

# BUILDING SCENE

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## Check every single detail, victim urges

BY GERALD FRAWLEY  
STAFF WRITER

**W**e've all heard the horror stories. Dr. Leon and Martin has lived one. In 1985, he and his wife, Dr. Ruth S. Martin, contracted to have a home built in suburban Cleveland, Ohio. More than a year later, the two moved in. That's when the trouble began.

Their story was related in the book he researched and co-authored with his wife, "And They Built A Crooked House."

Problems resulted in a lawsuit that wasn't heard until October 1988. The court ordered the builder to buy the home back for the price the couple paid — a rare phenomenon, he said.

That was the good news. The bad news was twofold: the price paid for the home could no longer buy a similar home in a market where housing prices had climbed, meaning they would have had to buy a smaller house and legal fees rose above \$100,000.

The response to their book has been an eye opener, Martin said — so much so they are writing a second book "Crumbling Dreams: What You Must Know Before Building or Buying a New House or Condo."

"Ours is not a unique experience," Leonard Martin said, adding that he and his wife have become a veritable clearing house for home-buying horror stories from all over the country.

That led them to review protections for home buyers. They found that although the house buyer is afforded the normal protections of contract law, with the exception of North Carolina, protections specifically for homebuyers do not exist.

In the new book, the Martins explain ways for home buyers to protect themselves. It begins with the cautionary preamble, "Unless you protect yourself ahead of time you can only lose if your house is built defectively."

In brief, those rules are:

- Check out everyone: builder, developer, architect. Inspect, don't look at, other houses and property developed, built, or designed by anyone involved in your proposed construction. Talk to people living in the houses. If the builder balks, walk.

- Make sure they are insured; they are anyone who signs a contract — the builder, architect or developer. The insurance should cover defects after the house buyer moves in.

- Hire a good real estate lawyer and inform him or her you want to be fully protected from the worst: totally defective construction.

- Insist on the lightest contract feasible for your circumstances. Every contract should be written as if you will end up in court. Never accept a standard contract offered by the builder. Include a statement involving financial solvency signers. Make the title transfer contingent on satisfactory and independent review by an architect and/or engineer hired by you.

## Monster digs haunt buyers



BY GERALD FRAWLEY  
STAFF WRITER

The American dream shattered. Owning a house. People spend their lives saving money, planning, and dreaming about the day they can afford a new house.

Thousands of people every year buy houses and find their happily ever after.

But sometimes, something goes wrong.

Buyers do all the right things: When they walk into that new house, it's not the American dream, but a nightmare.

Problems arise. Sometimes large problems, sometimes small — but, then, all problems are large if you've invested your life savings into a house that's poorly built.

A cursory glance at disciplinary reports of the state board of licensing and regulation, a division of the Michigan Department of Commerce, shows that there are a lot of unhappy buyers out there.

Royce Wills, acting director of enforcement for the department, said complaints against builders far outnumber complaints against other professionals. "We (investigators) will

carry upwards of 500 open complaints a year — half of them are against builders."

The state board of licensing and regulation investigates complaints against builders and other professionals who are licensed by the state. Valid complaints can result in fines, restitution orders and even the revocation of a builder's license.

Builders are quick to point out that despite the horror stories that people hear, the number of houses that are defective compared to the number of houses built is actually very small. Which isn't to say that even good builders with good reputations won't have problems. Any number of things can go wrong with a project as complicated as building a house.

Mike Garfalo, a partner at Cornerstone Building Inc. in Novi, said it's an inescapable fact of life that people make mistakes.

"In an imperfect world, you are going to have problems," Garfalo said. "If he comes back and fixes the house, then he's a stand-up guy and a good businessman."

Most builders, he said, are good people who are genuinely concerned about doing a good job. "What's im-



portant is that the builder returns to fix any problems."

Every builder has had his share of problems, and most people have heard stories about houses with serious problems, he said.

Building a house is a complex task. There are hundreds of things that can go wrong with a house, he said.

"It's not always that clear cut," Garfalo said. "We are a product of our subcontractors."

By that, Garfalo means that sometimes the people hired by the builder — or even the people hired by the people hired by the builder — are the underlying cause of many problems. Garfalo said he advises patience and practicality. He has had buyers complain about things they requested, but later decided they didn't like, and then blamed it on the builder.

See SHODDY, 4G

## Recourse available through state board

BY GERALD FRAWLEY  
STAFF WRITER

People who have bought a defective house can bypass the courtroom to get justice. The state board of licensing and regulation, a division of the Michigan Department of Commerce, can sometimes assist an unhappy buyer.

The procedure for filing a complaint is fairly straightforward, said Royce Wills, acting director of enforcement for the department.

### COMPLAINTS

First, the home must have been built in the last 18 months and it must have been built by a licensed builder. Call 1-517-373-0678 to verify that a builder is licensed.

The 18-month limit is necessary to determine that for which a builder is responsible and what is wear and tear created by the owner.

The licensing requirement is necessary because revoking a builder's license is the state's biggest hammer. After determining licensing and the structure's age, Wills said, a homeowner needs to call the local municipal building department for a complaint form and a building inspection report and fill them out.

The state requires a building official report to verify a complaint, he said. "Then we'll ask for a copy of closing statement, building contract, (and other

relevant documentation like the owner's pre-walk through punch list) — these reports are helpful in determining what the builder promised to provide, and what he didn't," Wills said.

The homeowner, he continued, must do most of the leg work because the state lacks sufficient staff to investigate complaints.

Once all the documents have been collected, the complaint can take one of two courses — mediation or a hearing before the builders board of the licensing and regulation department.

Mediation is the preferred course because it's quicker and has been found to work better, Wills said. "If a case is mediated, it could be resolved in 30 to 60 days."

Getting the builder and homeowner together with a professional mediator is successful because a third, neutral person can objectively view all the circumstances of a case and help resolve any conflicts, Wills said.

The department has actually used mediation for many years, he said, but the practice had dropped off until four years ago. Mediation cases have increased because cuts in state government have slowed the processing of complaints.

If mediation fails — or if the parties elect not to pursue mediation — the builder will be formally charged. "Then we're in for the long haul — it can take up to two years," Wills said.

At this point the builder has several options:

- A settlement conference in which the builder attempts to resolve the matter with a licensing department investigator.

- A compliance conference in which the builder tries to convince an investigator that no violation exists.

- A formal hearing before an admin-

See COMPLAIN, 4G

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