

**Senate Local Government & Housing**

**03/05/2024 02:00 PM**

**SB24-106 Right to Remedy Construction Defects**

**Typed Text of Testimony Submitted**

<b>Name, Position, Representing</b>	<b>Typed Text of Testimony</b>
<p>Marla Novak For themselves</p>	<p>Hello, my name is Marla Novak, and I support SB24-106.</p> <p>My sister and her family moved in with my family from Chicago in June of 2020 because they love Colorado Springs and have wanted to live near us for a long time. They have been renting for over 12 years and wanted to buy their first home. They could find good jobs but could not find a CONDO or townhome that they could afford. They have been living with us for over three and a half years, and it's very frustrating when they are a two-income, hard-working family, but there's nothing available to help them start building wealth for their family.</p> <p>SB24-106 will allow more townhomes and CONDOS to be affordably built as remedial work will be allowed rather than jumping directly into litigation, which only drives up the cost of construction. Litigation is still available if needed, but this bill will enable homeowners to decide what route they want to take- fix the typical defects that can happen in construction and move on with life or file a lawsuit.</p> <p>Colorado needs more entry-level housing, and we keep discussing affordable housing as one of the priorities on everyone's list. This is a start in the right direction to help those families who don't qualify for subsidies because they make just enough money to push them out of the assistance brackets.</p> <p>Thank you for voting YES to pass SB-106 for CO families!</p>
<p>Troy Coats For Niebur Development ,Inc.</p>	<p>Niebur Development is a local developer based in Colorado Springs. We have developed all types of product including both commercial and residential condominium projects. The impact of the construction defect exposure on projects has caused our consultants, contractors, and lenders to not work on any condominium projects. The wrap-up insurance options have allowed a few consultants and companies to consider projects, however the added insurance expense of 4-6% of the construction cost has stopped the majority of the projects we have considered. The exposure to a construction defect claim is the main reason that no for-sale projects are happening in Colorado</p>

	<p>Springs. I believe that most of the potential condominium projects would be developed by local developers if allowed. We have experienced a number of national apartment developers working in Colorado Springs because they know there is a great market here for urban residential projects. It is a shame that the current laws are causing such a stranglehold on for-sale condominium projects for people that are able to purchase versus rent. A right to remedy defects would be a good first step in the process to ultimately find that right balance that is required to develop condominiums. Anytime the lawyers are the only group benefitting from a law by their litigation, there is something wrong. We need our state representatives to use good common sense.</p>
<p>Kelly Gorny For themselves</p>	<p>Hello</p> <p>My name is Kelly Gorny, I have lived in Colorado Springs since June of 2020. My husband and youngest daughter moved here during the beginning of the pandemic after we lost our jobs. We had to live with my sister and her family this entire time until January 8th 2024. We were not able to afford to move on our own the entire time. When we finally needed to move, the unbelievable stress at finding affordable housing was astronomical. The interest rates are unbelievably high combined with inflation and difficulty getting better paying jobs, we finally bought a very small condo, 30 minutes outside of where we lived and my teenager who goes to school and works in the area we used to live. We ended up in an area we did not care to live in and our commute is long. We are paying nearly \$300,000 for a property that was sold for \$142,500 in 2018. This is unacceptable and a hardship for our family .</p>
<p>Susan Edmondson For Downtown Partnership of Colorado Springs</p>	<p>SB24-106</p> <p>I'm Susan Edmondson, CEO of Downtown Partnership of Colorado Springs, which works to foster the economic and cultural vibrancy of the urban heart of Colorado's second largest city.</p> <p>After years of planning and visioning, our Downtown is in the midst of a resurgence. Our top priority has been to increase the number of residents to Downtown, as this adds to our safety, vitality and the stability of our many small businesses.</p> <p>In recent years we have added just over 1,200 residential units Downtown. In this next year and a half, we are opening nearly 2,000 more.</p> <p>Of that first wave of 1,234 units, a whopping 2 percent were condos/ownership opportunity. Of this next wave of nearly 2,000 units opening in the next year and a half, exactly zero percent provide</p>

