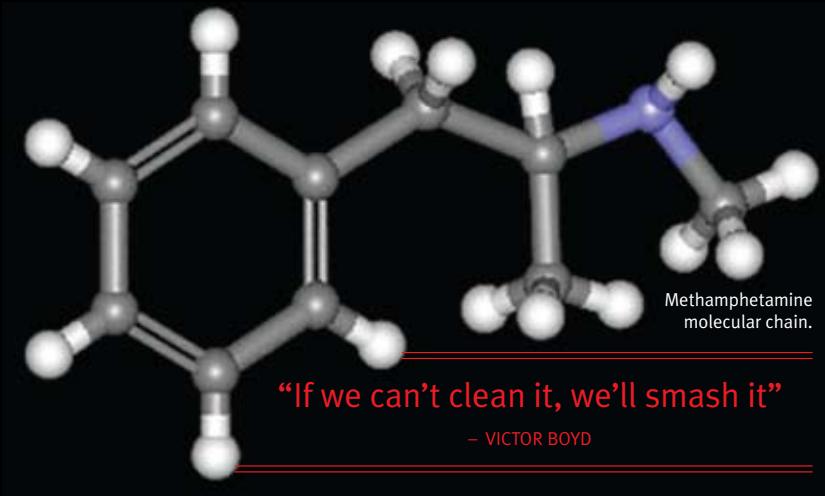


BY JO FERRIS



The hidden dangers

The ominous cloud of P-labs in rental property hangs heavily over landlords – begging questions about the obligations regarding clean-up and what disclosure is needed for tenants and future property purchasers. Jo Ferris looks at this ticking time-bomb



Growing numbers of clandestine methamphetamine labs (P-labs) found in this country highlight some disturbing realities.

Since New Zealand's first lab's discovery in 1996, numbers have soared each year – nine in 2000 to 210 in 2008. And while latest figures show a slight dip, Police accept that the meth industry in this country is flourishing.

A National Drug Intelligence Bureau report revealed 51% of P-labs were found in rentals. Sunday News this year reported figures showing Housing New Zealand, between March 2004 and June 2008, found 24 of their properties with meth contamination.

While New Zealand Property Investors' Federation (NZPIF) president Martin Evans accepts numbers of rental properties figure highly, he suggests few private landlords publicly admit to it.

More disturbing, however, is learning that New Zealand has no individual compliance regulations regarding meth exposure or its clean-up.

In December 2008 the Ministry of Health released draft guidelines for the clean-up of P-labs. It was compiled with the aid of the National Drug Intelligence Bureau, various agencies and territorial authorities – and distributed to councils and public health agencies.

The draft guidelines have no statutory effect – and are not designed to substitute current relevant legislation, including the Health Act, Resource Management Act, Building Act and Hazardous Substances and New Organisms Act.

The document focuses on 'remediation' rather than the 'removal' of P-labs. Police involvement, along with the National Clandestine Laboratory



Investor experience Case one

A 30s-something landlord and Auckland Property Investors' Association (APIA) member learnt a harsh lesson about face-value tenants and property managers in 2005. Despite being a seasoned investor, he lost \$52,000 when Police found meth had been manufactured in a two-bedroom unit he owned in West Auckland.

The tenant – a single woman in her 20s – was screened by the property manager. She was subsequently found to have gang affiliations.

Six months into the tenancy, the property manager's suspicions were raised during an inspection. There was no hard evidence – just an "odour". It was a neighbour's tip-off about curtains being drawn during the day that gave further warning signs. Police were informed and ESR investigation found no P-lab equipment. However, forensic tests showed the rental had been used to manufacture meth within that six-month period.

With a Cleansing Order issued by Waitakere Council and further forensic tests by a clean-up operator engaged by the landlord, the property was re-lined, re insulated and some electrical equipment replaced, along with some timber framing. Light fittings were replaced and the house was redecorated and re-carpeted. Repairs took five months and were not covered by insurance.

After re-testing, the Cleansing Order was discharged and a new building certificate issued. However, clean-up remains on the LIM.

