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City Limits MAGAZINE

Date: [September/October 2003](#)

THE POLITICS OF PAINT

The New York City Council is poised to pass tough new lead paint poisoning protections. But we've yet to reckon with new science showing that "safe" levels of lead are harming kids. > *By Cassi Feldman and Debbie Nathan*

Bedford-Stuyvesant resident Maria Salvatierra doesn't know Ohio pediatrician Bruce Lanphear, but if the two ever met, their conversation might turn quickly to low IQ, tooth decay, juvenile delinquency and delayed breast development. Hardly upbeat topics, but these days all of them worry the doctor--and parents, like Salvatierra, who are raising their kids in old buildings contaminated with lead-based paint. For years, Lanphear, a pediatrician and public health researcher at University of Cincinnati Children's Hospital Medical Center, has been studying the bad things that can happen to children who eat or breathe lead. Now, one of those children is Salvatierra's daughter.

Her name is Alexandra. She is a petite, dark-haired 2-year-old with a shy but ready smile who entertains herself by hugging a teddy bear and exploring the crannies of her family's cramped, knickknack-filled railroad apartment near DeKalb Avenue. The unit's faded exterior, pocked foyer and scaly window sills suggest it was built generations ago and has barely had a facelift since then--certainly not since 1960, when New York City banned the use of lead paint. Toddlers in aging homes like this one often chew lead-based paint chips that peel off the walls, or lick their fingers after touching surfaces where invisible dust from the paint has settled. Alexandra's elders know the place is decrepit. "My son keeps telling me to find something better," says her grandmother, Ada Luz Moran, the matriarch of the apartment. But at \$283 a month, the rent can't be beat, and the family, Nicaraguans who came here in the 1990s, must pinch pennies.

Maria Salvatierra got nervous after specially trained high school students volunteering with Pratt Area Community Council (PACC) knocked on doors in Bed-Stuy earlier this year. Located in a so-called lead belt running from Williamsburg and Fort Greene through central Brooklyn and into Queens, Bed-Stuy shares with all these neighborhoods a high rate of childhood lead poisoning.

When the students checked Salvatierra's apartment, they found up to 12 times more lead dust on the floors and window sills than the city considers safe. Worried, Salvatierra took Alexandra to the doctor for a blood test. Her lead level turned out to be more than twice the national average for American children.

Yet the New York City Department of Health and Mental Hygiene (DOH) has shown little regard for children like Alexandra. According to policy, her lead levels are too low for the department to recommend treatment or case management. This angers Salvatierra, and it concerns Lanphear. The health of kids like Alexandra is at risk, he and other public health experts believe. "There is no magic number for lead poisoning," Lanphear has said. "What we must do is reduce children's exposure to lead at every opportunity."

That view is backed by a disturbing study that Lanphear and

Even more harm to intelligence seems to occur at low levels of lead contamination than at high ones. The damage appears irreversible.

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several other researchers published this spring in the *New England Journal of Medicine*, which suggested that even low levels of lead contamination can damage the intelligence of children. This means, according to an increasing number of public health researchers and policymakers, that there may be no minimal acceptable level of lead exposure for kids. Dr. Herbert Needleman, a psychiatrist at the University of Pittsburgh who has studied the ill effects of such exposure on children's behavior, sums up the issue. "Science," he says, "strongly suggests there's no threshold for safety."

New York's City Council has lately been taking a hard look at lead, too. On July 1, the state's highest court ruled that the city's existing law governing lead paint cleanups was invalid. That ruling has opened a precious opportunity to reinvent how New York City deals with lead poisoning in children. Council members have seized it, pushing forward a proposed law, Intro 101-A, that had been sidelined by Council Speaker Gifford Miller for more than a year.

Intro 101-A offers strict new rules for preventing childhood lead poisoning, as well as responding to incidents once they have happened. Despite a major drop in the last decade, those incidents are still too frequent: Nearly 4,000 New York City children under age 6 were reported poisoned last year alone.

The Bloomberg administration has opposed 101-A, calling it impracticable and less effective than current city practices. Council sponsors are hellbent on passing it. They've taken their case repeatedly to the steps of City Hall, joined in mid-July by a trio of mayoral hopefuls: City Comptroller William Thompson, Manhattan Borough President C. Virginia Fields and ex--Bronx Borough President Fernando Ferrer.

