



CALIFORNIA
ASSOCIATION
OF REALTORS®

Report

www.car.org

February 15, 2024

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REALTOR® Risk Management and Consumer Protection Forum

Thursday, February 15, 2024
8:00 a.m. – 11:00 a.m.
The Monterey Conference Center
Steinbeck Ballroom 3 - Level Three
Monterey, CA

Presiding: Stephen D. Flach, Chair
Nancie Allen, Vice Chair
Steven R. Keefe, Vice Chair
Cameron Platt, Committee Liaison

C.A.R Staff: Gov Hutchinson, C.A.R. Assistant General Counsel

Risk Management Presentation - 5 Top Risk Issues REALTORS® Face Today and the Dreaded Toxic Mold

Kelly G. Richardson, Partner at Richardson|Ober gave a presentation on current risk management issues facing REALTORS® and focusing on current issues relating to mold.

Risk Issues for REALTORS®

The first risk management issue Kelly highlighted was that too many agents are not documenting changes in the transaction or updating disclosures appropriately. Basically, people just aren't putting things in writing. Whether its new defects on the property or boundary disputes with neighbors, agents are relaying this information verbally without putting the new information in writing (or having the seller do so) as they should be. He is also seeing too many handshake agreements between buyers and sellers that result in problems down the line. Additionally, buyers are informally agreeing to "waive" disclosures and government requirements, which may not even be waivable.

Relatedly, Kelly also reported seeing lots of agents making mistakes when it comes to their own disclosure obligations. One such issue is agents thinking that they only have to do a visual inspection disclosure (AVID) and don't have to disclose actual knowledge of material facts. This includes agents not disclosing things they know from prior transactions on the property. Furthermore, there have been cases which imputed knowledge within a brokerage, even when the individual agent in the transaction didn't know certain facts. An important practice tip is to create a thorough office database of information/documents/disclosures that can be searched and utilized for new transactions.

Another common mistake being made by agents is not paying close enough attention and not calling out red flags related to the transaction. Most notably, agents are failing to call out for

their clients when there are square footage discrepancies between multiple sources. A more than 10% discrepancy between the advertised and actual square footage can result in major liability. This happens a lot on condominium properties where measurements aren't made correctly. Kelly also warned the group that actual square footage being greater than advertised can also result in liability. That is because a discrepancy in this direction is often a sign of unpermitted additions to the property that may or not have been disclosed.

Kelly mentioned that another current risk management issue is agents failing to monitor dates and deadlines for performance. Whether representing buyers or sellers, it is important for an agent to stay on top of deadlines throughout the transaction and to advise clients about their rights and responsibilities relating to those deadlines.

The final mistake Kelly highlighted was agents overreacting to mold issues. This led into his next major topic – what agents need to know about mold.

Mold Issues

Kelly started by pointing out that people didn't worry much about mold until approximately 25 years ago. He noted that one of the issues driving the mold panic is that most people who speak about mold make a lot of money from it and hype up mold by describing it as a Biblical plague out of Leviticus. The scariest of mold variants is "Stachybotrys Chatarum" – also known as black mold or even toxic mold. According to some people, this "toxic mold" allegedly causes every serious health problem.

So why have mold issues caused so much trouble in the past 25 years? Kelly reminded the group that the causes of mold are 1) sustained water 2) in contact with paper or wood 3) without the chance to dry out (usually due to insufficient ventilation). The past couple of decades have seen a change in building materials. Construction that formerly used stucco and plaster is now using drywall instead. This combined with low quality control in construction overall has resulted in mold being more prevalent than it used to be. On top of that, there has been an increased awareness of mold's actual impact on certain health conditions.

