

# Mold issue ferments

Outlook: Commercial development 23

BY BARBARA MARQUAND

Mold – as old and as common as dirt – is spreading trouble everywhere.

The lowly organism is goading insurers, real estate professionals, lawyers, lawmakers and interest groups into action.



Dickinson

And particularly in the past six months, insurers are excluding mold from general liability and other coverages, often forcing contractors and building owners into pollution policies that cover mold – but with higher premiums. As a result, mold prevention has become a hot topic between brokers and clients.

“It’s an awareness thing,” said Cam Dickinson, vice president of the construction and real estate division of Woodruff-Sawyer & Co. in San Francisco. “We’re trying to make contractors aware that there’s this potential problem; here’s how to spot water intrusion and here’s how to mitigate it.”

## Airtight case

If mold has been around forever, why is it such a big deal now?

Ironically, part of the reason for the problem stems from an advance in construction technology – the development of super-energy-efficient buildings. Homes in the last 10 to 15 years have been built so airtight to conserve energy that if leaks develop, there’s little draft to dry out the water.

“Once water gets in there, it’s trapped,” said Whitney Davis, a partner in the Sacramento law firm Charter Miller Davis, which handled 100 mold cases in the late 1990s. Davis, who represents both plaintiffs and defendants, said that number climbed sixfold by last year.

Most of the cases wending their way through the courts involve residential real estate property, but lawsuits involving commercial property have been filed, too. Such cases have caused insurers, already socked by billions in losses from incidents surrounding Sept. 11 and rising reinsurance costs, to shy away from anything that smacks of a potential loss.

So now property owners and contractors must buy such protection as pollution liability coverage, which could start at \$25,000 to \$50,000 for every \$1 million in coverage, said Kenneth Kneis, executive vice president for Willis Insurance Services of California’s global project risk advisers.

“If you’re the owner of a property and you don’t catch it, the risk is not the (higher) premium; it’s defending yourself in court,” said Kneis, also managing director of Willis’ San Francisco construction practice.

# for property owners

## Fungus among us

To thrive, mold needs three things: food (such as wood, paper or dirt), moisture and a place to grow. Flooding, leaky roofs and bad plumbing can all lead to mold growth in buildings.

California has the second-highest number of insurance claims in the United States for mold contamination, behind Texas, according to the Insurance Information Network of California, an industry-funded group based in Pleasant Hill.

Insurance companies don’t have separate policies for mold. Coverage depends on the cause. Flood insurance, for instance, would cover mold contamination if flooding prompted mold growth.

“As an industry we have concerns because of the complexities and uncertainties involved in this issue,” said Nicole Mahrt, Western spokeswoman for the American Insurance Association. “There’s really an information void on this issue, and sometimes where there’s a void, personal

injury lawyers see that as an opportunity.”

## Preventing problems

Mold indeed is a murky issue. Even scientists don’t agree on how dangerous mold is. Health effects vary according to people’s sensitivity. A level of exposure that’s harmless to one person may cause severe allergic reactions in another.

Until recently, no government agency regulated mold and there were no standards on what levels of mold were hazardous. A new state law, however, is setting standards on what constitutes dangerous levels of mold.

The Toxic Mold Protection Act of 2001

was signed by Gov. Gray Davis in October. It requires the state Department of Health Services to develop permissible exposure limits to mold. The department is supposed to report its progress by July 1, 2003.

The new standards would not take effect for several years, but have the potential to impact even more real estate transactions.

The good news about mold is that the problems are treatable. Some builders have taken steps to prevent mold in their buildings, reducing the amount of water they use in making concrete slabs, for example, or using only fiberglass insulation instead of cellulose insulation, which mold can eat. They also are installing exhaust fans in bath-

rooms and using vinyl windows, which have less condensation than other types.

Insurance brokers also are trying to educate their clients on the potential problems. Woodruff-Sawyer, for example, has conducted three seminars over the past year, including one last month for a construction industry group.

"The last thing you want to have is a bunch of kids in a school getting sick because there's mold in the room," Dickinson said, "and the same thing with an office building or a residence."

Marquand is a reporter for the Sacramento Business Journal, an affiliated publication. Ron Leuty, a reporter for the affiliated San Francisco Business Times, also contributed to this report.

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