

Meeting Minutes – June 8, 2011

Illinois Structural Pest Control Advisory Council (SPCAC): Subcommittee on Bed Bugs

General Meeting Information

A meeting of the Illinois Structural Pest Control Advisory Council, Subcommittee on Bed Bugs, was held on June 8, 2011. The meeting was held at the Dupage County Health Department in Wheaton, Illinois, beginning at approximately 9:00 a.m.

Participants and SPCAC Members Present

IDPH Representative(s) Present:

- Dr. Curt Colwell, Entomologist
Division of Environmental Health
- Derrick Pehlman, Integrated Pest Management Coordinator
Structural Pest Control Program
- Barbara O'Meara, Structural Pest Control Supervisor
Structural Pest Control Program

Subcommittee Members Present:

- Susan DiGrino, McDonough County Health Department
- Chris Haggerty, American Pest Control
- Tony Hernandez, Illinois Housing Development Authority
- Meron Kahssai, Metropolitan Tenants Organization
- Gary Pietrucha, Envirosafe Pest Management Inc.
- Judith Roettig, Chicagoland Apartment Association
- Rachel Rosenberg, Safer Pest Control Project
- Nancy Tikalsky, Office of the Illinois Attorney General

Guests:

Dan Adams
Paul Arena
Tim Baietto
Bill Baum
Donald Baumgartner
Patrick Berggren
Rick Bown
Jim Cunningham
Jane Garvey
Marvin Gorss
Brett Gossen
Larry Hanks
David Harris-John
Edith Larson
James C. Mason
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Gary Moberly
Nath Nayak
Shane Nemmers
Gary Noel
Joan Parker
Lisa Patano
Latrice Porter-Thomas
Darrick Shafer
Maren Webb

SPCAC Subcommittee on Bed Bugs Meeting Summary

Curt Colwell called the meeting to order and determined a quorum was present.

- Minutes of the previous meeting of April 12, 2011 were approved by unanimous vote.
- Discussion moved to the joint SOBB-IPCA Questionnaire. Tim Baietto of the Illinois Pest Control Association provided an update and advised that IPCA would email the Questionnaire to pest management professionals who are IPCA members.
- Curt Colwell introduced Paul Arena of the Illinois Rental Property Owners Association (IRPOA), a guest invited to present the perspective of rental property owners with regard to bed bug infestation. Arena stated (also see Exhibit A) that:
 - Most IRPOA members self-manage their properties as a supplement to their income from other sources, making them less able to afford bed bug control.
 - IRPOA contends that; since rental property owners don't bring bed bugs into their properties, the Subcommittee's focus should be on controlling the behavior of tenants.
 - In single-family rental property, the tenant should be held accountable for preventing and eliminating bed bugs. In multi-unit properties, those responsibilities might be shared.
 - The focus of bed bug legislation should be on education, prevention, and on subsidizing bed bug control for tenants unable to afford it.
- Discussion moved to the current Draft of the Subcommittee's report to the Illinois Legislature:
 - Audience members asked for copies of the Draft. Colwell advised that, as it was indeed only a draft, it should not be provided until finalized.

