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Home / News / Local

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# Buckingham homeowners' battle with Toll shines light on widespread water damage problem

By Crissa Shoemaker DeBree, staff writer Jun 16, 2017



Art Gentile/Photojournalist

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Joe Steffe points to an outside wall of his Buckingham Forest house he says is blackened due to water seepage and mold. He and his wife are in arbitration with the builder, Toll Brothers, about repairing the home.

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When Kim Shaffer and Dave Wolk moved into their Buckingham home in August 2002, they felt they had achieved a lifelong dream.

They said the estate home, built by Toll Brothers, signified their years of hard work had paid off.

"It meant something," said Shaffer. "I was excited when we learned we were going to move into a Toll home."

Now, however, the couple and some neighbors in their Buckingham Forest development are battling Toll Brothers over what they say is water damage beneath the stucco and brick facades of their homes — damage they and the housing inspectors they hired attribute to improper building practices. Some homeowners say they face repair bills of \$100,000 or more to homes that are rotting from the inside out.

Toll Brothers is replacing the exteriors on some newer homes in the neighborhood, but has refused — in most cases — to fix houses that are more than 12 years old. That's the general limit state law sets for holding builders liable for construction defects, although in some cases homeowners could have up to 14 years to file a claim if there's an injury or death related to the housing defect.

"Our homeowners enjoy the full protection and the right to make claims under the longest warranty in our industry — 10 years," the company said in a statement. "Toll Brothers has committed to repair all homes within our warranty, and we have also committed to repair these water intrusion issues on homes in Pennsylvania that are up to 12 years old. The law in Pennsylvania provides an outside date beyond which claims may not be asserted — 12 years from completion of construction."

That's leaving Shaffer, Wolk and some other residents of Buckingham Forest fuming.

"I'd like to see Toll do the right thing, take care of the action that needs to be taken, fix the homes the way they were promised in the beginning, and move forward. Not just for us, but for all the neighbors," said Andrew Turk, whose 13-year-old house has water damage beneath the stucco, according to an inspection. Toll has rejected his warranty claim.

Housing inspectors and construction attorneys say the problem extends beyond one builder and one development to involve homes across the country. Southeastern Pennsylvania, they say, has been hit especially hard by building failures — so much so that building scientists refer to the region as the "stucco failure capitol of the U.S." Stucco has been used on the exterior of many homes in Buckingham Forest, where the current asking price for homes is in the mid \$600,000s.

"We're seeing these failures because builders universally failed to build and construct these houses in accordance with the building codes that were in place at the time," said attorney Jennifer Horn. Her firm, Horn, Williamson LLC, represents 250 families in the region in construction defect cases, including some Buckingham Forest homeowners.

"In a rush to build as fast as possible to make as much money as possible, these builders were doing three things wrong," she added. "They were not having appropriate oversight in the field. They're putting money before product and quality. And thirdly, most importantly, they're not paying attention to the details."

Rob Lunny, of Lunny Building Diagnostics in Warwick, who said he's inspected 80 of the roughly 200 homes in Buckingham Forest, agreed. He said the failures are due to improper water management, not building materials. He said many homes he inspected have missing or improperly installed flashing — the strips of water-resistant material installed around windows and doors, at roof intersections and other areas where water could enter a structure. He also said some gutters are too small to handle runoff and some homes lack elements to prevent water from seeping through exteriors. He said he's seen similar problems at other developments built by other builders.

"This is not a stucco issue," he said. "This is a water management issue."

Toll Brothers didn't respond to specific questions about Buckingham Forest or the allegations of its homeowners, and it's unknown how many homeowners in the development have filed warranty claims. The Pennsylvania Builders Association, a professional organization for contractors throughout the state, declined to comment on specific building materials or builders.

"We firmly advocate for using best practices in construction material and installation," the association said in a statement. "PBA encourages its members to use the most current codes and management practices with all aspects of home construction and improvement."

### 'A home with cancer'

Wolk and Shaffer said they never had any reason to suspect there was damage beneath their home's stucco exterior until about two years ago, when their neighbor paid for a stucco inspection before putting his house up for sale. When that inspection turned up damage, which Wolk said the homeowner paid to fix after Toll Brothers rejected his warranty claim, the couple began to investigate. They and others quickly learned about homeowners' stucco woes — especially in southeastern Pennsylvania.

Frank Hendron, of the Northeast Inspection Corp. in Delaware State, has been involved in code enforcement for decades, and helped write the national building standards for stucco application and water management.

While he hasn't inspected any Buckingham Forest homes, he said, generally "there's a multitude of reasons (for exterior failures). The Northeast, first of all, is problematic for our weather pattern. We have all the seasons. We love that. The building doesn't love that."

Frequent rain and wide temperature swings can wreak havoc on structures, he said, and if all building details aren't properly installed and integrated, a building may fail. "That's a problem that goes back to all builders," he said. "There's a huge lack of supervision. Most builders today don't build a house. They subcontract."

Wolk and Shaffer said they were in denial until Lunny did a test that found high moisture levels near the chimney and around windows. The inspector blamed improper installation and design. It will cost anywhere from about \$35,000 for spot repairs to more than \$100,000 to remove and replace the stucco with vinyl siding, the homeowners said.

"You sort of feel like you're living in a home with cancer," said Wolk. "You can't really see it. You're told it's there. You're not sure how to respond to it. Do I pay out of pocket to fix it and have the cancer go away?"

