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I am an ordinary person who has invested his family's retirement savings in rental condominiums and townhomes. I was very alarmed when I learned of HB 3432, to the point where I made two trips to Salem to [unsuccessfully] testify to the Committee. Consumer protection against construction defects in condominiums and townhomes is already too weak. Enacting this legislation would be a giant step backwards.

I had the misfortune of purchasing two condos in West Oaks Condominiums and two townhomes in The Meadows at Timberhill, all in Corvallis where I reside. I became President of both owners' associations and served multiple terms.

West Oaks was built in 2002. In 2009, we discovered extensive, critical structural damage from water intrusion, with an estimated repair cost of \$8M. We engaged an attorney and sued the developer. Three years later, after massive legal costs and extensive time spent by the all-volunteer association officers, we "won" – under \$4M. Repairs had to be prioritized, and they are still going on today. All expenses above those covered by the lawsuits are being borne by the owners. Please note that the time between the completion of construction and the discovery of the structural damage was seven years – if HB 3432 had been in effect, the homeowners would have borne the entire \$8M!

The 100-unit Meadows also was built in 2002. In 2010, we discovered defective roof and wall construction that led to water intrusion damage. The damage was not trivial – major structural members in the attics and inside the walls were rotting. After consulting with an attorney, we decided not to pursue a lawsuit. As with West Oaks Condos, the developers had created a small project-specific LLC that had no remaining assets other than the minimum-required insurance policy. That policy was of the "wasting" variety – the developer's legal costs would be paid out of the policy, leaving the remainder available to the homeowners association (if and only if the HOA won the lawsuit). Given the extensive costs of prosecuting the suit – win or lose – the association decided it simply was not worth it. So far, we have spent \$480,000 out of our own pockets to overcome the negligence of the developer. Again, note that had HB 3432 been in effect, a lawsuit would have been impossible, because it was eight years between completion and discovery.

Both of those properties were thoroughly inspected by City code inspectors, yet the defective construction remained unnoticed. I have no faith that the proposed special inspection program would fix that, especially given the likelihood that the inspectors would be in the pay of the developers.

Regarding the initiation of a suit under HB 3432, as a former President of three different HOAs, I can absolutely assure you that getting a suitable majority of owners to do *anything at all* is an impossibility, even if large sums are at stake. Typically Annual Meetings must be

rescheduled repeatedly until the quorum requirements dips to the number of people willing to show up. Once again, the developers will be immune to consequences.

Please do not enact HB 3432. Instead, improve the oversight of developers to ensure that the current epidemic of construction defects is eradicated. Better construction will result in fewer insurance claims, and the premiums will go down by themselves. Trying to force reduced premiums by eliminating the possibility of claims is absurd.

A final note: Once our defects were discovered, we researched the developers – and found that, under the “shell” LLCs, the same people were responsible for both West Oaks and The Meadows. Those developers apparently are notorious for this, and have been sued multiple times. They remain in business to this day.

As consumers, we are at the mercy of the system the Legislature has set up. Please make it better, not worse.

Sincerely,

/s/ Brian B. Egan