

When in doubt, test for formaldehyde problems

By R.J. King
special writer

While most of us recall using formaldehyde to disinfect during biology class, its presence in formal insulation and other building materials offers the potential for both concern and misconception.

While formaldehyde as an adhesive agent is safe in products such as plywood, carpeting, furniture and particleboard, it can become mildly acidic when molecules work free and escape in the air. If the colorless gas builds up in a house, especially one that is airtight, at concentrations of 0.1 parts per million and above, it may cause some discomfort in the way of a slight burning sensation, watery eyes or a runny nose.

According to the American Lung Association, an estimated one million houses have formaldehyde concentrations at or above levels con-

sidered safe. Likely candidates are those houses with extensive plywood, particleboard and foam insulation improperly installed.

"We test between 150 and 250 houses a year for formaldehyde, and I would say of those, less than 5 percent are above the 0.1 level. We're talking about a very low number," said Scott Chandler, a certified industrial hygienist with Testing Engineers & Consultants in Troy.

Chandler added even at concentrations of 0.3 to 0.4 parts per million, formaldehyde levels can be safely reduced by increasing the flow of fresh air in a house or adding special filters to air conditioners and furnaces.

"If you think you have a problem with formaldehyde vapors, whether through insulation or carpeting or whatever, have it checked out," Chandler said. "There are a variety of commercial testing kits available or hire a testing lab."

FEES FOR COMMERCIAL kits range from \$10 to \$70, while Testing Engineers charges \$250 for houses in metropolitan Detroit. Real estate agents recommend houses with urea-formaldehyde foam insulation be tested before being placed on the market.

The professional test requires that homeowners seal their homes 24 hours before a technician arrives. By allowing inside air to build up, the house is tested in a worst-case environment. Chandler said many mobile homes that contain an abundance of plywood, wood cabinets and carpeting with formaldehyde as an adhesive agent, should be tested if conditions warrant or health concerns arise. Used primarily during the energy crisis of the '70s, urea-formaldehyde foam insulation (UFFI) was banned by the federal Consumer Product Safety Commission in 1982.

A year later, the U.S. Fifth Circuit

Court of Appeals overturned the decision. The product's availability is limited today. Meanwhile, area real estate agents who have sold homes with UFFI say they sometimes have trouble alleviating concerns among prospective buyers.

Some agents argue the issue has been sensationalized by over-ambitious headlines and television reports short on research.

"IN THE LAST two years, I've sold four homes with UFFI, and when they were tested, the formaldehyde levels were the same as outside air," said LuAnn Fardell, a real estate agent of six years with Century 21 Town and Country in Birmingham. "But I have had one or two prospective buyers pass on a house because of UFFI. In those cases, the couples were heading concerns raised by relatives and friends, and not the experts."

Chandler said he would live in a home with UFFI after having it test-

ed. "When problems with the foam insulation do arise, it's often because the product was improperly installed," he said. "But the problem can be corrected."

In addition, Chandler said most formaldehyde dissipates during the first few years after installation and should be gone after eight to 10 years. Houses that have been renovated using formaldehyde-based products may also require a test. In almost all instances, sellers, to the best of their knowledge, are required to reveal in disclosure agreements whether a house has UFFI.

If it turns out UFFI is present in the house, a buyer could open up a lawsuit if a seller fails to disclose the presence of the foam insulation. If sellers are unsure of what lies behind outside walls, they can hire a professional home inspector, or the buyer and seller can mutually agree on an inspector and split the cost.

"One of the big problems with

foam insulation is that it has to be installed after the drywall is up," said James Bonadeo, president of the Builders Association of Southeastern Michigan in Farmington Hills. "So consequently, a builder had to bore holes every 16 inches between support beams, put in the insulation, and then patch the holes back in. It just wasn't practical."

IN SOME CASES, real estate agents working with UFFI houses which have been tested for formaldehyde vapors have found levels lower than homes with other insulation products.

For more information about formaldehyde, two free booklets are available by writing to Indoor Air Quality Research Laboratory, Ball State University, Muncie, Ind. 47306. Include a stamped, self-addressed, business-size envelope for each report.

Board must investigate construction defects or risk lawsuit

There is a debate among our condominium board members as to whether we have a duty to investigate alleged defects and make a claim for construction defects. Some board members think that would not upset the apple cart and create problems, particularly because they don't want to have to spend the mon-

ies. As was indicated at a recent seminar conducted by the Community Associations Institute, if they do not undertake this duty they can and will be sued. The fact that the cost of litigation will be potentially expensive does not preclude the board from determining the scope and magnitude of the problems at the condominium and making a proper and reasoned business decision as to whether and in what form it should pursue the developer.

Recently you had an answer to a

question regarding a specific warranty obligation to be given by a developer. Is there a law implying warranties to a developer?

Yes, Michigan law implies warranties of habitability in connection with new construction of residential houses, notwithstanding the absence of a specific express warranty. The law implies that the developer of a condominium project, by way of example, will build a condominium that is free from defects in workmanship and materials as they re-



condo queries
Robert M. Meisner
late to habitability, among other things.
To the extent that these defects are latent, the warranty may well

extend beyond the time period set in any specific warranty provided by the developer under certain circumstances. You must look at the particular facts of each case before making a final determination as to the extent and applicability of any express or implied warranty. Keep in mind that there are several implied warranties that may be implied to the builder/developer such as fitness for a particular purpose and compliance with the plans and specifications of the project or unit.

Robert M. Meisner is a Birmingham attorney concentrating his practice in the areas of condominiums, real estate and corporate law. You are invited to submit topics you would like to see discussed in this column by writing Robert M. Meisner at 3200 Telegraph Road, Suite 467, Birmingham Farms 48025. This column provides general information and should not be construed as legal opinion.

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