

Sun-Sentinel

August 22, 2007

MOLD PROBLEMS CAN BE AGGRAVATED BY SLOW-MOVING CONDO ASSOCIATIONS

CONDOS/HOMEOWNER ASSOCIATIONS

By Joe Kollin

It isn't home sweet home if being there makes you sick.

Mold is recognized as a health danger, yet many readers complain their condo and homeowner associations are slow to act when they report mold or problems that could lead to mold.

Those problems could come from a leak in a neighbor's air conditioner, water seeping from pipes behind the walls or a clogged toilet that overflows from the unit upstairs. With our heat and humidity, mold begins forming in 72 hours.

For 30 years, Ron McDonald, 67, has owned a townhouse in Tamarac's Woodglen community. Four years ago, he said, a contractor covered a hole in the roof with plastic. It blew off during a storm and "inundated" his unit with water.

It took eight months for his association to respond to the water damage and when he discovered mold, it took three months to have it checked. By then, he had developed symptoms of asthma.

"I'm unable to breathe," he said.

Certified Mold Treatment of Fort Pierce, which inspected the townhouse for

McDonald, said living in the unit is "detrimental to Mr. McDonald's health, since he is constantly inhaling airborne mold spores."

McDonald said he can't afford to move elsewhere and two years ago filed suit to force the association to fix the problem. The case is pending and he contends the repairs have not been made. The association president didn't respond to two phone calls for comment.

Steve Serabian, 49, has also filed suit against his association for mold.

Serabian has owned a first-floor apartment in the four-story Royal Park Condo in Oakland Park for 25 years. Seven years ago, water started leaking in through the drywall. He complained and his association began patching the outside walls. He said he never noticed the mold inside the walls.

In 2003, he said, he began having trouble breathing. It got so bad he had to sleep in his car or at a friend's. By 2005, his weight had dropped to 170 pounds from 235 and his doctors ordered him to move. Since then, he has been paying rent on a temporary home while also paying the condo's maintenance,

assessments, taxes and mortgage. He has filed suit for damages, with trial set for this fall.

"His physician testified that his asthma was a result of prolonged exposure to mold," said his attorney, Robert J. McKee. Association President Bob O'Kon said its experts give the cause as Serabian's heavy smoking. Blane Carneal, a Fort Lauderdale lawyer who represents unit owners, said legal and health problems could be avoided if associations respond when owners complain.

"They must recognize it as a crisis, not a nuisance," he said.

Associations are beginning to respond to the problem.

Because insurance companies do not provide mold coverage, O'Kon said his association is considering setting up a contingency fund to cover losses when it is responsible. But it often isn't clear who is responsible for mold damage. O'Kon said his association's insurer recently settled a suit for water damage brought by an owner who was away for a couple of months and returned home to blackened, moldy walls. The upstairs neighbor had a clogged toilet, which leaked downstairs. The insurer is trying to get reimbursed by the upstairs owner, he said.

Thomas O'Connor, president of the Margate Village Condominium Association, said his association is facing a similar situation and he has a simple guideline for who pays.

"If you stand in the middle of a room and you can see the problem, then it's your problem," he said. "If it's behind the walls, it's the association's."

Q&A

Q. Condo residents complain the cost of using washing machines in their laundry rooms keeps going up and boards are helpless to stop it. They ask: Don't the contracts they sign with vendors include how much they can charge?

A. Donna Berger, a partner in the **Katzman & Korr** law firm in Fort Lauderdale, said the problem is "pernicious automatic renewal clauses" found in service contracts, whether for washers and dryers or elevators. "Boards sign on the dotted line and don't realize they are tying their community in for dozens of years," she said. "Imagine a service contract you can't ever get out of and there are no provisions for termination based on default." Automatic renewal clauses tend to be hidden inside pages of contracts and written in indecipherable language so "board members can easily overlook them. It is for this reason that it makes sense to have contracts reviewed by association counsel prior to signing," she said.

Staff Writer Joe Kollin discusses condo and homeowner association issues every other Wednesday.