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Construction-defect litigation bankrupts Clovis homebuilder

Published on 04/07/2016 - 9:22 am
Written by George Lurie

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Lawsuits originating from the River Ridge Estates subdivision in Reedley ultimately lead to the recent bankruptcy of Clovis homebuilder Generation Homes.

A Clovis homebuilder was forced to file for bankruptcy protection earlier this month after being swamped with a flood of construction-defect lawsuits, a growing trend impacting the bottom line of virtually every Valley homebuilder.

Generation Homes filed for Chapter 7 bankruptcy protection on March 4 in U.S. Bankruptcy Court for the Eastern District of California. In his filing, Robert Wood, president of Generation Homes, lists the company's current liabilities at $50,000 to $100,000 and assets at less than $50,000.

The company, which built about 900 homes around the Valley between 1996 and 2008, is being represented by attorney Hilton A. Ryder of McCormick, Barstow, Sheppard, Wayte & Carruth.

The Chapter 7 filing lists a total of 513 unsecured creditors under the heading "Potential Warranty Claim." The majority are owners of homes built by Generation, who under California law, have up to ten years to file warranty-related litigation against their builder.

For Generation Homes, the trouble started with a 240-home subdivision the company built in Reedley called River Ridge Estates.

"The cause of the bankruptcy solely rests on the construction defect litigation that we incurred down in Reedley," said Wood, who spent "close to half a million dollars" trying to repair the River Ridge homes and settle the lawsuits.

"I probably made a mistake of carrying too large of a deductible on my [construction-defect] insurance," he added.

In the late 1990s and early 2000s, when a number of new, buyer-friendly construction defect laws were passed, builder attorneys called many of the laws excessive and said they encouraged opportunistic homeowner plaintiffs to saddle developers with unnecessarily costly litigation rather than attempt to work out solutions.

Industry officials say that in most successful construction defect lawsuits, plaintiff's attorneys usually get more than half of the overall settlements, which typically range from $15,000 to $20,000 per homeowner.

"Homeowners in these lawsuits typically walk away with just 25 or 30 cents on the dollar," said one prominent local builder. "The lawyers are the real beneficiaries."

"We've all been getting hit," the builder added. "At the end of the day, it really becomes an insurance issue."

Saying that he was forced to scale down his business dramatically just before the Great Recession hit, the same builder added, "In 2008 and 2009, every buyer was a vulture. Builders were having to compete with foreclosed homes and we told our sales people to tell buyers that they were basically getting the house at wholesale."





getting the loans at wholesale.

Mike Prandini, president of the Building Industry Association of Fresno and Madera Counties, said, "My builders try to dissuade the homeowner from filing a lawsuit by 'fixing' whatever the homeowner deems necessary — and letting the homeowner know that this type of litigation creates a cloud on the title that has to be disclosed to future buyers."

Prandini said the California Building Industry Association succeeded in getting a so-called "Fix It" law — SB 800 — passed in the California legislature in 2004.

"However," Prandini added, "the plaintiff attorneys have found a way around the law and efforts to change it have been unsuccessful because the trial lawyers have a lot of clout in Sacramento."

Mike Lane, executive officer of the Building Industry Association of Tulare and Kings Counties, calls the lawsuits "a lawyers' playground," adding that a bill introduced by Merced Assemblyman Adam Gray seeking to decrease potential damages homeowners can recover in construction-defect lawsuits died in the most recent session of the California Assembly.

Noting that an average of 25 subcontractors are involved in building a typical house and as a general contractor, he is ultimately responsible for the quality of all of that work, Wood admitted that a number of homes at River Ridge "did have some issues."

"We approached all of these people and offered to fix their homes," he said. "Some took us up on it and dropped out of the lawsuit.

But in most cases, the people just wanted the money."

Wood said the lawsuits started coming in after an attorney went through the River Ridge subdivision passing out a letter and offering to represent the homeowners in a lawsuit.

"After the lawsuit is filed, the onus is on the builder and subcontractors to prove there are no defects," Wood said. "You can only spend so much money testing. These attorneys know that in the end, you'd rather just settle. So they cast a very wide net because they want to include every single subcontractor involved on the job."

Wood started Generation Homes in 1996 and took on two partners, John Olson and Scott Hulme, about five years later. In 2008 after the financial crisis hit and virtually all real estate activity in the Valley came to a screeching halt, Olson and Hulme left the company.

"We sold our last home in 2008," Wood said. "By 2009, the marketplace had gone from bad to worse. My former partners had gone off in different directions but I knew that I could continue to put food on my plate by doing general construction."

Wood had operated another business, Generation Commercial, since 2001 and continues to make a living today doing construction work with that company.

"The business focus we have now is light commercial and design/build for residential," he said. "We also do office tenant improvements and operate a residential and commercial painting company."

But while Wood concentrated on his other business, the lawsuits related to the River Ridge subdivision continued to pile up.

During the past five years, Wood said he had continued to work with River Ridge homeowners who had issues. Then a third wave of lawsuits filed against Generation Homes just before Christmas of last year "turned out to be the last straw."

"We were not a viable production home builder any more so there was no alternative" but to declare bankruptcy, Wood said.

Because of the flood of lawsuits from River Ridge, Wood said he was no longer able to service warranty claims in other subdivisions where Generation Homes had built. "That's why the number of potential claims [in the bankruptcy filing] is so high," Wood said. "We did what we could do and now it's done. I wish it wasn't that way but unfortunately it is."

It's done. I wish it wasn't that way but unfortunately it is.

A court date for the Generation Homes bankruptcy case has been scheduled for Monday.

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