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THE IDEAL ARBITRATION PROCESS

Most home inspectors today have an arbitration clause in their contract. This means that a client who has hired a home inspector has a complaint, cannot file a lawsuit, but must arbitrate the claim. Arbitration is generally a semi-formal hearing held before an arbitrator. Both sides present evidence and the arbitrator makes a decision. When the process operates correctly, the process is fast, there is a reasonable resolution and both sides save money in attorney's fees and other costs.

Sometimes the process doesn't work as it is intended. There are arbitrators who know little about home construction defects or repairs and therefore are totally unpredictable as to what they are going to decide. Sometimes the arbitration organization isn't well organized then the process can drag on even longer than a lawsuit.

In some instances, instead of a short inexpensive hearing, a hearing can be extended over several days and cost both the claimants and the home inspector thousands of dollars in attorney's fees and other costs.

1. The arbitrator needs to have some background or experience in the home construction, home building or home repair industry. These people can be engineers, architects, builders or other people who are familiar with home construction, home repair and/or the defects related to houses in general. This arbitrator needs to work for a reasonable fee to keep the costs down.
2. The arbitration process must be administered by an organization that is efficient, has full time employees and is experienced in moving cases along to prompt resolution.
3. There should be an independent experienced volunteer inspector who evaluates the house and renders a report to the arbitrator. This provides the arbitrator with an unbiased third party opinion that he or she can rely on in making the final determination.

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4. The rules of evidence and other similar court rules need to be somewhat relaxed in order to allow parties to represent themselves and also allow for the full presentation of evidence.
5. There must be an exchange of documents and evidence prior to the arbitration so that no one is blindsided. Both parties need to know what the other side's position is going into the arbitration so that all issues may be addressed.
6. There needs to be time limits set on all of the procedures involved so that the process doesn't get extended beyond a reasonable length of time and beyond what the parties intended. Arbitrations are to be fast and efficient, not long and unorganized.

There are several keys in setting up this system so that these purposes are accomplished:

First, the arbitration needs to be set up with an organization that is experienced and handles arbitration matters on a regular basis. These people need support staff that will keep a case moving along and see that things are done on time. Someone live should answer the phones at all times and be able to give a report on the status of the case.

Secondly, the panel of arbitrators must be carefully selected. These must be people who are willing to handle an arbitration in a prompt manner for a reasonable fee. They are people other than retired judges and lawyers. Panel must know something about homes.

Finally, there must be a panel of qualified home inspectors who are willing to donate their time free of charge. These people must be willing to serve as independent inspectors who can provide reports to the potential arbitrator. When the arbitrator has an independent source of information, he or she is more likely to reach a fair result.

An arbitration system like this is easy to set up with cooperation from a number of home inspectors. Once it is setup, the arbitration runs itself. The arbitration

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association for a small fee handles the paperwork and scheduling of matters. If there are any problems in the meantime, it is easy to have a meeting and make any adjustments that are necessary.