

# NABOR



SUMMER 2009

## Condo Crisis: The Perfect Storm

### **PLUS+**

#### **Play Ball:**

Successfully managing your transaction team

#### **Defective Drywall Drama:**

And how to spot it

# Defective Drywall Drama

By Ginny Cooper

## Lights...

Noxious odors, silvered family heirlooms mysteriously blackened, copper wires and fittings corroding dangerously...add some eerie music and we have all the makings of an “Amityville Horror”.

Homeowners forced from their homes to avoid repeated

respiratory illness, real estate appraisers including warning language in their reports and FAR issuing contract addendums – all preemptive measures to avoid becoming embroiled in an Erin Brockovich scenario.

Are we going overboard about the defective drywall drama? Yes and no.

## Camera...

“Yes” say some of the builders, REALTORS®, and attorneys on the cusp of this issue. The Florida Association of REALTORS® is quick to point out in its *White Paper: Chinese Drywall* that there is **no** Florida law requiring the use of its recently developed contract addendum. The form is offered



as an educational tool “designed to alert potential buyers of the possible presence of this material and provide awareness on the availability of inspections or other options to evaluate any concerns.” On the other hand, FAR is also in the process of adding language to its Seller’s Real Property Disclosure to address the seller’s obligation to disclose the presence of defective drywall. In its White Paper, FAR is quick to point out that “not all Chinese drywall is defective and not all defective drywall is from China”.

“No” say some legislators, affected homeowners, and even nationwide builder Lennar Homes. Lennar is claiming to be a victim, just as many of its homeowners are, including at least 80 in Southwest Florida. The housing giant filed a suit against drywall manufacturers Knauf Plasterboard Tianjin Co., Ltd. (KPT), Banner Supply and Taishan Gypsum, even as it was being named a defendant itself in federal class action lawsuits. It is estimated that as many as 100,000 homes across the nation may contain the defective drywall, with over one-third of those in Florida.

### Official Action...

At the urging of U.S. Senator Bill Nelson (D-FL) the Consumer Product Safety Commission began an investigation in February 2009 to determine if consumers' problems are caused by sulfur-based gases coming from the drywall.

The Florida Department of Health is currently identifying

and assessing potential human health hazards related to the situation.

Nelson has been joined by Sen. Mary Landrieu (D-LA) in introducing a bill seeking a recall of affected drywall and a temporary ban on all drywall imported from China.

Governor Charlie Crist has received petitions from representatives on both the state and federal levels to declare a state of emergency over the problem. But the Governor is not clear what practical effect a state of emergency declaration would have at this time, according to a spokesperson.

### How to Spot It

As with any large-scale issue, consumers must become educated in order to avoid becoming victims. Defective drywall could be a factor if:

- The home was built or remodeled between 2004 to 2008. Rapid growth in the construction industry resulting from the excessively active real estate market in 2004-2005, plus the effects of an excessively active hurricane season depleted supplies of drywall. This is the period of time when importation of drywall from Chinese suppliers hit its peak.
- The home has a strong smell (a sulfur or rotten egg-type smell). The smell doesn’t develop suddenly; it results from strontium sulfide particles which, when exposed to

moisture, produces hydrogen sulfide gas. Florida’s humid climate has been cited as one reason for the prevalence of recognized cases. Despite the noxious odor, a **visual inspection is the only way** to determine the presence of defective drywall (see advisory below).

- There are corroded copper coils in the air conditioner or the coils are black.
- KNAUF is written on the back of the home’s drywall. Go to the attic and look at the back side of the drywall for Knauf. This is the manufacturer's ID, which identifies it as the drywall in question. Although a number of drywall manufacturers may be implicated, the most commonly-cited is Knauf Plasterboard Tianjin



Co., Ltd. (KPT), a China-based producer. The company regularly prints its name on the back of its drywall, making it the most easily identifiable potential culprit.

