

ORDINANCE #2010-17

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, ESTABLISHING A CHINESE DRYWALL FUND NOT TO EXCEED \$250,000.00; AUTHORIZING THE CITY MANAGER TO ESTABLISH POLICIES AND PROCEDURES TO RELEASE FUNDS; ESTABLISHING WAIVER OF PERMIT FEES FOR HOMES BUILT WITH CHINESE DRYWALL; IDENTIFYING THE CODE COMPLIANCE DEPARTMENT AS THE DEPARTMENT FOR MONITORING RELEASE OF SAID FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Compliance Department of the City of Doral (the "City") has conducted several hundred inspections and confirmed over one hundred cases of properties in the City built using toxic drywall imported from China, which drywall causes malodor and severe corrosion to copper pipes, electrical wiring, air conditioner coils, etc.; and

WHEREAS, the cost to repair the damage caused by the toxic Chinese drywall and replace such drywall for each home that is not covered by insurance is between \$25,000 and \$100,000; and

WHEREAS, a separate grant fund needs to be established that allows for a waiver of permit fees associated with repairs of homes affected with Chinese Drywall; and

WHEREAS, the Building Department will be reimbursed from the grant fund for the costs of the permits to insure that the Building Department can sustain itself during this process;

WHEREAS, the Code Compliance Department has been proactively assisting home-owners whose homes have been identified with Chinese Drywall;

WHEREAS, it is the objective of the City Council to implement measures to alleviate the financial burden of residents whose properties are affected by toxic Chinese drywall, to preserve property values, and to encourage investment in rental properties;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. The Mayor and City Council of the City of Doral, Florida hereby authorizes the establishment of a Chinese Drywall Fund in the amount of \$250,000 to be managed by the Code Compliance Department.

Section 2. The Mayor and City Council approves the policy and procedures established by the City Manager (Attachment "A") of the waiver of permit fees by the Building Department and the release of funds from the Chinese Drywall Fund to compensate the Building Department for such waiver.

Section 3. The Code Compliance Department shall report back to the Mayor and City Council within a year of the adoption of this ordinance as to the status of the program.

Section 4. Repeal of Conflicting Provisions. To the extent any provision of the Code conflict with this Chapter, those provisions are repealed in its entirety.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity

of the remain sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. **Inclusion in Code.** It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Doral Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. **Effective Date.** This Ordinance shall be effective upon adoption on second reading.

[Section left blank intentionally]

The foregoing Ordinance was offered by Councilman Cabrera, who moved for its adoption.

The motion was seconded by Councilman DiPietro and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Robert Van Name	Yes
Councilmember Michael DiPietro	Yes
Councilmember Sandra Ruiz	Yes
Councilmember Peter Cabrera	Yes

PASSED AND ADOPTED on first reading this 9th day of June, 2010

PASSED AND ADOPTED on second reading this 11th day of August, 2010.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

 for:

JIMMY L. MORALES, CITY ATTORNEY

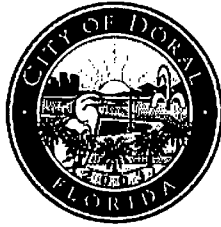


EXHIBIT 'A'

CODE COMPLIANCE DEPARTMENT CHINESE DRYWALL PERMIT & REMEDIATION PROCEDURES

I. PERMIT FEE WAIVER PROCEDURES:

1. Applicant shall submit the Chinese Drywall Permit Fee Waiver application forms to the Code Compliance Department Director for approval.
2. Applicant shall submit a permit application to the Building Department for remediation work associated with Chinese drywall. Copies of the Chinese Drywall Inspection Report from the Code Compliance Department and approved Chinese Drywall Permit Fee Waiver shall be attached to the permit application.
3. Applicant shall submit to the Building Department a complete scope of work for the remediation.
4. Building Department shall establish any additional requirements for the issuance of a building permit application for remediation work associated with Chinese Drywall.
5. Building Department shall notify the Code Compliance Department when a building permit application has been submitted to the Building Department for remediation work associated with Chinese Drywall. Code Compliance Department shall confirm with the Building Department that the property in the permit application has been inspected by the Code Compliance Department for Chinese drywall.
6. All permit fees, including upfront fees and additional trades fees, for a building permit application with a Chinese Drywall Permit Fee Waiver shall be paid to the Building Department through the "Chinese Drywall General Fund".
7. Building Department shall review permit application. Any fees due at the submittal of the permit application shall be paid through the "Chinese Drywall Fund" as described in the steps below. Once the permit application has been reviewed and is in Ready status the Building Department shall issue a permit and provide the applicant with a printed permit card.
8. At the end of each month, the Building Department shall submit a report to the Code Compliance Director of all building permit applications with a Chinese Drywall Permit Fee Waiver submitted to the Building Department during the month. The report shall include upfront and all associated fees to be paid to the building department for these permits processed during the month.

