

Community Association Management *Insider*[®]

SPECIAL ISSUE

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How to Prevent and Control Bedbug Infestations

In the past few years, we have seen an incredible rise in bedbug infestations in all 50 states. In a 2010 survey conducted by the National Pest Management Association, 95 percent of responding pest-control professionals reported treating bedbugs during the previous year. In 2000, the number was 25 percent.

While reports of infestations might have ticked down this past winter, experts say that bedbugs will be present in record numbers this summer, says Jeffrey White, a research entomologist for Bedbugcentral.com. This is because bedbugs peak in the heat of summer. In the winter, they typically slow down and hibernate.

“The seasonal trends combined with the bugs getting more and more embedded in our community make that resurgence all the stronger,” says White. Adding to the resurgence problem is how difficult bedbugs are to get rid of because of their hiding skills and the long period of time they can go without feeding.

For community associations and their members, it can cost a great deal of money to get rid of bedbugs—and even then, there’s no guarantee they won’t return. But managers can take steps to educate members about bedbugs and help them address an infestation promptly—before it spreads throughout the community.

States Issue Bedbug Laws

In the past year, 11 states and numerous cities have considered legislation addressing the spread of bedbugs. At least three states so far have passed such legislation, which generally addresses:

- Realtors’, sellers’, and landlords’ obligation to disclose recent infestations to homebuyers and renters;
- Property owners’ responsibility for extermination;
- Sanitation rules for owners’ and tenants’ disposal of infested furniture and other materials;
- Tax credits for personal property losses due to bedbug infestation; and
- Insurance coverage for bedbug-related treatment and property loss.

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Community Association Management Insider (ISSN 1537-1093) is published by Vendome Group, LLC, 149 Fifth Avenue, New York, NY 10010-6823.

Volume 10, Issue 13

Subscriptions/Customer Service: To subscribe or for assistance with your subscription, call 1-800-519-3692 or go to our Web site, www.vendomegrp.com. Subscription rate: \$469 for 12 issues (plus \$17 shipping/handling). **To Contact the Editor:** email epurcell@vendomegrp.com. Call: Elizabeth Purcell at (212) 812-8434. Fax: (212) 228-1308.

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For example, the New York State Legislature recently passed a law that requires owners—including condo owners—to inform incoming tenants of the unit's *and* the building's bedbug infestation history for the previous year. Real estate lawyers say that even though the law was intended to address rentals, bedbug disclosure has become an issue in the sales market as well. Some lawyers representing co-op and condo buyers have already made bedbug disclosure a part of contract negotiation. New York Assemblywoman Linda B. Rosenthal says that she plans to introduce a separate disclosure law for co-ops and condos this year.

New York State legislators have also introduced a bill to require insurers that underwrite property and casualty policies in the state to cover costs associated with bedbug infestations.

At the municipal level, New York City has re-appropriated \$500,000 in its health department's budget to fund a bedbug education and outreach effort. And the city's Bed Bug Advisory Board released a report recommending launching and maintaining an online bedbug portal devoted to bedbug facts and resources; assembling a bedbug team to coordinate the city's bedbug efforts through the health department; and requiring apartment building owners to provide written bedbug information to tenants upon lease signing and renewal.

PRACTICAL POINTER: Ask your association's attorney to notify you if your state or local government has passed any bedbug-related laws that: (1) would allow your association or individual members to obtain insurance coverage for bedbug-related treatment or property damage; (2) affect how your members dispose of infested household items; and (3) require the association or members to disclose recent infestations to realtors, lenders, homebuyers, tenants, or any other parties.

Who's Responsible?

Typically, a community association isn't responsible for maintaining or repairing the interiors of members' units. The declaration usually places this responsibility on individual unit owners, says Melissa M. Garcia, Esq., of the law firm HindmanSanchez P.C. And since an infestation of bedbugs doesn't often originate in the common areas, the association's failure to maintain the common areas would typically not be the cause of a bedbug infestation. So if a single unit has a bedbug infestation, the association would not be liable for the infestation itself, or for eliminating it, she says.

