

# In the News

## Failure to Provide Lead Pamphlet Lands Builder in Lawsuit

### Renovation contaminates 80-year-old home with lead and asbestos

The EPA has proposed a penalty of up to \$27,500 against a Norfolk, Va., contractor who allegedly failed to give a homeowner the “Protect Your Family From Lead in Your Home” pamphlet when remodeling an 80-year-old home. The EPA says this is the first time it has enforced the rule (effective June 1999) that requires remodelers to provide the pamphlet before disturbing more than 2 square feet of paint in a house built before 1978 (see “Lead-Safe Remodeling,” 9/04).

The homeowners, Leonard and Margaret Bentley, also claim that renovations done in 2003 by contractor American Dream Consultants contaminated the house with lead and asbestos. According to the Virginia Department of Professional and Occupational Regulation (DPOR), one of the Bentley children showed elevated lead levels in his blood a few months after the work began. This prompted an inspection in December 2003 by the Norfolk Health Department, which advised the family to evacuate the house and dispose of what the EPA says were “thousands of dollars of contaminated belongings.” At the

same time, American Dream was ordered by the health department to clean up the lead and asbestos, but the company did not perform the abatement, nor did it return to complete its contracted work after the homeowners paid another contractor to clean up the property.

The Bentleys filed a civil lawsuit in June 2004 against Millennium Quests Inc., which is the parent company of American Dream, and against Mark Askew and Tonya Copeland, principals of American Dream. Although the Bentleys were recently awarded a \$1.3 million judgment in the case, according to the *Virginian-Pilot*, Millennium Quests and Mark Askew subsequently declared bankruptcy, and the homeowners have received nothing.

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A revised version of California's Title 24 "Building Energy Efficiency Standards" took effect on October 1, 2005. Though the new residential lighting standards apply to the entire house, they are especially strict in kitchens. For example, contractors could comply with the old standards simply by installing one fluorescent light on a separate switch at the kitchen entry; under the new rules, they are required to calculate the total lighting wattage installed in the kitchen and make sure at least 50 percent of it comes from "high efficacy" sources like fluorescents. Incandescent and low-voltage fixtures are still permitted but they must be offset watt for watt with high-efficacy lighting. As a practical matter, this means that recessed incandescent fixtures can no longer be installed in kitchens, and the use of track lighting and low-voltage cable lighting will be severely limited.

It might be rocket science after all, according to a recent *New York Times* article paying tribute to the inventor of the metal truss plate: "Before the use of connecting plates, roofs were often constructed not with trusses but with individual rafters, a process that required highly skilled carpenters, precise cuts, and a difficult procedure called toenailing, in which nails are driven into the lumber at a sharp angle."

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In separate, state court criminal proceedings, American Dream pleaded guilty in April 2005 to noncompliance with the abatement order.

Also in April, the contractor was fined a total of \$8,000 for five violations relating to the Bentley job, and had its contractor's license revoked by the Virginia DPOR. Three of the violations carried \$2,500 fines: negligent contracting, which resulted in lead and asbestos contamination; unjustified cessation of work under contract; and criminal noncompliance of the

abatement order. As an interesting footnote, the company also was fined \$200 for not including two required provisions (cancellation rights and contractor license information) in the contract, and \$300 for not obtaining written change orders.

Meanwhile, according to the *Pilot*, the homeowners had to sell the house to pay their bills. Apparently, the children are doing fine, though they will need to be watched for lead- and asbestos-related conditions.  
— Laurie Elden

## New Orleans Carpenter Weathers the Storm

When restoration carpenter and *JLC* author Michael Davis went to bed on August 29, just 15 hours after Hurricane Katrina struck, he thought his New Orleans neighborhood near City Park had come through the Category 4 hurricane with only minor damage. After all, earlier that day he had been out cleaning sidewalks and removing debris from the storm drains on his street. But when he awoke the next morning, his street was under water — tangible confirmation of reports he'd heard that many of the pumps used to keep the city dry were not working and that the storm had damaged a levee protecting the city. Though his home, like the others on the street, is on a small berm a couple of feet above street level, he could tell it wouldn't be long before the rising water started spilling into his basement apartment.

