

Commercial properties gird for drywall fix

BY PAUL BRINKMANN

South Florida residents such as Allison Grant were relieved to hear that a federal judge has already dismissed "quick fix" proposals for high-sulfur Chinese drywall problems.

Grant is an attorney working on hundreds of lawsuits about Chinese drywall. She also has contaminated drywall in an investment condominium unit she and her husband bought in Port St. Lucie.

"Chinese drywall is all I do, all day. I am in litigation with my builder, and I'm handling other cases," Grant said. "They attempted to fix the problem, and that failed."

In New Orleans federal court, U.S. District Judge Eldon Fallon, ruled out a quick fix proposed by China-based Knauf Plasterboard Tianjin, a German-owned manufacturer of the problem drywall. The ruling came Feb. 18, as Knauf was proposing experts to testify in New Orleans consolidated class action cases.

Grant said the ruling will have an impact on commercial and residential builders as well as residential.

"I have one landlord, in an office condominium, where one unit has Chinese drywall, and we are thinking he may have an obligation to alert everyone in the building, because of shared ventilation," Grant said. "We think it's in hotels in South Florida."

The *Business Journal* has reported on defective drywall problems at such condo towers as the Peninsula II in Aventura, and a hotel in Virginia also reported problems with the imported drywall.

The case that was recently heard in New Orleans, *Germano et al v. Taishan Gypsum Co.*



The Peninsula II condominium in Aventura has had problems with defective Chinese drywall. FILE PHOTO

Ltd. et al. is a test case in a class action consolidation of thousands of cases nationwide. It involves seven Virginia plaintiffs whose homes have drywall manufactured by China-based Taishan.

Testimony in the brief trial wrapped up on Feb. 21, but the judge is not expected to rule immediately. At issue is whether the homes must be gutted, as the plaintiffs argue, or whether less-costly fixes will do.

Taishan was served with court papers, but has not responded. Knauf provided its view

on what the minimum fix should be before dropping out of the case when Fallon ruled against it introducing evidence that the drywall does not emit toxic fumes.

A SCIENTIFICALLY UNSUPPORTED PROPOSAL

The judge said a proposal by Knauf – that homes built with bad drywall could be fixed by installing an air-filtration system – was scientifically unsupported.

The system, called ECS (for environmental control system), was, "at best, experi-

mental and, at worst, useless," Fallon wrote in his ruling.

Knauf entered the case only as an interested party to propose a cheaper fix for the problem drywall. Taishan has not participated and was found in default in November. Fallon is expected to award plaintiffs a judgment against Taishan, possibly of \$100,000 or more per house.

Knauf's departure from the case left no defense witnesses and no one to cross-examine the plaintiffs' witnesses. Grant said Knauf's departure was a good thing because it meant fewer legal fees wasted on arguing over that stage of the dispute.

The plaintiffs argue that homes must be stripped of drywall and wiring, then rebuilt. Still, others have posited that the problems with drywall are bacterial, and homes could be chemically treated for a fraction of the tear-out cost to neutralize the bacteria.

The difference would be dramatic. Multiplied by tens of thousands of drywall cases, the amount of money at stake could be in the billions. *National Underwriters*, an insurance publication, recently said house repairs alone could cost \$8 billion to \$10 billion, depending on how rigorous the removal protocol is. The liability of insurance companies will be determined in future trials.

Chinese drywall has concentrations of sulfur and other substances that produce corrosive gases and odor, which leads to corroded metal. Five hundred million pounds of drywall were imported from 2004 to 2006, when the building boom and hurricane repairs created a domestic shortage.

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DEAL OF THE WEEK: REPUBLIC SERVICES HUB

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Republic Services' Palm Beach County fleet



Lake Mangonia