

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Civil Investigative Demand 15-78

No. 16 Misc. 112

ORDER

WHEREAS, the United States Department of Housing and Urban Development has provided and continues to provide funding to the New York City Housing Authority (“NYCHA”) for the provision and maintenance of public housing in New York City;

WHEREAS, federal regulations require NYCHA to maintain public housing so that it is decent, safe, sanitary, and in good repair, *see, e.g.*, 24 C.F.R. § 5.703; 24 C.F.R. § 902.21, and to comply with all federal requirements regarding lead and lead-based paint in public housing, *see e.g.*, 24 C.F.R. Part 35, subparts A-R;

WHEREAS, the United States Attorney’s Office for the Southern District of New York (the “United States”) is investigating environmental health and safety conditions in NYCHA public housing, and potential false claims for payment submitted by NYCHA to the United States related to such conditions in violation of the False Claims Act, 31 U.S.C. § 3729 *et seq.*;

WHEREAS, pursuant to 31 U.S.C. § 3733, the United States issued a Civil Investigative Demand to the New York City Department of Health and Mental Hygiene (“NYC DOHMH”) seeking, *inter alia*, information regarding individuals with elevated blood-lead levels in NYCHA public housing, and documents reflecting complaints of unsafe, unsanitary, or unhealthful conditions in NYCHA public housing;

WHEREAS, NYC DOHMH has asserted that without a court order, Article 11 of the NYC Health Code and/or Section 18 of the New York State Public Health Law prevent NYC DOHMH from producing certain information and documents responsive to CID 15-78 that

reflect individuals' medical or individually identifiable information, patient information, and information from the New York City children's blood lead registry, which may be protected under Article 11 of the NYC Health Code and/or Section 18 of the New York State Public Health Law;

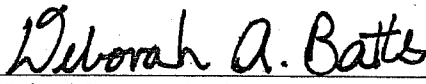
WHEREAS, NYC DOHMH nonetheless agrees that upon entry of a court order requiring production, it may produce such information and documents;

WHEREAS, the production of the information and documents responsive to CID 15-78 is in the interests of justice;

IT IS NOW HEREBY ORDERED that:

1. NYC DOHMH shall produce the information and documents responsive to CID 15-78, notwithstanding Article 11 of the NYC Health Code and Section 18 of the New York State Public Health Law;
2. Any objection by NYCH DOHMH to the production of the information and documents responsive to CID 15-78 to the United States on the ground that such material is protected by Article 11 of the NYC Health Code and/or Section 18 of the New York State Public Health Law is overruled; and
3. This Order does not affect any objections that NYC DOHMH may have to the CID based on attorney-client privilege or any privilege against disclosure unrelated to Article 11 of the NYC Health Code and Section 18 of the New York State Public Health Law.

Dated: New York, New York
March 16, 2016


United States District Judge