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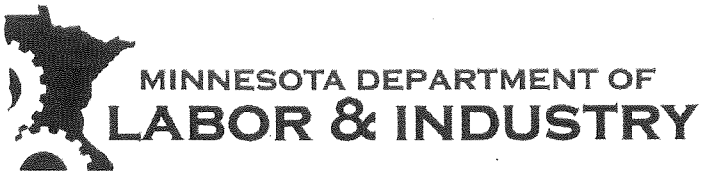

(651) 284-5005
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February 20, 2014

The Honorable Ron Latz
State Senate
303 Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Warren Limmer
State Senate
153 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable John Lesch
537 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Peggy Scott
201 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Re: Report to the Legislature Regarding the Home Warranty Dispute Resolution Process
2010 Minnesota Session Law Chapter 343, section 13

Dear Senators Latz and Limmer, and Representatives Lesch and Scott:

I am writing to provide the Department of Labor and Industry's report to the legislature regarding the Home Warranty Dispute Resolution Process ("HWDRP") created by the 2010 legislature in Minn. Stat. § 327A.051. This report was required pursuant to 2010 Minnesota Session Law Chapter 343, section 13.

As you may know, the legislation that created the HWDRP grew out of the work of a task force made up of homeowners, builders, insurance industry representatives and attorneys and convened in 2009 at the request of Governor Tim Pawlenty. I directed the work of this task force, helped craft and testified in support of the bill creating the HWDRP and have acted as the administrator of the HWDRP at DLI in its three years of operation.

This information can be provided to you in alternative formats (Braille, large print or audio).
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Homeowners who wish to pursue civil action against their builder based on a claimed breach of the statutory warranty must use the HWDRP if their builder complied with the Notice and Opportunity to Repair ("NOR") provisions of the warranty law by conducting an inspection of the claimed defects and making a written offer of repair. If the builder declines to participate in the process, the homeowner is free to commence their civil action. If the builder agrees to participate, the parties select a neutral from three names provided by DLI. These names are part of a pool of 30 neutrals who submitted applications and $200 fee to DLI. All of these individuals have demonstrated education, knowledge, and experience in residential construction and/or residential construction litigation. Many are attorneys with years of experience in this arena representing both homeowners and builders.

Once the neutral is selected, DLI has encouraged the parties to be creative and flexible in how they use the process and the neutral to seek a resolution to their dispute. The statutes anticipate that the neutral will collect information from the parties and then convene a conference with the parties. Following the conference, which is to be held within 30 days of the neutral's selection, the neutral issues a written determination providing his or her evaluation of the merits of the parties' positions and the likely outcome of the case should it proceed to litigation. The goal is to enable a party whose expectations may be unreasonable to reconsider their position and rethink settlement. During the pendency of the HWDRP process, the statutes of limitations and repose are tolled.

Our experience, however, showed that most cases did not proceed all the way through the HWDRP process as anticipated by the statute. In 2010 – 2013, 20 Minnesota homeowners have sought help from the HWDRP to resolve a warranty dispute with their builder. Here is a breakdown of these cases:

- three cases resulted in the issuance of a written determination by the chosen neutral
- four cases used the neutral to reach an agreed settlement without the need for a conference
- one case was opened as a DLI investigation for possible licensing or code violations instead of a HWDRP case
- three cases were withdrawn because the builder failed to comply with the NOR requirements of the warranty law
- three cases were settled before a neutral was selected
- six cases were dismissed because the builder declined to participate, in which case the homeowner was free to commence their civil action against the builder

The HWDRP appears to have been helpful to about half the homeowners who used it by providing a framework for settlement of their warranty dispute. DLI is pleased to be able to facilitate this alternative dispute resolution service to Minnesota consumers and builders.

Sincerely,

CHARLIE DURENBERGER
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