



NCAC NEWS

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◇ *Consumer Affairs Climate*

Falsified structural calculations for condominium complexes
—Widespread concern involving housing safety—

In November 2005, it was discovered that a first-class architect (suspended from practice in December 2005) falsified quake-resistance strengths in buildings where he undertook their structural designs. Given the circumstances, the Ministry of Land, Infrastructure and Transport released a list of buildings that potentially lacked the required earthquake-resistance level of the Building Standards Law as a result of this falsification. Since then, a great number of buildings with fudged quake-resistance strengths have been revealed one after the other. It had reached 100 buildings by the end of February 2006. The architect faked the documents which showed the calculations that demonstrated how much strength was needed against external forces such as wind and earthquakes toward buildings (=structural calculation sheets). In these calculations, the architect set the quake-resistance strength misleadingly low so that the amount of materials used for construction could be reduced.

Japan is a quake-prone country and it has been said that a severe earthquake can take place at any time. For this reason, the urgent issue was to move the purchasers of the condominiums with the faked quake-resistance strength to a safe place as well as to dismantle these affected buildings in order to prevent a second disaster taking place due to building collapses as a result of an earthquake. After the faked quake-resistance problem was uncovered, local governments banned the use of buildings that did not meet the standards to withstand an earthquake and gave advice to the occupants to move out from such buildings. Consequently, the purchasers of the affected condominiums were forced to abandon the homes that they bought to live in for ever and had to look for a new place to live.

There are a significant number of purchasers who bought their condominiums by taking out a large housing loan, and if they also had to pay rent for a new place in addition to their housing loan, they would be badly off. As a result, they called for government aid for their new accommodation's rent and a reduction of taxes. Initially, both the government and local governments stated that the entities of concern such as the distributors that sold the condominiums were liable for this issue and that it therefore must be solved between the entities and the consumers. Nevertheless, the distributors that were supposed to be liable for this issue only provided inconsistent customer support measures. Furthermore, the consumer's predicament was revealed when it was found that they had nowhere to go and did not have the appropriate funds for doing so. The government therefore presented the following four emergency support measures:

- ① Securing 2,000 new places.
- ② Reducing the purchaser's burden of their housing loan with the Housing Loan Corporation as well as reducing their fixed assets tax and city planning tax.
- ③ Subsidizing moving expenses and the rent for a new accommodation.
- ④ Local governments must be responsible for purchasing the buildings that will potentially collapse and also for dismantling and rebuilding such buildings in order to establish a framework for resale.

Responding to these government's offers, local governments also presented support measures such as the reduction of taxes.

With this issue, even private inspecting bodies and local governments could not prevent the falsification of quake-resistance strength in their inspecting procedures. Because the actual circumstances where these falsifications were overlooked have now become clear, there is widespread concern among consumers wondering if the building they live in is really safe.

In the case of a detached house, an occupant can ask an architect to inspect his/her house. Meanwhile, if an occupant of a condominium is concerned if his/her home is defective, he/she has to firstly make a request to the management of the building in order to have a professional inspection of the building. If a condominium has been evaluated in terms of its housing performance at the time of its design and construction, an occupant of such a building should make an inquiry to the company that issued the evaluation sheet.

Starting with this housing performance evaluation, there have been a number of practices serving as safety nets against defects in housing. It is regrettable to say that, as the use of such practices are not mandatory, some distributors that wish to reduce construction costs do not follow them. In fact, the distributors that sold the buildings with the faked quake-resistance strength did not follow these practices.

This issue has revealed that the current practices have inadequate mechanisms to protect consumers. It is therefore essential that the government and local governments must; 1) restructure regulatory practices involving architecture, 2) establish more effective safety nets, 3) analyze the causes of how the falsifications were overlooked on this occasion, and 4) device countermeasures for reoccurrence prevention. Furthermore, in order to protect consumers, the government and local governments must inspect housing safety using various practices and by utilizing the help of professionals.

