

Builder stalling on repairs? Check warranty

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Q: My husband and I closed on a new home almost one year ago. We did not have a home inspection conducted, but we did pay for one about six months after we closed after finding some issues in the home.

There were several minor things the inspector found and most have been addressed by the home builder. However, one of the major issues is water penetrating into the unfinished basement and several large cracks that have appeared in the basement floor.

We had three estimates done on what it would take to repair the cracks. We provided the builder with the estimate that was in the middle of the three and asked that he arrange to have the work done. He said he would have another company address

the issue, but after one walk-through we have heard nothing from this company or him.

My concern is that the builder is stalling until the one-year anniversary and is planning to tell us that it is now our responsibility, although he has known about the issue for about six months. What are our options to ensure this builder complies with the contract and fixes the basement floor?

A: When you buy a brand-new home, the new construction home builder will usually give you a home warranty. That warranty will lay out the process you must take to make a claim. It may even require you to make the claim in writing. We suggest you find the home warranty document you were given at closing, read it and make sure you have fully complied with its terms -- to the letter.

If the home warranty

requires you to deliver written notice of the problem to the builder, do that. And if the written notice must be sent via certified mail, return receipt requested, make sure you do that as well. You need to cover your tracks and establish a paper trail documenting that you've followed the terms of the warranty.

If the builder fails to abide by the terms of the warranty and you've followed the warranty requirements, you may have to sue the builder to get the work done or to get reimbursed for any work you might do to make the repairs. Here again, your warranty terms come into play. If you sue the builder and the warranty says that only the builder can make the repairs and you can't get reimbursed if you do them, you may have to sue the builder to force the builder to make the repairs.

With all these legal issues you could face, you will also have to determine the expense of the work that needs to be done. You've received three estimates but we don't know what amounts you're dealing with. If the cost to make the repairs is in the neighborhood of \$5,000 to \$10,000 dollars, it may certainly be worth the time to hire an attorney to force the builder to make the repair.

On the other hand, if the repair cost is around \$1,000, you might have to do everything yourself; it might not be worth hiring an attorney and spending money on legal fees when you really need to spend the money on the basement repairs.

We hope the builder decides to make the repairs. From our vantage point, you need to make sure you follow the terms of the warranty. Then you can decide whether to seek legal

action against the builder with an attorney or small claims court. Your warranty may even require arbitration. If you must go the arbitration route, you then need to make your claim for arbitration and move that way.

Remember, before spending too much money, time and effort, you need to determine the costs of the repairs and weight that cost against everything else you have going on in your life to determine your best path of action.

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Home Buyer's Glossary

Adjustable-rate Mortgage (ARM) - A mortgage for which the interest rate and the payments change during the life of the loan.

Agreement of Sale - The contract in which the seller agrees to sell and buyer agrees to buy, with conditions and terms spelled out and signed by both parties.

Amortization - A plan for gradually repaying, in periodic payments, money borrowed.

Balloon Mortgage - A mortgage that has a large amount of the principle due at the time of maturity.

Bridge Loan - A loan that finances a mortgage at the end of one loan and the start of a new one.

Closing Costs - Expenses and fees that are added to the price of the property, paid by the buyer and the seller at the closing. The Agreement of Sale states who pays which costs.

Commercial Bank - A financial institution authorized to provide a variety of financial services, including consumer and business loans (generally short-term), checking services, credit cards and savings accounts.

Condominium - The buyer owns title to a residential unit, shares common areas with other unit owners and pays maintenance fees to the condominium association for property upkeep.

Conventional Loan - A loan not guaranteed by the VA or insured by the FHA.

Co-op - In exchange for the right to occupy a co-op unit, the buyer owns shares in the co-op corporation (made up of co-op residents), rather than owning real property.

Debt-to-income Ratio - A percentage arrived at by dividing the borrower's fixed monthly obligations by the borrower's monthly income.

Due-on-sale Clause - A mortgage stipulation demanding payment of the entire loan balance upon sale or other transfer of the real estate securing the loan.

Equity - The ownership interest remaining in property after payment of all liens or other charges on the property.

Escrow - Funds left in trust with a third party, to be paid to a designated recipient at a designated time.

Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac) - A quasi-governmental secondary market agency that purchases whole mortgage loans. Freddie Mac sells interest in pools of mortgage loans to obtain funds for mortgage loan purchases.

Federal Housing Administration (FHA) - A government agency within the Department of Housing and Urban Development that administers many programs involving housing loans made from private funds, including mortgage insurance for lenders and rent or interest assistance for low-income tenants and mortgagors.

Federal National Mortgage Association (FNMA or Fannie Mae) - A privately owned and managed corporation that purchases mortgage loans originated by other lenders. Fannie Mae issues stocks and securities to obtain funds for its purchases.

Fixed-Rate Mortgage - A loan that has one set interest rate. **Installation Debts** - A buyer's long-term debts; they usually extend for periods longer than nine months.

Intermediate-term Loan - A home loan of less than 30 years.

Life-of-loan Cap - A consumer protection on some adjustable loans. It limits the total upward adjustment that may occur during the life of the loan. Also known as an overall cap.

Loan-to-value Ratio - The relationship between the amount of a home loan and the total value of the property. Lenders may limit their maximum loan to 80-95 percent of value.

Lock-in Rate - A rate commitment made by lenders when making a mortgage loan to commit to or "lock in" that rate pending loan approval. Lock-in commitment periods vary.

Market Value - The highest price the buyer is willing to pay for a property and the lowest price the seller will accept.

Mortgage - A lien or claim on property given by a buyer to a lender as security for money borrowed.

Mortgage Broker - An individual or company that obtains mortgages for others by finding lending institutions, insurance companies, or private lenders to lend money.

Payment Cap - Limits the amount that a monthly payment on an ARM loan can increase at the time of adjustment.

Points - One percent of the amount of the mortgage loan.

Prepayment - Payment of a mortgage loan, or portion of the loan, before the due date.

Prime Rate - The interest rate that banks charge to their preferred customers. Changes in prime rate are used as indexes in some adjustable rate mortgages, especially home equity lines of credit.

Principal - The basic loan amount, separate from interest, insurance, and taxes.

Private Mortgage Insurance (PMI) - The insurance coverage offered by a private company that protects a lender against loss on a default mortgage loan. Its use is usually limited to loans with high loan-to-value ratios. The borrower pays the premiums.

Title - Proof of ownership.

Title Search - A check of title records to assure that the buyer is purchasing property with no liens, encumbrances, or other claims which might adversely affect the title's value or marketability.

Veterans Administration (VA) - A government agency that helps veterans of the armed forces obtain housing.

