

Texas New Home Buyers' Guide

**How to Avoid Being Nailed
By a New Homebuilder in Texas**



Prepared by

**Homeowners Against Deficient Dwellings
December 2003**

*Members of Homeowners Against Deficient Dwellings contributed to this report.
<http://www.hadd.com>*



Homeowners Against Deficient Dwellings

Texas New Home Buyers' Guide

How to Avoid Being Nailed By a New Homebuilder in Texas

Table of Contents:

DONATE TO HADD	3
ABOUT THIS BUYERS GUIDE	3
HIRE A REALTOR	4
COMMENTS ON HIRING AN ATTORNEY.....	4
SELECTING A BUILDER	4
RESEARCH THE BUILDING LOCATION.....	4
TRACK VS. CUSTOM BUILDERS.....	5
CHECK THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION.....	5
CHECK THE TEXAS ATTORNEY GENERALS OFFICE.....	5
CHECK THE BETTER BUSINESS BUREAU	5
SEARCH THE INTERNET FOR INFORMATION ABOUT THE BUILDER.....	6
READ AND REVIEW THE ENTIRE SALES CONTRACT	6
CHECK THE CONTRACT FOR AN ARBITRATION CLAUSE.....	6
READ AND UNDERSTAND THE WARRANTY.....	7
READ AND REVIEW THE DEED RESTRICTIONS.....	7
PLAN A SITE VISIT TO AN OLDER NEIGHBORHOOD.....	7
START A HOME FOLDER	7
HIRE A PROFESSIONAL INSPECTOR	8
HIRING AN INSPECTOR.....	8
INSPECT BEFORE CONSTRUCTION.....	8
INSPECT DURING CONSTRUCTION.....	9
INSPECT AFTER CONSTRUCTION	9
PERFORM A WALK THROUGH OF YOUR HOME	9
INTERIOR OF THE HOME	9
EXTERIOR OF THE HOME	11
ADDITIONAL HELP FOR THE HOMEBUYER	11
RECOMMENDED READING	15
AVOID HOME BUILDING PITFALLS	15
NEW HOME WARRANTIES. DECEPTION OR PROTECTION?.....	15
THE ABUSE OF ARBITRATION IN NEW HOME CONTRACTS	16
HOW TO RESOLVE A CONSTRUCTION DEFECT WITH A TEXAS HOMEBUILDER.....	16
THE ULTIMATE NEW-HOME BUYING GUIDE.....	16
THE HOME DEFECT LITIGATION HANDBOOK	16
ABOUT HOMEOWNERS AGAINST DEFICIENT DWELLINGS	16

Donate to HADD

This document was written to help potential homebuyers in Texas. The members of HADD use their own money and donate their own time to research and document helpful information.

Please consider a donation , whether \$10, \$20 or more, to HADD in order to continue providing such information.

Contact john.cobarruvias@hadd.com for more information.

About this Buyers Guide

Words cannot express what many homeowners have gone through in respect to their defective homes--the frustration, coupled with a sense of moral outrage, sense of loss, and total feelings of helplessness. The laws in Texas are stacked against the homeowner/buyer when they have a serious defect in their new home. Many lives have been stressed financially, mentally, and physically by poorly built housing. Many of these would have never thought the laws were so lax concerning builders who refuse to take responsibility for their actions. In the state that invented the word "responsibility" many homeowners realize this is nothing more than a meaningless phrase.

So heed our warning when we say buying the "American Dream" can turn into a "Texas nightmare" and protect yourself before you buy by doing what you can to prevent the defects from occurring.

The procedures in this self help, common sense. manual will appear suspicious, untrusting, too detail intensive, and unnecessary. Take it from those who have been HADD, every suggestion is well worth the time, effort and expense. A little investigation on your part along with paying an additional few hundred or more up front cost could save you the experience and expense of trying to resolve a defect.

Many in the building industry would like you to believe that consumer groups and the media are trying to sensationalize the issue and serve only to needlessly alarm prospective home buying consumers. Nothing could be further from the truth. We have firsthand knowledge of the crisis in defective housing, which includes deficient building materials being used nationwide. We are not attorneys, nor builders, but homeowners who are living and working out of our own deficient homes.

Too much confidence is placed on the building industry. Residential contractors (builders), real estate agents and developers are in the business for a profit. The situation is no longer just "Buyer Beware", but "BUYER BE SCARED!"

