

Proper Pre-move Consultation is Prudent for Transferees Seeking New Construction

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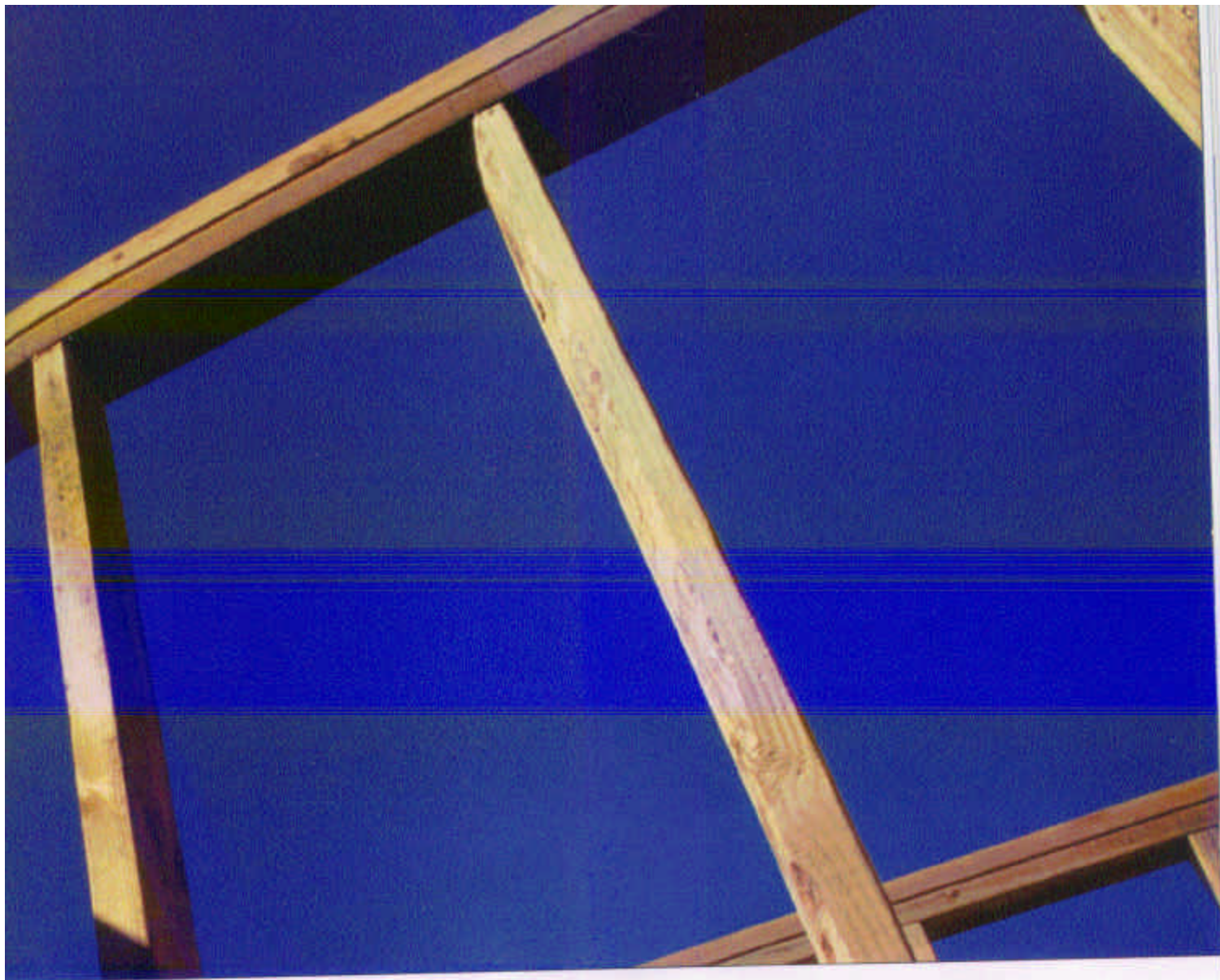
New construction may be the most desirable housing available to a transferee.

Martin explains how, to avoid possible pitfalls, a thorough consultation with a relocation department, attorney, home inspection service, and a relocation appraiser should be considered by the homebuyer before making a purchase of new construction.

Nearly two-thirds of transferees are building new homes, a challenging prospect both at the time of destination and at the time of transfer. Although most newer homes are readily marketable, some have potential pitfalls at the time of purchase and subsequent sale.

At the time they purchase a new home, transferees face many questions involving:

- escrows or holdbacks that should be set up for incomplete items;
- attorney approvals;
- home inspections, both private and municipal;
- potential loss on resale;
- appraisal destination and consulting services;
- real estate brokers and sales persons;



- temporary housing issues and missed completion dates;
- builders that go bankrupt or are under-funded; and
- construction loans versus end loans.

Many, if not all, builders will create binding contracts that prohibit the escrow or holding back of funds for incomplete items in homes.