Kelly went on to explain that the panic originated back in 1999, when people first became aware of microtoxins, including so-called toxic mold. This was first reported on by the World Health Organization (WHO) that year, detailing a circumstance in which cows had become sick after eating moldy hay. People then started assuming that mold was making humans sick too, which caused people to start taking extreme measures like moving into tents in their back yards. The overall panic went on to result in skyrocketing water damage claims and very upset property owners/residents/tenants. A burgeoning industry of mold consultants developed, with no licensing or government oversight involved. Many lawsuits were filed, but Kelly noted that most major payouts were actually against insurance companies for bad faith failure to settle claims.

As a result of all this, California passed the Toxic Mold Protection Act of 2001. This was a study bill that set out a plan to determine possible exposure standards for mold. Some 23 years later these standards have still not been established, because it turns out that they are basically impossible to determine. Instead, the latest statement from the California Department of Public Health says simply to focus on fixing leaks and drying out spaces to address mold problems. The CDC describes mold and merely a respiratory irritant, and the EPA has taken the position that mold testing is usually not worth it so they have no regulations for contamination standards.

If someone does insist on having mold testing done, the results are typically counterproductive.

Kelly reported that mold testing only results in unnecessary extra expenses, disembodied data that scares people, panicked residents, unnecessary property destruction, even more testing, and eventually legal fees and claims. Meanwhile, there have been many reports over the years concluding that there is no evidence of connection between mold and other reported health problems.

So what should a REALTOR® do if mold is found in a client's property. The most important step is to not panic (and not let the client panic) but to be compassionate to the client's concerns. Whatever leak is causing the mold needs to be found and fixed immediately. It's not worth wasting time arguing over responsibility, the property owner should fix the issue with a reservation of rights and get reimbursed later if entitled. Kelly explained that the best course of action once the water intrusion is located and fixed is to not bother with a mold test. Instead, the owner should treat the mold as recommended (basically cleaning with diluted bleach) and not worry about expensive remediation. Why no remediation? Because there is no licensing for alleged experts, remediators, or even mold inspectors in California. You are typically dealing with industrial hygienists who otherwise deal with asbestos, toxins, and other workplace hazards. Various organizations have popped up around the state that just create their own arbitrary protocols.

Kelly laid out the five ways that small leaks become big problems: 1) taking too long to fix the leak and allowing dry rot to develop; 2) having unnecessary testing done that wastes time and money; 3) fear causing owners to panic, so a REALTOR® should be compassionate but also point clients in the direction of educational information; 4) overusing emergency restoration services wasting more money; and 5) not obtaining competitive bids for leak repair.

Finally, Kelly gave tips on how to best avoid mold claim lawsuits. He advised that it is important to act decisively and not delay taking action. Again, REALTORS® should show compassion but educate clients by emphasizing the importance of addressing the water intrusion and encouraging immediate action. The property owner should clean the mold as soon as possible. In instances where a tenant is not allowing access to the property, it is vital to document requests and attempts to access so that the tenant cannot claim the problem was ignored.

Mr. Richardson may be reached at (626) 389-1432 or Kelly@roattorneys.com.

Further mold information may be found at the links included on the Addendum at the end of this report.

Affiliate Report

Mary Hernandez from the Pest Control Operators of California spoke about the benefits of having a wood destroying pest inspection completed. She pointed out that while the benefits for buyers are obvious, getting an inspection report protects sellers too. Mary reminded the group that only a licensed termite inspector can identify termite risks and that REALTORS® and consumers should go to PCOC.org to research licensees.

Regional Representative Reports

Region 13 in the East side of Los Angeles County reported that they are still seeing multiple offers on listed properties. There are many MLS rules violations (clear cooperation, coming soon) and buyers are offering cash incentives to listing agents to get their offers accepted. The more pressing issues are in the rental market, where rent control and tenant protections are

taking over. Apparently some cities are appointing committees comprised of tenants to make the rules. Nearby Region 16 reported that loan officers are telling buyer's agents that listing agents are admitting that they lied about receiving multiple offers. In one instance a listing agent told a buyer's agent to ask for a higher commission and the listing agent would make sure the seller agreed if the buyer's agent split the money with the listing agent. They are also continuing to see issues with lack of inventory, insurability, and confusion surrounding the buyer representation agreement.

