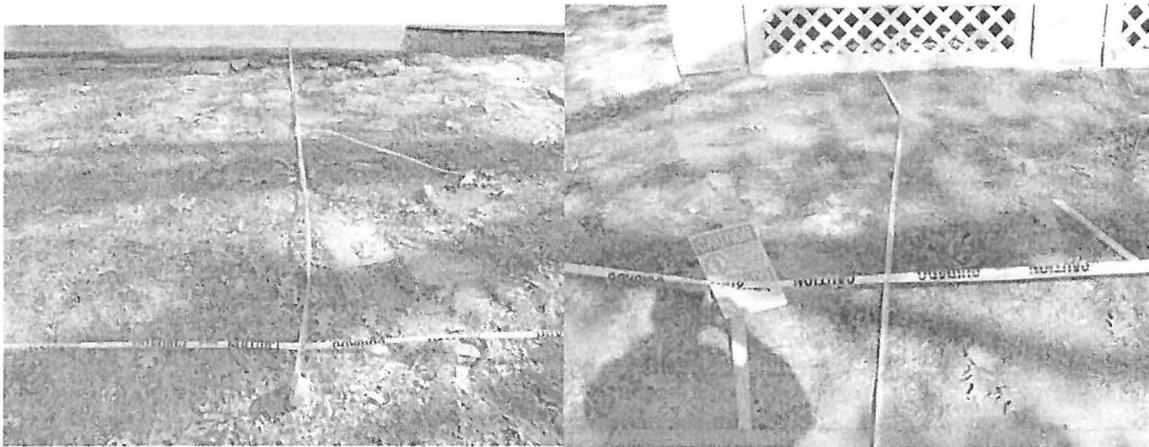


Attachment 1  
 In the Matter of LHP, LLC  
 TSCA-07-2014-0029

Below is the breakdown of the pursued EPA "Gravity Based Penalty" of "Minor" extent of alleged "Violations" The EPA complaint is materially inaccurate holding us accountable for items on the ground when we purchased the property. We believe we followed our training.

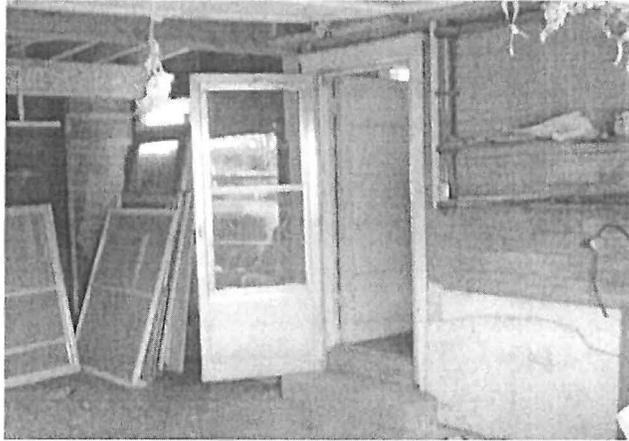
Address of Target Housing	Violation	Extent	Circumstance	Gravity Based Penalty
800 A Street Lincoln, NE	§745.85(1) Failure to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area	Minor	Level 1b	\$2,840
	§745.85(a)(2)(ii)(A) Failure to close all doors and windows within 20 feet of the renovation	Minor	Level 2a	\$6,000
	§745.85(a)(2)(ii)(B) Failure to ensure that doors in the work area are covered with impermeable material to confine dust and debris.	Minor	Level 2a	\$6,000
	§745.85(a)(2)(ii)(C) Failure to cover the ground surface with at least 10 feet of plastic sheeting or other disposable impermeable material before beginning the renovation.	Minor	Level 2a	\$6,000
	§745.85(a)(4)(i) Failure to contain waste from renovation activities and to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal	Minor	Level 2a	\$6,000
<b>Total</b>				<b>\$26,840</b>

Item #1, a \$2,800 penalty: Failure to post signs to clearly identify the work area:



There is warning tape and signs around the property which are clearly identifiable. No painted surface was being disrupted with the primer code on and cleanup of what was scraped. We were finishing painting and picking up existing paint and debris found at the purchase in the fall of 2012. No signage should even be necessary.

