

The Importance of Fire Stopping in Construction

A CASE STUDY

By Robert N. Roop, P.E.,
Criterium-Lockatong Engineers

Scene: A planned residential community of 17 separate buildings and 88 individual units distributed in 4 to 6 units per building. Each unit has an attached 1 or 2-car garage and concrete driveway.

This association was constructed in two phases. The first phase was started in 1988. Eight buildings on four streets were constructed during this phase. The remaining buildings were constructed in 1994-95.

March 4, 2006 was an uneventful day for most of the residents. The weather was fair and cool with moderate winds. Many units have gas or wood burning fireplaces, including Unit 13. It being a cool day, the owner was enjoying the warmth of a wood fire. Late that evening, there was an alarming change for the worse.

Smoke alarms in the unit awoke the two young boys who then alerted their sleeping mother. With their escape route out the front of the house blocked by smoke and flames, the family raced to the rear second floor deck.

Neighbors in the adjacent units to the rear of Unit 13 were awakened by bright flames, smoke and a roaring noise. One neighbor, recognizing the danger, hurried to awaken the residents in the other five units in the building. All of the unit owners were able to exit safely.

By this time, the local volunteer fire department had mobilized and had two pump trucks and volunteers on site. The three residents of Unit 13 were rescued from the rear deck.

As the primary blaze was extinguished, fire fighters opened the fire wall cavities to adjacent units in search of hot spots and

potential sources of re-ignition. Fire fighting was completed by the early morning.

Damage to the unit was extensive. Only the one story slab-on-grade and the two-car garage survived. Most of the roof, second floor, and first floor had collapsed into the lower-level slab section. The rear exterior three-story wall and chimney chase were consumed in the fire.

Despite the intensity of the fire, the adjacent units suffered only smoke and water damage. However, the damage to these units was severe enough that the owners were required to reside elsewhere for six months for cleaning, repairs, and rebuilding to be accomplished. Adjacent owners did lose valuable and unique personal property to water damage.

Fortunately, the bylaws of the association require each owner to maintain sufficient insurance to rebuild to the original condition of the unit.

CONTINUES ON PAGE 18.

If we don't have your e-mail address, you don't have your full membership.

Most of your member benefits are delivered to your e-mail address: Links to the digital edition of *Common Ground*, e-newsletters like *Law Reporter*, *Fast Tracks*, *CEO Insights* and *Minutes*; news bulletins, legislative updates, announcements of special events and offers and much more.

Find out what you may be missing—update your e-mail address now at www.caionline.org/profile, or contact Member Services at cai-info@caionline.org or (888) 224-4321 (M–F, 9 a.m.–6:30 p.m. ET).


community
ASSOCIATIONS INSTITUTE



The shore WILL be restored.

Hueston McNulty

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

Value—Experience—Quality

With help, recovery is possible even after a disaster. We at Hueston McNulty, P.C. take this opportunity to say “Thank You” to the many Hurricane Sandy volunteers and emergency service workers.

Hueston McNulty, P.C.

Association General Counsel and Experienced Trial Attorneys

Samuel J. McNulty, Esq.

smcnulty@huestonmcnulty.com / www.huestonmcnulty.com

Super Lawyers

Tel: 973-377-0200 / Fax: 973-377-6328

Offices: Florham Park, NJ; Toms River, NJ; Blue Bell, PA; and New York, NY



Celebrating 36 Years!

Central Jersey's Most Trusted Name In Lawn Sprinkler Systems

- Let Us Reduce Your Watering Bills
- Your Irrigation System Is A Major Investment; Treat It That Way
- Backflow Certification Service Available

(908) 359-1898

DEP Lic #0016112

ken.scherer@hillsboroughirrigation.com





DPM
Diversified Property Management, Inc.
 COURTYARDS AT SMITHVILLE
 28 S. New York Road, Suite B-6
 Galloway, NJ 08205



Phone: 609.652.8793
 Fax: 609.652.5040
 Email: info@dpm-nj.com
 Website: www.dpm-nj.com

**PROVIDING FULL MANAGEMENT SERVICES SINCE 1991 FOR
 CONDOMINIUM, HOMEOWNER AND COMMUNITY ASSOCIATIONS**

FIRE STOPPING... from page 16.

The cause of the fire was traced to the wood burning fireplace chimney. Constructed of double wall metal, the flue itself was enclosed in a wood frame chase with OSB sheathing and wooden siding. Once the fire began within the metal flue, the rising temperature quickly exceeded the temperature rating of the flue. Joints or seams within the chimney failed and the flames escaped into the wood-chase. The fire quickly spread from there.

What can we learn from this tragedy? First there were several construction details and code requirements that saved the adjacent units. Except for the smoke detectors all the others pertained to fire stopping.

In multi-unit residential construction, the building code enforced in New Jersey has been very explicit about what fire protective measures are to be constructed. Party walls for most condominium must be constructed to resist fire a minimum of two (2) hours. They must remain structurally intact for the rating period and resist the passage of smoke and fire. Construction must be of approved noncombustible materials.

At this association, the original construction provided the fire rated construction the building code mandated. Post-fire inspections showed these critical elements were in place:

- Rated walls to adjacent units were damaged but prevented fire in those units.
- The rated walls extended to the underside of the roof sheathing and prevented the flames jumping from attic to attic.
- The roof sheathing at unit intersections was fire resistant, again preventing fire from spreading through the attics.
- Exterior wall sheathing was also fire resistant at the intersection of two units again preventing fire from jumping between units.
- And most importantly, smoke detectors awoke the occupants, alerted them to the danger, allowing a safe escape.

