

Overall Themes – Developers and Owners Representatives

Developers

Bob Gillespie, Administrator, Housing Division, Oregon Housing and Community Services

Mr. Gillespie shared his perspective from the affordable housing industry. The Housing Division funds over 3,000 multi-family units per year, most of which go well. Housing has two architects on staff that reviews all projects they finance.

Concerns:

- Workmanship – varies by region because of availability of qualified workforce.
- Substitution of materials – green lumber can have lots of mold spores and is subject to more shrinkage allowing water intrusion; Mr. Gillespie noted that Housing bans EIFS on their projects.
- Windows – not routinely inspected in terms of the integrity of the building envelope.
- Mold – inadequate ventilation and/or air circulation are a primary cause.
- Construction management (oversight) – architects have an obligation to “observe and advise” but in his opinion they are concerned about creating an implied warranty so they restrict their advice.

Recommendations

- Require kiln-dried lumber
- Develop best practices in the following areas
 - 1) Building envelope design
 - Encourage greater use of overhangs (which may require changes to development codes related to impervious surfaces)
 - 2) Ventilation
 - Require all range hoods be ventilated
 - Whole building ventilation systems (humidistat bath fans, trickle windows, negative pressure systems)
- Encourage active property management

John Carroll, Carroll Investments

Mr. Carroll has developed various types of real estate in Portland over the last 20 years. Mr. Carroll points out that the housing market has exploded and that quality can be a problem. The condo market has been too casual about what it takes to bring a project online. In the past, developers had a “hands-off” approach after turnover and relied on homeowner associations to maintain the buildings. Things are changing, developers are looking more as long-term owners.

Mr. Carroll is part of a group that has developed a “best practices philosophy,” in which they have agreed to not work with developers, contractors, and property managers who do not utilize best practices.

Concerns:

- Water intrusion – is the single greatest problem with condominiums today – roofing, windows, building envelope.

- Ventilation and oversight of architect – Mr. Carroll seconded Mr. Gillespie’s recommendations regarding ventilation and oversight of architects.
- Maintenance – is important. Mr. Carroll was involved in parties that pressed for a reserve study and maintenance requirement being added to condo act.

Recommendations

- When problems arise, develop a mechanism to quickly identify the issues and enlist the developer/contractor to address those issues because litigation is expensive, time consuming, and “unkind to homeowners’ associations.”
- Educate construction industry, design community, and property managers on best practices.
- Educate homeowner association boards on the importance of maintenance.
- Develop a user-friendly maintenance plan, which should be incorporated into the property reserve study.
- Develop specificity of best practices.

Owners

John Stuart, Homeowner

Mr. Stuart owns property in Carlton on which he planned to establish a sustainable family farm with a bed and breakfast. Mr. Stuart has first-hand experience working through the regulatory, legal and financial implications of construction claims due to the number of construction defects discovered on his project.

Concerns:

- CCB – Mr. Stuart expressed his concerns regarding the statutory requirements for CCB enforcement authority.

Recommendations

- Consumers need access to all complaints filed against contractors.
- Authority for “immediate” license revocation.
- Prevent contractors from forming new entities in an attempt to escape liability under their old license.
- Require contractors to be active or have their license be expired if they have not performed work within a specified period of time.
- Establish new licensing standards.
- Establish tiered bonding levels.
- Require contractors to be either 100% responsible for their subcontractors or legal language between the two that protects the owner from contractor vs. contractor disputes.
- Require contractors to be financially responsible for payments to subs and material suppliers.
- Require material suppliers to enter into financial agreements with contractors, unless otherwise agreed upon, to prevent owners from having to “pay twice”.
- Criminal prosecution for consumer fraud.

Betsy Lee, Homeowner

Ms. Lee owns a home in the Gresham area. Her home has numerous construction defects. Ms. Lee is also a member of Homeowners Against Defective Dwellings (HADD).

Concerns:

- Integrity – it is not a requirement rather it is a work ethic. You either have it or you don't.
- Ownership – contractors need to take responsibility for their work.
- Accountability – contractors should fix their problems without legal battles. If contractors do not follow through, there must be enforcement by regulating state agencies.

Recommendations

- Return to code enforcement as it was done in the early 1970's.
- Restrict contractors from building any structure that their insurance policy does not cover.
- Require performance bonds for each job.
- Contractors must establish financial stability.
- Tougher licensing requirements.
- Ensure that inspectors are performing inspections properly.
- Require oversight.
- Use all available resources to come up with solutions.
- Criminal penalties for contractors.

Richard Thompson, Executive Director, Oregon Washington Community Association Managers

Mr. Thompson is a nationally recognized expert on homeowner association issues. He is the President of Regenesi, a Portland based homeowner association management consulting company.

Concerns:

- Two-thirds of all homeowner associations are self-managed.
- Not enough up-front involvement from property owners and insurance companies.

Recommendations

- Adopt "best practices" for construction and maintenance.
- Require ongoing education.
- Ensure that reserve studies are adequate.
- Establish quality control protocols.
- "Value engineering" practices that do not compromise the building envelope.
- "Field testing" concept.
- Simplify designs. Use proven materials and systems.

Dean Aldrich, The Aldrich Law Office

Mr. Aldrich is an attorney with the Aldrich Law Office, a Portland law firm that specializes in construction litigation, with emphasis on representing owners in construction-defect litigation.

Concerns:

- Contractor notification and 90-day repair window does not work.
- Weatherproofing is an issue. Code requirements are not clear on this issue. Typically there is a lack of details for weatherproofing or when they are provided, they are ignored.
- There is a lack of supervision, quality control, experience, skill, and knowledge.
- Installers fail to follow manufacturers installation instructions.

- Minimum code standards are not complied with.

Recommendations

- Third party inspections on weatherproofing.
- Rain screen technology.
- Weatherproofing checklist/check off.
- Require CCB to track defect letters and lawsuits.
- Maintenance requirements need to be known up front.
- Residential performance bonds.