

by *Ilyce\_Glink*

Q: A group of us are thinking about bringing legal action against our builder. We all purchased our homes within the last 18 months and are quite dissatisfied with some of the things that we have found out about the neighborhood and several issues concerning our homes. Aside from individual issues, our common issues are: -None of us received homeowner association documents until after we closed. Although, during our purchase, we signed a form stating that we received them. -We all assumed that our community would be very similar to the community that we visited across the street from the same builder. Instead of being built the way we expected, the development was built as a cluster of homes. The zoning across the street and the zoning in our developments differ, and none of us were advised of the difference. Now we have homes so close that we can just open the window and touch the house next to us. Again, the vision they sold us was definitely not the reality of what we have today. -After the first 10 homes were sold, the builder resized the lots. Of course, this was after they saw how hideous the close homes look. Somewhere the "planned community" went out the window. I'm not sure if I have provided you with enough details to get a solid answer. But I'd like to know if there is any way to pursue the builder legally? Is there any negligence, failure to disclose, or at least misrepresentation on the part their part? A: Your issue, in essence, is that the builder sold you one bag of goods and delivered another and has now switched what he is developing and you seem to have gotten the short end of the stick. Some states require developers to disclose their development plans in advance of having a buyer sign a contract for the purchase of a home. If your builder failed to abide by the laws of your state or local jurisdiction, you may well have a case against the developer. Your state may provide the kind of remedy you can enforce against the builder in your case, but keep in mind that some of those laws give you the right not to close on the purchase if you did not receive the proper disclosures. If you closed on your home and could see how the development was shaping up, you may not have a good case against the builder. Your time to object would have been before closing. Finally, some states also have consumer fraud statutes that may apply to your case. If a builder intentionally misled buyers with marketing brochures, sales pitches that indicated that the new development would be like the neighboring developments, and stated other falsehoods to induce buyers into believing that they were getting one thing when the builder knew the development would be quite different, those consumer fraud statutes may apply. You need to get the advice from an attorney who has encountered your kind of situation before to have him or her review your facts and determine whether there is any merit to your case. Once you determine whether your case has merit, you need to find out what you can get out of the case if you win. If the cost of suing the builder is great and reward will be small, you may be out of luck. If the statutes in your state allow you to recover the costs of your attorney as well as to obtain other penalties from the builder, you might be advised to proceed. Be prepared: Your case might be complicated and may require quite a bit of fact-finding. If you have marketing materials that were given to you and you have the names of people who assisted you through the process and kept notes as to what you were told, that's the kind of information that can make or break your case. Be sure to take all that information with you when you meet with the attorney. © 2007 by Ilyce R. Glink and Samuel J. Tamkin. Distributed by Tribune Media Services.