

NEVADA CONSTRUCTION DEFECT REFORM

A REVIEW AND ANALYSIS OF THE REGULATORY HISTORY
AND THE IMPACTS ON HOUSING AFFORDABILITY



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Nevada's housing market is facing a historic affordability crisis, and policymakers have a critical role to play in ensuring that state law supports, not undermines, housing access for working families. The reforms enacted through Assembly Bill 125 (AB 125) in 2015 offer a clear example of legislation that successfully rebalanced the system, restored fairness for homeowners and builders and revitalized a segment of the housing market that had been nearly wiped out: for-sale attached housing.

Before AB 125, Nevada's construction defect laws were among the most abused in the nation. Broad legal definitions, automatic attorney fee recovery and unchecked authority by HOAs to file lawsuits led to a 355 percent increase in defect claims from 2000 to 2012, while new home sales collapsed by 86 percent.¹

The environment became so litigious that by 2003 no insurer was willing to offer construction liability coverage in the state.² The hardest-hit sector was multi-family housing, with permits for condominiums and townhouses falling from 21 percent of new builds in 1995 to just 1.2 percent in 2012.³ These homes are often the most attainable path to ownership for first-time and moderate-income buyers.

AB 125 reintroduced balance. It tightened the definition of a construction defect to focus on legitimate issues, required pre-litigation notice and the opportunity to repair and eliminated automatic attorney fees that incentivized excessive litigation. Critically, it restricted HOA litigation to common areas, protecting individual homeowners' rights and reducing opportunities for abuse.

The results have been clear and measurable:

- **ATTACHED HOUSING HAS REBOUNDED**, now making up 16.5 percent of new home closings in Southern Nevada—over five times the share from 2015.⁴

- **HOMEOWNER SATISFACTION REMAINS HIGH**, with 85 percent of new buyers in Nevada reporting they are generally or extremely satisfied with their homes.⁵ This exceeds the levels of satisfaction reported by buyers in the Denver and Phoenix markets.⁶
- **RESOLUTION TIMES FOR CONSTRUCTION DEFECT CLAIMS HAVE REDUCED BY NEARLY 50 PERCENT**, from 35 months to 18 months on average.⁷

Importantly, AB 125 did not eliminate legal protections for homeowners. On the contrary, homeowners still have access to litigation through Chapter 40 when warranted, as well as structured alternatives that resolve issues faster and without legal expense. These include builder warranty programs, now widely used and better understood by homeowners, and the Residential Recovery Fund, a state-backed program that has awarded over \$15 million in relief to more than 1,600 homeowners since 1999.⁸ Together, these options offer a fair, flexible path to resolution while avoiding the costs and delays of unnecessary lawsuits.

Rolling back these reforms would jeopardize proven progress and risk reintroducing the very dynamics that drove builders out of the market, inflated housing costs and left consumers unaware and underserved. Every \$1,000 increase in home prices prices out 948 Nevada households.⁹ Reverting to pre-AB 125 conditions could add as much as \$6,700 in legal risk costs per home, pricing out more than 6,350 families in a state where only 17 percent of households can afford the median new home.^{10,11}

Legislators should be proud of the success of AB 125, which has helped restore integrity to the construction defect system, protect consumers and increase housing supply. As housing affordability worsens, now is the time to build on these reforms not reverse them.

THE PROBLEM (PRE-2015)

Chapter 40 and its associated revisions encouraged litigation, especially among homes managed by homeowners associations (HOAs). As a result, Nevada had the worst in nation increase in defect claims¹² and multi-family housing development plummeted.

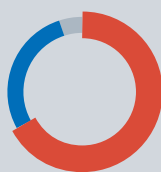
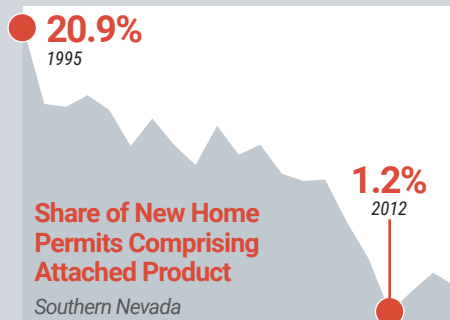
BETWEEN 2000 AND 2012

CONSTRUCTION DEFECT CLAIMS

+355%

NEW HOME SALES

-86%



of homeowners involved in a construction defect lawsuit only learned about it after it was filed.

**ONLY 2% OF PEOPLE
PERSONALLY SOUGHT OUT AN ATTORNEY**

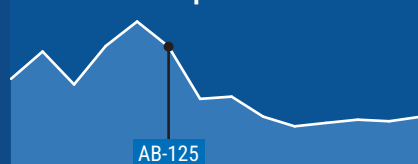
CHAPTER 40 CONSTRUCTION DEFECT

THE SOLUTION (POST-2015)

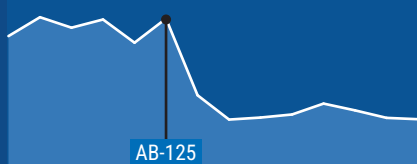
AB 125 introduced Chapter 40 reforms that reduced unnecessary lawsuits and restored the multi-family housing market.

NEVADA CHAPTER 40 DATA

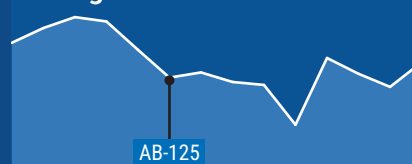
Number of Chapter 40 Notices



Total Cost to Settle



Average Time to Settle



Average cost to settle
per new home closing:

PRE-AB 125

\$6,752

POST-AB 125

\$712

Note: 2023 Inflation-Adjusted Values

**Currently, the share of Southern Nevada
new home closings made up of condos
and townhouses is 16.5%**

(+13.5 pts since 2015)

ABOUT THE AUTHORS



McDonald Carano was founded in Reno in 1949 and has grown to 60 attorneys and government affairs professionals serving Nevada, national and international clients from offices in Reno, Las Vegas and Carson City. McDonald Carano was created, built and sustained by attorneys and employees who are true Nevadans with long histories of multigenerational ties to the state. We serve on the boards of community service organizations and nonprofit charities and foundations, as well as members of Nevada State boards and commissions, to help improve the lives of all Nevadans.

Josh Hicks leads McDonald Carano's Government Affairs and Advocacy Group. A veteran lawyer with deep roots in Nevada, Josh focuses his practice in four main areas: (1) government affairs; (2) state and local taxation; (3) real estate and land use; and (4) election and campaign finance. Josh has extensive knowledge within the real estate industry, including a particular focus on the legislative history of construction defects and development-related activities. Josh was integral in drafting this report.



Applied Analysis is an economic analysis and broad-based consulting firm founded in 1997, serving both the public and private sectors. Our team has extensive experience in economics, real estate, hospitality consulting, market analysis, information technology, finance and other business consulting roles. We apply this knowledge in an effort to develop creative solutions to our clients' challenges. Additionally, our team has extensive experience in preparing economic and fiscal impact analyses. AA has been retained by a number of organizations and industries to review and analyze the economic, fiscal and social impacts of community investments and operations.

Given our nearly three decades of experience researching and analyzing the Nevada economy and its real estate markets, our team was well positioned to support the analytical elements incorporated in this report.

The historical perspective of new home construction defect trends and the evolution of legislative history and its impact is summarized herein. This summary report outlines the salient findings and conclusions of this review and analysis. The findings and estimates, as well as the data contained herein, are as of the date of this report and utilize the most recent data available. The authors have no responsibility to update this report for events and circumstances that may occur after this date.

The report contains economic, development and other predominant market data. This information was collected from various databases and third parties, including public and private data providers. The information collected was not subjected to any auditing or review procedures; therefore, the authors make no representations or assurances as to its completeness.



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THE URGENT CASE FOR REFORM: ELIMINATING ABUSES, ALIGNING INCENTIVES



The number of claims per new home in Nevada was
38 TIMES THE NATIONAL AVERAGE IN 2011¹³



ORIGINAL INTENT OF CONSTRUCTION DEFECT LEGISLATION IN NEVADA

Chapter 40 of the Nevada Revised Statutes (NRS) was enacted by the legislature in 1995 to establish a structured process for resolving construction defect disputes between homeowners and builders before issues progressed to litigation. The law created a legal framework for homeowners and homeowners associations (HOA) to bring claims against contractors and builders for construction defects and specifically introduced pre-litigation requirements, which included notifying the builder and contractor of the alleged defects to allow them the opportunity to inspect and repair any issues before litigation.

To further protect homeowners from financial losses due to contractor misconduct, the Residential Recovery Fund was established in 1999 as an alternative to costly litigation, providing a safety net for those impacted by defective construction. The fund was designed to ensure that homeowners with serious construction defects could receive financial assistance for repairs without having to endure lengthy legal battles.

However, that same year, an amendment to Chapter 40 introduced a provision allowing certain cases (known as “complex matters”) to bypass the pre-litigation process. While intended to streamline dispute resolution, this change unintentionally contributed to a dramatic increase in litigation (for more information, see *Impact of Construction Defect Legislation on the Residential Real Estate Market* later in this section). As a result, the number of claims filed per new home closing soared to the highest in the nation—1.35 claims filed per new home closing in Nevada in 2011, compared to 0.035 claims on average in the rest of the United States.¹⁴ In the span of only one year (2000 to 2001), 170 construction defect lawsuits were filed¹⁵ and from 2000 to 2012, construction defect claims in Nevada increased by 355 percent, even as new home sales declined by 86 percent.¹⁶

It was not until significant reforms in 2015 (see the section titled *AB 125: Comprehensive and Common-Sense Reform* later in this report) that these trends were reversed, bringing claims more in line with the nation as a whole while addressing homeowner needs. These reforms also helped stabilize the housing market, allowing it to recover and normalize after years of disruption.

A brief timeline of the evolution of Chapter 40 follows.

Construction Defect Legislation in Nevada: A Historical Timeline

1995

..... **NRS Chapter 40 Enacted¹⁷**

- Included pre-litigation requirements affording builders/contractors an opportunity to correct alleged defects and resolve disputes early
- Allowed attorney fees to be recovered as part of damages in construction defect cases

1999

..... **Senate Bill 32¹⁸**

- Included a key amendment that allowed for complex matters—involving HOAs of five or more separate residences—to bypass pre-litigation

2003

..... **Senate Bill 241¹⁹**

- Restored pre-litigation requirements for complex matters, including stricter notice and documentation requirements for defect claims
- Established the State Contractors Board as a resource to assist in resolving disputes
- Automatic recovery of attorney fees remained intact, providing incentives to pursue litigation instead of repair

2015

..... **Assembly Bill 125 (AB 125)²⁰**

- Narrowed the definition of constructional defects to exclude cosmetic or minor issues
- Required specificity for claimed defects in notices and during the inspection process
- Restricted HOAs from bringing construction defect cases on behalf of individually owned homes
- Eliminated automatic attorney fee recovery
- Created a unified statute of repose of 6 years

2019

..... **Assembly Bill 421²¹**

- Removed the requirement for specificity for claimed defects in notices and during the inspection process
- Eliminated the requirement for claimants to exhaust warranties
- Allowed claimants to recover incurred costs
- Extended the statute of repose to 10 years

WHAT IS A CONSTRUCTION DEFECT?



