Don’t Let the Bedbugs Bite
An Article on Bedbug Problems in Condominiums and Attached HOA Communities

March 1, 2014
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DO WE HAVE BEDBUGS?</td>
<td>1</td>
</tr>
<tr>
<td>WHAT ARE BEDBUGS EXACTLY?</td>
<td>1</td>
</tr>
<tr>
<td>HOW DO THEY ARRIVE?</td>
<td>2</td>
</tr>
<tr>
<td>WHY HAVE BEDBUGS MADE A COMEBACK?</td>
<td>2</td>
</tr>
<tr>
<td>WHO IS RESPONSIBLE FOR GETTING RID OF AN INFESTATION?</td>
<td>3</td>
</tr>
<tr>
<td>WHEN BEDBUGS ARE IN MORE THAN ONE HOME</td>
<td>3</td>
</tr>
<tr>
<td>WHAT IS THE ASSOCIATION’S DUTY?</td>
<td>4</td>
</tr>
<tr>
<td>HOW TO GET RID OF BEDBUGS</td>
<td>5</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>5</td>
</tr>
</tbody>
</table>
Don’t Let the Bedbugs Bite an Article on Bedbug Problems in Condo and Attached HOA Communities

In the recent years, bedbugs (*Cimex lectularius*) have become more prevalent in condominium and attached HOA communities and have become a real problem for many homeowners and associations. Given the relative proximity of neighboring properties in condominium attached housing developments, a bedbug problem in one unit can quickly become a problem for multiple units. Often an infestation becomes a dispute as to who is responsible for eliminating the problem.

Do We Have Bedbugs?

One of the issues is that many owners do not recognize when there are bedbugs in their home. Thirty percent of people living with bedbugs don’t react to the bites and others believe the bites to be that of a mosquito. For these and other reasons, bedbugs are often not recognized early and treated until they become a big problem.

What Are Bedbugs Exactly?

- A bedbug is a small bug that can be found anywhere.
- It is about a quarter of an inch long and resembles an apple seed.
- There have been bedbug infestations in attached homes, apartments, movie theaters, hotels, college dorms, hospitals, and clothing stores, just to name a few.
- Bedbugs feed on the blood of animals, most often humans.
- The word “bedbug” is derived from the insect’s preferred habitat, which is a bed or other areas where people sleep.
- Although they are not strictly nocturnal, they are mainly active at night, usually feeding between 2:00 a.m. and 4:00 a.m.
- They are attracted to the carbon dioxide humans exhale during sleep and to human body heat.
- They tend to hide in small places and can live up to one year without a meal.
- They are also quick and efficient reproducers.
- A female can lay up to 500 eggs in her lifetime.
- Eggs will hatch in one to two weeks and reach breeding maturity in five weeks.
How Do They Arrive?

- Bedbugs are easily spread as they are excellent hitchhikers.
- They will crawl onto clothing, suitcases, furniture and other items and can be transported without being detected.
- Once a bedbug finds a new home, it will hide in mattresses, box springs, furniture, vents, walls, ceilings, baseboards and electronics.
- If their food source is eliminated, bed bugs will travel to find a new food source.

Why Have Bedbugs Made A Comeback?

- According to the National Pest Management Association, bedbug calls have increased immensely in the last ten years.
- Entomologists and pest control professionals have some reasonable theories on why bedbug problems have increased.
- Bedbugs were practically eliminated in the 1940’s and 1950’s due to the widespread use of DDT.
- This pesticide was banned due to health hazards and modern insecticides are proving to be somewhat ineffective as bedbugs are developing a resistance to the chemicals.
- Some other reasons bedbugs have made a comeback are:
  - 1) an increase in international travel to areas where bedbugs are common;
  - 2) an increase in secondhand merchandise with thrift shops, antique markets, flea markets and garage sales becoming more popular; and
  - 3) changes in bedbug’s habits.
- Bedbugs seem to be moving more, going from room to room and becoming active during the day.
- To the bedbug, multi-unit housing complexes provide the ideal conditions for the insect’s survival.
- Plenty of furniture clutter and close living conditions provide limitless areas for bedbugs to hide, breed and evade the exterminator.
- Multi-unit housing complexes also provide plenty of food as there are a large number of occupants living in close proximity.
- Shared walls also make the spreading of the infestation easier.
- One resident’s failure to take the necessary steps to eradicate an infestation will likely allow the bedbugs to continue to multiply.
• Without treatment, there is a twenty (20%) percent chance that the adjoining units will be infested and a seven (7%) percent chance that the units located above and below will be infested.

Who Is Responsible For Getting Rid Of An Infestation?

