

Before the Iowa Department of Public Health

<p>IN THE MATTER OF</p> <p>Marilyn Struecker Construction Professionals 9289 Diamondhead Drive Dexter, IA 50070</p>	<p>Case Number: 2010-01-04</p> <p>NOTICE OF VIOLATION AND PROPOSED PENALTY</p>
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Pursuant to the provisions of Iowa Code Sections 135.105C and Iowa Administrative Code (IAC) 641—69.10(1), the Iowa Department of Public Health (Department) is issuing a notice that you have violated Iowa Code Section 135.105C and Iowa Administrative Code section 641—69.3 and is therefore proposing a civil penalty in the amount of \$100.

Iowa Code Section 135.105C states: "A person who performs renovation, remodeling, or repainting services of target housing for compensation shall provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the services. . . . A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense."

IAC section 69.10(1) states: "The department may impose a civil penalty pursuant to Iowa Code section 135.105C and this rule or may refer the case to the office of the county attorney for possible criminal penalties pursuant to Iowa Code section 135.38 when it finds that a person has committed any of the following acts:

a. Failed or refused to comply with any requirements of this chapter."

IAC section 641—69.3 states: " Beginning on June 1, 1999, individuals who perform renovation, remodeling, and repainting of target housing for compensation, except for emergency renovation, remodeling, and repainting of target housing, and except for minor repair and maintenance activities that disrupt less than 0.1 square feet or less of painted surface, must do the following no more than 60 days prior to commencing the work:

69.3(1) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Protect Your Family from Lead in Your Home, to the owner and adult occupant of each dwelling unit where renovation, remodeling, and repainting will be performed.

69.3(2) Obtain a signed, dated acknowledgment from the owner and known adult occupant of each dwelling unit where renovation, remodeling, and repainting will be performed affirming that they have received the pamphlet prior to the start of renovation, remodeling, or repainting and are aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint."

On November 12, 2009, the Department contacted you to determine whether you had conducted renovation, remodeling, or repainting in target housing since November 2008. On December 3, 2009, you provided the Department with one Iowa address where you had conducted renovation, remodeling, or repainting since November 2008, but where you had not provided the notification and pamphlet as required by Iowa Administrative Code section 641—69.3. The Department has determined that you

should have provided the notification and pamphlet before the work began for the work done at 6511 Del Matro Ave in Windsor Heights.

These actions violate Iowa Code section 135.105C and Iowa Administrative Code section 641—69.3. **The Department is authorized to impose a civil penalty against you in the amount of \$5,000. The Department has considered the mitigating circumstances and is proposing to impose a civil penalty of \$100. Within twenty (20) days of this Notice of Violation, you must either pay this civil penalty of \$100 or submit a written answer to this Notice of Violation.** If you choose to answer this notice of violation, your written answer must state any facts, explanations, and arguments denying the violation or must demonstrate any extenuating circumstances, error in the notice of violation, or other reason why the civil penalty should not be imposed. You may also request remission or mitigation of the penalty. The payment of the civil penalty or your written answer to this Notice of Violation must be submitted in writing to the Department by certified mail, return receipt requested, within twenty (20) days of this Notice of Violation to:

Rita Gergely
Iowa Department of Public Health
Bureau of Lead Poisoning Prevention
321 East 12th Street
Des Moines, Iowa 50309

If you fail to answer this notice of violation within the twenty (20) day time period, an order may be issued imposing the civil penalty in the amount set forth in this notice.

If you fail to pay any civil penalty subsequently determined by the department, unless compromised, remitted, or mitigated, the fee shall be collected by civil action, pursuant to Iowa Code section 135.105A.

Copy

Rita Gergely
Chief
Bureau of Lead Poisoning Prevention
(515) 242-6340

Date