After wading out into the street, he moved his van to



higher ground several blocks away and slogged back to his apartment, which was by then filling with water. He gathered his tools and piled them on improvised tables made from scraps of plywood, drywall, and anything else he could find. Much of his equipment was stored in a steel job box that capsized while he was emptying it, soaking many of his most expensive tools. He spent the next five days disassembling and drying tools, salvaging whatever personal belongings he could, and helping his neighbors.

Occasionally, Davis listened to a battery-operated radio, though the broadcasts weren't very useful. "Most information we had about other parts of the city came from word of mouth, but it was definitely more accurate than what we were hearing on the radio," he says.

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People who stayed behind on his street helped each other, and in the process, Davis met some of his neighbors for the first time, despite living in the same community for almost 10 years. To survive, folks did what they had to, he says: "I saw people passing the house with shopping bags filled with water and groceries even though the stores weren't open, but everyone was quiet and civilized, and there wasn't any other way to get food."

Davis was the last resident on his street to leave. "I was waiting for the water to go down so I could drive out with my tools and some of my stuff, but things weren't getting any better and the National Guard members and police were by this point really encouraging me to go," he says. On September 4, he was evacuated by helicopter with five other people; they were taken to the New Orleans airport, where he boarded a plane to Montgomery, Ala. From there, a cousin gave



him a ride to Baton Rouge, La.

Most of Davis' relatives displaced by the storm re-connected at his mother's home in Monroe, La., where Davis is temporarily staying at a Holiday Inn. A couple of days after a family member signed him up for FEMA aid, he received the \$2,000 promised to hurricane evacuees. Family and friends outside the Gulf Coast region have offered Davis carpentry jobs and places to stay, but he would prefer to return to New Orleans. "I don't think many of my current clients had their houses flooded, so I'm hoping to go back to work soon," he says.

He and members of his family have rented a storage locker near his mother's house and plan to recover the salvageable items from their homes as soon as the authorities allow them to return. His home, he says, isn't habitable, but he maintains his optimism: "I was trying to leave that basement apartment anyway; I guess Mother Nature just speeded it up for me a little bit." — *Patrick McCombe*



## RESOURCES

### Free Connector Training for Contractors

Recognizing that a product is only as good as its installation, Simpson Strong-Tie Co. has developed a second free training kit for builders. "Introduction to Joist and Beam Hangers" comprises a training video, an instructor guide, and a student guide, plus a CD-ROM version of those three components. The 16-page student guide summarizes key points covered in the video, and concludes with a 10-question quiz. The instructor guide consists of two pages of suggestions for running a training session, an answer key for the quiz, an attendance form, and a job-site inspection form. Everything in the kit is supplied in both English and Spanish. To order, go to [www.strongtie.com](http://www.strongtie.com) and click "training," or call 800/999-5099.



### Big Stink Develops Over New Septic Systems

Residents of several new subdivisions in booming Loudoun County, Va., a semirural area about 25 miles northwest of Washington, D.C., are reporting problems with their on-site sewage treatment systems, according to a July 17 article in the *Washington Post*.

Developed as an alternative to conventional septic systems for areas with marginal soils, these advanced systems feature an array of filters, pumps, blowers, and computerized controls to scrub effluent clean enough that it doesn't require the bacterial action of a conventional leach field. But for affluent homeowners more familiar with the flush-and-forget mentality of suburban sewer lines and centralized treatment plants, the new systems are causing more than a few headaches. Unpleasant odors are a commonly reported problem, and frozen and cracked pipes, clogged filters, damage from construction vehicles, and even simple electrical short-circuits have resulted in backed up or overflowing systems that have spilled raw sewage into the yards of several million-dollar homes.

County officials investigating these complaints say that homeowners unfamiliar with the limitations of alternative septic-system designs contribute to the

problem with their extravagant water-use habits — multiple daily laundry loads, for example, and reliance on appliances like garbage disposals and dishwashers that process large amounts of water. Builders who have installed the systems in their developments blame the problems on homeowners who don't maintain their systems, or who ignore system alarms that warn of excessive water usage.

