

*Think*

before you

*Litigate*



*A Homeowner's Guide*

What homeowners should know to make an informed decision before filing construction lawsuits.



# *Think Before You Litigate!*

Unnecessary construction lawsuits can label your home as defective - lowering the value of your home, your neighborhood and ultimately reducing your personal assets.

## *And Make An Informed Decision*

"The average litigated construction dispute in California may take two to five years to be resolved. As they drag on, they run up costs and run down housing values." - *(Citizens Against Lawsuit Abuse)*

**H**omebuilders are responsible for building communities and building dreams - they take their job very seriously. The safety and well being of you and your family is paramount to the development of the entire community as well as each and every home. Homebuilders recognize your home is one of your greatest assets and stand behind the quality of their product. If you have any questions or concerns at anytime we encourage you to contact your homebuilder. A capable customer service staff is available to assist you. Your homebuilder is dedicated to helping homeowners with construction related issues.

Unnecessary construction lawsuits have been a growing problem throughout California,

causing homeowners to lose their greatest source of equity. Your homebuilder is dedicated to assisting you in identifying legitimate problems and making necessary repairs. This brochure will assist you in identifying how participation in unnecessary lawsuits may jeopardize one of your greatest investments, provide information regarding the right questions to ask and how to remove yourself from a lawsuit.

When you find your neighborhood being solicited by an aggressive law firm looking for business, we encourage you to use this handbook to assist you in making an informed decision.

Think before you litigate -

***Neighbors Protecting Home Values***



## Be an Informed Homeowner

Under the law known as SB 800, if your home was sold after January 2003 you must contact the homebuilder first so they have the opportunity to mitigate any legitimate construction concerns. Homeowners are often unaware under California law there are multiple home

warranties covering more than just the original homebuyer.

Remember there are alternatives to unnecessary lawsuits.

When attorneys are approaching your neighborhood looking for participants in lawsuits make an informed decision:

- 1** Contact your homebuilder first to solve your problem.
- 2** Personally speak with your neighbors and/or homeowner association to discuss alternatives to litigation – such as meeting with your homebuilder.
- 3** Assess your situation and make sure proper maintenance has been performed on your home and any problems are truly construction related.



*Homeowners should visually inspect their roof and chimney(s) from the ground twice a year to identify anything that might cause leaks or problems. To prevent unnecessary damage such as broken roof tiles we encourage you to work with a licensed, bonded and insured contractor.*

## *What Questions Should I Ask?*

When an attorney approaches you about bringing a lawsuit against your homebuilder make an informed decision and begin by asking the right questions.

- How are you paid?
- How long does it take to complete a lawsuit?
- When I sell my house do I have to disclose the lawsuit and whether or not repairs were made to my home?
- If we win, will there be enough money to repair my home?
- What are the specific problems in my home and how much will it cost to repair them?
- Can you show me the problems in my home?
- Why shouldn't I call my homebuilder first?
- How much do you anticipate the award being for the lawsuit?
- Who pays for the experts, testing and court costs if we lose the lawsuit?
- If we win the case and an award is received, where does the money go?



***Be An Informed Homeowner***




## *Frequently Asked Questions:*

### ***Will a lawsuit harm my home's value or my neighborhood?***

An unnecessary lawsuit concerning the construction of your home could lower the value of your home and the ability to sell your home in the future. "When a subdivision is in litigation against its builder, the property value for the entire neighborhood drops significantly. In fact, the adverse impact on property values can even affect homeowners who decline to participate in the litigation."

*(The Business Journal / August 30, 1999)*



*Don't forget to clean out and inspect your home's gutters and down spouts twice a year to make sure they operate as intended.*

## ***When I sell my house, will these litigated "defects" require disclosure to potential buyers?***

Under California law you must provide full disclosure when selling your home, which includes everything regarding perceived problems with the construction of your home and any major repairs and lawsuits relating to your home. The seller of the home must provide any potential buyers with a transfer disclosure statement – listing all defects to the property known to

the seller. The statement must be presented to the potential buyer during the due "diligence period" – reports usually extend the normal marketing time for the property and ***discount the potential selling price on the property 10%-20% depending on how extensive the defect list.***

## ***Will litigation effect my ability to buy another house or get another mortgage loan? What about refinancing my home or obtaining a second mortgage/home equity loan?***

Due to California's full disclosure law your lender will be put on notice and may require proceeds from any lawsuit be applied to your loan due to the loss in home value as a result of the suit.