But despite all the news conferences and speeches and stories of contaminated kids, few politicians are grappling with the new medical research, or how we should respond to it. No one is talking about what it may really take to keep New York's children safe: a fundamental rethinking of what it means to be "poisoned."

When he first turned his attention to childhood lead poisoning a decade ago, Lanphear and his colleagues thought the problem was nearly licked thanks to years of education and cleanup. By the 1990s, a century had passed since doctors first recognized lead as a highly toxic substance. Back then, adults often got poisoned in industrial settings rife with lead dust and vapors. Dizziness, stomach pain, amnesia, kidney damage, lowered sperm count and miscarriage were just some of the problems triggered by even tiny amounts of lead in the body.

Today, these amounts are measured in micrograms. To imagine how small a microgram is, consider that there are 250,000 of them in a pill the size of an aspirin. Now, imagine an aspirin made of fine lead dust. A small child whose body contained the contents of only a hundredth of the pill--a virtually invisible tad--could experience loss of balance, hearing problems, slurred speech, coma, convulsions--even death.

People are tested for lead by measuring micrograms of the metal in a tenth of a liter of their blood. The hypothetical, gravely ill child in the above example, who ingested a smidgen of lead dust, could have a reading of 60 to 80 micrograms. Two generations ago, many American children tested in this range. Their levels were high because house paint commonly contained lead, as did tin cans, toothpaste, ceramic dishware, water pipes and gasoline.

Kids who got sick from lead poisoning typically recovered from the immediate symptoms, but many were clearly not well. A 1943 study of 20 children who'd had convulsions and other serious complications found a number of them acting severely antisocial long after they supposedly recovered. Three were expelled from school: one for setting fires, one for dancing on desks, and one for sticking a fork in another child's face. Others attacked teachers with knives and scissors.

In 1960, the government told doctors and local health departments to take action--by giving medication and seeking the source of contamination--if a child's lead level tested at 60 micrograms or more, even if he or she seemed in good health. Over the next three decades, public health authorities increasingly lowered this number, which they call the "level of concern." In 1971, it dropped to 40. In 1985, it came down to 25. And in 1991, the Centers for Disease Control and Prevention (CDC) again decreased the level to 10.

The number has dropped mainly because of massive cleanups that have led to dramatic decreases in U.S. kids' lead levels. The first came in the late 1970s, after lead was removed from house paint and phased out of gasoline and metal food containers. Before these changes, half of all American kids younger than 6 years old were scoring at least 15 on their lead tests, and 88 percent exceeded 10. By 2000, the national average was down to slightly below three, and only one in 50 preschoolers was estimated to be scoring more than 10.

Today, the government's level of concern is still 10 micrograms per deciliter. Officially, children are deemed safe as long as their blood stays in the single digits.

Bruce Lanphear started his lead poisoning work in the early 1990s by reviewing earlier studies, such as one that looked at lead levels and intelligence in a group of middle-class 10-year-olds. The kids were divided into two groups: one whose lead scores had gone up at least 10 micrograms since they were toddlers, and another whose levels stayed below 10. Compared to the low-lead group, the more contaminated children scored six to nine points lower on IQ tests.

Though these results were disquieting, by the late 1990s blood lead scores of 10 or more in children were a rare occurrence. "Because so many kids in the United States were below 10," Lanphear remembers, "many of my advisers said I should get out of lead research. People were saying if there were no adverse health affects below 10 micrograms, we should move on to another problem--asthma, for instance."

But Lanphear worried that lead could be hurting children even at lower levels. Ominous new studies were emerging, further linking lead to juvenile misbehavior and delinquency--everything from hyperactivity to temper tantrums, stealing, aggression and fire setting--even though children in the new studies had not been exposed to enough lead to make them visibly sick. In addition, the *Journal of the American Medical Association* published a study in 1999 linking tooth decay in children to lead levels of only five. All this led Lanphear and others to study several thousand Cincinnati children whose lead scores were less than 10. Their findings, published in 2000 in the journal *Public Health Reports*, strongly suggested that even at low levels, these kids' reading and math abilities were harmed by lead exposure.