◇Activities of the NCAC

—Product Testing—

Analysis of car door related accidents as well as product tests on sliding doors

The Injury Information System, which is managed by NCAC, received 826 cases of accident information from April 2004 to the end of October 2005 regarding “a part of the body caught by a car door or window.” Among these cases, 755 were related to “a part of the body caught by a car door”, accounting for over 90%. Meanwhile, there have been an increasing number of sliding doors equipped in vehicles such as mini-vans operating as family orientated cars. These cars have become quite popular in recent years. Given these circumstances, NCAC analyzed the injury information relating to sliding doors.

At the same time, NCAC conducted product tests by highlighting the following points:

- ①Impactive force taking place when a part of the body was caught by a sliding door
- ②Impactive force taking place when a part of the body was caught by a power operated sliding door
- ③Effectiveness of the anti-trap functions

● Major points from the injury information analysis and the product test results

• From the injury information analysis results

- ☆Among the door related accidents (755 cases), accidents involving children under the age of 10 reached 344 cases, dominating the largest proportion which accounted for 45.6% of the total.
- ☆The largest portion of body parts suffering injuries were “arms and hands”, accounting for 711 cases (94.2%). Injuries to “fingers” dominated these cases, reaching 658 cases. On the other hand, infants under the age of one mostly suffered from injuries to their legs and feet.
- ☆40 cases were identified relating to accidents caused by sliding doors. Compared to injuries caused by car doors in general, injuries caused by sliding doors tended to be more serious in nature.

• From the product test results

- ☆The impactive force that occurred when a part of the body is caught by a sliding door is two or more times stronger when compared to a normal opening and closing door and hence may cause serious injury.
- ☆A considerable amount of force is required to open or close a sliding door when the car is parked on a slope.
- ☆If a part of the body is caught by a sliding door with the car parked on a slope, the impactive force would be substantial and most probably cause serious injury.
- ☆When a part of the body was caught by a power operated sliding door, the anti-trap function was activated with a relatively small impactive force. Nevertheless, there were some occasions where the function was not activated at all due to the specific way in which a part of the body was caught by the sliding door.
- ☆Although opening and closing sliding doors using a remote control is convenient, it must be handled with care since it could be used from a far distance.
- ☆There were some brands that did not install a reflector in a sliding door, which lets the car behind know at nighttime that the sliding door is left open. Some brands did not have a reflector for either left or right door.

● Advice for consumers

• From the injury information

- ☆There are a number of car door related accidents involving children. A large number of these cases may have been caused by the carelessness of parent(s) or guardian(s). When taking a small child (or children) into a car and closing the door, ensure that the hands and legs of the child are inside of the door area. If a child (or children) is likely to open or close the door by him/herself, make sure to use a child lock that ensures that the doors are made non-operatable from inside of the car.
- ☆Although most injuries caused by sliding doors are minor, the degree of injury becomes more severe as the age becomes greater and the time spent convalescing is longer. In particular, injuries to fingers

around the nails are quite common and the treatment may be difficult as the area is delicate. It also may affect one's daily life if there are any after effects. It is therefore important not to rush when opening or closing a sliding door and do so with care.

☆There are some cases where injuries occurred when a sliding door was unexpectedly closed by wind or as a result of the car parked on a slope. Do not force yourself to open or close a sliding door when there is a gust of wind or when your car is parked on a slope as in both situations an external force is applied to the door.

☆If you are injured and bleeding, try to stop the bleeding by lightly holding the affected area with a cloth. Do not make a binding using a rubber band or a piece of string. If you have any internal hemorrhaging, chill the affected area. In all cases, visit a hospital if an injury is serious.

• From the test results

☆The impactive force that occurs when a part of the body is caught by a sliding door is substantially larger by two or more times when compared to a hinge door. There have been serious injuries caused by sliding doors. It is therefore essential to pay close attention when operating them.

☆A considerable amount of force is required when opening or closing a sliding door on a slope. A serious accident may take place if you accidentally release your hand and the hand is caught by the door. Operating a sliding door on a slope must be done with care.

☆Check the surrounding environment before operating a power operated sliding door.

☆Since some brands lack a reflector which lets the driver behind know that a sliding door is left open, not only the passengers of that vehicle but also car drivers in general must pay attention to this issue.

