

Residential Mold Exposure: Habitability Impacts and Operational Accountability

Household mold has moved to the forefront of discussions about habitability and landlord responsibility nationwide, particularly in Texas. In 2024, the Wright family was awarded \$1.3 million after property management at Whites Crossing allegedly failed to timely address documented water intrusion and resulting mold conditions within the dwelling. That same year, arbiters in a separate matter involving Fort Cavazos military housing awarded tenants \$10.3 million, citing systemic negligence and ongoing mold-related habitability failures.

Coupled with growing public concern and widespread suspicion surrounding so-called “black mold,” these high-profile outcomes have heightened scrutiny of landlords and property managers. As a result, owners and operators are increasingly on the defensive, facing greater pressure to identify, document, and remediate moisture and mold conditions promptly to meet basic habitability obligations and avoid escalated exposure.

The Negative Impact of Mold

Over 100,000 types of molds exist, and while some are harmless, others have negative impact on the health of those exposed to them. Common effects include:

- Coughing, wheezing, asthma attacks, chest tightness, and shortness of breath
- Itchy, red, watery eyes
- Throat irritation, runny nose, and nasal congestion
- Headaches and migraines
- Fatigue, weakness, and general malaise
- Difficulty concentrating and mental fogging
- Muscle aches, joint pain, and stiffness
- Skin rashes, hives, or sores
- Nausea, diarrhea, and cramps
- Unexplained weight gain or weight loss
- Hearing problems
- Severe allergic reactions, like anaphylaxis (rare)

The effects of molds depend on the individual. Those who have an allergy to a mold will develop more severe reactions, while those without an allergy might see few symptoms to none.

It has not been proven that mold produces the most severe symptoms and conditions of which it has been accused of causing. However, in the late 1990s, a cluster of infant deaths in Cleveland, Ohio was tentatively linked to the presence of black mold in their homes. While these cases of pulmonary hemorrhage have not been related as effects of mold by scientific evidence, the number of legal cases involving household mold has increased since that point. For this reason, besides the legal obligations that we will discuss later in this article, it is best practice to treat cases of potential household mold with prompt care and professional attention.

What Causes Mold

Four factors must come together to produce mold—moisture, oxygen, an organic food source, and warmth. Some of these factors are present in every home, such as oxygen; organic material like wood, fabric, dry wall, dust, and paper; and warmth. Mold prefers temperatures between 60°F to 80°F, though it has been known to grow in temperatures between 40°F and 100°F.

It is difficult, even impossible, to control some of these factors inside a dwelling. Oxygen must be present for both human and mold survival, and most modern housing units contain wood and dry wall as part of their construction. Finally, contemporary housing standards include indoor temperature control such that it is rare for temperatures inside a unit to drop below 40°F or exceed 100°F. Human comfort requires the temperature of the internal atmosphere to fall right in mold's preferred window.

The only factor we can control many times is the presence of water or moisture. Moisture and water can enter a dwelling through a variety of means, including:

- **Water Leaks**
 - Roof leak
 - Window leak
 - Appliance leak
 - Plumbing issues
- **High Humidity**
 - From showering
 - From cooking
 - Due to a humidifier machine
- **Condensation**

- Warm air with high moisture content meets a cold surface (for example, a window or a pipe) and leaves droplets of water on the surface
- **Poor Ventilation**
 - Bathroom
 - Basement
 - Kitchen
- **Damp Materials**
 - Wet clothes or towels
 - Wet materials left to sit
- **Flooding & Drainage Issues**
 - Flooding due to storms
 - Pooling water
 - Water not draining properly

To prevent mold growth, it is vital to remove water or moisture from any organic surface as soon as possible. Mold can start to grow in 24 to 48 hours. Once mold begins to grow, remediation is necessary to remove the existing mold and prevent further growth.

Mold Risk and Responsibility for Property Management

While mold-related conditions can create legitimate health and habitability concerns for residents, mold growth also presents significant risk exposure for landlords and property management companies. In most jurisdictions, housing providers have specific responsibilities to maintain safe, habitable living conditions, address moisture issues, and address reported concerns in a timely and professional manner. When these duties are not met, or when a landlord fails to reasonably investigate, document, or remediate a reported moisture or mold condition, tenants may pursue legal claims seeking damages such as medical expenses, lost wages, personal property damage, relocation costs, and, in some cases, pain and suffering and severe long-term health effects.

1) **Habitability**

The Texas Property Code requires a landlord to address certain conditions that can affect a tenant's physical health and safety, in keeping with the implied warranty of habitability discussed in our [last article](#). Mold growth must be addressed because, although it is not scientifically linked to serious health conditions, the correlation

between mold and certain health conditions has led to legal action against landlords whose negligence has allowed mold infestation.

2) **Disclosure**

A landlord must disclose any known mold growth in a dwelling to the tenant before renting the residence. If a landlord fails to disclose a water leak or known mold growth, they are in violation of the Texas Deceptive Trade Practices Act and risk legal action.

3) **Remediation**

A landlord must address and resolve issues of mold growth given the following conditions:

- (a) The tenant provides sufficient notice of the mold growth issue to the landlord or management company.
- (b) The tenant is not behind on rent payments at the time of the reporting of the issue.
- (c) The mold growth issue affects the physical health and safety or overall well-being of an “ordinary tenant.”
- (d) Neither the tenant nor their family members nor one of their guests caused the issue.
 - Landlords are *not* responsible for removing mold growth that results from the tenant’s actions or inactions.

