



2017 CONSENSUS PRINCIPLES FOR CONSTRUCTION DEFECTS REFORM

Affordable condominiums are a critical and increasingly scarce component of our housing market. Despite pent up demand in the region's housing market, affordable condominium construction is at a relative standstill. The incidence, cost and duration of litigation to resolve construction defect claims have served to deter developers from reentering the owner-occupied attached for-sale market. Fast and equitable resolution of defects claims benefits both homeowners and developers.

The Metro Mayors Caucus has focused on reforms that will reduce the time and cost associated with resolution of construction claims. MMC asserts that if a problem arises within a condominium development, then homeowners within the development should have both the information necessary to understand the consequences of any action or inaction, and a voice in determining how to proceed.

The Metro Mayors Caucus will support bills in the Colorado General Assembly that have the efficiency, transparency and informed consent elements described in bullets 1-3 below. Bills that do not contain these elements will be evaluated on a case by case basis.

1. **Fast and Efficient Dispute Resolution for All Parties** - When the original governing documents of a common interest community require alternative dispute resolution (mediation or arbitration) to resolve a construction defects claim, and that requirement is unilaterally amended out of the governing documents, claims regarding defects must still be resolved through alternative dispute resolution.
2. **Transparency for Homeowners** – Before filing a construction defects claim, homeowners' association boards should be required to, in a timely manner, provide a written disclosure informing homeowners of both the potential liabilities of not filing a claim, as well as the estimated costs and potential implications of pursuing a claim.
3. **Informed Consent of Homeowners** – HOA Boards should have the written consent of the majority of non-declarant owners within a development before involving all homeowners' properties within that development in a construction defects claim which could preclude an owner from selling or refinancing their property for duration of the claim resolution.

Adopted by Consensus of the Metro Mayors Caucus on January 31, 2017