	<p>ownership opportunity to the people of our city. Of our next-wave pipeline of more than 2,000 units, again, 0 percent provide ownership opportunity.</p> <p>Why? For the reasons you hear today, Insurance costs make construction of multifamily projects nearly impossible to pencil except for the priciest of products serving a very small and elite portion of the population.</p> <p>This is creating a Downtown and a city that is out of balance. Not a week goes by that I don't hear from empty nesters who'd love to downsize and live in our walkable environment, but they don't want to lose the equity they've built over many years. Not a week goes by that I don't hear from young professionals who'd love to live in our walkable environment and begin establishing equity and achieving the American dream – but there is nothing for them.</p> <p>In all these instances we end up with either</p> <ul style="list-style-type: none"> <li>- People living far from their desired destination and thus commuting long distances in their fossil-fueled vehicles to get to jobs or leisure activities Downtown.</li> <li>- Or, even worse, a highly sought after work force of talented young professionals who simply give up on Colorado entirely and choose to make a life elsewhere.</li> </ul> <p>I want to see a Colorado that provides a variety of living and ownership opportunities for people of all socioeconomic backgrounds. SB 106 can help us turn the corner, and I encourage your support of this bill.</p>
<p>Kelsee Swenn For themselves</p>	<p>Senators,</p> <p>My name is Kelsee Swenn and I come before you as a citizen in support of Senate Bill 106.</p> <p>My partner, Mark, and I have spent the last year searching for our first home in the Downtown Colorado Springs area. Despite earning a very healthy combined salary as professionals in the marketing and finance industries, we have been unsuccessful, largely due to a shortage in inventory.</p>

	<p>Our ideal home is a modest, two-bedroom condo, under 1,500 square feet, located in a dense, walkable area that does not require the daily use of a car. While we've been able to meet this criteria in a rental, this largely does not exist in ownership property.</p> <p>The few condo units that have become available have been listed at a premium price, at the top of or exceeding our budget, while still needing tens of thousands of dollars of repairs due to poor maintenance of aging buildings.</p> <p>We are now faced with the decision to stay in Colorado Springs and miss out on years of building equity, or to move to a different state with better housing conditions. In the past two years, I have personally befriended six young professional couples who chose to leave Colorado for a similar reason, having better luck buying multifamily property in Charlotte, Dallas and Austin. I fear that without new, attainable, diverse housing options, this trend will continue, leaving gaps in our workforce and economy.</p> <p>So I come to you as an example of the demand that exists for multifamily ownership property, as well as the threat of the young, skilled, college educated professionals, entrepreneurs and innovators that will leave Colorado if this housing option does not exist.</p>
<p>Justin Foy Against themselves</p>	<p>My name is Justin Foy, R.S., P.R.A. and I am firmly against the proposed Senate Bill 24-106. The Bill would drastically limit an owner's ability to receive proper repairs on defective construction or to recover fair monies to repair the defective construction.</p> <p>I am a Reserve Specialist (RS), a Professional Reserve Analyst (PRA), and I currently oversee the Construction Repair &amp; Rehabilitation Department at Charles Taylor Engineering Technical Services. I have been serving the common interest community association industry since 1998 having prepared 1000's+ of capital reserve studies and project managing the repairs on over \$550 million in defective construction.</p> <p>I see firsthand the challenges Colorado property owners already face with defective construction. In my role I am professionally obligated to assess and determine the short- and long-term financial effects of defectively constructed communities. I would estimate that on average, communities emerging from construction defect litigation receive approximately 50% of the funds necessary to properly repair</p>

