

Applying for Hardboard Siding Settlements

A Guide Based upon Experience



Prepared by

**Homeowners Against Deficient Dwellings
December 2003**

*Members of Homeowners Against Deficient Dwellings contributed to this report.
<http://www.hadd.com>*

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Donate to HADD

This document was written to help homeowners apply for the various hardboard settlements. The members of HADD use their own money and donate their own time to research and document helpful information.

Please consider a donation, whether \$10, \$20 or more, to HADD in order to continue providing such information.

Contact john.cobarruvias@hadd.com for more information.

About this Report

This report is written based upon years of experience of experience and research into the various hardboard siding settlements. The information is not legal advice and should not be considered as such. Any similarity to a legal opinion is by chance only and is not intentional or intended.

Homeowners could use this documentation of experiences as a source of information when attempting to apply for any of the hardboard settlements available. The information is mainly based upon the Masonite settlement and could be used as a source for the other settlements available.

If in doubt about any of the documented experiences, contact the attorneys who represent the homeowners in the various settlements.

Summary

In 1994 a suit was filed against the Masonite Corporation alleging, among other things, the hardboard siding prematurely deteriorated. The first part of the suit lasted 4 years. The trial lasted 4 weeks. The jury took 4 hours and found in favor of the roughly 4 million homeowners with the siding. In 1998 a settlement was reached and the beginning of the various suits and settlements began.

Shortly after Louisiana Pacific, ABTco, Celotex, Weyerhaeuser, and other manufacturers quickly settled their suits affecting another approximately 4 million homes combined.

Of the various suits, the Masonite suit is by far the most “fair” of them all. Some of the suits are horribly difficult to process, and others depleted their funds. This source of information should help homeowners with hardboard siding problems to determine whether they could qualify for any settlement and if so, how to apply and avoid the pitfalls of the process.

About Siding Claim Companies

Shortly after the Masonite settlement, companies were formed to assist homeowners with the process. Many charged 30% of the settlement. For some homeowners this may be enticing, but they should realize the services provided by these companies are not required. The process could be completed without the help of a third party and the attorneys who represented the homeowners should be available for assistance.

For some, this service may be valuable and could be considered. Many of them require a power of attorney, which means the service, applies in your name, the check is made out to the service, and they in turn pay your share. Before signing with any service, read their contract carefully.

First Step: Identifying the Siding Manufacturer

The most common question in dealing with the various settlements is “How do I determine what brand of siding I have?” There are a number of manufacturers of hardboard siding including Masonite, Weyerhaeuser, Temple, Boise Cascade and more. Some have settlements, and some do not. Applying with the wrong company will only cause delays and frustration. There are ways to help the identify the correct manufacturer including:

- Find an exposed area of the back of the siding. Look in an unfinished garage or in the attic. Tear back the insulation or tarpaper from the back of the siding to expose the backside of the board. Look for any identification marks. (Example markings are define in the next section)
- Remove or pull back a board of siding. Look for markings.
- If you can't find markings, notice the texture of the back of the siding. This could give clues to the manufacturer. Is it smooth or with a waffle iron pattern? Is it wood chips? Large or small? What is the color of the back?
- Ask your builder what they used in construction of the home.
- Check your closing papers for warranty information.
- Ask your neighbors if they have ever removed siding or applied for any settlements.

When all else fails, take a sample off and consider applying with the Masonite settlement. If it is not Masonite sometimes the claims administration could assist in identification. (sometimes)

A word of caution. The word Masonite is used like the word Kleenex. Many times professional inspectors, lumber yards, or siding repair companies will deem any hardboard siding as “Masonite” when in reality it is manufactured by another company.



And example of how to check for markings.

Siding Markings and Identification Stamps

Most siding has a marking on the back of the boards. Some are quite noticeable and some are not. Others have distinguishing textures and still others have their entire name stamped on the back. Unfortunately not every board in some cases are marked. Whole houses have been found to have not a single marking on any of the boards. And yet some have easily identifiable markings in as much as three instances on each board.

If there are no markings, look at the texture of the board. This is not a very reliable way to identify the siding, but it could give a hint. Use the examples below to help identify the manufacturer.

