



# VAREI Newsletter

The Voice of Virginia's Home Inspectors

Virginia Association of  
Real Estate Inspectors

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## Home Inspectors and Contingency Removal Addendums

Conscientious inspectors in various parts of the state are reporting a practice which is harmful to the home inspection industry. Namely, that some home inspectors are preparing contingency removal addendums as a service for real estate agents. In some cases agents are requesting such a document and inspectors are printing them perhaps in an effort to obtain a competitive advantage.

This is illegal on the inspector's part and the height of laziness on the agent's part. The short answer for inspectors is that such a practice constitutes the unauthorized practice of law by inspectors. There are exceptions in the law for licensed real estate agents to write contracts and write up negotiated items between buyers and sellers. There are no exceptions for home inspectors to write up contract items or to even use the addendum removal forms for that matter.

In most areas of the state, real estate companies and agents have been granted the right to use the forms of preference in

their areas. This right likely has not been granted to home inspectors.

Here is some commentary on this matter from John Faber, a real estate attorney.

"This morning you described to me the apparent practice of some home inspectors, upon completion of home inspections, of preparing a home inspection contingency removal addendum, and presenting it to the buyer and seller or their agents for signature. As you know, the home inspection contingency removal addendum is an important document that can establish, among other things, whether the buyer will terminate the contract based upon unsatisfactory inspection results, whether any repairs of conditions identified in the home inspection report will be made, who will be responsible for the repairs, the deadline for completion of the repairs, and the maximum amount that the responsible party will be required to pay for the repairs.

"The home inspection removal addendum is thus a legal instru-

ment affecting real estate. The unauthorized practice of law rules (UPR) of the **Virginia Supreme Court** prohibit the preparation of such instruments by persons not licensed as attorneys in Virginia, subject to a few exceptions. UPR 6-103 states that, with few exceptions for real estate agents and for lenders and owners who are parties to the transaction, a non-lawyer shall not prepare for another legal instruments of any character affecting the title to or use of real estate.

"I am not aware of any exception that permits real estate agents to allow or insist that home inspectors prepare the contingency removal addendums."

**Disclaimer:** Any suggestions or analysis contained herein are general and do not take into account an individual's or entity's specific circumstances. The information provided does not constitute legal advice. Recipients should consult their legal advisors prior to acting on any information set forth in this article.

## Comment on Home Inspectors Preparing Contingency Removal Addendums

Practices such as preparing contingency removals for real estate deals are just the kind of thing that can lead to further regulation of the home inspection industry. VAREI has tried over the years to follow members' wishes and steer clear of licensing efforts mostly because of the cost in dollars and time it takes to monitor a licensing law and

make sure it is not destructive to our industry.

Just one broker who gets wind of such a practice and has a deal messed up because of it can result in widespread trouble for the state's home inspectors. A broker who complains to his/her real estate board and perhaps to VAR can lead to a push for fur-

ther regulation. That's all it takes, one dissatisfied broker or wronged consumer, to get the regulation ball rolling.

No matter how you try to justify this practice—your name is not on the addendum, the real estate agent actually printed it, or whatever other rationale is offered—the inspector is printing a copyrighted contract that he almost certainly does not have permission to use.

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### Regulation Update

There have been more changes to the revised home inspector regulations. The full Board will vote on the changes in November. After that the revised regs will go back up through the chain of command to the Governor. Board chairman **Fred Heppner** suspects it will be some time next year before the final regs are approved.

The ALHI Board will expand by four members to manage new duties requiring licensing of mold testers, remediators, and contractors who disturb lead paint in older homes.

**Fred Heppner's** term on the ALHI Board has expired and the Governor will have to appoint a replacement eventually. Board member and home inspector Brian Koepf is on a subcommittee of the ALHI Board assigned to work on the new mold regulations.



A frequent sight in crawl-spaces.