But what if the bedbugs move from one unit to the next? Bedbugs can migrate from one infested unit into another via electrical wiring, plumbing, and adjoining walls. If the association is on notice that there are bedbugs in the common element walls or other common element

systems, the association has an obligation to eliminate the infestation in the common element, Garcia says. This is due to the association's obligation to maintain the common elements such as walls; maintenance would naturally require eradication of any bedbugs found there.

In addition, a condominium declaration will often require the association to take steps to minimize or prevent further damage to other units or common elements, once it's on notice that the source of damage is within the common elements, says Garcia.

Once on notice, an association's failure to eliminate the bedbugs from the common element walls could give rise to a member's claim for failing to maintain the common elements or, even worse, endangering the health and safety of the community, warns Garcia. So, once on notice of infestations in more than one unit, the association should take action to investigate, treat, and eradicate the infestation within the common elements. In addition, the association should require owners to treat any infestations within their units. If owners fail to do so, most declarations will allow the association to treat the unit and charge the owner for all incurred costs, she says.

Associations Sue for Unit Access to Exterminate

In April, a Chicago condo board sued a member for allegedly refusing to cooperate with efforts to exterminate the bedbugs in her unit, which the board claims have spread throughout the building and threaten the health and safety of other members. According to ChicagoRealEstateDaily.com, the association is facing pressure from city officials who have inspected the building and claim the infestation violates the municipal code.

When facing a spreading infestation, gaining a member's cooperation in extermination efforts is key. But before you threaten legal action against an uncooperative member, consider all the circumstances. Offering to help a member find an exterminator, move furniture, or relocate temporarily may cost less than a lawsuit—and save you time and goodwill.

For example, the D.C. appeals court ruled last year that a cooperative apartment association was liable for failing to grant a resident's reasonable accommodation request related to its plans to exterminate the building for a bedbug infestation. The resident, who had mental health disorders, objected to the plan and denied access to his unit, which was described as "extremely cluttered." When negotiations with the resident and his caseworker faltered, the association gave him a deadline to have the unit cleaned or readied for extermination. The resident said he needed more time and professional assistance to do it, but the association eventually revoked his co-op shares and sued to recover possession of the unit.

With intervention by the court, the unit was cleaned and exterminated, so the court refused to order the resident out of the unit. The court also sided with the resident on his fair housing claim, ruling that he made a reasonable accommodation request when he asked for more time to clean and exterminate the unit, and the association engaged in a discriminatory act by not making a more concerted effort to provide the reasonable accommodation before revoking his shares and suing him for possession [Rutland Court Owners, Inc. v. Taylor, July 2010].

Adopt Policy that Spells Out Responsibilities

To make sure your members are aware of what the governing documents say about their and the association's responsibilities regarding pest infestations, you can advise your board to adopt a policy requiring members to treat any bedbug infestations within their own units. If a member fails to treat his unit's infestation, which then spreads to the common elements or other units, the policy should indicate that the member will be held responsible for any costs of treatment.

Your policy, like our Model Policy: Explain Responsibilities, Procedures in Bedbug Policy, should also require owners to report bedbug infestations immediately to the association's management office. You can then investigate and determine whether any bedbugs have infiltrated the common element walls and, if so, eliminate any common element infestation.

Share Prevention and Control Tips

In addition to encouraging the board to adopt a bedbug policy, there are several other things managers can do to prevent and control bedbug infestations:

Encourage members to report bedbugs. While members are responsible for treating an infested unit in a timely manner, you should ask members to inform you of any pest problems so you can give them tips on preparing the unit for treatment. In fact, taking steps to educate members about bedbugs and encouraging them to report bedbugs as soon as they know of a problem will have the greatest effect on minimizing the cost and time it takes to eradicate bedbugs from your community. Bedbugs increase rapidly because females lay eggs at a rate of three or four a day. So if members don't act quickly, bedbugs can spread from one unit to another. To assist your education efforts, you can distribute our Model Notice: Inform Members on Bedbug Prevention and Control.

Inspect adjacent units and common areas. Upon confirming the presence of bedbugs in a unit, you should notify members in the units adjacent to, above, and below the unit found to have bedbugs, and recommend that they inspect for bedbugs. In addition, you should inspect adjacent common areas for signs of bedbugs.

