

Battle Lines Drawn Over Home Defects

By David Hare, Staff Writer, Las Vegas Business Press

November 9, 2001 - In matters of love and war there are two sides to every story.

It's no different in real estate, particularly in Southern Nevada, where the number of construction defect cases is on the rise, placing homeowners and homebuilders on opposite sides of the picket fence.

Straddling both sides of the line are attorneys who say they want what's best for their client, even if it involved time-consuming, walletdraining litigation.

Leading the charge for homeowners and community associations is California attorney Thomas Miller, who, at his presentation last week at the Palace Station Hotel, said one out of every two homes built in Southern Nevada is likely to have some type of construction defect.

While those might be great odds in a casino, Las Vegas home buyers might be hesitant.

"In Southern Nevada the number of homes and condominiums with construction defects is almost epidemic," Miller said after his presentation. "When you're buying a new home these days it's a coin toss."

Miller listed some of the reasons for the large number of construction defect lawsuits in Southern Nevada, including an inexperienced labor pool, a lack of work site supervision, and a shortage of county building inspectors.

He also faulted developers who generally award projects to the lowest bidder who in turn end up cutting corners in order to save money. According to Miller, it's these costcutting measures which often lead to shoddy construction on homes and condominiums.

Faulty plumbing, corrosive soil, leaky roofs, the list goes on, but most construction defects don't arise until two or three years after the owner has moved into his/her new home, Miller said.

"Just like in Southern California and Phoenix, when there's a building boom, mistakes are going to happen," he said. "Only here it seems as though the mistakes aren't being fixed as quickly as they should be."

When residents' calls to developers continue to be ignored, Miller said that's when a leaky roof or a busted pipe can become more trouble than its worth for both the owner and the builder.

"That's why 95 percent of these cases settle before trial," he said. "It can cost both parties a great deal of time and money."

Del Webb, American Nevada Corp., Nevada Homes Group, these are just some of the local developers currently engaged in some type of litigation involving homeowners or community associations.

Mark Ferrario, an attorney for the Southern Nevada Home Builders Association, representing several large developers, said his clients want the opportunity to fix homeowners' problems. But builders too often are finding themselves on the other end of a lawsuit without ever being given the chance to make repairs.

"Building a home is not an exact science," he said. "Mistakes are going to be made. But what's the best way of dealing with these mistakes?"

"Having builders and homeowners become involved in years of litigation, or allowing the builders an opportunity to fix the problems?"

Ferrario makes no apologies for careless builders who continually ignore an owner's complaints. In those cases, he said the homeowner is entitled to redress the problem in court.

But many builders and subcontractors complain about being sued over minor flaws without getting a chance to fix the problem.

"The attention being drawn to this area has become exacerbated to the point where builders can't take care of a problem without the legal profession getting involved," he said. "In some cases, a builder's first notice of a problem comes from a lawyer."

Nevada legislators earlier this year killed Assembly Bill 133, sought by the home building industry, which would have required homeowners to provide builders a reasonable amount of time to make repairs.

As for slowing down the pace of construction in Las Vegas, Ferrario said, "then what do we do with all the people coming here?"