Buying a home is the single most expensive investment most Americans will ever make. However, most are more cautious about how they can save a few dollars on a kitchen appliance as compared to investing hundreds of thousands in a home. Americans will clip

coupons to save a few cents but won't think twice about hiring an inspector for a new home!

Unfortunately, by following this guide, there are no guarantees that a defect will not arise, but this guide is designed to identify and prevent defects, not eliminate defects. Remember the laws in Texas protect the builder from having to take responsibility for their defects, not to provide consumers with protection. With this in mind, continue reading and protect yourself!

Hire a Realtor

A realtor could perform many of the steps outlined below. Consider finding a realtor who would help with a new home purchase. The realtors will receive a hefty commission so they should work for you to earn this commission.

Ask the realtor what services they could provide. Review the suggestions below and ask if the realtor can provide this information or services. The realtor should also be present at closing to inform you of your rights and explain the contracts. Many times the builder requires the realtor to be listed at the time the buyer registers at the site or else the realtor will not be commissioned.

Comments on Hiring an Attorney

Although it would seem that hiring an attorney to review the builder contracts, warranties, and any other important document would be warranted, realize that the builder may not change any of these documents based upon comments from any third party. If you select to use and pay for an attorney, make sure you understand this possible limitation.

Selecting a Builder

Research the Building Location

Ask the builder what the land was used for in the past. Ask if the realtor can provide this information for you. Search city or county records. As an example, in Ohio a builder (Ryland Homes) built homes in the Lexington Manor subdivision. It was later found that the land was once a skeet shooting range and the ground was contaminated with lead. Many of the homes have been bought back and the builder agreed with the EPA to remediate the site¹. Of course this could cause considerable frustration and inconvenience to the homeowners.

Search the area for obvious nuisances such as railroad tracks, airports, sewer treatment plants, ballparks with lights, buried pipelines or any other significant items. Look for possible new developments in the area such as a proposed apartment complex on land

¹ Story about Ryland Homes

identified for commercial use. Find all unused commercial use land and take this into consideration. Ask your realtor to provide most of the information.

Track vs. Custom Builders

Assuming you have found the right location for your new home, begin your process by researching the various builders in your area. Many will be track houses by large corporations or companies. Others may be a custom builder. Many of the master planned subdivisions have a mixture of the two, with multiple track and custom builders. Unlike the tract builder, a custom builder may allow modifications to the home design.

Do not assume that the custom builder will provide better service or better quality. In most cases this is true, but it is not guaranteed, and a buyer should be concerned not only with the quality of the home, but of the quality of consumer protection and your right to protect yourself.

Check the Texas Residential Construction Commission

In 2003 the Texas Legislature required all builders to be registered with the newly created Texas Residential Construction Commission (TRCC). All builders in Texas should have a registration certificate. Contact the TRCC and verify the registration is current.

Also inquire if the builder has any complaints filed with the TRCC. The TRCC could have some good information from homeowners who have first hand knowledge of how the builder responds to complaints. If necessary file an Open Records Request to gain access to copies of complaints filed by homeowners. Contact these homeowners to gauge the responsiveness of the builder to defects. www.trcc.state.tx.us

Check the Texas Attorney Generals Office

Contact the Texas Attorney Generals Office and request all complaints on the builder. A simple email to the AG's office via the Open Records Act can provide you with the name and contact information for a homeowner. If the entire record of the complaint is required, there may be a fee to provide this information. The AG's office can be reached via their website at www.oag.state.tx.us.

Contact the homeowners and ask if their complaints have been resolved and if so, how long did it take. Also ask if they would recommend the builder. Many times the homeowners will have signed a non-disclosure with the homebuilder. This means they will not be able to discuss the situation with a third party. Be prepared to take this into consideration.

Check the Better Business Bureau

The BBB can provide some information, although not any details. Ask if the builder is a BBB member, or a CARE member and if not, when was the last time they were a part of the BBB. If they are no longer members, ask why they are not. Some builders when confronted by a homeowner via the BBB procedures will just not renew their membership, or the BBB will cancel the membership. Try to determine if this is the case.

Search the Internet for Information About the Builder

Perform a search on the builder via the Internet. Many times homeowners will resort to building Internet sites dedicated to a homebuilder and defects. Most of the hits will be returned pointing to the builders website, so make sure you look at the first 50 or so sites to find other sites by homeowners if any. Also see HADD's site www.hadd.com and Homeowners for Better Builders www.hobb.org for links to homeowner's websites.