And now, a study published in April in the *New England Journal of Medicine*--which Lanphear also coauthored--is creating shock waves among public health advocates. It reveals that even more harm to intelligence seems to occur in the single-digit levels of lead contamination than in the double digits. Statistically, by the

time children reach 10 micrograms per deciliter, they have already lost seven IQ points. The damage appears irreversible.

Average IQ is 100, and for any given child, dropping a few points may not be due to lead levels, and it might not be very important anyway. But Lanphear and other researchers point out that elevated lead levels are most common among children who are poor and live in big cities in decrepit housing. Blacks and Latinos are overrepresented in these demographics. Losing even a few IQ points means there will be more mentally disabled people in these communities, and fewer gifted ones.

If all this weren't bad enough, another study, also published in the April *New England Journal of Medicine*, found that African- and Mexican-American girls with only three micrograms of lead in their blood started puberty a few months later than girls with lower levels. Getting breasts or starting to menstruate a bit late might seem trivial. But these are hormonal processes. Their delay may be only the tip of an iceberg of other, more serious bodily disruptions that may be triggered by lead levels lower than 10.

The puberty and IQ findings inspired a policy-oriented summary article in the same issue of the *New England Journal of Medicine*. It noted that safety might not be assured "even when all children have blood lead concentrations of below 10," and concluded that "prevention"--keeping kids from being exposed in the first place--"is thus the only plausible strategy."

Right now, New York City does make some meaningful efforts at prevention. Parents who see peeling or deteriorating paint can call the city's new 311 hotline and get an inspector in from the Department of Housing Preservation and Development (HPD). If the inspector finds a lead hazard, the agency orders the landlord to do a cleanup; if the landlord won't comply, HPD does the remediation itself.

HPD also operates a "primary prevention" program, which provides forgivable loans to landlords conducting lead abatement in high-risk neighborhoods like Bed-Stuy, Jamaica, and Washington Heights. More than 1,600 apartments have been or will soon be cleaned up.

The Department of Health does its part as well. Following state law, DOH tries to make sure every New York City child gets screened for lead poisoning at ages 1 and 2.

If a child's lead level is between 10 and 14, DOH sends letters to the child's parents and doctor, encouraging a second test and providing information on lead abatement. At higher levels--one test over 20 or two at 15 to 19 over a three-month period--the city automatically provides medical care if warranted and conducts an environmental investigation of the child's home and other places he or she spends time, such as a day care center. DOH can also pass the case on to HPD for remediation.

The agency does not, however, respond to tests lower than 10. And even at higher levels, it does not always intervene. Bed-Stuy resident Abby Bah says she was turned away when she asked for help. When Bah's toddler, Omar, tested at 18 last year, her doctor advised her to have his blood drawn every three months. Omar's next few tests registered below 15, so DOH never conducted a formal investigation. "They said I should just continue washing his hands and clothes often and use cold water in his formula," Bah says.

Health and housing officials argue that they are simply following

the federal CDC guidelines. "If based on scientific consensus, CDC recommendations change, the Department will review the changes and propose appropriate revisions to the Health Code," said DOH commissioner Thomas Frieden at a recent City Council hearing.

But health advocates challenge this wait-and-see approach, arguing that the current CDC levels are hardly a reliable measure. Even 10, the number at which CDC recommends advising parents their child might have a problem, "is just a round number that has no biological significance whatsoever," says Harvard Medical School neurology professor David Bellinger, who has done landmark research showing negative effects of lead exposure on children's intelligence. Anne Guthrie, director of health policy for the Alliance for Healthy Homes, a national advocacy group, agrees. "Ten was chosen in 1991 because at that point it seemed like an appropriate number," she says. "But we're getting to the point where we don't think a single cut off helps things--it might actually confuse things."

The process of deciding minimal levels for action has also become mired in politics, notes Guthrie, who sits on a committee that advises the CDC on lead policy. Late last year, the *Wall Street Journal* reported that the panel would likely recommend cutting the level of concern from 10 to five. But that prediction was soon abandoned as the Bush administration loaded the committee with experts widely considered sympathetic to the lead industry.

One newly chosen member, William Banner, testified on behalf of paint manufacturers that levels below 70--the same level that had sickened children in the World War II--era study--do not damage the central nervous system. "Your recent appointments undermine public confidence in [the U.S. Department of Health and Human Services'] commitment to end childhood lead poisoning," wrote hundreds of environmentalists, doctors and advocates in a letter to Department of HHS Secretary Tommy Thompson.

