
Background:

On August 31st, 2021, the Orange County Agricultural Commissioner's Office received a walk-in complaint from [REDACTED], who claimed applications of unknown chemicals by his apartment complex's landscaping contractor are causing his service dog, [REDACTED], and his wife to develop concerning symptoms and that his requests for information from his apartment complex management have gone unanswered. Mr. [REDACTED] completed and submitted a PR-ENF-074 Complaint of Human Exposure or Unsafe Condition form at our office before leaving.

Violations:

No violations of FAC or CCR found.

Witnesses:

[REDACTED]
[REDACTED]
Fountain Valley, CA 92708

[REDACTED]
Mesa Management, Inc.
1451 Quail Street, Suite 201
Newport Beach, CA 92660
piamanager@rentpalmisland.com

[REDACTED]
Softscapes The Art of Landscape (MGB 38054)
1407 N Batavia Street #119
Orange, CA 92867
(714) 769-1145
softscapespcv@aol.com

Investigations and Statements:

On August 31st, 2021, the Orange County Agricultural Commissioner's Office received a walk-in complaint from [REDACTED] [REDACTED] spoke with Inspector Otto Rieger and stated the following in summary:

The landscaping business contracted by his apartment management, Softscapes The Art of Landscape, has been treating the lawns around his apartment complex and that residents have not been receiving notifications of when applications were performed or what chemicals were used. ██████████ has concerns that these applications are causing his service dog, Angel, and his wife to develop concerning symptoms and that his requests for information from his apartment complex management have gone unanswered (See Attachment 1).

██████████ said that he asked an applicator from Softscapes The Art of Landscape who was spraying around his complex for the information, and while there was a language barrier the applicator pointed to his backpack sprayer and the service container labeling listed Speed Zone as the chemical.

██████████ explained that recently his service dog, Angel, has developed symptoms after playing in the lawn and that he has requested the pesticide use information from his apartment complex management to assist his veterinarian in diagnosing Angel's condition but has not received any information from them. ██████████

██████████ also explained that his wife has developed a concerning cough recently and he is concerned about the possibility of his dog Angel tracking pesticide residue from the lawns into his home and causing his wife to fall ill.

Inspector Rieger had ██████████ fill out a PR-ENF-074 Complaint of Human Exposure or Unsafe Condition form (see Attachment 2) and the investigation was then assigned to Inspector Mark Nestor. Mr. Nestor also requested that ██████████ email any relevant test results from Angel's veterinarian that may be related to a pesticide illness to help our office conduct this investigation.

Inspector Nestor contacted ██████████ the following day, September 1st, 2021, by telephone and ██████████ stated the following in summary:

██████████ has lived at the ██████████ complex at ██████████ ██████████ in Fountain Valley for about three and a half years. ██████████ said that his dog Angel has been sick off and on for the last three years with symptoms of vomiting, loss of appetite, and redness around the eyes, nose, and chin. He had taken the dog to two different veterinarians who have not been able to diagnose the dog's illness, and though they gave the dog treatments so far none have had any effect to lessen the dog's symptoms.

██████████ said he often walked his dog around 6:00am in the morning and one day about two weeks ago (mid-August) he saw a man applying a pesticide in the turf area of the apartments. He tried to talk with the applicator but could not communicate with him due a language barrier, as ██████████ does not speak Spanish. The applicator did point to his service container label on his backpack

sprayer and ██████████ saw that the applicator worked for Softscape The Art of Landscape and was applying Speed Zone Lawn Weed Killer (EPA Reg. No. 2217-864-AA) to the complex's lawns.

██████████ said that his dog did not step on the wet treated lawn surface and that he and his dog walked on the paved surfaces of the parking area. After speaking to the applicator, ██████████ looked up information on the Speed Zone herbicide and saw that the label advised that people and pets were to stay off wet treated surfaces until dry. ██████████ said that he did avoid those areas while they were wet but expressed concern that the pesticide residues on the treated lawn could potentially become hazardous again to him and his dog after the sprinkler irrigation system was activated. He also expressed concern that his dog walking on the treated lawn after the sprinkler system had "re-wetted" the herbicide would allow his dog to track the herbicide residue back to his apartment and contaminate the surfaces within.

██████████ stated that he had not received a notification for the application of Speed Zone. He stated that in the past he has received notifications for structural pest control performed in his apartment complex but has never received any notification for landscape applications. ██████████ stated that he had seen Softscape Landscape employees performing work for the apartment complex for some time and has sought information about the application from his management office, but they declined to give him that information. When asked who he spoke to at the management office he said he would ask ██████████, the Operations Manager for Mesa Management, Inc., and ██████████ the Assistant Manager for Mesa Management, Inc.

