

Client Advisory

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CHINESE DRYWALL UPDATE NO. 5

To our Friends and Clients:

By now everyone who has received our advisories on this subject is well aware of the developing crisis facing Florida, residential and commercial property owners, insurers, and the construction industry as a whole. As with most of the problems, this one is not going away and may in fact be getting worse, particularly for residential homeowners as their insurance policies come up for renewal. While most property insurers in Florida have thus far denied claims presented under existing policies either based on pollution exclusions, or construction defect exclusions, now many of these insurers are advising their policyholders that they face nonrenewal unless they can prove that remediation of the offending drywall has taken place. As a result, many Florida homeowners are caught in the crosshairs.

At this point, it is far from clear when and if the class action proceedings against the Chinese manufacturers will ever be resolved, and whether homeowners and affected businesses will ever be recompensed for their drywall related losses. Likewise, insurers have almost uniformly denied claims arising out of Chinese drywall. While property owners may still pursue claims against the Florida contractors, suppliers and developers involved in the construction (as well as their subcontractors), this will still not resolve the immediate problem of removing the drywall from their homes to prevent further damage from occurring. In the meantime, faced with the prospect of nonrenewal, property owners run the risk of having their homes and properties foreclosed upon in the event that they cannot procure insurance coverage to protect their investment.

Another issue, which to date has not seen much press, is how insurance underwriters will deal with the Chinese drywall issue in the future. Surely some companies have already taken steps internally to ensure that exposure from drywall related claims is adequately screened for and addressed in the underwriting process, but this is one other area which insurers need to firmly address as renewals come due.

*For additional information or to discuss any of these issues,
please contact Jim Kaplan or Michael Sastre.*

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