Meanwhile, the Secretary rejected the nominations of experts like Bruce Lanphear and the reappointment of Michael Weitzman, known to favor lowering the CDC level of concern below 10. Weitzman does still chair the work group focused on blood levels, which is now reviewing relevant research and will release its findings to the full panel this fall.

New York Senator Charles Schumer is among those who want to speed up this process. After learning of the *New England Journal of Medicine* study conducted by Lanphear and his colleagues, Schumer called on the CDC to change its legal threshold. "It's in everyone's best interest," he said in a statement, "that we address this lead poisoning issue as soon as possible."

Health advocates say there's no reason New York City can't move more quickly than the feds. It certainly has done so in the past. The city was one of the first municipalities to ban lead paint. In 1982, it enacted Local Law 1, which required landlords to cover or remove lead paint in any apartment where a child under age 7 lived.

The law was considered sweeping and visionary at the time, one of the strongest in the country, but it soon proved impossible to enforce. Because landlords only had 24 hours to make repairs, hundreds of violations piled up on the city's desk. Meanwhile, even health advocates had begun to question the necessity--and safety--of removing intact lead paint.

Faced with a class action lawsuit from tenants, the city looked for a compromise, but ended up with what many tenant advocates considered a sellout to landlords. The City Council passed Local Law 38 in June 1999, under heavy pressure from Mayor Rudolph Giuliani and Speaker Peter Vallone. Anti-lead activists were incensed. Although Local Law 38 required owners of pre-1960 buildings to inspect for peeling paint each year and quickly correct problems, it failed to define lead dust as a hazard, despite the fact that even a tiny bit of dust can make a child sick. It also mysteriously shifted the age cut-off from 7 to 6.

After years of angry protests, and a lawsuit filed by 20 community groups, the activists finally won their case. This July, the state Court of Appeals ruled that the proponents of Law 38 had failed to conduct a proper environmental review.

The timing couldn't have been better for Intro 101A, a stronger bill already proposed by Councilmember Bill Perkins. Among other changes, it would require more thorough HPD inspections, label lead dust an official hazard, and require a DOH inspection any time a child tests over 15. One of its most important and controversial provisions requires HPD to "establish an inspection program to identify dwellings where children are at risk of lead poisoning," rather than waiting for problems to arise.

The bill is supported by a veto-proof 37 of the council's 51 members, but Council Speaker Gifford Miller has refused to sign on. He has yet to release details on what is likely to be a compromise between activists and the mayor's office. Remembering Vallone's sly push through of Law 38, many observers fear that the speaker's final version will be watered down in favor of landlords. According to Common Cause, which tracks campaign donations, Miller has collected \$148,675 from real estate interests for an unspecified race in 2005--presumably for mayor.

Meanwhile, the Bloomberg administration seems dead set against Intro 101-A. At a June 23 hearing, the city's top officials argued that the new law was not only unnecessary, but also dangerous. The city had already corrected almost 10,000 lead hazard violations since 2001 and spent approximately \$43 million on lead paint enforcement, said HPD Commissioner Jerilyn Perine, who also repeatedly emphasized that parents could seek inspections through the 311 hotline. Putting new mandates on the city "would divert scarce resources," she said, making the problem worse, not better.

Frieden echoed Perine's concerns, arguing that the current law was obviously working: the number of kids with blood levels over 10 dropped a whopping 79 percent between 1995 and 2002.

Council members angrily accused the two of trying to minimize the problem. Last year, 3,985 children under age 6 still tested over 10, and only one in three children were tested at both ages 1 and 2. "If [these regulations] work, why have we not stopped the numbers?" Councilmember Margarita Lopez demanded of Frieden. "Why do we still have 20,000 children poisoned in four years?"

When it comes to lead paint, liability, and the expense of lawsuits, are inevitably considerations. They are for the Bloomberg administration, which paid out \$4.2 million in lead paint tort cases in fiscal year 2003. In her testimony, Perine said the measure establishing a proactive inspection program, which would require the city to decide how and when to investigate high-risk apartments, was vaguely worded and could open city

coffers to lawsuits.

