

Berkeley balcony collapse: State investigators move to revoke licenses of companies for failing to meet trade standards

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BERKELEY -- Five contractors who worked on a downtown apartment building where six people died in a balcony collapse last year could lose their state licenses for failing to follow construction guidelines, a state watchdog agency announced Friday afternoon.

The Contractors State License Board found that "poor workmanship" in the waterproofing of the balcony resulted in water damage that caused it to rot and eventually collapse.

"They didn't do the work (on the balcony) to trade standards," said Dave Fogt, the board's chief of enforcement, in a phone interview Friday. The collapse was caused "definitely by water incursion that caused dry rot."

The companies include the project's main contractor, Segue Construction of Pleasanton, said Rick Lopes, a spokesman for the license board.

The others are Etter and Sons Construction in Dana Point, R. Brothers Waterproofing in San Jose, North State Plastering in Fairfield and The Energy Store of California in Sacramento. A person who answered the phone Friday at R. Brothers declined to comment. Calls and emails to the other companies were not returned.

The contracting board will now forward the results of its long investigation to the state Justice Department for prosecution in state Administrative Court. Penalties range from a license suspension to outright revocation.

Details of the state investigation will not be released until charges are formally filed. The board is also asking the Justice Department to charge Etter and Sons with failing to cooperate with its investigation.

Six people, five of them Irish college students working in the country for the summer on visas, died June 16, 2015, when the fifth-floor balcony supported by rotted wood beams gave way at the Library Garden Apartments, sending the students plunging on to Kittredge Street. Seven others who fell were seriously injured.

Bill Leys, who runs the website DeckExpert.com and is a Central Coast contractor, called the regulatory action against the five companies "pretty unprecedented."

"It is rare to see a waterproofed deck have a sudden, catastrophic collapse" and a government response, he said.

Last month, Alameda County District Attorney Nancy O'Malley announced that she would not file criminal charges against the contractors. She said an investigation by her office found that water proofing applied to wood supporting the balcony 10 years ago had an unintended and tragic consequence: The material had been soaked by heavy rain, and water was sealed inside it with no way out, setting off a slow process of rotting.

It continued until the night the 13 young friends crowded onto the balcony during a birthday party, and the beams holding up the deck snapped.

While O'Malley did not find grounds to file a manslaughter case based on criminal negligence, the state licensing board built a civil case seemingly on the same fact -- that the waterproofing was not done to professional standards.

Leys said it appears, based on O'Malley's recent statements, that waterproofing company R. Brothers "covered over wet wood" rather than waiting for it to dry and then testing its moisture content. In such trade work, he said, "When you cover it, you own it."

Families of each of the dead as well as each of the survivors are suing Segue and the other companies, alleging tenants had complained to managers for weeks that mushrooms were growing on the wooden balcony and that other residents reported a slant in the deck a year before the collapse, but that those warning signs were ignored.

A lawyer for the plaintiffs, Mike Kelly, wrote in an email Friday that "we are aware of (the state's) current course of action" but declined to discuss it specifically until charges are filed. He said his clients' primary goals are "uncovering the truth, publicly identifying the wrongdoers, and holding accountable those responsible for the damage, loss and suffering they have caused."

They also hope to force "changes to residential construction industry practices that will prevent such a needless tragedy from recurring in the future," he said.

Staff writer David DeBolt contributed to this story. Follow Thomas Peele at [Twitter.com/thomas_peele](https://twitter.com/thomas_peele).

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