Masonite.

Some Masonite has a very distinctive pattern on the backside resembling a waffle iron pattern. Others have a smoother dark pattern. Many boards will be marked with MASONITE. MASONITE BRAND, SUPERSIDE, X-90, or a big M (masonite logo) Sometimes the letters will be solid or formed by dots. And other times, there just isn't any markings to help.



An example of smooth Masonite backing with dot letters.



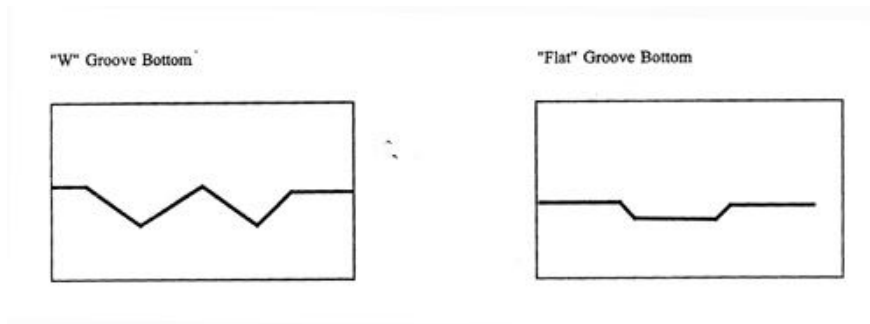
An example of the waffle Iron pattern for Masonite siding



An example of one of many stamps made with dots.



Various Examples of X-90 Masonite stamps.



Examples of the Masonite groove pattern in panel siding.



OR X-90 OR X-90

OR MASONITE

Examples of Masonite Stamps

Masonite Omniboard.

Omniboard is composed of fine toothpick sized wood chips glued together. Sometimes the words MASONITE OMNIWOOD can be found. Compare to the larger wood chips of LP siding.



Omniwood Masonite Siding

ABTco, Abitibi, Abitibi-Price

ABTco also has a type of waffle iron pattern, which is sometimes confused with Masonite. It also could have a series of numbers used to identify when the siding was manufactured. More information and pictures about this can be found at their website at www.abtcoclaims.com. Sometimes the word ABITIBI-PRICE, or ABTCO will be printed on the boards.



Abitibi- Price siding Stamp



Abitibi/Abtco backside rough waffle iron pattern

Louisiana Pacific, LP

This siding is composed of large wood chips. It tends to flake when wet. Compare to the smaller chips in Masonite Omniwood.



LP Siding backside pattern with large wood chips.

Champion.

Usually a smooth background with a circle of Cs.



Champion siding stamps.

Temple, Temple Eastex, Temple Industries.

This siding is usually smooth on the back and may have AHA CONFORMA, TEMPLE EASTEX, TEMPLE INDUSTRIES, TEMPLE INLAND, or a series of Ts in the shape of a wagon wheel.



Temple Inland Siding



Temple Industries and the Circle of Ts

Boise Cascade.

Could have a tree inside of a circle. It usually is very smooth on the back.



Boise Cascade Tree in a circle

Weyerhaeuser.

Look for AHA 10 stamp, the tree in the triangle, or the word Weyerhaeuser.



AHA 10 Weyerhaeuser Tree in a triangle



Weyerhaeuser Stamp

Other Identification Markings

Check to see if the AHA marking is on the back and match it to this table. This stands for the American Hardboard Association.

Marking	Plant Location	Owner
AHA01	International Falls, MN	Bosie Cascade
AHA02	Broken Bow, OK	Weyerhaeuser
AHA03	Diboll, TX	Temple
AHA04	Roaring River, NC	Abitibi/ABTCO, LP
AHA05	Forest Grove, OR	Forestex
AHA06	Laurel, MS	Masonite, IP
AHA07	Catawba, SC	Champion, GP Bowwater, US Plywood
AHA08	Ukiah, CA	Masonite, IP
AHA09	Not used for siding	Not used for siding
AHA010	Klamath Falls, OR	Weyerhaeuser
AHA011	Sturgeon Falls, ONT	MacMillan, Weyerhaeuser
AHA012	Towanda, PA	Masonite, IP
AHA013	Not used	Not used
AHA014-19	Not used for siding	Not used for siding
AHA20	Klamath Falls, OR	Collins

Notes About the Various Hardboard Settlements

After the siding has been identified it is time to contact the appropriate siding settlement. Unfortunately some of the settlements currently available are not very consumer friendly, while others have exhausted the money and other settlements have ended. Homeowners should contact the various settlements, consult the websites, and research the settlement to and determine if they have a claim or if the chances of received compensation is worth the time of the application process.