Here's how to recognize the presence of bedbugs:

◆ **From their appearance:** Bedbugs are small insects that feed mainly on human blood. A newly hatched bedbug is semi-transparent, light tan in color, and the size of a poppy seed. Adult bedbugs are flat, have rusty-red-colored oval bodies, and are about the size of an apple seed.

Bedbugs can be easily confused with other small household insects, including carpet beetles, spider beetles, and newly hatched cockroaches (nymphs).

◆ **From their markings, droppings, and eggs:** Blood stains, droppings, and eggs can be found in several locations, including mattress seams and tufts, sheets, pillow cases, upholstered furniture, crevices and cracks in furniture, and the baseboards of walls.

When inspecting for bedbugs and tell-tale blood stains, droppings, and eggs, a flashlight and a magni-

fying glass will help. Start by looking in an area 10 to 20 feet around where the members sleep or sit. That's the distance a bedbug will usually travel. And keep a written record of every room and location where you find signs of bedbugs. Share this record with a pest control professional.

◆ **From their bite:** Some people don't react to bedbug bites. But for those who do, bite marks may appear within minutes or days, usually where skin is exposed during sleep. They can be small bumps or large itchy welts. The welts usually go away after a few days. Because the bites may resemble mosquito and other insect bites, a bump or welt alone doesn't mean there are bedbugs.

Recommend a pest management professional. Bedbug infestations usually require the use of pesticides. And only professionals should apply pesticides for bedbugs. Foggers and bug bombs are not effective against them.

There are many pest control companies and licensed pest professionals, but not all are well trained in managing bedbugs. To get rid of bedbugs, you must choose the right company. Find one through dependable referrals, directories, and professional associations—and check to make sure the company or professional is licensed. Keep the company's (or companies') contact information handy to give to members when they report a problem.

Your members should expect at least two treatment visits and a third follow-up visit to confirm that the bedbugs have been eliminated. Severe infestations or cluttered units may take more visits to eliminate the bedbugs.

Even if neighboring members don't see any signs that an infestation has spread to their units, they may also want to hire a professional for peace of mind.

Note that some professionals use specially trained bedbug-sniffing dogs to find bedbugs and help determine whether the problem is gone. In the past, dogs have been trained to sniff out weapons, arson, drugs, missing persons, and termites. Dogs are now being trained to detect and pinpoint bedbugs and their eggs, helping exterminators target treatment areas.

MODEL POLICY

Explain Responsibilities, Procedures in Bedbug Policy

Here's a Model Policy that your association's board can adapt and distribute to members. It explains who is responsible for the costs of exterminating a bedbug infestation that occurs in the community, and sets a procedure for notifying management of infestations and their eradi-

cation. It also details how management will respond when notified. Show this policy to your community's attorney to make sure it conforms to your association's governing documents.

BEDBUG CONTROL POLICY

Bedbug infestations are on the rise across the country. If an infestation occurs anywhere in our community, it can threaten not only association property values but also the health and safety of all members. We are adopting this policy to make sure the association and all members respond promptly and effectively to any bedbug infestation.

1. Responsibility for treatment, costs. According to our governing documents, the association is responsible for treating any infestation of pests (including bedbugs) that occur in the common element areas. If the infestation originates in the common area, the association is responsible for the costs of extermination and the repair of any resulting property damage.

Any infestation that occurs within an individual member's unit is the responsibility of that unit owner. The member is responsible for the costs of extermination and any resulting property damage.

Likewise, if the owner is renting the unit to a tenant, it is the owner's responsibility to ensure that the tenant promptly reports any infestation to the owner, so the owner can take prompt action to address it.

The member is responsible for disposing of infested mattresses, furniture, and other household items in compliance with our local sanitation laws. For guidance on how and where to dispose of infested items, please contact the management office.

2. Notification of infestation. To keep a unit infestation from spreading to other units and common areas, members are required to notify management as soon as they are aware of a bedbug problem in their unit. If it is discovered that a member has not reported or addressed an infestation in a timely manner, and the infestation spreads to common areas or adjacent units, that member will be liable for the costs of exterminating the bedbugs from those common areas or adjacent units.

