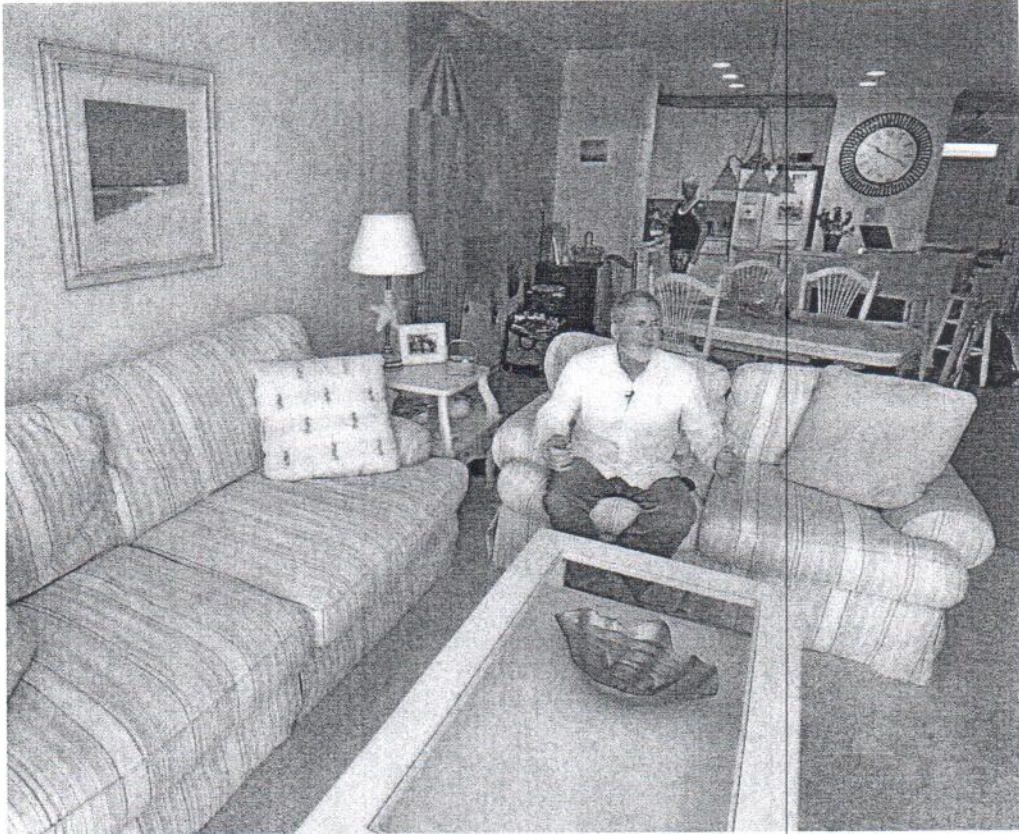


HOMEOWNER COMPLAINTS

RYAN HOMES FACES BACKLASH



Roger Williams, president of the ownership association at Sunset Island Condominium, talks about water damage and construction issues that they have had with the complex. TODD DUDEK PHOTO

Federal, Maryland leaders call for action vs. 'questionable' practices

Matthew Prensley Salisbury Daily Times
USA TODAY NETWORK - DELMARVA

America's fourth-largest homebuilder, NVR Inc., is facing mounting pressure from state and federal officials for what they consider questionable business practices against homeowners across the country, including in Ocean City.

Four U.S. senators, including Maryland's Ben Cardin and Chris Van Hollen, are calling on NVR to stop using mandatory arbitration and nondisclosure agreements as tools to leverage construction defect repairs, according to a copy of the letter sent to company CEO Paul Saville. Ohio Sen. Sherrod Brown and Connecticut Sen. Richard Blumenthal also signed the letter.

"Forcing homebuyers into arbitration and nondisclosure agreements is unfair, unjust and abusive," according to the letter, dated Nov. 6. "NVR's reliance on mandatory arbitration provisions to evade accountability is unconscionable — and it may also be illegal." NVR is a publicly traded company

headquartered in Reston, Virginia, according to the company's website. The company constructs single-family homes, townhomes and condos in 14 states and 32 metro areas around the country through three brands: Ryan Homes, NV Homes and Heartland Homes.

The company declined to comment for this report. Curt McKay, vice president of business planning and investor relations at NVR, previously said the company has a policy to not issue statements to the press.

