

How to Resolve Problems that May Arise with Your Builder

The typical house contains more than 3,000 different parts. These components must be assembled with skill to form the new product you will call home.

It would be unrealistic to expect your new home to be perfect. Even the best built homes are likely need a few corrections. Most problems are corrected routinely by the builder. However, if a non-routine problem should arise, you should follow certain procedures to correct the situation.

First, identify the exact nature of the problem. Then you should put it into writing and send it to the builder. Many builders require all complaints to be in writing and will respond to telephone complaints only in emergencies.

Use the following guidelines when you write your letter:

Include your name, address, and home and work telephone numbers. Type your letter if possible. If not, use printing or handwriting that is easy to read. Keep your letter brief and to the point, but include all relevant details. State exactly what you want done and how soon you expect the problem to be resolved. Be reasonable. Include all relevant documents regarding the problem. Send copies, not originals. Keep a copy of the letter for your files.

Before you write your letter, familiarize yourself with your warranty coverage. If a problem develops after the warranty has expired, the builder is not required to fix it under the terms of the written warranty. Some items, such as appliances, may be covered by manufacturers' warranties and are not the responsibility of the builder.

Always go directly to the builder with your complaints. Do not send letters to lawyers, government agencies, home builders associations or any other third parties before you have given your builder a reasonable chance to correct the problem. Interference from outsiders may impede the handling of your complaint. Also, sending angry, sarcastic or threatening letters is not likely to expedite your case. Such letters usually do more harm than good.

Contact outsiders only if you have reached an impasse with your builder. Try to avoid legal proceedings. Lawsuits are expensive and time consuming and should be attempted only as a last resort.

Remember that most builders are seeking customer referrals and repeat buyers. They want you to be satisfied. If a problem develops, remain calm and approach your builder in a reasonable manner. By following the procedures described above, chances are that you will be able to resolve the problems.

Helpful Tips

New homeowners with questions or concerns involving construction methods, practices, materials and techniques used to construct a home should:

- Carefully read the contract to establish how construction issues are to be handled.
- Contact the home builder through the mail and by telephone to clearly explain the situation.
- Document all contact with the home builder
- Take photos of the situation and send copies to the home builder.

- Be prepared to hire a third party inspector.

Homeowners may also want to call the enforcement jurisdiction to verify inspections were made for code compliance. Questions might include:

- Which building codes and amendments are used?
- Which inspections are performed on the home during construction.
- Will the city dispatch an inspector to examine the situation and give an opinion based on local building code requirements?

The Better Business Bureau

The Better Business Bureau (BBB) offers complaint mediation and arbitration services that can help solve consumer/business problems. As private non-profit organizations, however, they cannot force a solution on parties to a dispute:

BBB of Coastal, Central & Southwest Texas

<http://austin.bbb.org>, info@austin.bbb.org

Phone: (512)445-2911, Fax: (512)445-2096

1005 La Posada Drive

Austin TX 78752

The Office of the Attorney General and Legal Assistance

Home owners with unresolved complaints may contact the Office of the Attorney General. The Attorney General's Consumer Complaint Division has a process to submit complaints. The consumer protection hotline number is (800) 621-0508.

If the homeowner is over the age of 60 or eligible for Medicare, the Attorney General offers free legal advice and other legal services. Eligible Texans can call (800) 622-2520.

Federal Trade Commission

The Federal Trade Commission (FTC), the nation's consumer protection agency, collects complaints about companies, business practices, identity theft, and other business related issues.

The FTC's Bureau of Consumer Protection works to protect consumers against unfair, deceptive, or fraudulent practices in the marketplace. The Bureau conducts investigations, sues companies and people who violate the law, develops rules to protect consumers, and educates consumers and businesses about their rights and responsibilities.

Complaints filed with the FTC helps detect patterns of wrong-doing, and lead to investigations and prosecutions. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database. It should be noted that the FTC does not resolve individual consumer complaints.

For more information go to www.ftc.gov or www.ftccomplaintassistant.gov

Smalls Claims Court

If the conflict between a homeowner and home builder or home remodeling contractor involves a contract dispute or allegations of fraud, then the Texas Justice of the Peace system or Municipal Smalls Claims Court may provide relief. These courts have filing fees that are much smaller than district courts and the proceedings are less formal, with citizens representing themselves.

In these courts, consumers may present their side to the judge using any information, documents or witnesses that are relevant. Look in the blue pages of the phone book or contact the city or county for information about these courts. Information can also be found at www.courts.state.tx.us

The Residential Construction Liability Act

For unresolved situations surrounding allegations of a construction defect, the Texas law known as the Residential Construction Liability Act (RCLA - commonly known as "Rec-la") was established by the Texas Legislature.

Generally speaking, RCLA applies to any action to recover from a construction defect except for personal injury, wrongful death or damage to goods. Any party who files a suit under RCLA that is groundless and brought in bad faith or for purposes of harassment is for attorney's fees and court costs.

A summary of the RCLA process is as follows:

- To formally start the RCLA process, the homeowner must give written notice to the contractor specifying in reasonable detail the construction defects of the home 60 days before taking any legal action. On request of the contractor the homeowner must provide any evidence of the defect such as photos or inspection reports.
- The contractor shall have 35 days after receiving the notice to inspect the situation to determine any repairs necessary. A written offer of settlement must be submitted to the homeowner within 45 days of receiving, and if the offer is accepted - make the repairs within 45 days.
- The homeowner has the right to refuse the settlement offer or offer to repair, but they must provide details why the offer is being refused. If the offer is refused the contractor may make a supplemental offer. If a homeowner does not permit the contractor to inspect the property or make repairs, then certain restrictions will apply to the homeowner's ultimate settlement offer.

Helpful Online Resources

- [Attorney General](#)
- [Better Business Bureau](#)
- [International Code Council](#)
- [Federal Trade Commission](#)
- [Justice of the Peace and Small Claims Courts](#)
- [Texas Law and Statutes](#)

[Texas State Agency List](#)