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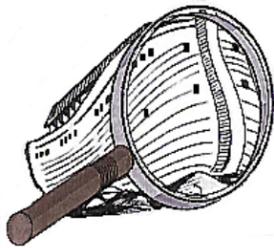
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Octobers question.

Q: How many presidents have changed their names legally?

E-mail the answer to
scott@arkinspections.com
The first two correct
responses will receive two
tickets to AMC Theaters

The lighter side (Golf)

- **The best wood in most amateurs bags is the pencil.** (Chi Chi Rodriguez)
- **If you think it's hard to meet new people, try picking up the wrong golf ball.** (Jack Lemmon)
- **Tee your ball high... air offers less resistance than dirt.** (Jack Nicklaus)
- **He who has the fastest golf cart never has a bad lie.** (Mickey Mantle)
- **Only a stupid golfer throws his club behind him. The smart golfer throws his club ahead so he can pick it up on the way to the next hole.** (Unknown)
- **Why is it twice as hard to hit a ball over water than Sand?** (Unknown)
- **It's not whether you win or lose...it's whether I win or lose.** (Unknown)

Trivia Question

Q: Is it true that George Washington was not the first President of the United States?

A: Yes. There were actually SEVEN presidents before George Washington. They are known to history as the "Presidents under the Articles of Confederation" and had the official title of "President of the United States in Congress Assembled." The first was John Hanson (1781-82), and the next six presidents were Elias Boudinot (1783), Thomas Mifflin (1784), Richard Henry Lee (1785), Nathan Gorman (1786), Arthur St. Clair (1787), and Cyrus Griffin (1788). There were actually sixteen Presidents of the Continental Congress, but John Hanson, the ninth, was the first to serve as President under the Articles of Confederation and the first to hold the title "President of the United States."



Points to Ponder

How Long is the Builder Responsible?

New homes are selling at an alarming rate due to low interest rates and builder incentives, but how is the quality holding up.

On average 23% of the items found on a re-sale home inspection are items that the builder did improperly. This raises some questions.

Pop Quiz:

Q. When does the builders responsibility to the home owner end?

1. One year from the date of occupancy.
2. One year from the date of completion.
3. Two years from the date of occupancy.
4. Six years from the date of occupancy.
5. Eight years from the date of completion

A. 3. 2 years for negligence and Registrar claims (not the same), answer 4, 6 years for breach of express and implied warranty claims, but if not discovered during that time, then answer 5 a total of 8 years after completion.

The State of AZ has said that the builder owes an implied warranty of workmanship and materials and habitability in respect to the home. *Kubby v. Crescent Steel*, 105 Ariz. 459, 466 P.2d 753 (1970) (habitability) *Nastri v. Wood Brothers Homes, Inc.*, 142 Ariz. 439, 690 P.2d 158 (1984). The state even went further and said that the builder cannot disclaim this even in writing. *Hembree v. Broadway Realty & Trust Co.*, 151 Ariz. 418, 729 P.2d 288 (1986). This applies even if the builder was not building the house originally for resale, such as a model or for himself, *Dilling v. Fisher*, 142 Ariz. 47 688 P.2d 427 (1984). Even a disclaimer against the very item that is defective contained in the original builders agreement with the first buyer will not affect a successor buyer's rights against the builder, *Nastri, id.*

The State has set a Statutes of limitation. For construction law, there are probably three relevant statutes of limitations. The first, for torts (like negligence), is governed by ARS 12-542, is a two year statute. A home owner can file suit for construction negligence up to 2 years after the date of discovery and a suit for implied warranty or express warranty (the latter where the builder is has issued a written guaranty—yes some actually do that and sometimes it is even more than the 8 or 9 years and thus it runs for as long as it states in writing) for

up to 8 years after completion, not more than 6 years after discovery, but up to 9 years if the defect is discovered in the 8th year. Warranty claims allow for attorneys fees and other litigation costs.

Basically the Registrar of contractors only requires the contractor to come out one time in the first year to repair stucco and drywall, however the registrar requires the contractor to give the buyer a two year warranty on all other workmanship items.

The Registrar can also, CONCURRENTLY, have jurisdiction over the builder for compliance with the Minimum Workmanship Standards promulgated by



ARK INSPECTIONS will do a thorough inspection of all aspects of the property

the Registrar (vastly out of date), but there the only remedy is repair or licensure sanctions. No litigation costs can be recovered even by the winner. In addition, the Standards there are lighter than what are enforced by the Courts.

The second and third

may need to be enforced by the consumer and/or the courts.

The second, an action in contract (for patent defects in workmanship and habitability) is six years pursuant to ARS 12-548.

The third is ARS 12-552, which provides a limitation of **eight years after substantial completion of improvement to real property.** However if the injury occurs in the eighth year (or was not discovered until then), an action may be brought within one year after the date of injury or discovery of the latent defect.

