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Homebuyers seek help after builder walks away

By Sonu Munshi
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HOME WOES: Cheri and Jason Diefenbacher stand outside their new Randall Martin home in Chandler with their 2-year-old daughter, Ayla, on Friday.

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Jason and Cheri Diefenbacher felt pressured to close on a home with a high-interest lender despite an unfinished driveway and outside walls. The sales agents kept changing within a month of buying the home. Construction next door stopped abruptly two weeks after they moved in.

The "little red flags" kept coming, but they bought their dream home anyway. Now, the Diefenbachers, who recently moved into their Chandler home, still await final paint touch-ups, window repairs, grout work and a backyard drainage system to stop the occasional flooding.

The Chandler residents are among nearly two dozen local homebuyers who have complained to state officials that the builder, Randall Martin Homes, hasn't finished work it promised to do.

"Don't get me wrong, we love our new house, but we were promised these things would be completed within a month of moving in," Cheri Diefenbacher said. "No one's turned up yet."

In late February, the barely 3-year-old Randall Martin Homes announced it was walking away from 400 vacant lots in the company's four Valley subdivisions, including Portello at Dobson Creek, where the Diefenbachers moved to in January. With no direct word from the company, homeowners who have already moved in are worried about their warranties.

The company has not filed for bankruptcy. Instead it is currently working out its finances with the banks and lenders, company spokeswoman Juliet Straker said.

Industry watcher John Fioramonti, senior managing director of Scottsdale-based Meyers Builder Advisors, said Randall Martin Homes is a prime example of a startup builder that was hoping to make big bucks at the height of the construction boom but couldn't survive the market downturn.

While Straker was adamant that all homeowner warranties would be honored, Fioramonti said the Diefenbachers' ordeal is just a sign of the times. He said homeowners can expect to get the runaround instead of being able to solve their problems with a simple phone call.

"Residents will have to run after subcontractors who may not be willing to work because the developer may not have paid them," Fioramonti said.

Typically, home warranties for air conditioners, furnaces or water heaters cover repairs for up to two years. Manufacturers' warranties for items such as roofing generally last between five and 10 years.

Those warranties become even more critical in an economic downturn, because builders and their subcontractors tend to cut back on quality materials and workmanship, Fioramonti said.

"Homeowners end up with stucco showing through or paint which should have been used for one home watered down and stretched to three," Fioramonti said.

The Diefenbachers are grateful that their problems are relatively minor compared to those faced by some of their neighbors.

The Arizona Department of Real Estate has received complaints from 20 Randall Martin homeowners, state real estate Commissioner Sam Wercinski said. Four of them said the builder never finished construction.

"These have the most risk of losing the money they've already put down with the builder," Wercinski said, adding that the developer is the only homebuilder that has ceased operations in Arizona in this manner.

Besides investigating one complaint, the department is auditing the company to ensure no mortgage fraud or any other illegal activity was performed.

A homeowner can complain to the Arizona Registrar of Contractors if subcontractors don't fulfil obligations.

Next month Wercinski will meet with residents in Randall Martin's four subdivisions - in Chandler, Gilbert, Surprise and Avondale - to provide guidance on how to deal with the situation.

Wercinski said the real estate department is not aware of any other homeowners with warranty-related problems, although it is currently investigating another Arizona-based builder, Turner-Dunn, which walked away from completing homes in 2006.

Investors usually help with financing for a builder to continue operations, but Randall Bury, founder and chief executive of Randall Martin, chose to walk away from the company's properties. Mountain Funding LLC, a national real estate lending and investment company, has taken over the 400 unfinished lots. Straker said that all the warranties are paid for, so homeowners should not be concerned at all.

That may not completely satisfy Cheri Diefenbacher, who is still not sure what to do about a 20-day lien notice she received over \$564 worth of bath accessories not paid to a subcontractor. Wercinski said the state also received a complaint from a Randall Martin homeowner about a lien on their home. That's money a builder normally owes to a subcontractor.

Straker told the Tribune that the homeowners should contact the company handling the warranty for that.

But Terence Cooke, general counsel to Professional Warranty Service Corporation, said that while the company would handle all short-term and long-term warranty-related issues, liens don't fall under that category.

That, says Fioramonti, is a typical scenario. When builders walk away, subcontractors who were left unpaid for their services or material stop working or leave homes unfinished. Worse, the work done is often shoddy, as the builder cuts corners.

Liens and undeveloped lots also leave a checkerboard development pattern, which can cause a dip in property values.

"Property values in these cases drop like a rock," said Jay Butler, Arizona State University's Realty Studies department director.

Jason Diefenbacher said that as new homeowners, he and his wife have been too busy packing and moving to follow up on the warranties, something they never expected they would need to do so soon.

"We just want things resolved. We want our things completed," he said.



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