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LOCAL BUILDER CHALLENGES DISCRIMINATION FROM CITY OFFICIALS IN ZONING CASE

Despite urging from the Georgia Department of Community Affairs to protect systems-built home construction, Gainesville city officials turn their backs

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GAINESVILLE, GA – “Troublemaker” is one name Gainesville city officials could call the CEO of Building Systems Network, Grant Smereczynsky. Others who know him and support his efforts in bringing new building technologies to North Georgia and attempting to exercise protection provided by Georgia law for systems-built (industrialized) homes, call him a “rebel with a cause.”

While BSN’s CEO is trying to level the playing field for site-built and systems-built homes, he is coming up against discriminatory rulings, which have resulted in one option: Smereczynsky is down to fighting City Hall. Smereczynsky has been ruffling the feathers of Gainesville city officials by attempting to remove arbitraries and prohibitions on zoning ordinances that continue to stop his company from establishing systems-built homes in certain residential areas occupied by site-built homes. Meetings with City officials this week have produced no retraction of the March 31, 2005 revocation of permits for construction of two BSN homes in an R1 zoning district.

Georgia law and rulings from the Georgia Department of Community Affairs prohibits local governments from restricting an industrialized building from a zoning district based solely on the fact that it is not built “on site.” State Commissioner of the Georgia Department of Community Affairs Mike Beatty addressed Gainesville Mayor George Wangemann in a letter dated March 31, 2005 about this point, in response to the City’s revocation of two of BSN’s permits.

Commissioner Beatty stated that industrialized buildings enjoy non-discriminatory siting protection under Georgia law and DCA rulings that manufactured housing does not. Commissioner Beatty also stated that while the right of zoning and site development is reserved to local governments to apply the DCA’s regulations, “they must be reasonably and uniformly applied and enforced without distinction as to whether such building is manufactured offsite or built onsite in a conventional manner (DCA emphasis added.)” The Commissioner advised Mayor Wangemann that “the City of Gainesville may be taking action inconsistent with Georgia law and our Department’s Rules related to the siting of industrialized buildings” and strongly recommended the City reconsider its position.

BSN encountered a similar issue in 2003. Commissioner Laura Meadows of the DCA issued a letter on January 14, 2003 describing the Industrialized Buildings Act (O.C.G.A. 8-2-2 Part 1) that requires

industrialized buildings to be built to the standards and adopted by the DCA for the state of Georgia. Buildings bearing the DCA insignia (approved by meeting state codes) must be allowed to be constructed. She said, "Therefore, construction of Industrialized Buildings is substantially the same as a 'site built' building."

Despite the Georgia law and DCA rulings prohibiting discrimination against industrialized building, Gainesville City officials have opted to ignore those statutes and instead, enforce local zoning ordinances that stop BSN from finishing their two systems-built homes. The City's prohibition violates the Uniformity Clause, Article III, Section IV, paragraph V(a) of the Georgia Constitution of 1983. Smereczynsky has challenged the City's discrimination by appealing their rulings to a higher legal authority.

The value of systems-built homes is even recognized at a federal level. After Hurricane Andrew hit Florida in 1992, the Federal Emergency Management Agency (FEMA) reported, "Relatively minimal structural damage was noted in modular housing developments. The module-to-module combination of the units appears to have provided an inherently rigid system that performed much better than conventional residential framing." This full report can be obtained from FEMA by calling 800-480-2520 and requesting publication number FIA-22, item 3-0180.

Smereczynsky is an award-winning builder, honored with three first-place awards in the national Building Systems Council 2003 Excellence in Marketing & Model Home Design Awards for his commitment and contributions to the systems-built industry. He said, "The biggest challenge posing my industry is lack of public education in the evolution of home construction technology." The industrialized built home is different from what it is perceived to be by those who are not yet informed. "Innovative construction technologies have emerged faster than public education about them and zoning modifications to accommodate them." In addition, incorrect language in local zoning ordinances fails to distinguish a systems-built (modular or industrialized built) home from a manufactured home (mobile home) and has caused confusions in rulings, despite the fact that Georgia law and the DCA have provided clear language on these subjects.

"People who choose to block this type of home-construction process are simply uninformed about the process itself," he said. "Not only are industrialized homes built to the same building codes as traditional site-built housing, are required to bear the DCA insignia for adherence to codes and quality standards, and are constructed from the same materials, they are built under superior quality control with over 300 inspections done during the construction process." And, they are built in a controlled environment, not subject to adverse weather conditions like site-built homes. There is reduced waste in materials, and these cost savings are forwarded to the homeowner. "Homeowners enjoy superior benefits from systems-built homes, including equivalent or greater appraisal value," Smereczynsky said.

On January 11, 2006 BSN's newest luxury, 6,800 square foot model home, "the Homestead," will be set on its foundation in Hall County by Professional Building Systems, one of BSN's foremost construction facilities. The Homestead is appraised at \$695,000. BSN CEO Grant Smereczynsky invites officials and the community to observe the process as part of his efforts to educate the public on the newest home construction technologies and trends. For more information about BSN homes, or for directions to the Homestead, go to their website at www.bsnhomes.com.

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