Based on the above examinations as well as the product test results, NCAC made the following requests to the Japan Automobile Manufacturers Association:

- Some anti-trap functions installed in power operated sliding doors required a larger impactive force to be activated compared to others and some were not activated at all due to the specific way in which a part of the body was caught by the sliding door. It is therefore necessary to undertake improvements regarding these issues to ensure that these functions are safer.
- As remote controllers could be used from a far distance to open or close a power operated sliding door, it is necessary to make improvements regarding this issue for the sake of safety.

NCAC also provided information regarding the above examinations as well as the product test results to the Ministry of Economy, Trade and Industry and the Ministry of Land, Infrastructure and Transport.

Safety of fashion color contact lenses with no sight correction purposes

Color contact lenses with no sight correction purposes (hereinafter "color contact lenses") can be purchased freely through the internet and using other methods. The safety of these products, however, is not guaranteed within Japan as the Pharmaceutical Affairs Law does not apply. Moreover, they are reported to cause eye disorders. Given these circumstances, NCAC conducted product tests on ten brands of color contact lenses and two brands of medical devices (for reference) concerning their safety and quality.

● Major findings from the product test results

- Cytotoxicity was discovered in the color contact lenses produced by two brands possibly causing irritation to the ocular membrane.
- Pigments were found to be eluted in the color contact lenses produced by four brands. In the color contact lenses produced by two of these brands, it was confirmed that the eluted liquid generated fluorescence. There were some brands that produce color contact lenses in which aluminum was eluted.
- It was confirmed that wearing color contact lenses may cause considerably poorer eyesight, night vision and kinetic vision. Furthermore, it was found that; 1) in some cases astigmatic treatment was required after wearing color contact lenses, and 2) in other cases minor eye disorders took place after wearing color contact lenses.
- 43 cases were reported in one month alone where an eye disorder took place triggered by color contact lenses. Among these, 10 cases were related to non-approved (not covered as medical devices) color contact lenses and 18 cases were related to color contact lenses with no lens strength.
- As a result of the survey targeting university students who used color contact lenses, it was discovered that almost 40% felt "sick after using color contact lenses."

● Advice for consumers

- Sight corrective contact lenses are medical devices with relatively high risks. It is therefore recommended not to use them for purposes other than sight correction without careful consideration.
- Color contact lenses are not medical devices. The product tests found that some of these products had issues in safety and quality as both cytotoxicity and pigment elution were discovered in these lenses. It is therefore necessary to consider carefully before using these products.
- Eyesight, night vision and kinetic vision may become considerably poorer as a result of using color contact lenses. It is therefore risky to drive a car or other vehicles in the nighttime when wearing such contact lenses.

Based on the above test results, NCAC made the following requests to the industry and the Ministry of

Health, Labor and Welfare:

- Requests to the Japan Contact Lens Association
 - The product tests detected some problematic color contact lenses in terms of their safety levels. The standard of color contact lens products should therefore be above a certain level.
 - Sight corrective color contact lenses are designed for eyesight correction and are medical devices. These lenses therefore should not be displayed otherwise or be sold for purposes other than eyesight correction.
- Requests to the Ministry of Health, Labor and Welfare
 - There were some color contact lenses that had issues in safety and quality. Specific countermeasures to solve these issues must be established immediately such as drawing up guidelines.
 - Instructions should be provided to brands that produce sight corrective color contact lenses (medical devices) not to display them as non-medical devices or and not to sell them for purposes other than eyesight correction.

Furthermore, NCAC provided information regarding the above product test results to the following organizations:

- The Japan Contact Lens Society
- All Japan Contact Lens Retail Association
- The Japan Direct Marketing Association

Accidents caused by drain blockages when using flush toilet aromatic cleaners

NCAC received a request made by a consumer regarding an aromatic cleaner used for flush toilets. The consumer complained as follows: "An aromatic cleaner tipped over and blocked the drain. As a consequence, the water spilled and flooded to the downstairs rooms. I would appreciate it if you could investigate this product to discover if there are any problems." In responding to this issue, NCAC conducted product tests on aromatic cleaners and looked into the following points:

- If an aromatic cleaner using liquid agents or solid agents could cause a water spillage when considering the different shapes of toilet tanks or the different possible water flows of toilets.
- If various shapes of aromatic cleaners could cause water spillages when considering the different shapes of toilet tanks or the different possible water flows of toilets.

