



Opposition to House Bill 3746: Protecting Homeowners' Rights to Remedy Construction Defects

Dear Chair Representative Pam Marsh, Vice-Chairs Representative Tom Andersen and Representative Vikki Breese-Iverson, and Members of the Housing and Houseless Committee,

On behalf of the Oregon Community Association Institute (CAI) Legislative Action Committee (LAC), which represents approximately 565,000 Oregonians residing in 228,000 homes across more than 3,980 community associations statewide, we are writing to express our opposition to House Bill 3746. While the bill aims to address certain aspects of construction defect claims, we believe it poses significant challenges and undermines homeowners' rights and protections in Oregon.

HB 3746 includes provisions that would severely restrict homeowners' ability to seek adequate remedies for construction defects in their communities. Under the proposed bill, certain claims would be difficult to pursue, particularly by requiring overly burdensome approval thresholds for homeowners, such as requiring a supermajority of homeowners in a community to support the filing of a construction defect claim. This provision could prevent homeowners from taking necessary legal action, even if their homes or common areas suffer from significant defects.

Homeowners have a reasonable expectation that the homes they purchase will be constructed with good workmanship and free from material defects. However, under HB 3746, homeowners would face significant hurdles in addressing these defects. For example, the bill's language could allow developers or contractors to make repairs that are merely cosmetic or inadequate, without the ability for homeowners or associations to demand more comprehensive fixes. This "right to remedy" could potentially leave defective issues unresolved, leading to long-term damage and safety concerns.

The bill also mandates the use of alternative dispute resolution (ADR) prior to pursuing legal action, potentially delaying the resolution of critical issues for extended periods, while shorting the statute of limitation to resolve these issues. As shown in previous studies and surveys from CAI, many construction deficiencies take years to identify, and forcing lengthy ADR processes could allow serious defects to go unresolved until they worsen, exacerbating risks to health, safety, and property values.

Moreover, the bill's requirement for a high threshold of homeowner approval to move forward with a construction defect claim, combined with the inability to take collective legal action if just one homeowner is time-barred, creates further obstacles. Community associations are



often made up of diverse groups of residents, including absentee owners, renters, and those with limited ability to respond to official communications. Requiring a supermajority to take action places a disproportionate burden on communities that are already challenged by the logistics of managing collective decision-making.

It is critical to note that a large portion of the construction deficiencies reported in Oregon—especially in multi-family and condominium developments—are caused by poor workmanship, including issues like water intrusion, structural cracks, and roofing deficiencies. The current provisions that allow homeowners and associations to take legal action against negligent developers are crucial for protecting their investments and ensuring the safety and stability of their communities. Reducing the ability of homeowners to hold builders accountable will only serve to increase the financial burden on homeowners, as they may be forced to pay for repairs out of pocket, potentially through special assessments or by using reserve funds.

We would also like to highlight that we have made significant outreach efforts to be included in the drafting process for this legislation. Unfortunately, we were shut out of these discussions and were not provided a seat at the table to offer input on how this bill would impact Oregon consumers. It is clear that the proponents of this bill are not interested in finding a middle-ground solution, opting instead for an all-or-nothing approach. Had we been given the opportunity to participate in the process as requested, we believe we could have found common-sense solutions that would have better served both homeowners and developers before this bill came before the legislative body.

Because of this exclusion and the all-or-nothing nature of the bill, we are forced to oppose HB 3746. This bill's provisions not only place unreasonable restrictions on the ability of homeowners and community associations to address construction defects but also risk jeopardizing the quality of housing and property values in Oregon. We recommend that the legislature adopt a more balanced approach that preserves the rights of homeowners to seek full remediation for construction defects while still providing builders with a reasonable opportunity to remedy issues before litigation.

Thank you for your consideration of this important issue.

Sincerely,
Katie Anderson
On behalf of the Oregon Community Association Institute (CAI) Legislative Action Committee (LAC)



Community Associations Oregon Legislative Action Committee Signatures

Ms. Katie Anderson, CMCA, AMS, PCAM
Aperion Management Group
Bend, OR

Mrs. Heather Brownson
Central Oregon Regional Chapter
Bend, OR

Mr. Kyle Grant, Esq.
Tonkon Torp, LLP
Portland, OR

Mrs. Sara Eanni, CIRMS
Associs Insurance Service
Beaverton, OR

Mrs. Laura Hall, CMCA
Community Management, Inc.
Portland, OR

Mrs. Andrea Rachele Klopfenstein, CMCA
Bridgetown Community Management, LLC
Portland, OR

Vince Gray
Community Volunteer Board Member
Bend, OR

Ms. Laura McDermott
Western Oregon Chapter
Tigard, OR

Mr. Jason L. Grosz, Esq.
Vial Fotheringham, LLP
Lake Oswego, OR