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Sent: Wednesday, May 1, 2019 8:49 AM
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Cc: Kelly Ford <bdvp@fehoa.com>; Jason Nelson <jnelson@fehoa.com>
Subject: HB 3432 - Community Association Construction Defect Claims

Oregon House Rules Committee

"The board of directors of Florentine Estates Homeowners' Association, a member-owned manufactured home community of 449 lots in Florence, adamantly opposes HB 3432. The bill unfairly targets Oregon community associations, and their members, to a 'shorter right of action against negligent contractors' than exists for their neighbors, who are not within the confines of community associations.

Like many HOAs, Florentine Estates has invested huge sums in its common facilities, paid for at the joint expense of our owners. Those facilities are now at an age where 'substantial repairs and long term capital improvements' are becoming necessary. Similarly, the homes of the homeowners in Florentine Estates HOA are mostly twenty to thirty years old, and are beginning to require substantial exterior maintenance and repairs.

There can be 'no good reason' why the rights of HOAs, and their members, should be impaired to hold contractors who engage in defective construction; to become less than the rights of our neighbors outside our association; to hold contractors liable for defective construction and repairs on their commonly owned property and their personal residences.

The restriction on HOAs' rights of action with respect to exterior repairs and alterations is particularly problematic. HB 3432's requirement for additional inspections to be made by order of a designing architect or engineer for the shorter statute of repose to apply appears to apply only to initial construction of buildings and additions and not to the subsequent alterations and repairs of exterior envelopes, such as window and siding replacement. Instead, the shortened statute of ultimate repose would apply if the alterations and replacements are subjected to "the supervision or inspection thereof," according to the text. This term is irredeemably vague - it creates a nonexistent standard, since any contractor can, and will, defend its negligence by arguing that it both supervised its employees and subcontractors, and inspected their work. An external construction design professional's certification and evidence of completion of inspections is not required.

Thank you for your careful consideration of these problems. The statute of repose for constructions defect claims brought by HOAs and their members should remain at ten years.

Sincerely,

Kathy Schimmelman

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