

Clearing the Path for Condos: How California's Construction Defect Laws Are Blocking Homeownership

California's dream of affordable homeownership is slipping away, not just because of soaring prices, but due to an invisible barrier—[outdated construction defect laws](#) that are stifling the creation of affordable condos. Across most of the world, people have been able to live near jobs and amenities by owning instead of renting a unit in a multifamily dwelling—otherwise known as condominiums. Yet, in California, we have a serious problem: very few new multifamily homes are available for ownership.

In fact, last year, less than 3,000 new multifamily (5+ unit) homes were built for sale across the entire state. In 2005, San Diego alone built more condos than the entire state of California did last year. This drastic decline in condo construction is not just a reflection of market trends but a direct consequence of California's outdated and overly punitive construction defect liability laws. These laws have created a legal environment where for-sale multifamily homes, especially condos, are almost guaranteed to face litigation, making it nearly impossible for developers to build them without significant financial risk.

This issue has personal implications. When I was shopping for condos in the Bay Area, I found that the homes I could afford were often under construction defect litigation, so banks wouldn't lend mortgages for these properties. As a result, existing homeowners were stuck with their condominiums, unable to sell or refinance, further constraining the market. California's construction defect liability laws, while designed to protect homeowners, have become a major barrier to the development of any for-sale multifamily housing in cities.

This lack of for-sale multifamily housing has broader implications for California's housing market and its residents. According to the [Public Policy Institute of California, 79% of couples and 65% of families want to stay near cities](#) but are unable to do so due to the lack of homeownership options. Condominiums, which offer a more affordable entry point into homeownership, are a crucial part of the solution. However, with so few being built, the options for middle-income families and first-time homebuyers are shrinking, pushing them further away from urban centers and job opportunities.

My [recent study](#) for [UC Berkeley's Turner Center for Housing Innovation](#) (co-authored by my colleague Sarah Karlinsky) highlights how these well-intentioned laws, designed to protect homeowners from substandard construction, are in fact favoring a mostly renters market. Under current law, developers can be held liable for construction defects for up to ten years after a project is completed, even for cosmetic damages. The report

makes it clear: without alternative pathways to prevent litigation, the workforce needed to build housing—architects, engineers, subcontractors and more—will rarely be insured by insurance companies. Without insurance, they are unable to build new homes for sale.

The low supply of condos has created an unsustainable situation where older condos, which shouldn't have high valuations, do—often coupled with large homeowners association fees to make up for the age. To address this issue, we propose several sensible reforms that would strike a balance between protecting homeowners and encouraging the development of affordable housing.

The state should follow the lead of British Columbia and Hawaii by creating a specialized construction defect resolution process. This would allow disputes to be resolved more quickly and fairly, without the need for protracted and costly litigation. Home repairs typically happen within 30-90 days. By creating a system that encourages timely repairs rather than drawn-out court battles, homeowners would still be protected, and developers would face less financial uncertainty.

California could also look to Ontario and New Jersey by considering a state-run insurance pool to cover construction defect claims. This would lower insurance costs for developers, who currently face skyrocketing premiums due to the high risk of litigation. A state-run pool could spread the risk across multiple projects, making insurance more affordable and accessible, particularly for smaller developers.

The stakes for reforming construction defect liability laws are high. Without these changes, California will continue to see a shortage of new condos for sale, forcing more residents into renting and leading to greater inequality in the coming decades.

California has always been a leader in innovation, and it's time we apply that same spirit to our housing laws. Reforming construction defect liability isn't just about making it easier for developers to build; it's about ensuring that all Californians have access to affordable homeownership opportunities. Let's seize this moment to rethink our approach to construction defect liability and build a more affordable state.

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