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PLAINTIFF'S EXHIBIT WRG-807

GRACE

Construction Products Division

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SUBJECT: Asbestos Issues

Some further publication coverage on the recent decision to ban loans on commercial buildings containing asbestos, made by Aetna Life & Casualty, Metropolitan Life and Prudential Insurance. The editorial by ENR provides a rational approach to the overall "asbestos hysteria".

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Attachment

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ENR News

July 10, 1986

Asbestos in buildings scaring lenders away

The real estate lending units of three of the nation's largest insurance companies are closing the door on loans for commercial buildings containing asbestos. Their action and a tightening up by other lenders may put even more pressure on owners to have the carcinogen removed or encapsulated.

The ban by the insurers includes both the purchases of buildings for their own portfolios and financing for outside investors. It has been adopted over the past few months by the Aetna Life & Casualty Co., Metropolitan Life Insurance Co. and the Prudential Insurance Co. of America.

"It's a market-driven strategy" because the material "hurts the economics of the buildings," says James Richmond Jr., president of Aetna Realty Investment Inc., Hartford. He explains that his firm will not purchase or finance the purchase of buildings containing asbestos because "major tenants are not willing to lease space in buildings with asbestos." Those currently leasing space in such buildings will probably move when their leases expire, he adds.

Asbestos removal may pick up in private buildings.

Choosy tenants. Richmond points out that tenants "have a choice" of where to rent because of a glut of new office space in many cities. If many tenants leave, foreclosure is a possibility and Aetna and other lenders are afraid that they may be left holding an unmarketable building and a big asbestos removal job.

Some courts have also refused to insulate commercial lenders from environmental hazards on foreclosed property. In one Maryland case, for example, a federal district court held a bank liable for cleanup of toxic wastes on a foreclosed property. "Financial institutions are in a position to investigate and discover potential problems in their secured property," said the judge in *U.S. v. Maryland Bank and Trust Co.*

There is some flexibility in Aetna's lending ban, however, when small amounts of asbestos are involved, such as in a boiler or instrument room. Richmond says his company will commit to a loan as long as the material is removed by the time the deal is closed. It is a "condition of closing," he adds.

Metropolitan's real estate division claims that it, too, looks at asbestos "on a case-by-case basis." But "at the current time, Metropolitan is not providing financing for buildings that contain asbestos," says a spokeswoman who declines further comment. "It's a very sensitive issue," notes another official.

At Prudential Realty Group, Newark, N.J., there are no exceptions to the lending ban. "We're no longer doing it," says a spokesman. He explains that the company is concerned about the affect of asbestos on public health and property values, especially in light of changing government regulations on what constitutes acceptable levels of exposure. According to the spokesman, Prudential stopped buying buildings containing asbestos "quite a few years ago" and, until recently, had been providing financing with a requirement that purchasers remove the material.

No slack. At least one commercial bank says the insurers' tough stand on asbestos is partly due to their volume of business. "They have more business than they know what to do with," says Lloyd Ludwig Jr., senior vice president of the real estate division of National Westminster Bank USA, New York City.

Although Westminster will finance the purchase of buildings containing some asbestos, prospective owners must present an engineering report and obtain adequate insurance covering removal. In addition, the bank will seek guarantees by the principals and hold a portion of the loan money to ensure that the asbestos is removed and disposed of properly. "If the building has asbestos ceilings throughout, we would probably hold off on it," says Ludwig.

One real estate expert claims that the lending crunch is the result of media-induced asbestos "hysteria" that reached a peak six or eight months ago. She believes it may be subsiding as people learn that they can safely manage it in place. "There was a reluctance [to lend] on the part of everyone and nervousness," says Deborah Beck, vice president for legislation at the Real Estate Board of New York. "What we have now is a more calm perception of asbestos as a material . . . and lenders will look for responsible purchasers who they know will treat it with respect."

