

HOMEOWNER ALERT

Don't put your single most important investment at risk

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Most agree that buying a home is the single most expensive purchase you will make in your life. Most also agree that good maintenance and care is the best way to protect your investment, and few would purposefully take steps that actually decrease home values.

Against this backdrop, when does it make sense to file a lawsuit based on claims that a home was defectively built? When doesn't it?

A new trend is developing in the Central Valley and elsewhere in California that involves attempts by certain

attorneys to generate new business. In times past, homeowners occasionally made claims against builders and architects related to defective construction when, for example, a homeowner noticed real problems such as water intrusion into their home with resulting damage.

Faced with a meritorious claim, true evidence of a problem and after homeowner complaints made to their builders went unanswered or repairs failed, the frustrated homeowner would turn to a reputable attorney for help.

Times however have changed, and as a consumer, you need to be aware of the latest attempts by some

attorneys to manufacture claims in subdivisions where contented homeowners remained so until walking to their mailbox only to find a solicitation letter from a lawyer claiming that their house could be all but falling down.

The solicitation states that others in their community are experiencing problems and that the problems may be consistent and widespread throughout the subdivision. These

letters, sent by a select group of law firms specializing in the creation of construction defect lawsuits whether or not defects exist, encourage an "evaluation" of the home to see if you are one of the unlucky ones.

Over the course of time, homeowners may receive one, two, or even three letters from competitor firms trying to build a lawsuit. Once filed, the suits

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are not necessarily limited to a single subdivision. Instead they seem to include multiple developments built over time by a builder using different subcontractors, varying building techniques and materials and different building codes depending on the year the project was constructed. Often the only common thread is the builder and the geographical location.

But who benefits and who is hurt by this latest litigation trend? The soliciting lawyers and their experts will receive attorneys' fees and expert fees for filing the suit, testing certain of the involved homes and reaching a settlement.

Of great concern is the unwitting homeowner who joins the lawsuit despite the fact his or her home is performing well, or worse yet has testing done to "prove" the existence of defects never known to have existed in their home.

Unfortunately, participating in lawsuits and having reports prepared in connection with a home negatively affect property values regardless of whether defects exist or not. Having been involved in the litigation process, the homeowner will forever need to disclose his or her involvement along with all reports regarding the home generated by the soliciting lawyers' experts even if the reports were only generated as a negotiation tool and are not completely, or in some cases even partially,

accurate.

Damage estimates created by so-called experts are often huge, yet these very same claims typically settle for pennies on the dollar, leaving insufficient funds to make even legitimate repairs. Using legislative avenues, there have been attempts to force soliciting lawyers to disclose the down side of joining a lawsuit to their homeowner clients much like drug companies must disclose potential side effects of the products they sell. So far such efforts have been met by protest from those lawyers who specialize in this form of solicitation, and it appears they will continue to mightily resist the concept of mandatory disclosure.

This is the first of two articles designed to heighten homeowner awareness, provide insightful information about whether joining these lawsuits is more harmful than beneficial and help homeowners choose the best approach to address claims or concerns without negatively effecting what is for most, the single biggest investment they will make in their life.

There are times when filing a claim cannot be avoided; there are also times when they should be avoided at all costs.

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