In the Northwest corner of the state, Region 1 reported that insurability problems are resulting in contract cancelations, and that even the FAIR plan is issuing denials on some properties. High interest rates continue to impact affordability. Additionally, there are now five point of sale sewer inspection ordinances around the region, including at least one that requires the property owner to pay for portions of the line that are city infrastructure. In other utility issues, overall costs are going up and PG&E hookups for new construction can take 6-9 months. Finally, there is only one title insurer in all of Humboldt, and they are making very strict demands of entity principals and often challenging evidence of authority. Next door in Region 2, fire insurance continues to be the biggest issue impacting transactions due to the rural nature of the region. They are also seeing a lack of broker oversight with virtual office set ups, resulting in TCs taking over transactions and agents not even knowing how to fill out the contract.

Region 4 reported that the Lake County market is particularly busy, despite fire insurance remaining a major hurdle in transactions. They are also seeing problems with out of area agents not doing anything in transactions and/or TCs taking over. They further reported that there is a new sewer lateral point of sale ordinance in Vallejo. Region 5 added that Fannie/Freddie have given a huge valuation to a local co-op community resulting in a refusal to lend and even having loans recalled due to considering the property under-insured. Region 10 reported an increase in water damage insurance claims, resulting in Farmers Insurance requiring automatic water shut off detection (which can cost \$2000 to install and requires internet to send notices about potential water leaks). They also added that buyers agents think sellers are lying about multiple offers and using an SMC0 with only one offer has been received.

In Riverside County, Region 14 echoed the concerns about lack of inventory and insurability. They also noted that the City of Corona wants to ban open house signs in the whole city, and that water leaks are resulting in major mold issues. Region 12 reported an instance of a first-time buyer having trouble getting insurance because of a prior claim on their renters policy, as well as another buyer that had their insurance policy canceled after closing due to galvanized pipes so that they had to spend thousands on a new policy. They also noted that out of area agents are having problems getting cooperation to show properties or negotiate commissions, while listing agents are expressing frustration with a lack of knowledge from out of area agents.

Region 15 also reported fire insurance problems, as well as agents not understanding the Fortress Wildfire report and putting it in the contract anyway. There have also been reports of agents marketing properties without a listing agreement in place, as well as agents having their identity stolen. Region 23 also reported multiple incidents of agents placing properties in the MLS without a listing agreement, as well as agents putting in properties with extremely limited showing hours. Region 8 added that they are seeing insurability issues even in urban areas, and that some agents who thought the Buyer Representation agreement is too burdensome decided to come up with their own one-page form instead. Region 7 had very similar issues, specifically with insurance problems in the foothills and confusion around the buyer broker agreement.

In Ventura and Santa Barbara Counties, Region 11 reported ongoing inventory issues as well as

lots of violations of the clear cooperation and coming soon rules. They also reported that some builders are going MIA and not honoring SB800 obligations. Region 21, covering the Southwest portion of Los Angeles, reported that city drainpipes are starting to fail and causing hillside collapse. Nearby in Region 29, there are reports of continuing low inventory and agents giving inappropriate opinions about “good” vs. “bad” areas.

Region 6 reported ongoing problems with Berkeley’s rent control law and that the new balcony inspection law is causing some loans to fall out on condominium transactions. Region 3 also reported low inventory and fire insurance problems. They specifically noted that Grass Valley has a new tax increase for fire safety but the money is going in the general fund. Additionally, out of area agents are causing problems due to lack of experience with local issues like wells, septic, and mine shafts. Relatedly, a large mining company wants to come in and start a new project but local communities are putting up a fight.

