

# **CHINESE DRYWALL REMEDIATION AND FUNDING ACTION PLAN**

## **RECOMMENDATIONS TO THE LOUISIANA RECOVERY AUTHORITY (LRA)**

### **SUBMITTED BY THE LOUISIANA & NEW ORLEANS HOME BUILDERS ASSOCIATIONS**

#### **I. EXECUTIVE SUMMARY**

In an effort to develop a prospective financing source to address the adverse impacts of Louisiana's tainted Chinese drywall problem, the Louisiana and New Orleans Home Builders Associations (HBAs) submit this proposed Action Plan for immediate review by the Louisiana Recovery Authority (LRA).

As previously documented, in the aftermath (late-2005 through 2006) of Hurricanes Katrina and Rita, there was a scarcity of construction materials, including drywall, available in Louisiana due to the vigorous efforts associated with the rebuilding and renovation of approximately 200,000 damaged/destroyed homes. As a direct consequence, several million pounds of drywall were imported into the U.S. from China, with the majority of it coming through ports in Florida and Louisiana. As has been heavily reported, a percentage of this imported drywall later proved defective, manifesting noxious smells, corrosion of wiring, plumbing, coils, and failure of appliances and other household materials. The tainted Chinese drywall has affected homes all over the nation, with the lion's share of those homes being in Florida and Louisiana.

In light of this very complex problem, which first became apparent in Louisiana in approximately March of 2009, the HBAs have been working to find solutions to the two problems confronting homeowners – 1) how to repair, renovate or remediate a home with defective Chinese drywall, and 2) how to pay for the costs of repair. By virtue of this Action Plan, the HBAs request that the LRA, as a logical source for remediation money given its mission to assist homeowner victims of Hurricanes Katrina and Rita, step in to assist affected homeowners in accordance with the following recommendations.

The central goals which have instigated the HBAs to submit this plan are 1) to allow impacted homeowners to repair their homes, and, preferably to return home quickly and confidently as possible, and 2) to allow homeowners to do so without losing their rights to pursue legal recourse as they individually deem appropriate.

We believe that LRA alone has the ability to help homeowners accomplish these goals for Louisiana homeowners and that the previously utilized Road Home model and process generally serves as a viable tool for implementing this plan.

## Part 2

### **II. SCOPE OF THE PROBLEM**

The National Association of Home Builders (NAHB) estimates that 11% of the defective Chinese drywall imported into the United States was brought into the Port of New Orleans and used in South Louisiana and the Mississippi Gulf Coast. Based on a review of all available relevant sources and records, including various state and federal databases and legal filings, the Home Builders estimate that the number of affected homes in Louisiana is approximately 700 to 1000.

### **III. INSPECTION PROCESS**

The Consumer Product Safety Commission, the Florida Department of Health, and the National Association of Home Builders (NAHB) have all released recommended protocols for the inspection of homes to determine whether defective Chinese drywall is present. Each protocol is valid and the HBAs recommend the use of these protocols, where appropriate for each home. There have been a number of private entities that have suggested inspection methodologies costing thousands of dollars per home. The HBAs believe that such expensive testing is unwarranted.

### **IV. REMEDIATION PROTOCOLS**

The first attached document represents a set of “evolving solutions” to the Chinese drywall problem. Presented by Marsh USA, Inc., on behalf of the National Association of Home Builders (NAHB), this document encompasses over one year of research and study by industry experts, including building scientists, construction consultants, medical professionals, insurance professionals, legal professionals, and others.

The NAHB, based in Washington, D.C., is an industry-leading residential & light construction professional trade association, comprised of 175,000 members nationwide. Please also find attached an “Interim Remediation Guidance” document by CPSC, released April 2<sup>nd</sup>. While various other “remediation protocols” are presently being evaluated by federal, state, and local agencies, courts, and other research entities both public and private, the HBAs recommend that the LRA give strong, immediate consideration to the use of the NAHB/Marsh document and the CPSC document, both as a guide to remediation, and when evaluating potential financial assistance for affected home owners. Please also note that the repair protocol developed by

NAHB/Marsh is very similar to that being proposed by the Plaintiff's Steering Committee in the pending federal Chinese drywall litigation, and there appears to be a consensus developing around this methodology. Utilization of these protocols would not prevent or preclude use of other remediation methods should they be determined to be as effective or less expensive, but will allow the repair process to proceed now.