Chinese drywall corroding refrigeration lines on a refrigerator



Pressure treated deck supports do rot! J. Cranor



Knob and tube wiring. VAREI file photo

## CPSC Continues To Evaluate Drywall Imported from China

The CPSC, in its September update on its ongoing investigation into Chinese drywall, has released the following information. The Commission has received 1192 incident reports related to Chinese drywall. The drywall now has been reported in 24 states and the **District of Columbia**. The majority of the reports are from Florida, Louisiana, and Virginia. The Commission has confirmed that nearly 7,000,000 sheets of the drywall were imported in 2006.

The CPSC coordinated a rapid state and federal response to allegations that some of the drywall contained radioactive

phosphogypsum. The results from the samples tested indicated there was no radiological hazard in the drywall samples tested.

The CPSC continues to perform engineering, health, and safety tests on electrical receptacles, switches, circuit breakers, copper pipe, smoke alarms and other components obtained from homes in Florida, Louisiana, and Virginia. The commission has no confirmed fire incidents involving Chinese drywall. The drywall reportedly has caused microwaves to flash fire, and switches and receptacles to short out

Meanwhile, some home owners

in Virginia are living in trailers parked in their driveways to avoid the hazards of drywall imported from China. Senator Mark Warner, among others, is prodding the CPSC to conclude its investigation so affected home owners have a better idea of how to proceed to correct the problem.

The first cases involving the defective drywall are scheduled to be litigated in New Orleans in January. The initial cases will involve home owners from several southeastern states as well as Virginia. The litigation will only involve the technical and physical problems with the drywall and not health issues.

## The Main Bonding Jumper

This small device is required by the NEC to be installed on main service disconnect enclosures. The device bonds the main service disconnect enclosure to the neutral conductor. It usually is supplied by the equipment manufacturer.

The MBJ serves two important functions in electric service disconnect panels: it establishes a connection between the equipment enclosure and the earth. It

utilizes the grounded electrode conductor to provide a path to earth to dissipate surges due to lightning and problems with transmission lines; it also provides continuity between the electrical system's ground fault current path and the neutral or grounded conductor. This allows the system to clear a fault and trip the over current device quickly.

Without this device installed, a

lightning strike nearby that affects the service disconnect panel might do a lot more damage as it attempts to find a path to earth. The simple MBJ provides a connection between the panelboard and the grounded conductor so fault current can quickly travel back to the source and trip the overcurrent protective device.

The MBJ often is a small green screw found on the neutral bar of the main service disconnect panel. It can also be wire or a small bus bar but must be of corrosion resistant material.

## FHA Continues to Lend on Homes With Old House Materials

Some real estate professionals are reporting that FHA will no longer lend money on houses with fused electric panels. This is not true according to the **Appraisal and Property Requirements** guidelines published by HUD. Here is some of the information from the guidelines in case you are asked.

**Electrical Service:** FHA says houses with either fuses or circuit breakers are okay. They also

say knob-and-tube wiring is acceptable if it is found to be in good condition and there is a minimum of sixty amps. "Sixty amp service also is acceptable if it appears this is adequate amperage for the appliances present in the property, or those considered **standard** if the present appliances appear to be less than found in the **standard** home.

The guidelines, which are mainly for appraisers, call for certifica-

tions of mechanical and plumbing systems if the appraiser cannot determine if they are working properly. The certifications can be done by a home inspector, according to the guidelines.

The guidelines go on to discuss the types of heating systems required to meet FHA standards. They frown on floor furnaces. They also state that all habitable rooms must have a heating source.



## Q and A : Inspector Questions and Concerns

**Q: I recently inspected a vacant house where the service neutral was disconnected at the weather head (mast head). The power was on at the house. My electrical tester did not signal any problems. Is this potentially dangerous?**

This could be hazardous to an inspector and to a home owner. It relates back to the basic principles of electric current flow. All current or amps used in 120 volt phase-to-neutral circuits wants to return to the transformer from which it came. It uses the service neutral to complete this path.