With the strong national housing market, development pressure will continue to increase in rapidly disappearing rural areas; currently, one-third of all new U.S. homes are being built with a traditional septic system or other on-site system. In areas like Loudoun County, where the housing market is particularly hot, builders will continue to take advantage of new (and expensive) individual sewage treatment system designs so that they can develop land with marginal soils that would be unsuited for conventional septic designs. But as more problems like these surface here and elsewhere, it's clear that builders of homes with these sophisticated septic systems will need to do a better job educating their clients in their use. — *Andrew Wormer*

### Florida Roofers Lack Comp Coverage

Some 60 percent of all roofing contractors in South Florida unlawfully neglect to provide their employees with workers' comp insurance, the *South Florida Sun-Sentinel* reported in July. In a state where roofer and contractor workers' comp premiums are among the highest in the nation, many roofers apparently decide to opt out and hope they don't get caught — despite the fact that the Division of Workers' Compensation has stepped up enforcement over the past year and regularly issues fines of up to \$100,000 to violators. When state and local investigators conducted a two-day sweep of South Florida construction sites in July, they issued more than 100 stop-work orders.

The region has seen the price of a new roof double in the past year, since four hurricanes wreaked havoc throughout the state; roofers blame high workers' comp premiums for the price increase and complain that the premiums make it difficult to make a profit. Still, it's the workers who pay the biggest penalty when businesses don't play by the rules, say worker advocates and code officials; as chief investigator Ron Lewis of the Palm Beach County Code Enforcement Board says in the *Sun-Sentinel* article, "These guys just want to work and support their families, but if something happens they've got nothing." — *Carrie Braman*



## In the News

As part of ongoing negotiations with historic preservationists, a developer in Cobb County, Ga., has agreed to set aside an acre of land containing two Civil War fortifications. According to the *Atlanta Journal-Constitution*, the fortifications — unique triangular structures known as shoupades — were built by the Confederate Army during the Battle of Atlanta in 1864. The property also is home to an artillery construction called a redan, which was designed to support the infantry. The builder has agreed to give historical groups a chance to buy an additional five acres surrounding the structures — land that, in the midst of a development boom, promises to be pricey.

Some GeoDeck composite decking and railing products that were manufactured between April 2002 and October 2003 are

deteriorating after being exposed to high temperatures and sunlight. Kadant Composites recommends that consumers check their decks for visible cracks and use a fingernail or credit card to see if the material scratches easily. Also, the company notes that unin-

stalled pieces may still show the manufacturing date stamp on the cut end. Builders should call GeoDeck customer service at 800/545-1710 or visit [www.kadantcompositesrecall.com](http://www.kadantcompositesrecall.com) for replacement if degradation is found.

Canada is actively seeking to export more softwood to China in response to continued U.S. tariffs on Canadian lumber. The Toronto *Globe and Mail* reports that when Canadian Prime Minister Paul Martin met with Chinese President Hu Jintao in September, the two leaders discussed increasing trade between their countries. The talks included softwood, but Canadian lumber traders remain skeptical that exports to China are going to increase significantly in the near future.

## Even Tupperware Can't Fix These Water Problems

How leaky can a 5-year-old house get? Apparently leaky enough that its owner decided to tear it down and start over. In a July 24 article, the *Naples Daily News* reported that a Florida man recently did just that with his \$4 million, 5,000-square-foot home, citing problems with a second-floor deck that allegedly allowed water to leak into the home and saturate the floors, walls, and ceilings underneath. The homeowner is suing the original home builder, who in turn contends that the problems actually stem from renovations performed by other contractors less than a year after the home was completed.

While searching for the source of the water, which had allowed more than 300 gallons of water to collect in an elevator shaft and had caused extensive mold throughout the house, investigators found a number of Tupperware containers screwed to the framing and drywalled over. The homeowner claims that the containers are proof that the builder knew about the problems even before the house was completed. But according to a former company employee, the Tupperware — intended only to temporarily protect the home's floors during construction and to make sure that any existing leakage had stopped — was accidentally left behind. "If we had known that the leak was ongoing, we would have also known that the leaking water would overflow the Tupperware containers," said the employee in an affidavit.

In the meantime, the original home builder is suing a number of the home's subcontractors, as well as the contractors who subsequently were hired by the homeowner to work on the house. But determining just who is at fault will be difficult, thanks to conflicting testimony from all parties involved in the case and only a vacant lot left behind for evidence. — *Andrew Wormer*