APIA vice president David Whitburn says the \$52,000 total included interest and in real terms the landlord gauges his cash loss around \$40,000.

His positive attitude and a buoyant rental market at the time, saw the place re-tenanted at a better rate. Whitburn says the landlord estimates the tired 1980s unit would have cost around \$12,000 to revamp under normal circumstances. The increase from \$275pw rental to the \$300 he receives now made the experience 'one for the books'.

Looking back, the landlord believes sheer naivety saw his tenant becoming involved with gangs. He sacked the property manager, however.

Response Team (Clan lab) handles P-lab busts throughout the country – aided by the Institute of Environmental and Science Research (ESR). They deal with site assessment and removal of lab-related items and associated chemicals – although solely in terms of a crime scene.

The Clan lab contacts the appropriate territorial authority and from there, the onus for site clean-up – ‘remediation’ – falls to councils and property owners.

Sitting on the perimeters, are property managers, real estate agents and commercial cleaners; none of whom need to be licensed or meet any regulated standards regarding meth clean-up.

The Health Act has provisions for councils to issue Cleansing Orders or Closing Orders to property owners where a P-lab has been found.

Some councils have developed site inspection procedures. However, the Ministry of Health notes there are some circumstances where an authority doesn’t use a Cleansing Order unless needed to force action. Given a co-operative property owner, no order is issued, provided the council is given copies

“Never undertake a clean-up. Rubber gloves and bleach don’t cut it”

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of the testing and evidence of cleansing and re-testing.

Councils also have access to a Code of Practice relating to the management and clean-up of chemicals used to manufacture drugs, compiled by Occupational Health, Customs, Police and the National Drug Intelligence Bureau.

If Police aren’t involved however, councils won’t know about any possible meth contamination, unless property owners approach them. And they’re not required to. Though under the Misuse of Drugs Act, anyone knowingly permitting use of any premises for the purpose of commissioning an offence, breaches the act. This in itself raises all manner of legal questions.

Wider exposure

Contaminated Site Solutions (CSS) director Victor Boyd is acutely aware that contamination is taken lightly by some. Dealing at the coal-face of remediation, you only have to see



The extreme outcome of a P-lab blowing up. This was a Housing New Zealand home in Auckland, photographed earlier this year for Auckland City Harbour News. Photo by Jason Oxenham/Suburban Newspapers

Investor experience Case Two

In another case David Whitburn is aware of – also in 2005 – the landlord remains gun shy. He spent \$71,000 fixing a rental in Papatoetoe. It was more than the huge financial hit. Due diligence as a “hands-on” landlord didn’t stop a gang tenant moving in.

Professionally dressed and driving a nice car the tenant had immaculate references. The landlord even called two previous landlords – but was completely duped. The P-lab was also discovered in a Police bust. Repairs were lengthy, costly and the rental was eventually sold at below market value. The landlord has not invested since.

Hard lesson

With only two credit checks against their name, the tenant was subsequently found to have had a fake identity. Hindsight shows this landlord that the lack of credit checks should have raised alarm bells. In today’s normal business practice and hire purchase, it’s common for people to have numerous credit checks against their name, according to Whitburn.

TIP

Never inspect a suspect rental alone

Boyd suited up and gas-masked to appreciate the risks.

Ironically, while a Cleansing Order might be issued, in rentals, tenants' contents are private and cannot be touched by clean-up teams, according to Boyd.

Boyd knows of contents moved from known P-labs prior to clean-up – stereos, plasma TVs and computer equipment disappearing Lord knows where: onsold, given away, taken – only to sit in another rental.

With meth's toxic residue settling on anything from glass bottles to plastic light fittings, it's a snowball of unknown quantity.

Boyd has a simple philosophy on any contents.

"If we can't clean it, we'll smash it."

Crushed, bagged and sealed – it's dumped for burial in a hazardous waste tip. But that's only the stuff conscientious businesses like Boyd handle.

Boyd has seven years' experience in

contaminated site remediation – his work extending beyond P-lab clean-ups.