Generally, contracts are written so that once an occupancy permit has been issued, the purchaser is required to close the transaction with all proceeds released to the seller.

This may present a two-fold problem to the purchaser. Many lenders will still require an escrow, which the purchaser may be required to fund in addition to coming up with all closing costs and a down payment. And, a buyer has lost the ability to use an

escrow fund or hold back as leverage to enforce completion of incomplete construction.

Although most builders are reputable and complete all of the work within a reasonable length of time from closing, some less-than-reputable builders may lag behind for months, or worse, never complete some items.

Attorney approvals often are used by buyers in many parts of the country but often are limited after a contract has been signed by the builder and buyer. It is imperative for relocation services to consult with transferees for adequate representation before purchasing or signing a contract.

Although some builders might still not agree to escrows for incomplete work, there is an increased chance that

they will when negotiations of this nature take place before the transferee signs a contract. In addition to escrow issues, there are issues pertaining to default on the part of the builder, defective materials, and inferior quality, as well as their remedy.

Home inspections often are used by purchasers of existing construction but often are overlooked on new construction, with the assumption that the municipal inspection for compliance with local building codes will be adequate.

Although many inspections by municipal authorities are significant in nature, they are not always consistent in the level of detail of inspection. A good home inspection for new construction actually should take place at several points during construction and

not just at completion.

A mistake during construction caught by a good home inspector can prevent potential problems that might otherwise not be found until after occupancy. An agreement within the contract to allow the transferees' home inspector periodic access is a must—otherwise most contracts prohibit such access.

Potential loss or resale from new construction can be caused by extras and/or features that do not contribute to value, poor color and decoration choices, awkward layouts, and a purchase at the high and low ends of the market.

Underscoring the importance of good consultation for items that are not acceptable to specific market segments may include items like in-ground pools in the northern United States and basements in the southern United States.

Transferees that load up their homes with extras or special features may find, in some cases, that they have exceeded the range of market acceptance and will have negative returns. Poor color choices or decorating that is highly personalized may impair the salability of a new home, and although this may be seen as a minor impairment, it can still add to a transferee's potential loss on sale.

Some transferees are creating unique floor plans that serve a special purpose and are very amenable to what they consider their personal lifestyle but may impair the salability of the home at resale.

Inadequate consultation also may lead to a transferee's inability to adequately determine the highs and lows within a market. The result might be the purchase of a home outside the mainstream price for a particular area.

Consulting services and destination appraisals should be considered by incoming transferees. Transferees not familiar with a particular market can consult with area appraisers to determine not only the subject's anticipated sales price but also the individual effect

of choices for extras, features, color and decorating, layout, and acceptability of price for a particular market area.

Consulting with an appraiser as well as scheduling a destination appraisal should be considered before the contract is signed by the transferee. Without the service performed prior to the signing of a contract, the transferees may have obligated themselves to choices that could have been avoided and may cost them many more times the cost of the service.

Real estate brokers always should be considered by transferees as another means of professional consultation. Their knowledge and experience in dealing with multiple builders in an area can provide the transferee with a list of builders and developments within their range of price and desirability.

A good broker with firsthand knowledge of available builders will save the transferee significant legwork. However, in an active market, numerous builders may refuse to cooperate with a real estate broker and a transferee may not be made aware of choices that would be otherwise available to them.

Temporary housing issues are more frequent than they are rare. The transferee must consider the arrangement and budget for temporary housing. Although in most cases this may be less than 30 days, it can drag on longer, and in a tight market temporary housing may be scarce or non-existent. Severe weather conditions and shortages of materials needed in new construction can be a transferee's financial nightmare.

Among other considerations is the financial stability not only of the market but also of the builders themselves. The reputation of the builder should be investigated by checking with local municipalities for any registered complaints, and the builder should be able to provide an extensive list of homes previously constructed.

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Another good tactic is to avoid the builder list and investigate local building permits in the area.

Transferees should independently determine from that list what homes have been constructed by the same builder and consider calling on other homeowners to ascertain their level of satisfaction with the builder and find out if they are aware of any financial problems with the builder.

On the rare occasion when a builder is under-funded and a home never is completed, a transferee might need to find a new general contractor to complete the home, which underscores the importance of having an attorney provide appropriate language in the contract for potential remedy.

Construction loans versus end loans in funding new construction is an area to consider that may alleviate the difficulty of an otherwise under-funded builder. The transferee funds construction costs, and the builder may increase the anticipated cost to the transferee if construction will take significantly longer than anticipated.

Many smaller custom builders use this approach to "tie up" a transferee from walking away from what might otherwise be a comparatively small down payment. An end loan may offer greater protection to the buyer but may significantly limit available builders in some markets.

In an effort to avoid these pitfalls, a thorough consultation with a relocation department, attorney, home inspection service, and a relocation appraiser should be considered on new construction purchases.

New construction might be the most desirable housing available to a transferee and can go relatively smoothly. To meet realistic expectations, transferees must know what to expect and how to best deal with situations as they may arise before, during, and after construction. ■



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