Also search Google News for the builder to find any newspaper or TV articles. Contact the local TV stations and newspapers, obtain access to the archives search and perform a search on the builder.

Read and Review the Entire Sales Contract

When comparing the builders, ask for a copy of the contract so you review it on your own time. The contracts are full of small print (literally) and may contain obscure details. Be aware that many builders will not allow the contract to be removed from the office. This is not quite understood since this is a very detailed and important transaction and should not be rushed or hidden in secrecy.

All Texas contracts must have a clause in bold print notifying the homeowner of the Residential Construction Liability Act, which is the law that protects builders from lawsuits and is required to be followed by all buyers and builders in case of a defect. This clause, by law, must appear in bold print, 12point font right above the signature line. Make sure this clause is on the contract, if not, file a complaint with the TRCC and ask why the notification is missing.

If you have an attorney review the contract, understand that the builder most probably will not modify the contract based upon an opinion of an attorney. The review may cost a stiff fee, yet the builder may never heed the advice.

Check the Contract for an Arbitration Clause

Also review the contract for an arbitration clause. Arbitration has been falsely advertised as being faster, cheaper, and better than the court system. After many hearings, this has been proved to be false. Arbitration is not good for the consumers and if it can be avoided, it should. For further details on the abuse of arbitration, read "The Abuse of Arbitration in New Home Contracts" by HADD at www.hadd.com/arbitration.pdf.

If there is an arbitration clause ask if it can be removed. Also if this is an FHA or VA loan, demand to know your rights concerning the arbitration clause. Under FHA/VA rules, the builder cannot enforce an arbitration clause. Verify this with the builder and have the contract amended.

If the home is by KB Home, the use of binding arbitration is not allowed by a 1979 Consent Decree signed by KB Home and the Federal Trade Commission. Make sure the arbitration clause is removed from the contract and warranty. KB Home now offers a 12 year warranty with mandatory binding arbitration. HADD does not recommend accepting this warranty in lieu of the 10 year warranty without the clause.

Read and Understand the Warranty

Beginning in 2004 new homebuilders must provide a warranty or must abide by the performance standards to be created by the TRCC. The warranty must be approved by the TRCC for use in Texas. Unfortunately, most new homebuyers will not read the warranty until they need the protection it is suppose to provide. Because many items can go wrong over a course of several years, you must know what protections and time limits apply to your new home before you purchase. You should ask the builder for a copy of their warranty to review on your own time.

While comparing builders, ask for a copy of their new home warranty. Many builders will not provide a copy to take home for review, but a copy should at least be available at the sales center. Also read the document “New Home Warranties. Deception or Protection?” by HADD at www.hadd.com/warranty.pdf. Realize the warranties are very limited in coverage and provide little if any protection for the biggest investment of your life. At the very least, review the warranty and understand the limitations of the warranty before you buy the home.

Read and Review the Deed Restrictions

In December of 2003 HADD received a copy of the Declarations of Covenants from a KB Home Subdivision. In the deed restriction the builder demands that the homeowner will not picket, protest, or disparage any of the builders of a subdivision. This includes using the Internet or email. Needless to say this is a direct conflict to the 1st Amendment, the right to free speech. Also the homeowners association could fine the homeowner \$100.00 a day if this is violated. Whether this would ever be enforced is still yet to be determined. (KB Home later decided to remove this clause in any future developments)

Make sure you read the deed restrictions before purchasing the home. Question if this type of clause is legal. Realize that a board of directors, which usually are homebuilder representatives until the board can be transitioned to the homeowners, manages the association. This usually happens when the subdivision has been close to completion. The deed restrictions are very hard to change, so once the rules are filed with the state, the rules will remain for many years.

Plan a Site Visit to an Older Neighborhood

Ask the builder to direct you to an older neighborhood with the same type of homes. Find one that is 5-10 years old. Look how the neighborhood has aged. Check the roofs and exterior for noticeable signs of premature deterioration. If you can, ask local homeowners what they think of the home after a few years. Ask if they experienced any defects and how responsive the builder was in the repairs.

Start a Home Folder

Once you have selected the builder and are ready to begin construction, create a folder for all of the paperwork and contracts. Use this throughout the process to document the construction process and for later use. Keep pictures in this document also.

