

## Real estate Q&A

Question: Does a homeowner have any recourse with a builder when the home was not constructed properly and this discovery was made after the warranty expired? My home is almost six years old, and now it has been discovered that the flashing detail was not installed on the roof when the home was built. The inspector says that the damage has been ongoing, but because of the drought, it is now noticeable. The builder's response is that because I did not let him know that the roof was incomplete within the warranty time, he has no obligation to repair it.

Answer: Maitland real estate attorney Catherine Davey suggests talking to the builder again and providing copies of the inspection report and any other documentation you may have. He might be willing to assist in repairs even if the warranty has expired. In terms of legal recourse, your chances of success are slim, although you can discuss the particulars with an attorney. The statute of limitations on a breach of contract is five years, but there is a seven year statute of limitations for fraud.

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Question: We closed on our home in March in Oviedo. We signed a contract to build the house in August 2000. It turns out that the neighborhood borders the Iron Bridge water treatment facility. We didn't learn about this until about a month after we moved in. Most of the other homeowners were told when they signed a disclosure form. But the builder never had us sign this form. If we had known about the smell this plant generates, we would never have contracted to build our house. Wasn't the sales agent required to disclose the plant to us? Do we have a strong case to file a lawsuit?

Answer: Maitland real estate attorney Catherine Davey says the general rule is that buyers have a duty to recognize and locate "nuisances" around their prospective home. You wouldn't be able to argue that the plant is difficult to locate or that you didn't notice it because it is an obvious "nuisance." So it is unlikely that you have a cause of action against the builder. However, it is possible that the builder assumed a duty to warn buyers about the location and smell of the plant by having some buyers sign a disclosure form. Get a copy of the form to see what was disclosed. Still, your best bet is to see if you can work out something with the builder so that you are happier with the house.

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Question: I was told the appraised value of the house I'm selling may be about \$6,000 less than the selling price. My home appraised at \$83,000 four years ago, and my selling price is now \$94,000. I listed it for \$90,000 and added \$4,000 to help buyers with closing costs. With a 3 percent per year inflation, that comes up to about \$91,000. In this sellers market, I believe that \$94,000 is a good price. I have seen homes in bad shape for more money in areas that weren't great, what can I do about a bad appraisal?

Answer: Maitland real estate attorney Catherine Davey says the problem will be that most real estate contracts include an addendum saying the house must appraise for at least the asking price. If not, the buyer can be released from the contract. But certainly, appraisers can make mistakes. Ask for a copy of the report to confirm that the appraiser is licensed. If the report has errors, call the appraisal company and point them out. If that doesn't resolve the problem, you can have another appraisal done at your expense. Then you can argue the original appraised value of your home. Home values in the Orlando market, in general, are increasing but not in all areas.