If the service neutral is disconnected the current has no choice but to follow the grounded electrode conductor from the neutral buss bar to the grounded electrode—usually a rod driven in the ground or a metal water pipe. It may also follow other potentially current-carrying paths.

The grounded electrode conductor does not normally carry a live load but in this case it probably does. So if you are running a dishwasher or a refrigerator or turning on lights in this otherwise vacant house, you have created a dangerous situation. There will not be enough current flowing on the grounded elec-

trode conductor to trip a 15 or 20 amp breaker and the grounded electrode conductor will be hot continuously. This conductor may or may not be insulated. If you are in the habit of pulling on these wires to see if they are connected to the grounded electrode, especially if it is a driven rod, you could get shocked or killed.

**Note:** The earth is a poor conductor and it can not absorb enough fault current fast enough through a grounded electrode to cause a 15 or 20 amp breaker protecting a dishwasher or refrigerator, etc. to trip. Hence the grounded electrode conductor will be hot continuously as long as any phase-to-neutral circuit is being used.

**Q: I was checking the back-up heat circuit on a heat pump recently and noticed that the outside condenser/compressor was running. Is this a problem?**

**A:** Yes, this is a problem. The emergency heat mode on a heat pump thermostat should lock-out the condensing unit so it does not run. If it runs, something is wrong. There is a bad circuit board, the thermostat is incorrectly wired, etc. Stop inspecting it and flag it to an HVAC contractor.

**Q: I have seen a few pressure tanks on water heaters. The tanks are about the size of a gallon milk jug. Are these now required on water heater replacements and how should I inspect them?**

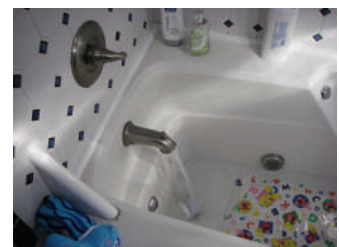
These tanks may or may not be required on replacement water heaters. This is a decision made by the plumber and the authority having jurisdiction.

The tanks are used on houses that have replacement water meters or in new houses with modern meters. The need arises because new water meters usually are accompanied by back flow preventers on the house side that prevent water expansion.

Here's what happens. When the water in a water heater heats it expands. This expansion typically was taken up by the cold water line back through the street supply line. There was no danger to the water heater from the heat of expansion in this situation. Meters with back flow preventers do not allow this expansion and the water heater can be damaged by expanding heated water. Hence the pressure tanks similar to those used on a hydronic heating system. The tanks have a bladder that separates them in half, with



Daryl Gage, Norfolk



Spout below flood rim on a jetted tub. J. Cranor

water in one half and air in the other half. The expanding water is absorbed into the tank and protects the water heater.

Make sure the tank is on the cold water line after the shut-off valve so the tank can be changed easily. Make sure the tank is adequately supported. Give the top and bottom of the tank the ping test with your finger. You should have a dull thud in the half containing water and a metallic ping on the half with air. If both halves thud, the tank has failed. (cont. pg. 4)

### Some Consistency Would Help!

An agent called a VAREI inspector and mentioned he had just had an inspection on his listing and the inspector noted on the report that the house had a **Federal Pacific** electric panel. Nothing else, just that the house had an FPE panel. He said he had never had this mentioned before and wanted to know about FPE panels.

This may be the way this particular inspector has chosen to disclose this particular item but it doesn't help the consuming public or the agents understand the issue. This instance raises one of the questions that plagues the home inspection industry and one that may get us into trouble down

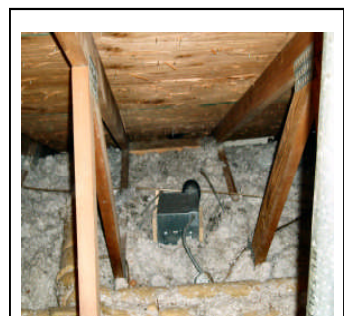
the road: **The lack of consistency in reporting especially on some thorny issues.**

Perhaps there is a need for a group of inspectors to get together and do some thinking about how to build some consistency into our reporting procedures. Everybody reads different stuff and comes to somewhat different conclusions about how things should be disclosed.

