

# San Francisco Chronicle

## Balcony Subcontractor's Waterproofing Work Focus of Investigation

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June 22, 2015

The company responsible for waterproofing the Berkeley apartment balcony that collapsed last week because of apparent moisture-caused rot also worked on a Peninsula complex where a dozen balconies were undermined by water infiltration and had to be rebuilt, a Chronicle investigation has found.



The waterproofing work at 2020 Kittredge St. in downtown Berkeley is at the center of the investigation into Tuesday's collapse of the fifth-floor balcony during a 21st birthday party. Six people, five of them Irish citizens, died and seven were hurt when they plummeted to the street outside the Library Gardens apartment complex.

The city's investigation into the collapse is continuing, but Mayor Tom Bates has said there is a "high probability" it will find that water weakened the wood that supported the balcony. Several independent experts who have examined close-up photos of the damage for The Chronicle have said there were obvious signs that moisture had rotted the wood.

They also said the photos showed that the waterproof membrane designed to protect the wood supports had been punctured or otherwise damaged, probably during construction, allowing moisture to infect the balcony with dry rot.

### Millbrae Debacle

The main contractor on Library Gardens, Segue Construction Inc. of Pleasanton, has said the failure was unique among the 41 multiunit housing complexes it has built in California since 1992.

However, both Segue and the waterproofing contractor it hired for the Berkeley building were implicated in a lawsuit that the owners of a Millbrae condominium complex filed when they discovered that mold had attacked walls, and dry rot had destroyed balconies just three years after the buildings were completed.

The waterproofing outfit, R. Bros. Inc. of San Jose, was hired by Segue to seal the four balconies at the Berkeley building near its completion in 2007. Around the same time, Segue retained the firm to waterproof balconies at the 109-unit Park Broadway condominiums in Millbrae, which were completed in 2009.

Within months, residents there started to complain of moldy smells inside their units. Frank Alioto, manager of the homeowners association, distinctly remembers the day he discovered “the vanilla milkshake”— foamy, white mold with the consistency of the spilled dessert — growing inside a brand-new wall.

“We were shocked,” Alioto said. “The place was built in 2009, and we were opening it up in 2010 and finding mold already in the wall.”

When the complex’s board of directors investigated further, it found that at least a dozen balconies had been attacked by dry rot.

The owners sued in San Mateo County Superior Court in 2012, and Segue settled out of court the next year for \$3.5 million.

Today, scaffolding covers parts of the complex, blocking many of Park Broadway’s balconies from the sun and fresh air. Some balconies remain off-limits.

“In retrospect, we did the right thing,” Alioto said. While the Library Gardens “balconies are different, it was essentially the same thing that happened here.”

### **Braced by Wood Supports**

The difference between the Berkeley and Millbrae buildings is that the balcony that collapsed “floated” out from the wall. The Millbrae balconies are braced on either side by wood supports jutting out of the walls.

Tom Miller, the attorney for the condominium owners, said waterproofing either type of balcony “is the hardest thing to get right — but it can be the easiest thing to get right if you follow the plans and the manufacturer’s instructions and don’t try to cut corners.”

Erick Hockaday, president of Segue Construction, has not returned phone calls seeking comment. The company said in a statement Friday that it was cooperating with investigators in Berkeley, and that “our hearts go out to the families and loved ones of the young people who died or were injured in this tragic accident.”

R. Bros., the San Jose waterproofer, says on its website that it has been in business since 1985. Among its past projects are Target stores, the Sonoma County Airport in Santa Rosa and the Coast Guard station on Yerba Buena Island, the website says.

Phone calls to the company Friday were not returned.

Onne Broek, a forensic architect hired by the Park Broadway owners, said the Millbrae and Berkeley balconies shared a design flaw — there were no vents to allow air to flow from underneath and dry out any moisture that got near the supports.

Unlike the Berkeley building, where the waterproofer used a rubberized membrane, R. Bros. tried to protect the Millbrae balconies with a liquid coating. However, protective flashing around openings had not been properly sealed to guard against water infiltration, Broek said, and with no vent system, the balconies were vulnerable.

“As a result, water breached the membrane and quickly started rotting things out,” Broek said.

## **Problematic Subs**

The Millbrae complex wasn't the only one where Segue ran into legal problems — or the only one where construction issues involved R. Bros.

At a pair of apartment complexes in San Jose called The Pines at North Park, Segue paid a total of \$14 million to settle two lawsuits over water damage to balconies and other walkways. R. Bros. painted one of the two complexes and settled with the building's owner for \$37,000 in 2013, according to court records.

In all, Segue has paid out \$26 million in lawsuit settlements over claims of substandard construction since 2012, court records show. Among those was a \$9 million settlement for water damage at the Cherry Orchard apartment complex in Sunnyvale, \$3 million of which the firm recovered from its subcontractors.

The \$26 million is a high figure for one contractor, said Miller, the lawyer for the Millbrae condo owners. It's probably due in part, he said, to Segue hiring problematic subcontractors.

“General contractors like Segue normally fall off the wagon when they don't hire proper subcontractors and sub-trades,” Miller said, “and they don't supervise them correctly.”

One Segue subcontractor who worked on the wood framing for the Berkeley apartment complex said he left the industry because he was continually being hit with water damage-related claims.

“We couldn't handle these lawsuits — we have had litigation ongoing continuously for 25 years,” said Randy Etter, head of Etter & Sons of Pleasanton.

## **Battling 4 Lawsuits**

Etter said he is still fighting four lawsuits, six years after he closed up shop. He said subcontractors aren't necessarily to blame for the damage that drags them into court.

“If you touched it, you are partially responsible for it,” he said. “Most of the problem is with the owners of the job, who just didn't want to spend the money to buy the right systems.”

Etter added, “There is no reason you can't waterproof a deck. It's pretty simple.”

The balcony collapse, he said, was “a tragic, tragic thing. In my career, I have never seen anything like this happen. It's something that should never happen.”