



Construction Defect Litigation Reform

SVMG Position: SUPPORT

DESCRIPTION: SVMG has been advocating a package of reforms that would revise how construction defects are handled in California. However, we are open to considering other means of achieving this goal, so long as the reform achieve the following objectives:

- Encourage the construction of more well-built and affordable homes;
- Identify a simple, straight-forward process that allows consumers to get immediate redress when construction defects are identified;
- Identify and reward builders who adhere to higher quality construction; ensure that any quality control system adopted is independently verifiable.
- Reduce the legal risks faced by builders, their subcontractors, and design professionals, who adhere to higher quality control standards, and the insurers who underwrite them;
- Define construction defect or, alternatively, a “functionality” standard, so long as the standard is high, rather than minimal.
- Establish homeowner maintenance standards to ensure that potential problems are identified and corrected before they become life-threatening or cause major damage, and to reduce the number of problems attributable in part or full to poor maintenance.

WHY IS IT IMPORTANT TO OUR ECONOMY AND TO WORKING FAMILIES: The critical shortage of affordable homes in California, particularly in high-cost areas such as Silicon Valley, is threatening our economy. Attached-homes—condos and townhouses—are the most economical means of increasing homeownership opportunities for California residents. Yet, their production in the state has fallen by 90% since 1991. The difficulty builders face in obtaining insurance, coupled with the extraordinary price of such policies, and the high probability of being sued for construction defects, has driven the vast majority of builders out of this market.

The legal community has justly fought to preserve the right of homeowners' for redress when construction defects, as a result of builder negligence, have or could result in physical injury or property damage. But construction defects vary widely. Cosmetic or aesthetic defects occur with far more frequency than do serious life-threatening defects. “Construction defects” are not defined in law, nor is there any guide to distinguish between minor defects and those that are, or could be, life threatening. The current system makes no distinction between experienced, conscientious builders that perform to higher internal standards and those that simply skirt the edge of the building codes. It also provides little assistance to homeowners in evaluating the source and significance of a defect and obtaining remedy, short of a costly and lengthy legal process directed by attorneys whose own economic interests are supported by litigation. **The challenge before us is to create a system that is fair, protects homeowners’ rights, and encourages builders to build well-designed, high-quality attached homes.**