

California Builders Beware! Supreme Court Refuses to Hear Appeal by Builder in Liberty Mutual Case, Allowing Homeowners to Circumvent the 10-Year Right-to-Repair Law for Claims Involving Actual Damages

Is this the end of SB 800 in California? California Supreme Court Lets Stand Decision to Allow Causes of Action Outside the Right to Repair Act

SAN DIEGO, CA—The California Supreme Court denied Brookfield’s motion to review the Fourth Circuit ruling in *Liberty v. Brookfield Homes*. The Appeals Court ruling on Aug. 28, 2013 effectively opens the door to common law causes of action outside of the once-exclusive remedy of the 10-year old Right to Repair statute, known as SB 800.

AxisPointe’s CEO Stan Luhr, who has practiced forensic consulting in California for 30 years, stated that this ruling now is rapidly changing the landscape of defect claims, as plaintiff attorneys scramble to amend current cases to take advantage of this landmark decision.

“I spoke with a few attorneys who received notices from plaintiff counsel that they will be filing amended complaints immediately,” said Luhr. “We don’t know how this will affect current cases but it will definitely add to the delays in getting consumer complaints resolved quickly.”

Luhr recommends its California builders to step up their customer service and post-warranty claims processes—and have a detailed quick response process for any claim involving water intrusion or actual damage to a home.

“The 4-year statutes negotiated in SB 800 regarding plumbing, electrical, painting and others now seem to be out the window, since claimants can now sue beyond these limitations for up to 10 years if there is damage,” Luhr said.

Luhr said the possible fallout from this decision is significant:



Dozens of construction consultants and attorneys await inspecting a home in Southern California. Construction Defect Litigation is a multi-billion dollar industry in the USA.

- Homeowners can now make claims for property damage long after the 4-year legislative statute has expired on issues such as plumbing and electrical systems, effectively opening the door for up to 10 years on such damage claims.
- Plaintiffs may attempt to circumvent the SB 800 Right to Repair process altogether, arguing that property damage claims do not fall within the confines of the alternative resolution process. This may create a dual-tracked case where SB 800 claims are litigated separately from actual property damage claims.
- The definition of “damage” will undoubtedly be debated, since some plaintiff experts believe that ordinary stucco cracks, cracked roof tiles and other seemingly cosmetic issues constitute “damage”—the very nuisance items SB 800 was designed to eliminate.
- Homeowner’s insurance companies who traditionally foot the bill for water leakage and damage claims will likely increase subrogation claims against home builders, making it more difficult for builders to defend such claims when the alleged defect has been repaired and evidence may have been destroyed in the process.

“We have always believed that any water-related service call is a 911 priority, and builders should take aggressive steps to permanently resolve such problems,” Luhr said, adding that aggressive customer service resolution to such issues is critical.

AxisPointe provides builders with several risk prevention tools that are particularly suited for California builders, who are required by state law to provide buyers with written maintenance manuals and information on energy components. Luhr stated that AxisPointe is the only provider that has a mobile QA app for builders, electronic document storage and a robust customer service and work order tracking system to help eliminate many claims that often plague builders.

About AxisPointe

Since 2002 AxisPointe has provided home builders and contractors with technology solutions to eliminate construction risk and improve efficiency. AxisPointe’s HomeProfile® document management solution has been employed on thousands of homes by leading builders. Builder support services include risk management services, quality assurance and job schedule management, project quality assurance and control systems, project document storage and archiving, customer service management, insurance certificate management, and post-warranty claims support. AxisPointe’s InSite Mobile® iPhone app empowers builders to eliminate defects and document the construction quality to avoid claims. AxisPointe SaaS services are completely hosted, eliminating storage and backup overhead for builders of all sizes.