Masonite Hardboard Siding

www.masoniteclaims.com. This was the first hardboard settlement and will pay all valid claims until the end of the settlement, which could be as early as 2005. (See fine print of the settlement). In the early stages of this settlement the claims process and settlements for damaged siding was considered relatively fair. In the later years widespread problems with the inspection process have been documented. Many times re-inspections must be requested adding months of delays. Homeowners must pay attention to the process and contact the attorneys when necessary to voice their complaints.

An average home with 100% covered damage could receive anywhere from 50%-75% of the cost of removal and repair. Of course each house and each claim is different and may vary. The damaged siding is covered at a specific rate per square foot minus age deduction. The maximum deduction for age for any qualified home is 27%. The details of these deductions can be found at the website.

Masonite Omniboard

www.masoniteclaims.com. This claim process is very similar to the Masonite Hardboard siding settlement and is handled by the same attorneys and the same claims administration.

Weyerhaeuser

www.weyerclaims.com. This is also considered to be a relatively fair settlement. Homeowners should consult the website for details.

ABTco, Abitibi, Abitibi-Price

www.abtcoclaims.com. This is considered as one of the least consumer friendly settlement and process. A complete evaluation of this settlement "Review of the ABTCO Hardboard Siding Settlement Reference: Case No. CV95-151-M", can be found at www.hobb.org/opposed. The process is complicated, the age deductions are extreme, and the process for re-inspection is not in favor of the homeowner. Age deductions at 4% a year, and deductions of 5% for not painting every 5 years are considered extreme. Homeowners should research this settlement before applying.

Louisiana Pacific Innerseal Siding. (LP)

www.lpsidingclaims.com In the first year of this settlement, homeowners were able to recover a fairly decent settlement for damage siding, but quickly the money allocated for the 10-year settlement was depleted leaving those who knew nothing about the settlement with little if any recourse. According to the settlement another installment of money would be available in 2004 although it probably is not nearly enough to settle all remaining claims.

Because of this the homeowner's attorneys renegotiated the settlement allowing the homeowners to receive 30% of what they were entitled to instead of waiting till 2004 for more funds to be available. Somehow, according to the yearly reports on the website, this negotiation and settlement was deemed a success.

According to the website the settlement is closed as of December 2002.

Celotex.

The settlement is closed.

Temple, Temple Industries, Temple Eastex

There is no settlement or litigation we are aware of.

Boise Cascade

There is no settlement or litigation we are aware of.

Champion

There is no settlement or litigation we are aware of.

Examples of Siding Damage

See pictures of siding damage section. Many homeowners believe that all siding should be considered damage when they apply since they consider the products to be defective. The settlements are specifically for *damaged* siding only. According to the various settlement documents, there are clear guidelines to determine siding damage. These are some of the most common problems, but homeowners should consult the settlements or ask the claims administration to be sure the damage is applicable.

Wax Bleed

Wax bleed looks like the board is wet. Usually the discolorization will seep through the paint in about 2 years.



Swelling Around the Nail Holes

The board begins to swell around the nail holes sometimes giving it a look of over driven nails.



Swelling

Swelling of the board over a certain tolerance. Usually this is detailed in the settlement. For Masonite as an example, $1/16^{\text{th}}$ of an inch for a board measuring $7/16^{\text{th}}$ of an inch in thickness is the tolerance level. Most of the swelling will occur at the drip edges, that is the bottom edge of the board where water will drip off.



Edge Checking

The drip edge of the board is separating.



Fissures

Small cracks develop on the drip edge and start running the length of the board. Water then hangs on the edge and gets absorbed through the fissures. (Or so goes the theory)



Fungal Degradation

The board is soft to the touch.



