



**Texas Residential
Construction Commission**
Quality Construction for Texans

TEXAS RESIDENTIAL CONSTRUCTION COMMISSION

Quarterly Newsletter



Stephen D. Thomas
Executive Director

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Commission Unveils Draft Rule on Performance Standards

What size gap is permissible between a window screen frame and the window frame? How strong should the water pressure be in the shower? What if the master bedroom feels warmer than the living room – is that OK?

Right now the answer to these questions depends on whom you ask. You might get two very different answers, depending on whether you built the home or whether you bought it. Disputes between homeowners and homebuilders over who is responsible for fixing a perceived problem are sometimes difficult to resolve. Legal proceedings can be time-consuming and expensive for both parties, when most homeowners really only want their home fixed. The Texas Residential Construction Commission is proposing minimum warranties and building and performance standards to erase the uncertainty about how a home should perform after it is built. The commission issued proposed rules in October, 2004, that detail how the separate components that make up a newly-built home should perform while under warranty. A final adoption of rules for the

warranties and standards is planned for early 2005.

Home builders and remodelers that do interior renovations exceeding \$20,000 and material improvements (a modification to the home that either increases or decreases the home's total square footage of living space) will have to adhere to these standards once adopted. This will give homeowners more certainty about what they can expect from their newly constructed home or major renovation.

The warranty periods

"A final adoption of rules for warranties and standards is planned for early 2005"

will be one (1) year for workmanship and materials; two (2) years for plumbing, electrical, heating and air conditioning delivery systems; and, ten (10) years for major structural components of the home. The warranties and the performance standards are important because they will be used by the Texas Residential Construction Commission when it considers post-construction disputes between

the two parties under the new state-sponsored inspection and dispute resolution process (SIRP).

This process, overseen by the commission, must be utilized before either party in a post-construction dispute can proceed with further legal action. The SIRP is designed to be a more efficient, less costly alternative to a court proceeding.

The proposed building and performance standards are a result of months of research, public hearings held around the state and input from builders, remodelers, associations, governments, industry experts and, most importantly, from consumers. Texas A&M University's Construction Science Department, as an independent expert, assisted in the development and review of the proposed warranties and standards.

The commission's goal in adopting effective, meaningful and well-reasoned standards is to make homeowners feel confident when they are building or purchasing a home, that they are getting a reliable, well-built product.

Mission Statement

The Texas Residential Construction Commission provides Texas homeowners and the residential construction industry an opportunity to resolve differences through a neutral dispute resolution process and ongoing education.

Commissioner's Corner



*By Patrick Cordero,
Commission
Chairman*

When I gaveled to order my first meeting of the newly appointed commissioners of the Texas Residential Construction Commission on Sept. 17, 2003, I realized that the responsibilities before me and my colleagues would be challenging. Our mission, although straightforward in its reading, requires dedication to providing balanced fairness and openness to consumers and the industry alike.

Today, as the commission

passes its first year mark, we are even more committed to helping both homeowners and homebuilders achieve their common goal—a reliable, well-built home.

I encourage everyone to visit the commission's Web site, www.trcc.state.tx.us, to learn about the programs that we have in place, such as the important and innovative state-sponsored inspection and dispute resolution process (SIRP). Either a homeowner or a builder may initiate the SIRP when post-construction issues arise with a newly-constructed home or major remodeling project involving interior renovations exceeding \$20,000; and, material improvements (a modification to the home that either increases or decreases the home's total square footage of living space). The commission's certified third-

party inspectors possess substantial experience in residential construction, and are required to give neutral and equal consideration to both the homeowner and homebuilder during the SIRP's inspection phase. The commission recognizes a home is probably the largest purchase most of us will ever make, and with the SIRP and other programs, we want to help ensure that this investment is protected.

Web site Updates

- ◆ TRCC Public Record Search
- ◆ New Commission Fee Schedule
- ◆ Texas Star Builder Proposed Rule
- ◆ Withdrawn Builder Registration Applications

Executive Director's Update



*By Stephen Thomas,
Executive
Director*

A little over a year ago, I was hired by the commissioners to help shape the newly-established Texas Residential Construction Commission into a viable and effective state agency. As executive director, my intention is to set up an agency that stands out and is unique to other governmental agencies. My vision for the commission is a government entity that is efficient, cost-effective and easy to utilize by the public, while meeting its statutory responsibilities.

During this first year, it has been very important for us to look to industry and consumer experts for

guidance and input in order to ensure we are doing the best possible job in meeting the statutory mandates of the 2003 Legislature.

