

## **Rapid Building Triggers Lawsuits**

Mike Fimea, Arizona Business Gazette

### ***Cheap Plans 1st Step In Bad Construction***

**May 2001** - The flood of home building in Arizona, California and Nevada has triggered an avalanche of construction-defect lawsuits, California-based attorney Thomas Miller says.

"Developers are rushing projects to completion and the only way they can do that is to cut corners," said Miller, co-author of Home and Condo Defects a 60-page consumers' guide to resolving cases of shoddy home construction.

Miller and his daughter, Rachel, have built a fearsome reputation from their main office in Newport Beach, winning more than \$300 million in damages for aggrieved homeowners.

Their most dramatic Left Coast lawsuit involved five condominiums that collapsed down a hillside in Laguna Niguel, about 40 miles south of Los Angeles. The four-year case was settled in 1998, with the developers agreeing to pay the homeowners \$9.4 million.

At roughly the same time, the Millers turned their attention to the nation's two fastest-growing metro areas: Las Vegas and Phoenix.

In December, they obtained an \$800,000 settlement for La Camarilla Villas, a 40-unit condo complex in northeast Phoenix. They are litigating five other cases in Arizona courts, including one involving the high-end Terravita development in north Scottsdale.

Although not licensed to practice law in Arizona, state courts will allow the Millers to enter a case with licensed counsel. The Miller firm employs two associates, Dan Clifford and Michael White, who work for the firm in Scottsdale.

"People have been calling us for the last five years," said Rachel Miller, the firm's marketing partner. "It's a newer phenomenon in Arizona because the houses are newer."

Crummy construction literally begins on paper, with cheaply obtained plans that lack enough detail to build a house correctly. The plans may not tell the roofer, for example, how far apart to nail the shingles; over time, water may start leaking into the house.

Aggravating the situation is a shortage of both trained labor and experienced supervision.

"We've heard stories where one day (a construction worker) is a roofer, the next day he's a framer and the day after that he's an electrician," Rachel said.

A defective house doesn't fall apart immediately; Tom says it takes three to five years for the faults to show up.

The most common problems are water leaks -- through the roofs, windows and even up from the foundation -- and cracked stucco. A different process of applying stucco is causing particular grief in Arizona.

"Stuccoing was typically done in three coats, but builders are now using a one-coat system that goes over Styrofoam," Tom said.

"It must be applied by licensed professionals because the amount of error is minimal. If you don't do it right, the stucco will crack, peel and chip."

For all of the Millers' successes, however, readers of Home and Condo Defects will learn a sobering lesson: suing a home builder is not a simple or inexpensive procedure.

A single construction-defect claim can involve dozens of defendants, including all the subcontractors the builder hired. Several experts must be paid to investigate the claim, from architects to structural engineers.

"By the time you file, you've spent six months in preparation," Tom said.

"You don't want to go bankrupt just on the experts' investigation. You have to pinpoint the real problems and get the courts to recognize that (the claim) is an appropriate response."

The Arizona housing surge of the 1990s followed rapid residential expansion in California during the 1980s. Over the next decade, the Millers expect a similar rise in lawsuits.

"There aren't more than a handful of attorneys here who specialize in recoveries (for construction defects)," Tom said. "We're plowing new ground."