


# Before you sign ...

## Buying a house from a builder? Insist on a deal that protects you.

Cristina Bolling  
cbolling@charlotteobserver.com  
Posted: Friday, Nov. 21, 2008  
Slideshow  




Andy and Julie Weiss and their children – Tyler, 4, John, 7, and Dayna, 9 – moved into this Fort Mill home in the Sandy Pointe development on June 1. Within three weeks, massive electrical problems blew up all their electrical equipment and major appliances. PHOTOS BY YALONDA M. JAMES – yjames@charlotteobserver.com

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There are ways to find out if a builder has a good reputation for quality work.

Check the Better Business Bureau or your state's attorney general's office for complaints and reports of how they were handled.

If you're not afraid of extra legwork, a trip to the county courthouse where the builder operates might turn up lawsuits against the builder.

Take a weekend stroll around some of the builder's existing neighborhoods to ask customers about their experiences.

Julie and Andrew Weiss happily moved their family of five into a newly built home in Fort Mill last spring, excited about a bigger yard and better school district.

But three weeks after settling in, the Weisses said the electrical system in the \$200,000 home went berserk. Faulty wiring led to two power surges, which fried all the family's electrical equipment and major appliances, causing \$3,200 in damage.

The Weisses say the builder, Scenic Homes, initially refused to pay for new appliances. They wanted to go after the company in court. But they couldn't.

At closing, the Weisses signed an agreement not to sue Scenic Homes if any dispute arose. Instead, they would have to go through binding arbitration with a specific arbitrator chosen by Scenic Homes – and pay the arbitration

fees themselves, regardless of whether the builder was found at fault. Weiss says she and her husband, a lawyer, were dumbfounded when they learned a one-day arbitration session would cost \$5,000 – more than the damages she was seeking.

“When I (bought the house), I thought, ‘New construction, new roof...’ None of us expected any of these issues,” Weiss said. “I don’t think the average person realizes what these contracts mean.”

More than four months after the electrical problems, Weiss says, she got a check for the appliances. But she says it came with a document stating that if she cashed the check, it would also cover any future damages caused by Scenic Homes. She says she’s currently having new problems with the house, so under the advice of a lawyer she won’t be cashing the check.

Lee McGaugh, one of the owners of Scenic Homes, declined to discuss the Weisses’ case with the Observer, except to say “We tried to do everything we could for Julie Weiss.”

But he did offer advice to buyers: “Understand what warranty comes with the house you’re buying. Don’t open that and try to figure it out when you have a problem. ... I think it’s very important that people educate themselves about that.”

While buying a new home is exhilarating, it’s also a time to be shrewd, savvy and on your guard, real estate experts say. In today’s market, buyers are in a strong position to bargain for a deal that protects them.

# Expert tips on contracts

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**1. Hire a lawyer** to review all the paper work.

**2. Never sign contracts the first day you see them.** "There are lots of landmines in these things," as one expert put it. If you must sign a contract immediately to avoid losing the opportunity to buy a particular house, demand this provision be added to the contract: "Subject to attorney approval without penalty." That's the advice of Charlotte School of Law professor Phylliss Craig-Taylor. That provision will give you a few days to have a lawyer read the documents.

**3. Don't agree to a binding arbitration** agreement where you shoulder all the costs. If the builder requires a certain arbitrator, call the arbitrator to find out what your share of the fees would be if you initiated action. Charlotte real estate lawyer Ralph McMillan says arbitration costs should either be split or structured so the losing party pays.

**4. Watch for contracts that allow the builder to modify** your floor plan or switch out components with "similar or better-quality items," says Steve McLinden, a real estate columnist for the Web site bankrate.com. "All modifications must be subject to approval by the buyer." If you're building a custom home, get a detailed inventory of exactly what kind of appliances, accessories and fixtures will be used.

**5. Keep your excitement in check.** "Buying a home can be very emotional, so don't allow the onsite agent to play on that emotion," Craig-Taylor says. "This is not a trust relationship where this person is acting in your best interest. They are there as a seller, so they are acting in the builder's interest." Take note of how documents are presented and how much explanation is given to each. Seller's agents will often spend lots of time at the beginning going over the sales price, the options, etc. "You won't find very much time being spent over the builder's obligations."

**6. Negotiate.** In today's market, you have lots of power. If you don't want to sign the agreement for binding arbitration or another portion of the closing documents, the builder may well acquiesce, McLinden says. "This is a time where they need you more than you need them. ... You can ask for additional things like closing costs, first-year property taxes and first-year homeowner dues. Start asking for this stuff, and they'll know they're dealing with a savvy consumer."

**7. Get a completion date in the contract.** "The buyer needs to have a drop-dead date, where after that the builder pays a penalty," McMillan says.

**8. Never sign a contract without getting an inspection** by a licensed inspector of your choosing. Make sure there's a provision in the contract that you can "rescind without penalty" if the inspection turns up serious problems and you don't want to buy the home.

Cristina Bolling