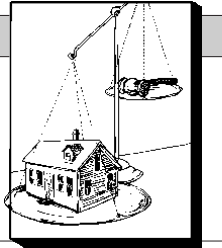


'For Sale' Signs: A Source of Liability?

by Michael C. Loulakis and Jeffrey G. Gilmore



Many home builders use "for sale" signs to attract prospective purchasers. These signs not only establish the name of the listing realtor, but they entice potential purchasers to enter the house and inspect its features.

However, few home builders recognize that they may face liability if an injury occurs while the prospective purchaser is in the home.

A recent Missouri case is an excellent example of the liability a construction company may face in this situation. In *Singleton v. Charlebois Construction Company*, 690 S.W.2d 845 (Mo. 1985), Mr. and Mrs. Singleton toured a house under construction by Charlebois that had a "for sale" sign in the front yard listing the real-estate company's name and phone number. There was no front door or any other barricade, so the Singletons proceeded inside and inspected the premises without escort.

While inspecting the dining room, Mr. Singleton attempted to look for a second heat register behind a stack of 20 sheets of drywall stacked vertically against one of the walls. As he tried to peer over the drywall to look down between the studs of the unfinished wall, the stack, which weighed about a ton, toppled and fractured his right ankle.

The critical factor for the court was whether the "for sale" sign constituted an invitation to enter the premises. The president of Charlebois testified that houses under construction often have "for sale" signs in their yards, and that he had observed families taking a closer look at the homes, with or without a real-estate agent.

Similarly, Charlebois' construction superintendent testified that it was a regular practice for people to walk onto house projects and that he would show them around and sometimes take down their names. And Mr. Singleton testified that it was a common practice for families to look at houses under construction when no one else was around.

As a result of this testimony, the court found that it was reasonable to assume that an official appointment was not required to inspect premises under construction.

The court noted that no barricades or "keep out" signs had been erected and that other families had visited the site without any complaint from Charlebois.

Since an economic benefit as well as an implied invitation was present, the appellate court found that the trial court had erred in finding that the Singletons were not business invitees, and it sent the

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The Singletons sued Charlebois for the injury, claiming that the company was negligent in stacking the drywall in an unstable manner. The trial court found that the Singletons were not business invitees and thus were unable to recover damages, but the appellate court subsequently rejected this finding.

The appellate court looked at three possible ways of categorizing the status of the Singletons: business invitees, licensees or trespassers.

Missouri law defines a business invitee as "a person who is invited to enter or remain on land for a purpose directly or indirectly connected with business dealings with the possessor of the land." If the landowner derives some benefit from the entry, the court stated, the entrant is considered an invitee, and the owner is obligated to keep the premises reasonably safe.

If a person enters the land with the express or implied consent of the owner but for his own purposes, however, he is a licensee—and the landowner owes only a duty to exercise reasonable care as to a dangerous condition known to the owner.

Finally, if an individual enters land without the owner's consent, the entrant is a trespasser, and the owner is not obligated to put the land in a reasonably safe condition.

Charlebois did not deny that there was a mutual economic benefit from the Singletons' entry into the house—in fact, a month after the accident, the Singletons had purchased a new house as a result of their visit to that subdivision.

case back to the trial court for a decision consistent with that ruling.

The Singleton case suggests that new homes should be locked or barricaded to the extent possible in an effort to prevent individuals from touring a home unescorted. In addition, a home builder should post signs advising potential visitors that they enter the premises at their own risk.

However, because many home builders would prefer to let individuals inspect their homes to promote sales, perhaps the best lesson from the Singleton case is for home builders to recognize that potential liability *does* exist—and to obtain insurance to protect themselves from that liability. ■

Michael C. Loulakis and Jeffrey G. Gilmore are attorneys with the firm of Wickwire, Gavin & Gibbs, P. C., specializing in construction and public-contract law. Questions should be referred to the authors at 8230 Boone Blvd., Suite 400, Vienna, VA 22190, 703/790-8750.