• Like most states, Colorado does not have a state or statute law specifically targeted at bedbugs.
• However, bedbugs are not any different than cockroaches or other insects.
• Check the declaration of covenants the association for guidance. The declaration may be silent. In that case, check-in with the association’s attorney.
• Generally, the following rules apply (though the declaration may change those rules).
• Once treated in one home the bedbugs will frequently move to another home, a home that has not been treated.
• If bedbugs are located within an individual’s unit, the owner of that unit would be responsible for the eradication of the bedbugs.
• In a condominium association, the owner is typically responsible for the maintenance within his/her unit.

In some instances, particularly when an association is alleged to have caused or allowed a bedbug infestation to occur, it may be necessary for an association to retain the services of a third party vendor that is capable of definitively determining the source of the infestation.

The bedbug problem can also arise for an association when a unit owner with a known infestation refuses or fails to take steps necessary to address the infestation. In such cases, the association may need to act quickly to keep the infestation from spreading. The extent and manner of the association’s actions will depend on what is and is not authorized under the governing documents.

When Bedbugs Are In More Than One Home

• If the bedbugs spread to the common elements of the association, then the association would be responsible for the eradication of the insects, at least in the common elements.
• The question of responsibility for eradication becomes an issue when the bedbugs start moving into other units.
• In this situation, the association should consider being proactive and hire someone to treat the units to eliminate the infestation.
• If the source of the infestation can be traced to a specific unit, and there is no question that their one unit is the source, the association may be able to charge back the costs of extermination to that owner.
• However, if the source is unknown, the association should treat the common elements and infested units at the association’s expense to avoid a problem that, ultimately, could cost the association thousands of dollars.
• If the association discovers that a unit is infested with bedbugs, and the owner refuses to exterminate the insects, the association can file a lawsuit to request an order requiring the owner to comply with the declaration and hire an exterminator that provides thermal remediation treatment to eradicate the bedbugs.
• If the owner fails to comply with the court order, the association, with the assistance of the county sheriff, may enter the infested unit and have the unit treated to eliminate the infestation.
• Any costs incurred by the association to obtain the court order and treat the unit could be awarded to the association as part of the lawsuit.

What Is The Association’s Duty?

• If an owner reports bedbugs to the association, how the association deals with the infestation is critical. Associations should determine if the if the expense of extermination can be treated as a common expense. The check declaration for this.
• If the association does nothing, and the infestation spreads, the association could be held liable for the costs of eradication of other units.
• There is also the question of whether or not the association has a duty to disclose the infestation so that other owners can take precautionary measures.
• In order to avoid the problem altogether, associations can be proactive and budget for periodic inspections of homes in a condominium or attached housing community
• The best control is frequent inspections of common elements and units.
• It is important that all residents understand the importance of cooperating with these efforts.
• Therefore, education is key to the association’s success in prevention of a bedbug infestation.
• The association, along with its manager, should consider community-wide distribution of educational materials, along with training in group settings to inform owners of the issues with bedbugs. One-on-one communication may be implemented as well.
How To Get Rid of Bedbugs

- The following are steps owners are recommended to take:
  - Remove clutter where bedbugs can hide.
  - Seal cracks and crevices.
  - Vacuum rugs and upholstered furniture thoroughly under beds (take the vacuum bag outside immediately, and dispose in a sealed trash bag).
  - Wash and dry clothing and bed sheets at high temperatures.
  - Be alert, and monitor areas for bedbugs so they can be treated before a major infestation occurs.

Conclusion

If everyone is aware of the possibility of a bedbug infestation, takes preventive measures and works together to formulate a unified approach to pest management, the association may be able to avoid the challenge of having to deal with the prevalent bedbug problem.

Disclaimer

This article has been prepared by the HOA law firm of Orten Cavanagh & Holmes LLC (the “Firm”) for general informational and educational purposes only. This article does not and is not intended to, constitute legal advice for any specific matter. The information in this article is not privileged and does not create an attorney-client relationship with the Firm or any of the Firm's attorneys. This article is not an offer to represent any HOA or any other person. You should not act, or refrain from acting, based upon any information in this article. The hiring of an attorney is an important decision that should not be based solely on written information about qualifications or experiences. Anyone considering hiring an attorney should independently investigate the attorney’s credentials and ability and not rely upon advertisements or self-proclaimed expertise. To contact an attorney at the HOA law firm of Orten Cavanagh & Holmes LLC visit us at our website and call or email one of our attorneys, contact us at info@ochhoalaw.com or call us at (720) 221-9780 or (719) 457-8420 or (888) 841-5149.