Previous reporting by Delmarva Now and the USA TODAY Network showed Ryan Homes and its conglomerate, NVR, cut corners during construction, then left customers to fight to resolve the defects. Cardin and Van Hollen's letter cited that reporting by The Daily Times in Salisbury (which is part of Delmarva Now) and the Cincinnati Enquirer in their letter to NVR.

The pressure stems, in part, from the actions of Ocean City residents.

Roger Williams, Cindy Ardinger and residents of Ocean City's Sunset Island

have dealt with Ryan Homes-related construction defects for almost a decade.

There, 11 Ryan Homes' condo buildings sustained extensive water damage due to improper waterproofing during construction, according to Williams, condo association president.

Sunset Island owners have spent tens of thousands on emergency repairs, Williams said. Previous fixes cost each resident \$11,500, but new repairs are needed, which could cost upward of \$8 million, or about \$40,000 per condo owner.

Ardinger said after the water issues resurfaced in 2017, she and other residents began reaching out for help.

NVR is also facing backlash at the state level.

Gov. Larry Hogan's office and state legislators have urged the Maryland Office of the Attorney General to investigate NVR and its three brands, according to letters shared with Delmarva Now on Nov. 1.

Hogan's chief legal counsel Robert Scholz requested the attorney general's office begin an investigation in April, according to a copy of the letter.

In Maryland, Delmarva Now found

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that Maryland's attorney general's office received 53 complaints about NVR and its three brands in the three years since 2016, according to the office.

Despite the complaints filed against the company, the attorney general's office renewed NVR's homebuilder registration Feb. 5, allowing it to continue building in Maryland through March 2021 under the Maryland Home Builder Registration Act.

Aleitha Warmack, a spokesperson for the attorney general's office, said the office could not comment on why NVR's registration was renewed.

U.S. Senate steps in

In a joint statement to Delmarva Now, Sens. Cardin and Van Hollen said they were joining Brown to push NVR.

"Reports of NVR's poor construction standards are deeply concerning and signal a betrayal of consumer trust," according to a Nov. 6 statement. "We will continue working to shine a light here and to ensure people in Maryland and across the country are protected and can seek the restitution they deserve."

In the letter, the senators warned NVR that they were referring the company's use of forced arbitration and nondisclosure agreements to the Consumer Financial Protection Bureau to confirm if the actions are illegal. The senators called on NVR to "immediately" stop using its arbitration tactics and nondisclosure agreements.

"If NVR and Ryan Homes truly stand behind the quality of the construction of the homes they build, they would honor their warranty agreement instead of trying to lock homebuyers out of the courthouse and coerce them into silence," according to the letter.

In a separate interview Friday, Van Hollen called the situation "outrageous" and NVR's behavior "fraudulent misconduct" in a separate interview Friday. He added the company should "step up" and compensate homeowners for losses they've endured.

When companies use mandatory arbitration it's "like tying consumers' hands behind their backs," he said. Because of that, Van Hollen has worked to prohibit mandatory arbitration for years and to make sure consumers keep their legal rights.

"This is clearly a company trying to cheat Maryland consumers and homeowners. If you have shoddy building



April 24, 2019

Thomas Sherts
Diana Johnson
t.sherts@gmail.com

Re: NVR, Inc. / Condominiums in Ocean City, Maryland

Dear Ms. Johnson and Mr. Sherts:

Thank you for your email to Governor Hogan regarding NVR, Inc. In particular, you are requesting clarification of Maryland's consumer protection laws.

The most appropriate agency to handle your request is the Consumer Protection Division of the Maryland Office of the Attorney General. As you are probably aware, the Attorney General is an independently elected constitutional officer so we do not have the authority to answer your questions or meet your concerns. Based on your correspondence I understand that you have already reached out to that agency and are awaiting a response. I have requested that the Attorney General's Office look closely at the NVR issues.

It is obvious that you, and perhaps others at the condominium, have serious claims against NVR, Inc. If you have not done so already, I strongly recommend that you contact a lawyer regarding any legal options that may be available to you. You should consult with an attorney immediately as your rights and remedies may be or become barred by the passage of time. The Maryland State Bar Association's Lawyer Referral Service (410-539-3112) can help you find a lawyer with expertise in these matters.

Thank you again for your correspondence.

Very truly yours,

Robert E. Scholz
Chief Legal Counsel

In April of this year, Robert Scholz from Gov. Larry Hogan's office instructed Maryland's Attorney General's Office to investigate Ryan Homes for complaints against the homebuilder. IMAGE COURTESY OF ROGER WILLIAMS

practices, you need to own up to them and repair them and fix them instead of trying to deprive Maryland consumers of their rights," Van Hollen said.