	<p>defective construction, and that is with the existing laws (February 2024) concerning defective construction.</p> <p>This Bill as proposed gives construction professionals the ability to make an "attempt" at repairing defective construction, with no protections for the adequacy of repairs, excludes them from applicable damages, and then walk away with no liability. Typically, individual owner property insurance does not cover construction defects, leaving the damages directly on the property owners to remedy.</p> <p>This will undoubtedly widen the gap between homeowner protection and liabilities of construction professionals. This will result in communities having to either levy large special assessments across their homeowners to fix shoddy work, defer repairs to defective construction, or completely omit the defective repairs all together for construction issues that they inherited. This Bill will take defective work directly associated with construction professionals and pass that financial burden on to owners with no recourse, compounding the unbalanced defective construction recovery environment in Colorado.</p>
<p>Kelly Maves For themselves</p>	<p>State Representatives and Senators,</p> <p>Having been in the real estate and home building industry for over 20 years I have seen the death of the condominium. As we have seen housing costs absolutely skyrocket across the state it has become very clear that the missing link is entry level housing. Naturally that piece likely isn't single family homes, it should be condominiums. I have 3 adult children who are all in their 20s (one of which is serving in the Air Force currently) that would love to see an opportunity to purchase a small 1 bedroom condo in a highly amenitized development so they can have the chance to have equity gain at step up to the next type of housing that works for them at some point. Unfortunately those are few and far between because developers (my husband's company included) are not willing to take the risk associated with class action lawsuits and greedy lawyers without the opportunity to remedy any defects. This bill will be a huge step towards allowing the entry level homeowner to BUY a property without simply placating them with a fancy apartment that they really have no stake in or opportunity to move up in the future. A yes vote on this bill is a yes vote towards entry level, attainable housing.</p>
<p>Marlo Asher For themselves</p>	<p>As a hardworking individual who currently owns a townhouse, I am writing to express my wholehearted support for Senate Bill 24-106, which aims to establish the Right to Remedy Construction Defects. In</p>

	<p>my view, the passage of this bill is crucial to ensuring that all citizens have fair and equal opportunities to own homes.</p> <p>Owning a home is a significant milestone, representing a sense of stability, security, and accomplishment. However, the dream of homeownership can quickly turn into a nightmare when lawsuits from construction defects emerge. This not only poses a threat to the well-being of the homebuyers but also places financial burden on hardworking citizens who have invested their time, resources, and aspirations into creating a comfortable living space.</p> <p>This legislation is a critical step to giving homeowners great transparency about construction litigation related to their property.</p> <p>Supporting Senate Bill 24-106 is not only in the best interest of current homeowners but also a vital step towards encouraging more individuals to pursue their dreams of owning a home. By establishing clear mechanisms for addressing construction defects, this bill not only protects homeowners but also contributes to the overall improvement of construction standards without the fear of immediate lawsuits.</p> <p>The passing of this bill sends a powerful message about the commitment of our legislative body to safeguard the well-being and interests of its citizens. It reflects an understanding of the challenges faced by hardworking individuals who strive to achieve homeownership and demonstrates a dedication to creating an environment where such dreams can be realized without the fear of costly and time-intensive lawsuits.</p> <p>I urge you to support SB 24-106.</p>
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SB 24-106Maureen Sielaff to: committees.lcs.ga 03/02/2024 12:51 PM

Dear Senators/Legislators:

I wish to protest SB 24-106.

This bill favors wealthy developers at the expense of innocent homeowners.

I purchased a new home in 2005. The builder's shortcuts and shoddy workmanship caused us untold problems.

Fortunately we were able to file suit against the builder immediately.

We later negotiated a settlement, satisfactory to all parties. Homeowners must have the flexibility file suit and to hold the builder responsible for their errors.

This is after all our most expensive purchase and we usually have our life savings invested in our homes. This bill puts an unreasonable burden on each individual homeowner.

Requiring each homeowner to file suit is ludicrous and is obviously intended to deter homeowners from filing suit, not right at all. One lawsuit is all that should be required. You are backing up the court process unnecessarily and unreasonably.

There is just about zero possibility of getting 67% of homeowners to respond to anything, let alone a lawsuit.

