

Mold, The New Menace

Over the past few years there has been an increasing awareness over a new and potentially dangerous menace to homeowners - mold. This condition is particularly vexing to homeowners inasmuch as it not only causes damage to their homes, but poses what may be significant health risks. It is the health risks that have many homeowners and homeowner associations scrambling for information. What follows is a discussion of some of the most common questions - and answers - regarding this complex and often misunderstood problem.

What is mold and how is it dangerous?

Within our homes, there have been many health dangers over the years. We have witnessed concerns with asbestos, radon, lead-based paint and now mold. The severe health problems associated with some mold have resulted in multi-million dollar settlements, and jury awards as high as \$30 million. Mold, left undisturbed or unabated, can grow pervasive enough for occupants to develop severe allergic reactions, including headaches, dizziness, fatigue, respiratory dysfunction, excessive and regular nosebleeds, diarrhea, vomiting and liver damage . The most dangerous type of mold spore is a greenish-black mold known as Stachybotrys, a toxic strain. Other more common types of mold including Penicillium, Cladosporium, Alternaria, and Aspergillus can also cause adverse health effects when sufficient quantities are present. Mold growth is almost always stimulated by water intrusion. In order to remedy the overall condition, the source of the water intrusion must be repaired and the mold, and it's spores, remediated and eliminated. Failure to do so will result in continuing adverse health risks as spores can lay dormant for years and come back to life with renewed moisture.

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Mold is not limited to areas with high humidity. Air conditioners running non-stop in the summer can drip moisture from condensation and become an excellent breeding ground for mold growth. The challenge is that often mold is not visible and can be present behind walls, under floors, or in ventilation systems. If your house has experienced water intrusion it is wise to test for the existence of mold.

What responsibility does a homeowners association have if a mold problem surfaces in the community?

Often the water intrusion that can lead to toxic mold growth is a result of construction defects. Houses, condos and townhomes, built defectively, can allow water intrusion through the roof, windows or slab. Generally, in condo developments the homeowners association is responsible to maintain the common areas, including roofs, stucco and window systems, and the slabs . With that responsibility, the association is also responsible to repair damage

caused by those improperly constructed common areas, and could be liable for failure to do just that.

Fortunately, in Arizona the law is protective of homeowners, and holds those responsible for shoddy construction answerable for any damages caused thereby. Developers, general contractors, and subcontractors who improperly build a home or condo are responsible to pay for the cost to repair the defects and any resulting damage from those defects, including the removal of any mold that might be caused by the defects in the first place.

Given the appreciable risks created by the existence of mold, when an association is confronted with this unfortunate problem, it is compelled to act. Not taking any action whatsoever may expose the association to a significant claim.

If homeowners are complaining of water intrusion, not only should the source of that intrusion be fixed, but it may be prudent to investigate to insure that mold is not present. Second, the association should contact a professional to determine why the water intrusion is occurring. If it is the result of shoddy construction as it typically is, the responsible parties are liable and should be made to pay. Towards that end, most construction defect firms will provide a no cost inspection to determine if defects exist and if there is the potential for mold. Given the severe implications of this problem, a homeowner or association is well-advised to initiate at least some type of investigation.

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