### Consumer Advisory

Florida Attorney General Bill McCollum's office issued a consumer advisory on April 23,

2009, in an effort to protect homeowners from becoming victims of scams related to the situation. The Attorney General noted that a homeowner can determine if defective drywall is present in his or her home by asking the homebuilder or a qualified air conditioner technician to conduct a professional visual inspection. **The presence**

**of defective imported drywall cannot be determined by "testing" the air in the home.** Additionally, if the substance is found during a visual inspection, it cannot be remedied with a spray or an ozone generator. These products may make the problem worse.

Homeowners should be advised to be aware of the following scams that have been reported to the Attorney General's Office:

- Sale of bogus test kits. These can be expensive, often costing thousands of dollars, and are generally ineffective. The presence of defective drywall can only be determined through visual inspection.
- Solicited home inspections costing thousands of dollars by "experts" with no apparent qualification. Beware of cold calls and door-to-door solicitors.
- Sale of sprays and applications which allegedly claim to miraculously cure the corrosion problem. Not only are these products ineffective, the addition of moisture may accelerate the corrosion problem.
- Sale of ozone generators. Ozone will actually increase the chemical reaction between the drywall and copper and the corrosion will be accelerated.

The entire advisory can be found at <http://tinyurl.com/oqj3fp>



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# Condo Crisis: The Perfect Storm

By Ginny Cooper

It's been brewing for quite some time. Whipped by the winds of speculation in the real estate market, struck by its lightning-quick collapse, and drowning in a flood of foreclosures, "what condo associations are experiencing now is the perfect storm," says Dave Homuth, Vice President of Residential Real Estate for TIB Bank, in discussing the current condo crisis.

The condo market took a battering when the economy collapsed for two reasons according to Homuth. "A significant part of the real estate market was the condo market. And a significant part of the condo market was the second home market. What payment are you going to make?" he asks, when faced with a mortgage payment on your primary residence in Chicago or your second home in Florida. That's one reason why many of the larger wholesale mortgage buyers are no longer in the market for second home financing.

Institutions that do lend on condominiums are more concerned than ever with the percentage of homeowners who are delinquent in paying their association dues, requiring banks to complete questionnaires on delinquency rates. If the number exceeds 20-25% many won't loan in the project.

The associations have a legal obligation to maintain insurances and maintenance standards and these expenses keep going up, while revenues keep going down. "Special assessments which used to be earmarked for improvements and beautification projects are now being levied to cover bad debt," says Ashley D. Lupo, Esq. of the law firm Roetzel & Andress. Lupo specializes in association law in Collier County and has had to deal with foreclosure-related issues on a daily basis.

Individual owners forgoing payment of their association dues while utilizing the services for which those dues provide aren't the only drain on the system. Responses to the Community Association Leadership Lobby's (CALL) 2009 Florida Community Association Mortgage Foreclosure Survey revealed a turbulent mix of factors affecting the stability of condominium and homeowner associations statewide.

Condo units and homes sit empty across the state, with banks stalling when it comes to taking possession of them. Fully 57% of the 1,589 survey respondents reported such difficulties, with

that figure jumping to nearly two-thirds among homeowner associations across the state. From one Southeast Florida condo board member who completed the survey: "The largest problem is that banks do not move their foreclosure cases forward to the sale. They postpone or cancel many hearings in order to avoid paying" the outstanding maintenance fees. A bill introduced into the Senate that would require first mortgagees or their successors or assigns to pay the association the lesser of the unpaid common expenses or regular periodic assessments which accrued or came due during the immediately preceding six months or 1% of the original mortgage debt died in committee on May 2, 2009.

"The clock starts ticking from the day the bank takes possession," explains Homuth. To encourage the start of that clock, Lupo says some associations in Collier County have initiated a "motion to compel" wherein the issue goes to trial and a judge will set a deadline by which the bank must comply.

