

NEWS AND TOPICS

N. J. LAW

Behind Some Stucco-Like Walls, Problems

Homeowners Face Huge Repair Bills, and Lawsuits, Because of Extensive Water Seepage

By JOHN SULLIVAN

WHEN Gary and Pamela Cohen bought their four-bedroom colonial-style house in the Tamaron Woods development seven years ago, they loved the ornate stucco facade, which seemed to fit perfectly with the neighborhood.

But what Mr. Cohen did not know was that hidden within the smooth tan walls was an oozing layer of moisture and mold that had crept behind the siding and had eaten into the sides and underpinnings.

"We had to tear off the front of our house," said Mr. Cohen, who is a vice president for sales at a food company in Somerset County, "There was significant damage."

Nor did Mr. Cohen know that he was not the only one with the same problem. Like countless homes built in New Jersey in the past decade — and tens of thousands nationwide — Mr. Cohen's house was coated with an artificial stucco that was sprayed on because it was cheaper and easier to apply than traditional stucco. The material, known as EIFS, for exterior insulation and finish system, was developed in Europe in the 1940's and became popular in the United States because it was an excellent insulator and almost completely waterproof.

But as Mr. Cohen found out, that can be a problem. When the material is installed, it must be completely sealed. Otherwise, water finds its way behind the siding and often cannot drain or dry. As a result, the trapped moisture can eat away at wooden studs and wall sheathing.

Problems resulting from the use of EIFS (pronounced eefs siding grew into a cottage industry in the late 1990's as homeowners — primarily in Southern states because of the warm, wet weather — began to discover the rampant damage. Don Brenner, a lawyer in Princeton who represents Mr. Cohen, says he has filed suit on behalf of nearly 600 homeowners over the past three years.

"We have had cases where the damage is tremendous," Mr. Brenner said. "Rotting, all kinds of mold."

In Mr. Cohen's case, much of the sheathing — coated with a thick black mold and rotted out — had to be replaced, costing him about \$30,000.

"The sheathing was ruined," he said. "It crumbled when they pulled it off in spots."

Mr. Cohen still keeps a videotape of the removal, and even has a mold-encrusted section of the wall in his garage as evidence in his lawsuit against the builder, Pizzo & Pizzo, and the Sto Corporation, based in Georgia, which he claims manufactured the EIFS used on his house.

Officials at Pizzo & Pizzo did not return repeated telephone calls. But in legal papers responding to Mr. Cohen's suit in Somerset County Superior Court, the company denied any negligence in the construction of Mr. Cohen's house.

In the past few months, legal advertisements have appeared in newspapers throughout New Jersey concerning a proposed national settlement involving the country's largest manufacturer of EIFS, Dryvit Systems, based in West Warwick, R.I., which has supplied about 50 percent of the material used in residential construction in the United States, according to lawyers involved in the settlement.

A \$40 million settlement, which was proposed in response to class-action lawsuits filed in Tennessee, Illinois and Alabama, will be binding nationwide if it is approved at a final conference scheduled for Oct. 1.

Gary E. Mason, a lawyer representing the homeowners in the suit, said that according to the terms of the proposed settlement,



Photographs by Jill C. Becker for The New York Times

Gary Cohen of Bridgewater, like countless other homeowners, had to tear off the front of his home because moisture had crept behind the artificial stucco facade, leaving mold and rot. The material was cheaper and easier to apply than traditional stucco.

Dryvit has offered to pay for half of the cost of repairs for anyone whose home has the stucco material. In addition, Mr. Mason said an independent company selected to make the repairs would guarantee the work.

Despite the litany of woes, W. Andrew Copenhaver, a lawyer for Dryvit in Washington, said the company still believed the product worked well.

"We are not admitting liability," Mr. Copenhaver said, "but it is time to put this litigation behind us and move on."

So far, Mr. Mason said, about 10,000 homeowners have downloaded application forms from the settlement's Web site — stuccosettlement.com — of which some 1,000 have applied for the settlement. He said that he did not know how many of the applicants owned homes in New Jersey.