In Nevada, a “constructional defect”²² refers to a flaw in the design, construction, manufacture, repair or landscaping of a new residence, an addition to an existing residence or any related structure (appurtenance). This includes:

1. Defects that pose an unreasonable risk of injury to persons or property.
2. Work that is not performed in a good and workmanlike manner, resulting in physical damage to the residence, its related structures or the property to which it is attached.

While construction defects involve serious safety or structural concerns, minor or cosmetic issues—such as surface imperfections—are covered under builder warranties rather than defect claims. Like construction defect lawsuits, warranties provide homeowners with a formal process for seeking repairs. However, warranties

are designed to resolve routine issues efficiently, without the cost and complexity of litigation. They require builders to repair covered defects related to materials, workmanship, essential home components and major structural integrity within a set timeframe. This ensures timely repairs, while reducing unnecessary legal disputes.

Before 2015, Nevada’s broad definition of construction defects allowed claims for minor issues that likely should have been handled through warranty coverage. This ambiguity led to an increase in frivolous lawsuits, driving up construction costs and reducing housing supply due to uncertainty for builders and insurers. AB 125 reformed the law by narrowing the definition of construction defects to those causing injury or physical damage. This change reduced the potential for litigation abuse, provided greater certainty for builders and insurers and preserved access to justice for homeowners with legitimate defect claims.

EXPOSING HOA CORRUPTION: THE SCANDAL THAT DEMANDED STATUTORY REFORM

From 2007 to 2017, the largest federal public corruption investigation in Nevada history took place. Called “Operation Grandmaster,” the investigation focused on takeovers of HOAs throughout Southern Nevada, the filing of construction defect lawsuits by HOA boards and the steering of legal and repair work to the attorneys and contractors who masterminded the scheme. The investigation resulted in 44 criminal indictments issued to attorneys, unscrupulous contractors, private investigators, real estate agents, notary publics, community association managers, HOA board members and even members of law enforcement.

The scandal traces its roots to the late 1990s, when its architects came to two realizations. First, HOAs controlled large budgets, had scant oversight and were easily taken control of through the election and appointment of co-conspirators to board seats. Second, Nevada’s construction defect system at the time was prone to abuse as the definition of a defect was broad and vague. The law allowed attorneys to recover fees and costs irrespective of the severity of any alleged defects, and an HOA could file a construction defect on behalf of an entire community without homeowners’ consent or knowledge. As such, certain individuals realized that an enormous amount of money could be made by taking over an HOA board, filing a construction defect lawsuit on behalf of the community and steering the legal and repair work to select attorneys and contractors who were in on the scheme from the beginning.

The victims in this scheme were ultimately Nevada homeowners. As noted by the FBI’s lead investigator for Operation Grandmaster, the modus operandi of the conspirators was to “sue high, settle low, and do as little repair work as possible.”²³

Homeowners were simply pawns in a game. At the end of the day, the attorneys, contractors and other conspirators took in millions of dollars while the homeowners received a pittance, and often did not even have alleged defects repaired.²⁴

As the criminal investigation widened, the pressure mounted on the criminal conspirators. One prominent attorney involved with the scheme committed suicide before she could be charged.²⁵ Other high-profile convictions were widely covered by the media.²⁶ The HOA scandal was back in the news as recently as late 2024, when one of the chief conspirators had his sentence commuted by President Biden.²⁷

The monetary incentive at the heart of the HOA scandal was the lucrative nature of construction defect laws prior to 2015. To restore balance to the system, protect homeowners and ensure that legitimate defects were addressed, construction defect reforms were enacted in 2015. In cautioning against repealing the 2015 reforms, former FBI Special Agent Michael Elliott testified before the Nevada Legislature in 2019 that if those reforms were repealed, “there is no question as to whether this scheme will happen again in Nevada. Rather, the only honest question is when it will happen.”²⁸



The HOA/CD litigation scheme was a sophisticated, far reaching, mob inspired criminal scheme motivated by millions of dollars in potential illicit gain at the expense of hard-working Nevada homeowners. The lynchpin of the scheme was the ability to easily corrupt HOA boards and then use the authority of the board to unilaterally file CD [construction defect] lawsuits without individual homeowner’s specific consent.

—Michael B. Elliott, Former FBI Special Agent
(in a statement to the Nevada Senate Committee on Judiciary in opposition of AB 421 in May 2019)

Once-secret papers reveal how HOA scheme widened

Las Vegas Review-Journal

Inspired by his lucrative takeover of the Vistana homeowners association, then-construction company boss Leon Benzer moved swiftly a decade ago to broaden the scheme across the Las Vegas Valley, according to once-secret government trial papers....

Las Vegas Attorney and Three Others Convicted for Their Roles in a Fraudulent Scheme to Take Over Homeowners' Associations

U.S. Department of Justice

Following a 14-day trial, a federal jury in Las Vegas returned guilty verdicts yesterday in a case against a Las Vegas attorney and three others for their roles in a scheme to fraudulently take control of homeowners' associations (HOAs) for the purpose of directing the HOAs' construction defect litigation and repair work to a law firm and construction company owned by other co-conspirators....

HOA scandal involving millions of dollars and thousands of homes cuts wide swath across Las Vegas Valley

Vegas Inc.

In 2006, condominium owners in Las Vegas' Vistana community were accused by a lawyer of dreaming up wild, Oliver Stone-like conspiracy theories as they complained about corruption in their community association....

THE COST OF LITIGATION: HOW A FLAWED SYSTEM BURDENED HOMEOWNERS AND BUILDERS

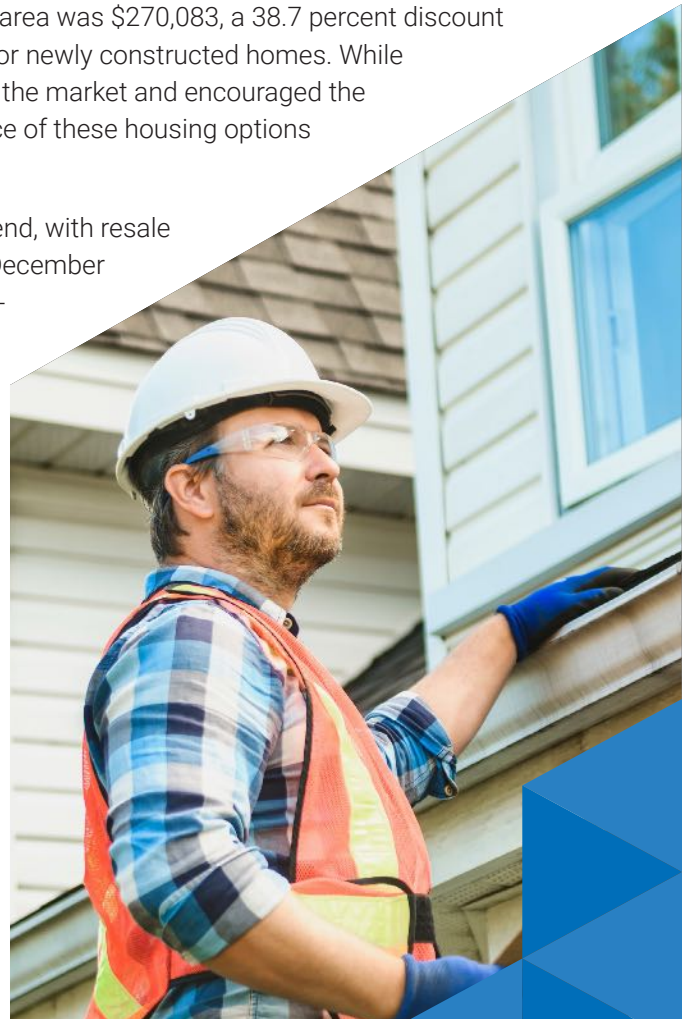
GROWING AFFORDABILITY CONCERNS AND THE NEED FOR ATTACHED HOUSING OPTIONS

Nevada's housing market has become increasingly unattainable, with affordability concerns extending beyond single-family homes to multi-family housing options. While attached for-sale products, such as condominiums and townhouses, have historically provided more affordable alternatives to detached homes, their development was significantly disrupted by construction defect legislation. As described later in this report, legal uncertainty and excessive claims deterred builders from constructing multi-family housing throughout the 2000s, limiting a crucial entry point into homeownership.

Multi-family housing options play a critical role in addressing affordability challenges, as these products typically have lower purchase prices and maintenance costs due to their smaller sizes. In December 2023, the median price of resale condos and townhouses in the Las Vegas area was \$270,083, a 38.7 percent discount compared to single-family homes.²⁹ Similar trends exist for newly constructed homes. While the 2015 legislative reforms helped restore confidence in the market and encouraged the return of multi-family development, the prolonged absence of these housing options continues to limit supply and affordability.

Nevada's affordability crisis reflects a broader national trend, with resale and new home market prices continuing to climb. As of December 2023, the median price of resale homes—including single-family homes, condominiums and townhouses—was \$395,000 in the Las Vegas market area and \$505,000 in the Reno market area.³⁰ New home prices were even higher, reaching \$478,706 in the Las Vegas area and \$641,718 in the Reno market area.³¹ Both markets remain near all-time highs, making homeownership increasingly difficult.

Short-term economic factors, including rising mortgage rates and the lock-in effect, where homeowners hesitate to sell to preserve their lower-rate mortgages, have constrained housing availability and driven up resale prices. At the same time, long-term challenges, such as limited land supply, a slowdown in home building and elevated construction costs, have further restricted the



More than 8 out of 10 households in Nevada

CANNOT AFFORD THE MEDIAN PRICE OF A NEW HOME.³⁸

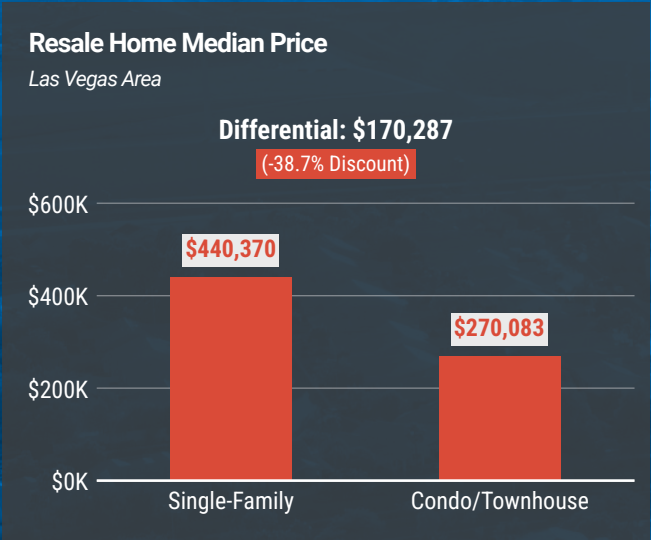
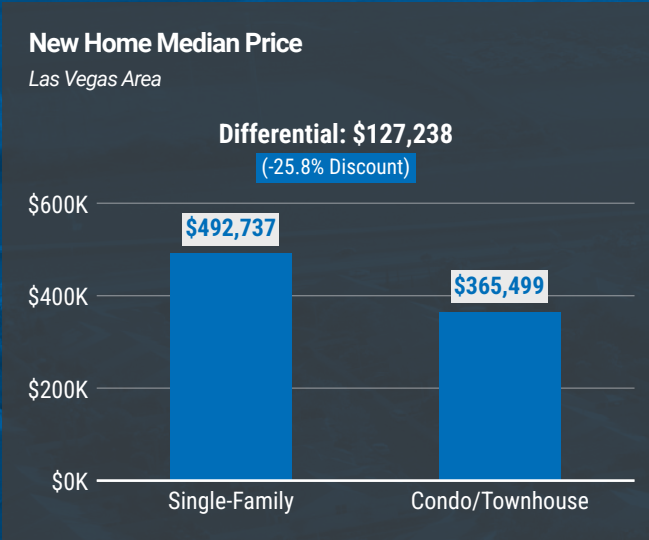
supply of new homes. Notably, residential development has struggled to keep pace with population and employment growth. In Southern Nevada, only one building permit is issued for every six new jobs³² — a significant shortfall compared to the historical ratio of one permit per two jobs.³³ Should barriers for future development emerge, housing shortages will only be exacerbated and/or put additional upward pressure on pricing.