However, he says P's degree of contamination is way up there and has spent years researching and writing his own manual.

With no individual regulations or licensing of decontaminators Boyd says there's no way of really knowing what, if anything, is actually being done with meth clean-ups. Cowboys definitely exist, says Boyd – cost clearly swaying people's choices if they suspect their rentals have been used for meth manufacture.

Furthermore, Boyd says the long-term effects are unknown. Think asbestos – and put yourselves 20 or 50 years hence?

The Ministry of Health's draft guidelines also mention the unknown long-term effect of residual contamination.

With contamination migrating into the air, neighbouring buildings and furnishings, soil and drains can be affected. The guidelines state residual effects can persist indefinitely if not cleaned up.

Health and safety concerns stretch far wider than the immediate property and anyone living in it – especially children.

LIM noting

The Building Act includes provisions for noting hazardous substances on LIMs. The question remains, however, whether landlords are duty-bound to report anything that occurred in their rental which in any way could lead to its devalue or ability to attract tenants.

Parliamentary review of the Residential Tenancy Act – due for final release in October – seeks to ensure contaminated sites on a property go on its LIM and remain there for life.

Evans says the NZPIF has challenged that – but doubts they will be successful.

He still believes that if a property is cleaned professionally – certificate of proof and re-testing given to councils – nothing should remain on a LIM.

In light of the absence of any specific statutory mechanism, the draft guidelines suggest councils could consider making bylaws.

Landlords.

If this guy makes 'P' in your property – you're ruined.



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Is your investment protected from methamphetamine contamination?

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What to look for

Auckland Regional Public Health Service identified some warning signs of a P-lab:

- ▶ Unusual chemical smells not normally present in the area
- ▶ Numerous chemical containers stored or stock piled
- ▶ Stained glass equipment and cookware
- ▶ Plastic or glass containers fitted with glass or rubber tubing
- ▶ Cold tablet packages lying around or in the rubbish
- ▶ Portable gas tanks or other cylinders not normally seen or used in the area
- ▶ Chemical stains around household kitchen sink, laundry, toilet or stormwater drains
- ▶ Yellow/brown staining of interior floors, walls, ceiling and appliance surfaces
- ▶ Unusual activity, particularly at night.

This could in some way establish appropriate levels of monitoring and investigation, processes and reporting requirements. Even then, councils might still encounter some difficulties in practice with the availability of appropriately qualified scientific engineers in terms of damage – where no signs of physical damage exist.

Buyer beware?

Real estate purchase agreements normally require vendors to inform a purchaser of any outstanding statutory notices served on the property. Cleansing or Closing Orders would be included.

But what happens if there is only a suspicion of a P-lab – or, if former occupants were just users?

What obligations do vendors or salespeople have? Is it buyer beware?

Boyd has approached real estate companies offering to raise awareness about the issues – willingly running seminars to highlight the wider ramifications of contamination. He supports any regulatory changes which will tighten loopholes.

The draft guidelines point out that landlords aren't currently required to

disclose to either tenants or users of buildings that a property has been previously contaminated.

Landlords must decontaminate property before it's re-tenanted, however duty does not extend to disclosing to prospective tenants the property was used for meth manufacture.

In 2004, the Tenancy Tribunal ruled that renting out contaminated premises breaches a landlord's obligations to provide premises in a reasonable state of cleanliness. Obligations extended to clean-up by professional cleaning companies experienced in hazardous substances and that the property should be tested by qualified chemists.

In acknowledging that, however, the draft guidelines also recognise a disincentive for landlords or owners to adequately manage and clean meth-contaminated properties – expense one consideration, and the difficulty of renting due to any ongoing disclosure requirement if Police and councils become involved.

Boyd wants to see all clean-up contractors working in this area licensed and qualified.

Cost

Without knowing what they're up for, it's difficult for Boyd to quote accurate costs to clients.

Initial swabbing costs \$500. That only detects chemical contamination on materials and contents. Boyd says it takes scientific lab tests to report atmospheric levels – at around \$1,000 to \$2,000.