- Judith Roettig stated that her Chicagoland Apartment Association has extensive information regarding bed bugs and has interfaced with other agencies and organizations. She expressed disappointment with the current Draft, as well as the Minutes of the Subcommittee’s previous meeting, because they pit landlords against tenants. She showed a prepared statement and asked that it be included in the meeting’s Minutes (see Exhibit B). She also encouraged a balance of responsibility between landlord and tenant. She further stated she could not find the Minutes from the Subcommittee’s previous meetings though they should be posted on the IDPH Website. She was advised that Minutes were, in fact, posted on the IDPH Website. She also said that educational and research references should be included in the Report.
- Rachel Rosenberg reiterated that the Subcommittee’s mandate includes the promotion of public awareness and education. She encouraged a more inclusive report, saying that the Subcommittee was tasked to make recommendations that would promote effective bed bug treatments, and that this might include discouraging the use of ineffective ones such as total-release aerosol foggers. She thought the Report should reference the NPMA’s Best Management Practices for bed bug management.
- Tony Hernandez suggested a “preamble” preface the Report, to provide background information to readers about how the Subcommittee was created and for what purpose, and to describe the process.
- Judith Roettig stated that the Report should reference that bed bugs do not transmit disease, and suggested that referring to bed bugs as “blood-sucking parasites” was inflammatory.
- Discussion moved to the section of the Draft pertaining to responsibility for bed bug infestation and control in rented dwellings:
 - Judith Roettig stated that the page up for discussion should be entirely rewritten, and volunteered to do so. She said the tone of the current document would drive a wedge between landlords and tenants, rather than promote collaboration between them.
 - Tony Hernandez confirmed that the consensus of the Subcommittee is that landlords are responsible for eradicating bed bugs from their properties. He stated the Report’s introduction should include the notion that the Subcommittee’s recommendations hope to foster communication and cooperation between landlord and tenant.
 - Rachel Rosenberg stated that the Subcommittee’s recommendations would necessarily impact landlords, and that they would ultimately pass on the cost of bed bug control to tenants.

- In response to audience contentions that bed bug infestations are a public health problem that should be handled by government agencies, and that bed bugs are brought in by tenants and therefore not the responsibility of landlords; Chris Haggerty pointed out that the government is not currently handling infestations of German cockroaches or any other pest in rental properties, and it should not be responsible for bed bug infestations there; Nancy Tikalsky explained that the “blame” for any bed bug infestation could not be assigned because determining who brought bed bugs into a property would be time-consuming if not impossible to determine, and would thus delay treatment and increase the cost of control for that property.
- Meron Khassai explained that, in Chicago, landlords of certain owner-occupied rental properties may have lesser responsibility by law because it is assumed those owners are better motivated to take care of problems therein.
- Rachel Rosenberg mentioned that in pest-related disputes between landlords and tenants, the courts may decide that a landlord has acted appropriately if the landlord can simply demonstrate that he/she has contracted with a pest management company to control the bugs. But in the case of bed bugs, this alone may not be so meaningful, because some pest management companies do sub-standard work and do not treat the problem adequately. Judith Roettig said it would be impractical to hold pest management companies to a rigid set of standards presumed adequate to achieve control, because every infestation is different. Chris Haggerty agreed. Gary Pietrucha added that both treatments and knowledge of bed bugs are continuously changing.
- Judith Roettig wanted to clarify that tenant notification (provided to landlords when a tenant detects bed bugs in their unit) suffices for permission to access the unit for bed bug control. Tony Hernandez stated that some Federal regulations may exist that should not be allowed to conflict with the Subcommittee’s recommendations on notification. He and Roettig agreed that the presence of bed bugs in a unit constitutes an “emergency” with regard to a landlord’s right to access that unit.
- Chris Haggerty expressed concern about making pest management professionals responsible for providing what would essentially be a “Clearance Letter” stating that no bed bugs had been observed in an apartment for 45 days (for purposes of renting the unit again). Judith Roettig stated that landlords should be allowed to rent apartments where bed bugs were discovered, if the landlord has a bed bug control plan in place for that unit. Curt Colwell asked what criteria landlords used to determine when a formerly (or presently) infested apartment could be rented again. Roettig said she would discuss this with her Association

members and provide that information to the Subcommittee later. Chris Haggerty said the Subcommittee had decided on a 45-day period before renting a previously infested apartment again, in lieu of mandating that landlords provide potential renters with the unit's history of infestation – as some states have required. Roettig said landlords cannot afford to let a unit sit vacant for 45 days, nor was she in favor of requiring landlords to disclose a unit's infestation history. Tony Hernandez suggested that prospective tenants should be informed of a unit's bed bug history only if the unit had been treated for bed bugs within the last 60 days. Rachel Rosenberg agreed. Colwell said a decision on this could wait until Roettig provided input from her associates.