According to the National Association of Home Builders (NAHB), 83.1 percent of Nevada households cannot afford the median price of a new home.³⁴ Even for current homeowners, affordability remains a challenge. Housing is generally considered unaffordable when annual homeownership costs exceeds 30 percent of the median household income. In Nevada, homeowners—particularly in the Reno area—spend well beyond this threshold, with some paying nearly twice the acceptable amount.

With homeownership becoming increasingly unattainable, the rental market has absorbed much of

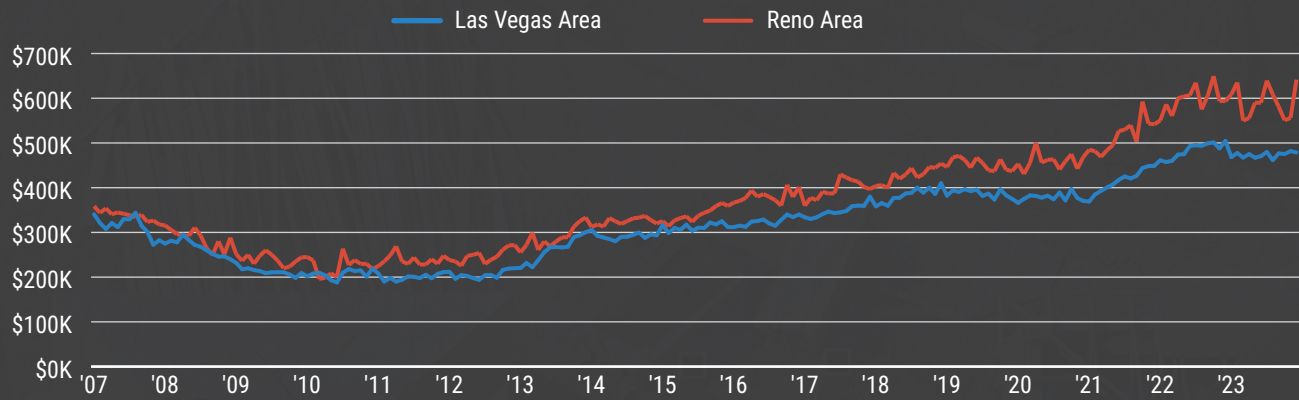
the demand from those unable to buy, further straining affordability. Between 2007 and 2023, rental prices in the Las Vegas metro area increased by 57.5 percent—significantly faster than the 42.2 percent increase in overall monthly costs of owning a home, which includes mortgage payments, property taxes and insurance.³⁵ This growing affordability gap has forced more households to remain in the rental market, intensifying competition for available units and inflating rents.

Despite recent increases in vacancy rates in the Las Vegas area, the market continues to experience a severe shortage of affordable housing. According to the National Low Income Housing Coalition’s 2024 The Gap report, Nevada has only 14 affordable and available rental homes per 100 extremely low-income renter households—the lowest availability rate in the country.³⁶ In Las Vegas, this figure drops to 13 per 100 households, leaving a statewide deficit of 113,590 affordable rental units.³⁷ This persistent shortage, even as overall rental availability has risen in recent years, underscores a fundamental mismatch between supply and demand.



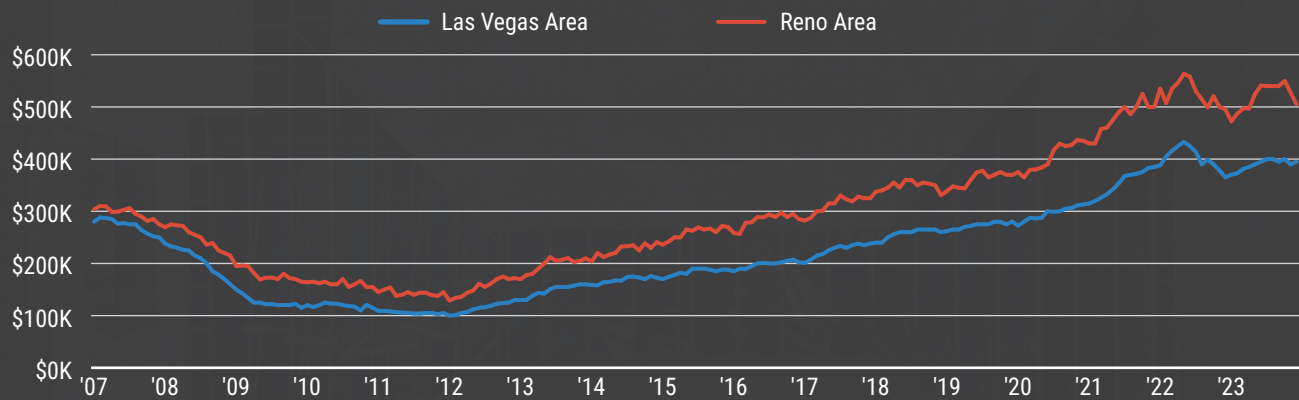
Source: SalesTraq; LVR. Note: Based on 2023 data.

New Home Median Closing Price



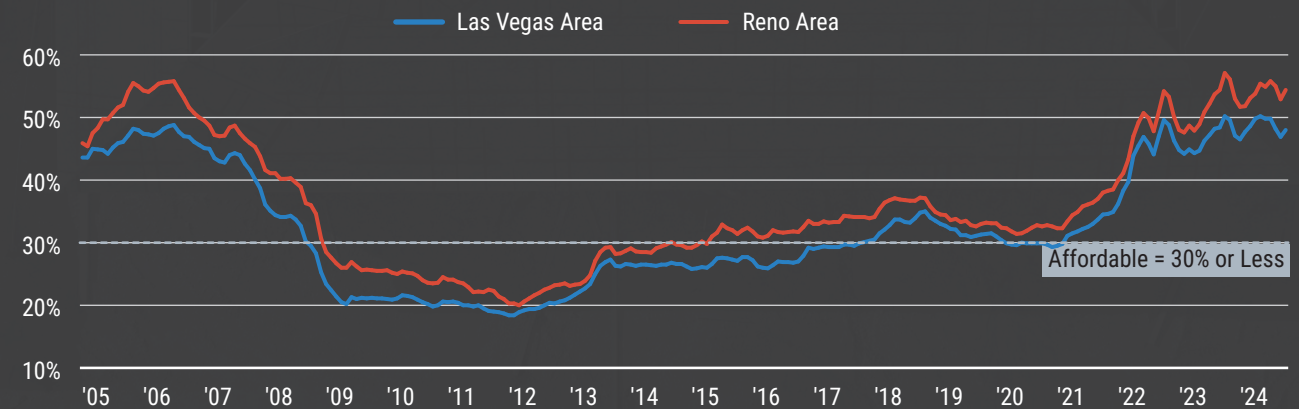
Source: SalesTraq

Resale Home Median Closing Price



Source: SalesTraq

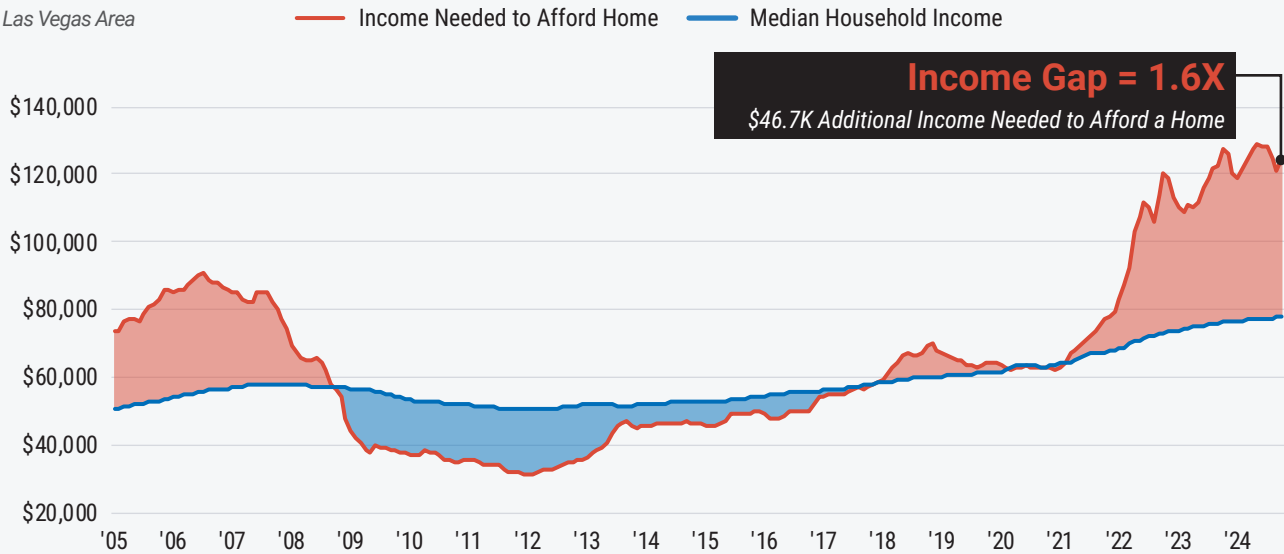
Share of Income Spent on Housing



Source: Federal Reserve Bank of Atlanta.