While not all of Florida's community associations resort to legal or legislative action, many are taking drastic measures to reduce expenses such as

- Less stringent enforcement of association rules
- Residents assuming maintenance activities
- Reducing paid operational staff hours

- Eliminating paid staff positions
- Eliminating professional management positions

Other efforts associations are making in order to stay solvent include

- Increasing regular monthly maintenance fees for all remaining owners
- Legal action to force a mortgage lender to pay outstanding fees / assessments
- Increasing special assessment fees for all remaining owners
- Taking bank loans or refinancing

"Help is desperately needed here. If not resolved, you will start to see associations fail, leaving hundreds of thousands of homeowners unable to keep up with the mounting debt," said one Southwest Florida condo unit owner in the online survey.

"I don't know how much longer the association can survive under these circumstances," predicted a Southeast Florida condo Board member. (The survey in its entirety, along with the 2008 survey and other information can be found at [http://www.callbp.com/pubs\\_public.php](http://www.callbp.com/pubs_public.php).)

Is the condo crisis affecting Collier County? "It's a neighborhood-by-neighborhood situation," Homuth explained, "although there is a guilt-by-association factor involved. An older, fully owner-occupied condominium in a well-established part of town will still experience lowered values simply because they are a condominium."

And while the number of closed sales in the Collier County condominium market increased by 11% from the period ending March 2008 to the period ending March 2009, the median closed price decreased by 25%, according to NABOR statistics. Realistically, a portion of that decrease is attributable to the foreclosure crisis, but no one can put their finger on exactly how much.

“TIB is committed to the community, about 70% of our loans are portfolio loans”, says Homuth. Keeping loans in-house allows TIB to maintain an 80% loan-to-value ratio instead of the 75% or 70% LTV’s required by the secondary market. Homuth hopes that people will react as they did in the ‘80s, when local banks kept making loans and investing in the community while regional and national concerns pulled out or failed. He hopes that “when the dust settles, people won’t forget”.



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# Play Ball

## *Successfully Managing Your Transaction Team*

By Ginny Cooper

**T**ake some hints from “the boys of summer” and you’ll score more “home runs” with your residential real estate transactions. Granted, the playbook may have changed in the “game” of real estate, with short sales, increased foreclosures and declining values showing up on the field. The rules have even changed, with banks tightening up their credit requirements, the ever – increasing number of disclosure forms required, and the recent implementation of the Home Valuation Code of Conduct (HVCC). But the fact remains that it takes a team of experts to successfully complete a real estate transaction and as a REALTOR® you serve as the manager of that team! Want to improve your success record?

Make sure the members of your team have everything they need to execute the play.

Veteran REALTOR® Patricia Edwards of The Edwards Group with Vineyards Properties, knows the importance of having such a team. “I can pretty well zero in on what my clients are looking for in a home, that’s actually the easy part,” says Edwards. “Having a team of experts to rely on is very, very important.” Over the years, Edwards has narrowed her list to three or four in each area, citing the mortgage broker/banker as critical. “The confidence a mortgage broker has, and the knowledge, and how he/she relates to my client,” are factors Edwards considers, as well as their longevity. She has been working with some service providers for 15 years or more. How does she keep them on the ball? She relies on her “playbook.” “Our office developed a checklist. It stays clipped to the file and at my fingertips at all times. I refer to it daily,” she explains.

Even with the most experienced team in place, a transaction can fall apart because of one missing piece of paper. The key to avoiding that is communication, according to Kathy Zorn of Florida Home Realty. “That is the number one most important thing. Both REALTORS® must communicate honestly; that’s what makes for a smooth transaction”, she affirms. One of Zorn’s key players is the home inspector. “You don’t want to confuse cosmetic problems with mechanical problems. Above all, you want to avoid creating needless anxiety and a good inspector does that.” Another team member she has come to depend upon is a real estate attorney. With a normal sale, the attorney generally enters the game toward the end, but Zorn says they are an integral part of the team, especially today, given the number of short sales and foreclosures. If one of her transactions involves those elements, she puts the attorney in the lineup at the get-go. “Many of us are in a learn-





ing curve with short sales and foreclosure properties, so having a knowledgeable and experienced real estate attorney reviewing the transaction is essential.” Zorn expects tax consultants to become team members as well, once the implications of a short sale or foreclosure are reviewed. With over 20 years of experience does Kathy Zorn rely on her memory to keep the ball in play? “Oh no!” she laughs, “I use a checklist too!”