If all these conditions are met, a landlord or their management company must “make a diligent effort” to address the mold issue.

4) **Licensing**

According to Texas Occupations Code Chapter 1958, for any area of mold growth exceeding 25 contiguous square feet, the landlord must employ mold remediation contractors licensed through the Texas Department of Licensing and Regulation, or TDLR.

In this process, a Mold Assessment Consultant (MAC) must first assess the mold growth and develop a remediation plan. An independent Mold Remediation Consultant (MRC) will then implement the plan, after which the MAC will return to test and ensure the mold has been fully removed.

It is vital to note that plumbers, while skilled in assessing and fixing plumbing issues, are not mold experts, and neither can the landlord or property managers rely on their own investigation for areas of mold growth greater than 25 contiguous square feet.

To summarize, a landlord is responsible for ensuring habitability of a residence by disclosing any mold issues prior to renting a unit and through remediation of the mold using licensed professionals for any larger areas of mold growth that is not the result of the tenant's actions.

Risk Mitigation in Four Steps

Landlords and property managers must therefore implement measures to mitigate the risks associated with mold. There exist four main methods to accomplish this: moisture control, inspections and maintenance, tenant education and communication, and a remediation plan. By coordinating these methods, a landlord can greatly reduce the likelihood and impact of litigation regarding mold.

Proactive Moisture Control

The first risk mitigation strategy focuses on preventing mold growth. Some strategies for preventing water and moisture buildup include:

1) Keeping Water Out

- a) Gutters and drainage systems can cause water to drain away from the foundation of the unit.
- b) Strategizing during the construction phase of a unit can help soil slope away from the unit and avoid pooling water.
- c) Sealing and applying waterproof coatings can occur at any point, whether sealing cracks in the foundation or sealing off basements and exterior walls.

2) Managing Humidity/Condensation

- a) Use ventilation methods in bathrooms, kitchens, and attic spaces.
- b) Use dehumidifiers in basements and other typically damp areas.
- c) Insulate walls and pipes to prevent condensation buildup.
- d) Seal gaps in windows and doors to prevent moisture transfer from the outside humidity.

3) Timely Fixes

- a) Fix leaks immediately upon receiving a report of them.
- b) Dry areas where a leak or other events have caused water buildup on a surface.

Using these strategies together will reduce the likelihood of mold growth.

Regular Inspections and Maintenance

Inspections can save time, money, and hassle if carried out regularly. They can reveal both mold and conditions conducive to mold growth, which the maintenance team can then address. Small leaks that have gone unnoticed, small patches of mold, and excessive humidity are faster, cheaper, and easier to fix than large patches of mold. If the mold growth is less than 25 square feet, your maintenance team can handle the issue themselves rather than contracting it out to licensed mold consultants.

To strengthen this strategy, be sure to make record of all inspections, findings, and follow-up actions. Regular inspection records can demonstrate the landlord's commitment to maintaining habitability.

Tenant Education and Communication

Mold prevention works best with the tenant's cooperation. This requires tenant education regarding mold and the preventative strategies listed above. The tenant needs information about keeping water out, managing humidity and condensation, and how to contact maintenance in case of leaks or other issues that could lead to mold growth.

Any communication with the tenant should be documented, just as regular inspections are. If the tenant reports mold in a written notice, the landlord must respond within a "reasonable time," which in Texas is usually 7 days. If a verbal notice, but not a written one, is given regarding mold, the landlord has up to 30 days to respond. However, if the area of mold growth exceeds twenty-five square feet (the amount requiring a licensed mold remediation team), the landlord should act immediately, as this is considered an emergency.

Remediation Plan

For mold growth, a landlord should have a remediation protocol. Whenever a leak or other conditions conducive to mold growth are reported, this plan will include:

- (1) Determine the course of the leak, moisture, or condensation.
- (2) Address and fix the issue causing excessive moisture or water buildup.
- (3) Dry all affected areas within 24 to 48 hours.
- (4) Clean all affected areas and remove anything water-damaged to prevent mold growth.
- (5) If mold develops, either:
 - (a) Remove the mold if it exists in less than twenty-five square feet.

- (b) Contact licensed mold professionals to remediate if the patch exceeds twenty-five square feet.

It is also important to document the steps taken to follow this remediation plan.

Conclusion

Over the past 30 years, household mold has become increasingly relevant in discussions of habitability in property management, and as a result, it has become increasingly important for landlords to prevent and treat mold in accordance with legal guidelines. Landlords are responsible for the habitability of a dwelling, for disclosing any existing mold issues to a prospective tenant, and, in certain circumstances, for engaging a professional, licensed team of mold consultants to remediate mold issues.

Though mold has become a prominent issue, landlords can reduce risk. This includes prevention through moisture control and tenant education, as well as regular inspections and prompt response. All communications should be documented. Landlords and property management teams should retain records of inspections and tenant communications to mitigate their liability if mold growth occurs in one of their units.

Avoiding mold growth is arguably the best strategy and certainly the safest for the tenant. By emphasizing moisture control, flood prevention, dehumidification, and prompt response to leaks and other incidents, landlords can reduce the likelihood of mold infestation in a unit. Landlords can work together with their tenants as well. Tenant education and open lines of communication can prevent larger areas of mold growth that would require licensed mold consultants to become involved.

While mold is a growing issue in property management, landlords and their management teams can prevent it from taking hold of their property, including a single unit. Investing a little time and resources in mold prevention can go a long way.