Inspector Nestor noted that ██████████ had included in his written complaint form a description of his wife experiencing symptoms such as a cough (see Attachment 1), but ██████████ clarified that his wife believed that the cough was unrelated to the herbicide complaint.

On September 1st, 2021, Inspector Nestor called ██████████, the apartment manager for the ██████████. Inspector Nestor informed ██████████ that the Orange County Agricultural Commissioner's Office had received an anonymous complaint from a ██████████ resident who witnessed a pesticide application by an employee of Softscapes The Art of Landscape and was concerned that no notification of application was given to the apartment residents. Inspector Nestor inquired if Softscapes has given notices to the apartment management when they had made applications. After checking his records, ██████████ stated that Softscapes had not done any applications at the ██████████ for a long time. Mr. Jimenez said that he checked records going back to June 2021 and the only work that Softscapes had performed during that time was the installation of landscape plants on the property

(see Attachment 3). Mr. Jimenez stated that when pesticide applications are performed on the property that apartment residents are notified by taping a notice to their front doors (see Attachment 4).

On September 2nd, 2021, Inspector Nestor called Mr. ██████████, a representative from Softscapes The Art of Landscape. Inspector Nestor informed ██████████ that the Orange County Agricultural Commissioner's Office had received an anonymous complaint from a resident of the ██████████ in Fountain Valley. Inspector Nestor explained that the complainant claimed that they had not received notifications for pesticide applications performed by Softscapes. Inspector Nestor told ██████████ that he had met with the apartment management office to review their notification policy and history of applications but after review of their records it was found that no applications had been performed dating back to June 2021. Inspector Nestor asked ██████████ if Softscapes had applied Speed Zone herbicide during the time period of the complaint (Mid-August) and ██████████ stated that he could not provide an accurate statement at that time and that he would need to review his records before confirming any information. Inspector Nestor and ██████████ exchanged contact information before ending the call.

Later that same day ██████████ sent an email to Inspector Nestor stating that his records show that his employees did not spray any pesticides at the Palm Island Apartments during that time (see Attachment 5). ██████████ requested that if the complainant had any evidence to the contrary, such as pictures of the application occurring, to please forward that evidence to him so he could conduct his own review of the complaint.

On September 8th, 2021, Inspector Nestor received a follow up email from ██████████ the Palm Island Apartments manager, stating that ██████████ had contacted Softscapes and confirmed that the last application of a pesticide at the ██████████ had occurred 3 months ago.

At this time, Inspector Nestor has never received any of the requested veterinary test results for service dog Angel.

Conclusion:

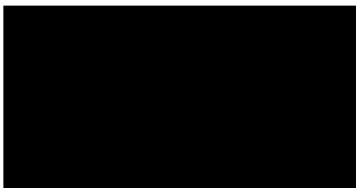
Inspector Nestor was able to contact representatives from both Mesa Management and Softscapes The Art of Landscape regarding ██████████ anonymous complaint. Both companies had matching records showing that no applications had been performed at the Palm Island Apartments since June of 2021. This is in direct conflict with ██████████ allegation of treatments being performed in mid-August 2021. ██████████ did not provide Inspector Nestor with any evidence of an application being performed or any relevant veterinary documents indicating the possibility of pesticide exposure. As the

claimant and respondents have conflicting information, the Orange County Agricultural Commissioner's Office is unable to determine the true nature of this incident. No violations of FAC or CCR were found.

Attachments:

1. ██████████ Letter to Mesa Management, Inc.
2. ██████████ PR-ENF-074 Complaint of Human Exposure or Unsafe Condition Form
3. Inspector Mark Nestor's email correspondence with ██████████ of Mesa Management
4. Palm Island Apartment Lease Agreement excerpt regarding pesticide treatments and notifications, provided by ██████████ via email
5. Inspector Mark Nestor's email correspondence with Polo Vargas of Softscapes The Art of Landscape

ATTACHMENT 1: [REDACTED] Letter to Mesa Management, Inc.



July 12, 2021

[REDACTED]
Director of Operations
Mesa Management, Inc.
1451 Quail Street, Suite 201
Newport Beach, CA 92660

Dear [REDACTED]

Over thirty days ago and again today, I made a request for information from your staff regarding the name of the fertilizer and/or weed killer/fertilizer, with the EPA registration number used at Palm Island Apartments. I was referred to your Operation Manager, Armando by your staff who promised me he would get back to me with the information. As of July 12th, he is still stonewalling me.

Today, I asked [REDACTED] and your assistant manager [REDACTED] for this information again. They promptly told me they would not supply the information because of legal concerns.

The reason for this request is to help my Veterinarians. My dog Angel had to be referred to two specialists. They need your help to find the cause and treat my Service Dog's illness. She has suffered from vomiting, diarrhea, oral burns, redness on the skin around her eyes, nose, lips and burned paws.

