

Construction Defects Real or Imagined

I am periodically asked to perform a home inspection on a new home. The request usually comes very near the end of the one year warranty period when the Client is having trouble convincing the builder to repair the defective issues in the home. This call usually comes in from a frantic customer telling me about all the terrible problems they are having with their new home and want to know what I can do to help them resolve their conflict with the builder. I usually reply with the statement, "All I can do is provide you with accurate 3rd party information which you and the builder can use to make informed decisions.

Most home buyers do not understand the complexities of the home building business. There are two basic types of home builders; the production builder and the custom builder. The production builder typically builds in volume producing variations of the same home design. The custom builder usually builds unique homes in a limited number. The two building styles require different personalities to be successful. Rarely does one see a production builder who also builds a truly custom home and even more rarely does one see a custom builder build a successful production project. Production building and custom building are similar but distinct building businesses requiring different skills. The consumer needs to understand that both businesses are extremely difficult jobs with many pressures, and very stressful. Anything the consumer can do to make it easier for their warranty issues to be addressed by the builder will help lead to a more satisfactory experience for the consumer, and for the builder.

The first several years of my career I spent as the customer service representative for a custom builder. As part of the purchase agreement the builder would have explicit instructions regarding the request by a customer for warranty repairs. We would provide the forms asking for specific information. Things like the nature and the location of the problem address and phone numbers. Basic information to give the repair people an idea what to expect. It was the exception to receive a request for repair in the format as required in the purchase contract. Usually there was enough information to get started on the request and it was company policy to make the extra effort to keep the customer happy. Later in my career, when I was involved with production building, there were smaller profit margins and tighter schedules. Again we had specific guidelines regarding customer warranty issues asking for specific information. I found it far more difficult to control the warranty issues in production work compared to custom work. The sheer volume of customers in production work makes it difficult to keep track of the repairs. The inability of the customers to follow directions made it even more difficult to keep track of what was repaired and what was not repaired. The customers who provided the best written information, and who made the home available for repairs were the first ones to get results. The ones who left a voice message on the phone rarely were acknowledged. It was company policy not to respond to phone messages unless there were an emergency. When we did receive written notification it was many times vague and hard to understand. These repairs would not be given the same importance as a request that were thoughtful, courteous, with accurate information. It is human nature to

work on the easiest problems first. Usually the customers and the builders manage to muddle through the warranty work with a reasonable degree of professionalism but sometimes there is the customer who does not understand how to interact with the builder and expects more service than is realistic.

Every house ever built has some problems. It is unrealistic to expect a system with over 250,000 individual parts to function together without any problems. Sooner or later there will be a customer who expects everything to be perfect and expect instant response from the builder. Even though some customers may have unrealistic expectations, they can still have some legitimate warranty issues. When the customer blends impossible requests with reasonable requests they may lose their credibility with the builder. As the customer's attempts to convince the builder of their concerns and are ignored, the customer begins to escalate their requests with all types of assertions of building code violations and so called expert opinions. When the builder learns of these assertions they quickly decide to respond or to pass this customer off as an "unreasonable." While the customer may very well have some legitimate issues they may be placed at the bottom of the list for the repairs. When a builder is confronted with a difficult customer like this they sometimes take the opposite position from the customer and thereby become "equally unreasonable". This cycle becomes worse and worse until there are threats of a lawsuit. By this time both the builder and the customer are not sure what are legitimate issues and what issues are superfluous. The home inspection can be a very powerful tool to resolve the issues between the builder and the customer. The builder gets 3rd party information from a qualified source, and the customer gets the validation of at least some of their concerns by a qualified professional.

I always recommend that every new home have a home inspection, do not be misled by code inspections. In the larger cities there are reports of as few as 20% of the homes are receiving complete code inspections. The sheer volume of houses has overwhelmed the building departments so that they have resorted to "spot" inspections. Only a representational portion of the new homes being built are being completely inspected. Not every home receives a complete code inspection. In addition, code inspections cannot address cosmetic or functional issues.

After having seen so many silly issues escalate into poor customer relationships I would recommend that builders hire a qualified home inspector to inspect their homes prior to occupancy as a quality control measure. I find that the builder's quality control people are as overwhelmed as the code inspectors. The home inspector can identify overlooked issues so they can be repaired prior to the customer even learning of the problem. If a builder takes the position that all of the issues will get fixed sooner or later than why not fix it sooner and keep the customer happy. I know as a builder I would have gladly paid the cost of a home inspection to help keep my customers happy. My grandfather had a saying, "some guys will spend a dollar to get a customer but won't spend a nickel to keep a customer."

Conversely, if a new home buyer would obtain a home inspection prior to moving into the home then most of the issues would be identified prior to occupying the home with

proper documentation that the builder can understand. Rarely does a builder refuse to repair reasonable issues identified in a home inspection report. The issues in the report are usually things the builder has overlooked due to the tight scheduling and the limited qualified labor pool; things they would have repaired anyway if they were made aware. But these things can become a problem if not addressed in a timely manner. Many times the customer doesn't even realize that some things are not correct, until there is a problem, usually at a much later date. A home inspection will help eliminate the uncertainty in the homeowner experience.

Here are some suggestions to help obtain proper customer warranty service.

- 1) **Make it in writing; make sure it is legible and accurate**
- 2) **What address? Don't laugh, the address is left out more times than you would expect**
- 4) **Contact phone numbers**
- 5) **What is the problem? Include a picture if possible**
- 6) **Where is the issue located? Which room? Which corner? What sink? Be specific**
- 7) **How important is the problem? Is it likely to cause additional damage?**
- 8) **When are you available for access to the house? Do not ever miss an appointment, if you cannot be present then hire a sitter to be present so the repair people can perform the work. Do not be so petty as not to pay a few dollars to help resolve your issues.**
- 9) **Do not try to convince the builder that you are some kind of expert or have special training unless it is true. Unqualified assertions will diminish the customer's claims. Builders are very experienced and will quickly identify unqualified assertions.**
- 10) **Persistence and patience is a necessary tool for both the home owner and the builder.**