Hire a Professional Inspector

Hiring an Inspector

Anyone who is buying a new home should have it thoroughly inspected. Although HADD does not endorse particular home inspectors and or agencies, HADD recommends that you use a certified/qualified home inspector and or professional construction consultant firm (who are usually architects, engineers, or general contractors).

Home inspectors should be well trained in new construction and affiliated with inspection agencies such as ASHI and/or NAHI or a state licensed inspector such as Texas Association of Real Estate Inspectors (TAREI). HADD can recommend inspectors, which we have worked with in the past.

Remember also that "typical" home inspection services are different from Professional Construction Firms. Home inspections provide a routine inspection, usually prior to the closing of escrow, for the more obvious problems. Home inspection services cost less, but the depth of their inspection usually will not uncover hidden structural problems. Be thorough when hiring a home inspector and ask if they are experienced in new home construction and are capable and trained in phase inspections.

Do not rely on VA and FHA inspections or city or county inspections. Usually they perform minimal inspections, not looking for defects or non-code compliance.

The cost of the inspection will vary depending upon if a complete inspection from start to finish is requested or if just a walkthrough inspection at the time of closing is requested.

A good inspector should be able to guide you through the process and handle all problems. All inspectors will vary depending upon how thorough of an inspection is wanted and cost. Shop around for an inspector who specializes in new home construction. Allow the inspector to do his job, and then report back to you instead of accompanying him at the site.

NOTE: Realize the builder may not agree with the findings of the inspector and could refuse to correct any problems the inspector has found. But the TRCC has demanded that all new homes will be built to the applicable building codes. The inspector should know these building codes and if the builder is violating the codes, it should be reported to the TRCC. The TRCC should enforce the code violations.

Inspect Before Construction

The inspector should verify the site is ready for pouring of the foundation. This is best left up to a qualified inspector.

Inspect During Construction

There are specific events that will warrant a detailed inspection. This could include framing, dry walling, electrical, plumbing, roof, and at closing. Consult your inspector for what events will require an inspection.

Inspect After Construction

The inspector should do a final walkthrough inspection with the foreman of the site. After this is completed, he should provide you with a list of all defects he has found and what should be corrected.

Perform a Walk Through of Your Home

Just prior to closing you will be asked to perform a walk through of your home, with a foreman. HADD encourages you to hire an inspector as part of the entire home building process, which should include a final walk through, but if you intend to do the walk through yourself, here are some ideas on what to look for and what to inspect. This is not a complete guide but it is a start and it should help you design your own inspection.

Before you begin, take some simple steps to help you. Take as much time as you need. Remember, this is your biggest investment of your life. Take a video camera to videotape the current conditions and any defects you may find. If you have help, make sure they understand what to look for. Do not do a simple look around. Open doors, windows, and make sure everything works BEFORE you accept the home.

Interior of the Home

- Check All exterior doors. Open and close it. Make sure the lock works. Feel for drafts.
- Interior doors. Open and close it. Make sure the locks work if they have one. Make sure the door is square and does not swing open by itself. Verify there is no excessive gap around the door.
- Windows. Make sure they open, close, and lock with ease. Check every window in the house. Spray water from a hose on the window. Verify the window does not leak around the caulking, the panes of glass, and the lip of the window.
- Lights. Make sure they all work. Check the outside lights also.
- Electrical outlets. Check each outlet with a meter that can be bought at a hardware store. This will determine if the wiring has been done correctly and power is available to the plug.
- Light/outlet switch. Turn each switch on and off. Verify it works correctly.

