



August 26, 2011

Carol J. Galante
Acting Asst Secretary for Housing-
Federal Housing Commissioner
Department of Housing and Urban Development
Washington DC

RE: Notice H 2011-20: Guidelines on Bed Bug control and Prevention in HUD insured and Assisted Multifamily Housing

The National Multi Housing Council (NMHC) and the National Apartment Association (NAA) represent owners and operators of properties who deal with the problem of bed bugs every day and will be impacted by this notice. NAA and NMHC are at the forefront of education efforts within our industry on implementing Integrated Pest Management (IPM) protocols, establishing best practices in addressing bed bug infestations and other aspects of this crisis. Because of their collective experience in addressing the intractable problem posed by bed bugs, our members have a highly informed perspective on the issue. For this reason, we are seeking clarification of the issues identified below.

1. Inspection/Treatment

The Notice states that an owner may voluntarily offer to inspect tenant's furniture and require non-chemical treatment of that furniture upon a tenant's move-in, but may not require an inspection or non-chemical treatment of used furniture or luggage before it is unpacked when a tenant returns from a trip. Our experience has shown that these inspections are a powerful component of IPM in terms of identifying a problem before it becomes a larger property-wide concern.

- What is the distinction in the guidelines between treatment of furniture at move-in and treatment of furniture purchased after a lease has been executed with a tenant?
- When it is deemed essential to maintaining the environmental quality of the property, wouldn't it be prudent to permit mandatory inspections and treatment by trained personnel of furniture, luggage and other personal property at move-in and after a lease is executed?

2. Treatment Cost Recovery

As practitioners, our members are well aware of the costs associated with of a pest management program for bed bugs. Apartment owners and operators have experienced a significant increase in mitigation and treatment costs as the bed bug epidemic has worsened. Reports of spending thousands of dollars to eradicate bed bugs in a single unit are commonplace. Some owners even report spending several hundred thousand dollars in a single year to combat infestations. This kind of cost burden weighs heavily on any apartment community's operating expenses. We would like additional information regarding the reimbursement policy outlined in the Notice, specifically:

- On what basis will the Department honor requests for releases from the Reserve for Replacement or Residual Receipts accounts to reimburse an owner for bed bug treatment?
- What is the Department's plan to deal with properties where no reserves are available and owners are unable to make advances (loan without interest) when no reserves are available?
- What criteria will HUD consider in determining whether to permit an increased pest control line item in the project's operating budget? What will be the criteria for determining whether a rent adjustment will be necessary as a consequence of intractable bed bug problems on a particular property?

Page 5, paragraph 2, bullet 5 states “Tenants are expected to cooperate with treatment efforts by allowing for heat treatment of clothing and furniture...”

- What is an owner’s recourse if a resident refuses to cooperate?
- Are residents not expected to comply with other forms of treatment?
- What is an owner’s recourse if a tenant is not compliant with other aspects of the property’s IPM?
- If a particular resident is repeatedly implicated as the source of an infestation, what remedies are available to the property owner?

3. Lease Addenda

In order for an apartment community to operate most effectively there must be a proper balance between management and resident responsibilities. In drafting our leasing documents and addenda we strive to enshrine this balance so as all parties are on proper notice of their respective responsibilities and obligations. As such, we would like additional information regarding the process by which leasing documents will be reviewed and approved, specifically:

- What is the process and timeline for consideration and approval of leasing forms and lease addenda?
- What is the process and timing for resolving conflicts between lease addenda and this Notice?
- May the lease or other addenda provide for remedies against the resident if the resident fails to comply with the IPM? If so, what remedies?

4. Applicability of Notice

We also have questions regarding the implications for owners and agents for properties with HUD/FHA mortgage insurance. Page two of the Notice states that the guidelines are “*applicable to properties with active HUD Insured, HUD-Held or Direct Loans, Section 202 or 811 Capital Advances, Project-Based Rental Assistance contracts, and or HUD Use Agreements.*”

- Is it the Departments intention to force non-monetary default upon owners that do not comply with any and all sections of the Notice? If so, is the HUD/FHA prepared to take ownership of properties when the current owner of a property is not able to certify the successful eradication of bed bugs from a property despite having an IPM plan in place?
- Further, we are concerned with the implications of the Notice for properties that have tax-credit investment equity through the Low-Income Housing Tax Credit (LIHTC) program and whether compliance issues could arise as a consequence of an owners’ inability to execute certifications and other portions of this Notice.

We would appreciate an opportunity to meet with HUD staff to discuss these matters.

Sincerely,



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