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Mr. Albert D. Rickmers
7 Wethersfield Road
Rochester, New York 14624

Dear Mr. Rickmers:

Mr. Simpson has asked our office to respond to your August 27, 1974 letter concerning the chimney construction in your home.

In answer to your first question about jurisdiction over your faulty chimney, the Commission has jurisdiction only over the materials, such as bricks, that were used in its construction. If any problems with the quality of those products exist, we would appreciate receiving specific information about them. If the problems lie elsewhere, as your letter seems to indicate is the case, the matter is outside of our jurisdiction. Consequently, we are not responding to your remaining questions.

Your local housing code and perhaps regulations of the federal office of Housing and Urban Development here in Washington are the most likely bases for the remedies that you are seeking. A private attorney would be able to explain the legal options arising from your faulty chimney.

We're sorry that we cannot provide any assistance to you in this matter.

Sincerely,

Michael A. Brown
General Counsel

ADVISORY OPINION

RECEIVED
OFFICE OF THE SECRETARY
SEP 19 2 31 PM '74
CONSUMER PRODUCT
SAFETY COMMISSION

7 Wethersfield Road
Rochester, New York
14624

Tuesday, August 27, 1974

Mr. Richard O. Simpson
Chairman
Consumer Product Safety Commission
Washington, D.C.

Dear Mr. Simpson:

On May 23, 1974, you addressed the American Society for Quality Control in Boston, Mass. After your talk I asked you about problems involved with poor construction in new homes and you promised me you would answer my questions if I would write to you.

We signed a purchase agreement on May 29, 1969 and closed on June 24, 69. After living in the new home, we detected a faulty chimney due to incorrect construction and poor workmanship. The trouble was discovered about Nov 1, 1973, and we had it corrected soon after that date.

Since the builder would not make corrections to the faulty chimney (which was giving off fumes in the house and causing illnes to the family) we had the work done by our own chimney expert.

Question: Does your office have jurisdiction over this area?

Question: Does the fact that we purchased the home in 1969 and did not discover the trouble and its cause until Nov. 1, 1973 make the builder of any faulty constructi free of his obligation to the buyer?

Question: What do we do to recover the cost of the chimney being torn down and rebuilt correctly?

Question: What are the obligations of the builder to the pain and suffering of the members of my family who were breathing in carbon monoxide gases and other unburned chimney gases for the years between first constructio and corrective construction?

Question: What to do?

Sincerely,

Albert D. Rickmers

Albert D. Rickmers
7 Wethersfield Road
Rochester, New York
14624