

Fighting Fumigation

How two renters fought the fumigation of their townhome community

By Ron & Anna Winship

The story starts when a neighbor decided to renovate their condo, and during this process discovered that their unit had a terrible termite infestation problem. Shortly thereafter the Home Owners Association (HOA) for our 121 unit townhome community announced that the entire complex was going to be tented and fumigated with Vikane (sulfuryl fluoride) gas, manufactured by Dow Chemical Company. The HOA also said a chloropicrin agent was going to be used to identify the “gassed buildings,” because Vikane is odorless, tasteless and could not be seen. Chloropicrin got our attention since it was used as a poison gas (it breaks down into phosgene gas) in World War I and infirmed many a soldier in the trenches.

We began researching

We began looking into it further and discovered that Vikane was created in 1959 and first used commercially in 1961 as an alternative to DDT and methyl bromide. Both of these bad actors (Vikane and chloropicrin) cause birth defects, brain inflammation, lung and heart edema, as well as nerve damage and diminished capacity. We later found that sulfuryl fluoride was named a Toxic Air Contaminant by the State of California. After nearly 48 years, this poison was finally called what it truly is: one of the worst contaminants of our air possible, responsible for the killing of native birds and lizards and for endangering the health of the public.

Within several weeks, we had collected 40 pages of negative information regarding both Vikane and chloropicrin. We had delivered the package to our friends, who immediately became defensive. We were told that our information was pure nonsense and that Vikane was perfectly safe. So, we got to work making copies of our 40-page report, as well as a shorter version and handed them out to as many neighbors as we could find.

Three fumigation “familiarization” meetings were held at odd times, giving the fumigators an opportunity to tell the community a variety of lies and misrepresentations regarding possible health and environmental effects. They said that off-gassing from tenting in close proximity posed no problems, that they would blow out most of the Vikane in the attics and that no Vikane would remain in the walls, pillows, bedding, electronics, toiletries or other fluids.

Fight fumigation PR

Because we were renters in this condo community, there were attempts to exclude us from the deliberations of the HOA. The HOA president said, “Only owners will be allowed to speak!” We objected since the decision of the HOA would directly affect the health of our family. With support from most of the owners in attendance, we were eventually allowed to speak.

We pointed out that non-toxic alternatives had not been offered to anyone in the complex, even those with severe health problems. One resident is on dialysis and has renal failure. Others have severe allergy problems. There are even some chemo patients and some people with nerve damage from prior fumigations.

One board member stated that they had spent two years researching the process, and that a non-toxic alternative, heat treatment (a certified and state-approved method), could not be done. We countered that two days before we had a different company give us a bid for heat treatment with a two-year guarantee.

We made our final argument. “If you do not offer a non-toxic alternative for people with serious health problems or concerns and anything goes wrong, then people will say that you did not do your due diligence...that you were negligent in your duties. And in the event that any dog, cat



A laborer tents a house for Vikane fumigation.

or person is affected seriously, each of you could in fact be held personally responsible.” At that point they all went into closed executive session. After the meeting, we heard from neighbors that they were going ahead with the fumigation—no matter what!

Petitioning the decision makers

We decided to circulate a petition to the board and the management company, asking them to offer a non-toxic alternative for at least those with health concerns. Out of the 121 units, we got 71 signatures. We put together 10 packages of 63 pages, including copies of the petition, and delivered them to the HOA, the property management company, our county agricultural commissioner, California EPA’s Department of Pesticide Regulation, the city manager, the county supervisor, our state assemblyman, and U.S. Representative.

We were told by our landlord, “You’ve lost—your 71 signatures mean nothing and, unless you can recall the board, they would go ahead with the fumigation.” Apparently the HOA attorney had called him and threatened to file a cease and desist order, sue our landlord and us for \$350 dollars an hour—until it hurt. Accepting defeat, we told our landlord that we wouldn’t put him in jeopardy.

By this time, however, our work was paying off and several other people had become engaged in the fumigation battle. Home owners were willing to stand up and be counted.

It should be noted that we contacted over 15 attorneys, including some environmental types. While some of the attorneys were helpful, some seemed to be paid off by the chemical companies. They all stated in a variety of ways that a temporary restraining order to stop the fumigation would cost anywhere from \$10,000 to \$15,000.

A final home owners meeting occurred just before the fumigation was to take place. At the HOA meeting, the turnout was over 60 people, including the attorney for the HOA and the president of the management company. We had finally gotten their attention—they now realized that trying to push the fumigation without doing their “due diligence” put them at risk for liability.

A local representative for Dow Chemical was brought to the HOA meeting to answer questions. We asked him, “When was Vikane first used (1961) and when was it placed on the Toxic Air Contamination List?” (February 2007). To his credit, he answered honestly. We had also found a wonderful lady



A large-scale Vikane fumigation at the University of Florida.

who had fought fumigation in her neighborhood for two years before she finally lost the battle. During the meeting she made mention of how her school for disabled children, which she ran out of her home, was put at risk. She spoke about her two-year battle, about how she had to move out for two weeks and remove and replace carpets, drapes, and anything that could hold the Vikane gas. (Which is anything!)

Success! At the end of the meeting, the HOA attorney finally stated that they would create a ballot for all home owners to decide which treatment they wanted: local treatment, heat treatment or fumigation. They called off the fumigation, saying that they would take the necessary steps for the home owners to assess the various treatment options. We were truly amazed, and quite exhausted from all the hard work.

Epilogue: By the time we heard of their decision, we had already found a new place to live. We had burned too many bridges. There is little doubt that the public needs a state or federal law that brings oversight of local agencies and bureaucracies. We need cities and counties, the Air Quality Management District (AQMD), Department of Pesticide Regulation and other state agencies responsible for pollution in our environment to be the watchdogs over these fumigators and pesticide applicators.

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*For information on termite prevention and management and the range of least toxic options, see *Beyond Pesticides'* termite factsheet at www.beyondpesticides.org, under *Issues, Alternatives Factsheets*.*