3. Management's response. Upon notification of a bedbug problem in a member's unit, management will:

- ◆ Recommend a local, licensed pest control professional(s) trained to exterminate bedbugs.
- ◆ Inform members in neighboring units about the infestation.
- ◆ Give affected members and members in neighboring units information on bedbug prevention and control (see attached notice), and offer tips for preparing the unit for extermination. Members should inform management if they require any assistance in preparing their unit for treatment and disposing of infested household items.
- ◆ Inspect the common areas for signs of bedbugs, or hire a licensed professional to inspect the common areas.
- ◆ If bedbugs are found in any common areas, hire a licensed professional to exterminate the bedbugs from the common areas.
- ◆ Post information relating to the dates and times of the common area extermination.

4. Certification of eradication. After treatment of the common areas, management will require the pest control professional to certify in writing that the infestation has been eradicated from the common areas. Management will inform members that such certification has been obtained.

Likewise, members are required to obtain written certification from their pest control professional that the infestation has been eradicated from their unit and provide a copy to management.

5. Noncompliance. Members who do not comply with this policy or who do not provide access for professional exterminators may face legal action to compel unit access and will be liable for the resulting costs.

“We’ve had great success with our dog, and in many cases we’ve been able to save members money by finding that bedbugs have infested only one room. This prevents the need to treat the whole unit or building,” says Sam Soto, president of First Rate Exterminators, Inc. Soto has been certified with his dog by the National Entomology Scent Detection Canine Association. Companies with these dogs can offer a bedbug-free certification for management to show to their members.

According to Soto, a trained dog can thoroughly investigate a room and locate bedbug infestations in two to three minutes. This is less time than it takes an exterminator, who has to rely on visual clues and a close examination of every area of the room. These dogs also can help pest control experts determine what areas to treat and in follow-ups can indicate whether all bedbugs have been killed. It’s important to note that these specially trained dogs can differentiate between dead bedbugs and those that are alive, says Soto.

Assist members who cannot move furniture themselves. In the case of elderly or disabled members who are unable to move furniture around, you should help them organize the unit and get rid of clutter. Any delays or unprepped units will diminish the effectiveness of professional bedbug treatments and prolong the presence of bedbugs in your community.

Here are some things that members can do to support the work of a professional:

- Get rid of clutter to reduce places bedbugs can hide.
- Wipe off dead bugs, blood stains, eggs, and droppings with hot soapy water.
- Wash all items showing bedbug stains in hot water (140 degrees Fahrenheit) and dry on the highest setting for at least 20 minutes. Other clean items suspected of having bed-

bugs should be placed in a hot dryer for at least 20 minutes to kill the bugs. After drying, store items in sealed plastic bags until the bedbugs are completely eradicated.

- Vacuum carpets, floors, bed frames, furniture, cracks, and crevices daily, using a brush tool. Empty the vacuum or seal and dispose of its bag after each use.
- Enclose infested mattresses and box springs in a cover that is labeled “allergen rated,” “for dust mites,” or “for bedbugs” for at least a full year. Periodically check for rips or openings and tape these up.
- Use plastic sheeting (shrink /pallet wrap) to cover, or place securely in plastic bags, any items to be thrown away. Label with a sign that says “infested with bedbugs.”

Insider Sources

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Jeffrey White: Research entomologist; Cooper Pest Solutions and Bed Bug Central, 351 Lawrence Station Rd., Lawrenceville, NJ 08648; (609) 799-1300; bedbugcentral.com.

Model Notice

Inform Members on Bedbug Prevention and Control

Here’s a Model Notice (see following page) you can distribute to members periodically and whenever a bedbug infestation is reported in the community. The notice describes how to recognize bedbugs and what to do to control and eradicate an infestation and prevent future infestations.

NOTICE TO MEMBERS: BEDBUG PREVENTION AND CONTROL

Bedbugs readily hide in small crevices: They may act as stowaways on luggage, furniture, clothing, pillows, and boxes. Used furniture, particularly bed frames and mattresses, are of greatest risk of being a home for bedbugs and their eggs. Check everything you intend to bring into your home before you bring it in.