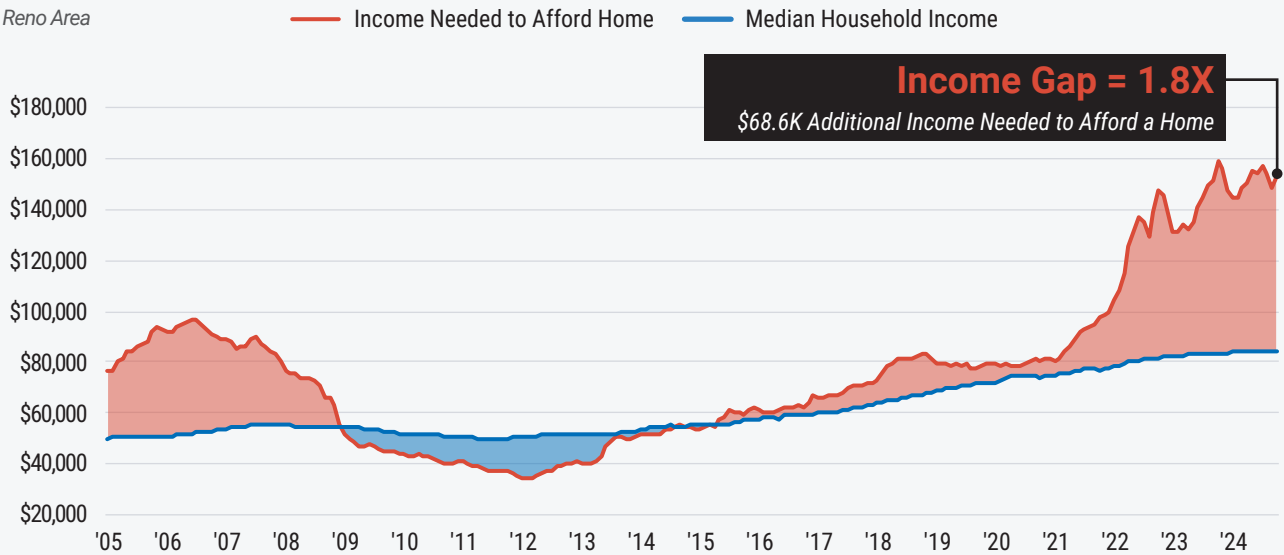
Income Gap

Las Vegas Area



Income Gap

Reno Area



Homeownership is generally considered affordable if housing costs comprise 30 percent or less of the median household income. Currently, households around the country are spending significantly more than this on homeownership.

INCOMES WOULD NEED TO INCREASE BY MORE THAN 1.6X TO CREATE A BALANCED ENVIRONMENT IN NEVADA.

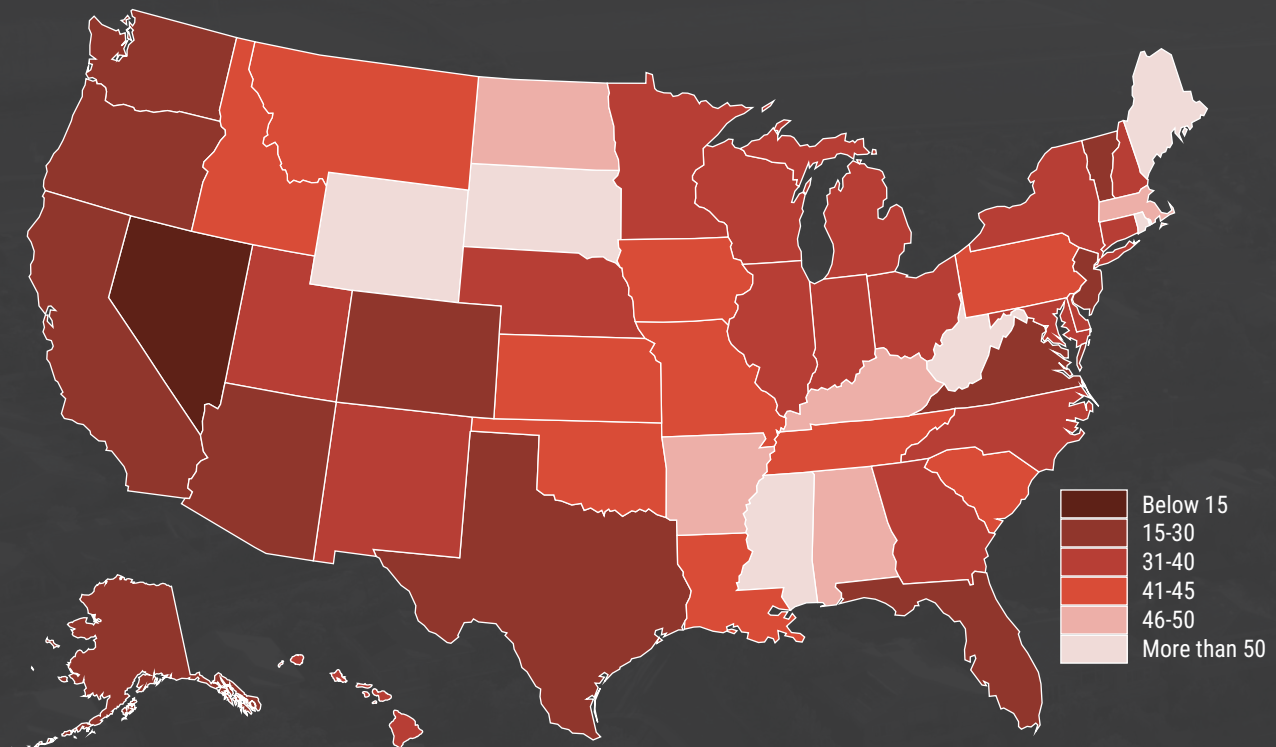


Extremely low-income renters face the most severe shortages in Nevada, Arizona, California, Alaska, Florida and Texas.

NEVADA HAS ONLY 14 AFFORDABLE AND AVAILABLE RENTAL HOMES FOR EVERY 100 EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.

—National Low Income Housing Coalition
(Excerpt from *The Gap March 2024 Report*)

Affordable and Available Rental Homes per 100 Extremely Low-Income Renters



Source: National Low Income Housing Coalition. **Note:** Extremely low-income renters have incomes at or below either the federal poverty guideline or 30 percent of their area median income, whichever is greater.

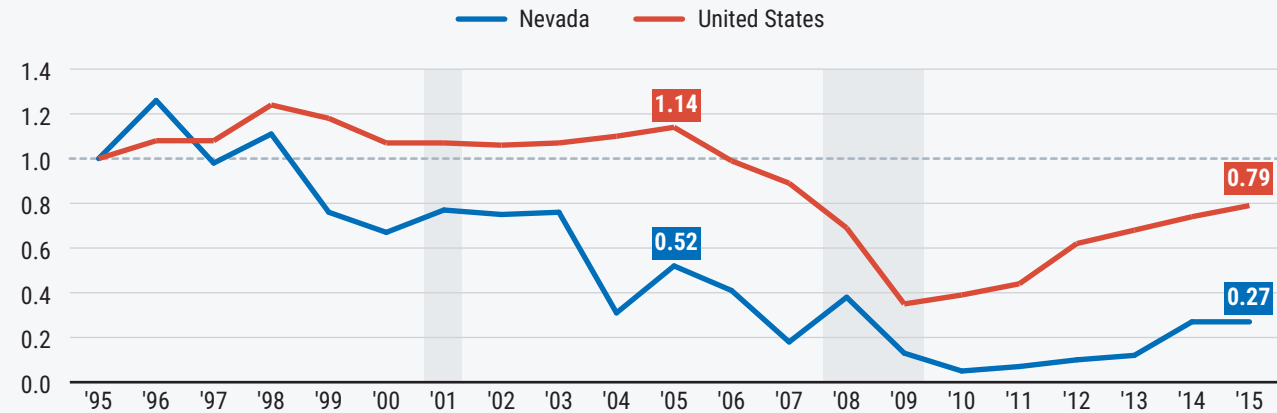
IMPACT OF CONSTRUCTION DEFECT LEGISLATION ON THE RESIDENTIAL REAL ESTATE MARKET

Increasing construction defect lawsuits in the 2000s had widespread economic consequences across Nevada, particularly for condo and townhouse development. Under the amendments introduced to NRS Chapter 40 in 1999, cases involving “complex matters,” such as claims filed by HOAs or those involving five or more separate residences, were not required to go through a pre-litigation repair process with contractors before filing a lawsuit. Because condos and townhouses are typically governed by HOAs, they were disproportionately targeted in these lawsuits.

Despite reforms introduced in 2003 to strengthen the pre-litigation process for construction defect claims, litigation remained a significant issue for the home building industry, contributing to rising insurance costs and discouraging developers from pursuing attached housing projects. As a result, condo and townhouse development began declining well before the Great Recession and remained slow even as national markets rebounded.

New Construction of Multi-Family Units (5+ Units)

Indexed to 1995



Source: United States Census Bureau



OUR INSURANCE PREMIUMS ESCALATED FROM
\$47,000 a year in 1997 to **\$750,000** a year in 2002
IT WAS AT THAT TIME WE DECIDED WE HAD TO STOP BUILDING.

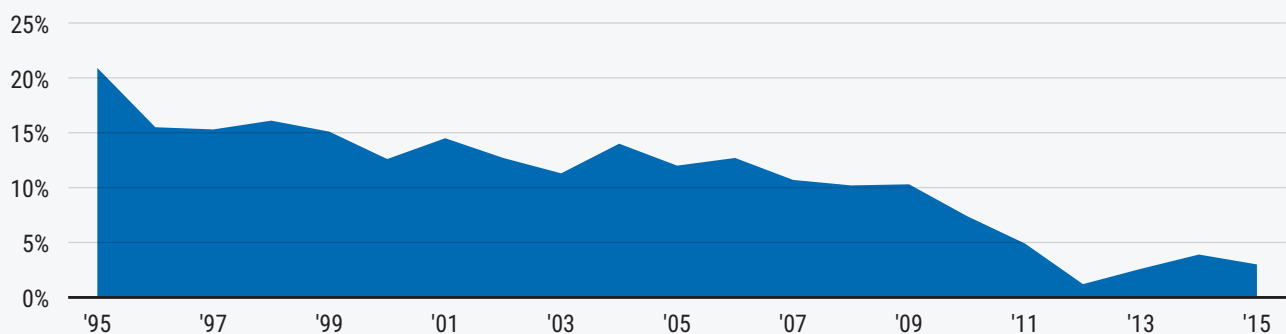
—Jesse Haw, Former President of Nevada Home Builders Association
(in a statement to the Nevada Judiciary Senate in opposition of AB 421 in May 2019)

Data from the United States Census Bureau illustrates that between 1995 and 2015, the number of newly constructed structures with five or more units decreased by 73 percent in Nevada, from almost 940 structures per year to a little more than 250 structures per year.³⁹ During the same period, the share of new home permits in Southern Nevada comprising attached products dropped from 21 percent to 3 percent.⁴⁰

While the Great Recession likely contributed to this slowdown, Nevada's decline had already begun well before the economic downturn and persisted long after national markets recovered. Notably, in 2005, prior to the Great Recession, only 486 multi-family buildings were constructed in Nevada—a roughly 50 percent decline from 1995 levels. In contrast, the broader United States experienced a 14 percent increase in the number of constructed buildings during the same period.⁴¹