9. The Code Compliance Director shall, upon review of the Building Department monthly report, authorize the transfer of funds from the "Chinese Drywall General Fund" to the Building Department for payment of permits processed with a Chinese Drywall Permit Fee Waiver.
10. The Code Compliance Department will be responsible for drafting a check request to be forwarded to the Finance Department. The Finance Department will process the request through the normal channels and at no time will the request for payment be expedited.

II. RECOMMENDED REMEDIATION PROCEDURES:

Affected property owners, contractors, architects, engineers, and others engaged in the remediation work of homes with Chinese Drywall are recommended by the City of Doral to review the Interim Remediation Guidance for Homes with Problem Drywall¹ issued by the U.S. Consumer Product Safety Commission (CPSC) and the U.S. Department for Housing and Urban Development (HUD).

The Interim Remediation Guidance calls for the replacement of those building components, such as fire safety alarm devices, electrical components and wiring, gas service piping and fire suppression sprinkler system, for which the Chinese drywall might cause a safety problem. Other affected components such as non-Chinese drywall, HVAC units, or copper water service tubing are not included in this remediation as components that need to be removed because of a direct connection to safety.

On April 8th, 2010, in response to the Chinese Manufactured Drywall Products Liability Litigation, a federal judge issued a Findings of Fact & Conclusions of Law for the *Germano et al. v. Taishan Gypsum Co, Ltd., et al.*, Case No. 09-6687, United States District Court Eastern District of Louisiana². The Findings of Fact and Conclusions of Law include a Scope of Remediation for seven homes in Virginia affected by Chinese Drywall. Though this decision is only binding to the parties in the case, the scope of remediation may serve as a protocol for the rest of the houses affected by Chinese drywall.

Unlike the Interim Remediation Guidance, which addressed the removal of building components that may pose a safety risk; the Scope of Remediation issued by the federal judge includes the replacement of additional components in the house. Building components such as HVAC equipment, copper piping, building finishes, and others must be replaced under this Scope of Remediation. Also, included in the Scope of Remediation is a requirement for cleaning out the affected homes after remediation, and for certification that the home is safe for occupation.

Affected property owners, contractors, architects, engineers, and others engaged in the remediation work of homes with Chinese Drywall are strongly encouraged by the City of Doral to review the Scope of Remediation included in the Findings of Fact & Conclusions of Law, as it serves as the most complete protocol, at least at the present time, for the remediation of homes affected by Chinese drywall. Below is a summary of scope of remediation.

¹ <http://www.cpsc.gov/info/drywall/guidance0410.pdf>

² <http://www.laed.uscourts.gov/Drywall/Orders/Germano.FFCL.pdf>


Scope of Remediation Summary:

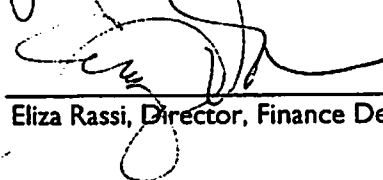
- All drywall in the affected homes, both Chinese and other, needs to be removed and replaced.
- All electrical wires and systems, including copper low and high voltage, phone, cable and other system wires need to be removed and replaced.
- All copper pipes need to be removed and replaced.
- The HVAC (heating, ventilation and air conditioning) units need to be removed and replaced.
- Selective electrical devices & appliances need to be removed and replaced.
- Carpet must be replaced.
- Hardwood or vinyl flooring must be replaced.
- Tile flooring may need to be replaced.
- Cabinets must be replaced.
- Countertops must be replaced.
- Trim, Crown Molding and Baseboards must be replaced.
- Bathroom fixtures must be replaced.
- Insulation must be replaced.
- Affected homes will need to be cleaned with a HEPA Vacuum, Wet-wiped or Power-Washed, & Allowed to Air-out after remediation.
- After remediation and independent, qualified engineering company should certify that the homes are safe for occupation.

All of these remediation standards are recommended for homes with substantial mixture of Chinese and non-Chinese drywall. Owners, contractors, architect and engineers are encouraged to meet with the City of Doral Building Department and the Code Compliance Department before beginning any remediation work in homes with Chinese Drywall.

III. CERTIFICATION OF REMEDIATION:

Upon completion of all remediation work, the homeowner must submit to the Code Compliance Director a document issued by an independent, qualified engineering company certifying that the remediated home is safe for occupation. Once the certification has been received by the Code Compliance Director, a Code Compliance Officer will conduct a final visual inspection of the home, and any existing open Code Compliance cases against a home, due to Chinese drywall, shall be closed.

Approved:  Date: 5/27/10
Yvonne Soler-McKinley, City Manager

Approved:  Date: 5/27/10
Eliza Rassi, Director, Finance Department