



MOLD ON THE MIND?

Are you prepared to deal with a mold situation?

A holiday jingle composed by Howard M. Bookstaff, HAA General Counsel

(To the tune of "It's Beginning to Look A Lot Like Christmas")

*It's beginning to smell a lot like mildew
everywhere you go;
take a look in the A/C vent with the
old shoe smell-like scent
with furry black and silver crumbs aglow.*

*It's beginning to smell a lot like mildew
claims are everywhere;
but the prettiest sight to see is the plan
that will be
how you'll make that repair.*

*An air sample test showing where mold
might rest
is the wish of every tenant;
a plan that will solve and that will resolve
is the hope of all management;
and you need to be able to rent after the
unit becomes vacant.*

*It's beginning to smell a lot like mildew
everywhere you go;
there's a substance on the baseboard that
could strike a cord,
the green kind that you wouldn't want
to show.*

*It's beginning to smell a lot like mildew
soon the claims will start,
and the thing that will make you win
and the tune you will sing
your plan taken to heart.*

The concepts discussed in the two-year-old article are still relevant today. Mold continues to be on everyone's mind. Are you prepared to deal with a mold situation? What is your plan? Let's go through what your mold management plan might include.

Recognizing A Mold Issue

• Respond to notices to repair or remedy water damaged conditions:

Any notice you receive to repair or remedy a mold damaged condition should be given the highest priority. Evidence of your responses should be kept. It would be beneficial to maintain work orders identifying: (a) when requests were made; (b) when responsive action was taken; and (c) what action was taken.

• Conduct regular inspections in areas of potential hazards:

Regular inspections can help minimize potential claims. Make-ready procedures should include inspections for potential water-damaged areas. Always maintain a checklist of areas that were inspected to provide evidence if needed later.

• Employee education:

If your first line of inspection is maintenance personnel, they should be properly trained to detect water leaks in areas of potential water damage. If they are going to perform this task, they should be properly trained. Maintenance personnel should also be trained to know when further expertise is needed to inspect an area of concern to determine whether a problem exists.

Taking Action After an Issue Was Recognized

• Phase I – On-Site Inspection:

Whenever a mold concern is raised, properly trained personnel should determine

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whether there is evidence of mold that should be professionally inspected. If on-site personnel finds no evidence of mold, damaged areas can be repaired. However, if evidence of mold exists, the proper personnel should be called upon to further inspect the area of concern and take the appropriate measures.

• Phase II – Professional Inspection:

Outside contractors may need to be called in if conditions require further action and if on-site maintenance personnel are not trained to inspect the condition to determine whether further action is required or not.

• Phase III – Develop Protocol for Mediation:

If it is confirmed that mold is present and cannot be cleaned by on-site personnel, a qualified contractor should determine a protocol for remediation. At that time, it should be determined whether testing is necessary to achieve the goal of resolving the situation, how long remediation might take and whether residents can continue to reside in the unit during remediation.

• Phase IV – Remediation:

Once it is determined what work needs to be done, the work can commence. Precaution should be made to determine whether occupants can reside in the unit and how personal property in the unit should be relocated or prepared to avoid unnecessary contamination.

Communicating With Residents

• Duty to Residents:

Remember, Texas law requires you to make a diligent effort to repair or remedy condi-

THE IT'S THE Law article entitled "The Mold Report" from October 2015 discussed several issues ranging from dealing with a mold claim to liability.

tions in units considering the nature and severity of the condition as well as the reasonable availability of materials and labor and of utilities from a utility company. In summary, once a repair requires is made, action should be prompt and correct.

• **TAA Apartment Lease Contract:**

The TAA lease offers some guidance with respect to communicating with residents. Paragraph 19.2 provides that the apartment and other areas reserved for the residents' private use must be kept clean. Paragraph 25.2 provides that the resident must use customary diligence in maintaining the apartment. Paragraph 26.2 provides that the resident must promptly notify the owner in writing of water leaks, mold or other conditions that pose a hazard to property, health or safety.

• **TAA Mold Information and Prevention Addendum:**

The mold addendum contains additional information for residents about mold, informs residents how to prevent mold, informs residents how to avoid moisture buildup, informs residents how to clean mold

in small areas and informs residents that if they fail to comply with the addendum, they could be responsible for property damage that may result.

• **Keep Residents Informed:**

It is always important to keep residents informed with respect to how any remediation program will affect their lives. They should be made aware of what will be done to their unit and how long it will take. They will also need to know what action, if any, they should take to prepare the unit for the work to be performed.

Vendor Issues to Consider

Be prepared in advance and determine who you will call regarding mold-related issues. If your maintenance personnel is properly trained, you may need to look no further. However, if your maintenance personnel is trained to handle smaller mold situations, be prepared if a bigger mold situation occurs. You may need to call an environmental consultant or mold remediator or other contractors to perform the work. It may be beneficial to have a list of approved vendors

for these types of tasks. This will give you an opportunity to determine vendor responsibilities, price, representation of quality, communication with residents and insurance and indemnification issues.

Media Relations

Be prepared to deal with potential media questions regarding a mold situation. On-site personnel should be aware of who to direct media questions to. Persons responsible for media relations should be aware of the mold management plan and answer questions on a consistent basis.

Being prepared for a mold issue may be the best present you can give yourself this holiday season. Take a break from the festivities of this holiday season to prepare your mold management plan so that you can be prepared for any situations that develop in 2019. Happy Holidays! 🎄

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