One association that represents some large asbestos removal firms condemns any blanket loan restrictions involving asbestos, even though it may create more business for members. "If it is a blanket rule, it is ridiculous," claims Joe M. Baker Jr., president of the Association of the Wall and Ceiling Industries-International. Baker recommends a case-by-case approach because asbestos can be often left in place safely. ■

By William G. Krizan

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Affirmative action clarified

In spite of Reagan administration noises to the contrary, it appears that race and sex-based affirmative-action plans will be a fixture of American life for some time to come (see p. 52). This is the way it should be—at least for a while, and with some controls.

No one likes being discriminated against, be it a white male caught up in a reverse-discrimination plan labeled affirmative action, or a black worker who never really knows why he didn't land a particular job. The latter situation is the flaw at the heart of the Reagan administration's proposal that race-based affirmative-action plans be available only to those individuals who can prove that they were the victims. Discrimination has been so pervasive and elusive that obtaining such proof is akin to nailing Jello to a wall.

On the other hand, it is wrong for government to trample the rights of citizens to correct a supposed wrong. Unfortunately, the Supreme Court's eight opinions on the matter do not give much clear guidance on what the path should be.

Affirmative-action programs should be reserved for wrongdoers, by implication or by evidence. Part of the equal opportunity assessment is—and should be—the numbers game. Although that sets a vicious trap that frequently leads government overseers astray, thoughtful administration on their part could make affirmative action much more palatable. For example, a construction company that has a work force composed of 98% women and minorities should not be grilled by G-men because it falls short in only one craft. On the other hand, a good-sized contractor that never had a minority worker should be roasted.

By managing affirmative-action plans like any other business program, government and the courts will achieve the desired employment objectives and yet preserve basic individual rights of all citizens.

Computer innovation...

Concrete consultant James Shilstone is using computers to wipe out the long-accepted excuse that variations in natural materials—sand, stone, etc.—make scientific concrete mix design and quality control impossible. Shilstone is marketing two microcomputer-based programs, developed for use by designers and contractors as well as at batch plants. They allow fine-tuning of mixes by calculating the combined effects of the specific ingredients in a plant at a given time. That provides better consistency and pumpability. It can also foster more efficient use of mix materials.

Shilstone laments that the concrete field "is not susceptible to change." But he keeps trying to foster a more professional approach to concrete production. Last year, he introduced a low-cost program for portable computers to help technicians in the field make better concrete mix decisions (ENR 4/11/85 p. 27). His latest programs are light years advanced in sophistication but still relatively low in cost. His first customers register unqualified enthusiasm for the software (see p. 20).

Shilstone keeps knocking at the doors of concrete producers with better tools. It's up to them to let him in and change with the times.

...an institution to broadcast it

The annual A/E/C Systems computer show is a growing and valuable institution in a field that is still in its infancy. Attendees complained of canned demonstrations, sensory overload and tired feet during the week-long show, but they still regard it as the place to come and see all that is available to them in the way of hardware, software and peripheral equipment for computer-aided design and engineering (ENR 7/3 p. 14).

This year's show in Chicago had a host of notable first-time exhibitors. There were 13 concurrent conferences on such subjects as computer-assisted construction management, reprographics, intelligent buildings and facility management. And if that wasn't enough, registrants could also attend a concurrent computer-aided manufacturing show.

The show is a perfect place for browsing, for dabbling on this system or that, for comparison shopping and for meeting and talking to others about their experiences. It's a real education for both the well informed and the uninitiated.

Keeping asbestos in perspective

The ban by some lenders on loans for the purchase of buildings containing asbestos points out the need for more education regarding the management of asbestos as a building material and a little less hysteria (see p. 10). Asbestos is a known carcinogen and all proper precautions should be taken to avoid unnecessary exposure to the material. Quite correctly, its days as a building product in new buildings are over. In older structures, however, asbestos silently performs some of its jobs superbly while posing no threat to human occupants of the building.

We support lenders who examine buildings on a case-by-case basis, favoring responsible owners who will respect hazardous material and hire certified removal contractors when necessary. Those same owners would be frozen out of the market if funds dried up for such purchases, creating the growing specter of rip-and-skip removal. Even worse is the potential for mass abandonment of unmarketable buildings after unscrupulous owners have squeezed everything they can out of them, as in the the South Bronx. In such cases, everyone loses.

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