Share of New Home Permits Comprising Attached Product

Southern Nevada



Source: Southern Nevada Home Builders Association

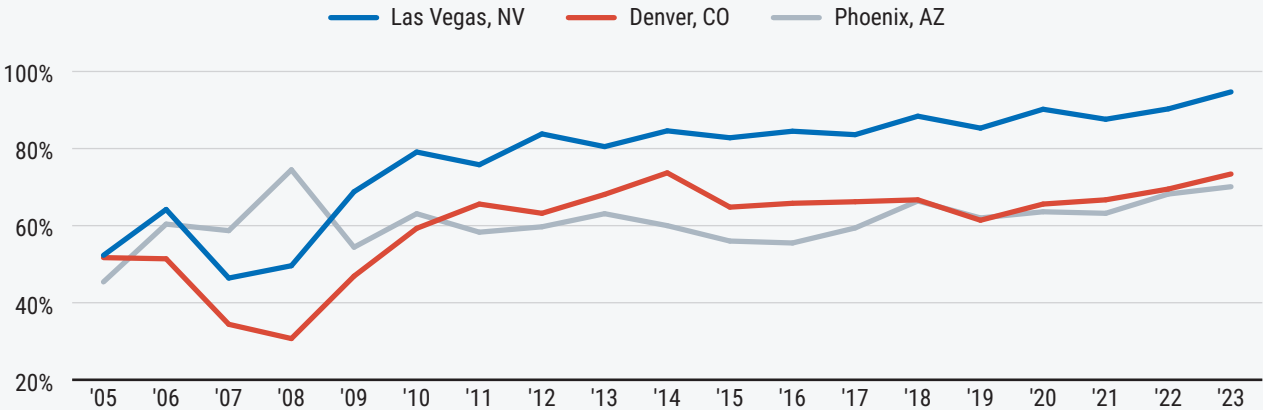
The home building insurance market was also disrupted, as fewer insurers covered builder liability and rising premiums created an unsustainable environment. From 1996 to 2001, the number of builders constructing 10 or more homes in Southern Nevada dropped by 30 percent, from 157 to 110.⁴² Many ceased operations, while those that remained faced higher costs. Smaller builders were hit hardest, as larger builders could self-insure. By 2012, the top 10 builders in the Las Vegas area controlled 83.8 percent of the market, far exceeding other comparable metro areas such as Denver (63.2 percent) and Phoenix (59.7 percent), highlighting the impact of market consolidation.⁴³ While the 2015 legislative reforms addressed excessive litigation and stabilized the industry, market share for the top 10 builders has continued to grow, now reaching nearly 95 percent. This trend reflects broader shifts in the housing industry, including rising land and development costs and economies of scale that benefit large builders, limiting opportunities for smaller builders to re-enter the market.⁴⁴

“

There was a chilling effect in the 1990s when people just stopped building condos.

– Keith Lynam, Former Greater Las Vegas Association of Realtors President

Top 10 Builders' Market Share by Metro Area



Source: BUILDER Magazine. **Note:** Based on the Local Leaders annual publication from BUILDER Magazine, which identifies the market share of the top 10 home builders for the largest new home markets in the United States (ranked by single-family home permits). The description of metro areas may vary slightly from year-to-year.

IMPACTS OF CONSTRUCTION DEFECT LEGISLATION ON BUILDER INSURANCE

500%+ INCREASE
in insurance premiums



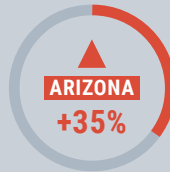
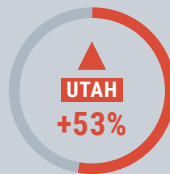
PER HOME CONSTRUCTED BETWEEN 1999-2003⁴⁵



ZERO LICENSED
insurers selling construction
LIABILITY INSURANCE TO BUILDERS IN NEVADA IN 2003
(down from 15)⁴⁶



NEVADA HOME BUILDER INSURANCE
costs far exceed
SURROUNDING STATES⁴⁷



HOW HOMEOWNERS BECAME TRAPPED IN LENGTHY CONSTRUCTION DEFECT LAWSUITS

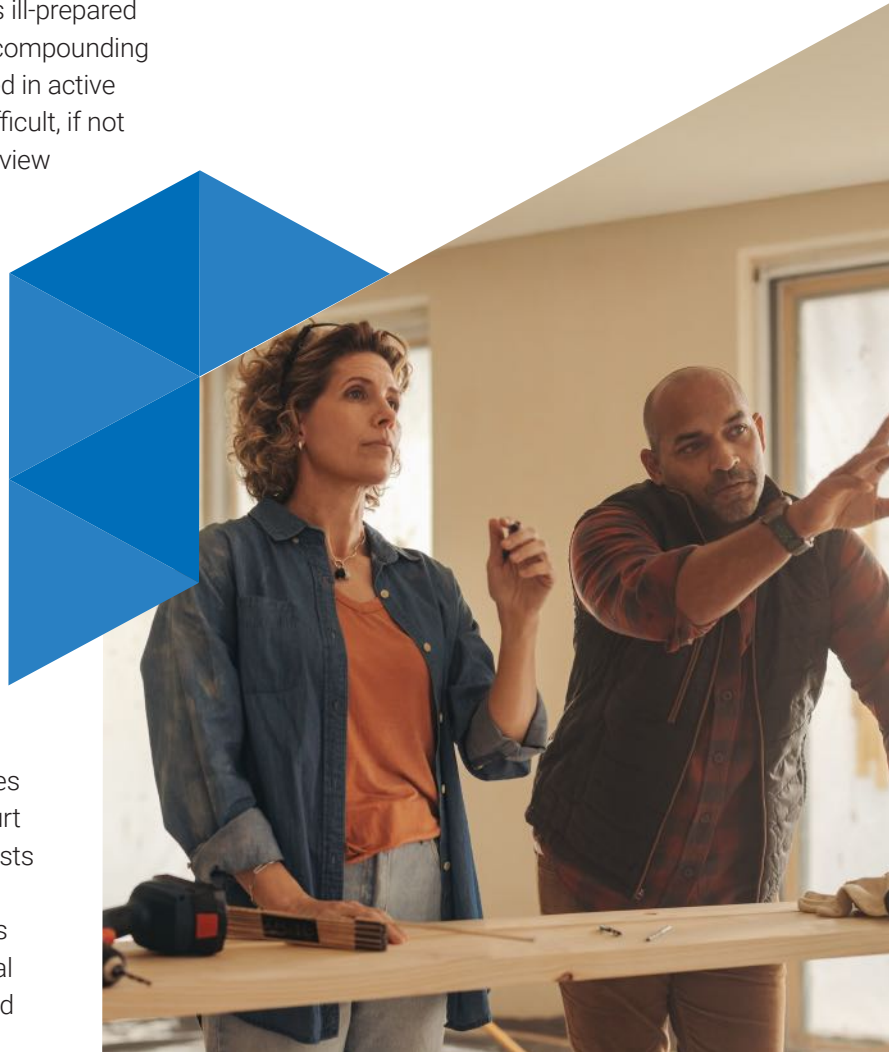
It was evident that many homeowners were largely out-of-the-loop regarding construction defect remedies at the time. A significant number were unaware of the resolution options available to them and often uninformed of claims filed on their behalf. In a 2015 survey of homeowners involved in construction defect litigation, more than half did not know their builder offered warranty coverage that could have been pursued prior to suing.⁴⁸ Nearly two-thirds entered litigation without ever contacting their builder or developer about the issue with their home.⁴⁹ Furthermore, the majority of homeowners indicated that their HOA, not themselves, initiated legal action by engaging an attorney.⁵⁰ Only two percent personally sought out legal representation.⁵¹ As a result, nearly seven out of 10 homeowners reported learning about the lawsuits involving their homes only after they had been filed.⁵²

This lack of awareness left homeowners ill-prepared to navigate the litigation process, often compounding their financial difficulties. Homes involved in active construction defect lawsuits became difficult, if not impossible, to sell or refinance. Lenders view properties under litigation as high-risk, making it challenging for homeowners to secure loans or find willing buyers. Specifically, properties in active litigation are ineligible for Fannie Mae and Freddie Mac aftermarket mortgage purchases; this exclusion can limit a homeowner's ability to obtain conventional loans or attract buyers relying on such financing.^{53, 54}

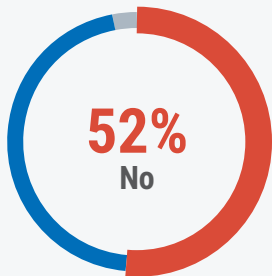
Additionally, the frequent imbalance between attorney fees and homeowner recovery underscored the inefficiencies of the legal process and highlighted how the system disproportionately benefited some parties over others. In one notable case, the court awarded \$10 million in legal fees and costs while only \$585,000 was awarded for actual damages. The interest on the fees alone amounted to three times the actual damages.⁵⁵ At the time, attorney fees and costs were considered an entitlement

under the law. Combined with the vague definition of a construction defect, this system incentivized litigation and contributed to disproportionate outcomes like the one described above.

While legislative reforms in 2015 sought to address these issues, recent survey data suggests that homeowners continue to seek legal representation when warranty claims are not resolved to their satisfaction. A 2024 survey of new homebuyers found that approximately 3 percent of all respondents contacted a lawyer after being dissatisfied with the resolution of their warranty claims.⁵⁶ Though the methodologies of the 2015 and 2024 surveys differ, this data suggests that a small but consistent percentage of homeowners continue to seek legal counsel when warranty resolution processes do not meet their expectations.



HOMEOWNER PERCEPTIONS IN 2015

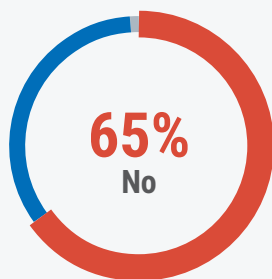


Were you aware of any warranty coverage for defects provided by the builder of your home?

46% Yes

52% No

3% Don't Know/
Refused

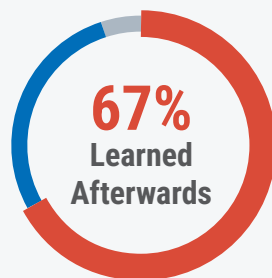


Did you ever contact the builder or developer from whom you purchased the home about the problem?

34% Yes

65% No

1% Don't Know/
Refused



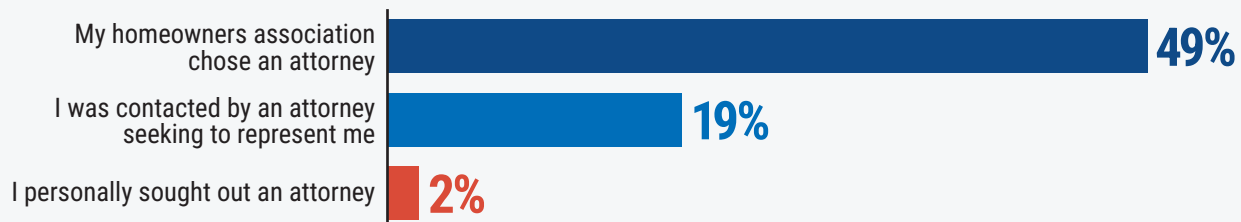
Were you aware of the construction defect lawsuit involving your home before the lawsuit was filed or did you learn about it afterwards?

28% Aware

67% Learned
Afterwards

5% Don't Know/
Refused

Which of the following best describes how you came to be represented by a construction defect attorney?



Note: Approximately 30 percent indicated, other, don't know or refused.