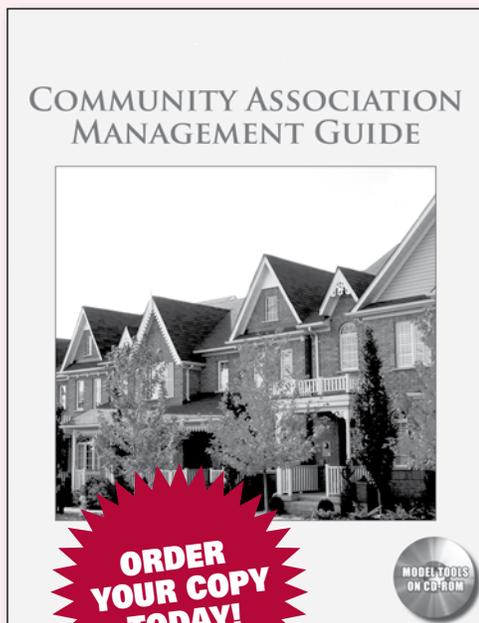
Members are responsible for treating an infested unit in a timely manner, to prevent the spread of bedbugs in the community. If you suspect your unit is infested, please notify the manager right away for the name of a local licensed bedbug exterminator, and for instructions on the removal of household items. The member is responsible for informing management of any pest problems and preparing the unit for treatment.

FACTS	CONTROL	PREVENTION
<p>Where do they live? Bedbugs can be found:</p> <ul style="list-style-type: none"> ◆ In mattresses, bed frames, and sheets; ◆ Behind loose wallpaper or picture frames; ◆ Under carpets or rugs; ◆ In crevices or cracks in walls and floors; ◆ Behind pictures on walls; ◆ In baseboards, electrical boxes, and wall outlets; ◆ In curtains and draperies; ◆ In window and door frames; ◆ In furniture; ◆ In ceiling moldings. <p>What is their life cycle? Females lay about 200 eggs, usually at the rate of three or four per day.</p> <p>What damage do they cause? They feed mainly at night on human blood by piercing the skin and sucking blood into their stomachs. Bedbugs can go without feeding for more than 18 months.</p>	<p>What should you do when you see a bedbug in your unit?</p> <ul style="list-style-type: none"> ◆ Inform the manager immediately for advice on getting the unit treated promptly. ◆ Inspect the bed and mattress. ◆ Frequently vacuum the mattress and premises. After vacuuming, place the vacuum cleaner bag in a plastic bag, seal tightly, and discard in a container outdoors. ◆ Scrub the mattress and other surfaces. A stiff brush can be used to dislodge bedbugs and eggs. ◆ Place bedding and clothes in plastic garbage bags and wash bedding and garments in hot water. Dispose of contaminated garbage bag. ◆ Clean and sanitize your unit. ◆ Reduce clutter and remove debris from in and around the home. ◆ Move the bed away from walls, and keep bedding off the floor or from touching walls. Bedbugs don't fly and can't climb glass or metal easily. But they can wander between units through voids in walls and holes through which wires and pipes pass. 	<p>What should you do to avoid infestation?</p> <ul style="list-style-type: none"> ◆ Do not take free items or give free items away in public areas. ◆ Do not let others use your vacuum. ◆ Do not bring potentially infested items into your home. ◆ Regularly clean and vacuum your unit and keep it free of clutter. ◆ Inspect your bedding, furniture, clothing, and baggage. Look for signs of bedbugs such as their tell-tale fecal spots or blood stains from crushed bugs. ◆ Carefully inspect secondhand items.

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NEW

COMMUNITY ASSOCIATION MANAGEMENT GUIDE



Whether you are a community association manager or board member, or a professional advisor, **COMMUNITY ASSOCIATION MANAGEMENT GUIDE** is your convenient one-stop resource that will help you safely and effectively handle your typical and not-so-typical management issues. This all-in-one handy guide provides practical guidance that gives you concrete suggestions on how to keep your community afloat in a down economy, keep out of legal trouble, work effectively with board members, and maintain smooth day-to-day operations.

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