Maryland leaders call for investigation

Maryland state Delegate Julie Palakovich-Carr and state Sen. Mary Beth Carozza, who represents Ocean City, have both urged the attorney general's office to investigate NVR.

In an emailed statement Friday, Carozza said she's been in contact with Maryland Attorney General Brian Frosh about the construction defects at Sunset Island. Carozza added she'll work with the governor and legislature to make sure help the Sunset Island residents and protect homeowners across the state.

"This has been an extremely frustrating and expensive experience for my constituents who have been pursuing multiple options to hold Ryan Homes/NVR responsible for the costs to repair their homes," according to the statement.

Palakovich-Carr, who represents part of Montgomery County, said she became involved in the situation after Sunset Island residents reached out to her.

Maryland Delegate Courtney Watson, who represents part of Howard County said that after she met with Sunset Island residents, she was "really surprised that this level of a construction defect could get to this point." Like Palakovich-Carr, some of Watson's constituents use those condos while vacationing or as second homes in Ocean City.

In conversations she's had with the attorney general's office, Watson said it may be hard to "pursue NVR" because of the "secret" agreement the company had a previous Sunset Island condo association board sign without the knowledge of residents.

What could be done?

In Maryland, NVR could face sanctions from the attorney general's office. Under Maryland's Home Builder Registration Act, the attorney general's Home Builder Registration Unit is tasked with regulating the industry.

This unit can investigate a homebuilder, "who establish a bad track record or engage in violations of the law from continuing to build in Maryland," according to the 2018 annual report from the Home Builder Registration Unit.

Possible penalties could include the attorney general revoking or suspending NVR's ability to build in Maryland.

The attorney general's office didn't confirm if it is investigating NVR, saying its office policy is to not "confirm or deny the existence of investigations," Warmack said.

Another option could involve the Home Builder Registration Unit investigating NVR on the grounds that it violated building code when constructing Sunset Island. That too could lead to sanctions, but in an email, Warmack wrote the attorney general's office doesn't have the authority to identify building code violations. Those violations must come from the local level before the office steps in.

In Sunset Island's case, the town of Ocean City decided not to become involved.

"The town is aware of the dispute between Sunset Island and the builder of the property. Although the town has met with representatives from the affected Sunset Island Condo Association, the town regards this as a private civil matter," according to an emailed statement Monday from Jessica Waters, communications manager for Ocean City.

State legislators are also considering the idea of new legislation that could prevent situations like Sunset Island from happening again.

Watson said she plans to introduce changes in January that would address how NVR used nondisclosure agreements. She also mentioned the idea of reexamining state law to make sure the Home Builder Registration Unit has enough authority to properly regulate

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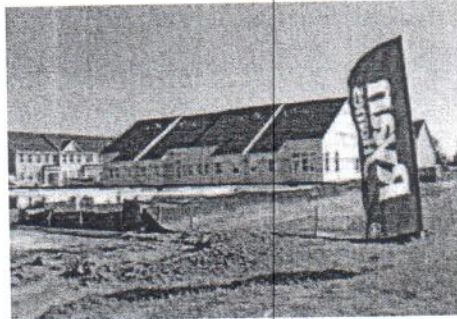
homebuilders.

In an emailed statement, the attorney general's office stated in part, "Consumer protection laws can always be strengthened, and our office would welcome the General Assembly providing additional protections for Maryland homebuyers."

But some legislators think new laws isn't the way to solve the situation at Sunset Island and elsewhere.

Wayne Hartman, a state delegate who represents Ocean City, views the situation at Sunset Island as a civil issue and something that could be handled in court, but not the general assembly.

"If there is a pattern of a particular builder doing poor construction or something like that, then the attorney general is the person in the state of Maryland who registers the homebuilders and it's in their power to take action with the way it's already established in the state of Maryland," said Hartman, a former Ocean City councilman.



Homebuilder Ryan Homes is building more villa townhouses in its Somerset Green development in Lewes.

TAYLOR GOEBEL/SALISBURY DAILY TIMES

Still, Van Hollen isn't finished. The senator said he will continue to pursue NVR and stop the use of mandatory arbitration agreements, adding he plans to speak to the state attorney general about this issue.

"The state needs to use the full power of state law to protect these consumers and, if current state law is inadequate to address the injustices here, then the legislature should look at ways to change the law to provide adequate protections," Van Hollen said.