



#1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

Construction Defect FAQs

Q: What is a construction defect?

A: A construction defect is a condition in your home that reduces the value of the home. Some defects are obvious such as water seepage, but many are less obvious and do not become apparent until years after the home was built.

Q: What causes a construction defect?

A: A construction defect can arise from a variety of factors, such as poor workmanship or the use of inferior materials. Many arise from a combination of factors, including:

- Improper soil analysis and preparation
- Site selection and planning
- Civil and structural engineering
- Negligent construction
- Defective building materials

Q: What are some of the most common types of construction defects?

A: The most common types of defects involved in litigation include:

- Mold
- Water issues
- Electrical systems
- Landscaping and soil
- Faulty drainage
- Foundation, floor, wall and roof cracks
- Dry rot
- Structural failure
- Heating and electrical

Q: How is a construction defect proved in court?

A: It depends on the defect. Some defects are obvious and are called "patent". Other defects are hidden or do not become apparent until years after the home was built. These defects are called "latent". A successful construction defect litigation claim relies on the testimony of experts who specialize in specific areas of construction. The experts investigate the defect, evaluate the cause and make recommendations for how to remedy the defects.

Q: What kind of damages can be recovered?

A: It depends on the facts and circumstances of your case, but in general the cost of repairs and the decline in the value of your home may be recovered. Additionally, other recoverable damages might include the loss of the use of property during the repair, the cost of temporary housing, court costs, and in some instances the attorney's fees if provided for in the contract or by your state's laws. Of course, any personal injuries resulting from the defect may be recovered. In some instances punitive damages may be assessed against the defendant if the court finds their behavior to be reckless and intentional.

Q: Who pays for the damages?

A: Typically the defendant's insurance company that was in effect when the damage was first noticed will be responsible for paying the damages.

Q: Are there any time limits on filing a lawsuit for repairs?

A: Yes, but it varies by state. Many states have legislation that requires the homeowner or homeowners association to notify the developer or contractor of the defect and give them an opportunity to remedy the damage. Then they can file a lawsuit if the defect is not repaired. The statute of limitations (the time limit for filing a suit) also depends on whether the defect is latent (hidden and not obvious to a reasonable person) or patent (obvious). The shortest time limit is three years from the date the defect is discovered, or should have discovered the problem. Other statutes start from the date of completion of the home. It is important to take action immediately if your home has a construction defect.

Q: Who is responsible for construction defects?

A: There may be several responsible parties, but generally the responsibility will lay with the general contractors, developers, and the builders of residential structures even if the work was performed by subcontractors or if the defective materials used in construction were manufactured by others. Architects, designers and other involved parties may also be defendants in litigation.

Q: Should I make repairs while the lawsuit is pending and can I recover those costs in the lawsuit?

A: Usually the homeowner or homeowner's association is required to protect property from sustaining additional damage. Such costs are recoverable in the lawsuit. Failure to perform routine maintenance and reasonable repairs can cause or contribute to additional damages, which could be offset from the owners claim and lead to the defense of "failure to mitigate damages".

Q: Can I sell my home during a pending lawsuit?

A: Generally homeowners are allowed to sell their home during the lawsuit but most states have a disclosure law that requires a homeowner to disclose to a potential buyer that the home is involved in litigation.

FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

BLOGS – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

FINDLAW ANSWERS – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

NEWS & NEWSLETTERS – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

FIND A LAWYER – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



DO-IT-YOURSELF FORMS & CONTRACTS – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

FINDLAW VIDEO – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday

HAVE A LEGAL QUESTION?
NEED TO FIND AN AFFORDABLE,
QUALIFIED ATTORNEY?

Protect yourself, your family or
your business with a legal plan
or form from LegalStreet

www.LEGALSTREET.com

Copyright © 2013 FindLaw, a Thomson Reuters business. All rights reserved. The information contained in this article is for informational purposes only and does not constitute legal advice. The use and distribution of this article is subject to the Creative Commons BY-NC-ND license, which can be viewed at <http://creativecommons.org/licenses/by-nc-nd/3.0/>. You must attribute the article by providing the title of the article, FindLaw copyright notice and link to the original work. You may not use the article for commercial purposes and you may not alter or transform this article in any way.

FindLaw[®]
A Thomson Reuters Business