In April 2004, we contracted with Texas A & M University's Construction Science Department to help us develop draft limited warranties and performance standards. During the month of August, commission representatives and commissioners traveled throughout Texas, holding public hearings and meeting with the news media to explain the purpose of the warranties and standards, as well as our process for applying them.

Educating the public is imperative to the success of the commission. Thus, over past months, we have distributed information about the commission's purpose and programs to stakeholder groups, government agencies and consumer advocacy networks. We have communicated frequently with media, industry and consumer outlets, in addition to producing a full com-

plement of public service announcements in print, radio and TV formats.

More builders and remodelers have registered with the commission than projected, due in part, we believe, to our extensive outreach during the first months of operation and the accessibility of commission information on our Web site. In fact, our Web site is proving to be extremely useful; online registration makes working with us very simple and efficient. Since March 2004, our records show that the commission's Web site has received approximately 7,000,000 hits.

I'm proud to say that our work during the past year has made it easier for Texas consumers to find out more information about a builder or remodeler's integrity and workmanship prior to doing business with them. Homebuyers can have greater confidence in home construction quality because all builders and some remodelers operating in Texas are now required to register themselves and their home

Continued from Page 2
Executive Director Update

construction projects with the commission. So far, we have registered over 17,500 builders, along with more than 105,000 homes.

Our goal is to be an easily accessible source of information for homebuyers by assisting them in making sound decisions on what may be the biggest investment they will make. Thus, new homebuyers can see a list of registered builders on our Web site at www.trcc.state.tx.us by clicking on "TRCC Public Record Search." This feature enables the public to search and access up-to-date information on home builders and remodelers in a particular area, including contact information and a physical address, certification status with the commission, homes they have registered, and the number of formal complaints on file with the commission. We believe this information is invaluable to prospective homebuyers.

Looking back on the first year, we are proud of the work we have accomplished thus far, and we're committed to doing whatever we can to help homeowners get the information and assistance they need to purchase a safe and dependable home where their families can live and prosper.

State-Sponsored Inspection and Dispute Resolution Process (SIRP)

One of the Texas Residential Construction Commission's (commission) core responsibilities is the administration of the state-sponsored inspection and dispute resolution process (SIRP). The SIRP offers a quick and inexpensive alternative dispute resolution procedure to help homebuyers efficiently resolve post-construction issues that arise between them and their builder. Participating in the commission's dispute resolution process does not require experienced legal help – commission staff is available to assist in answering questions, completing forms or walking consumers through the entire process by simply calling toll free at (877) 651-TRCC.

The process starts prior to submitting a completed SIRP request form to the commission. A homeowner, who alleges post-construction defects, must submit a written notice of alleged defects to the builder at least 30 days prior to the initiation of the SIRP request with the commission. Once the homeowner has notified the builder of alleged post-construction defects, the homeowner must give the builder an opportunity to inspect the alleged defects. After the 30-day notice period has expired, either the homeowner or the builder may submit a SIRP Request Form to the commission in order to initiate the process. However, in general it is anticipated that the homeowner will initiate the request if the homeowner is not satisfied with the response from the builder. The law requires a homeowner to

go through the SIRP prior to pursuing further legal action, which in turn may help save legal fees for both parties involved in the post-construction dispute.

One important aspect should be known when filing a SIRP request with the commission. State law requires the party filing the SIRP request to pay the fee associated with the type of third-party inspection. Because third-party inspectors are not commission employees and work on a contract basis, they are paid a fee for performing third-party inspections

on the commission's behalf. The commission has established the following inspection fees: workmanship and materials inspections- \$350, structural inspections- \$450 and joint inspections (dealing with both workmanship and material and structural issues)- \$650. The commission may also reduce or waive fees for those who show financial need. In instances where the third-party inspector's findings support all or a portion of the allegations of the homeowner, the commission may order the builder to reimburse all or part of the inspection fee paid by the homeowner.

Once a SIRP Request Form is received by the commission, commission staff will determine if the request is eligible under the provisions of the statute and if so, the commission will then assign a neutral, commission-certified third-party inspector to review the alleged post-construction defects outlined in the SIRP request. Certified third-party inspectors are assigned on a rotating basis from a list maintained by the commission and there is a process for eliminating third-party inspectors who may have a conflict of interest with one of the parties. The assigned third-party inspector will gather pertinent information from the homeowner and the builder, as well as conduct an inspection of the home in order to determine the cause of the alleged post-construction defects. In addition, the third-party inspector determines whether the home was built in compliance with the limited statutory warranty and performance standards. Either the homeowner or the builder can appeal to the commission for review of the third-party inspector's findings by a panel of three state inspectors.

