

Another Attainable Housing Fight on the Horizon: Preparing for the 2015 Colorado Legislative Session



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As Colorado prepares for the 2015 legislative session, construction defect reform is shaping up to be another key issue under the Capitol dome. Over the last few years, the political landscape on the issue has shifted such that the fight is no longer between the construction industry and homeowners, or homeowners associations; it has become an issue of attainable housing. This change has pit any group interested in affordable housing, transit-oriented development, densification, and economic development against plaintiffs' construction defect attorneys, through their interest groups, the Community Association Institute – Rocky Mountain Chapter and Build Our Homes Right.

Once again, the **Homeownership Opportunity Alliance (HOA)** will be leading the charge. The HOA is a coalition of Coloradans working to open the doors to homeownership by: (1) protecting consumers from unknowingly entering into litigation and establishing solid processes through which homeowners and developers can work together to achieve a positive resolution to

identified defects in construction, and (2) increasing the supply of attainable, affordable housing while protecting the rights of consumers to take legal action.

The HOA's coalition partners currently include:

- American Subcontractors Association
- Apartment Association of Metro Denver
- Associated Builders and Contractors – Rocky Mountain Chapter
- Associated General Contractors of Colorado
- Building Jobs 4 Colorado
- Colorado Association of Home Builders
- Colorado Association of Mechanical & Plumbing Contractors
- Colorado Association of Plumbing-Heating-Cooling Contractors
- Colorado Civil Justice League
- Colorado Competitive Council
- Colorado Concern
- Denver Metro Chamber of Commerce

- Denver South Economic Development Partnership
- Douglas County Commissioners
- Downtown Denver Partnership
- Heating, Air-Conditioning, Refrigeration Professionals
- Hope Communities
- Housing Colorado
- Independent Electrical Contractors
- Metro Denver Economic Development Corp.
- Metro Mayors Caucus
- NAIOP Colorado
- National Electrical Contractors
- Sheet Metal & Air Conditioning Contractor

In addition, the following Colorado mayors have joined the coalition:

- Marc Williams, Arvada
- Steve Hogan, Aurora
- Sue Horn, Bennet
- Dick McLean, Brighton
- Rick Pilgrim, Bow Mar
- Randy Ahrens, Broomfield
- Jeffrey Huff, Castle Pines
- Cathy Noon, Centennial
- Doug Tisdale, Cherry Hills Village
- Gale Christy, Columbine Valley
- Sean Ford, Commerce City
- Michael Hancock, Denver
- Randy Penn, Englewood
- Tony Carey, Frederick

- Marjorie Sloan, Golden
- Ron Rakowsky, Greenwood Village
- Bob Murphy, Lakewood
- Phil Cernanec, Littleton
- Jim Gunning, Lone Tree
- Joe Gerlach, Nederland
- Joyce Thomas, Northglenn
- Mike Waid, Parker
- Dallas Hall, Sheridan
- Herb Atchison, Westminster
- Joyce Jay, Wheat Ridge

The proposed legislation for 2015 will probably look similar to SB 14-220, sponsored by Senator Jessie Ulibarri in 2014. The two main provisions of SB 14-220 which are likely to reappear in next year's bill are: 1) an informed consent requirement by which a homeowners association must attain approval from 51% of the homeowners in a community, after making certain disclosures, before it can proceed with making a claim, and; 2) a protection of the declarant's right to arbitrate claims with the association. In addition, there is discussion of adding a mechanism to encourage the early resolution of disputes, before they even reach arbitration.

For additional information regarding this or any construction law issues in Colorado, you can reach David M. McLain by e-mail at mclain@hhmrlaw.com or by telephone at (303) 987-9813. ■

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