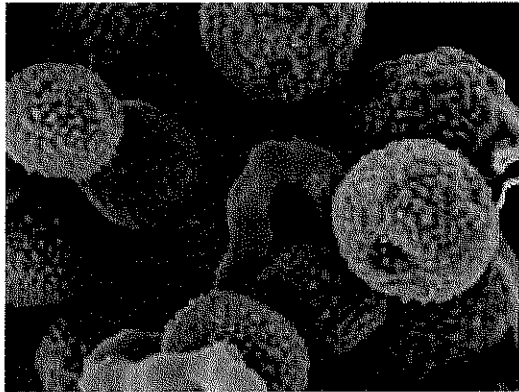


**MOLD GETS ADDED ATTENTION -  
FLORIDIANS TAKE SPORE  
COMPLAINTS TO COURT**



*By Robyn A. Friedman*

taken from  
**South Florida Sun-Sentinel**

Tuesday, May 14, 2002

# Mold gets added attention



**HOME IN CONTENTION:** Arie Israelian and his son, Danny, 3, stand in front of the house in Boca Raton that they vacated last December after alleging mold had made it unlivable. G.L. Homes, the builder, said that it immediately responded to a service request by Arie Israelian and his wife, Marcie, but were subsequently denied access to the house to perform corrective work. Staff photo/Jim Rassol

Floridians  
turn more  
often to  
lawsuits  
challenging  
home  
builders.

Structural defects, termites, lead paint, asbestos and radon are all known hazards that prudent home purchasers check for before closing their deals. But there's a new, less familiar threat on the horizon: mold.

When Shirlee Daily purchased her 3,606-square-foot home at Saturnia in Boca Raton three years ago, she thought it would be the last home she ever purchased and planned to live there for the remainder of her career and into retirement. But less than a year after she moved into the \$340,900 house, leaks developed in the home's air conditioning system — leaks that Daily, now 58, claims led to the incubation and growth of several species of mold and the subsequent deterioration of her health, according to a lawsuit filed in April.

"I have been forced to leave my beautiful home and every possession," said Daily in a written statement provided to the *Sun-Sentinel* by her attor-

ney, Scott N. Gelfand of Boca Raton. "I continue to awaken every morning and race to the bathroom with bouts of vomiting and diarrhea," the statement said.

Daily sued Coral Springs-based **G.L. Homes of Boca Raton Associates III Ltd.**, and its air conditioning subcontractor, seeking damages. G.L. Homes in its answer to the complaint denied the claims of negligence and asserted that Daily bears responsibility, claiming that she exacerbated the problem by disturbing mold colonies during testing.

Mold claims have proliferated in the past year in Florida as cases in Texas and California have gained national attention. About 9,000 toxic mold lawsuits have been filed in the United States and Canada in the past decade. The number of claims in Florida is rising, according to attorney Gelfand, who said he's been contacted by up to 11 additional homeowners with mold claims.

Mold problems throughout the nation have attracted so much attention that Rep. John Conyers Jr., D-Mich., is drafting legislation, known as The U.S. Toxic Mold Protection and Safety Act that, among other things, would require the EPA to issue guidelines on acceptable mold levels and the Centers for Disease Control to authorize studies on the health effects of mold. He is holding a town hall meeting in Detroit, Mich., on June 3 to announce the proposed bill.

Marcie and Arie Israelian, neighbors of Shirlee Daily at Saturnia, also claim that they have a mold problem in their 3,466-square-foot home. The problem, they claim, stems from the builder's failure to properly connect a pipe in their children's bathtub. The ensuing water leakage into the drywall and floor over a three-year period allowed the growth of several species of mold, allegedly resulting in respiratory problems in their two children, Talia, now 6, and Danny, now 3.

# Floridians take spore complaints to court

## HOME VACATED

The Israelis vacated their home and have retained an attorney. "We thought we would live in that house for many years," Marcie said. "But we left with the clothes on our back."

George Atkinson, vice president of construction for G.L. Homes said in a written statement that the company immediately responded to the Israelis' service request last December but since that time has not had access to the house to perform corrective work despite repeated requests to do so.

On March 26, the company sent out a letter to all Saturnia residents, offering to inspect the plumbing connections in the tubs and indicating that it would handle corrective work as needed. A number of these inspections have been completed, but the company will not disclose the results.

Florida builders are just starting to become aware of the increasing mold problem in this state. This week, the Florida Home Builders Association will complete a series of 29 educational seminars held around the state for its builder members and subcontractors to inform them about mold, construction defects and the claims that are being made. The association also formed an internal task force last year to deal with mold-related issues.

"We're doing a lot to try to understand the science of this thing and to find out if there are any practices or things that we can incorporate or endorse as an industry as far as ways of dealing with it," said Ian Smith, the association's spokesman.