At the end of the dispute resolution process, the builder can submit to the homeowner a written offer of settlement, pursuant to the Residential Construction Liability Act (RCLA). Then, the settlement provisions of RCLA come into play. If there is no satisfactory settlement, the homeowner can then pursue other legal remedies.

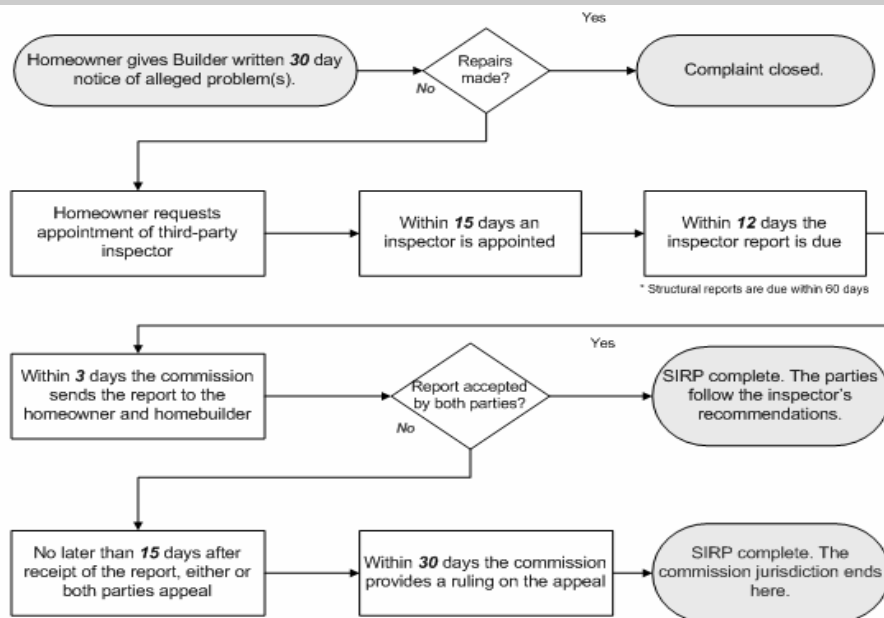
So far, the commission has received over 350 written complaints from consumers – with some being quickly resolved prior to the initiation of the SIRP. This has been done by simply getting the builders and homeowners to work together and has been easily handled through correspondence.

For example, a homeowner filed a complaint with the commission against a builder regard-

"I know that this is a fairly new state system, but I feel it will be an advantage to many Texas homeowners in the future. Thank you so much for your assistance."

—Satisfied Homeowner—
Saginaw, Texas

How Does the SIRP Work?



ing a defective drainage system of the home. When the commission notified the builder of the homeowner's complaint, the builder immediately addressed the issue and repaired the drainage system. This issue was resolved prior to initiating the SIRP process.

This satisfied homeowner from Saginaw, TX wrote, "Without the help of your office it is doubtful we would have had much of a response from the builder... I know this is a fairly new state system but I feel it will be an advantage to many Texas homeowners in the future. Thank you so much for the assistance."

Of the 350 written complaints received, 52 SIRP requests have been submitted to the commission since implementation of the program in July 2004. The SIRP is a quick and inexpensive way for homeowners to get their homes fixed - the average time needed to complete the process is approximately 50 days. Commission staff is readily, willing and available to work closely with both parties to get their post-construction disputes resolved.

TRCC Contact Information

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Website: www.trcc.state.tx.us
E-mail: info@trcc.state.tx.us

Denied Builder Registrations

The following builders have been denied a certificate of registration because of their failure to meet the commission's registration requirements:

- ◆ Christopher Braughton - Spring Town, TX
- ◆ Mike Cannady - Flower Mound, TX
- ◆ Mathew O. Foster - Manor, TX
- ◆ Don Gryder and Gryder Construction, Inc. - Austin, TX
- ◆ Robert D. Stock - Denton, TX

These persons are currently prohibited from operating as a builder or remodeler in Texas. In addition, a list of **approximately 60 administratively withdrawn builder registrations** are available on the commission's Web site. If you have information on any of these builders/remodelers operating in the State of Texas, please contact the commission's toll free consumer hotline at (877) 651- TRCC.

**Para información
en español, visite nuestro sitio
de web al
www.trcc.state.tx.us
o comuníquese a la lada gratuita
(877) 651-TRCC.**



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