- Members agreed that, more than just live bed bugs, all of the various signs of bed bug infestation (e.g., as listed on the IDPH Website) should constitute grounds for tenants to notify landlords of (possible) infestation.
 - Judith Roettig stated the consensus that the quicker a bed bug problem is addressed, the less monetary impact it will have, but asked if the proposed oversight of tenants by local health departments would include investigation of only alleged failures to notify, or if health departments would also step in when a tenant allegedly does not properly prepare a unit for inspection/treatment. It was pointed out that, at present, the Draft pertains only to notification issues. She said the cost of control can rise when tenants fail to cooperate in any way. Susan DiGrino added that for local health departments to levy fines in the stated way, local ordinances would have to be passed. Curt Colwell and DiGrino agreed that levying fines would not expedite the process of getting into a unit and getting it inspected and treated. Roettig said something needs to be done when a tenant is non-complaint. Meron Khassai advised that involving health departments was the Subcommittee's compromise between having no penalty for tenant non-compliance, and allowing landlords to take a tenant's security deposit or otherwise charge them for non-compliance. But Khassai said that, for example, in cases where tenants refuse to prepare their units for bed bug inspection/treatment, the landlord can have them evicted – that is the landlord's recourse. Roettig was asked to research alternative controls that might expedite the problems of accessing, inspecting and treating the units of uncooperative tenants.
- Discussion moved to consideration of recommendations regarding the Illinois Safe & Hygienic Bedding Act:
 - Judy Roettig and Chris Haggerty wanted to ensure that the Subcommittee's recommendations to amend the Act include dealers in new and used furniture, as well as dealers in rental furniture. Roettig volunteered to solicit the rental furniture industry for comment at the Subcommittee's next meeting.

- Chris Haggerty related that pest technicians or anyone else who has to handle a bed bug-infested mattress, should wrap it before transporting it out of the room. But he questioned whether a mattress should, after being relocated to a dumpster or other location for disposal sufficiently far from structures and being rendered unusable (after unwrapping it), whether the mattress needed to be rewrapped. He thought not, saying even rewapping doesn't guarantee bed bugs won't find their way out and eventually into someone's abode. The consensus seemed to be that making the mattress unusable was the key, but there are so many different situations that no adjustment to the Draft was needed on this. Susan DiGrino stated that mattresses could not be legally burned, unless by a waste management company licensed to do so.
- The discussion moved to responsibility for bed bug infestation in lodging facilities:
 - Judith Roettig stated that the Subcommittee should send its proposed recommendations to representatives of the lodging industry, for their review and comment. Curt Colwell stated that lodging representatives were given an earlier draft of the Subcommittee's recommendations at its last meeting, but that he would send an updated copy to them and solicit their comments.
- The discussion moved to funding issues:
 - Judith Roettig found it curious that the Draft mentioned no funding for public education on bed bugs, that instead it solicited funding for the Illinois Department of Public Health. Curt Colwell and Susan DiGrino pointed out that the aforementioned funding was for IDPH to train and educate local health departments that would then disseminate the information to the public. Roettig agreed that was a good idea, but that it was not "public" education – such as public service announcements, articles, etc., that educate the public. Digrino added that these were all tools public health departments use to educate the public, if the departments have the funds to do so. Rachel Rosenberg stated that many non-profit organizations are already doing a lot of public education on bed bugs. Tony Hernandez said the Draft should specify that IDPH is principally responsible for the public education campaign. Roettig also said the Subcommittee should be able to review and comment on educational materials such as the proposed pamphlet provided to tenants by landlords, and prepared by IDPH et al. Chris Haggerty advised that by the time those materials are prepared, the Subcommittee will no longer exist. Colwell said that stakeholders could always comment on those educational materials.