What is Not Considered Damage

Many of the settlements have exceptions to the damage definition. These should be available for review in the respective settlement. These are subjective and any deduction should be questioned. Some of the general exceptions are:

- Lack of maintenance such as not painting.
- Avoidable water damage such as lawn sprinklers too close to the siding.
- Water drainage problems such as run off from a water gutter.
- Fire and damage from the elements.

An Overview of the Application Process

Once a homeowner has determined the siding on the building and has determined if there is a settlement to apply for, a process must be followed. In general the steps are defined below with details to follow:

- Obtain an application. Call the 800 number and ask for an application. Call again if it is not received in 2 weeks.
- Correctly fill out the application. This will require proof of ownership and proof of siding.
- Wait for an inspection. This may take up to 3 months.
- Wait for the results. This may take up to 3 more months.
- Accept the settlement offer. If the offer is not acceptable, there are procedures to follow to ask for another second opinion.
- Receive the check. This would complete the process.
- Re-file for a followup if necessary

Avoid the Pitfalls of Filing out the Application

Any problems with the application will result in long delays. Many times this will discourage homeowners from applying. Be sure to follow the instructions carefully and check the application before making a copy and sending it. Based upon the Masonite application, the most common mistakes are:

Name, address, and personal information

The names on the application must match EXACTLY as the proof of ownership. If the proof of ownership shows two owners, then both must be listed, exactly as it is written on the tax records. Unfortunately, the claims require social security numbers for all claimants. Make sure this is filled out.

Address. Make sure the address on the proof of ownership and the application are exactly the same.

Proof of ownership. Make sure the proof of ownership has the names of the owners and the exact address of the property. Search for your county tax or property appraisal website and obtain your up to date tax records and ownership documents. As an example the Harris county Appraisal District www.hcad.org has all property appraisals as well as a link to personal tax records. Homeowners could access and print this as proof of ownership. The proof of ownership must also be up to date.

Community Associations. If the home is in a community association, this information should be provided. If the association is responsible for the exterior of the buildings such

as a condo or townhouse association, then there are usually special instructions that must be followed.

Proof of siding. The owner must provide proof of the siding to the claims administration. This can be accomplished in different ways according to the specific settlements. If a sample is provided, make sure it is a GOOD sample and not one coming apart. They are using this for identification, not to determine if it is damaged. A picture of the markings on the back clearly showing the logo could also be provided instead of a sample. Or a copy of a warranty with a picture of the siding is another option by some settlements. And others allow homeowners to send in a fee, which is returned if the siding is their product. Make sure you read the specific settlement for details.

Telephone numbers. Make sure the numbers are correct. The inspectors will call to arrange the inspection. If they cannot contact the owner, the inspection could be delayed.

Property Information.

Make sure you provide answers to all the questions and follow the instructions. If you do not know a specific date such as the date the home was last painted, provide your best estimate and note it on the form.

Sign the Application. Any applications not signed could result in a delay. Make sure the last page is signed also.

Send the Application to the Claims Admin.

Mail the application with delivery confirmation. After 2 weeks, contact the claims admin and ask about the status. The claim, if processed correctly, will be “Ready for Inspection” which means the home will be scheduled for inspection within the next few days.

If there are errors, the homeowner will receive a notice otherwise they will receive a “Ready for Inspection” card.

The Inspection Process

An independent inspection firm performs the inspection. The inspection can take up to 3 months to be arranged. If there are reasons to be expedited, the inspection will be arranged within a month. Contact the claims administration for details.

Once the inspectors arrive they will rarely discuss any details of the process with the homeowner, but are generally very polite. Once the inspection and measuring have been complete, the results will be reviewed and an offer letter will be sent to the owner. This may take another 2-3 months.

This letter will contain the amount of siding on the building, amount of damage on each side, and the amount of the offer. If the inspection results are not satisfactory by the

owner, then a re-inspection could be requested. Of course this will once again take up to 3 months to arrange. If a reinspection is requested, follow the instructions sent with the offer. Keep a copy for your records.

The Problems with the Inspection Process and Results

There are many problems with the process. Some have been corrected, others still persist. Review the most common problems below and be prepared to address them with the claims administration. These problems were documented from the Masonite claims process over a number of years.