Landlords, not surprisingly, agree that the law's tight timelines and complicated paperwork are a tort lawyer's dream. Its "primary purpose is not to protect children," testified Dan Margulies, executive director of Community Housing Improvement Program, a landlord group. "It is to set traps, place blame and ensure liability so the negligence bar can get its share."

In order to avoid lawsuits, the Bloomberg administration says it would have to interpret the law strictly, taking clean-up measures that it estimates could cost as much as \$260 million per year. But City Comptroller William Thompson stands by the Independent Budget Office's much lower estimate--just \$8.2 million per year. "By any calculation," Thompson testified, "this is many millions of dollars less than the amount the city will have to spend on medical care and special education for lead poisoned children."

Thompson's claim is borne out by the studies of researchers like Mary Jean Brown, currently at the CDC, who reckons that it takes a one-time outlay of only about \$16,000 to remove dangerous lead from the average three-unit residence. Compare that to the calculations of Dr. Philip Landrigan, a pediatrics professor who heads the Mount Sinai School of Medicine's Department of Community and Preventive Medicine and is chair of the state's Advisory Council on Lead Poisoning Prevention. In a briefing he presented to City Council recently in support of 101-A, Landrigan noted that the annual cost of lead exposure in New York City children is at least \$1.2 billion annually. And as the years pass, that figure multiplies. The cost, Landrigan notes, comes from decreased earning power due to lowered intelligence--even in kids whose blood-lead levels are at the national average of just below three.

There are ways to respond to findings like these. Some counties and states have already dropped their levels of concern. The Miami-Dade County, Florida, health department does a home inspection if more than one child in a residence tests at 10 or more. Harris County, Texas (which encompasses Houston) actively follows up on all kids with two tests of 10 to 14. "We call the doctor to get the child in for a visit, and if the family doesn't respond we do a home visit," says Kathleen Ingrando, program manager of the county's Childhood Lead Poisoning Prevention Program. A single test of 15 or more triggers an investigation of every place where a child spends a lot of time. Ingrando explains that in 2000, when Harris County decided to use blood levels lower than the CDC's, the county was responding to the emerging science. "We know there's [damage] already going on at levels of 5 or 7," she says.

Miami-Dade County Child Lead Poisoning Prevention Program director Dr. Vukosava Pekovic agrees. Of CDC policy, she says that given the chance, "I would vote for decreasing the level of concern to lower than 10. We should all have zero!"

In New York, key advocates of 101-A admit that the legislation could be stronger on the issue of blood-lead levels. "Some people think they should be lower, and I wouldn't quibble with them," says Matthew Chachère, staff attorney with the Northern Manhattan Improvement Corporation, who helped draft the bill. "We were trying to figure out a policy that is achievable and reasonable and hopefully effective," he says. Advocates made a tactical decision to focus on HPD and expanding primary prevention; legislating a lower level of concern would mean taking on the Department of Health as well.

Gabriel Thompson of the Pratt Area Community Council, which is calling for lowering the level of concern down to 5, says an

ideal approach would include both preventive measures and a low threshold for action. "It definitely seems weird to have a really strong HPD program and, at the same time, have the Department of Health telling parents that their children aren't sufficiently poisoned. The numbers are just wrong."

As a public health response, lowering the level of concern can only go so far, caution researchers. It "may not be worth the expense to drive the [average American child's] level below two micrograms per deciliter, where it stands today," says Harvard Medical School's David Bellinger. At lower levels, he explains, it becomes extremely difficult to test accurately for lead poisoning.

Of course, it's also not realistic to expect cash-starved local governments to invest in universal lead paint cleanups. But Bellinger thinks that targeted primary prevention is an essential start. "Children in some neighborhoods are much worse off than in others," he observes. "Those are the areas that need targeting." New York City, at the very least, is poised to help those kids before they ever get hurt.

SIDEBAR: Layering on the Blame

It will be a while before David Lewis-Fontanez, Jr. understands anything about passing the buck or racism. Right now, he doesn't even know from the five senses. Seeing, hearing, smelling--and especially touching and tasting--they're all the same to the cheery, curly-haired 15 month old as he gallops, colt-like, through his apartment. "No, David, no! Don't eat that toy!" his mother warns. "Stop licking the fan!" scolds his father.