Boyd puts the starting price of clean-up for an average three-bedroom house around \$3,000 to \$4,000. And that's just if someone's been using P.

One property his team cleaned housing a known P-lab cost \$40,000 – margins minimal, according to Boyd.

Driven by social conscience, he is constantly improving specific products he has developed to offer the most cost-effective solutions possible.

But while his company is receiving a growing number of inquiries from concerned property owners, tenants and potential buyers – cost is invariably a factor in subsequent decisions. There's no way of knowing if owners go elsewhere or – worse – contemplate cleaning up themselves.

Contaminated Site Solutions team member – hooded suit, gloves and wearing gas mask – prepares to enter a P-lab, busted by Police. First examined by Police and ESR scientists, the property was then issued a Cleansing Order by the local authority ready for full clean-up by expert clean-up team.



Insurance

Keiran Vlietstra of Tauranga Insurance Services says where P-labs have been set up in a rental, it falls into the category of malicious damage exclusion.

P-labs rank among a number of situations considered ‘intentional damage by the tenant’ and most insurers won’t cover that.

Vlietstra advises taking out additional cover – either as an extension, or separate policy altogether. The \$30,000 limit would allow for decontamination costs and loss of rent.

In the event a tenant is using meth, Vlietstra still believes it falls into the category of intentional damage. However, he concedes it’s a grey area – if, for example, the tenant was unaware family members or flatmates were using. Each case would be taken on merit.

But for the sake of around \$250 plus GST additional cover per property, landlords should be checking their insurance policies.

Toxic gases

Boyd’s advice: never undertake a clean-up.

Rubber gloves and bleach don’t cut it. In fact, bleach, according to Boyd, when mixed with some products used in P’s manufacture will create mustard gas.

Mustard gas, he says, was used in World War II.

Boyd adds landlords shouldn’t employ cleaning contractors who aren’t trained and equipped to perform hazardous chemical remediation. Even where meth use is suspected in a property, Boyd says it should undergo thorough testing and clean-up.

There are 85 different chemicals used in P’s manufacture, Boyd says, including cleaning fluid, battery acid, hydrochloric acid, fluoric acid, embalming fluid, paint stripper, and gun and brake cleaners.

The dangers of coming across anyone actually doing a bake-up are multi-fold, according to Boyd. Mere exposure to vapours and gases vary. At best, you will get ill. At worst – if breathing in phosphine (a by-product in some

cooking processes) – it can kill you.

“The first breath will be your last,” says Boyd.

Such is the unknown danger, the CSS team take every precaution necessary.

Hooded suits are dumped after every use. Gloves are also dumped. Masks and filters are both changed and decontaminated daily. Skin is never exposed and staff work in 15-20-minute shifts, depending on the level of contamination.

Everyone is blood tested every six months – sooner, if they’ve worked in a known P-lab.

“Taking precautions is the best line of defence,” says Boyd.

Aggression and paranoia

Landlords suspecting tenants involved in P manufacture face far more than the obvious fear of damage and contamination. Weapons – including firearms and explosives – were found at 33% of the P-lab busts, according to the Drug Intelligence Bureau report.

Paranoia associated with P’s use, par-

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ticularly when combined with alcohol, results in erratic, compulsive and invariably explosive aggression.

Criminals have much to protect – so booby-trapping is also par for the course.

Boyd never opens a door head-on. It could be rigged – either with crossbows or explosives. Knives and syringes, taped under benches and tables, are common. CSS even found a hand grenade in a box the team removed from one P-lab: pin removed and the lever taped down.

Contamination risk

Boyd advises never inspecting a suspect rental alone and don't be fobbed off looking into every room.

Watch for doors and windows that are always closed, curtains drawn and dead vegetation outside. Waste liquid from P manufacture is extraordinary – Boyd says every kilo of meth produces seven to eight kilos of waste.

Primary contamination includes cooking areas – chemical fumes affecting floors, walls, ceilings used glassware, containers, working surfaces, furniture, carpeting, drapes and textile products, plumbing fixtures, drains, heating and air-condition vents. Outdoor areas include sheds or camp stoves.