Source: LUCE Research, Survey of homeowners involved in construction defect litigation (February 2015). **Note:** The survey was conducted with a sample of 200 homeowners in the Las Vegas and Henderson area who had experience with previous construction defect litigation.

AB 125: COMPREHENSIVE AND COMMON-SENSE REFORM

RESTORING FAIRNESS AND PREDICTABILITY⁵⁷

Prior to 2015, the construction defect system in Nevada was heavily skewed to favor litigation over resolution. While ostensibly providing a builder with an opportunity to inspect and repair alleged defects prior to litigation, Nevada law led to the opposite result, as described in detail in the previous section. A broad definition of a defect, an entitlement to attorney fees and costs regardless of the severity of the defect and the ability for HOAs to file community-wide construction defect lawsuits created an environment that invited prolonged litigation.

Heading into the 2015 legislative session, several key objectives were identified to reform Nevada's construction defect laws and address systemic challenges affecting the housing market. A primary goal was to encourage homeowners and builders to quickly resolve disputes by strengthening pre-litigation requirements, fostering collaboration and reducing the reliance on costly and time-consuming lawsuits. Another focus was to reduce the time required to resolve defect disputes, ensuring that legitimate claims could be addressed more efficiently while minimizing delays caused by frivolous or overly broad cases. The reforms also sought to lower the cost of resolving disputes for builders, contractors and insurers, whose escalating financial burdens had driven many out of the market and increased construction costs. Finally, there was an emphasis on restoring the viability of entry-level attached housing, which had become unattainable for many due to rising costs and reduced development activity. By addressing these objectives, a more balanced and sustainable system could be created to protect homeowners and revitalize Nevada's housing market.

BUILDING A BETTER FRAMEWORK: KEY OBJECTIVES OF NEVADA'S 2015 CONSTRUCTION DEFECT REFORMS



**FOSTER
HOMEOWNER-
BUILDER
COLLABORATION
THROUGH
PRE-LITIGATION
RESOLUTIONS**



**ACCELERATE
RESOLUTION
OF LEGITIMATE
DEFECT
DISPUTES**



**REDUCE
FINANCIAL
BURDENS ON
BUILDERS,
INSURERS
AND OTHER
STAKEHOLDERS**



**REVIVE THE
MARKET FOR
AFFORDABLE
ATTACHED
HOUSING
OPTIONS**

REFORMS INTRODUCED IN 2015 (AB 125)⁵⁸

During the 2015 regular session of the Nevada Legislature, the passage of Assembly Bill 125 (AB 125) heralded long-due reforms to the construction defect resolution system. The new law aimed to both protect homeowners and revitalize a sluggish home building sector. As outlined by the Nevada Home Builders Association in 2019, the following reforms were put in place in 2015 by AB 125:⁵⁹

- Clearly defined a construction defect, requiring either physical damage to a residence or an unreasonable risk of physical damage to persons or property.
- Removed the unique construction defect statutory entitlement to attorney fees and costs.
- Set forth a consistent 6-year statute of repose on construction defect claims.
- Required notices of construction defects be specific – including the exact location of the defect – so that a builder can pinpoint problems and get them fixed. If an expert is used by a claimant, the expert must be present during any home inspections.
- Limited HOA cases to common areas. This directly addressed the significant problems in Las Vegas where HOAs were commandeered by a small minority and steered into construction defect litigation with limited involvement from the community. Several of those abuses resulted in criminal prosecutions and convictions.
- Required notices of defects to be on a house-by-house basis – removed the prior rule allowing for notices to be based on similarly situated homes.
- Required that available home warranties be explored and exhausted before going to court.
- Allowed for binding pre-litigation offers of judgement. This allows either party to make an offer of judgement from the start and allows a court to award fees and costs if a reasonable offer is rejected.
- Set forth clear and equitable rules on the scope of indemnification clauses between home builders and subcontractors.

REFINEMENTS TO THE LAW IN 2019 AND BEYOND

After political changes at the Nevada Legislature and in the Nevada Governor's office, these reforms were revisited in 2019. Importantly, the 2015 reforms revising the definition of a defect and removing the entitlement to attorney fees remained intact. The 2019 changes, as set forth in Assembly Bill 421,⁶⁰ were as follows:

- Notices of construction defect must identify alleged defects in "reasonable" detail instead of in "specific" detail.
- A claimant or a claimant's representative must be present during an inspection instead of requiring the claimant's expert to be present.
- A claimant must "diligently pursue" any warranty claims prior to filing suit instead of exhausting warranty claims. A claimant has no obligation to provide a builder with information on available warranties.
- A claimant's costs may be awarded by a court regardless of whether defects are proved.
- Statute of repose extended from 6 years to 10 years, retroactive to previously built homes.
- HOA standing for construction defect cases expanded to include not only common elements, but also any portion of the community owned by the HOA or for which the HOA has an obligation to repair, replace, insure or maintain as stated in the community governing documents.

The Legislature declined to act on proposals from special interest groups to revisit the law in 2021 and 2023 because constituent concerns had been addressed and changes could significantly impact housing costs.



**IN 2016, MY BROTHER AND I BUILT THE FIRST SUBDIVISION
IN OUR FAMILY IN OVER 14 YEARS. THIS WAS DIRECTLY ATTRIBUTABLE
TO THE CHANGES IN CHAPTER 40.**

—Jesse Haw, Former President of Nevada Home Builders Association
(in a statement to the Nevada Judiciary Senate in opposition of AB 421 in May 2019)

SPECIFICITY IN NOTICES, INSPECTIONS AND ELECTIONS TO REPAIR

CHALLENGES UNDER CURRENT LAW



A fundamental component of Nevada construction defect law is the Notice and Opportunity to Repair (NOR) process, which allows contractors to inspect and address alleged defects before litigation begins. This process is intended to facilitate timely and efficient repairs, reducing the need for prolonged legal disputes.

The NOR process begins when a claimant submits a Chapter 40 notice to a contractor. The contractor is then entitled to physically inspect the alleged defects, along with any subcontractors who performed work related to them. After completing the inspection, the contractor must provide the claimant with written notice of any defects it elects to repair.

Between 2015 and 2019, Chapter 40 notices were required to provide “specific” details about each claimed defect, including its “exact location.” During inspections, claimants had to be physically present to identify the precise location of defects, and if an expert was used to assess defects, that expert was also required to attend. This process was generally effective, as it enabled contractors and subcontractors to efficiently locate and inspect defects, facilitating timely repair decisions.

In 2019, changes were made to the NOR process. The requirement for “specific” details was replaced with a “reasonable” level of detail, and the obligation to include the “exact location” of defects in Chapter 40 notices was eliminated. Additionally, claimants and their experts were no longer required to attend inspections. Instead, a claimant’s “representative” could attend, and they were only required to identify the “proximate location” of defects rather than their exact position.

These changes have substantially weakened the effectiveness of the NOR process. Contractors now face difficulties understanding the nature of the defects described in Chapter 40 notices, making it harder to determine which subcontractors should participate in inspections. As a result, inspections have become inefficient and often ineffective, with contractors and subcontractors left to guess where defects might be located within a home. This uncertainty has led to fewer elections to repair, as contractors are unable to definitively identify and assess claimed defects. Consequently, delays in inspections and repairs have increased, and frustration has grown among contractors and subcontractors over their respective roles in construction defect proceedings.

MEASURING THE IMPACT OF AB 125

AB 125 resulted in meaningful construction defect reforms, the impact of which can be seen in data on Chapter 40 claims, as well as positive trends observed in the residential construction market post-2015.

IMPACT ON CHAPTER 40 NOTICES

To evaluate the impact of AB 125 on NRS Chapter 40 notices (construction defect claims), Leading Builders of America and McDonald Carano conducted a survey of residential builders operating in Nevada about the historical number of NRS Chapter 40 notices filed and the ultimate resolution of those filings. The survey was conducted twice, once between January and February 2019 and again between November 2024 and January 2025. Participating builders included some of the largest national builders and reflected a representative sample of those operating in Nevada. Trends in the number of construction defect claims, the cost to settle those claims and the average length of time to settle demonstrates the positive benefits of AB 125 on the industry and ultimately the homebuyer.



REDUCED NUMBER OF CHAPTER 40 NOTICES

The average annual number of Chapter 40 notices has dropped by more than 70 percent since implementation of AB 125. From 2010 to 2014, an average of 812 claims involving 2,399 homes were filed each year, compared to 231 claims representing 646 homes annually from 2015 to 2023. Although the number of notices has increased slightly in recent years, overall trends remain well below pre-2015 levels. This suggests that while frivolous claims have diminished, homeowners with legitimate reasons to pursue litigation still retain access to the process.



LOWER COST TO SETTLE CHAPTER 40 CLAIMS

The cost to settle construction defect claims averaged \$32.1 million annually between 2010 and 2015. Following the implementation of AB 125, these costs decreased by 10.9 times to an average of \$2.9 million per year from 2016 to 2023. This reduction can be attributed in part to the elimination of automatic recovery of attorney fees, which previously incentivized excessive litigation and inflated settlement amounts. Importantly, this decrease does not suggest that homeowners were under-compensated; rather, it reflects a shift toward resolving legitimate claims more efficiently and reducing unnecessary legal expenses. It is also worth noting that the full benefits of AB 125 likely only began to materialize in 2016, given the time typically required to resolve claims during that period.



SHORTER AVERAGE TIME TO SETTLE CHAPTER 40 CLAIMS

Crucially, the average time to resolve construction defect claims has decreased significantly. At their peak in 2012, claims took nearly 3.5 years to close, with an average resolution time of 35 months between 2010 and 2014. Since 2015, this average has dropped by nearly half, with claims filed between 2015 and 2023 taking just 18 months to resolve. Fluctuations in resolution times, including increases in 2020 and 2023 may reflect the combined effects of the 2019 changes to AB 125, which loosened certain pre-litigation requirements, and COVID-related disruptions, such as court closures, supply chain delays and labor availability.

As noted previously, recent survey data indicates that homeowners continue to seek legal representation at rates comparable to 2015, suggesting that while litigation has declined, AB 125 reforms have not restricted access to justice.^{61, 62} Homeowners can still pursue legal action against builders when necessary. Additionally, construction quality remains high, with nearly 86 percent of Las Vegas homebuyers expressing satisfaction with home quality—surpassing Denver (81.2 percent) and Phoenix (77.3 percent).⁶³

Overall Satisfaction Among New Homebuyers

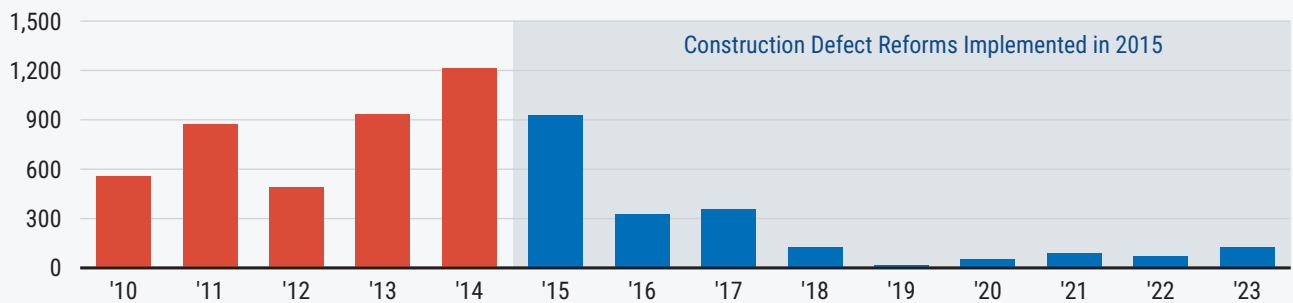
Construction Quality

Las Vegas	85.7%
Denver	81.2%
Phoenix	77.3%

Source: Leading Builders of America. **Note:** Based on a survey of 1,967 homeowners across all home builders in all markets. Each of the four home builders asks the same questions to homeowners in each market after approximately 11-12 months of ownership.

