

Joyce Faltus

I worked in Building and Planning in Lake Oswego and Canby. I do not have a problem with builders. I DO have a problem with those who don't take enough pride in their work, that their final output is a defective dwelling with shoddy workmanship. There is a lemon law to protect consumers when they buy a car, but not a home, the largest investment most consumers make. We need a lemon law to protect us against builders who do shoddy work or permit subs to do shoddy work.

Builders have one of the most powerful and deep-pocketed lobbies in the state. What with having contractors sit as arbitrators, builders have nearly total control over any resolution that might take place, but the owner who has paid the builder, is supposed to "compromise." ~~They~~^{we} pay for the defective work AND for repairing the defective work. Something is wrong here.

Like New Jersey, British Columbia has a newly created Homeowner Protection Office which, along with a lot of research into this problem of defective dwellings, also instituted a financial-aid program for victims. But the political reaction in Oregon has turned into a fight over consumer rights to sue. Senate Majority Leader Kate Brown questioned why Oregon would pass a bill that puts homeowners at risk. The Legislature listed earnestly to contractor hard-luck stories, especially about insurance costs, but no one paid attention to questions about construction quality or the harsh impact that defective homes have on owners. Why did insurance carriers pay out between \$81 million and \$191 million for construction defects between 2001 and 2003? Why are contractors not taking pride in their jobs? Ordinary people worry about rising car insurance so they drive more defensively. Why don't contractors build more carefully to avoid complaints/suits? Senate Bill 514, intended to end the liability insurance by rescinding the 1971 law requiring contractors to be insured is a slap in the face to all consumers. Why do contractors feel they can build a defective dwelling and not be held accountable? Other than trust the contractor they hired, what has the homeowner done to deserve this?

I am sure no house is PERFECT. We do feel it is the builder's responsibility to ensure that the slab is level and mostly square. Ours is not. That fact is verified by an email from the builder. Two months after the slab was poured, the garage door was delivered and only the center touched the slab. The sub came back and pulled out 8 feet of concrete across the garage. We still can't hose it out or build cabinets on the sides because water puddles to the sides, but it's better than it was. That was the time for the contractor to check on the living area slab, which, when it rained earlier, he and my husband talked about the need for it to be leveled due to severe puddling.

The pre engineered wood floors are THE issue. Installed over an uneven slab and, rather than carry a rag to clean up the glue (manufacturer requires 100% glue-down over radiant heat in a slab), they used a buffer and some caustic wet solution to try to clean the glue, much of which is still remaining. Manufacturer's instructions say NOT TO USE A BUFFER OR WATER. The buffer burned off the finish in many places. When we noticed movement in the floors and that there are very large gaps under the baseboards, we realized that although the baseboards were level, the floor was like a roller coaster. After talking it over with the builder, he said to get a certified National Flooring inspector. If he said it had to come up, it would. At the cost of \$625 we did. THREE separate inspections (\$1000+) concluded that the floor had to come up. When we told contractor of the results of the inspections, he went to a lawyer, a lawyer who threatened that if I said anything negative about the contractor, I'd be sued for libel. What can I say that's positive? Just seeing the floors and the way the frame tiles above doorways, a wavy wall, and the way the roof sits unevenly across the front porch, is heartbreaking (and embarrassing).

After tapping the floor it was found that more than 1/3 of the floor area, in various places, are hollow. The subcontractor sent men in to drill holes in the flooring and inject glue. Those areas (more than one dozen holes on just one wall in the great room) are still hollow and in some places the boards were lifted above the floor level. The contractor knew about uneven slab. When tile work was done in hallway, the tile

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installer had to chip away to try to level it best he could. I have an area in the hallway where the baseboards touch the tile and then the floor dips approximately 1/4" in 4 feet. Under the desk in my office where the baseboards do not meet the wood, a scorpion got through the other night and climbed up my leg. Spiders come out constantly and dust balls gather in all the dip areas.

We offered to compromise and not ask that the tile be picked up in the halls so the slab could be leveled, and instead asked that the baseboards be scribed to hide the defect. There's one wavy wall in the hallway that is very evident as you easily notice the baseboard's waves. We were going to put in thicker padding, but the installer said it wouldn't help (I have a statement from him). Further compromise on our part was to leave the roller coaster slab under the carpeting in the 3 bedrooms. We sent a letter to the contractor thru his attorney saying we'd pay for and correct the punchlist items on our own, that the floor is our main issue (and the island which is horribly UNSquare).