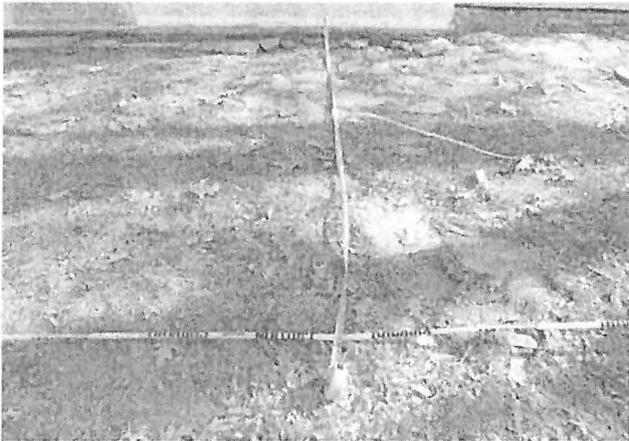
Item #2, a \$6,000 penalty... Failure to close all windows and doors within 20' during renovation where lead paint surfaces were being disrupted (EPA "renovation.") No paint was being disrupted and no interior door was open. The door below was a door in the garage leading to a porch area leading to stairs up to the interior entry. Plus this area and the garage contained paint chips and debris from the neglected property we were in the process of sweeping and cleaning up. This and the above pictures are all EPA evidence pictures. Below you can see the nature of the neglected property with paint debris, insulation, junk around inside the garage/porch area. This is not a violation it is a property needing investment and clean up.



Item #3 a \$6,000 penalty for not assuring the doors within 20' the "work area" were covered with impermeable plastic. The only work occurring in this area was cleaning up existing debris, paint chips, insulation inside and outside of this door, the whole area was the clean up area. There was no work area where painted surfaces were being disrupted. (same evidence as #2) The area on the ground, in the garage and in the porch we were cleaning up; you can't do that with plastic protecting the neglected area we were cleaning up ! This is also an example where the EPA piles up fines to egregious levels. People in a free nation should not fear the federal government taking on years of litigation and harassment for cleaning up a house. The United States of America Federal Government should not be one of the largest risks financially and to time spent in a nature such as this.



Item #4, a \$6,000 penalty.... Failure to cover ground with plastic "prior to beginning work"... the EPA report, which contained lies, noted we had plastic down while working and the pictures clearly show the house was painted on the day of the inspection with no renovation occurring disrupting painted surface. It was clearly painted! This makes what the EPA is doing so stupid, so flagrantly and arrogantly extorting this Lincoln Business which explained they were cleaning up what was present at the time of the purchase of this neglected property and it would still take considerable time to do so. Below is a picture the EPA report noting some of the warning tape was on the ground with the EPA Inspector's tape measure on top of the yellow caution tape. This also happens to be the southwest area of the house where the EPA inspector claimed LLC was scraping paint but you can see no reasonable person could assume LLC scraped a few square feet, let alone the 2 stories of painted surface and have nothing on the ground. The reason you do not see anything on the ground is because LLC captured the paint with plastic. This is about 50' away from the north side of the property where the exterior door inside the garage is located where the EPA is wanting \$12,000 (\$6k double up) for a door open to this porch area at this vacant house that is extremely dirty which LLC was in the process of cleaning up the whole property.



Item #5, a \$6,000 penalty for Failure to contain dust and debris from the work area until it is removed. The EPA pictures for this included a picture of a trash bag LLC was placing items debris into such as old paint chips, wood, leaves, dog feces and dirt that came along with picking it up. The EPA wants \$6,000 for not properly containing the junk because the trash bag is open and other items around...while LLC is placing junk into the bag. The place did not look great, but showing up while someone is doing the right thing and fining them for items there for years is something that should not be occurring.

The EPA took pictures of paint chips on the group and some spots where LLC were raking up or sweeping up the debris grass, leaves, dirt and chips and debris which were there at LLC's purchase. The EPA training and EPA staff provides guidance for this situation, which again is pick it up the best you can that the renovation rules do not apply for existing items found which were not caused by our actions. Here where the EPA can make a determination that overrules first hand facts, noting someone caused and did not do a good enough job containing items years prior to purchasing a property. This is an example where the EPA is acting lawlessly, thinks they are above the law and above rules of evidence, and doing so extremely arrogantly to bring arguments like this which are so false.

How is any business or individual safe from EPA actions if doing exactly what the EPA should want; making safe what is neglected and unsafe properties? The US Government and Media should help assure Full Disclosure of the EPA intentions AND actions. Most importantly this needs to be corrected. In this instance, the EPA inspector provided no indication anything was done incorrectly. Nine months after the inspection, the EPA contacted LLC noting violations they wanted a \$26,800 fine. LLC has only dealt with an unreasonable EPA attorney that wants money and will not acknowledge the EPA is unreasonable, dishonest and illustrates its believed power. Where is the concern for safety! This EPA action discourages individuals or businesses from picking up any debris, from scraping any house. A property owner or renovator can just paint over the house and leave everything there as long as they do not scrap over 20 square feet.



### ***Further Acknowledgment of EPA Dishonesty and current EPA targeting and harassment of LLC***

Following LLC's voice of concern making the unreasonable and what appeared unlawful EPA actions known to their US Senator's office, the EPA continues to harass LLC beyond the litigious pursuit of fines. They are following and targeting them, and refused to renew their required firm certificate.

