

Will agency bail out of site?

Equalization official says mold woes may warrant leaving leaky high-rise.

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As the employee health claims against the state Board of Equalization pile up, one board member is suggesting the agency might have to consider moving out of its high-rise headquarters at 450 N St.

If the 24-story building can't be made watertight, and the mold removed, the agency might have to consider moving its 2,200 employees out, said board member Bill Leonard, who represents the Sacramento area.

"I've already told our budget people to call the state Department of Finance, because Plan B is to move and let General Services try to sell the thing to someone else," he said.

Eleven BOE employees have now filed tort claims against the department alleging that they've suffered health problems stemming from exposure to mold in the leak-prone building. Attorney Anthony Perez said more will follow in the next two weeks. Such claims are the first step toward filing a lawsuit.

The employees allege that the Board of Equalization ignored repeated complaints about damp conditions and mold, and tried to cover up the problem.

A BOE spokeswoman said Tuesday that the tax agency is hiring a doctor, industrial hygienists and a building inspector to investigate whether the 24-story building is safe, and what remediation needs to be done.

The top three floors were vacated earlier this month after the department told employees that mold had been discovered growing inside the walls. About 200 people have been displaced, and 115 attorneys have been moved to the Franchise Tax Board headquarters in Rancho Cordova.

"Health and safety is our primary concern here, and we want to make sure, as the tenants of this building, that we are getting the best information available," said spokeswoman Anita Gore.

Gore said the health team is inspecting files being moved out of the closed floors to make sure they are mold free.

The agency leases the N Street building from the state Department of General Services for about \$10.3 million a year.

Leonard, a former legislator, said he's waiting to see whether the building - which just underwent a \$12 million repair of its leaking windows - is watertight.

"That's a big if," he said. "We haven't gone through a storm yet without leaks."

"The key is to follow the lead of the health team," he said. "No matter how onerous, we do it."

Leonard said the agency plans to ask employees to give a report of their health.

"If there's a cluster of employees reporting similar things, we're going to treat that as suspicious," he said.

It could cost the BOE dearly if it decided it must move.

Beth Mills, a General Services spokeswoman, said there is no specific lease term for BOE, but state law requires state agencies moving out of DGS space to continue paying rent until another tenant is found, or until the parties can work out a settlement.

Mills said her department is doing its own investigation of the water intrusion and its effects.

At this point, she said, the agency thinks the mold is isolated to the top three floors. Remediation is scheduled for completion in eight weeks, at which point the floors could be reoccupied.

Opened in 1993, the BOE building is essentially a wall of more than 6,000 windows set in pre-cast concrete. Between 1999 and 2005, several large panes of window glass failed, some sending shards crashing to the street below. A state report blamed window gasket failure, which caused water to leak into the building.

Leonard, elected to the board in 2002, said it took the crashing windows - which posed a potential hazard to passers-by - to get General Services to take the building's problems seriously. At that point, the building qualified for a \$12 million emergency appropriation, Leonard said.

But the water problems were obvious for years before the windows started breaking. A 1998 report for the California Public Employees' Retirement System, which owned the building at the time, found numerous problems, including water leaking through the window gaskets and cracks in the building's concrete panels.

Leonard said he noticed the water problems in the building's upper floors right away when he toured the building after his election. He was told the water came from leaks around a balcony on the 23rd floor.

"They'd bring out the trash cans as water buckets," he said. "They even put up hoses where the water was collecting in the false ceiling to drain it."

Leonard and the other four elected board member may soon be relocating. Gore said General Services is trying to find somewhere for them to go.

For now, she said, "They've been put in cubicles. That's not necessarily appropriate for elected constitutional officers."

CalPERS built 450 N St. as a profit-making investment for its portfolio. It arrived on the skyline at the same time as the similarly sized Wells Fargo Center nearby, but cost only about half as much - \$79.4 million.

The Department of General Services bought the building from CalPERS under a lease

purchase agreement in February. Even before the sale, however, General Services maintained the structure for CalPERS.

In 2000, the department reached a legal settlement with architectural firm Dreyfuss & Blackford and contractor Hensel Phelps Construction Co. The settlement required Hensel Phelps to make some repairs, but contained no monetary compensation for the building's defects, Mills said. The settlement left open the possibility that the state could sue the maker of the windows.

But when DGS looked at doing that, it discovered that the warranty on the windows had expired, Mills said.

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