I cannot reach my rods in the closets. The finish carpenter installed them 82" above the floor, standard is 68". I asked him to install them about a foot lower. He said to buy a step ladder. I thought he was joking. Then the contractor emailed me that the finish carpenter said he would not install mirrors, towel holders, shower curtain rod, toilet paper holders or robe hooks in bathrooms. He said he hoped the sub was joking. In both cases, he wasn't and we had to hire our own carpenter to install the bathroom fixtures and are arranging to have the closet rods and shelves lowered at our own expense, just as we are repairing the back door where the top part bends when it's windy and lets wind into the house.

Consumers need more protection. It does not seem like a democracy when special interest groups control the legislature by donating to campaigns and "buying votes." The Homebuilders Association is very strong. But in talking to Jim Chapman and many other quality builders (including legislators), the response has been that even they would like the worst ones gone because they ruin it for the quality builders and are the

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cause of rising insurance premiums. My contractor advertises as a "quality custom home builder who is there long after the warranty." Yet he defaulted on our contract when he lost his license for nearly the full month of May because he didn't pay for his insurance and even wanted to do the walk through during that time.

When I contacted the CCB and asked for answers to several questions, I received a letter almost two months later, AFTER BILL BOYD (head of claims) talked with my contractor's attorney while in Bend. In Oregon, arbitrators are generally contractors - and to me that's like a child sitting as judge in a child molestation case - no objectivity at all.

New Jersey recently passed legislation to protect homeowners. The legislature there took the time to listen to the consumers; not just the builders. The Commission called for a system-wide overhaul to protect consumers, expanded criminal statutes, and empowered homebuyers by revamping the state's Consumer Fraud Act by enacting a new-home "Lemon Law," similar to the act aimed at aiding purchasers of defective new cars. Their 51 page report, "The Good, the Bad and the Ugly - New Home Construction in New Jersey," catalogs shoddy and deficient construction practices, lax regulatory oversight and poor remediation options that routinely plunge unsuspecting new-home purchasers across the state into the worst sort of "buyer beware" consumer nightmare.

Sure, builders complain about the high cost of insurance, especially if a claim or suit is filed. I think most defects can be avoided by (1) having a good work ethic and (2) overseeing the project, not just 15 minutes twice or three times a week and (3) actually working FOR the person who hired them. Honest contractors wouldn't have the fear of lawsuits or claims. They would build with pride and reap the benefit of good referrals.

The CCB only assigns one inspector that goes to central Oregon. From talking to others, he appears to feel that homeowners are "crybabies" and underestimates what it would take to repair a problem. What happens to these "crybabies" who are too old or

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not financially secure enough to hire an attorney or hire someone to correct the deficiencies? Are consumers supposed to pay for the defective work and to fix it also? What happened to "pride in workmanship" and a "good work ethic?" I have a small newspaper. If an ad gets messed up during the printing process (slippage), I don't respond, "It's not my fault. The printer messed up." It's MY paper and I take pride in it and I'd never charge if they blur it or distort an ad. What would that say about me?

There are currently several builder-related bills working their way through the legislative process, although they remained in committee at the end of this session. All are pro-contractor. Who is representing the consumer?

Yes, some people do file frivolous claims. But the majority of people wouldn't bother to file a frivolous claim against a contractor because they, like us, would prefer to live in their home, rather than in a 2-car garage as we have done since last September, unable to entertain, unable to take a bath, having company from Canada that had to sleep in a camper and share meals with us in a garage for a month, and worst of all, not being able to have our grandchildren stay overnight for more than a year. That's certainly not my idea of living. Besides, what is gained by both sides paying attorney fees? We have our homeowners insurance with a company where, if you haven't filed a claim in 3 years, you get a 25% rebate on the premium. That's sure an incentive to be careful driving and around your home.

This has been and continues to be a very frustrating, emotional drain on our lives which we will never recover financially and could affect our lives forever. All we wanted was what we were paying for. Nothing more. I'm paying an attorney because I'm grateful for the life we have. We have our health, can pay our bills in retirement, have healthy children and grandchildren - and I feel I have to "give back," by trying to help others. My contractor could have avoided all this by doing what he said he would after making us get a certified inspection(s) - fixing the problem.

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