Overall

The process is now taking years to complete when it should be no more than 6 months. Many properties have had at the least 2 inspections and some are going on their 2nd application as well as a re-inspection on their 2nd application.

Unfortunately, because of the other errors below, the owners have put off repairs for many months, sometime years, and have sometimes given up. They may be being denied a fair settlement.

Inspection results.

On most properties a request for a re-inspection have been requested, some having enormous differences in results. In one case the inspector inspected twice to verify the product was Masonite. The result was lower than we expected, but identified about 7500 sq ft of Masonite on each of the 15 buildings. The re-inspection resulted in 0 damage with 0 sq ft of Masonite. The third resulted in 3 of 15 buildings with Masonite and from \$0 damage to \$20,000 worth of damage for the same building.

This is a similar process for all the properties. A re-inspection is almost always needed and requested.

Inspection Errors

The most severe error is the actual inspection of the properties and the errors in the results. These are blatant errors that in some cases the inspector was either not adequately trained, or didn't inspect the property. In one case the condo had 5 feet of snow around the buildings. There was no possible way to adequately inspect this property. In other properties, pictures taken of the property showing the damaged also shows a ladder leaning up against the wall, but no damage identified. Yet there is obvious damage right next to the ladder. It is almost as if the ladder was placed there just for the picture sake.

We have seen complete walls with obvious damage, yet no damaged noted. We have requested the pictures of the damaged walls with the damaged siding outlined in red and compared the results to the actual damage to the building. The results were horrible. And this was not possible damage; this was obvious damage that was not considered. Whole walls were not considered damaged; yet it was obvious even to the untrained eye.

Inspection training.

From all the errors listed above, the only reason is the lack of training of the inspectors.

Claims Administration phone bank:

Overall good experiences from the folks on the other end of the line. They all seem to help when answering questions or when researching a problem.

Attorneys

The attorneys could take a more proactive role in this. When we complain about inspection errors or invalid results, it would be nice to see them jump to help.

Lost Claims:

We have seen claims returned to us requesting proof of ownership, proof of Masonite, proof of damage, etc when our records clearly show we have sent in the material. Only when we ask to research the issue does the material surface.

Not Masonite Samples

We have seen buildings being denied even after a picture of the stamp was sent it. We have also seen claims denied after a \$100 inspection fee has been sent it. We do not send in \$100 for buildings if there is any possibility it is not Masonite. We send it in only when we are sure. After we demand a second inspection the problem is resolved. Sometimes we must remove a sample.

Discontinued Products

We have many condos with a discontinued product, but they are denied the 20% rule. We can never get the name of the product, which they claim is not discontinued, or a place we could purchase the product. This is very frustrating to find a match. In most cases we cannot.

It is very difficult if not impossible to replace a subset of a wall when the boards are hidden nailed. Once you take off the damaged board, the board above must be partially removed which will cause damage to the board. This compounds the problem with discontinued products.

Lost results

On many occasions the results of the inspections were sent to the wrong address. Contact the claims administration if the results are not received in a timely fashion.

Lost settlement checks

Many homeowners have had their checks mailed to a wrong address. Check periodically with the claims admin to verify your check has been mailed.

Lost applications in the mail

When you send in the application, call a few days later and see if it has arrived. I have now been sending applications via 2-day mail with the new delivery check. You can check to see if the post office delivered it and when on the Internet.

Lost \$100 deposits

Some homeowners sent in \$100 for the inspection instead of sending in a sample. Only when they specifically asked did they get this money back. Check your settlement offers before you accept.

Mishandling homeowners information

Many homeowners had their offers sent to another home. If you have not received your inspection results or checks within a reasonable time, contact the claims administration.

Missed inspections

According to the settlement, they are to inspect within 90 days of having your application approved. If you have not been inspected call the claims admin. They will not and have not been actively checking this. If you do not track this, you will probably never be inspected.

Poor Inspections

In the beginning of the settlement we had some terrible inspections. Over the past year or so they seem to have been pretty fair, but lately we have had another set of very poor inspection results. There is little to do about this.