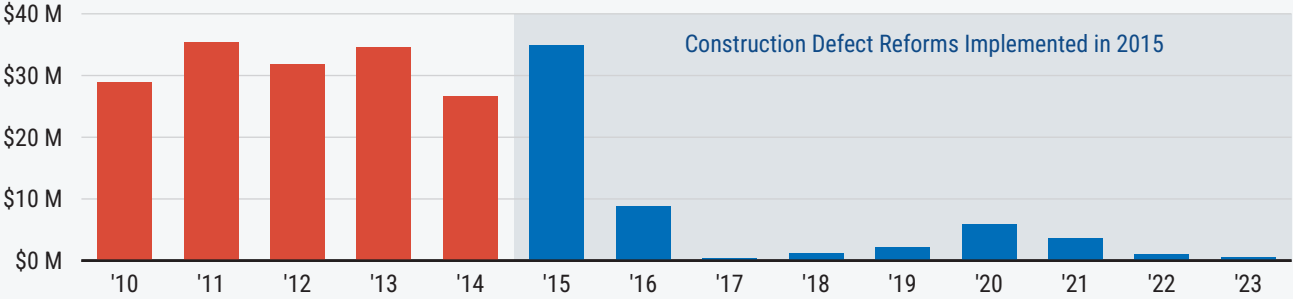
Number of Chapter 40 Notices

Nevada



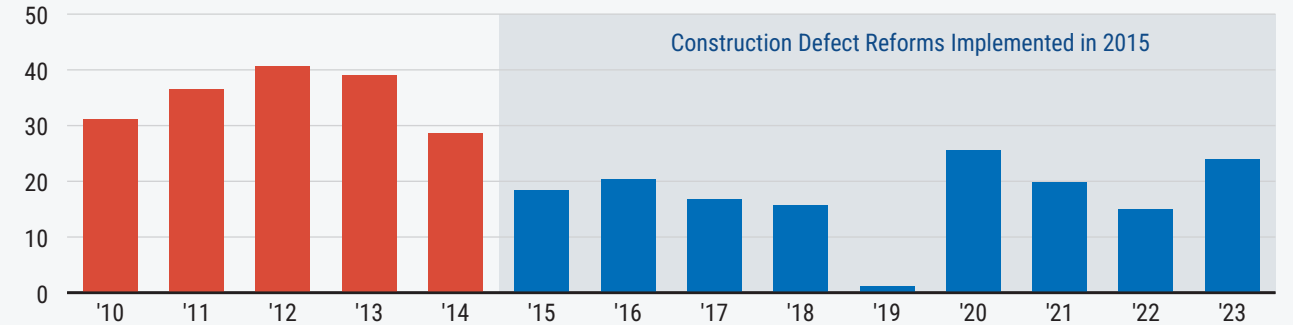
Total Cost to Settle

Nevada



Average Time to Settle (Months)

Nevada



Source: Leading Builders of America, McDonald Carano. **Note:** Based on a survey of residential builders operating in Nevada conducted twice, once between January and February 2019 and again between November 2024 and January 2025. Participating builders included some of the largest national builders and reflected a representative sample of those operating in Nevada.

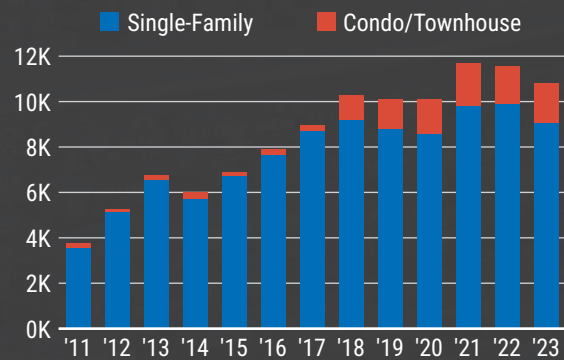
IMPACT ON THE RESIDENTIAL REAL ESTATE MARKET

ATTACHED HOUSING SUPPLY

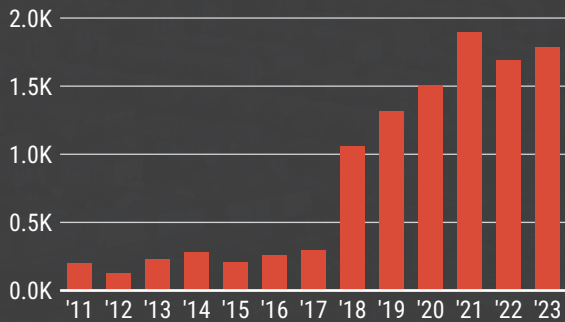
The implementation of AB 125 helped reinvigorate Nevada’s housing market and restore the supply of attached housing products across the state. Following the 2015 reforms, the share of new home closings involving attached products (condos/townhouses) increased significantly, accounting for over 16 percent of all Southern Nevada new home closings by 2023.⁶⁴ Similarly, the number of actively selling subdivisions in the area offering condos and townhouses grew from just 6 subdivisions (4 percent of all subdivisions) in 2013 to 32 subdivisions (17 percent of all subdivisions) in 2024.⁶⁵ A map of the actively selling subdivisions in the Las Vegas area in 2024 highlights the diverse range of locations across the valley now offering attached housing options.

SOUTHERN NEVADA NEW HOME MARKET

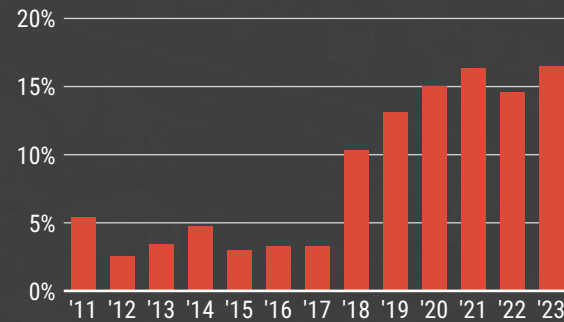
Total Number of Closings



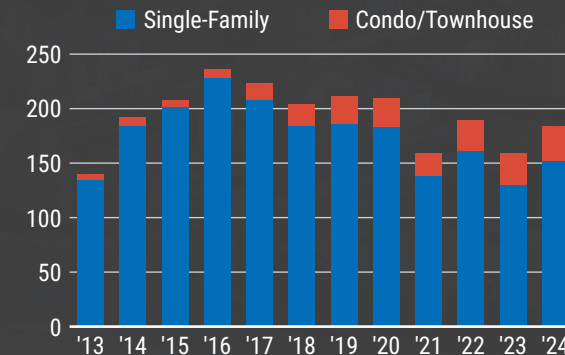
Attached Product (Condo/Townhouse) Closings



Attached Product (Condo/Townhouse) Market Share



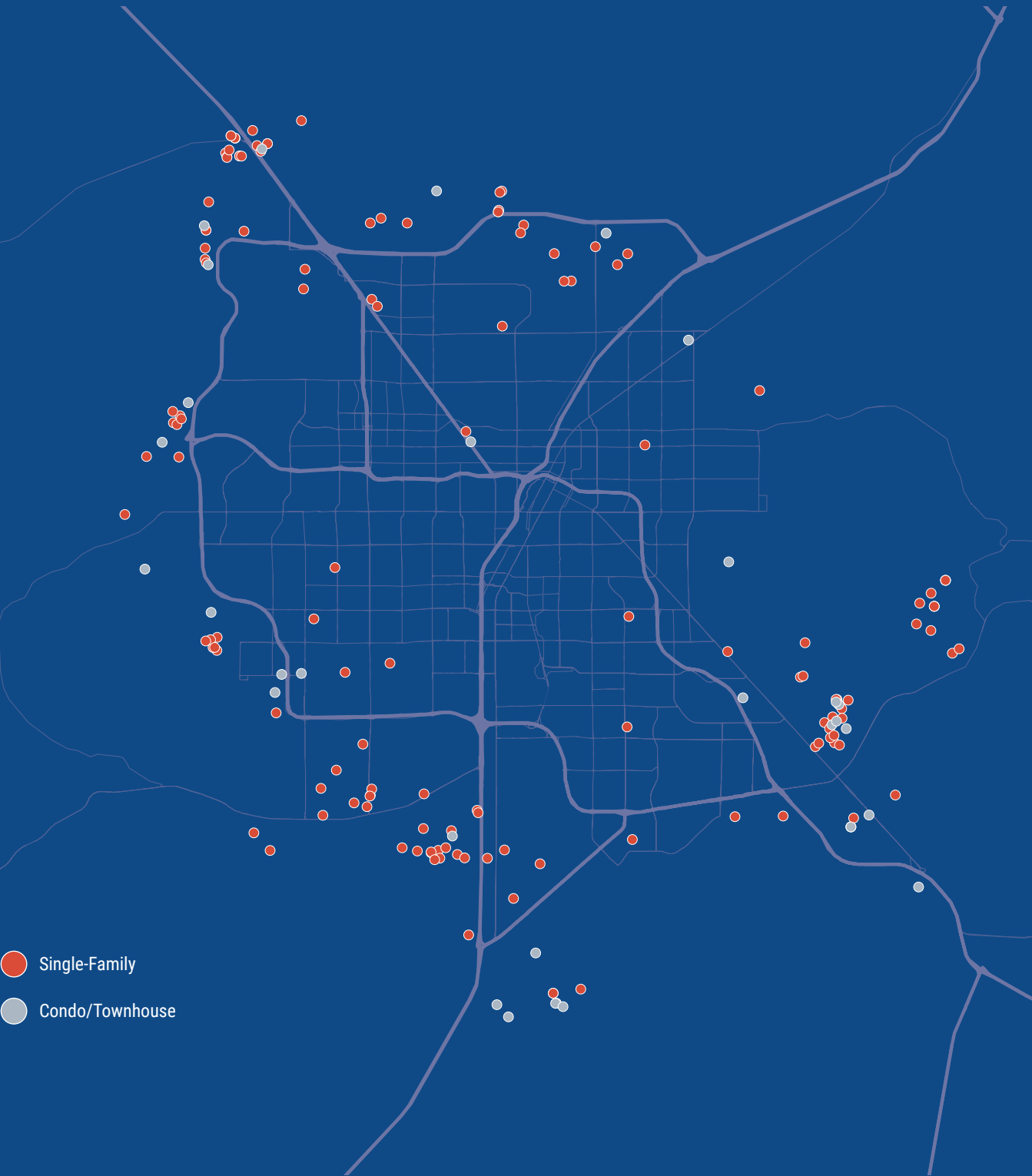
Actively Selling Subdivisions



Source: SalesTraq. **Note:** Data as of December of each year, except for 2013 and 2024, which are as of September of the given year. Condo and townhouse count excludes hi- and mid-rise condos.