- Major points from the product test results
 - When using in an old type corner tank under the right conditions, it was found that aromatic cleaners produced by some brands would tip over and cause a water spillage.
 - When aromatic cleaners containing less cleaning agents were used in an old type corner tank, the number of products that tipped over became larger.
 - If turned around or toppled sideways, depending on their shape, some aromatic cleaners were found to block the drain.
 - All aromatic cleaners that were tested on this occasion had a display concerning water flow adjustment. Furthermore, some of these products had a warning display recommending that the product body should not be placed the wrong side up or sideways.
- Advice for consumers
 - Under the right conditions, an aromatic cleaner may tip over and block the drain and consequently cause flooding. It is therefore essential to be careful when using it.
 - Do not place an aromatic cleaner the wrong side up or sideways.

Based on the above product test results, NCAC made a request to the Air Fresheners & Deodorizers Conference to establish preventative measures regarding water spillage. NCAC also provided information regarding the test results to the Ministry of Health, Labor and Welfare and the Ministry of Economy, Trade and Industry.

—Surveys and Studies—

Consumer issues involving mobile phones that are able to be used overseas

An increasing number of people carry their mobile phones with them when they go overseas for business trips or travel. In response to this, mobile phone companies have released a number of mobile phones and services one after the other that enable users to use the phone overseas just as if they are using it in Japan.

Under the above circumstances, however, there have been an increasing number of consumer counseling cases taking place regarding mobile phone international roaming services. Although the number of consumer counseling cases regarding mobile phone usage overseas is not too substantial, having reached approximately 350 cases in last five years, the number in the Fiscal 2005 doubled compared to the same period in the previous fiscal year. The contributing factors of this sharply increased number of consumer issues may be related to both traders and consumers as described below:

- Contributing factors generated by traders

- ① Traders do not have sufficient knowledge concerning the removable identification IC card mounted on mobile phones that belong to the third generation and afterwards.
- ② Fee statements as well as service system descriptions that are described in catalogs and leaflets frequently invite misunderstanding.
- ③ Explanations regarding different communication systems for international use are inadequate. Furthermore, explanations concerning charging systems for international use are insufficient.
- ④ Explanations regarding different communication conditions in each country are insufficient.
- Contributing factors generated by consumers
 - ① Consumers do not understand the fact that the communication conditions in overseas countries are substantially different from those of Japan.
 - ② Consumers do not check up on usage methods and fees in advance.
 - ③ Consumers do not fully understand contract contents.

Based on these case examples as well as problem areas, NCAC made requests to traders and provided advice to consumers as below:

- Requests to traders
 - Detailed explanations should be provided for consumers regarding new services and functions.
 - In order to prevent unauthorized usage, realize the necessity of setting up a PIN number and encourage consumers to use it.
 - Improve your customer services that respond to consumer issues taking place overseas.
- Advice for consumers
 - Inspect leaflets and instructions thoroughly and ask for more explanations from the trader if there is anything unclear regarding the terms or service systems described.
 - In the event of losing your mobile phone or having it stolen while you are traveling overseas, contact your mobile phone provider immediately.
 - In order to prevent unauthorized usage, set up a PIN number for your identification IC card as well as for your mobile phone itself.
 - Do not join in international roaming services if you do not intend to use your mobile phone overseas.

Consumers' interests observed by analyzing the access status to the NCAC's Internet website

In October 1995, NCAC established its Internet website as a means of providing consumer related information quickly for a larger number of people. It provides not only basic information which is useful for consumers, but also topical information that attract public attention from time to time. The Internet website has improved its functions daily. For example, it newly established the "E-mail for Consumer Problems" in April 2002, an information collection channel for consumer issues.

The amount of access to the Internet website has continuously been increasing in an environment marked by the generalization of the internet and the diversification and complexity of consumer issues. The annual total number of file transfers reaches hundreds of millions.

