



ERIE COUNTY COMPTROLLER

July 24, 2019

HON. STEFAN I. MYCHAJLIW

Hon. Mark C. Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, New York 14202

RE: Lead Paint Hazard Confirmed in County Parks on Playground Equipment

Dear County Executive Poloncarz:

I am writing to make you aware that an independent laboratory has confirmed the existence of lead paint on playground equipment in multiple county parks. This confirmation is alarming, and needs your immediate attention. This playground equipment is in a deteriorated state, and currently poses a serious threat to the safety of children using it. It is my recommendation that you immediately take the following actions:

1. Block off, close, and secure every piece of playground equipment until they are tested for lead paint hazards and are confirmed to be safe.
2. Immediately - within 24 hours - remove the 12 pieces of playground equipment that EMSL Analytical, Inc. has confirmed to contain peeling lead paint, which is a known and serious danger to children.
3. Instruct the Health Department to test every piece of playground equipment throughout county parks and report the results back to the Erie County Legislature.

The existence of peeling and flaking lead based paint on playground equipment in county parks is a very serious and dangerous matter. You personally described the danger this may cause to children at a press event on March 9, 2016, by stating :

“lead poisoning is an insidious disease that can destroy a child’s future and cause permanent neurological damage.”

Source: 3/9/16 Press Release, Office of County Executive Mark Poloncarz
“Poloncarz Announces Major Erie County Lead Initiative”

On March 26, 2019, Erie County Health Commissioner Dr. Gale Burstein stated:

“there is no safe level of lead for children... even a very small amount of lead, through household dust or peeling paint, can cause serious and lifelong damage to a child’s health and neurological development.”

Source: 3/26/19 WBEN Article

As you are aware, my staff and I recently completed a report on capital projects in county parks. That report revealed an alarming pattern of mismanagement throughout the parks department and your administration. While personally inspecting the parks, my staff and I noticed the existence of peeling and flaking paint on playground equipment in almost every county park. It was clear to us that the poor maintenance of the playground equipment had allowed multiple layers of paint to start peeling and become exposed. This exposure presents a serious danger to any child that uses the equipment.

Concerned that the peeling paint may contain lead, we purchased 3M lead paint test kits from Home Depot and tested the playground equipment. Those tests revealed positive results for lead paint in Chestnut Ridge Park, Emery Park, Sprague Brooke Park, Elma Meadows Park, and Akron Falls Park. These were the only parks that we visited to perform tests, so I do not discount the possibility that peeling lead paint exists at other parks as well. Immediately after conducting the 3M lead tests and registering positive results for the existence of lead, I notified County Health Commissioner Dr. Gale Burstein. Dr. Burstein responded to my letter stating that she would have her department conduct their own tests on the playground equipment. My Deputy Comptroller for Audit and Control offered to show her and her staff all of the equipment we inspected and tested. She refused that offer, stating that she would work with the ECDOH Environmental Health Lead Team and the Parks Department and inspect all County Equipment.

As a result, we returned to the parks to collect samples from the equipment that we tested. We then identified an accredited laboratory to independently test the results. The laboratory we identified is EMSL Analytical, Inc. They have been recognized by the New York State Department of Health Wadsworth Center with a Certificate of Approval for Laboratory Service. The Certificate was most recently issued on April 1, 2019 and expires on April 1, 2020. EMSL Analytical is accredited by the American Industrial Hygiene Association's Laboratory Accreditation Program, as well as the American Industrial Hygiene Association's Environmental Lead Laboratory Accreditation Program. It is also worth mentioning that this same laboratory is used by the Erie County Department of Public Works and the Erie County Water Authority to conduct official tests.

It is important to note that we did not test every piece of playground equipment in every Erie County Park. We did not even test every piece of older playground equipment that we observed. As such, we caution that the existence of lead on playground equipment is likely to exist beyond our test results.

Lead is known to be toxic to humans and animals. The United States Environmental Protection Agency states that lead is particularly dangerous to children because their growing bodies absorb more lead than adults do and their brains and nervous systems are more sensitive to the damaging effects of lead. In 1978, in an effort to protect individuals from the dangers of lead, the federal government banned consumer use of lead containing paint. By definition, lead based paint or other surface coatings contain at least 0.5% lead, or 5,000 parts per million by dry weight.

Each of the twelve samples that we sent for testing indicated positive for the presence of lead. Eleven of the twelve samples tested positive for concentrations above the 0.5% threshold. The highest concentration was found at Akron Falls Park. That sample indicated a lead concentration of 18%wt, which is 36 times the threshold to be defined as lead based paint.

The detailed laboratory results are attached and clearly indicate the existence of a dangerous level of lead on county playground equipment used by children. Knowing the dangers this peeling and flaking paint presents, and has presented, to children in our parks is extremely alarming. The conditions of this equipment did not happen overnight. It is clearly years of neglect that caused the paint to peel and flake, and the management of those parks falls squarely with you. You concluded your March 9, 2016 press conference on the dangers of lead by saying:

"When we see a threat to public health, we must act!"

*Source: 3/9/16 Press Release, Office of County Executive Mark Poloncarz
"Poloncarz Announces Major Erie County Lead Initiative"*

This matter is clearly a threat to public health, and you must act.

Sincerely,



STEFAN I. MYCHAJLIW
Erie County Comptroller

CC: Erie County Legislature
Dr. Gale Burstein, EC Health Commissioner
Mr. Greg Olma, Deputy Parks Commissioner
New York State Department of Health
U.S. Environmental Protection Agency

Attachment: EMSL Analytical, Inc. Lead Test Results