

“Chinese Drywall” Lawsuits And BC Limitation Periods

June 21st, 2010



“Chinese Drywall Lawsuits” are claims for damages based on the allegation that defective drywall, manufactured in China, was installed in homes across North America. There are not only health complaints alleged to be associated with this drywall but also allegations that the drywall effects the integrity of the home.

To fix these problems some homeowners have resorted to gutting and replacing the drywall in their homes leading to significant repair costs.

There have been thousands of Chinese drywall lawsuits filed in the US and the first of these reached verdict earlier this month. [As reported on NPR](#), a US Jury just awarded a Florida couple \$2.4 Million in damages to compensate them not only for the repair costs of “*gutting and renovating their home*” but also for the loss of enjoyment of their home and potential in reduction of the home’s resale value.

[As reported by the Star on June 20, 2009](#), an estimated 920,000 square metres of “Chinese drywall” came into Canada through Vancouver from 2001 - 2007. While some of this was then further exported outside of BC much of the product was used in new construction in the lower mainland.

Thomas Martin was quoted as saying that the Chinese Drywall crisis is “*the worst case of sick houses in US history*”. The question remains, is the problem of sick houses equally large in Canada?

If you are concerned that your health or property have been adversely effected by Chinese Drywall you may be wondering about the Statute of Limitations and your ability to file a suit. In [British Columbia, the Statute of Limitations](#) requires lawsuits based on “*damages in respect of injury to person or property*” to be brought within two years. However, as with many areas of limitation law, the Limitation Act provides a common sense exception to this relatively short time period in Sections 6(3) and 6(4) which hold that in lawsuits for “*personal injury*” and “*damage to property*”

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Time does not begin to run against a plaintiff..until the identity of the defendant is known to the plaintiff and those facts within the plaintiff’s means of knowledge are such that a reasonable person, knowing those facts and having taken the appropriate advice a reasonable person would seek on those facts, would regard those facts as showing that

(a) an action on the cause of action would, apart from the effect of the expiration of a limitation period, have a reasonable prospect of success, and

(b) the person whose means of knowledge is in question ought, in the person’s own interests and taking the person’s circumstances into account, to be able to bring an action.

If you are a BC home-owner and are concerned that your home may be contaminated with defective drywall you should have a proper inspection carried out from a qualified engineer or home inspector. If in fact your concerns are justified you should promptly seek legal advice to ensure you don’t jeopardize your right to be properly compensated for your financial losses.