### The Infield

The pitcher and catcher put the ball in play and keep it there, as does your marketing team which can include your office staff, your personal assistant, your sales force, and members of your team who place ads, write brochure copy or handle other marketing details. They put out the pitch on your listings and catch the leads that follow, provided the pitch is right on target!

Much is made today of the necessity and power of a presence on the Internet through traditional Web sites and social media. According to Chad Engeldinger of CyberSunshine Inc., if less than 50% of your business is coming from the Internet, you’re not doing enough with your Web site. Engeldinger counsels his REALTOR® clients to use a two-pronged approach to their Web sites, the first prong being cold lead generation. But it’s the second prong of marketing to existing clientele where Engeldinger feels REALTORS® are losing opportunities. “Real estate still is a relationship business”, he says, even if part of that relationship is conducted in cyberspace. “REALTORS® should be remarketing to their past clients through their Web sites”.

Basemen intercept the play at measured intervals; they have specific knowledge and focused strengths that can stop a ball in motion, catching grounders, fouls and flies. These experts often work in tandem, making double and triple plays that keep your sale in the game. They are the inspectors: home inspectors, termite inspectors, radon inspectors, mold inspectors. They enter the game at various points. They are called in by different members of the team. But for Robyn DeVille of Home Check Systems, Inc., 85%

of those calls come from REALTORS®. And often those REALTORS® are in a hurry, calling with nothing more than a name and address. That doesn’t faze her, “we take it from there, that’s part of our service,” she says. Being an agent herself, DeVille knows the rules – there is a 10-day window in which to have all the required inspections completed. “I can generally get a customer scheduled within 24 to 48 hours, but the sooner I get the call, the better.”

Shortstops are directly in the baseline, they are skilled in determining which direction the ball should go next. Your mortgage brokers and bankers play this part on your team. Which of those inspections will you be required to have, what will it take on the buyer’s part to keep the ball in play? “In a perfect world, the REALTOR® sends the potential buyer to us first, to get prequalified. In fact, many REALTORS® require their customers to do so,” says Rosa Ivey, a mortgage loan officer with Regions Bank. She firmly believes REALTORS® and lenders should each allow the other to do their job. “The guidelines have changed, financing a home now is nothing like it was 20 years ago when I began...it’s not even anything like it was two years ago!” says Ivey. Nevertheless, providing a detailed transaction report is the best thing a REALTOR® can do to keep the transaction moving along. “By detailed I mean all the contact information on everyone involved,” she says. The more information Ivey has on the transaction, the more helpful she can be to the team. For instance, Ivey can transact business in 44 states – how’s that for a home game advantage, especially to clients who are relocating or purchasing a second home?

### The Outfield

Your outfield is trained to catch the long balls, or even those that just might slip past the infielders, as well as keeping their eye on the entire ball field. They are your real estate attorneys, title companies, appraisers. In most cases, they are the final stops in a successful play. By the time the ball gets to them, all the other team members have played their part. Here is where the players’ training really pays off. The myriad details these professionals have to handle



and the policies and procedures they have to follow can be mind-boggling. Again, the key is communication.

“We need complete contact information on the buyers and sellers”, says Andrea McGuire of First Title of Naples, Inc., with the emphasis on the word complete. “If the information is not on the contract itself then at least provide a cover sheet with the contact information; the best REALTORS® do,” says McGuire. These professionals must collect information from the contract parties that only they have – mortgage company information, homeowners’ association information, etc. Title companies have a questionnaire they submit to the contract parties, and a REALTOR® that wants to ensure the transaction has every opportunity to get to the closing table in the most timely fashion possible can go one step further and have such a questionnaire on hand to be filled out whenever they take a listing! Does that mean you are doing someone else’s work for them? No – it means you are managing your team and providing the best possible service to your clients and customers.