The law excludes some types of cases: For example, Where claims relate solely to seeking recovery of monies expended for repairs to alleged defects that have been repaired by the purchaser.

The sooner defects are discovered the easier it is to have them corrected. We always recommend having your new home inspected by a company that will give you the evidence you need to motivate the builder to perform all of the repairs.

This article is for informational purpose only and is not intended to be legal advice. Always consult a legal representative before pursuing legal action. J. Robert Eckley of Eckley & Associates provided the information for this article and can be contacted at (602) 952-1177 E-mail eckleyandassoc@aol.com

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We always recommend having your new home inspected by a company that will give you the evidence you need to motivate the builder to perform all of the repairs.



All inspections are conducted in accordance with the American Society of Home Inspectors (ASHI) Standards of Practice



A Few of Life's Unanswered Questions

Why is it when you're driving and looking for an address, you turn down the volume on the radio?

If quitters never win, and winners never cheat, then who is the fool that said "quit while your ahead"?

Why is the third hand on a watch called the second hand?

If the formula for water is H2O, is the formula for an ice cube H2O squared?

Why is the time of day with the slowest traffic called rush hour?

If man evolved from monkeys and apes, why do we still have monkeys and apes?

Why is the word dictionary in the dictionary? Why isn't there a special name for the top of your feet?

What if there were no hypothetical questions?

Why do you need a drivers license to buy liquor when you can't drink and drive?

Is there another word for synonym?



Why is the time of day with the slowest traffic called rush hour?



For information or questions about mold testing contact Scott Warga at Ark Inspections

For information about the Indoor Environmental Standards Organization, contact Mike Buettner at 1-800-406-0256 or mbuettner@iestandards.org

WWW.iestandards.org

Should your home Inspector do mold testing?

Who should do a mold inspection?

In today's world you have to think about your liability and your wallet. Conventional wisdom is to hire an industrial hygienist to do the inspection. They typically start at about \$1000 before they take a sample.

You can hire a home inspector, but will you be able to defend yourself if you get called into court? The answer is yes.

The Indoor Environmental Standards Organization (IESO) has set a national standard for mold testing based on information from the American Conference of Governmental Industrial Hygienists. (ACGIH) A home inspector can be certified to inspect & test to this standard.

Referring a Certified Residential Mold Inspector will give you a leg to stand on should you get called into court.

Who ever does the testing should send there samples to an accredited laboratory and provide the client with a copy of the results.

If the results indicate that remediation is needed the inspector should be able to refer you to a competent company that specializes

in this type of work. Hiring a handyman or even a contractor that does not specialize in mold remediation can complicate the situation

Got Mold? Now What?

- Try to determine the water source.
- Follow the pathway of the water. Water runs under all building materials such as:
 - Walls
 - Cabinets
 - Wood Flooring
- Look for signs of current water damage.
- Look for signs of past water damage.

Things to ask if the home has had a water loss in the past:

- How long ago did the water loss occur?
- How long did the water sit?
- Where did the water flow to?
- Who dried out the house?
- Were the walls opened?
- Was the flooring removed?
- Was mold found?
- Who repaired the damage?
-

The answers to these questions may help you determine if you even need testing.



Ask The Inspector

Question:

An Inspector recently wrote up a flex line connected to the Temperature pressure relief valve (TPR) on a hot water heater. I have seen this done in many houses and do not understand what the problem is. I spoke with a local builder and he said that the code official did not allow it but he did not know why. Could you enlighten me? Mike ... (Name withheld on request) Keller Williams

Answer:

Mike, Though often installed, this type of line is not allowed for a few reasons:
1. The internal diameter is smaller than the TPR valve. The manufacturer requires that the line provide an unobstructed discharge if the valve

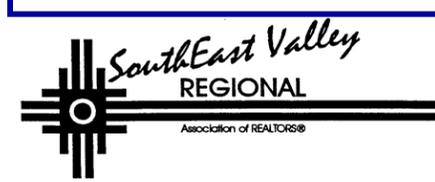
- should open. (Blue arrow in photo)
 - 2. Many of these lines are labeled "To be used as "Water Supply line only", therefore not designed for the TPR.
 - 3. This line allows water to sit in the line and is commonly installed improperly. The water has to drain away from the valve. If the line runs uphill (see red arrow) water sits against the valve and can cause it to fail.
- Failure to install this line properly can void the manufacturers warranty, thus allowing the home warranty to deny the claim and charge the homeowner a hefty price for repairs. The discharge line should drain outside of the house, 6 inches from grade and have no more than 4, 90 degree elbows in it. Thanks for the question.



Scott M. Warga RREI/CREI/CRMI



Do you have a question you would like answered? E-Mail us with your question, if we print it, we will give you 2 AMC movie passes.



We teach classes to offices: How to keep the inspector from killing the deal. Mold Real Estate & You. Call 480-782-7927 to schedule