Joining in an unnecessary lawsuit may also prevent homeowners from ever being able to sell or refinance a home, at least without proving all of the required repairs have been made.

## ***How long does it take to settle a lawsuit?***

If you are considering filing a lawsuit, have plenty of time on your hands – it is a very lengthy process and can take as much as two to five years to be settled. Running up costs and running down housing values. The lawsuit may also require destructive

testing on your home to prove the defects exist. Unnecessary lawsuits only benefit defect lawyers while harming homeowners and small businesses throughout California.

## ***How much will you really get from the settlement? Will my mortgage lender require some of the possible settlement proceeds from the litigation?***

"The promise of "easy money" may be very tempting – but you should know as much as 70% of your settlement could go to the attorneys and their paid experts in the case. These "experts" also often grossly inflate repair estimates to justify large settlement claims and pay their huge legal bills. Bills the homeowner is responsible for whether you win or lose the case. Homeowners could also be liable for the cost of the

builder's defense if their suit is unsuccessful.

Lenders may also require proceeds from the settlement due to the loss of value as a result of the suit. Unnecessary construction lawsuits are a form of extortion – only benefiting the defect attorney who brought forth the unreasonable claim."

*(The Business Journal / August 30, 1999)*





*Be sure and check the condition of siding, paint, masonry, stucco or EIFS and wood trim twice a year to maintain its good looks and confirm adequate weather protection.*

## ***Will the lawsuit affect my ability to obtain homeowners insurance?***

Most likely – if your home is labeled as defective it will be much more costly to insure, expect your premium rates to skyrocket in the future. In fact, homeowners insurance may not be available at all, rendering your house nearly impossible to sell.



***Shouldn't the City building codes and inspectors prevent construction defects from occurring?***

Cities are interested in making sure all homes meet building code requirements and inspect each home at various stages of construction before it is approved. Inspections may include, window flashings for water tightness, roofing, plumbing, fire blocking and installation of exterior waterproof paper. Inspections are completed by city building inspectors. All inspection records are on file at the building departments and

available for the homeowner's review. In order to protect future homebuyers cities often require homeowners to repair the defect(s) with settlement funds, list the defects on a disclosure statement to potential lenders or buyers and the city may also file a correctional or information lien on the home title to assure protection of future owners.



*Although interior caulking around windows is not a required or necessary feature, many homeowners choose to include it. If caulking is included in your home's construction around windows, doors and other areas it should be inspected once a year to make sure water, air, dust and insects are kept out.*

## ***What if I have a legitimate concern about my home?***

There are instances where homeowners have legitimate concerns about the quality of their home's construction and they should first contact the homebuilder directly to arrange for repairs rather than

joining an unnecessary lawsuit. If the builder will not resolve the legitimate problems, complaints may be filed with the appropriate governmental agency and trade associations.

## ***Will proper home maintenance prevent defects?***

Under California law homeowners are expected to maintain their homes – performing preventative maintenance on a regular, seasonal and one time task basis. Homeowners are often provided with suggested maintenance checklists by their insurance companies and encouraged to follow

manufacturer's recommendations. Insurance companies recommend homeowners use licensed contractors for any task they are unprepared to complete – doing it properly the first time will save homeowners time and money in the long run.



## ***How do you withdraw from a lawsuit?***

If you and/or your neighborhood have filed a lawsuit and you would like to decline and/or withdraw participation, send a letter to the lawyers organizing the lawsuit stating "I understand that you filed a lawsuit on my behalf against my homebuilder. I have decided not to pursue the lawsuit. Please dismiss me from the case now and send me something in writing confirming that I have been dismissed."



## *Think Before You Litigate!*

Give your homebuilder a call – you will be pleasantly surprised!

*Maintain the original grading, drainage and landscaping of your home to reduce the possibility of water or foundation damage.*

***Think Before you Litigate!***

# *Frequently Called Phone Numbers*

**My Homebuilder**

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**Homebuilder's Customer Service**

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**Licensed Maintenance Person**

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**Gardener**

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**Pool Maintenance**

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**City Services**

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**Other**

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**Other**

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**Other**

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*Twice a year homeowners should inspect the foundation, basement or crawl space to identify any leaks or problems. The "weep screed" or lip at the base of the home's exterior walls should not be blocked by cement, soil, etc. - it is a necessary part of your home construction and facilitates proper drainage.*



*Neighbors Protecting*  
H O M E V A L U E S