But the issue isn't just with stucco homes.

Chris White, who moved into Buckingham Forest with his family in February 2004, said Lunny's inspection turned up moisture damage under his home's brick exterior. Lunny's report also points out deficiencies that include improperly installed windows and missing "weep holes" in the brick to let water escape.

"I have about \$80,000 worth of window/door work, but the bigger scope is, the brick really needs to come off," said White. "It's really like a couple hundred thousand dollar issue to fix the entire home."

White said he's submitted a warranty claim to Toll Brothers, but he expects it to be rejected because his home is beyond Toll's warranty period.

Toll is repairing some homes in Buckingham Forest, which it began building off Forest Grove Road in the early 2000s. At least one of those homes is older than 12 years; Toll recently replaced a 14-year-old home's stucco chimney after inspections found mold in a child's bedroom closest to that area. Toll has refused, however, to replace that home's brick and stucco siding.

"That was the Band-Aid," said Tamra Adams, who owns the home with her husband, Brett. "We still have the wound. The other damage you won't really know until you take down the sides of the house."

### **Toll's costs rising**

In its statement, Toll said it no longer uses stucco in this region because it is "a challenging building application for this climate.

"As we have publicly disclosed, Toll Brothers has received requests from homeowners in the region to inspect and remediate stucco and water infiltration issues on their homes," the Horsham company said. "This is an industry-wide problem."

It's also a costly one.

According to documents Toll Brothers filed with the U.S. Securities and Exchange Commission, the company estimated in fiscal year 2014 that it would spend \$54 million on "known and unknown" warranty claims for stucco homes. About half of that was expected to be reimbursed by its insurance. By the end of fiscal 2015, estimated costs for such work rose to \$80.3 million.

"We believe these claims are attributable to local construction practices employed by independent contractors in this region," the company said in its 2016 annual report.

When Toll ended its fiscal year last October, it estimated its liability had grown to approximately \$324.4 million. Approximately \$115.5 million of that would go to fix water intrusion at non-stucco homes, Toll Brothers aid.

As of April 30, Toll said it has spent \$171.8 million on water intrusion claims this year. Earlier this month, the company disclosed in a footnote in its quarterly earnings report, that the Securities and Exchange Commission is investigating its repair estimates. Toll said it would comply with the agency's request for more information, adding, "Management cannot at this time predict the eventual scope or outcome of this matter."

### **Next steps**

Buckingham Forest homeowners whose warranty claims have been denied say Toll Brothers should have told them their homes might need repairs before the warranties expired.

"This is negligence," said Mitch Goldstein, whose warranty claim for his 15-year-old house has been rejected. "When you don't do something you're supposed to do, it's negligence. They knew about the issue and never disclosed it."

Goldstein isn't taking the denial quietly. He and Wolk have become leaders of an effort to rally their neighborhood into action. Dozens of homeowners have attended recent meetings at the Buckingham municipal building, where they've discussed options and heard from attorneys with expertise in construction defect cases. At least one meeting drew residents of other Toll Brothers neighborhoods who said they have the same problems.

Wolk and Goldstein said they've both filed consumer complaints with the Pennsylvania Attorney General's Office. The office doesn't comment on complaints or investigations, but has acted against construction companies before. In October, the attorney general sued Montgomery County homebuilder The Cutler Group for what it said was faulty stucco installation and failure to respond to warranty claims. The lawsuit is pending; a spokesman for the office

declined to comment on the lawsuit.

Homeowners also are lobbying their legislators in the hope of changing state law to make it easier for homeowners to hold builders liable for defects, even after the 12-year statute runs out. While Hendron, the housing inspector, said Pennsylvania law also should require more frequent inspections of homes during construction, he added that proper home construction is the builder's responsibility.

"(Builders') first responses are, 'The code official signed off, he said I did everything right,'" Hendron said. "That's not what the job of the code official is. It's not his job to oversee or supervise. He's not saying he was there every day. There were spot checks the state has delegated for him to check. It is the permit holder's requirement to build to code."

Goldstein said some neighbors have started passing out flyers at newer Toll Brothers developments, encouraging owners to get their homes inspected before the warranties expire.

"My ultimate goal is that everyone in this neighborhood is corrected, regardless of warranty," he said. "Make everybody whole; just do the right thing."

### Feeling trapped

Danielle and Joe Steffe said they felt the same as Wolk and his wife did about their new home when they moved in, in 2003. "I bought a Toll Brothers home thinking I was buying a cut above," said Joe Steffe, a dentist.

Not once did the couple think their brick home could have a problem until neighbors started talking late last year about their own water problems. A December inspection found water damage and a mold test found spores in the family room. A subsequent test by a Toll Brothers inspector, however, found no traces of mold anywhere except the basement. Still, the couple worry the presence of mold may be impacting their family's health.

The Steffes, who are being represented by Horn and Williamson, recently entered arbitration with Toll. Arbitration is an independent process to resolve disputes outside the court system, and is often mandated in contracts. The Steffes hope Toll will agree to fix their home.

"They sold us our home," Danielle Steffe said. "It was supposed to be perfect. You (Toll) did not meet your side of the bargain. You sold us a bill of goods, a house that was not sound structurally. I don't understand why you can't fix it. The house is 14 years old, not 54 years old."

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