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Home Forum / Elizabeth Rhodes

Can owners sue builder over homes' construction problems?

Q: I live in a new Puyallup development where the houses have experienced numerous and sometimes serious construction problems. The situation is so bad, a group of us are wondering whether we should sue, even though we're still under warranty. Our builder has either been slow to act — or hasn't. Can you give us some guidance?

A: You've taken the right first step in trying to work with the builder, says Kirkland attorney Jeanette Bowers Weaver. However, if the builder is ignoring you, "the warranty may be worthless unless enforced in court," she observes. "I urge the homeowners to contact an attorney as soon as possible, as time deadlines are likely ticking away."

A lawyer also can help you understand how your warranty works — important because they often "require the homeowner to take several steps within strict timelines or lose their right to make a warranty claim."

Lastly, an attorney can evaluate, based on the specifics of your situation, whether it makes sense to sue and counsel you about what's involved. In general, a homeowner "must consider the cost to litigate (including expert witness fees), the cost to fix his home properly and the emotional costs of waking up every morning involved in a lawsuit." Bowers Weaver says people often underestimate the toll that last one takes.

If you do decide to sue, the cost "will vary greatly depending on many factors, including the number of defects alleged, the various legal theories pursued, the amount of evidence known or the amount of evidence that must be developed." Legal bills easily could top \$50,000.

Q: In terms of a credit rating, what happens when a person with very good credit marries a person with bad credit, and they then want to rent an apartment? Does the "good" credit rating get pulled down more than the "bad" credit rating gets moved up?

A: "There is no such thing as a combined rating for a couple," says David Rubinger, spokesman for Equifax, one of three national credit-reporting agencies. "An individual's rating remains theirs throughout life. Now that we say that, let's say a couple open a joint checking account. That will be reported on both of their credit reports. Or if both names are on a mortgage, it will get filed on each person's credit report."

Rubinger says that in the rental situation you describe, the landlord likely will pull credit reports for both husband and wife and decide based on them whether they meet the customary screening criteria. The credit reports themselves provide no automatic "red light or green light," he explains, adding, "every landlord is different and will have a different risk tolerance." And the credit report is only one part of the picture. The landlord also will consider whether the couple has the income necessary to pay the rent, and whether they have a history of evictions or other legal problems. Lastly, there's the rental market to consider. If there are a lot of vacancies, which is the case now, landlords are likely to be more accommodating to those who have less than ideal credit histories.

Q: Since buying my home, I've come to believe that the agent who sold it to me is generally unethical. When I sell this house, I want to make sure he's not involved in any way, including showing it. Is there a way to make sure this happens?

A: While the reason you want to exclude this agent might be unusual, setting parameters on the showing and sale of your house isn't, says Jeff Coop, legal affairs manager for the Northwest Multiple Listing Service, which compiles home sales data throughout much of the region.

"Sellers always have the right to set perimeters over who will enter a house and at what time," Coop says. Indeed, the owners of rental houses that are up for sale commonly stipulate that tenants must be given 24 hours' notice before prospective buyers are allowed in. It's also common to restrict the times homes can be shown when the occupants are shift workers who sleep during parts of the day. And owners sometimes take their homes off the market for a short time over the holidays or when family events are planned.

The way to handle this, Coop says, is to have a frank talk with your agent at the time of listing. "There are many ways of accommodating sellers who have particular needs when it comes to showing and sale."

Should the agent you dislike somehow slip through, know that "if an offer comes in from that particular agent, you don't even have to consider it," Coop concludes.

Home Forum answers readers' real-estate questions. Send questions to Home Forum, Seattle Times, P.O. Box 1845, Seattle, WA 98111, or call 206-464-8510 to leave a question on a recorded line. The e-mail address is erhodes@seattletimes.com. Sorry, no personal replies. More columns at www.seattletimes.com/columnists.

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