

A close-up photograph of a man with a mustache and glasses, wearing a yellow hard hat and a light blue button-down shirt. He is looking down at a large roll of white architectural blueprints he is holding. The background is a blurred indoor setting, possibly a construction site or office.

Ontario's New Asbestos Requirements

By John W. Dickie

As explained earlier in Fair Exchange (in Sept/Oct 2006 and Mar/Apr 2007), new regulations concerning asbestos took effect on November 1, 2005. The new regulations apply to all buildings in Ontario except buildings of four or fewer units in which the landlord or a family member lives in the building. Therefore, the regulations apply to all apartment buildings and even to rental triplexes, duplexes and single family homes, unless the owner or a family member lives in the building. Most commercial, industrial and institutional buildings are also affected.

Common building materials which may contain asbestos include vinyl tiles, ceiling tiles, ceiling stipple, drywall compound and insulation materials. Material is considered to be asbestos containing material if half of 1% or more of its dry weight consists of asbestos fibres.

If a landlord knows or ought reasonably to know that their building con-

tains asbestos containing material (“ACM”) the landlord is required to take the following steps. Note that during many different years some brands of the building materials listed above have not contained asbestos. Therefore, a landlord is not in the position that you ought to know your building contains ACM just because your building contains vinyl tiles, ceiling tiles, ceiling stipple, drywall compound or insulation materials.

Possible Current Requirements

However, if you know or ought reasonably to know that your building contains ACM (for example, because you have a report that says that, or if you know you installed vinyl asbestos floor tiles), then you are required to:

1. prepare a record of the location of the ACM, including its location and whether it is friable or non-friable. (Friable material is material which is crumbled, pulverized or powdered or which, when dry, can be crumbled, pulverized or powdered by hand pressure. For friable sprayed-on material, there are two additional requirements.)
2. give tenants who have access to any area containing ACM written notice of the presence of the ACM, and the other information in the record about the ACM they can access.
3. give written notice of the information in the record to any contractor brought in to do work on the ACM, or near the ACM such that the ACM may be disturbed.
4. orally advise employees of the landlord of the information in the record if the employee is to

do work on the ACM, or near the ACM such that the ACM may be disturbed.

5. train and instruct employees who may do such work according to a list of information.
6. inspect the ACM at reasonable intervals to determine its condition.
7. update the record whenever you receive new information, and at least once every 12 months.

These rules have been in place since November 1, 2005, with respect to friable asbestos, as defined above. However, since friable asbestos was primarily found in insulation material in boiler rooms, and tenants do not normally have access to those areas, there was no obligation to give most tenants notice of the presence of asbestos. In addition, the contractors and workers doing work that could disturb the friable asbestos involved a smaller number of people. As of November 1, 2007, the requirements extend to non-friable asbestos as well as to friable asbestos.

Requirements Before Doing Repairs or Renovations

Additional requirements apply when an owner arranges for alterations or repairs of a building (but not for maintenance). Before doing alterations or repairs an owner is required to have an examination carried out to determine if any material that is likely to be handled, disturbed or removed is ACM, unless the owner already knows that the material is ACM or treats the material as if it is ACM.

In dealing with asbestos containing material, contractors (or landlords employing employees directly) are required to take steps to minimize the

exposure of their workers to asbestos dust. Depending on the type of work to be done, those measures include a variety of steps to reduce dust, to provide respirators or protective clothing, to use power tools attached to dust collecting HEPA filters, or to seal off areas and provide for negative air pressure and decontamination rooms and showers. Once contractors gear up to take those steps, the price of some renovations and repairs will undoubtedly rise.

Public Relations

Tenants have no need to be alarmed at notices received due to the new asbestos regulation. FRPO is developing a public relations strategy should the notices raise undue concern. You are welcome to refer any media inquiries to FRPO at 416 385-1100.

If your tenants ask about the notices, some points you should convey include:

- the building materials in question are very common in hospitals, schools, government buildings and single family homes, not just in rental apartments
- the new measures are designed to protect workers who will be disturbing materials which contain asbestos while they do repair or renovation work
- the various building materials which contain asbestos usually contain very small amounts, and constitute no health risk unless the materials are disturbed through repair or renovation work
- living in a dwelling with the building materials in question poses no more risk than walking outside breathing normally. 