In the Silicon Valley, Region 9 reported that lack of inventory continues to be an issue. They are also seeing listing agents being dishonest about multiple offers, not being responsive, and not adequately answering questions or providing disclosures. One listing agent has been advertising only in non-English media and not putting properties in the MLS. They are also seeing confusion around the buyer representation agreement resulting in buyers signing multiple contracts with different agents. Next door in Region 19 they echoed the concerns about low inventory, specifically that extremely high prices are resulting in buyers talking to each other and feeling like they overpaid, then demanding price reductions. The region is also still seeing wire fraud cases, and the balcony inspection law is causing problems for HOAs. Region 25 reported multiple issues related to the local government not being REALTOR® or real estate friendly, including rent control in Redwood City and a rental registry in Half Moon bay. They also echoed concerns about insurability, MLS violations, and buyer broker confusion.

Down in the greater Los Angeles area, Region 17 reported many rain-related issues across the region, transaction problems when the property is in a fire hazard severity zone, and rent control difficulties. Nearby Region 22 reported that agents are worried about the commission lawsuits, specifically the fact that cash-strapped buyers can’t pay commissions. Region 18 reported that their main issue has to do with inexperienced agents and lack of broker supervision. New agents seem to be all about dealmaking and don’t learn the contract, which results in TCs taking over transactions.

Region 31 also reported a lack of broker oversight, especially with out of area companies. They are still seeing various types of fraud: listing fraud, cyber attacks/phishing pretending to be new buyers, PG&E utility fraud (saying they are going to shut off utilities on listed properties). They also reported an increase in vandalism on trees and driveways. Region 32 added concerns about professionalism and competency, specifically that agents aren’t bothering to read or understand the forms. Region 28 added that 42% of Palm Springs properties are on leased land and out of area agents have no idea how to handle that.

From Greater San Diego, Region 24 reported lots of flooding issues, plus agents and investors trying to lowball people impacted by flood damage. They also reported increasing underwriting timeframes on insurance policies, with agents wanting a longer insurance contingency. Regions 30 and 27 both echoed insurability problems, and Region 27 added that they are still seeing so much vacant land fraud that title companies will not insure vacant land transactions where the seller is out of the country.

Legal Update

CAR's Assistant General Counsel Gov Hutchinson then gave a legal update. He discussed the following topics:

Reminder about Price Gouging and States of Emergency: When a county is under a state of emergency, as many still are, no landlord may raise the rent more than 10%, for the duration of the state of emergency.

New Security Deposit Limits (AB 12): Starting July 1, 2024 no landlord may collect more than one month as security for all types of units. However, there is an exception for "small landlords" who may collect two months' rent as security. A small landlord is a natural person, family trust or LLC with no corporate members who owns no more than two investment rental properties which collectively include no more than four total units.

Tenant Protection Act Changes (SB 567): Effective April 1, 2024 a housing provider who violates the Tenant Protection Act by improperly terminating a tenancy or by raising the rent beyond the maximum allowable amount is liable for actual damages, up to 3 times actual damages for willful violations, punitive damages and reasonable attorneys fees. In addition, termination notices for "Owner/Family Move Ins" must state the name and relationship of the person moving in (owner, spouse, child, grandchild, parent or grandparent) and the occupant must move in within 90 days after the tenant vacates and remain for at least one year. And if the termination is because of a "Substantial Remodel" the rehab work must be such that it would prevent the tenant from safely remaining in the property for 30 consecutive days. And the notice of termination must include a statutory notice, the work that's going to be done and its expected duration, a copy of the permits required to do the work and an explanation that the tenant may re-rent on the same terms if the renovation is not completed.

Subsidized Tenant Application Procedures (SB 267): Housing providers must offer applicants with a government rent subsidy (Section 8 applicants, for example) the right to deny the landlord the ability to use their credit history as part of the application process and instead provide alternative evidence of reasonable ability to pay the portion of the rent to be paid by the tenant, including pay records, bank statements and government benefit statements. And the landlord must reasonable consider that evidence.

NHD Statement Revision (AB 1280): The NHD statement now has a simple "Yes__ No__" box on the signature page. If "Yes" is checked the property is in a "Very High" or "High Fire Hazard Severity Zone" and the Seller must complete and provide to the buyer the Fire Hardening and Defensible Space form (FHDS). If "NO" is checked the FHDS form is not required.

