



Bob Aaron bob@aaron.ca

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Why should buyer have to wait for service

New owner's story a lesson in how not to treat customers

Mark is an unhappy purchaser of a new \$500,000 Thornhill home. His story dramatically shows some of the weaknesses in the system when it comes to customer service and the powerlessness some buyers experience at the hands of a few irresponsible builders.

When Mark wrote me last fall, his closing was still a month away. He wanted to share the "extreme amount of heartache and trouble" he was experiencing with his builder, and the "shabby way" he was being treated.

His problems started when the builder first began construction. He and his wife had paid \$1,800 to have the master shower enlarged and an additional \$5,000 to have the house extended by one foot to incorporate a larger master bathroom.

When the framing started going up, none of the structural changes had been incorporated. Mark's wife talked to the foreman on the project who told her that their plans "blew away" on a windy day and they were only getting the standard plan for that model.

As well, Mark wrote, "they used the wrong brick on our house. They contend they did use the right brick, but when I asked to see the sample brick that I picked from, I was told it was unfortunately 'thrown away' (the only sample that is missing). The fascia and soffits are the wrong colour as well."

Mark contacted the sales representatives and builders many times, but never received a return phone call or note. "I asked to speak once to the construction manager," he added, "but was told by their receptionist that he is too important a person to speak with anyone."

In our exchange of correspondence, Mark told me his experience in the sales office should have been a tip-off to the construction problems. He brought one of my earlier columns about builder offers with him to the sales office and asked to change some of the clauses.

"During the negotiation phase," he wrote, "I was not permitted to have an attorney advise me or even look at the offer. I was given a number of days after the offer to have a solicitor review it and I gave the lawyer a list of those horrible clauses you referred to in your article."

Later he consulted his lawyer. "I remember sitting in her office," he told me, "and she called the builder's lawyer on speakerphone and told him what I wanted changed. He said that if there were any changes to the wording it would be best to tear up the contract now." Mark later tried to contact the builder's lawyer about the construction problems but was told "that's the way things work."

"It's just not fair," he complained to me, "and it won't change because everyone accepts the treatment. They don't see \$500,000 as being as much money as it is to me and they consider the home like a \$20 purchase and treat it as such."

Mark e-mailed me again last month after reading my July 20 column (see "Squeaky wheels get sales results" online at <http://www.thestar.com>). I had written about the frustrating experiences of buyers of some new homes and condominiums in trying to get defects and uncompleted items rectified.

"The builder of my home has not corrected any of their deficiencies since January," Mark wrote. As well, there were several items that were paid for and not done, or done incorrectly after notification.

The staff at the Ontario New Home Warranty Program (ONHWP) and even the builder's own sales staff recommended a lawsuit to get some action. In my "squeaky wheels" column, I had suggested the same thing.

Mark filed an 11-page statement of claim against the builder and the sales staff, accusing them of breach of contract, negligence, misrepresentation, bad faith and shoddy work.

The builder's lawyers promptly responded that under the new home warranty legislation, purchasers are prohibited from suing builders in connection with a new home agreement, but instead must submit differences to arbitration. The lawyers demanded that Mark withdraw the lawsuit immediately.

The builder, says Mark bitterly, is immune from any actions against the company.

In a recent New in Homes cover story, Greater Toronto Home Builders' Association president Sheldon Libfeld said that it is not unreasonable for a homebuyer to wait a year to have all the deficiencies in a home rectified.

Am I the only one who thinks that concept is shocking? Whatever happened to customer service?

My own suggestion is that if the problems can't be fixed within 30 days, ONHWP should step in and finish the house. Either that or the builder should have to find some other line of business.

Bob Aaron is a Toronto real estate lawyer. He can be reached by e-mail at bob@aaron.ca,

or fax 416-364-3818. Visit <http://www.aaron.ca>.