Homeowners need to be your number one priority. Please do not pass this bill only for us to have to run it through the HOA Task Force as adverse to homeowners.

Thank you for listening to my comments and acting accordingly.

Maureen Sielaff

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Colonel Christopher James Ouellette  
Colorado Springs  
March 5, 2024

## Support for SB-106

Mr Chair, Members of the Committee, my name is Chris Ouellette and I now submitting written testimony in support of Colorado State Bill 24-106. I am an Active Duty Colonel of 30 years service in the US Air Force and am retiring from US Space Command this summer. When my wife and I moved to Colorado Springs in 2020, she insisted we not pay more than \$400,000 for a home; due to the lack of affordable housing, we almost doubled that in purchase price. As a Colonel, my Base Allowance for Housing (BAH) is \$2800 per month, but the US military and Department of Defense (DoD) personnel that work for me make much less. This hampers their ability to purchase a starter home as they are priced out in this market, condominiums are not available, and they are forced to either rent or live outside of Colorado Springs. Members cannot start building their generational wealth and are having to leave soon, despite wanting to live and retire in the area.

The Colorado Springs US military population is immense with 90,000 Active Duty members or 120,000 including reservists and contractors at our five military installations. Due to lack of on-base housing and long wait lines, 70% of military members are forced to live off-base in Colorado Springs and throughout the Front

Range. Moreover, 40% of the Colorado Springs economy is related to the DoD and is suffering from this lack of affordable housing.

As a Hiring Panel member at US Space Command, we often had a lack of applicants who did not want to go to Alabama. Your efforts have stopped that transfer (thank you), but now we are seeing hesitancy of applicants due to the high housing and insurance prices. Members moving from Hawaii and Washington DC are shocked at the similarly high housing prices and lack of condominiums. While many want to stay in Colorado Springs, some are departing for better housing opportunities. Colorado is losing its military and DoD members who have strong talents and a skilled workforce. This must stop; please support our military families and support this bill.

## **SUPPORT SB-24-106**

### **Construction Defects Testimony**

Good afternoon Chair Exum and Committee Members, my name is Tim Seibert, Senior Vice President of Norwood Development Group, Southern Colorado's Largest Real Estate Developer. Norwood has a proven track record of developing more than 10,000 homes in the last three decades - 2,000 of which have been for-rent apartment homes in the Pikes Peak Region. None of which are for sale multifamily units - commonly referred to as condominiums. This experience positions us uniquely to understand the pressing housing needs of our community, especially in downtown Colorado Springs.

Prospective customers/renters, first ask: "Is this apartment available?"; the second most common question we encounter is: "Can I buy this unit?" This speaks volumes about the demand for homeownership in our region. We now have hundreds of individuals on an interest list for urban, downtown living. Despite our success with for-rent apartments, we find ourselves unable to meet this significant demand due to the current legal and insurance climate surrounding condominium development - simply put, the risk isn't worth the potential benefit.

SB-106 presents an opportunity to address these barriers. This legislation aims to strike a critical balance between protecting homeowners and enabling developers like us to provide an array of attainable housing options. The passage of SB-106 is a crucial step towards mitigating these risks. By clarifying legal definitions, setting fair processes for defect claims, and addressing the insurance coverage/cost issue, this bill can open the door for developers to confidently invest in condominium projects. This is not just about building homes; it's about fostering a sense of community and ownership, particularly in urban areas where housing options are both costly and limited.

We at Norwood Development Group see SB-106 as more than just a legislative change; we see it as a path to a more vibrant, sustainable, and inclusive Colorado. A 'yes' vote on this bill is a vote for the countless Coloradans who aspire to own their home, a vote for a more balanced housing market - where the American Dream of home ownership can include a condominium, and a vote for the economic prosperity of our state.

I urge you to consider the profound impact your decision will have on the future of housing in Colorado. Your support for SB-106 can transform the landscape of homeownership and bring us closer to the dream of affordable housing for all.

Thank you for your time and thoughtful consideration.