

# BICKSLER AND ASSOCIATES, LLC

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TO: House Committee on Housing and Homelessness  
Representative Julie Fahey  
Oregon House of Representatives

FROM: Gene Bicksler  
Bicksler and Associates, LLC

RE: House Bill 3746

My name is Gene Bicksler. I live in Eugene, Oregon. I have been active in the Community Association industry since 1978 (47 years). A Community Association is a general term for multi-family homeownership, typically in the form of a condominium, PUD, co-op, or other similar types of real estate ownership. My work has been in setting up and managing them. In 1981 and 1983, I, along with a small group of others, lobbied to pass the Planned Community Act in the Oregon legislature. In 1984, I moved to California (returning to Eugene in 2018 to semi-retire). There, in 1985, I participated in a committee that lobbied for the passage of the Davis-Sterling Act, which codified California Community Association law. I have served as an expert in over 90 lawsuits in Oregon, Arizona, California, and Washington, many of which involved the consequences of construction defects.

*I am writing in opposition to HB 3746. It is poor public policy to shift the responsibility for shoddy construction to unsuspecting Oregon homeowners who purchase a home in a Community Association.*

What is a construction defect? It is legally defined as a flaw or deficiency in the design, materials, or workmanship of a building or structure that results from a failure to meet industry standards or the reasonable expectations of the buyer. It can manifest in various forms, such as foundation issues, water intrusion, faulty electrical or plumbing systems, or structural failures.

If a construction defect truly exists, who should be responsible for correcting it? The entity who built it or the unsuspecting person who purchased it? Within reason, most people would say the entity who built it.

But first, I would like to address the issue of affordable housing. As of February 2025, the median price of a single-family home in Eugene was \$515,000.00. The median condominium price was \$265,00.00. The numbers speak for themselves. This type of housing is more affordable than a single-family home, is often located in a higher-density area, and is frequently the first step into home ownership. Anecdotally, over the past few years, I have prepared the initial operating budgets and reserve studies for three new condominium projects in Portland. All were in-fill properties ranging from 4 units to 29 units. Most of the units ranged in size from 384 square feet to 800 square feet. Be cautious of stereotypes; not all condominiums are expensive high rises in downtown Portland.

- ***The statute of repose (limitations) should not be changed.***
- ***The requirement that a majority of units vote in favor of taking legal action should be removed.*** From the beginning of this type of homeownership, the concept that a small group of owners (typically 5) would be elected to a board of directors by the entire membership has withstood the test of time. A board member is a fiduciary; they are also unpaid layperson volunteers. This voting requirement is simply a tactic to make it more difficult for the Association to remedy a problem by those who created it. I track approximately 70 Community Associations in the Eugene-Springfield area. Only 25% have paid professional management. Applying that ratio to all communities means that many volunteers are fighting uphill battles without any help. I do not favor this requirement. An elected board of directors should be able to engage a builder when construction defects are alleged. But if a vote must be held, then something along the lines of a majority of a quorum could be considered.
- ***The requirement that an Association must inspect the building twice per year for moisture intrusion is overly burdensome, excessive, and unnecessarily raises the cost of living in this type of housing; it should be removed.*** Maybe every three years, but not twice per year? A more effective public policy would be to require all Community Associations in Oregon to conduct a Reserve Study every three years and disclose the results to all members.

I would be happy to offer my assistance to the Committee if needed.

