

Local Lawyer Throws The Book (Which He Happened To Write!) At Construction Industry

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1993 - Nobody likes to talk about it, and most of us hope that if we have 'em, they'll go away. Not fleas, but defects in our homes, many of which are not that old. Nestled on High Bluff Drive in one of the area's most imaginative buildings are The Miller Law Firm, which specialize in this very matter. As reported elsewhere, Thomas Miller himself recently held an open meeting for local residents, and a lot of people, a big lot as the kids would say, turned out to express their anxiety and unhappiness. Given the interest, we thought it would be a good idea to meet the man whom developers would prefer to meet on a golf course only, thank you, than in court. (Unless you are the builder of a defective course!) His firm, with its various offices in Southern California, has not lost a case, and such is the care and consideration that his legal team exerts, that they won't proceed to court unless they are absolutely sure that under the present laws, their clients will prevail.

Why? That is a question that many people ask. Why in such new homes, and with all these new technologies, should homes be overrun with all these construction problems. Thomas told us:

"The 1980's were a builder's hey-dey. Business boomed, everybody was in a rush and a lot of projects backed up. With abundant financing available, there appeared to be a sense of arrogance on the part of some builders. Supervision faltered, there were staff shortages and combining all these factors, we have been left with some projects which are defective."

Thomas admits that when he first moved his offices in to Carmel Valley, he never thought that the houses which sprung up around him might one day provide him with business. If ever the Bar Association needed a Poster Adult, he must surely be one of the front runners. Unfailingly polite, Thomas is knowledgeable, reasonable and accommodating. The nature of the very beast he works with means that people are adversarial, combative and unhappy. He leaves one with the feeling that not only does he ensure that his clients' rights under law are upheld, but that builders understand that much of this friction can be avoided if they would do it right. To this end he served on the Building Industry Association's Board of Directors. His mission was to educate the builders, but he admits that he wasn't that successful.

"Sadly, most felt that their insurance would bale them out," he told us.

However, he does point out that there is not the availability of builders insurance that there was ten years ago, and that with the excellent laws protecting homeowners in California, initial frustration can, with patience, lead to success and restitution. The Law Offices of Thomas E. Miller does not accept individual cases.

They work with homeowner associations and class action suits. So if you feel you have a problem that your developer is unwilling to address, it appears your best chance is either to go file suit with an attorney qualified to do so, or to check with your neighbors all around. You may all be experiencing similar difficulties and then a firm such as Thomas' may be willing to act.

Thomas Miller has written a superb and pioneering textbook on California Construction Defect Litigation, published by John Wiley. Already in its second edition, this tome spells it out for attorneys, scholars, and no doubt judges. Academic books are by their very nature tedious, but a perusal of this one suggests a logic and clarity which are also the hallmark of Thomas as an individual. His daughter Rachel Miller is a third year law student who during the past three years has been doing public relations for the Law Offices. A delightful and insightful young person, it is her intention to join the firm upon joining the Bar. So if anybody out there was thinking of fouling up on construction in the hope that Thomas will retire to greener pastures, forget it. Firstly, the guy looks young enough to be her brother, and secondly, her acumen is testimony to the power of genetics! To coin a Latin phrase, Constructore Defectibus Emptor - Defective Constructors Beware!