

## Articles

### Minnesota's Housing Warranty Statutes Amended in the Wake of *Camacho* Decision

By Jeffrey C. O'Brien

Many times when a court decision correctly applies the law but in doing so reaches an unfair or illogical result, the legislature is required to amend the laws to correct the injustice. Such a situation occurred in 2006 in the wake of the Minnesota Supreme Court's decision in *Camacho v. Todd and Leiser Homes*. In this November 2005 decision, the Court held that a homeowner's claim against a residential building contractor for violations of the statutory housing warranties set forth in Minnesota Statutes Chapter 327A were time barred where the contractor who built the home has previously voluntarily dissolved under the Minnesota Business Corporations Act.

#### Minnesota's Statutory Housing Warranties – Minnesota Statutes Section 327A.02

Minnesota Statutes Section 327A.02 contains what are commonly known as the "one year", "two year" and "ten year" warranties. Subdivision 1 provides that in every sale of a completed dwelling, and in every contract for the sale of a dwelling to be completed, the vendor shall warrant to the vendee that: (a) during the one-year period from and after the warranty date the dwelling shall be free from defects caused by faulty workmanship and defective materials due to noncompliance with building materials; (b) during the two-year period from and after the warranty date the dwelling shall be free from defects caused by faulty installation of plumbing, electrical, heating and cooling systems due to noncompliance with building standards; and (c) during the ten-year period from and after the warranty date the dwelling shall be free from major construction defects due to noncompliance with building standards.

Property owners having a cause of action for violation of any of these warranties are permitted to commence a lawsuit against the contractor to recover damages for such violation.

#### Dissolution Under the Minnesota Business Corporations Act

Both the Minnesota Corporations Act, Minnesota Statutes Chapter 302A, and the Minnesota Limited Liability Company Act, Minnesota Statutes Chapter 322B, provide mechanisms for corporations or limited liability companies, as applicable, to voluntarily dissolve. Entities may elect whether they wish to provide notice of the dissolution to creditors. If no notice is provided, all claims against the entity must be brought within two years of the entity's filing of a notice of intent to dissolve with the Minnesota Secretary of State or are thereafter barred. Entities that choose to give notice are afforded a shorter claims period.

#### The *Camacho* Decision

The Minnesota Supreme Court on November 23, 2005 issued its opinion in the case of *Camacho v. Todd and Leiser Homes*. In *Camacho*, the Court was asked to construe the effect of the corporate dissolution statutes' two year statute of limitations for claims together with the ten-year warranty provisions of Section 327A.02.

The *Camacho* case involved a subsequent purchaser of a home constructed in 1993 commencing suit against Todd and Leiser Homes ("TLH"), the contractor who constructed the home subsequent to the expiration of the two year claims period (TLH, a corporation, dissolved in April 1997 and the suit was brought in July 1999). The Camachos alleged that TLH's negligence resulted in moisture intrusion, deterioration and rotting of the home in violation of Section 327A.02, Subd. 1(c). TLH answered

the complaint by denying liability and further asserting its prior dissolution as depriving the court of jurisdiction over the Camachos' claim. While the district court denied TLH's motion to dismiss on these grounds, the Minnesota Court of Appeals reversed, holding that the corporate dissolution statutes' two year cutoff to claims barred the Camachos' claim. The Minnesota Supreme Court affirmed the Court of Appeals' holding. Furthermore, citing longstanding common law precedent, because the Camachos could not bring suit against TLH, they could not proceed directly against TLH's insurer for recovery of their estimated \$200,000.00 in damages.

#### **2006 Amendments to Chapters 302A, 322B and 327A**

Almost as if signaling to the Legislature to act to correct the result in *Camacho*, Justice Page's decision went on to say "[i]t is the province of the legislature, not this court, to provide a remedy to those homeowners who may be foreclosed from bringing an action." The 2006 Legislature heeded the Court's words and enacted clarifying provisions to each of the housing warranty statutes, the Minnesota Business Corporations Act and the Minnesota Limited Liability Company Act to ensure that the result in *Camacho* will not reoccur.

The dissolution sections within each of the Minnesota Business Corporations Act and The Minnesota Limited Liability Company Act now provide explicitly that "the statutory warranties provided under Section 327A.02 are not affected by a dissolution under this chapter." Furthermore, a new subdivision 2a was added to Section 327A.02 which provides that "the statutory warranties provided in this section are not affected by the dissolution of a vendor or home improvement contractor that is a corporation or limited liability company."

#### **Conclusion**

The *Camacho* decision and the subsequent legislative amendments to Chapters 302A, 322B and 327A exemplify not only the interplay between the courts and the legislature, but also how seemingly unrelated statutes can be read together to produce an unfair result requiring changes in the law.

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