The one member of the team who is brought on the field without being selected by the manager (or any of the other players for that matter) is the real estate

appraiser. Because the appraiser receives his/her initial information from the lender, the REALTOR® needs to make sure the lender has as much detail as possible with regard to contact information and property access. “The best thing a REALTOR® can do is meet the appraiser on site for the inspection,” says Michael Manganaro of Paradise Appraisals and Real Estate Services, Inc., “Although fewer than 50 percent of them do.” That way, the appraiser can get immediate answers on questions about the property’s condition and history and there are no surprises, according to Manganaro. By going a step further and presenting the appraiser with a list of recent upgrades, valuable research time can be saved. If the property is vacant and being on site with the appraiser is not possible, “at least have the house prepared with the water and electric turned on. And FHA appraisals require the inspection to be made with the water and electric turned on,” he explained.

Are you supplying the appraiser with information on sales in the area? Make sure they are less than six months old and understand that the appraiser will have to verify your information. Realize too that REALTORS® and appraisers speak in different languages when it comes to the price per square foot of



a home, a benchmark that REALTORS® often refer to. Arriving at a price per square foot by dividing the sales price by the total square footage of a home does not take into consideration the myriad of factors that appraisers have to analyze in order to reach an estimate of value, most notably the land value.

Cindy Carroll, SRA, of Carroll & Carroll, Inc. enjoys it when a REALTOR® contacts her directly. “REALTORS® sometimes are not met with open arms by real estate appraisers, but I love it when they offer their assistance. Our market is turning so fast that fresh information is vital!” What information? Knowledge of the neighborhood, perhaps of sales that have closed so recently the complete information is not available at the resource sites such as the MLS; or sales that are closing just a few days in the future. That first call is a great opportunity to make arrangements to acquire floor plans or blueprints and get the appointment to inspect the property scheduled. A proactive REALTOR® armed with all the pertinent information “can save a couple of days” in the process Cindy says. Should REALTORS® meet the appraiser on the site for the inspection? “The more the merrier!” she answers.

### **Back to the Dugout**

By the time you get to the closing table, you may feel as though you’ve been competing in a pennant race! Managing the many team members necessary to successfully guide a real estate transaction to the closing table is a challenge. But it’s a challenge that is overcome with one word – communication. No member of a team likes to feel that they are playing in a void, all alone out in left field. That includes the buyer and seller too!

Each of the professionals offering advice for this article mentioned, in one way or another, how important complete and accurate information was to the successful and timely accomplishment of their portion of the process. It’s the REALTOR®’s job to manage this flow of information and properly done, you should increase your home run average. Play ball!

## **Three Tips for Developing a Successful REALTOR® Web Site**

Chad Engeldinger specializes in building Web sites for the real estate industry. The biggest mistake he sees REALTORS® make when establishing their Internet presence is “trying to be something to everybody”. Engeldinger has three tips for REALTORS® to make their Web project successful.

### **#1 Have a clear understanding of your branding**

The better the understanding of your branding and the more details you can provide to the web designer, the easier it will be to create a Web site that extends your brand into cyberspace. What colors do you use? What fonts do you use? Do you have a tag line? They should be consistent throughout all of your marketing and that includes your online presence (Web, social media sites, etc.)

### **#2 Understand your target audience**

Here is where REALTORS® tend to stray by trying to appeal to everyone. Of course you can sell a house or take a listing in any area or for any type of person, but the most successful REALTORS® have niches in which they specialize: waterfront, golf course, high rise, condos, first-time home buyers, retirees, etc. Be it a community, a demographic or a psychographic, you should understand your target audience and build your site to appeal to them and fulfill their needs.

### **#3 Know how to transfer that understanding to the marketing side**

It’s not enough just to be on the Web. You need to be where your target audience can find you, so you need to be where they are. What are the Internet habits of golfers, of seasonal residents, of young marrieds, of retirees, of coastal living aficionados? What can you do to your Web site to maximize search engine optimization (SEO)? When someone types “Naples golf course homes for sale” into a search engine, where does your site rank in the return? Make sure your site is seen.