

March 14, 2025

Opposition to House Bill 3746: Protecting Homeowners' Rights

Dear Chair Marsh and Committee Members,

My name is Vince Gray, and I currently serve as the Treasurer for three large homeowner associations in Bend, Oregon. These neighborhoods represent almost 600 homes. I have been an active board member for over 20 years on numerous HOA's in both Oregon and California. I have also served on numerous Architectural Review Committees so I understand the importance of maintain design guidelines and quality construction within a community. I'm also an investor in single-family homes and I closely follow housing market trends.

While I understand the committee's and governors efforts to create more affordable housing, I have some serious reservations about the current version of House Bill 3746 and how this bill could actually have the opposite effect of making housing even more costly for the individual homeowner.

There are many considerations that most people account for when making a home purchase. Not only is the price of the home a major factor, but also the monthly association dues that are attached to that property. For most individuals, those additional monthly dues weighs heavily on their final decision on purchasing their home and is also taken into consideration by the lender to see if that individual actually qualifies to purchase that property. Insurance cost is also factored into the affordability of a given home.

If this bill were to go into effect as it's currently written, it would encourage me and potentially other investors to seek future real estate investments outside of Oregon. I feel the future financial risk would outweigh any unknown gains that this bill hopes to offer. I can forecast that community assessments will increase under this bill.

House Bill 3746 proposes significant changes to the handling of construction defect claims for units in planned communities and condominiums. While the bill attempts to streamline procedures and clarify responsibilities, it raises several concerns regarding the rights and protections of homeowners and associations. The following points outline some of my key objections to the bill:

1. Unreasonably Reduced Statute of Limitations

HB 3746 reduces the statute of limitations for construction defect claims from ten years to six years. This reduction significantly weakens the ability of homeowners and associations to seek remedies for construction defects, particularly those that may not become apparent until several years after completion. Construction defects, especially those related to moisture, foundation issues, and structural integrity, often take time to surface. By shortening the period for legal recourse, the bill unfairly shifts the burden of latent defects onto homeowners, who may face expensive repair costs without legal recourse.

2. Burdensome Procedural Hurdles for Construction Defect Claims

The bill imposes new procedural barriers on homeowners' associations and unit owners before they can file construction defect claims, including:

- Mandatory notice requirements to contractors.
- Semiannual moisture inspections by the board of directors.
- Approval from a majority of homeowners within 60 days before initiating litigation.

These requirements create unnecessary delays and administrative burdens, effectively discouraging associations from pursuing legitimate claims. The added complexity may lead to fewer claims being filed, not because of merit, but due to procedural fatigue and compliance challenges.

It could also jeopardize volunteerism within the community. What volunteer board member wants to fight these kinds of battles? It's already a challenge to get people to serve on our boards. This may further persuade people not to volunteer.

3. Majority Approval Requirement is Unfair and Impractical

Requiring a majority of homeowners to approve litigation within 60 days places an unreasonable burden on associations. In large communities or condominiums, securing a majority within this timeframe is often impractical, especially when homeowners are geographically dispersed or disengaged. This requirement could effectively allow negligent contractors to evade accountability if associations cannot meet the procedural threshold.

4. Threat to Association Independence

HB 3746 limits the autonomy of associations to act in the best interest of their members. By requiring majority approval for litigation and introducing external oversight into procedural decisions, the bill undermines the association's ability to fulfill its fiduciary duty to protect common property and homeowners' interests.

5. Unfair Advantage for Contractors

The bill appears to protect contractors and developers at the expense of homeowners. Extending the time for secondary notices while reducing the statute of limitations for primary claims, reflects a one-sided approach that favors the construction industry over the rights of property owners. This imbalance may deter developers from maintaining high construction standards, knowing that the risk of litigation is reduced.

Conclusion

While HB 3746 aims to clarify and simplify the process of handling construction defects, it ultimately weakens homeowner protections, creates procedural roadblocks, and shifts the burden of defects onto homeowners and associations. This will lead to additional cost for everyone except the builders.

There has to be a better way to build units faster through other incentives from cities. Protecting homeowners from construction defects should always include contractors doing additional inspections throughout the building process to insure there are no defects. Protecting homeowners from construction defects should be the Legislature's top priority, not shielding contractors from accountability.

Thank you,

Vince Gray