Given these circumstances, NCAC analyzed the access status to its Internet website in 2005 and found the following:

1. Top five topics in 2005:

| Ranking | Title |
|---------|---|
| 1 | Local consumer centers |
| 2 | Stay calm!! Scam methods that charge fees out of the blue when you just click a button |
| 3 | Notices for product recalls and free repairs |
| 4 | Malicious practices that "send you a bill which you are innocent of" have become rampant |
| 5 | List of traders that have caused a large number of consumer counseling cases regarding fictitious bills |

Among these top five topics, three are related to so-called "fictitious bills." This makes us aware once again how widely this issue has spread throughout the country.

2. Access status in each quarter:

| Period | Topics that notably attracted a large number of visitors |
|---------|--|
| Jan-Mar | Performance of crime-prevention glass/films and E-mail for Consumer Problems statistics |
| Apr-Jun | Malicious housing renovation work resulting from door-to-door sales |
| Jul-Sep | Insect deterrents and notices for product recalls and free repairs |
| Oct-Dec | Local consumer centers and requests to online game administrators for further improvements |

Analyzing the access status, the tendency shows that people visit pages containing topics that attract public interest. The contributing factors for this may be that information provided by NCAC is often picked up by news websites managed by media organizations and also that search sites have become generalized.

Furthermore, recent trends are seen in the following points:

1. Access to pages containing information concerning fictitious bills and overcharging has shown a

downward trend as these issues have eased.

2. Access to pages containing information regarding malicious housing renovation work resulting from door-to-door sales was concentrated in May 2005 when this issue firstly emerged and also in July 2005 where NCAC released the latest data regarding this issue.
3. Product test results constantly attract public interest.
4. In general, access to pages containing notices provided by corporations regarding their products has shown an upward trend.
5. Pages containing information concerning personal information protection always keeps a certain amount of access.

Consumer issues caused by an early termination of a beauty medical service contract

In October 2005, the President of NCAC made a suggestion to the Special Committee for Handling Consumer Complaints* to examine a consumer complaint case regarding an early termination of a beauty medical service contract. In response, the Committee examined the case and provided NCAC advice in January 2006. The details of the case and the advice given by the Committee are described below:

*A committee provides advice to NCAC in response to suggestions raised by the President of NCAC concerning consumer complaints that require high levels of legal judgment skills emanating from fair and objective points of view.

○ Details of the consumer complaint

The consumer of concern had been distressed with her ruddy-complexioned face for a long period of time. She came across a book written by a Director of a beauty clinic and decided to visit this clinic. At the clinic, she was told that her complexion would not become worse and therefore concluded a contract to take five sessions of laser treatment at the expense of 750,000 yen. During the second treatment, however, she noticed that her skin became feverish and painful. The skin became redder and remained painful after the therapy. The pain did not ease even two weeks after the treatment and the redness in the face had spread compared to before the treatment. The contract stated in a "Note" that a cancellation fee of 20% of the total cost applies to an early termination of the contract in addition to the treatment cost of 300,000 yen per treatment session. The consumer found that, in the event of the early cancellation, she had to pay over 600,000 yen altogether as cancellation fees.

○ Conclusion

The Special Committee for Handling Consumer Complaints examined the issue regarding the payment of such cancellation fees.

The conclusions provided by the Committee are described below:

- Regarding the cancellation clause of concern, Number 1, Article 9 of the Consumer Contract Law should apply to the cost for the treatment sessions that were already provided for the consumer.
- Regarding laser treatment which is performed as private medical care, it is difficult to calculate the specific sum of the "average amount of damages suffered by a trader of concern." Nevertheless, unless reasonable grounds for calculation are demonstrated, the market price of laser treatment for face complexion improvement should be recognized as an "average amount of damages."
- If what the consumer of concern insists is true regarding what she was told by the beauty clinic, the contract may be cancelled according to the Consumer Contract Law (Paragraph 2 of Article 4 and Number 1 and 2 of Paragraph 1).
- A consumer who suffers damages as a result of laser treatment may claim damages from the beauty clinic.
- If a trader of concern has a guilty intent or commits an error that causes damages suffered by a consumer and an early termination of the contract is therefore necessary, the entire cancellation clause may be invalid according to the Consumer Contract Law (Article 10).

The National Consumer Affairs Center of Japan is an independent administrative agency for consumer protection affiliated to the Cabinet Office. The main activities are consumer education, consumer consultation, research and product testing.

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