

October 11, 2011

Ms. Carol Galante  
Acting Assistant Secretary for Housing / FHA Commissioner  
U.S. Department of Housing and Urban Development  
451 Seventh Street SW  
Washington, DC 20410

Dear Acting Assistant Secretary Galante:

We are writing to express our serious concerns about HUD Notice H 2011-20 "Guidelines on Bed Bug Control and Prevention in HUD Insured and Assisted Multifamily Housing." We believe this guidance, although well intentioned, prescribes a seriously flawed approach to dealing with bed bug problems in multifamily properties. As written, the notice may actually worsen bed bug problems by limiting owners' options to prevent infestations and failing to provide property staff with sufficient leverage to ensure resident cooperation with treatment protocols. At the same time, the guidance imposes substantial costs on properties without identifying offsets or sufficiently describing how HUD will evaluate expenses associated with bed bug infestations. Additionally, because the notice applies to all HUD/FHA insured properties there are questions about the contract obligations for existing mortgage borrowers and proper disclosure to pending and future FHA multifamily applicants for HUD mortgage insurance.

Several of our member owners and management agents (O/As) reported that unforeseen costs of bed bug eradication pushed their total pest control expenses over \$100,000 per property per year. These costs place serious financial hardship on all properties, but particularly affordable rental properties operating on thin margins. Permitting an increased pest-control line item is an appropriate action for properties operating under budget-based rents; however, the majority of multifamily properties covered by this notice do not operate under budget-based increases, and in fact, may not have any federal assistance other than mortgage insurance. For many of these communities, using replacement reserves is not appropriate, as the reserves were based on property maintenance and repair costs.

The effect of HUD's policy will significantly reduce the management's ability to maintain the asset, which will not only impact residents but also, the collateral supporting the HUD mortgage. Projections for replacement reserves do not account for the enormous costs of bed bug eradication in the underwriting for restructured Mark-to-Market properties, and this item will have a material impact on the underwriting of newly originated mortgages and other HUD subsidies for rental housing. It is unlikely that owners will be able to draw down reserves to treat multiple infestations without postponing important capital needs projects. Likewise, the pressure to hold rents at comparable market levels leaves very few options for finding additional revenue to offset treatment costs or to reimburse the reserves for replacement account. Similarly, use of residual receipts does not present a viable long-term solution; rather, it places the collateral asset in jeopardy.

Ironically, even though Notice H 2011-20 states, "The best approach to bed bug management is to prevent an infestation from occurring in the first place," the guidance significantly constrains the efforts of property owners to effectively practice Integrated Pest Management (IPM) in a number of ways. For example, the notice eliminates reasonable options for the housing provider to protect the property from infestations caused by used furniture. Second-hand furniture—

especially used mattresses and sofas—is one of the leading causes of bedbug infestation. Bed bugs hiding in the folds of upholstered furniture can escape visual detection, especially if the infestation is in the early stages. While the notice permits O/As to require non-chemical treatment of residents' furniture at move-in, it prohibits any such requirement for mandatory inspection or non-chemical treatment of used second hand furniture thereafter. We are disappointed that HUD would prohibit O/As from taking preventative measures which protect the tenant, his/her neighbors and the property from infestations.

It is important to recognize that most tenants do cooperate with bedbug inspection and treatment efforts. Nevertheless, when a resident does not fully cooperate with inspection and treatment protocols, they place their neighbors at risk of infestation.

Unfortunately, the guidance hamstrings property managers' ability to deal with residents who have a pattern and practice of non-compliance with property IPM plans. There is widespread agreement among O/As that the guidance does not give O/As the tools, authority or leverage necessary to deal with uncooperative tenants. The notice states residents are "strongly encouraged to immediately report the suspicion of possible bed bugs in a housing unit or other areas of the property." Similarly, tenants "are expected to cooperate with treatment efforts." However, the notice does not provide much recourse for O/As when a tenant will not cooperate with treatment efforts. Although the notice states O/As may enter units to inspect or treat bedbug infestations "in accordance with the lease," feedback from our members suggests the current HUD model leases are insufficient to compel cooperation with bedbug prevention and treatment efforts.

We strongly urge HUD to work with multifamily stakeholders to develop appropriate bed bug lease addendums. Basic elements of approved addendums would **require** tenants to:

- Report suspected bed bug infestations in their units;
- Cooperate with inspection and remediation efforts;
- Maintain clean living environments which deter bed bug infestations;
- Comply with protocol for treating and/or disposing of infested items; and
- Face sanctions levied by O/As for failure to comply with provisions of the lease addendum.

It is critically important for HUD to address this issue consistently with other owners, investors and capital providers to the multifamily industry. Bed bug infestations are not limited to any particular type of property, location or even to specific apartments. Hospitals, nursing homes, hotels, offices, retail establishments, and transportation facilities all are susceptible to bed bugs. As such, there must be a coordinated and consistent approach to this issue.

For all of these reasons, we oppose HUD's bed bug guidance, and we recommend that Notice H-2011-20 be rescinded until such time that the Department has had an opportunity to work with multifamily industry stakeholders and approach the issue from a broader and more comprehensive manner. There is a need for a balanced approach to bedbug control and treatment which will address the need for partnership and accountability of all parties, and which will work in the housing, real estate and broader market to achieve an effective solution.

Please feel free to direct questions about this letter to Michelle Kitchen from the National Affordable Housing Management Association ([michelle.kitchen@nahma.org](mailto:michelle.kitchen@nahma.org)) or David Cardwell from the National Multi Housing Council ([dcardwell@nhmc.org](mailto:dcardwell@nhmc.org)).

Sincerely,

Council for Affordable and Rural Housing  
Institute of Real Estate Management  
LeadingAge (Formerly AAHSA)  
National Affordable Housing Management Association  
National Apartment Association  
National Association of Home Builders  
National Leased Housing Association  
National Multi Housing Council

cc: Janet Golrick, Acting Deputy Assistant Secretary, Multifamily Housing  
Marilyn Edge, Acting Director, Office of Multifamily Asset Management  
Margaret Salazar, Senior Housing Program Specialist, Office of Multifamily Asset Management