- Having completed its discussion of the Draft, Curt Colwell restated the Subcommittee's purpose and goal, before opening up the floor for brief statements from audience members. After this comment period, the meeting was adjourned.

EXHIBIT A: Statement of Paul Arena

Structural Pest Control Subcommittee Members:

The Illinois Rental Property Owners Association (IRPOA) is a coalition of apartment associations in 20 cities across the state. This includes the Neighborhood Building Owners Alliance (NBOA) which is itself a coalition of 5 individual associations within the city of Chicago.

Our members are primarily individuals who own property in or near the community in which they live and manage their real estate investments personally. A large portion of the housing we provide is affordable in those communities. The majority of our members are working class people or retirees who hold a small number of properties to supplement their income. These owner operated businesses are particularly sensitive to financial pressures caused by factors outside their control.

We assume it is understood and accepted as fact by the members of this subcommittee that owners of rental property do not introduce bed bugs into their properties themselves. Therefore, we would expect that the focus of a recommendation for legislation made by this subcommittee will be on controlling the behavior of tenants and any other parties who could potentially contribute to infestations of our properties.

Our members do recognize we have an obligation to provide housing that is habitable. We understand the need to ensure the residences we offer to the public be free of bed bugs and are willing to accept that responsibility. We do expect that tenants be held accountable to ensure that our properties remain free of bed bugs.

In order to protect the financial stability of our members it is imperative that this subcommittee identify functional methods to prevent infestations and remediation methods which are affordable and limit loss of rental income. Any assignment of responsibility to mitigate infestations needs to be directed at the party responsible for the presence of bed bugs. In smaller multi-family properties and single family homes that were provided free of bed bugs this would clearly be the obligation of the tenant. Larger properties, where it may be unclear which tenant introduced the bed bugs, may require shared participation of all effected parties.

Due to the difficulty in mitigating bed bugs infestations the primary focus of any eventual legislation should be on education and prevention. Also some means of public assistance will need to be available to individuals who lack the financial resources to deal with the problem. This assistance would have to be accessible to both property owners and occupants.

Thank you for the opportunity to provide this statement to the subcommittee. We remain willing to participate and work with the members of this subcommittee to identify viable options to address the bed bug problem in the State of Illinois.

Sincerely,

Paul Arena
Illinois Rental Property Owners Association
Director of Legislative Affairs

EXHIBIT B: Statement of Judy Roettig

I would like the following statement be incorporated into the minutes

The rental housing industry like the pest management industry has been actively involved in the education and dissemination of well researched information to our constituents and members since 2007 if not before. CAA and the National Apartment Association have offered regular classroom and online education about the control and management of bed bugs. But more is needed to educate the public on the issue.

CAA and other industry associations including MTO brought the Bed Bug issue to the attention of Senator Durkin and Representative Steans resulting in the Public Act 096-1330. This was done for many reasons; the most important being the need for public education and to raise public awareness. I have shared many resources used by the rental housing community including material from other State Task Forces, university research and industry best practices. My initial testimony at our first meeting outlined the rental housing position.

I am disappointed in the tone of the current draft report (pages2-3) and the interpretation of 4/12/11 minutes which once again stereotypically pits landlords and tenants against each other when collaboration is essential. Bed Bugs, time and financial consequences are the problem. Other Task Force reports might be reviewed as an example. I will make additional comments as we go through the document.

I'm requesting a couple of things:

1. I've assumed that the "report" distributed is a draft and that other topics and recommendations will be covered in the final report as outlined in the Act 096-1330? I think an outline of what will included would be useful step including but not limited to;
 - a. Public awareness education, educational material and related resources and research
2. I request that legislative and or research references be noted in the report for statements and recommendations given
3. That final recommendations be more balanced with responsibility and accountability among stakeholders, property owners, tenants and pest management control companies
4. Is or can meeting announcements, dates, minutes etc be on IDPH's website? If it's there I can't find it? This is a public dialogue governed by the Public Meetings Act and it seems this information should be easily accessible by the public.