

# Sun City Grand Litigation Update

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*Temperature between the panes increases to the point where the window seals overheat, expand, and lose their shape, causing a loss of the insulation properties of the window.*

The purpose of this newsletter is to bring you up to date with what is happening with the pending construction defect litigation in which many of your friends and neighbors are involved. We will devote this newsletter to the four most common and

debilitating construction defects affecting the homes in **Sun City Grand**, plus a summary of other equally important issues. Chances are that your property is affected by at least one of these findings as well. If, after reading the content of

this newsletter, you would like us to help you evaluate whether your property is suffering from poor workmanship and/or defective building materials, contact our Phoenix office at: (602) 224-7800 or (800) 897-0970.

## **Windows That Cost You Money to Own**

One of the biggest concerns facing your neighbors who purchased their homes before 2003, and who elected to upgrade their windows with the energy saving “Low-E” option, is that they did not get what they paid for. First a little background:

- Low-E coating reflects UV rays and radiant solar heat.
- In desert climates, the Low-E coating is designed to be on the glass surface that radiates the heat back to the outside of the house.

In those homes built before 2003 with the Low-E option, the coating was applied to the wrong pane of glass – the pane of glass

appropriate for cold climates where the purpose is to keep the heat in the home. So, if you have Low-E windows and your home was built before 2003, instead of having windows that are designed to save you money on air conditioning bills, your home is being kept hotter and you are spending more to cool your home. That's right; your expected cost-savings windows are, in fact, costing you money to own.

That's not the whole story – it gets worse. Since the Low-E coating was applied to the wrong pane of glass, the inside temperature between the panes increases to the point where the

window seals overheat, expand, and lose their shape. The result – reduction of insulation properties of double pane windows. To add insult to injury, many of the windows replaced due to the failing seals lacked a Low-E coating, even when the original windows had the coating. Additionally, the homeowner was charged for the removal of the defective window and the replacement window unit.



Water intrusion inside your exterior walls results in structural and health issues.

### More About Windows

What else are your neighbors experiencing regarding their windows?

Water intrusion inside exterior walls that result in:

- Mold
- Rusted nails and screws
- Wood rot to structural components

- Dry rot
- Deterioration of building paper in exterior walls
- Peeling paint and wall coverings

No one should have to “live” with this and the homeowner must not bear the burden of paying again for the builder’s poor workmanship.

There is still time to act!



Without exception, every venting system, in every garage that has been examined looks like this – it shouldn’t!

### Venting of Hot Water and Heating Systems

One would assume that an installation design that was created by licensed contractors, then inspected and approved by the City of Surprise, would meet Code requirements. Unfortunately, that is not the case. The facts are:

The hot water heater employs a gravity-fed exhaust system. That means that the resulting gases produced by the hot water heater rise naturally upward

through the flue, to the roof, and into the atmosphere above your house.

On the other hand, the heater utilizes a fan system to “push” the exhaust gases up through the flue.

Why the concern? It’s a safety hazard!

Simply stated, the building code does not allow the combination of fan-forced vents with

gravity vents due to the potential for a fan system to force the carbon monoxide - a poisonous gas - down the water heater flu and into the garage.

Uniform Mechanical Code §815.1.1

International Residential Code G2426.3.3 (3)

International Mechanical Code §804.3.6



## Stucco That Traps Water

Another issue confronting many of your neighbors is the inadequate performance of the stucco on the exterior walls. Many homeowners have reported excessive cracking, flaking, peeling, staining and/or delamination of the finish coat. One of the main reasons for the stucco's failure is the builder's disregard of the building code's requirement to install something called a "weep screed." A weep screed is a piece of perforated galvanized steel that is installed at the bottom of the exterior wall where the wall and the foundation meet. This must be a minimum of four inches above the earth. The purpose of the weep

screed is to allow the release or weeping of water that enters the stucco, thus preventing any of the symptoms referenced earlier. Nearly half the homes that have joined the action against the builder do not have weep screeds installed as the law requires.

Additional stucco installation deficiencies include:

- Applications of the stucco less than the required 3/8 inch thickness.
- Inadequate attachment of the lath because of overdriven and improperly spaced fasteners.

- Inadequate or no embedment of the lath into the stucco
- Corroded metal lath
- Unsealed holes, rips and tears in the building paper.

These deficiencies result in a lack of impact resistance, excessive cracking, localized failures, and in general, a weak stucco system.




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*Do the exterior walls of your home look like the top or bottom image? If you answered, "the top," you do not have a weep screed system – the builder violated the building code!*

## I'm Always Missing the Punch Lines on the TV

Virtually every homeowner in Sun City Grand would say, "I am proud to be an American and I am thrilled that Luke Air Force Base is operating in the Valley of the Sun to ensure my nation's security. But sometimes I cannot conduct an uninterrupted, decent face-to-face or telephone conversation. Watching TV or listening to music isn't as enjoyable as it used to be. Is this the result of getting another year older or is there something else going on?"

Both the State of Arizona and the City of Surprise recognize the importance

of the base. Each has enacted specific ordinances to help create an environment so that the base and residential communities can live and operate in harmony.

These state and city laws mandate that all residential buildings built after 2001 in a territory in the "vicinity of a military airport" or "ancillary military facility" must comply with specific sound standards.

These laws require the builder to construct the homes in compliance with certain specific requirements to ensure

that the noise levels in the homes do not exceed 45 decibels. One of the specific requirements is the construction of exterior walls with an overall minimum R-19 rating.

Every home in **Sun City Grand** is located within the defined vicinity of a military airport and every home that was tested failed both tests – the walls had an overall value of only R-16.67 and the measured decibel level exceeded 45 in all the living areas. In some cases the measured noise level exceeded 70 decibels

With the air base flying approximately 170 sorties per day, homeowners deserve the quiet mandated by the law. Your builder must provide the funds needed to make these corrections.

Arizona Revised Statute  
§28-8482

City of Surprise Ordinance  
01-18



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### Other General Issues

Other defects reported by our experts include:

- Excessive and ongoing foundation movement resulting in re-occurring drywall, stucco and finish floor cracking observed at some of the homes;
- Improper application of roofing material at flat roof patios resulting in leaks and/or shortened life spans, observed at all homes tested so far;
- Improper placement of drains and ponding of water on flat roofs due to inadequate slope, resulting in premature deterioration;
- Improper construction of "S" tile roof assemblies resulting in water intrusion below the tiles, also observed at all "S" tile roofs tested so far;
- Exploding glass shower and tub enclosures, probably due to improper fabrication and assembly techniques;
- Lack of shear transfer nailing for wind forces as required by the building code at the roof sheathing; and,
- Failure to secure chimneys to the roof structure.

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