

**Proposed Administrative Consent Agreement  
Background Summary**

**Subject:** Avesta Housing  
307 Cumberland Ave.  
Portland, Maine 04101

**Date of Incident(s):** November 1, 2021

**Background Narrative:** A resident of the Solterra Housing Complex located at 58 Boyd St. in Portland contacted the BPC regarding an unauthorized pesticide application made in their apartment on November 1, 2021. The housing complex is managed by Avesta Housing. The resident was notified on October 27, 2021, that their apartment, the adjacent trash room and other common areas in the building were to be treated for cockroaches and fruit flies by Ehrlich Pest Control. On October 29, 2021 the resident requested that the treatment to their apartment be postponed because they could not have the unit prepared for an application. Representatives at Avesta Housing acknowledged the resident's request and informed them that the treatment would be postponed. Avesta Housing failed to contact Ehrlich Pest Control in a timely manner to postpone the scheduled application. On November 1, 2021, an Ehrlich applicator applied Shockwave 1 Insecticide inside the resident's apartment while they were not home.

**Summary of Violations:** CMR 01-026 Chapter 26 Section 6: Tenant's Consent: Except in cases where a public health or code enforcement official with jurisdiction has determined a need for immediate pest management, application to a tenant's residential unit is prohibited if the tenant is opposed to such treatment. A pesticide application may not be made until such time as alternative control measures have been tried and documented as to their failure to control a pest problem, which poses health risks, threatens significant property damage or threatens to infest other parts of the building.

**Rationale for Settlement:** Avesta Housing was negligent in honoring the tenant's opposition to the scheduled pesticide application in their apartment by failing to appropriately postpone the application as requested by the tenant.

**Attachments:** Proposed Consent Agreement

DEC 27 2022

CK Amt \$750 -  
Date: 12-15-22  
CK# 7770

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL

In the Matter of: )  
Avesta Housing ) ADMINISTRATIVE CONSENT AGREEMENT  
307 Cumberland Ave. ) AND  
Portland, Maine 04101 ) FINDINGS OF FACT

This Agreement, by and between Avesta Housing (hereinafter called the Company) and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

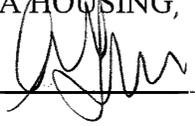
The parties to this Agreement agree as follows:

1. That the Company develops and manages rental housing in Maine and New Hampshire, including Portland, Maine.
2. That among the properties managed by the Company is the Solterra Housing Complex, (herein after referred to as "the Complex"), 58 Boyd St., Portland, Maine.
3. That on October 27, 2021, the tenant at Unit #110 of the Complex, received notice from Avesta Housing in a letter dated October 25, 2021, that their unit would be treated for fruit flies by Ehrlich Pest Control on November 1, 2021. This notification letter included preparation requirements for the unit to be completed prior to the application.
4. That, in addition, sometime prior to November 1, 2021, the tenant notified the Company that Unit #110 had cockroaches and requested extermination services for cockroaches as well.
5. That on October 29, 2021, the tenant emailed Avesta Housing requesting postponement of the application due to extensive preparation requirements, and the tenant's inability to complete all of the preparations prior to the scheduled service date.
6. That, due to administrative errors, the request for postponement was not transmitted to Ehrlich Pest Control until the afternoon of the planned application on November 1, 2021.
7. That by the time Ehrlich Pest Control received the request for postponement, the November 1 application to Unit #110 had already been made.
8. That on November 22, 2021, the Board received a phone call from a tenant at the complex. The tenant reported that an incorrect pesticide application was made at their apartment, Unit # 110, possibly exposing them and their four children to pesticides on November 1, 2021.
9. That on November 23, 2021, a Board inspector met with the tenant and representatives of Ehrlich Pest Control. The Inspector determined and documented that on November 1, an Ehrlich employee applied Shockwave 1, EPA Registration Number 1021-2804, to Unit #110 for control of German roaches and Phantom Aerosol, EPA Registration Number 7969-285 to the trash room to control fruit flies and German roaches.

10. That CMR 01-026 Chapter 26, Section 6 prohibits the application of pesticides to a tenant's residential unit if the tenant is opposed to such treatment.
11. That Avesta Housing's tardiness in directing Ehrlich to postpone the pesticide application at the Complex resulted in an unauthorized pesticide application to residential Unit # 110.
12. That the circumstances described in paragraphs one through eleven constitute a violation of CMR 01-026 Chapter 26, Section 6.
13. That the Board has regulatory authority over the activities described herein.
14. That the Company expressly waives:
  - a. Notice of or opportunity for hearing;
  - b. Any and all further procedural steps before the Board; and
  - c. The making of any further findings of fact before the Board.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violation referred to in paragraph thirteen, the Company agrees to pay to the State of Maine a penalty in the amount of \$750. All payments must be by check, made payable to the Treasurer, State of Maine.

IN WITNESS WHEREOF, the parties have executed this Agreement of three pages.

AVESTA HOUSING,

By:  Date: 12/21/22

Type or Print Name: Amanda Gilliam, Director of Property Management

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Megan Patterson, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Randlett, Assistant Attorney General