Missing Buildings

On some claims the inspectors "forgot" to inspect the garages, or the results of the garages were never provided to the claims admin or to the homeowners.

Clerical Errors

Many times a claim will be denied because of a clerical error in the address, or one of the checked boxes. So, keep a copy of your claims for your records and contact the claims admin if there are problems.

Math Errors in the Settlement Offers

Many homeowners have found very simple math errors in their settlement, for example, $\$3.97 * 1000 = \2876.00 . As simple as that. Addition errors in the total sq footage of the house are common. It almost seems in some cases they are not using computers to do this type of math. So carefully check the math before you accept the check,

Incorrect regionally adjust cost figure

Homeowners in my area were given settlements based upon panel siding at a cost of about \$3.50 a sq foot, but every home in my subdivision, about 400, with Masonite has LAP siding. This should be at \$3.97 a sq foot. These mistakes were made even though the settlement offer clearly states LAP not PANEL siding. Check before you sign.

Miscalculations in the measurement of the house

Some homeowners had large errors in the siding measurements. Again, check before you accept.

Regional Adjusted cost too low

I have yet seen anyone received enough money to remove, replace, and paint their homes based upon the regionally adjusted cost. This cost is way too low, but there seems to be little to do about it. Each year the rate is adjusted for inflation. Last year we must have had negative inflation since the price in Houston went down from \$3.99 to \$3.97.

Safeguarding personal information

Some homeowners have received settlement checks with other homeowners names on them. Again, check before you sign.

No advertising about the settlement

There has been little if any advertisement of the settlement in the area. Houston has thousands of homes with Masonite, yet no organization, not even the attorneys have advertised.

"Reasonable Substitutes"

According to the settlement if Masonite has discontinued a particular product then homeowners only require 20% damage to get 100% compensation. But if there is a reasonable substitute, then homeowners require at least 75% damage before being compensated 100%. They are now allowing competitor products to be considered "reasonable substitutes". For instance I was told by Mr. Cole of Masonite that Temple and Boise Cascade makes identical looking products as woodsman 8" lap. Temple and Boise had state class actions filed against them in Texas last year.

Wall Sections

According to the settlement if a wall section is 50% damaged, then the entire wall is compensated for. But....wall sections are not defined in the settlement. The definition of wall sections are to help the homeowners, but in many cases it actually makes it more difficult to get fair compensation.

Damage specifications

According to the settlement, the inspectors should be using feeler gauges, and Delmhorst Moisture Meters to measure the moisture content and edge checking. We have yet to see any type of instruments used besides a visual inspection and pictures during their inspections. Some inspectors take less than 10 minutes.

Changes to the Settlement

It seems that although there is a settlement document detailing the terms of the settlement, changes are being made as the settlement progresses such as the definition of wall sections and reasonable substitutes or how they determine damage to the siding.

Recommendations and Conclusions

Read the settlement and the application carefully.

Use this information to help you apply for the settlement after you have read the settlement and application. If you need questions answered, contact the claims administration for the correct siding settlement, or contact the attorneys, which represented the homeowners.

Keep a record of all the claim information especially a copy of the application.

About Homeowners Against Deficient Dwellings

Homeowners Against Deficient Dwellings, (HADD) a non-profit organization, came into existence in response to an overwhelming need of support and resolution from families who felt isolated while coping with their devastating home damages and loss. Because the lone attempts to get their homes fixed proved unsuccessful, these families started to find each other and united into a cohesive group with a common cause. It was while testifying before legislative committees in the Kansas State Capital that HADD emerged as a grass roots organization.

HADD is not an arbitration group, nor does it provide legal counsel. HADD offers support and suggestions to assist consumers in making educated, informed decisions when buying a home or resolving the complicated issues involving deficient homes.

Homeowners Against Deficient Dwellings
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Resources

www.hadd.com/masonite A website maintained by HADD to help homeowners to apply for the various siding settlements.

www.masoniteclaims.com A website for masonite hardboard and omniboard siding.

www.lpsiding.com A website for LP siding claims.

www.abtcoclaims.com A Website for ABTco/ABITIBI siding settlements

www.weyerclaims.com A website for Weyerhaeuser siding settlement.