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## Paying To Replace Chinese Drywall

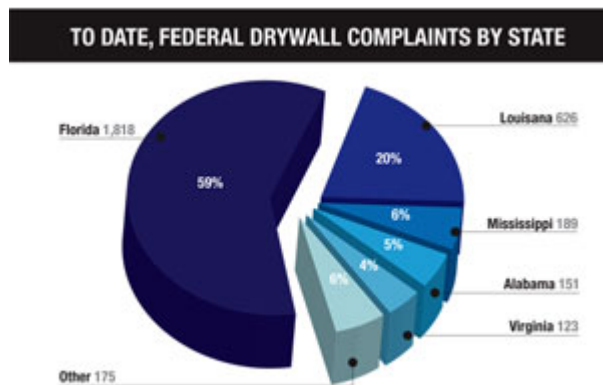
Court ruling sets tone for slew of class-action lawsuits against manufacturers

04/14/2010

By Pam Hunter, Scott Judy and Sam Barnes

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The warning shot came in a federal court in Louisiana, and it may signal the beginning of the end of one more costly aspect of the homebuilding boom of 2004-2007. Federal Judge Eldon Fallon in New Orleans ordered Taishan Gypsum Co. Ltd. to pay seven Virginia families a total of \$2.6 million to remediate defective Chinese-made drywall in their homes. The case is the first of several class-action lawsuits filed against manufacturers of material that has proven to be a veritable nightmare—and source of odors—for thousands of home-owners.



Source: U.S. Consumer Product Safety Commission



Photo: AP/Wideworld

The case is considered a bellwether for the other suits against the manufacturers of defective Chinese drywall because the same court is hearing all the cases.

“The message Judge Fallon’s ruling sends to thousands of other homeowners who have been victimized is that help is finally coming—they will be made whole after the ravages of inferior Chinese drywall and will not have to bear the substantial costs of repairing their homes to get rid of it,” says Christopher Seeger, a New York lawyer who represented the Virginia homeowners in the Taishan case.

A ruling is expected in the coming weeks in the second case, in which Florida homeowners sued German-owned Knauf Plasterboard Tianjin.

The \$2.6-million award is welcome news not just for the Taishan-case homeowners, who typically couldn’t collect under their insurance policies, but for builders who want to get involved in remediation efforts but who have not been able to obtain financing to pay for it. As a result, some builders have had to leave the material in place.

“Looking at the U.S. economy, this could not

Consumer Product Safety Commission continues to analyze samples of contaminated drywall.

have happened at a worse time,” says Jenna Hamilton, assistant vice president of government affairs at the National Association of Home Builders. “Builders simply don’t have cash on hand.”

But industry sources agree significant remediation opportunities are still ahead for firms that perform demolition or specialty trade work for homes and condominiums. According to the U.S. Consumer Product Safety Commission (CPSC), residents in 37 states, Washington, D.C., American Samoa and Puerto Rico have filed approximately 3,000 reports of defective drywall in their homes. Most of it was installed during the wave of new building after the major hurricanes in the Southeastern United States between 2005 and 2007, with most of the cases concentrated in Florida, Virginia and Louisiana.

“Most of the problems are going to be occurring near the ports where they brought in [the defective drywall],” says Ron E. Wright, a building diagnostic expert and chief operating officer of Buric, a claims consultant with an office in Wilmington, N.C. Wright testified as an expert witness in the Taishan case.

NAHB’s Hamilton says many homebuilders have been waiting for clear guidance from CPSC on how to remediate homes with problem drywall. CPSC recently gave them something to work with, issuing interim guidance on April 2. The three-page document instructs homeowners to remove “all possible problem drywall” and replace electrical component and wiring, gas-service piping and fire-suppression sprinkler systems as well as smoke alarms and carbon-monoxide alarms. The guidance does not address air-handling HVAC systems or leaking or corroded...

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...copper in the plumbing lines, Wright says. Even though they are as affected by the problem drywall as the electrical wiring and fire suppression systems, the CPSC looked only at life-safety issues, he says.

The NAHB is working on more detailed remediation guidance for builders, which it hopes to release later this year, Hamilton says.

Meanwhile, some contractors have forged ahead with projects without a playbook.

“In the beginning, there was nothing for us to go by, so we did a lot of research on the Internet and referred to a protocol” put out in Florida by Gainesville-based Building Envelope Science Institute and U.S. Building Consultants, says Roy Olsen, general superintendent of New Orleans-based Landis Residential Builders, which began work on a New Orleans remediation project shortly after Thanksgiving.

The firm opted to completely gut all of the contaminated drywall, insulation, carpeting and flooring in the home as well as the building’s original plaster, located beneath the drywall. “We felt the safest route was to take everything down to the wood, then spray the walls with a fungicide and come back with spray-foam insulation,” Olsen says.

Julie Miller, president of Kogen Construction Co., Boca Raton, Fla., estimates that about one-third of her business—and most of her time—is dedicated to bidding and remediating homes afflicted with tainted drywall. The CPSC’s guidelines are a welcome starting point for contractors attempting to get the repair work right, Miller says.

The guidelines’ biggest impact may be to level the field for contractors by creating a baseline for remediation. Not all contractors have been performing to the same standards to date, Miller says.

Miller adds that the size of the market has not yet been fully defined, as home and condominium owners are just discovering that they have a problem. “The projects I’m seeing now are the homes and condominiums that were built in 2005. There’s going to be [a] lag time,” she says. Miller says three condominium buildings in her area have recently either gone out for bid or are being priced for remediation.

### Questions Remain

Defining the scope—and ultimate price tag—of the market has been a challenge, industry sources say. Another question that remains is whether commercial buildings will be affected.

NAHB estimates that 500 million pounds of drywall, or 7 million sheets, were imported from China between 2000-2001 and in the critical 2004-2007 period, during the housing boom. Although various numbers have been suggested to quantify the cost per square foot to remediate buildings, Bruce Hallock, vice president of New York-based consulting firm Marsh Inc., cautions that the costs can vary and should be determined on a “case by case” basis, depending on such variables as size and the finish quality of the home or condo.

CPSC is continuing to conduct emissions testing and analysis. Patty Davis, an agency spokeswoman, says the interim guidance “is about as detailed as we’re going to get,” but notes, “If we learn more about the nature of what the remediation should entail, we will revise it.”



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— RON E. WRIGHT  
BUILDING DIAGNOSTIC EXPERT