

## **Response to homeowners' lead dust concerns highlights holes in system - Federal Hill mothers directed to multiple agencies before anyone investigated their complaints about renovation project**

By Liz F. Kay and Timothy B. Wheeler, *The Baltimore Sun*, June 28, 2011

The dust was thick enough that Sally Dworak-Fisher could trace letters in it with her finger.

She feared that particles from rehab work next door were drifting into her Federal Hill home and coating many surfaces — even under the bathroom sink.

But when she and other neighbors of the property contacted federal, state and local authorities about concerns that dust at the Henrietta Street house might contain toxic lead, everyone said some other agency was responsible.

The residents' complaints, made earlier this month, demonstrate a breakdown at every level of government in the enforcement of laws and regulations meant to protect the public from the hazards of lead-based paint.

"It's one of those issues that seems to fall in that gap of enforcement levels in city, state and federal government," said City Councilman William H. Cole IV, who also contacted many agencies on the neighbors' behalf. "Nobody seemed to be able to identify who that right person was."

Baltimore Housing, which handles code enforcement, directed a resident's call to the city health department. The Maryland Department of the Environment said the state's lead paint laws didn't apply, because the agency only inspects lead hazards in rental properties. And a staffer for the U.S. Environmental Protection Agency warned Dworak-Fisher that hers would be one of many complaints handled by an office in Philadelphia.

The situation frustrated Dworak-Fisher and the other adjoining neighbor, Claire Mullins — both mothers of young children whose developing nervous systems are susceptible to long-term damage from even minute amounts of lead. Dworak-Fisher said she tried to clean up the dust in her home, but a lead test based on a swipe beneath her bathroom sink revealed levels three times higher than acceptable.

"It really makes me angry and upset for all the people who don't have the time and resources to spend all day making calls and trying to get some response," Dworak-Fisher said.

Mullins said her main concern is the health of her 3- and 8-year-old daughters. "I can't believe this is not a priority the city and state are serious about."

Lead poisoning has long been a health scourge in Baltimore's low-income neighborhoods, where older, often substandard rental housing is riddled with lead-based paint.

While great strides have been made in recent years in reducing the number of children poisoned, risks remain — even in middle-class and affluent neighborhoods. (Baltimore banned the use of lead paint in homes in 1950.)

Ruth Ann Norton, executive director of the Coalition to End Childhood Lead Poisoning, said the mothers' complaints illustrate a gap in the laws protecting children in cases of demolition or home rehabilitation, which occur frequently in the city.

Tearing out windows, walls and other surfaces can generate dust from lead-based paint. And in a city like Baltimore, with rowhomes and houses close together, failure to contain the dust can spread lead to neighboring properties.

It took days — and the intervention of Cole's office, as well as inquiries from The Baltimore Sun — before any government agency responded to the residents, and visited the neighborhood.

Dworak-Fisher said she originally contacted the Maryland Department of the Environment, where a worker promised to send an inspector right away — until the agency realized it only has jurisdiction over rental property.

Dworak-Fisher, who also has a 3-year-old daughter, then contacted the EPA, where a staffer agreed to fax her forms to file a written complaint under the federal agency's renovation, repair and painting rule.

As of April 2010, an EPA rule requires renovation firms working on houses constructed before 1978 to be certified in lead-safe work practices, such as sealing off doorways and windows with plastic. More than 2,800 Maryland contractors have the qualifications, including Integrated Construction Maintenance Inc., the company listed on the city demolition permit.

"We're doing everything under the letter of the law," said Scott Hollander, who is listed as the agent for the owner, Pilatus Opportunity Fund I LLC.

He said the adjacent homeowners never contacted them, even though contact information was listed on the permit posted in the window. "We have heard from everyone except them," he said, declining to comment further.

Mullins said the permit was posted so high that she couldn't see any names. She checked the housing department's permit database online, but it does not include names or contact information for the permit applicant.

Norton said children's health advocates have pushed for state legislation to require demolition contractors to take precautions against spreading lead dust. The EPA regulation that was finalized in April 2010 does apply, but while 11 states have assumed responsibility for enforcing the federal rule, Maryland is not among them.

MDE sought legislative authority in 2010 to enforce the rule, but withdrew the bill and has not reintroduced it, said Horacio Tablada, the agency's director of land management. He said the fee that the agency wanted to charge contractors to oversee them wouldn't have covered costs. He added that the EPA rule remains in flux, as it's been challenged in court by health advocates and property owners.

Dworak-Fisher had called the city health and housing departments but was ultimately directed to 311. The operator filled out the form incorrectly, so the June 2 complaint was never forwarded to either agency, said health department spokesman Brian Schleiter.

Mullins then took up the campaign and contacted several of the same agencies as well as Cole's office.

MDE spokesman Jay Apperson said that after Cole's office contacted the agency, a lead program staff member investigated the property June 14, but it appeared to be gutted.

A housing inspector went out June 15 after officials were contacted June 10, said Cheron Porter, spokeswoman for Baltimore Housing, and the agency will continue to monitor the site. The city's building code requires contractors to minimize construction nuisances, which would include flying dust and paint chips, she said.

After the councilman's complaint, a sanitarian with the Health Department's Bureau of Healthy Homes also went to the house June 15 but found no problems, said Schleiter. An environmental sanitarian went to the home last week, but saw no workers and issued no violations.

According to the city health department's lead paint abatement regulations, if a child is tested and has an elevated blood level it will start an investigation.

When the Dworak-Fishers saw construction begin on the vacant house, they suspected that the interior would be gutted. The pounding on the shared wall between the homes caused dust to blow in through cracks in the stairs and bathroom — though some of it might have originated in their own home. Sally Dworak-Fisher was concerned that it was lead paint dust.

She wishes someone could have at least confirmed whether the concern was valid.

Two inspectors from EPA's regional office came to Baltimore last week and took pictures of the house, according to Mullins. The agency did not say what they found.

A follow-up inspection by the state did cite another contractor for improperly power-washing the outside front of the house, according to Tablada. State rules require water from such cleaning operations to be collected and taken to a facility that can remove lead-laced paint chips and dust washed off the building. The contractor could not demonstrate such precautions were taken to keep the potentially contaminated water out of storm drains and the harbor, he said.

Mullins said all the windows on 43 E. Henrietta St. were either broken or open, and the narrow passage between the two homes was littered with debris, including bricks, painted wood and paint chips. Her potted herbs were coated in dust, and she stopped serving summer dinners on their patio out of fear her daughters would breathe in the particles.

For now, Mullins plans to have her daughters tested for lead, based on her pediatrician's recommendation. The Dworak-Fishers, who also have a 3-year-old, likely will too, after they commissioned a lead inspection of their home, and the results indicated elevated levels in their bathroom and windowsill, but not on their kitchen floor or other areas they had cleaned.

"To have this potentially really hazardous situation right next door and no city or state agency to oversee it is an extremely frustrating situation for a parent," Mullins said.