

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

Dear Chair Marsh, Vice-Chairs Breese-Iverson and Andersen, and Members of the Committee:

My name is Andrea Klopfenstein, and I have been a community manager of homeowner and condominium associations for over 26 years. I have worked with large and small associations and have seen many of my communities face the uncertainty of construction defects.

While I applaud this committee for encouraging developers and builders to construct more affordable housing, I do not believe this bill as currently written accomplishes that goal. Instead, this bill will only impose impractical burdens on community associations and undermine accountability for developers.

House Bill 3746 has several critical issues that greatly worry me:

Semi-Annual Moisture Intrusion Inspections:

- Moisture-intrusion experts are expensive and, especially in smaller communities, the cost per home to do these inspections will be high. This will be a non-trivial burden to all those owners in the community, as it could easily add thousands of dollars to the annual budget expenses. In any of my small condos, this could easily increase assessments by 10-15% annually, making these units just out of reach for future buyers.
- This requirement shifts the responsibility for well-built construction from the builder onto the consumer – the homeowner – who should have an expectation that the home they have purchased in good faith should be well built and livable.
- If for some reason an expert is not available to do one of the two required inspections, the association would completely lose its right to pursue a claim of defect against its developer through no fault of its own.

Majority Written Approval of Owners for Litigation or Administrative Proceedings:

- The Board of Directors has a fiduciary duty to act in the best interests of the community association and its members and rely on professionals to help guide their decisions. Requiring non-expert owners to provide written approval of litigation essentially circumvents that duty of the Board.
- Owner participation is at an all-time low throughout community associations. In many communities, it is challenging to meet quorum for the annual meeting, and it is unlikely that half of the ballots would be returned in any community on any topic.

Oregon is facing a housing crisis, and making homes more affordable is critical. But affordability means more than just lower upfront costs—it means ensuring that homeowners aren't stuck with massive repair bills due to poor construction. This bill would make it harder for homeowners to hold developers accountable for defects, ultimately making homeownership

more expensive, not less. I feel strongly the bill as written will only harm my clients and your constituents without increasing the number of affordable housing units.

Thank you for your time and consideration.

Cordially,



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