Angel's health is very important to me. [REDACTED]

[REDACTED] Angel helped save my life.

My wife and I have been tenants for over four years and need your help, your cooperation is greatly appreciated.

Angel has a critical appointment with the Veterinarian on July 19th, any information will be of help.

Sincerely

[REDACTED]

PR-ENF-127A
 LOCATION/SUBJECT
 [REDACTED]

PRIORITY/WHS.NO.

OTHER ID NO.
 OC21-05

COUNTY OF OCCURRENCE
 Orange

Page 7 of
 DATE OF OCCURRENCE
 08/31/2021

ATTACHMENT 2: Mr. Gary Frahm's PR-ENF-074 Complaint of Human Exposure or Unsafe Condition Form (Page One)

STATE OF CALIFORNIA
COMPLAINT OF HUMAN EXPOSURE OR UNSAFE CONDITION
 PR-ENF-074 (EST. 9/94) PAGE 1 OF 1

DEPARTMENT OF PESTICIDE REGULATION
 PESTICIDE ENFORCEMENT BRANCH

COMPLAINANT'S NAME [REDACTED]		TELEPHONE NUMBER (Include Area Code) [REDACTED]	
CITY Fountain Valley		STATE CA	ZIP CODE 92708
DATE OCCURRED On going	NUMBER OF PERSONS EXPOSED TO CONDITION: 2	IS EXPOSURE CONTINUING? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	WAS A DOCTOR SEEN? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DOCTOR'S NAME Dr. Jeff Weitz		DOCTOR'S TELEPHONE (Include Area Code) (714) 546-767D	
DOCTOR'S ADDRESS (Number and Street, City, State, ZIP Code) 18440 Warner Ave, Fountain Valley, CA 92708			

LOCATION OF EXPOSURE OR CONDITION (Be Specific):
 [REDACTED] has been exposed to product. The service dog as suffering redness around her eyes, lips, nose, and chin. Landscape company Softscape has not followed label instructions resulting in ongoing injury and veterinary expense in the thousands.

COUNTY
 Orange

DESCRIPTION OF EXPOSURE OR CONDITION:
 [REDACTED] has been exposed to product. The service dog as suffering redness around her eyes, lips, nose, and chin. Landscape company Softscape has not followed label instructions resulting in ongoing injury and veterinary expense in the thousands.

[REDACTED] also believes his apartment has been contaminated with Speed Zone. His wife has developed a very concerning cough.

NAME OF PESTICIDE/MANUFACTURER Gordon's Speed Zone	REGISTRATION NUMBER FROM LABEL 2217-864
DOSE/DILUTION/VOLUME Unknown, but ongoing.	COMMODITY/SITE TREATED Lawn
NAME OF PERSON OR FIRM ALLEGEDLY RESPONSIBLE Softscape	OWNER OR OPERATOR OF PROPERTY TREATED Mesa Management, Inc.
OCCUPATIONAL SITUATION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	OCCUPATION

Important! You do not need to complete this portion of the form unless the complaint is the result of an occupational situation.	EMPLOYER'S NAME	TELEPHONE NUMBER (Include Area Code)
	ADDRESS	CITY
	STATE	ZIP CODE
	TYPE OF BUSINESS	
	SUPERVISOR'S NAME	TITLE
COMPLAINT IS: <input type="checkbox"/> FORMAL <input type="checkbox"/> INFORMAL		
EMPLOYEE CONFIDENTIALITY PURSUANT TO SECTION 6309 OF THE LABOR CODE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		I PERMIT THE DISCLOSURE OF MY NAME: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		I PERMIT THE DISCLOSURE OF THIS INFORMATION: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

I hereby certify that the above, to the best of my knowledge, is true and correct.

CLAIMANT'S SIGNATURE [REDACTED]	DATE 08/31/2021
PERMIT THE SIGNATURE TO BE USED BY THE COUNTY [REDACTED]	TITLE [REDACTED]
	DATE

Complainant: This form must be signed and dated prior to submission.

ATTACHMENT 2: [REDACTED] PR-ENF-074 Complaint of Human Exposure or Unsafe Condition Form (Page Two)

apartment complex - ongoing

- 2,4-D
- not following the rules
- not closing area off or notifying residents
- Dog vomiting. Took to vet & getting diagnosed. (on 8/30/21)
- lawns. Dog possibly tracking it into house. Wife feeling not right
- Dog irritated at nose & mouth
- ~~that~~
- Apartment complex not notifying and would not say what is being sprayed.
- Complainant asked gardener what he was using and saw service container labeling

ATTACHMENT 3: Inspector Mark Nestor's Email Correspondence with of Mesa Management, Inc.