## **V. REMEDIATION COSTS**

The cost to repair any given home will vary widely given the diversity of homes affected, but in most cases the HBAs estimate that the protocol recommended by the NAHB can be implemented for a cost of no greater than \$69 per square foot exclusive of alternate living expenses and damage to personal property. As a very approximate guide to the cost of remediating all affected Louisiana homes, if one estimates the average home to be 2,000 square feet, sets the cost of repair at \$58 per square foot, and estimates that there are 1,000 affected homes; the total remediation cost appears to be approximately \$100,000,000.00.

## **VI. FINANCING**

The HBAs recommend that the LRA establish a fixed repair cost of \$58 per square foot. While this 'one size fits all' solution will clearly not be appropriate in all cases, it will address the typical home and will expedite the process. Time is critical because most homeowners have been forced to remain in their homes due to lack of economic alternatives. Funding should be made directly to the homeowners upon submission of a repair contract with an appropriately licensed Louisiana contractor.

The HBAs further recommend that the homeowners be required to assign their property damage claims, to the extent of the funding received, to the Louisiana Recovery Authority. Those claims can then be pursued by the state in the litigation against the manufacturers of the defective Chinese drywall. The HBAs strongly believe that homeowners should be allowed to retain their claims for personal injuries and other property damage to be pursued as they deem appropriate.

## Part 3

**VII. ELIGIBILITY REQUIREMENTS**

To obtain financing from the LRA, the LRA should allow all current Road Home applicants to receive funding and should reopen the application process to allow participation of those who have not previously applied for Road Home assistance but who own affected homes. The HBAs recommend that qualified applicants be required to submit only the following documentation.

- **Title to the home.**
- **A report prepared according to one of the approved inspection protocols certifying that the home contains defective Chinese drywall.**
- **A contract with a licensed Louisiana contractor for the repair of the home pursuant to the NAHB/Marsh or CPSC protocols or another approved protocol.**
- **An inspection report at the conclusion of the repair certifying that the home has been repaired according to the contract and the approved protocol.**

**These minimal application requirements will help streamline the application process, reduce homeowner frustrations with a cumbersome, complicated and time consuming process, and allow the program to be administered by the state with a minimum of cost and personnel. Moreover, this proposal serves to assist affected home owners in a far more timely and efficient manner than does protracted litigation.**

## Part 4

**VIII. PROPOSED TIMELINE OF IMPLEMENTATION ACTIVITIES**

April 8	HBA's proposed plan of action submitted to LRA, Governor Jindal, Attorney General Caldwell, members of the Louisiana state legislature and members of Louisiana's Congressional delegation
April TBD	LRA to vote in support of this plan or a suitably modified version
April TBD	Necessary state legislation filed to support implementation of the plan (following Joint Budget Committee action)
April TBD	LRA, Governor, notify U.S. Department of Housing and Urban Development of the plan and Louisiana's intention to utilize federal recovery dollars accordingly
May, June	Relevant legislation approved by state legislature
May, June	LRA begins work to establish application guidelines, protocols and processes
May, June	LRA begins public education campaign and notifies home owners of established guidelines, protocols and processes
June TBD	LRA opens application process, continues public education and awareness outreach
	- State conducts in-house inspections (through Louisiana licensed contractors)
July TBD	Application process closes
July TBD	Applicants notified of acceptance, rejection and relevant funding availability
July TBD	Appeal process opens / closes
August	Home remediation begins
	- removal of interior of homes (2 weeks)
	- air out homes / clean with HEPA vacuum (2 weeks)
	- replace interior of homes (45 to 60 days)
September	Home remediation ends
On-going	State pursues legal claims, damages from relevant drywall manufacturers

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September Final test and issuance of certificate of remediation