New Flipper Disclosure (AB 968): Effective July 1, 2024 any seller who accepts an offer within 18 months of acquiring the property and then hires a contractor to perform work on the property must disclose all alterations and repairs done during their ownership. These sellers must also provide a copy of any permits obtained or inform the buyer of a third party who can supply the permits. And if the cost of labor or materials exceed \$500 the seller must disclose the contact information for all contractors who performed work on the property.

Selling ADUs Separately (AB 1033): This law would allow local housing agencies to adopt ordinances that would permit the separate conveyance of accessory dwelling units and the primary residence as condos. Any such ordinance would have to require that the process to establish the condos complies with the Davis-Sterling law and the Subdivision Map Act, and

any lienholder would have to consent in a writing that's recorded, and any HOA must approve the creation of the condos. In addition, notice of these rules must be given to ADU applicants and the local government must require the homeowner to notify providers of utilities of the condo creation and separate conveyance.

ADUs and Owner Occupancy (SB 576): This law makes permanent a 2019 law that provides that local governments may not condition approval of an ADU on a requirement that either the primary residence or the ADU must be owner-occupied. **Small Claims Court Limits (SB 71):** The small claims court limit for a natural person who files no more than two claims in one calendar year has been increased from \$10,000 to \$12,500 and for a non-natural person (corporation or LLC, for example) the limit has been raised to \$6,250 for the first two lawsuits in a calendar year.

Short Term Rentals and Cancellation (SB 644): Short term rental housing providers, and the platforms that host them, must allow a consumer to cancel a reservation within 24 hours without penalty if the cancellation is made at least 72 hours before the time of check-in. A short term rental is a rental for 30 consecutive days or fewer.

Vacation Rental Fee Disclosure (AB 537): effective July 1, 2024 all provider of short term lodging, which includes hotels, B&Bs, and short term rentals through a centralized platform are prohibited from advertising a rate that does not include all fees or charges, except for government imposed fees and taxes.

Micromobility Devices for Tenants (SB 712): tenants must be allowed to store "micromobility devices" such as ebikes and scooters in the rental property so long as the batteries are approved by the Consumer Product Safety Commission or the European Product Standard. If they don't meet these standards the landlord can require the tenant to have insurance for the device and can prohibit the tenant from plugging it in inside the unit. If the landlord provides the tenant with secure, long term storage outside the unit, they can mandate that the device be stored outside the unit.

Workplace Violence Prevention Plan (SB 553): Effective July 1, 2024 most California employers (including real estate brokers) who have at least one employee, must adopt a Workplace Violence Prevention Plan. CalOSHA will be coming out with a template for such a plan that can be used by employers. Independent contractor real estate agents are not employees for purposes of this law. Also, businesses that are not open to the public are exempt.

Balcony Inspection Laws: Effective January 1, 2025 an inspection of all balconies, porches, elevated decks, and elevated staircases and entry structures in apartment buildings and condominium buildings will be required if the building has 3 or more multifamily dwellings, the exterior elevated element is built of or supported by wood or wood based materials, the element extends beyond the exterior walls of the building and it is designed for human occupancy or use (not just decorative) and has a walking surface at least 6 feet above ground level. If it is a condo the inspection must be done by a licensed architect or engineer, and it must be reinspected every 9 years. If it is an apartment building it can also be inspected by certain general contractors with at least 5 years of experience or a certified building inspector, and it must be reinspected every 7 years. If the inspector finds a problem that's an "emergency" corrective work must be done immediately—otherwise the repairs must be done within 120 days of receipt of the inspection report.

