

THURSDAY, OCTOBER 28, 1999

\$1.8M awarded in paint poisoning

Landlord, county held responsible in case of Cohoes toddler who ingested toxic lead

By MELISSA GRACE

Staff writer

A jury handed down a \$1.8 million verdict Wednesday, finding the landlord and Albany County negligent in the lead poisoning of a toddler after she ingested toxic paint chips in a Cohoes apartment.

The jury found landlords Nicholas and Eileen Franzese responsible for 70 percent of the damages but said the county must pay 30 percent - or \$540,000 - of Sierra-Dawn LaFountaine's award.

County officials vowed to appeal and said they had no legal burden to ensure lead-free housing.

"We don't have any liability," said Deputy County Executive. Chris Andreucci. "The burden that the Health Department has is restricted solely to notification (of landlords and tenants)."

Childhood lead paint poisoning is considered a major health hazard nationwide. If not caught early, the poisoning is believed to cause severe learning problems in children. Lead paint was banned in 1978.

By statute, the county is charged with conducting inspections and ordering abatements of apartments when a child's blood-lead levels show a poisoning, as Sierra's did in the early 1990's.

The girl, now 8 and a special education student, has severe learning disorders and is treated with powerful medications, according to trial testimony.

The condition was a direct result of her having eaten highly toxic, hut sweet, lead-based paintchips and having inhaled lead-laden dust in a 64 Willow St. apartment where she lived in 1992 and 1993, according to testimony.

The verdict came after an 8-day trial before State Supreme Court Justice Joseph C. Teresi.

The award was greeted with tears by Sierra's mother, Tracey Currie LaFountaine, who filed a \$3 million lawsuit against the landlords in 1996. The family claimed the owners knew of the danger and didn't clean up the hazard.

The landlords in turn sued the Albany County Department of Health claiming that it did not properly advise the Franzeses on how to abate the toxic substance.

The jury awarded \$1.5 million for Sierra's past and future pain and suffering and \$300,000 for future lost earnings.

An Albany attorney representing the family, Peter L. Danziger, said the verdict sends a message that landlords and counties are responsible for cleaning up lead hazards.

Danziger has approximately 25 lead paint poisoning cases pending against landlords and counties in the Capital Region - including 15 against Albany County.

After the verdict, Eileen Franzese declined comment, saying only, "Don't bother me."

Bailey, who represented the county, said the verdict against the municipality was legally incorrect and would be overturned.

Under the law, though the county provides a lead inspection and abatement program, it cannot be held negligent if that fails, he said.

County officials vowed to appeal and said they had no legal burden to ensure lead-free housing.