- Toilets. Flush each. Verify it does not overflow. Verify it fills correctly. Put toilet paper in the bowl. Flush and check again. Turn off the water inlet. Verify the pipe does not leak.
- Showers. Verify the shower works. Turn on the hot water. Make sure the water is hot in a reasonable amount of time. Tape the drain closed. Fill the shower with water and leave for an hour. Notice the height of the water. Check later to verify the shower pan is not leaking.
- Sinks. Verify the hot and cold water works. Plug the drain and verify water fills the bowl. Turn the water off under the sink and verify the valve works and there is no leaks.
- Air Conditioner. Verify the AC works. Set the thermostat and make sure the AC is cooling all rooms evenly. Make sure the AC is not stressing the electrical system.
- Heater. Verify the heater works. Set the thermostat and make sure the heater is heating all rooms evenly.
- Ceiling fans. Verify they work correctly. Both directions if capable. Verify they are balanced and does not wobble.
- Kitchen cabinets. Make sure the doors work properly.
- Appliances. Make sure they work correctly including the dishwasher, oven, stove, microwave, and any other appliance.
- Vents. Make sure all the vents in the bathroom and utility rooms work correctly.
- Carpets. Verify the carpet is not wrinkled or has seams showing. Make sure there are no stains.
- Garage door. Verify the doors work correctly. If equipped with a garage door opener, verify it works correctly. Verify the protections on the garage door such as automatic open when an object is under the door, should work correctly.
- Air Conditioning cabinet. Verify the cabinet is not vented into the attic.
- Water Heater. Verify the water heater has a drain pan. Check the drain valve. Make sure it turns off and on.
- Attic. Make sure there is access to the attic and there is insulation.

- Kitchen countertops. Verify the top is not scratched or cracked. Inspect the surface of the top.
- Gutters. Verify they work correctly by spraying water on the roof. Verify they drain away from the foundation.
- Wallpaper. Verify it is installed correctly and not peeling.
- Tiles. Inspect for cracks in the tile or in the grout.
- Driveway. Inspect for cracks.

Exterior of the Home

- Paint. Make sure the paint is not flaking or fading.
- Weepholes. Make sure they are present at the base of the foundation and are not blocked.
- Water outlets. Make sure they work. Find the cut off valve and make sure it works also. Verify all exposed pipes are covered from the elements.
- Outlets. Verify they work. If GFCI switched, test the circuit.
- Pipes out of the roof. Make sure they are straight.

Also be certain to get in writing that the builder will provide the following one week prior to close of escrow:

- List of all subcontractors and suppliers (check out all the subcontractors records).
- Copies of all product manufacturer warranties.
- Copy of your home warranty.
- A set of "as-built" drawings showing the stamp of the architect and the structural engineer.
- Instructions on proper maintenance of the home.
- Any and all relationships to lenders, realtors, home inspectors, title companies and all agencies involved in the home buying process.

Additional Help for the Homebuyer

What the New Home Buyer Should Know Before Close of Escrow
By Peter Kuchinsky II, Construction Building Analysts

You are about to obtain the American dream of homeownership. In fact, you are one of millions that will buy and move into a new home each year. For the most part you have

worked hard to save for the down payment and are committing about a third of your annual income to paying off a 30-year mortgage. With so much on the line, it will benefit you to be prepared and educated about what you should know prior to the close of escrow to avoid your dream home turning into your biggest nightmare.

1. Obtain the Builders Warranty.

Most new homebuilders provide a warranty. Unfortunately, most new homeowners don't read it until after their walkthrough and close of escrow. Like with any manufactured product, a new home comes with both expressed and implied warranties. In addition, each state has a statute of limitations that holds the homebuilders responsible for latent and patent defects. These statutes can range from 1 to 10 years depending upon the state you live in. Because many items can go wrong over a course of several years, you must know what warranties and time limits apply to your new home before you purchase. You should ask builder for their warranty prior to you even opening escrow, and you should have the builder provide you information regarding your State Contractor License Board and Department of Real Estate. You will want this information to check if there are any past or on-going investigations involving the homebuilder. If your builder won't openly provide this information, you should re-consider your new home purchase from the builder.

2. Look for Excluded Items.

You got the warranty, now what? Read it. Read it again. Highlight any items that are excluded after you do your walkthrough. Common items excluded include broken glass, damaged finishes or misuse. This will alert to what specific items you must look at and examine closely during the walkthrough, because unless you note the damage during the walkthrough the builder is most likely not going to repair or replace it when you find it a week after closing. During the walkthrough, it is important that you use and test every item. Turn each knob, open every drawer, lock and unlock doors.

In addition, some items that are built into your new home come with a manufacturer's warranty. It is important that you know which items the builder will cover, and which items are covered by the manufacturer's warranty. Be sure the builder provides you with all the manufacturer's instructions and warranties. You will want you keep those warranties and instructions in a file and safe place. Send in all warranty cards as soon as possible. This protects your rights and allows the manufacturers to notify you in case of recalls.