Disposal areas include sinks, toilets, bathtubs, plumbing traps and floor drains, vents, vent fans and chimney flues. Outdoor areas include grounds, surface water, groundwater, sewer or stormwater systems.

Contamination has ramifications for multiple dwelling structures too – contamination migrating through common areas

such as hallways, ventilation or plumbing systems.

Another concern for landlords is the possibility that serious business cooks have been known to run 'rent-a-families' – families who will take out a tenancy and be available within the mandatory 48-hour inspection notice.

Geoff Dye of Anrai Detection, has seen cases where houses are superficially cleaned, masked and put on show for inspection – all physical evidence of a P-lab removed.

Prevention better than cure

Kiwi ingenuity is giving landlords another tool to level the playing field, thanks to Auckland-based company Anrai Detection, which spent 18 months developing MethMinder 24/7 Asset Protection.

Launched in July 2008, the system involves a highly sensitive gas monitoring device that provides landlords with information of potential illicit activity in their property.

Business development manager, Dye, says there has been massive interest from landlords across the board. Particular interest has come from absentee landlords, those with strata title holdings in multi-unit complexes and landlords with high-value property.

The technology isn't new – Anrai developers took proven industrial technology and went one step further, devising sophisticated software and systems to detect the manufacture of meth. Once detected, response is immediate.

Prevention is the real key, however, according to Dye. As a deterrent Meth-

Minder is unsurpassed and in the event of a P-lab, its early warning activation dramatically reduces contamination and restoration costs.

"Likely meth cooks are deterred from taking up or coercing tenants when the device is installed," Dye says.

There are several flexible plans available to make this technology accessible to all – search www.methminder.co.nz. Outlined on the tenancy agreement, tenants are given due notice that the device is installed and monitored 24/7 and the consequences of attempts to tamper with the device.

A MethMinder-monitored property can raise the appeal of a property for prospective tenants, adding a significant point of difference. This is set to increase, as the awareness of the dangers of living in a P-lab contaminated property continue to grow.

Should you be concerned?

Having merely scratched the surface on this issue, one thing seems abundantly clear. There is a need to raise awareness about the real risks of exposure to methamphetamine and its residual contamination – on property and people – particularly children. Not to mention the long-term effects. P is a time-bomb – don't let it go off in your property. ▲

ENDNOTE

Several technical issues have been raised by submitters to the Ministry of Health's *Draft Guidelines for Site Remediation for Clandestine Methamphetamine Labs*. The MOH says these are being worked through. The final document will then be peer reviewed before going through a publication process. The MOH says the guidelines are voluntary and accepts regulations may be favoured by councils experiencing a high percentage of P-labs, but less favourable to those councils who have never experienced a P-lab in their district, due to potential compliance costs.

SOME FACTS

- New Zealand's 1,000th P-lab was discovered in February 2006 – less than 10 years since the establishment of methamphetamine in this country. New Zealand achieved, in less than a decade, the prevalence and purity levels of meth production that took 25-30 years to reach in the US.
- Typical profile offender as European (63%) male (76%) – the highest age demographic between 31 and 45 (55%), followed by 21-30 (27%). Links with gangs were 75%.
- From 2000-2007 the biggest number of P-labs were found in Auckland, Waikato, Bay of Plenty and Canterbury.

Sources – MOH and National Drug Intelligence Bureau

- April 2009 – Housing New Zealand Corporation won a test case seeking more than \$180,000 in damages from a drug ring which manufactured methamphetamine in a Napier state house, so contaminated it had to be demolished.

Nine members of the drug ring, plus the state tenant, were found liable for the damage caused by the P-lab. A 10th defendant, who brought one container of an industrial solvent used in the meth manufacturing process to the property, is also liable for all the damage to the home.

Minister of Housing Phil Heatley said the judgment had broad reaching implications for all landlords.

"P-labs are an issue all landlords struggle with. The civil suit Housing New Zealand has won sets a precedent which can be used by private landlords as well."