

State Senate Considers Construction Defects Bill With Its Own Defects

Several times in the past I have written about the serious problem of construction defects litigation, which I firmly believe is responsible for the drying up of condo construction and the resulting reduction in entry level housing stock throughout Colorado.

It is why we see so much construction of rental apartments and so little construction of condos for purchase. All builders and developers must buy insurance to protect them from claims, but virtually all the insurance companies writing such policies made good on their threats to stop writing such policies because of current laws on construction defects.

Republicans in Colorado's General Assembly have sponsored legislation in the past to curtail such litigation, with Democrats resisting on the basis that homebuyers deserve protection against shoddy construction. With Republicans now controlling the State Senate, there's a new bill, SB-177, which is in many ways worse than previous efforts.

Clearly, there's a middle ground, but this isn't it. Under current law, an HOA board can, without a vote of its membership, engage a contingency law firm to sue builders or developers for construction defects. HOA boards are solicited by such firms with a seemingly no-lose prop-

osition: the HOA pays nothing unless and until a settlement is reached, not only for legal expenses but also for invasive and non-invasive testing for defects.

I witnessed this process at the Millstone development on Clear Creek several years ago. The process dragged on for years, during which condo owners could only sell their units for cash because lenders won't lend on a condo whose HOA is involved in litigation.

SB-177 goes beyond requiring that an HOA's membership approve such litigation by a majority vote at a membership meeting to requiring a majority vote of all members of the HOA — without even allowing proxies. Can you imagine getting 51% of any HOA's members to show up at such a meeting and vote unanimous-

ly (since 49% aren't present) on anything, much less a motion to engage in litigation on construction defects?

Another requirement is that homeowners and not lawyers must go to district court at their own expense (no lawyers allowed) to file their claim and request arbitration.

Basically, SB-177 creates so many obstacles for suing for construction defects that it would be unlikely any except the most outrageous defects would be pursued.

I wasn't surprised to receive an email from the Colorado Association of Commerce and Industry urging me to write my Senator in support of the bill, but I was disappointed to receive the same request from my Realtor association.

Yes, we need a construction defects law, but not SB-177 as written.

REAL ESTATE TODAY



By JIM SMITH, Realtor®

Join Our Agents for a Lunch-and-Learn on Credit Repair

Golden Real Estate has weekly office meetings with guest speakers who brief us on important topics. We're going to experiment with opening these meeting to you, our readers, starting with next Monday's meeting about credit repair.

Unless you are paying cash, your credit score and credit history are central to your ability to buy a home. It wasn't always this way, but it is now. Raising your credit score by just a few points can often qualify you for a lower interest rate or smaller down payment.

You may recall me featuring Bruce Gustafson of Crestline Mortgage (303-596-0780), who specializes in helping buyers raise their credit scores, but this week we're giving equal time to a non-lender whose only business is credit repair.

The session begins at 11 a.m. on Monday the 23rd. Bring your own lunch or reserve one with us for \$10. RSVP to me — see contact info at right.

Colorado Environmental Film Festival

Are you a film buff and also interested in environmental issues? Then you'll want to attend this festival happening in downtown Golden today, tomorrow and Saturday. Friday's showings are free (donations welcome), and Saturday includes an all-day Eco Expo in which Golden Real Estate has a table staffed by our EcoBroker agents. Come say hello! More details about the festival are at www.CEFF.net.

This Week's Featured New Listing

Modern Log Home in Blue Mountain Estates

If you like the idea of a true mountain luxury home that is only 15 minutes from Golden or Boulder, you will find it here at 25462 Westridge Road in Blue Mountain Estates. The subdivision occupies the valley between a hogback north of Golden and the foothills, with homes along ridges both east and west. This home is on the western ridge, giving it a view of the mountains to the west as well as the valley below and the plains beyond. With its metal roof and fire sprinkler system inside, you'll save on insurance, too. It has three bedrooms, but one of them could easily be divided into two bedrooms, and you could make a fifth bedroom in the walk-out basement. The interior finishes are superior, with



cherry hardwood, tile and carpeted flooring, vaulted ceilings — including a true great room — jetted master bath, outside hot tub, and so much more. See more pictures and take a narrated video tour (like a showing), on the website above.

Jim Smith

Broker/Owner

Golden Real Estate, Inc.

DIRECT: 303-525-1851

EMAIL: Jim@GoldenRealEstate.com

17695 South Golden Road, Golden 80401

WEBSITE: www.GoldenRealEstate.com



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