3. Arrange to have Utilities turned on.

If the builder doesn't turn on the utilities prior to the walkthrough, you can be pretty sure that your home has gone through a limited quality control process. In order to ensure that all items are properly installed and in working order, the only way to check everything out, is to have the gas, electric and water turned on prior to your walkthrough and close of escrow. If the new homebuyer doesn't turn on these utilities, again consider a builder that does. During your walkthrough, many items are excluded. How can you test and check these items if there is no light to see, power to test appliances or water to run down the drains to check for leaks? Nothing can ruin the joy of moving into a new home

quicker than a backed up toilet or an appliance that doesn't work, because utilities weren't turned on during the walkthrough.

4. Hire a Professional.

Moving into a new home requires lots of patience and paperwork. So many things to deal with look at and inspect. Some of the things you don't even understand, but are afraid to ask the question because you might sound dumb. First, there are no dumb questions, and second, if you don't understand something ask. This is where hiring your own professional inspector might help. The inspector works for you unlike the project superintendent, sales agent and customer service representative that work for the builder.

Look for a home inspector that has experience with new homes. This second set of eyes can often discover items that will develop into problems down the road including lack of drainage, inadequate flashings, or improper installations. Don't rely on the builder assuring you that the home has passed all the building inspections. Under the Uniform Building Code it states; "Ö nor shall the code enforcement agency (building department or inspectors) be held as assuming any such liability by reason of inspections authorized by this code or any permits or certificates issued under this code. Check before agreeing to purchase the new home from the builder if you can bring a professional home inspector to your walkthrough, if not, again, consider a homebuilder that will.

5. Don't bring family and friends.

With so much going on, you don't need distractions from the task at hand, thoroughly inspecting your new home. You need to give this task your undivided attention. Children should be left with a family, friends or babysitter. Those that you would bring with you to the walkthrough are most likely going to be more interested in whose rooms are whose, what are your decorating or landscaping plans, and not looking at tiles and fixtures for chips or dents. After your walkthrough and on moving day is when you will want family and friends with strong back to come over for a visit.

6. Make a day of it.

Plan on setting aside a day to do your walkthrough. A thorough home inspection usually takes a professional inspector 2 to 4 hours to complete. In addition, there will be paper work that the builder will want you to read and sign. Each adult that will be signing the mortgage and dealing with the builder after the close of escrow should attend the walkthrough and fully understand the warranty and customer service process.

7. Schedule walk-through at least 3 days before closing.

Three days is the minimum time that should be scheduled before the close of escrow. If possible, schedule the walkthrough one-week before the close of escrow. You should never schedule your walkthrough to be completed on the same day as closing escrow. By allowing some time between your walkthrough and closing date, you allow the builder an opportunity to repair any items noted, without having to schedule around you. Once you move in, you will have to be home in order for work to be done on your home. In some cases, the builder will simply hand you over a list of subcontractors with telephone numbers for you to contact and schedule your own appointments. If this is the case, be

prepared to wait weeks for missed appointments when subcontractors don't show up because they forgot or were too busy. During the purchase agreement and terms, obtain a written agreement that allows you to hire a professional inspector and conduct your walkthrough at least 1 week prior to the close of escrow. If your new homebuilder won't agree to these conditions, consider one that will.

8. Verbal promises are broken promises.

Real estate transactions are contracts, and as such, must be done in writing. The spoken work, handshake or promises made by the builder or their representatives are meaningless.

All items you are promised must be in writing. Should you have to file a complaint with the Contractor Board, Department of Real Estate or, worst, go to court, only the written agreement that you have will be of any value to you.

9. The squeaky wheel gets the grease.

During the escrow period and prior to close, find out who's who at the builder's company. Most likely your day-to-day dealing will be with the superintendent, sales agent or customer service representative. However, you should know the chain of command and how to reach the Vice-President of Construction, Customer Service or Sales should problems develop along the way. Don't work through Project Manager when issues develop. They are usually better at burying issues, than resolving them. Going to the V. P. level usually gets action, and the word that comes down from the top usually gets action. If needed be prepared to go the company President. In fact, when issues develop, invite the higher level of company management out to your home to review the issue first hand. Again, when dealing with any level in the company, remember to get written confirmation of any promises made or action to be taken.