While all the points above are required by building codes, the importance of inspections to ensure proper construction of these vital structures should be obvious. This includes fire stops and sealing of all penetrations with UL approved materials and assemblies. During construction, a careful examination of these elements should be conducted.

Owners purchasing units during construction could retain the services of a professional engineer to make this inspection.

Community Association Law

- Proactive Collections Strategies
- Transition Negotiation & Litigation
- Zoning & Planning
- Alternative Dispute Resolution
- Employment Matters
- Document Review & Interpretation
- Corporate & Business Planning
- Enforcement of Restrictive Covenants
- Construction Defect Litigation
- Collections

Contact:

Loren Rosenberg Lightman, Esq.
Edward C. Eastman, Jr., Esq.

Monmouth Executive Center
 100 Willowbrook Road
 Freehold, New Jersey 07728

732-462-7170

Fax 732-462-8955

www.Lomurrolaw.com

Appointments also available in our Toms River office:

9 Grand Avenue, Building 2, Suite 2A
 Toms River, NJ 08753

*Excellence In The Practice Of Law
 Dedicated to Addressing Our Clients' Legal Needs*

LOMURRO | DAVISON
 LOMURRO DAVISON EASTMAN & MUÑOZ P.A.



Associations in transition should also make sure a representative number of unit attics are inspected to confirm party walls extend to the underside of roof sheathing and the sheathing itself is fire rated.

Existing units have only a limited potential for firewall integrity inspection. To the extent they are visible in the attic, it is recommended they be inspected.

Regularly checking operation of smoke alarms is also a must. Older units with battery-powered detectors should consider a renovation with hard wired, battery back up units. The life saving potential of these devices is worth a special assessment.

New Jersey now requires carbon monoxide (CO) detectors to be installed in new construction, when a unit is sold or transferred or for a Certificate of Occupancy after a building permit is pulled. Do not wait, install one now near the sleeping areas and make them an association bylaw condition.

Chimneys, for many associations, are not community property and their maintenance, including cleaning, is an owner responsibility. For those associations where wood burning is a possibility, an annual cleaning requirement is one way to go. Another option could be an association wide contract negotiated with a qualified chimney sweep firm for the annual cleaning and inspection of all chimneys.

Then there is the chimney itself. At a minimum it should be a rated UL 103 or UL 103HT for solid fuel burning. Check building plans to confirm the proper chimney was specified. If it can't be determined, an inspection will be necessary.

Finally insurance. This association was fortunate that their bylaws require an owner maintain sufficient insurance to rebuild to the pre damage, original construction conditions. Is a similar condition in your bylaws?

The owners of units on Court Street were lucky. Proper design and construction helped prevent loss of life. A disaster, yes; inconvenience and frustration, certainly; terror and post-traumatic stress, for sure; however, with attention to a few more details the probability of a fire could have been reduced further. This case is a good lesson for all of us and one every association and homeowner should study. ■

Robert N. Roop is a Professional Engineer with over 40 years of experience in providing engineering services. He is responsible for the process and execution of all engineering projects at Criterium Lockatong Engineers. The firm's focus is comprehensive investigations of buildings and associated property.

Investment of Community Association Cash and Reserve Fund

Services provided:

- Fixed Income Laddered Portfolios
- Investment Advice
- Presentations to Association Boards
- Monthly Statements
- Financial and Retirement Planning

Allen F. Levy

Vice President—Wealth Management
Financial Advisor
Financial Planning Specialist

Steven L. Tebeleff

First Vice President—Wealth Management
Financial Advisor
Financial Planning Specialist

400 Campus Drive
Florham Park, NJ 07932
800-526-9075

**MorganStanley
SmithBarney**

A Morgan Stanley Company

The investments listed may not be suitable for all investors. Morgan Stanley Smith Barney LLC recommends that investors independently evaluate particular investments, and encourages investors to seek the advice of a financial advisor. The appropriateness of a particular investment will depend upon an investor's individual circumstances and objectives.

Tax laws are complex and subject to change. Morgan Stanley Smith Barney LLC, its affiliates and Morgan Stanley Smith Barney's Financial Advisors do not provide tax or legal advice and are not "fiduciaries" (under ERISA, the Internal Revenue Code or otherwise) with respect to the services or activities described herein except as otherwise agreed to in writing by Morgan Stanley Smith Barney. This material was not intended or written to be used for the purpose of avoiding tax penalties that may be imposed on the taxpayer. Individuals are urged to consult their tax or legal advisors before establishing a retirement plan and to understand the tax, ERISA and related consequences of any investments made under such plan.

© 2011 Morgan Stanley Smith Barney LLC. Member SIPC.

NY CS 6695395 04/11

SPECIALTY BUILDING SYSTEMS



Proof positive

Duradek is the ultimate method of waterproofing decks and walk-on roofs.

7099 William Penn Hwy.
Easton, PA 18045-2936
www.specialtybldgsystems.com

Toll Free: (800) 765-9865
Fax: (610) 954-0598
E-mail: sbsddek@verizon.net

Visit www.cainj.org...IT'S ALL NEW!