From: piamanager <piamanager@rentpalmisland.com>
Sent: Wednesday, September 8, 2021 11:57 AM
To: Nestor, Mark <Mark.Nestor@ocpw.ocgov.com>
Subject: RE: Pesticide notification

Attention: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Hi [REDACTED]

I was finally able to speak with our landscaping company. They confirmed that no pest treatments have been done, last time was about 3 months ago. Attached is a page from our lease agreement where tenants are notified of pest control services in the property.

With gratitude,

Business Manager

Palm Island "Your Lifestyle Your Location"
11300 Warner Ave, Fountain Valley, CA 92708
P. 714-546-5404 | F. 714-546-7065
Corporate Broker ID #01079531

piamanager@rentpalmisland.com | www.mesamanagement.net

Virtual Tours: <https://www.palmislandseniorliving.com/3dtours.aspx>

www.palmislandseniorapartments.com



ATTACHMENT 4: Lease Agreement excerpt regarding pesticide treatments and notifications, provided by via email

RENT CONTROL AND JUST CAUSE:
 If Civil Code §1946.2 or 1947.12 apply to this tenancy: California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.

Landlord may terminate Resident's tenancy after expiration of any term if Landlord, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the Premises.

(If checked) This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (c)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.

PEST CONTROL: (If checked) Pesticides are periodically applied to the Residence units near the Residence common areas. They are applied by a registered pest control structural company Landlord or Landlord's agents.

The pesticides are meant to control the following pest(s): spiders, ants, mosquitoes, bees, cockroaches, crickets, fleas, flies, bed bugs, silverfish, ticks, wasps, wood infesting borers and more.

The approximate date, time and frequency of the pesticide treatment is 1 times per month. The approximate date, time and frequency of the pesticide application is subject to change. The pesticide(s) name, brand and active ingredient: 'Cy-Kick CS', manufactured by BASF the parent corporation for Whitmire Micro-Gen Research Laboratories, Inc. It's active ingredient is 'cyfluthrin' or as specified in a separate pesticide notice.

State law requires that you be given the following information. CAUTION--PESTICIDES ARE TOXIC CHEMICALS.

Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that based on existing scientific evidence there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits.

The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

If within 24 hours following application, you experience symptoms similar to common seasonal illness comparable to the flu, immediately contact

- your physician or the California Poison Control System (1-800-222-1222), and
- if the pesticide was applied by a pest control company, also contact the pest control company.

(Modify this statement, based on the pesticides applied, to include any other symptoms of overexposure, which are not typical of influenza.)

For further information, contact any of the following:



- (if pesticide is applied by a pest control company) the pest control company, telephone number: 8557287228 or as specified in a separate pesticide notice
- For Health Questions—contact the local County Health Department, or as specified in a separate pesticide notice
- for Application Information—the County Agricultural Commissioner or as specified in a separate pesticide notice
- for Regulatory Information:
- the Structural Pest Control Board, 2005 Evergreen St # 1500, Sacramento, CA 95815 (916) 561-8708 (if pesticide is applied by a pest control company)
- the Department of Pesticide Regulation (916-324-4100) (if the pesticide is not applied by a pest control company)

(If checked) **ONGOING CONSTRUCTION.** If indicated, there is ongoing construction in the Property consisting of: . The estimated date of completion of construction is . Construction will normally be limited to the following days of the week: and the following hours: to .

(If checked) Information provided to Resident regarding the Property may refer to amenities for which construction may not yet be completed including the following:

(If checked) **CONDOMINIUM CONVERSION.** The Residence has been approved for sale to the public as a condominium project. You may be given additional documents about this.

Additional notices, disclosures and terms:

Landlord  Resident's Initials 

ATTACHMENT 5: Inspector Mark Nestor's email correspondence with Polo Vargas of Softscapes The Art of Landscape

From: [REDACTED] <softscapespcv@aol.com>
Sent: Thursday, September 2, 2021 2:22 PM
To: Nestor, Mark <Mark.Nestor@ocpw.ocgov.com>
Subject: Re: Notification requirements

Attention: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Nestor,

Nothing is attached. Also, after my investigation my employee did not spray anything. Please forward me any pictures you may have.

Thank you,

[REDACTED]
Softscapes The Art of Landscape
714-715-6454 Cell
714-769-1145 Office
714-769-1158 Fax

-----Original Message-----

From: Nestor, Mark <Mark.Nestor@ocpw.ocgov.com>
To: softscapespcv@aol.com <softscapespcv@aol.com>
Sent: Thu, Sep 2, 2021 1:38 pm
Subject: Notification requirements

[REDACTED]
Here is the information.
Mark

Sent from my iPhone