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## Construction Trends

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DEFECT DEFENSE

# Build It Right the First Time

*As construction ramps up, don't let sloppy practices cost you—in callbacks, customers, and defect lawsuits.*

By John Caulfield



### Articles on Construction Defects

- [A \(wiki\) Construction Defect Timeline: Great Failures in Building History](#)
- [KB Home Estimates Defect Repairs to Cost \\$43.2 Million](#)
- [Construction Defects Rob KB Home of Profit](#)
- [Construction Defect Bill Killed in Committee](#)

Indifferent and even negligent construction practices and oversight during the last housing boom have come back to haunt several builders and contractors in the specter of construction defect litigation and court rulings in favor of homeowners.

Those inconvenient and costly remnants of the industry's wilder days in the early and mid 2000s—on top of a prolonged recession during which scores of seasoned field superintendents were either laid off or left the business—have given builders ample reasons to make the necessary investments in people and training to assure the quality of their products as their construction velocity increases while the skills and availability of field labor remain in question.

But some builders still seem focused on cutting costs and taking their chances rather than on minimizing potential risks associated with lapsing into bad habits that can lead to defects, and damage to their houses and their reputations with home buyers.

Construction quality “absolutely got better” during the housing downturn, observes Ken Campoy, vice president with Nautilus Building Consultants, a San Diego contractor that specializes in fixing damages caused by construction defects and providing expert-witness testimony in defect litigation. “But most mistakes occur right at the start of a new boom. And I’m anticipating another [housing] boom with a lot of inexperienced people.”

Builders who need reminders about how bad construction from the last boom can blow up in their faces years later need to look no further than KB Home, [which recently added \\$15.9 million to a reserve set aside for warranty issues](#). In July, KB estimated it would cost the company more than \$43 million to fix at least 1,100 homes it sold in Florida that have incurred construction defects.

### Builders: Been There

Virtually every production builder has war stories to tell about defect complaints from customers and their attorneys. But KB over the years has been the recipient of sometimes venomous opprobrium from consumer advocates and disgruntled homeowners. In mid August, a couple who three years ago bought a KB home in California launched a website to call out KB for flaws they say include slab cracks and lopsided ceilings. There are many other homeowner-run sites that bash the builder for a variety of defects.

BUILDER's recent reporting on KB's travails in Florida sparked numerous responses from readers, many of whom linked defects to poor jobsite management. “I have worked for several ‘volume’ builders over the years and have seen more problems than solutions,” wrote one reader who says he’s a project manager for a Houston custom builder. “The mindset is ‘this is the way we do it.’ But builders don’t have enough communication [with] vendors and subcontractors in the field.”

Another reader assigned blame for defects to failures of business ethics. “Despite trying to divert attention to [its] subs, KB is ultimately responsible for quality assurance of its product,” he wrote.

Speaking with BUILDER in July, Larry Oglesby, KB's senior vice president of national operations, emphasized that “we are stepping up and making repairs” of defects in Florida that were found predominantly where stucco “intersected” with houses' roof lines. He added that over the past year, KB has hired and trained more supers. [In May, KB filed suit against 41 subcontractors who were involved in its Florida community where houses' balconies collapsed](#).

But Oglesby offered no immediate explanation for why the Florida homes weren't built to KB's standards, despite the builder having in place what he called an “intensive” quality assurance

program throughout all divisions nationwide. There are checkpoints from the beginning to the end of construction that superintendents must sign off on. KB uses several third-party inspectors, including West Coast Property Management and Foster Home Inspection. And each division has received a quality certification from the Home Innovation Research Labs.

KB certainly isn't alone among production builders with defect headaches. [In June, a judge in South Carolina signed a notice](#) that was then sent to thousands of homeowners allowing them to decide whether to join a class action suit against Pulte and its plaster contractor over damage caused by defective stucco application at the Del Webb Sun City community in Hilton Head. (Pulte, through a spokesperson, declined to comment.)

Brookfield Homes in May agreed to pay \$2 million to settle a construction defect suit filed by the homeowners association at Brookfield's Cottage Lane at Windingwalk multifamily community in San Diego, built in 2005, which had extensive roof-leak problems. "It was so bad that we saw skeletons of rats, owls, and other vermin stacked in gaps where the roof touched the stucco," recalls Bill Naumann, the association's attorney.

Brookfield's executive vice president, William Seith, declined to comment on this settlement, which involved 120 multifamily housing units. But what kept Brookfield from incurring greater liability was that it could prove it had a quality assurance program in place at the time of construction, says Stan Luhr, who founded the Florida-based third-party inspection firm Quality Built and now runs the El Cajon, Calif.-based forensic services provider AxisPointe.

### Built to Sell, Not to Last

Quality assurance is the ultimate reflection of a builder's customer service. Builders have an obligation to deliver houses that protect owners from the outside elements. Aside from any moral imperative, building defect-free homes makes good business sense because fixing mistakes is expensive.

"By the time it gets to that point, it's going to cost 1,000 times what it would have cost to get it right the first time," says Phil Kabza, director of technical service for The Spec Guy, a North Carolina-based specifications and products consultant. Mistakes can spur negative customer reviews that can go viral. And courts are revising their opinions about which "occurrences" in construction fall under general liability insurance coverage (see "A Patchwork of Litigation," this page).

Mike Winn, president of the California Building Industry Association, thinks that one silver lining of the recession is that "the level of construction quality is as good as it's ever been." But others think some builders still view defects as just another cost of doing business; how else, they ask, can the recent Chinese drywall fiasco be explained?

And when defects surface, some builders are too quick to blame inspectors, subs, or homeowners' lax maintenance. "I hear the 'M' word ad nauseam from builders," laughs Chris Coglianese, a Tampa, Fla.-based plaintiffs attorney.

### Not Enough Training

Even giving builders the benefit of the doubt about their intentions to sell defect-free houses, it's apparent the hiring and training of superintendents and project managers lag snowballing production schedules. And if supers' experience and product knowledge are suspect, who, ask Kabza and other industry watchers, will train the current crop of subs who lack basic skills or were assigned construction stages beyond their expertise?

"It's about closing homes on time and not very much about doing what needs to be done right," says Brad Oberg, a partner with IBACOS, the building science and home inspections consultant. Steve Robertson, a Nashville-area remodeler who has done his share of defect-repair work, seconds Oberg's lament. "Builders get into trouble when they look at a house plan and start saying 'I don't need to do this, this, or this to save money.'"

The results have been inevitable: Houses "are built to sell, not to last," says Harrison McCampbell, a forensic architect who has testified at more than 150 construction defect cases. "Builders don't know bad construction when it's staring them in the face; some don't know the difference between a vapor barrier and a moisture barrier."

Bill Palmer, P.E., editorial director of Hanley Wood's Construction Group—which includes sister publications to BUILDER—recalls being on a jobsite with a builder whose house under construction had water in the basement. Palmer saw an irrigation ditch 10 feet from the foundation. "When I pointed that out, [he] didn't think it was a problem," Palmer says. How can builders who can't spot snafus in the field be expected to fix mistakes under Right to Repair laws that states mandate as part of their construction defect arbitration process?

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