

## Position on Impediments to Construction of For-sale Attached Dwelling Units [Boulder's Legislative Agenda](#)

### ***Decrease State Impediments to the Construction of for-sale attached dwelling units***

*A series of laws were enacted in Colorado earlier last decade that increased the liability imposed upon homebuilders for construction defects. Since then, metro-area cities have seen a significant decline in the construction of for-sale attached dwelling units both in total and as compared to the number of apartments constructed. This has led to a decrease in the diversity of available housing stock options and, of particular concern, the options for affordable for-sale housing located in transit-oriented developments.*

*Most Denver-metro local governments have concluded that the increased incidence, cost and duration of litigation to resolve construction defect claims are discouraging developers from reentering the owner-occupied attached for-sale market. While Boulder is still gathering information on the matter, it is inclined to agree with its municipal colleagues. Boulder's preliminary conclusions are informed by numerous reports from builders and developers on their reasoning for not building condos as well as the fact that just four percent (93 of 2,142) of the market-rate attached residential properties developed in Boulder from 2009 to 2016 were for sale.*

*There are several approaches to reform Colorado's construction defects law. In 2017 they include: (1) SB17-045, addressing the allocation of litigation defense costs; (2) SB17-155, limiting the scope of what constitutes a 'construction defect' in the 'Construction Defect Action Reform Act'; (3) SB17-156, requiring HOAs to obtain written consent of a majority of homeowners in the association, disclose projected costs, duration, and financial impact of claim, and enter into mediation or arbitration by a neutral third party; (4) SB17-157, which similar to SB 17-156, requires informed consent to all condo owners and consent by the majority, but does not require parties to enter into mediation or arbitration, and; (5) HB17-1169, clarifying a builders' right to receive notice from prospective claimant concerning alleged construction defect, inspect the property; and then elect to either repair the defect as they determine appropriate or tender an offer of settlement before filing of lawsuit.*

***The city is not prepared to support the approaches proposed by these bills. The concern is that they would diminish the rights of residents to receive timely and appropriate redress for construction defects. Consideration of other legislative solutions will be reviewed based on their ability to address these same interests. In the meantime, the city will convene a panel of experts to explore the extent that the construction defects law is negatively impacting the city and the surrounding region and to understand the state and/or local solutions that should be advanced in response.***