Independent Contractor Regulations: Effective March 11, 2024 a new federal regulation is scheduled to come into effect regarding the determination of whether a particular worker is an

independent contract or an employee for purposes of the wage and hour laws—minimum wage, etc. (For tax withholding purposes it has previously been established that real estate agents are independent contractors). This new rule changes the existing more, straightforward federal rule for determining the status of the worker. (For California law purposes, as opposed to federal, real estate agents are independent contractors as long as they paid get paid based on output rather than hours worked and sign an independent contractor agreement). This new federal regulation enacts a “totality of the circumstances” test relying on six factors to uncover the “economic realities “of the job. If the factors show that the worker is “economically dependent” on the employer the worker is an employee. If, on the other hand, the factors show that the worker is in business for themselves, they are an independent contractor. This rule is already being challenged in several lawsuits and it also is being questioned whether it would apply to the real estate industry in light of the fact that agents have already been deemed to be independent contractors for tax purposes and the fact that states like California already have their own laws regulating the employment status of real estate agents. So the Regulation might not take effect, or it might be struck down in the future. But if it does take effect, and it does apply to real estate agents, the practical advice for brokers to follow to insure that their agents are independent contractors is to make sure agents pay for their own business expenses and don’t mandate rules on how agents should do their business, other than rules that are designed to make sure agents are in compliance with legal requirements or reasonable risk management protocols. For example, no mandatory meetings or floor time, or mandatory schedules or leads or prospects or mandatory activities like open houses or marketing techniques.

Corporate Transparency Act Beneficial Ownership Reporting Requirement: This rule requires most small corporations and LLCs, such as real estate brokerages, to file a report to the US Treasury’s Financial Crimes Enforcement Network about the owners behind the entity. In other words, if you do business as an entity you must file a report disclosing any individual who exercises substantial control over the company and/or controls at least 25% of its ownership interests. The filing deadline is January 1, 2025 for entities existing before 2024, 90 days after creation for entities created in 2024 and 30 days after creation for entities created in 2025 or later. Companies that have more than 20 full time employees, a physical office in the USA and more than \$% million in gross sales the previous year are exempt. Incidentally, a judge recently ruled that this law is unconstitutional, so it’s not even clear if it will take effect (there will be an appeal).

Update on Commission Lawsuits: At this time there have been over 20 lawsuits filed throughout the country against brokerages and real estate trade associations claiming that existing commission payment structures and rules violate federal antitrust laws. Only one of these cases has gone to trial, and there is still no final verdict in that case. When there is a decision, it will probably be appealed. There is also an effort being pursued to consolidate all of the other cases into one case, but it’s not clear when a decision on that issue will be made either. In other words, it may take a while before these questions are resolved. Gov noted that there is another related issue in play and that is whether buyer broker contracts will become mandatory in California, as they are in many other states. A decision on this should happen this year, and CAR is supporting legislation that would mandate buyer broker agreements in some form.

Addendum

MOLD INFORMATION ON THE WEB (current as of 3-6-24)

EPA mold information resources <https://www.epa.gov/mold>

EPA frequently asked questions about mold <https://www.epa.gov/mold/mold-frequently-asked-questions>

EPA “A Brief Guide to Mold and Moisture in your home” – PDF version of pamphlet <https://www.epa.gov/mold/printable-version-brief-guide-mold-moisture-and-your-home>

California Department of Public Health, 2016 Statement on Dampness, Mold and Health
https://www.cdph.ca.gov/Programs/CCDCPHP/DEODC/EHLB/IAQ/CDPH%20Document%20Library/MoldDampStatement2017_ENG.pdf

2005 California Department Public Health Report to California Legislature on Mold
https://www.cdph.ca.gov/Programs/CCDCPHP/DEODC/EHLB/IAQ/CDPH%20Document%20Library/SB732-Implementn-LegReport-Final-2005_ADA.pdf

Calif. Dept. Public Health Mold Page - <https://www.cdph.ca.gov/Programs/CCDCPHP/DEODC/EHLB/CPE/Pages/Mold.aspx>

Calif. Dept. Public Health video - “No Need For Mold Testing” <https://youtu.be/5FHxGq4YmE0>