Home inspectors are an independent lot and each wants to maintain his identity by using his

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own report, developing his own inspection procedures, etc. That's fine but maybe all home inspectors are not created equal when it comes to disclosure practices! This might be a problem if one guy says FPE panels need to be replaced and another says that there is a panel, but he makes no recommendation as to further evaluation. A common disclosure statement hammered out among VAREI inspectors on important issues might go a long way towards establishing a little reporting consistency!



Bath fan not hooked up in attic. Scot Tully, Yorktown

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### The voice of Virginia's Home Inspectors

#### Newsletter

The VAREI newsletter will be published quarterly.

The next newsletter will come out in the winter of 2009/2010. Contributions and photos from inspectors are welcome. Items will be included in the newsletter at the discretion of the editor and the Board of Directors. Subjects should be of broad interest to Virginia's home inspectors. Ideas for articles including technical subjects also are welcome.

E-mail contributions to : hptw@infionline.net

**Mark your e-mail as a newsletter contribution.**

**The Virginia Association of Real Estate Inspectors (VAREI)** was founded as a non-profit association in 2000. VAREI's mission is twofold: to represent the home inspection industry in legislative and regulatory matters; and to promote excellence in the home inspection industry. The organization is headed by a Board of Directors consisting of eleven members. There are four officers; President, Vice president/president elect, Secretary and Treasurer. And seven elected board members. Officers serve a one year term. Board members serve alternating two year terms. There are four standing committees; education, membership, public relations and legislative.

The Board meets four times a year usually in October, January, April and August. Meetings are held at a central location in the state that is reasonably accessible to all board members. There is an annual meeting for all VAREI members on the first Saturday in October. The meeting usually is in Richmond.

## Q & A (cont. from pg. 2)

### There are two questions about hot water heating systems.

**Question 1. I always thought that a circulator motor pumped hot water to various levels in a house. But another inspector in my group said this is not the case. Who is right?**

The other inspector is correct as far as his answer goes. A circulator is not a pump in the sense that it does not lift water like a true pump. The water in the various radiators, convectors, and baseboards of a hot water heating system is already in the radiators. It is there because street pressure water comes to the boiler and is reduced to 12 psi but it still fills the radiators.

The circulator is just a water mover. Envision the spokes on a bike wheel or a Ferris wheel at

the carnival. When the circulator operates it moves all the water at once allowing heated water to travel simultaneously to all zones. There are some exceptions to this but this is generally how it works. So the circulator just rotates and the water moves! There is much more that could be said but not in this short space.

**Question 2. I find boilers a little scary with all the valves, etc. I know there is a back-flow preventer on the supply line but that's it. What do they do and how do I inspect them?**

Back-flow preventers are just a safety device to prevent boiler water, which is dirty and sometimes toxic, from being siphoned back into the domestic water supply if there is pressure drop in the local water supply. Should this happen, the water from the boiler tries to flow backwards

towards the city supply. The back flow preventer has a valve inside that closes and directs the reversing water through a vent pipe to the floor or wherever it dumps. The backflow device should empty to a place where it won't cause harm.

There are just a few inspection points on these back-flow preventers; first they should be on the street supply side of the **pressure reducing valve**. It won't work if it is downstream from the PRV. Second the BFPs should never be capped off—and they often are - thus sealing the vent opening; they should not drip, if they do have a contractor investigate. Last they should have an extension pipe on the vent opening at the bottom to direct water to the floor, sink, or some other out-of-the way location.



**Wet crawlspace.**



**Attic moisture. Vareii**