

Entran II Poses Problems with Properties

11 Lawsuits Pending in Colorado and Many More in the Works

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Despite the successes in Colorado's residential and commercial real estate markets over the past several months, some REALTORS® may find their profits going down the tubes-literally. Entran II, a rubber tube used in residential and commercial building, which has caused and continues to cause great expense for the construction industry, is beginning to ensnare the real estate brokerage profession.

Reports regarding failures of Entran II hoses in properties in Colorado commenced as early as 1995, but the wave of lawsuits and horror stories raised to alarming levels in 1998. See article "The Heat is on in Colorado" in the Colorado REALTOR® News, February 1999. Currently, there are 11 lawsuits pending in Colorado involving 17 residential properties, with many, many more in the works. REALTOR®s need to understand the problem and take reasonable steps to avoid drowning in this flood of litigation.

What Is Entran II?

Entran II is a rubber hose used in radiant heating systems and snowmelt systems in homes and commercial properties. It was manufactured by Goodyear Rubber and Tire Co. for Heatway Systems from approximately 1989 to 1993, and used in construction in Colorado from approximately 1990 to 1994. The hose was installed under floors, above ceilings, behind dry wall and paneling, below patios and decks, in crawl spaces, and sometimes directly encased in concrete. The orange-colored hose is connected to manifolds and one or more boilers. Heat is transferred throughout the system by the water and glycol fluid which is heated in the boilers to levels of approximately 140 to 180 degrees Fahrenheit.

Although several other radiant heating systems and snowmelt systems were available in the marketplace, the Entran II system was used in Canada and the United States, especially the Rocky Mountains and New England. It was thought to be more flexible, easier to install, and less expensive.

The Entran II tube was warranted for 20 years. Unfortunately, property owners discovered that, after operating for only a few years, the hose became discolored (chalky white), embrittled (almost hard), and cracked. Soon, the system failed and, additionally, many homeowners suffered leaking of the glycol/water fluid which caused additional damage.

Currently, Entran II failures are most prominent in cold weather climates where the systems have been and are operated for longer periods, such as the Rocky Mountains, New England, and Canada. However, many experts believe that all Entran II is defective and will ultimately fail, thereby affecting properties in warmer areas such as Colorado's Front Range.

Property Owner's Dilemma

A property owner with a radiant or snowmelt system faces a dilemma. Often the hose is covered and not open to visual inspection. Since systems may contain products which are not failing, the property owner or prospective property owner must hire a radiant heating inspector to investigate the system and render an opinion. Sometimes, the investigation is not conclusive and even if Entran II is discovered, it may not show signs of failure at the time of the investigation. Does the owner do nothing in hopes the system does not fail?

If the owner takes remedial action, replacement of radiant heating system and snowmelt system containing Entran II can be extremely expensive. Replacement and repair costs for residences in Colorado range from \$30,000 to \$1 million per residence. This high cost is not surprising when you consider that the replacement of the system may require tearing out the floors, walls, ceilings, decks, driveways, cabinets, tile, appliances, and plumbing.

If the property has or may have Entran II, REALTORS® in the Mountain District are discovering that the property may be stigmatized because of the Entran II, thereby requiring a large price reduction or making the property unsaleable. Thus an owner who suspects Entran II faces a dilemma whether to do nothing, repair, or replace.

This dilemma and the high cost of replacement and repair have prompted property owners to file litigation to recoup their losses and damages. The targets of such civil litigation include Goodyear, Heatway, contractors, installers...and real estate brokers involved in the sale or purchase of the property.

Avoiding Liability

Don't try to become an expert on Entran II, radiant heating systems or construction so as to advise sellers or buyers. If you do, it will only increase your liability. Rather, follow a few simple rules.

If you are serving as an agent for the seller, or as a transaction broker working with the seller, ask the seller if the property has a radiant heating system or snowmelt system and does it have Entran II? If so, disclose that fact to the buyer - preferably in writing.

If you are serving as a buyer's agent, or as a transaction broker working with the buyer, ask the seller or the listing broker whether the property has a radiant heating system or a snowmelt system and does it have Entran II? If so, disclose that fact to the

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buyer. If the property has a radiant heating system or snowmelt system installed within the time period 1990 through 1994, recommend to the buyer that they have the property inspected. Such inspection can be done by radiant heating installers, plumbers, or mechanical engineers.

Most importantly, regardless of your role in the transaction, consider using a written disclosure in any transaction where you, the seller, or the buyer suspect that the property may contain Entran II or if the buyer is concerned about Entran II.

Disclosure Pertaining to Entran II:
Written Disclosure: The property may contain a radiant heating system and/or snowmelt system with an Entran II hose. Some property owners have experienced problems with Entran II hoses. If you have concerns about purchasing a property containing Entran II hose, you should have a professional inspect the system.

There are no guarantees that these simple rules will insulate you from lawsuits, but they should help you avoid being hosed by Entran II while watching your hard-earned money go down the tubes.

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