National Academies of Sciences 2004 article -indoor mold http://www.infocusmagazine.org/4.2/hs_mold.html

National Academies of Sciences 2004 News Release on Indoor Mold and Health
<http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=11011>

Center for Disease Control (CDC) information on mold <http://www.cdc.gov/mold/>

CDC Printable flyer “8 Tips to Clean Up Mold” https://www.cdc.gov/cpr/infographics/00_docs/mold-cleanup.pdf

New York City information site, including remediation recommendations
<http://www.health.ny.gov/publications/7287/>

Minnesota State Dept of Health site <https://www.health.state.mn.us/communities/environment/air/mold/index.html>

OSHA Information on mold in the workplace <https://www.osha.gov/mold>

Rhode Island general page of mold information sources <http://www.health.ri.gov/healthrisks/mold/>

[all sites checked and current as of 3-6-24]

Courtesy of Kelly G. Richardson, Esq., Richardson Ober LLP
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From EPA “FAQ” re mold:

Question - How do molds affect people?

Answer

Molds are usually not a problem indoors, unless mold spores land on a wet or damp spot and begin growing. Molds have the potential to cause health problems. Molds produce allergens (substances that can cause allergic reactions), irritants, and in some cases, potentially toxic substances (mycotoxins). Inhaling or touching mold or mold spores may cause allergic reactions in sensitive individuals. Allergic responses include hay fever type symptoms, such as sneezing, runny nose, red eyes, and skin rash (dermatitis). Allergic reactions to mold are common. They can be immediate or delayed. Molds can also cause asthma attacks in people with asthma who are allergic to mold. In addition, mold exposure can irritate the eyes, skin, nose, throat, and lungs of both mold-allergic and non-allergic people. Symptoms other than the allergic and irritant types are not commonly reported as a result of inhaling mold. Research on mold and health effects is ongoing. For more detailed information consult a health professional. You may also wish to consult your state or local health department.

Question - Is sampling/testing for mold necessary?

Answer

In most cases, if visible mold growth is present, sampling is unnecessary. Since no EPA or other federal limits have been set for mold or mold spores, sampling cannot be used to check a building's compliance with federal mold standards. Surface sampling may be useful to determine if an area has been adequately cleaned or remediated. Sampling for mold should be conducted by professionals who have specific experience in designing mold sampling protocols, sampling methods, and interpreting results. Sample analysis should follow analytical methods recommended by the American Industrial Hygiene Association (AIHA), the American Conference of Governmental Industrial Hygienists (ACGIH), or other professional organizations.

Question - Should I test or sample for mold in my home using the Environmental Relative Moldiness Index, or ERMI?

Answer

No. The Environmental Relative Moldiness Index, or ERMI, developed by U.S. Environmental Protection Agency researchers, is a research tool and is not recommended for use except as a research tool.

Question - What are the basic mold cleanup steps?

Answer

1. The key to mold control is moisture control.
2. Scrub mold off hard surfaces with detergent and water, and dry completely.
3. Fix plumbing leaks and other water problems as soon as possible. Dry all items completely.
4. Absorbent or porous materials, such as ceiling tiles and carpet, may have to be thrown away if they become moldy. Mold can grow on or fill in the empty spaces and crevices of porous materials, so the mold may be difficult or impossible to remove completely.
5. Avoid exposing yourself or others to mold (see discussions: What to Wear When Cleaning Moldy Areas and Hidden Mold).
6. Do not paint or caulk moldy surfaces. Clean up the mold and dry the surfaces before painting. Paint applied

over moldy surfaces is likely to peel.

7. If you are unsure about how to clean an item, or if the item is expensive or of sentimental value, you may wish to consult a specialist. Specialists in furniture repair, restoration, painting, art restoration and conservation, carpet and rug cleaning, water damage, and fire or water restoration are commonly listed in phone books. Be sure to ask for and check references. Look for specialists who are affiliated with professional organizations.

**Courtesy of Kelly G. Richardson, Esq., Richardson Ober LLP
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