## OLDER HOMES AFFECTED

But mold damage is not limited to new homes, nor are construction defects the only cause. "A lot of it is education," Smith said. "We're trying to have our builder members reach out to consumers when they buy about maintaining their structure. Things like changing air filters are important especially if there is a slight chance that you may have mold, because a dirty air filter can increase that problem a lot."

Smith also said that the Florida Energy Code, intended to make homes more energy effi-

cient, might also be affecting the incidence of mold in the state. "Houses aren't breathing the way they used to years ago," he said. "The fact that structures are so much tighter these days ends up causing moisture buildup that can lead to mold."

Mold spores are everywhere. It is not unusual to find mold in a home, especially in Florida, because mold grows on surfaces that are wet. There are many types of mold; some types have the potential to cause health problems, according to the U.S. Environmental Protection Agency.

Some molds produce allergens, which can cause allergic reactions; others produce substances called mycotoxins, which are potentially toxic. According to the EPA, it is impossible to get rid of all mold and mold spores indoors; however, spores will not grow if moisture is not present.

Of the more than 100,000 mold species, only a handful are considered toxic. Still, all mold spores can impact people who have allergies, asthma and hay fever, according to the New York City Department of Health.

Because of Florida's year-round humidity, mold spores can easily flourish here.

Smith, of the Builders Association, said that he is aware that more claims have been filed in Florida, but could not say how many.

Many homeowners with mold insurance claims are surprised when they learn that mold is not covered under most homeowners policies.

Most insurance companies will only pay for mold clean up when it results from a sudden and accidental water discharge. That would include a washing machine hose break, storm damage to roofs and burst pipes. It wouldn't include a slow leak like a faulty water heater that can be prevented with regular maintenance, said Kathy Thomas, a spokeswoman for **Allstate Florida**. Insurance companies, worried that multimillion-dollar verdicts will be rendered against them, are trying to protect themselves. So far, 83 insurers have asked the Florida Department of Insurance for permission to exclude mold damage from homeowners policies. And 69 insur-

ers have asked for the same exclusion for commercial properties, said Tami Torres, an Insurance Department spokeswoman. The Department is considering the requests, she added. The stakes are high. The Insurance Information Institute predicted that if mold claims totaled 1 percent of all claims, it would cost insurers \$18 billion.

Andy Martinez, a spokesman for **Nationwide Insurance Co.**, said water losses account for more than half of the company's insurance losses in Florida. "Mold has become a huge issue which it really doesn't warrant," he said. "You've lived in Florida, you've lived with mold."

## MOLD PUBLICITY

Tom Haggerty, a spokesman for **State Farm Insurance**, said the rapid rise in mold claims in Florida can be attributed to added publicity about what's going on in Texas and other states. He said that State Farm went from a few mold claims in 2000 to several hundred in 2001. "Mold has been around forever," he said. "Now all of a sudden things seem to be reaching a fever pitch."

Attorney Gelfand said that people are becoming more aware of the health and property effects mold can have on them.

But builders don't agree and claim that verdict-hungry attorneys are fueling the claims. "When homeowners find out that their insurance policy doesn't cover mold, or only covers it if it's related to a catastrophic flooding event, then they go after the builder," said Smith. "Some attorneys are promoting this. There was even a trial lawyer newsletter a few months ago with the headline, 'Mold is Gold.'"

Property values at Saturnia, where prices range from about \$400,000 to \$900,000, have not been affected by Daily's claim, said Steve Rosen, a real estate agent with Boca Raton-based Lang Realty.

Florida statutes and case law require that real estate agents disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer.

As word gets out about the mold problem, more lawsuits and insurance claims will arise. Melinda Ballard, president of Policyholders of America Inc., a nonprofit organization in Austin, Texas, maintains a database of more than 16,000 cases (dating back to 1985) where policyholders claim they're victims of mold in their homes. Ballard is perhaps best known as the plaintiff in a case against Farmers Insurance Group in which a jury awarded \$32 million for the company's mishandling of an insurance claim for mold damage.

Even Erin Brockovich, the environmental activist portrayed in the movie, is crusading against mold these days. She filed a lawsuit in California claiming damage to her property and her health. The increased awareness is making mold victims feel just a little bit better. "People need to pay real close attention to this issue," said Chris Clinton, who now lives in Delray Beach but has a mold lawsuit pending over his former home in Pennsylvania. "You could lose your dream home or go to financial ruin if mold is found in your home."

Staff writer Nicole Ostrow and Staff Researcher Barbara Hijek contributed to this report. Robyn Friedman is a freelance real estate writer for the Sun-Sentinel. E-mail her at [rafriedman@worldnet.att.net](mailto:rafriedman@worldnet.att.net).