10. Keep written records and photographs.

Information is power, and documents are information. Once you enter escrow, buy a notebook and keep a log of every visit or appointment you have with the builder, sales agent, design center, and superintendent or customer service representative. Keep it simple and short. Note who, what, when, what, where and how. If needed, obtain samples or take photographs. Note even what you might consider to be a minor issue, because a little stain is often the first sign of a big leak. During the walkthrough, write down any item you want addressed by repair or replacement. After the walkthrough and upon moving in, keep the log on the kitchen counter and note any item that comes to your attention. After the first week, send in your first customer service request. Continue to keep a running log of items that come to your attention. At the end of two more weeks, follow up with another customer service request. Hopefully, some items from your first request have already been scheduled and completed. From this point on, until all customer service requests are completed, send in a monthly request / reminder to the builder's office. Should repairs be attempted that do not meet your level of acceptance or quality expectation, be prepared to ask a V.P. or President of the company to become involved and personally inspect the item. As a rule, a builder should acknowledge your

request within two weeks, schedule and repair/repair the item within 2 - 4 weeks, and on the rare occasion when some item is backordered or out of stock, 4 - 6 weeks.

Mr. Peter Kuchinsky II has over twenty years of extensive experience in all segments of residential construction, culminating in superior knowledge and sought after construction management experience. Throughout his career, he has held positions of increasing responsibility and authority with top homebuilders from Project Superintendent to Vice President of Construction. He has provided construction management, inspection and consulting services for major corporations including General Electric, US Bank, Brookfield Homes and Sunrise Colony Companies. His "hands on" experience and realistic approach to issues and problem solving, along with instructing construction technology and safety classes at the college levels, authoring books and articles related to construction and safety; and membership in leading industry associations completes his qualifications in providing consulting, litigation support, training and expert witness services related to construction and worker safety.

Mr. Kuchinsky can be reached at 760/941-3414 or by e-mail at kuchinpk@nethere.com.

Recommended Reading

Avoid Home Building Pitfalls

Get the insider's secrets you need in order to avoid rip-offs, save thousands of dollars and get the high quality new home you deserve. This insider's information comes right from home builders and can not be obtained anywhere else.

Here is what HADD had to say about Home Building Pitfalls:

"Written with first-hand knowledge and expertise of a home building industry 'insider', Home Building Pitfalls offers details for what can (and should) be one of the most exciting events of your life. Mr. Thomas familiarizes readers with 'must do' research and actions that should precede any decisions regarding the purchase of a newly constructed home. Lawrence Thomas expertly iterates items that should be part of every potential home buyers arsenal".

To order your copy of HomeBuilding Pitfalls visit their website at:

<http://www.homebuildingpitfalls.com>

service@homebuildingpitfalls.com

(888) 578-0766

New Home Warranties. Deception or Protection?

By HADD

Free Download

www.hadd.com/downloads.shtml

The Abuse of Arbitration in New Home Contracts

By HADD

Free Download

www.hadd.com/downloads.shtml**How to Resolve a Construction Defect with a Texas Homebuilder**

By HADD

Free Download

www.hadd.com/downloads.shtml**The Ultimate New-Home Buying Guide**

By Jeff & Susan Treganowan

Price is \$15.95 plus Shipping and Handling (\$3.50)

To order by phone call: 1-800-266-5564

To order online, go to: <http://www.Mapleleafpress.com/>**The Home Defect Litigation Handbook**By Thomas E. Miller, Rachel Miller www.constructiondefects.com

We understand that not all homebuyers are aware of the legalities behind arbitration clauses in home purchase/warranty contracts. We have provided the following article from our newsletter to educate the homebuyer about the pitfalls of arbitration in contracts.

About Homeowners Against Deficient Dwellings

Homeowners Against Deficient Dwellings, (HADD) a non-profit organization, came into existence in response to an overwhelming need of support and resolution from families who felt isolated while coping with their devastating home damages and loss. Because the lone attempts to get their homes fixed proved unsuccessful, these families started to find each other and united into a cohesive group with a common cause. It was while testifying before legislative committees in the Kansas State Capital that HADD emerged as a grass roots organization.

HADD is not an arbitration group, nor does it provide legal counsel. HADD offers support and suggestions to assist consumers in making educated, informed decisions when buying a home or resolving the complicated issues involving deficient homes.

Homeowners Against Deficient Dwellings

Nancy Seats, President

827 Bristol Way

Website: <http://www.hadd.com>Email: hadd@hadd.com