



National Association of Home Builders

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**Construction-Related Issues with the Home and Customer Relations
An Overview**

Causes of product failures

In recent years, the housing industry has seen numerous problems with building products, including fire-retardant treated (FRT) plywood, polybutelene pipe, certain types of siding, and Chinese drywall, to name a few. Each case is different, but the experience we have gained from each can provide guidance for future problems. With product failures, there may be three variables involved: design, manufacture and installation.

Before making a public statement about the situation, we must be sure we know which is causing the problem.

A product may be properly designed and manufactured, but improperly installed. In such cases, the builder or applicator may bear the responsibility. The designer may be responsible for part of the problem if the installation procedures are unreasonable or exceptionally difficult. Problems could occur if climate conditions or building requirements in a particular area are not compatible with the application of the product, resulting in localized failures.

In some instances, a product may be properly designed and installed, but some of the product may have been improperly manufactured at one particular plant. In such cases, it is essential to try to isolate where and how much of the improperly manufactured product was put into circulation.

A third possibility is that the product was properly manufactured and installed, but the design is defective. If so, there may be widespread failures of the product.

NAHB and state and local builders associations must be very careful about what we say about products. We are sometimes placed in a difficult situation, because we need to alert people about potential problems, but in a way that does not cause panic and overreaction.

Builders and associations should avoid any type of public speculation on such problems — comments should be restricted to what can be verified. This applies to comments to both the media and individual home owners.

Understanding customer needs

An effective customer relations strategy entails trying to understand the concerns and motivations of home owners. Consumers with a particular problem may not care about the scientific basis of the situation. They merely want their homes fixed. They purchased their homes in good faith and expect that their homes will not deteriorate. Serious problems with a home can be extremely emotional for consumers, particularly if health issues are involved. Many people have much of their life savings tied up in their homes, and some home owners may not have the money to make the repairs. The calmer and more organized a builder can keep the discussions, the more effective the customer relations efforts are likely to be.

Home owners might be concerned about the effect the problem will have on their health, both in the short- and long-term. Additionally, they will be concerned about how their home will be repaired. Another potential issue will be the effect the problem might have on the appraised value of their homes. The situation could also affect the ability to sell such homes. Once a home owner is notified by a builder about a potential problem, the home owner may be required to disclose this information to subsequent purchasers. The issue can thus enter price negotiations, and some people may have to sell their homes at a loss. Houses that have been fixed could be difficult to sell. If there is adverse publicity, then that may induce some home buyers to shun homes with that problem altogether.

Developing a customer relations strategy

The minimum that a builder is legally required to do may be different from what is best from a customer relations standpoint. Builders need to listen closely to their lawyers as well as people who handle finances and customer relations. Builders must weigh the financial, legal and customer relations considerations when developing a response. Each builder's customer relations strategy regarding that problem must be determined on an individual basis, depending on the extent of the problem with the homes in which the builder has previously used the product. The responses could range from:

- Fixing the problem
- Sharing the cost of fixing the problem
- Serving as an intermediary with the product manufacturers and suppliers to help negotiate a settlement on behalf of the home owners
- Doing nothing.

Obviously, the more responsibility that builders assume, the more effective customer relations efforts will be and the less likely the builders will be sued.

Builders who lack the resources to fix all the problem homes might be able to negotiate a fair compromise. Home owners associations or individual home owners will want their homes fixed at no cost to themselves and may threaten to sue a builder who refuses to do so. Initially, they are not likely to be receptive to suggestions about sharing costs.

However, a suggestion to share costs is likely to be more acceptable than going to court or having the builder do nothing at all. A builder may also attempt to "ration" repair activities, such as by restricting repairs only to original purchasers and asking subsequent purchasers to fend for themselves. This should be done only after having an attorney check your state laws regarding implied warranties for subsequent purchasers to determine if such rationing is legal.

The sooner builders make a decision about what to do, the better. Delaying the formulation of a policy will increase the pressure that builders will experience from home owners. Nonetheless, under no circumstances should builders announce their policy before closely examining the relevant financial, legal and customer relations considerations.

Any policy by builders should be implemented in a consistent manner. By fixing a house for one owner, a builder may be creating an expectation to fix houses for all home owners. In some instances, builders may face greater legal exposure on one house than another because of statutes of limitation or other legal factors. However, the homeowner living in the house with the expired statute of limitations may not appreciate such legal distinctions. Once again, all that most homeowners will want is to have their houses fixed.

Customer relations problems can be created by different builders having different policies. With the FRT situation, some large production builders fixed roofs and then tried to recover money by suing people in the product supply chain. Smaller builders could not afford such expensive litigation. Many home owners did not understand these differences. All they knew is that a friend in a townhome on the other side of town had the roof fixed, while their own builder did nothing.

Many customers want their homes immediately repaired. Some builders do not have the funds to perform the work. No matter how good a builder's intentions, financial considerations may preclude the repairing of homes. This puts builders in a no-win situation. The cost of repairing a single home may vary considerably, depending on the type and amount of work that needs to be performed. The cost of repairing all homes on which a particular builder may have used a particular product can easily be prohibitive. Even the task of inspecting all previously built homes can be beyond the means of a builder.

Accessibility to customers

A builder can generate considerable ill-will by failing to respond to home owner concerns. Consumers have no desire to deal with suppliers and manufacturers. The consumer has a contract with the builder and is not likely to want to deal with anyone else in the supply chain.

At the very least, the builder should try to be accessible. Some home owners may fear that their builder will not address the problem. From a customer relations standpoint, one of the worst things a builder can do is to appear to be hiding or running away. A builder can reduce some of the fear by being accessible for phone inquiries and home owner association meetings and providing information about the problem.

