

# THE PLAIN DEALER

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## Schools, contractor tussle after new windows fall out

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The Cleveland School District created the Warm, Safe and Dry repair program to fix crumbling buildings until they are closed or rebuilt.

But earlier this year, safety became an issue when two students were slightly injured by a new window falling out of its frame at Alexander Hamilton Middle School.

Rick Savors, spokesman for the Ohio School Facilities Commission, said that was the first time he knows of that a student was injured by repair work in the state's program. The state is paying for about two-thirds of Cleveland's \$1.5 billion construction project.

That project will repair and renovate 106 schools.

In about a month, Cleveland school officials should know whether Omega Development Corp. of Warren, Mich., properly installed the windows at Alexander Hamilton. The district has paid \$15,000 to Wheaton & Sprague Engineering Inc. to test the windows.

Paul Flesher, chief of capital programs for the Cleveland schools, said the window dispute may end up in court.

The district terminated Omega's contract in February after windows fell out at Alexander Hamilton three times. It was the first time a contract has been terminated since construction work began in 2001.

Over the last several years, the Cleveland district has paid Omega \$13 million for work on roofs, parking lots and windows. About \$135,600 was for the windows at Alexander Hamilton.

But district officials are holding back \$2 million in payments to Omega because of the problems, said school spokesman Alan Seifullah.

James Juliano, Omega's president, said his company installed the windows properly. He suggested the district could have picked a stronger type.

"They needed to point a finger at someone, and it was really easy to say this out-of-town guy was putting in crummy windows," he said.

Last summer, Omega began installing vinyl windows in nine schools, including Alexander Hamilton, on East 130th Street. Omega had already installed aluminum windows at nearly two dozen other schools without any problems, Flesher said.

In October, a custodian noticed after school that a window had "blown out" and screws were missing, Flesher said. No children were around, and no one was hurt, he said.

After that, letters began to fly between Omega, the district and construction manager Ozanne, Hammond, Gilbane and Regency. Don McCarthy, OHGR's project director, declined to comment, saying, "That thing has the potential to be a legal battle."

In a letter Oct. 28, Fred Rogers, OHGR construction operations manager, told Juliano that locking mechanisms were missing from the window that fell and from two others. Rogers also requested that Omega make sure all of the school's windows worked properly.

Juliano responded that the windows were broken from improper use. He recommended that stops be installed to limit how much the windows tilt open.

Don Vainer, vice president of Omega, said his company installed the safety devices in December. But Flesher said that work – which should have been part of the original installation – never took place.

On Jan. 5, a child tried to open a window in the school's office. The window came out of the frame and hit the child and another nearby student. The glass did not break, according to a state incident report.

One of the students was taken to an emergency room and the other was sent home with a parent, according to the report.

"There were cuts on one child, nothing serious or life-threatening," Flesher said.

The district had the walls and windows tested to confirm that the student opened the window correctly, said George Hamm Jr., the district's legal counsel.

Within a week, another window fell out at the school, but no one was hurt, Flesher said. By mid-January, the district paid another company \$40,000 to stabilize the windows, he said.

In a letter on Jan. 14 to Juliano, district Chief of Staff Lisa Marie Ruda said, "Even I know that new windows should not fall when opened."

"The district was advised to be cautious of an out-of-state, nonunion company and their commitment to quality. The state's construction manager did a review and determined your firm to be responsible. I am now forced to question their conclusion."

Juliano blames the district for not picking aluminum windows, which he said would have been sturdier but cost 25 percent to 40 percent more. Flesher said the district did not want to spend more because the schools that got the vinyl windows were scheduled to close or be rebuilt within a few years.

The situation with Omega was not discussed at any public meetings of the Bond Accountability Commission, which is charged with monitoring Cleveland's construction program.

Mayor Jane Campbell said the district was forced to use Omega because of state guidelines that require using the lowest responsible bidder. Savors, of the Ohio School Facilities Commission, said schools have some latitude in what companies they pick, but there has to be a clear reason to reject the lowest bid.

Jack Hayn, former business representative for the Painters & Allied Trades District Council No. 6, said he provided a reason in 2003. That's when he delivered and faxed copies of a letter written by Parma's school board president, Kevin Kelley, that discussed problems with window installation his district had with Omega, Hayn said.

Cleveland schools CEO Barbara Byrd-Bennett said officials tried to investigate further but they were unsuccessful in getting Kelley to elaborate on the letter. Kelley said he never received a call from the Cleveland district. Parma schools will not use Omega again, Kelley said.