David Fontanez, Sr. and Cheri Lewis-Fontanez weren't thinking dark thoughts either a few months ago, back when they were laughing at their toddler's oral antics. But this spring, a Pratt Area Community Council inspection of their home found windowsills with 28 times the level of lead dust considered safe for children. Cheri and David, Sr. are fast-talking, quick-moving people who spend workdays in midtown--he does billing for an ad agency; she's an accountant. They seem capable of handling any problem, but these days both are a bundle of nerves. They wipe and sweep more than they used to. They chase David Jr. around, trying to censor what he puts in his mouth. He often gets the better of them.

Cheri is shocked that her apartment is contaminated. "We're not poor--we're middle class!" she protests. At least eight of every 10 New York City children with high degrees of lead contamination are black, Latino and Asian; and most come from low-income families. Cheri is African American and David, Sr., is Latino. They live in Clinton Hill on the border of Bedford-Stuyvesant, in the building David, Sr. grew up in. They are frustrated by the advice they've gotten: to wash David, Jr.'s hands and do better housekeeping. It implies they're not good enough parents, and that the danger to their son is their fault.

According to two New York City scholars, the paint industry has for decades blamed children, parenting, poverty, race--anyone and anything except itself--for lead poisoning in kids. That attitude has often been picked up by public health officials.

In their book *Deceit and Denial: The Deadly Politics of Industrial Pollution*, published last year, Columbia University history and public health professor David Rosner and John Jay College historian Gerald Markowitz

reveal that by the 1920s, medical journals were already running articles about lead-poisoned children and warning that leaded paint was dangerous. But instead of removing lead from paint--as was done in more than a dozen countries by the early 1930s--the U.S. lead industry tried to divert blame.

As a 1924 article put it, children were living in a "lead world." It was a world celebrated by the lead industry. Paint advertisements touted lead as safe for children, and brands like Dutch Boy produced coloring books and other fun literature that encouraged kids and their parents to use lead paint. Back then, even well-heeled white kids used cribs and toys painted with lead. Sprucing up one's apartment in glossy lead paint was a mark of status.

Kids did get lead poisoning, of course. As any parent of a toddler could guess, studies show that half of all young children put practically everything in their mouths. But in the 1920s, the lead industry had its own ideas about child psychology. Some doctors joined the industry in citing an obscure condition called pica to explain it. Pica comes from the word "magpie," and harks to that bird's habit of consuming anything it sees. Pica sufferers have an abnormal urge to eat non-food substances like dirt, clay or hair. Even so, their psychological malady was only a minor problem, claimed representatives from groups such as the Lead Industry Association (LIA). Lead did not hurt most children.

Thirty years later, continuing research and growing press coverage had alerted the public that leaded paint was truly dangerous. Industry officials could deny it no longer. And so they mixed pica with something new--the race card.

Historically, paint manufacturing has been concentrated in the urban Northeast and Midwest--the same places where waves of poor African Americans and Latinos relocated in the 1950s, into formerly middle-class housing that was now falling apart. Faced with increasing pressure to put warning labels on paint cans and otherwise regulate their products, trade groups like the LIA blamed these migrants for the lead poisoning of their offspring. The problem, wrote LIA's health and safety director, was "slum dwellings" and "ineducable" "Negro and Puerto Rican" parents who didn't watch their children closely enough. The president of the National Paint, Varnish and Lacquer Association suggested that youngsters raised by emotionally neglectful parents ate flaking paint to "gain the comfort and reassurance they crave."

Markowitz and Rosen have presented much of this history lately in court. The state of Rhode Island and cities including Chicago, Milwaukee and St. Louis have sued paint companies for millions of dollars in damages, which would be used to remove lead paint from contaminated homes. So far, the lawsuits have not prevailed. But public health lead experts like pediatrician Bruce Lanphear say it's wrong and impractical to blame anything for childhood lead poisoning except lead itself.

"Putting out brochures, educating mom about washing the children's hands--from a public health standpoint there's no evidence it helps," Lanphear says. "The only thing shown to work is control of leaded dust from house paint."

HPD came to the Lewis-Fontanez apartment right after Pratt Area Community Council called a press conference and talked about the windowsills where David, Jr., lives. "The inspector found 13 lead violations," says Cheri. "If the

landlord doesn't fix them, the earliest HPD can come back is late August or early September.

"Meanwhile, we've got a health hazard here. And we pay middle-class rent. All the poor people in this neighborhood--they've probably got it worse."

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