"The settlement takes the approach that in most cases this can be repaired economically," Mr. Mason said. "We have an independent company, not associated with Dryvit, that is willing to warrant the success of its repairs."

Mr. Mason, who has represented several hundred clients in EIFS-related suits, said that the cases could be difficult to win because the problems related to the material are often connected to construction errors and that homeowners often did not know who built their house. Some homeowners discover the problems years after the legal time limit for lawsuits has expired (in New Jersey, suits must be filed within 10 years after construction is completed). And even for homeowners with cases that can seemingly be won, the cost of the suit can eat into any settlement.

People with strong cases "probably should not be in the settlement," Mr. Mason said. "But not every homeowner can get a good attorney, and not every homeowner has a good case."

Mr. Brenner, the lawyer in Princeton representing Mr. Cohen and others, who has been advising his clients not to accept the settlement in the class-action suit, said the

problem was that repairs often left the EIFS siding on the house. "By allowing the stuff to remain," he said, "you guarantee heartache down the road."

His concern is echoed by many homeowners. For instance, Richard Strenkowski, an executive recruiter from Princeton, said he had to resurface about 80 percent of his house in Montgomery — at a cost of \$45,000 — before he could sell it last year. Even after making the repairs, Mr. Strenkowski said, he could not sell his house for as much as neighboring homes.

"It was a mess," he said. "We decided to rip it all off and apply a real cement stucco."

Most property owners whose homes have a stucco facade probably cannot tell whether it is the traditional material or EIFS siding. Although experts say stucco is heavier and sounds like concrete when rapped with a fist, others say the only way to tell is to look at an existing hole in the siding, like an electrical outlet.

While stucco is a form of cement plastered on a metal frame, EIFS is usually sprayed onto mesh attached to Styrofoam boards. In the case of Dryvit, the EIFS was usually sprayed onto a blue mesh.

EIFS manufacturers have long contended that the material works as promised and that the problems stem from shoddy installation or poor maintenance, insisting that water can be trapped behind the siding if flashing is not properly installed or a window frame is not properly caulked.

"It is an effective moisture barrier if it is properly installed," said Bernard Allmayer, a spokesman for the EIFS Industry Members Association, a trade group. "If you don't have good construction practices, the problem is going to occur regardless of what material is used."

John Scialla, president of the Building Officers Association of New Jersey, generally agreed that the artificial stucco worked well if properly installed and maintained. "From my experience, most of the prob-

lems seem to stem from the fact that it was not installed properly," said Mr. Scialla, who is the building inspector for the borough of Saddle River.

Other forms of siding, like clapboard or traditional stucco, allow some moisture penetration, but they also allow the water either to drain or to dry out. The original version of EIFS, on the other hand, is designed to be a perfect barrier, so when water enters it cannot leave. However, manufacturers of the material now also offer a drainable version, designed to eliminate problems in case of water penetration.

For its part, the National Association of Homebuilders has argued that even the best built homes will eventually leak and that homes built with EIFS can develop problems "even when properly constructed."

"Water is going to find a way in no matter how well the job is done," said David Jaffe, vice president for construction liability at the National Association of Homebuilders. "Over time, sealants crack."

Many homeowners are unaware that they should inspect all sealants — particularly around exterior windows and doors — every three years.

"If you don't make the joints water-tight, you have a problem," said Eric F. P. Burnett, director of the Pennsylvania Housing Research Center at Penn State University.

Dr. Burnett said EIFS siding can work very well on homes, but it has to be properly installed and maintained. The job is often demanding because small leaks can cause big problems. "You need a good builder," he said.

But Mr. Cohen, like most homeowners, said that when he bought his house, he had never even heard there was a potential for problems with his siding.

He first tested for moisture in the walls after hearing similar stories from neighbors. "Fortunately, my wife and I were in the position to do something about it," he said. "We had set up a rainy day fund, and it didn't rain, it poured."