A builder's customer relations program can benefit if someone on the builder's staff learns about the technical aspects of the problem and shares that information with home owners. By presenting objective, scientific information about the problem, the builder will be viewed more as an information source and less as an adversary. Consumers who are concerned about a particular problem will seek information about it. If the builder does not supply the information, someone else will, perhaps including lawyers and inspectors who go from house to house to stir up fears and create business for themselves.

After receiving inquiries or complaints, builders may want to inspect homes as part of an overall consumer relations strategy. Inspections will allow builders to determine the condition of homes and whether problems exist.

Warning letters to customers

An important question involves whether a builder should send warning letters to consumers about possible problems. In areas where no problems have been reported, a warning letter might not be necessary or advised. A second option would be to send a letter alerting home owners of reported problems, but stating that there is no indication that their homes or other homes in the area are affected. A third option would be to alert home owners of the possible problem and to offer to inspect homes.

Samples of letters for the second and third options are attached. In general, such letters should be brief and to the point. Most home owners are not interested in hearing the history and all of the background on the situation in the letter. They merely want to know what the builder plans to do. The background information is better suited to a fact sheet or Q&A attached to the letter.

Consumers who receive warning letters or who have seen news reports about the problem might assume they have a problem. When builders send warning letters or inspect homes, home owners may respond by asking how and when their homes will be fixed. If a builder has not developed a strategy to deal with the home owner response, customer relations problems can develop, possibly resulting in lawsuits.

Another option would be to alert consumers of a potential problem and suggest that they consider either conducting their own inspection or hiring an inspector. Such a strategy may have both benefits and drawbacks. By suggesting that home owners inspect their homes, the builder is alerting them of a potential problem without assuming any personal responsibility for it. Many home owners may decide not to inspect, in which case no further action may be required. However, should home owners choose to hire private inspectors, the builder would

be put into the position of having to respond to whatever the inspectors report, whether accurate or not. This could create both legal and customer relations problems. **Builders should seek legal counsel before undertaking any of the options discussed in this section.**

Some builders may need time to gather information on the problem and may promise a response to their customers in the future. A builder who promises a response needs to have a strategy and timetable in mind for its development. The longer a builder delays the response, the more the builder's credibility will suffer with home owners and the more mistrusting they will become when dealing with the builder in the future.

In summary

Builders should keep in mind the following key points when developing a response to a problem:

- A builder or one of the builder's staff should try to become knowledgeable about the problem in order to answer questions from concerned home owners.
- A builder or staff person should be accessible to home owners associations and individual owners to respond to concerns about the issue. An appearance of evasiveness will make efforts to deal with consumers more difficult.
- A builder should weigh the financial, legal and customer relations considerations when developing a policy to respond to the situation. Obviously, the more responsibility that builders assume, the more effective their customer relations efforts will be.
- The sooner a builder makes a decision about the situation, the better. Nonetheless, a builder should never announce a policy before considering all of the financial, legal, and customer relations implications.
- Any policy should be implemented in a consistent manner.

Form Letter 1 - INFORM HOME OWNER OF POSSIBLE PROBLEM — NO OFFER TO INSPECT

REVIEW WITH LAWYER BEFORE SENDING

DATE

Delivered Via Certified Mail

Return Receipt Requested

Home owner's Name

Home owner's Address

Dear :

The ABC Home Corporation has learned of allegations that Lumber Liquidators advertised and sold laminate wood flooring that consumers were told was compliant with California formaldehyde emission limits when really it exceeded those limits.

Attached is a sheet containing information about the allegations and what we currently know about the possible problem. At this time, ABC Home Corporation has no reason to believe that any of our homes have been affected by this problem.

The ABC Home Corporation values you as a customer, and we take great pride in the quality of the homes we build. We will continue to monitor the situation and keep you informed of any significant developments.

If you have any questions, please call XXX-YYYY between 9:00 a.m. and 5:00 p.m. Thank you for your cooperation and understanding.

Sincerely,

Company Chinese drywall contact

Title

Enclosure

Form Letter 2 - INFORM HOME OWNER OF POSSIBLE PROBLEM — OFFER TO INSPECT

REVIEW WITH LAWYER BEFORE SENDING

DATE

Delivered Via Certified

Mail Return Receipt Requested

Home owner's Name

Home owner's Address

Dear :

The ABC Home Corporation has learned of potential problems with drywall imported from China. Some of this drywall is alleged to contain high levels of sulfur and/or other contaminants, which it is emitting or off-gassing. Homes with affected drywall might have a rotten egg smell and air-conditioning coils, copper components, and certain electrical and plumbing components might have a blackened appearance. Attached is a sheet containing information about the product and what we currently know about the possible problem.

ABC Homes is trying to determine if the problem exists in the homes we have built. The first step will be to inspect some homes to determine whether the home has Chinese drywall and whether any corrosion has occurred. We will call to make an appointment to visit your home in the near future. We ask that you provide reasonable access to your home when our workers come for the inspection.

The ABC Home Corporation values you as a customer, and we take great pride in the quality of the homes we build. We will continue to monitor the Chinese drywall situation and keep you informed of any significant developments.

If you have any questions, please call XXX-YYYY between 9:00 a.m. and 5:00 p.m. Thank you for your cooperation and understanding.

Sincerely,

Company Chinese drywall contact

Title

Enclosure

Please Note: This is an internal NAHB resource and should not be shared with external parties such as home owners or reporters. This document is not a substitute for considered professional advice. If specific legal advice or professional assistance is required, the services of a qualified professional should be sought.