At the time of the November 2012 inspection the EPA Inspector lied to LLC. He first provided a document to a worker, asking them to sign to acknowledge he is giving him written information on why he was at the scene. The Inspector did not let them read it and did not even provide the information to him. What he had them sign was a "Notice of Inspection" with a number of items on it. Also signed was a "Toxic Substance Control ACT TSCA Inspection Confidentiality Notice" asserting many things, but strangely enough it noted the EPA will provide the information subject to FOIA requests. The EPA is not even providing information back to LLC for two years upon requests from LLC and the Nebraska US Senator's Office !

The items signed were later attached to the false report Mr Paul Clark typed up asserting items that Mr Paul Clark clearly and plainly made up, including the most major item, that LLC was and admitted they were disrupting lead painted surface, when they were not ! And omitting important and obvious facts such as the recent purchase of this neglected property and the debris that existed due to the decades of neglect of this property. The EPA clearly represented LLC caused what they had, and have pursued fines of \$26,800!!

The EPA has no evidence lead paint even existed with the majority to all of the paint on the ground paint from the past twenty years and not containing lead. The EPA chose to not test the paint.

The EPA report contains so many untrue facts, including but not limited to, the EPA inspector claiming he noted violations at the scene and had a review of the violations at the end and how to avoid them in the future. This never occurred. He did not ask to speak to the correct person when he arrived, he lied at the scene. When he later had phone contact with the "supervisor," which was the LLC representative/owner of the property and certified renovator. He explained and requested that the Inspector leave the workers alone unless they had no choice in the matter, he had transmission trouble and needed to get a different vehicle and get there as soon as he could. There was a storm expected the next day and they were aiming to complete the job today and tonight, so he did not want the work disrupted. He also had meetings set up around noon.

So the EPA Inspector was believed to not receive permission, and just lied about what he was doing at the scene to obtain his signatures and walk the property. Which is just lying and an illustration of the lawlessness of the EPA, but not a material concern here. After talking to the proper "supervisor" Mr Paul Clark went to his car and waited for an estimated 30 minutes which was another 30 minutes he should have observed painting and cleaning up of existing times. When the supervisor arrived he showed him his badge went through a long list of questions that appeared to be the full inspection and also had the supervisor sign a document which Mr Paul Clark noted was only signing that the Inspector is giving him information, the inspector did not let him read it, and pulled it back 3 times while LLC's owner tried to

take it and read it. The inspector threatened the owner of fines if he did not sign it, and reiterated it was only noting he is receiving this packed of information and what he is signing is in there. It was not.

The EPA inspector just informed LLC Owner that the worker appeared to be knowledgeable and trained and showed him the lead paint materials and paperwork in the work vehicle at the scene, but did not disclose that he already had done what he had done. The conversation about the recent purchase and condition of the property was front and center in the conversation, with the Owner noting he could go talk to the neighbors or I'd give him the number of the real estate agent if he needed to verify what I was providing. Mr Clark noted that was not necessary that the scene appeared to be what the LLC owner described. The Owner noted they are doing the right thing a number of times at the scene to clean up this existing neglected property and following his training, and that he can just email a copy of the certificate if the inspector needed a copy, which the inspector said was fine.

The Inspector did not notify LLC of any violations or alleged it at the time of the inspection, and the bazaar nature of getting the signature was noted in LLC's report. The next week Mr Paul Clark refused the finished LLC report and pictures of the finished clean up saying they were not necessary. Mr Clark then came back months later wanting to inspect records but refused to provide what records he wanted in writing which LLC extended numerous offers to provide to him. Then in the late summer / early fall of 2013 the EPA provided a notice of violations to LHP,LLC.

Mr Paul Clark has continued to target and harass LLC, showing up at a property wanting to preform further inspections, but refusing upon request to provide written documentation of what he is doing, similar to what he did before. He has noted a few paint chips on the ground, but we have noted that we did not disrupt the painted surface. He refused to call LLC's owner/manager, but LLC has no idea of Mr Clark will provide additional false reporting at some point in the future absent of the truth or LLC facts.

He provided no explanation on why he is following and targeting LLC upon LLC's request.

The EPA failed to renew LLC's Certification in 2015 and has provided no explanation albeit the EPA attorney keeps wasting LLC's time in what only appears to be biased "mediations" where the EPA will never dismiss a case based on fact. The EPA noted they have 5 years before the statute of limitations runs out on a matter such as this: A local small business purchases a neglected house and cleans it up, but the EPA comes along to prey on them noting the existing items were caused by LLC. The local small business is clearly doing the right thing, and doing what the local community, and what Congress intended when passing legislation enacting. The EPA only now appears to be out of control and abusing their administrative authority. This is an example of preying on innocent Americans, and there appears to be political and wealth redistribution motives at work. The EPA continues to refuse to provide public information (FOIA Requests) illustrating they have purposely been covering up or possibly destroying records.