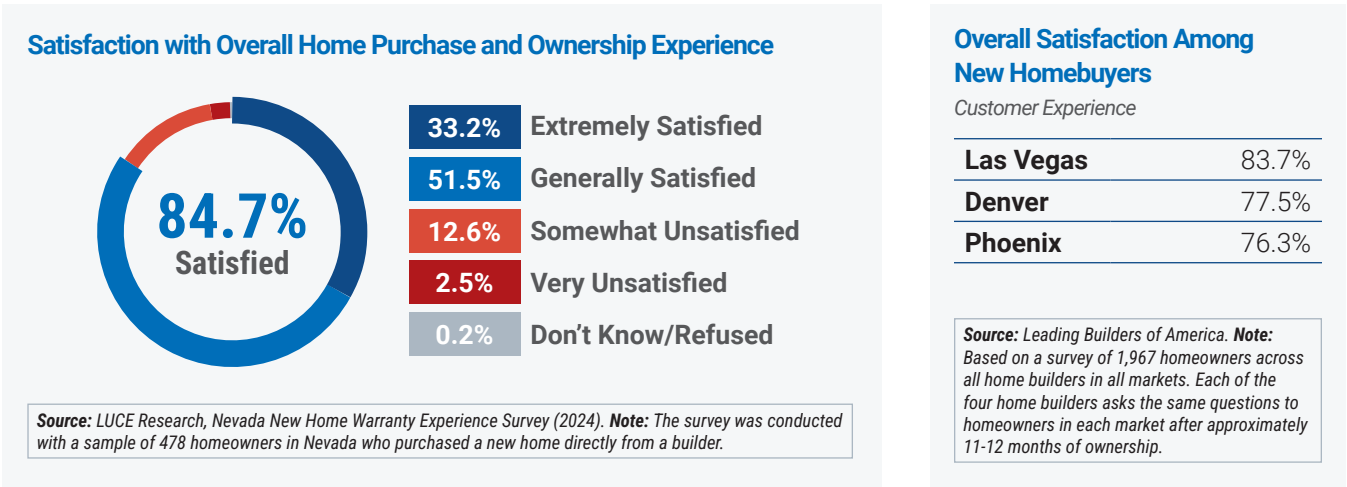
	2015	2020	2024
Actively Selling	208	209	184
Attached Market Share	3.4%	12.4%	17.4%

Southern Nevada Actively Selling Subdivisions



Source: SalesTraq. Note: Data as of September 2024. Condo and townhouse count excludes hi-and mid-rise condos.

Notably, satisfaction with overall home purchases remains high. In a recent survey of Nevada homeowners, nearly 85 percent indicated they were either generally or extremely satisfied with their home purchase and ownership experience.



Further, among four national home builders who surveyed new homeowners after their first 11-12 months of ownership in different major markets (Phoenix, Denver and Las Vegas), homeowners in the Las Vegas metro area consistently ranked their satisfaction with customer experience higher than neighboring areas. Most recently, customer satisfaction in Southern Nevada neared 84 percent, more than 6.1 points higher than the next closest market.⁶⁶



Las Vegas homebuyers are
MORE SATISFIED WITH THEIR NEW HOMES
than buyers in Phoenix and Denver.

BUILDERS’ INSURANCE MARKET

By creating a more predictable and stable development environment, the reforms also encouraged more insurers to offer liability coverage to builders. As Aaron West, Chief Executive Officer of the Nevada Builders Alliance, noted in his 2019 testimony to the Assembly Committee on Judiciary, “With respect to general liability insurance, in 2014 there were two carriers in the state that were writing general liability for construction. Right now, after the reforms, we are up to eight. We have seen significant decreases.”⁶⁷

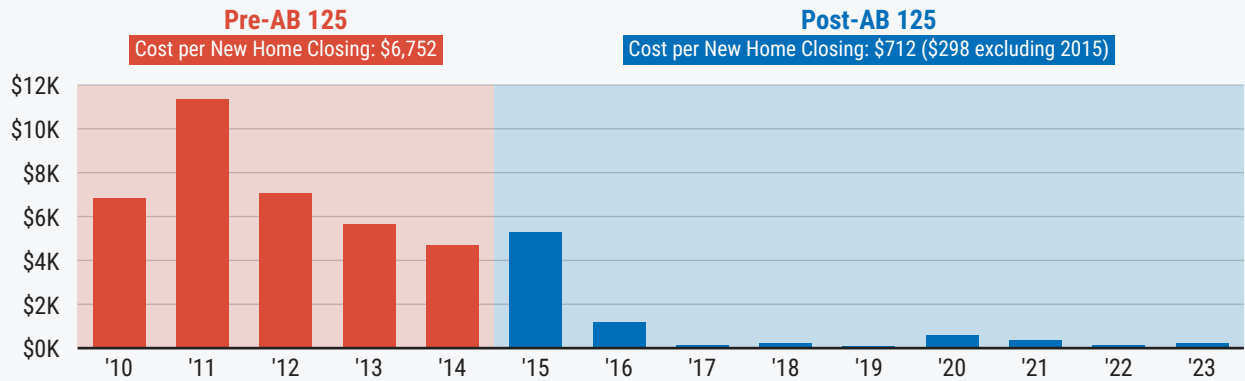
Importantly, these decreased costs benefit all consumers, not just builders or those directly involved in construction defect claims. All potential buyers of new homes are affected by risk management costs, including builders’ insurance premiums. Although only a small portion of new homes are involved in construction defect claims, premium increases and changes in insurer availability are reflected in the overall cost of development. According to the NAHB, additional charges passed on to homebuyers for increased development costs can reach upwards of 30 percent, depending on when these costs occur during the development process.⁶⁸

In Nevada, the cost of construction defect claims compared to the total number of new homes constructed highlights the impact of AB 125. Between 2010 and 2014, the average settlement cost per new home closing was roughly \$7,000 (inflation-adjusted to 2023 dollars). After AB 125 was implemented, the average rate between 2015-2023 dropped to \$712 per new home (2023 inflation-adjusted value). Excluding 2015, as it likely reflects claims initiated prior to the reforms, the average settlement cost fell even further to \$298 per new home closing (2023 inflation-adjusted value). With construction defect notices and settlement costs both dropping significantly, along with a more balanced insurance market and decreased premiums, fewer costs are embedded in the price of the final product. This results in fewer costs passed along to homebuyers, a critical factor given the region’s ongoing affordability challenges.

The NAHB produces an annual report analyzing the impact of raising the median price of a new home by \$1,000. The most recent study (2024) found that a \$1,000 increase makes the typical Nevada home unaffordable for 948 households.⁶⁹ If Nevada’s construction defect environment were to revert to pre-AB 125 conditions, with an incremental cost increase of \$6,700 per home, the resulting price increase could potentially price out more than 6,350 households. This would further erode consumer buying power and exacerbate the affordability crisis in a state where households able to afford the median-priced home is already limited.

Chapter 40 Settlement Cost per New Home Closing

Nevada | Inflation-Adjusted (Expressed in 2023 Dollars)



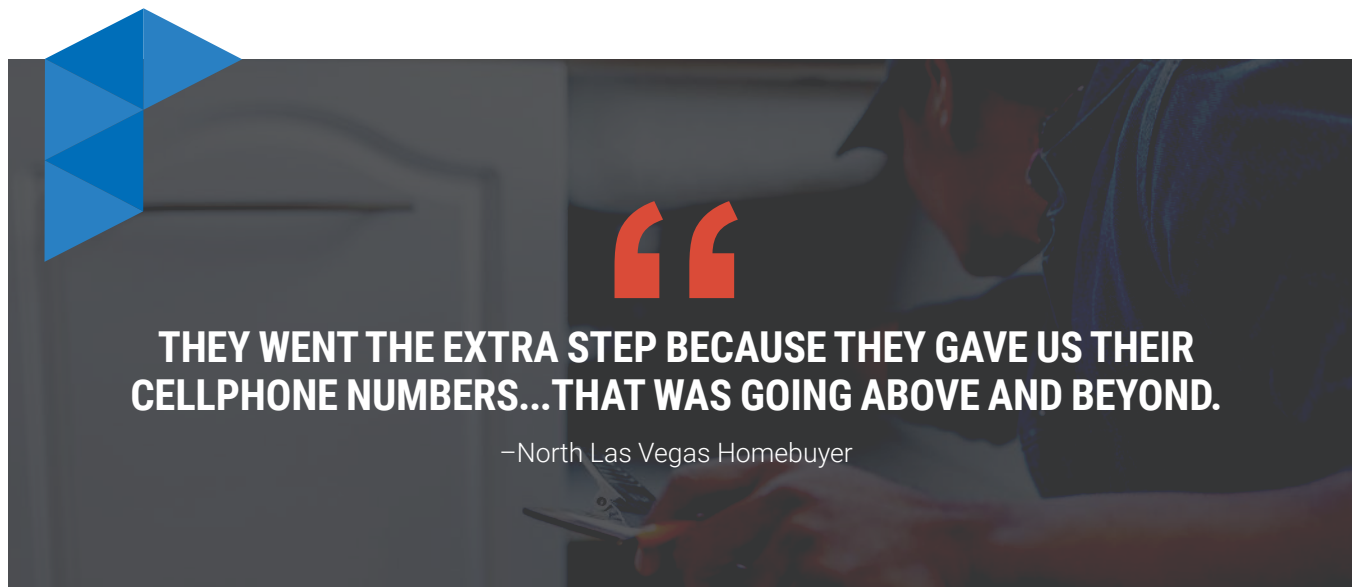
Source: Leading Builders of America, McDonald Carano, SalesTraq. Note: Based on a survey of residential builders operating in Nevada conducted twice, once between January and February 2019 and again between November 2024 and January 2025. Participating builders included some of the largest national builders and reflected a representative sample of those operating in Nevada.

PRESERVING THE RIGHTS OF NEVADA HOMEOWNERS

Nevada homeowners experiencing problems with their home have a variety of repair options. These include home builder customer service, warranty claims, residential recovery fund and Chapter 40 actions.

HOME BUILDER CUSTOMER SERVICE

Builders offer customer service support to new homeowners to ensure any issues are addressed. The first step for any homeowner with an issue should always be to contact the builder's customer support team. The vast majority of issues raised with these teams are addressed to the satisfaction of a homeowner.



WARRANTY CLAIMS

A homeowner can submit a warranty claim to the home builder for any identified construction defects. Builders often warrant various components in a home. They are also required by law to provide a builder's warranty to new homeowners for "all home systems, workmanship, materials, plumbing, electrical and mechanical systems, appliances installed by contractors, fixtures, equipment and structural components, unless a separate warranty is provided by the manufacturer or installer of such a product, component or system."⁷⁰ That warranty runs for one year from the date a homeowner completes a punch list identifying any issues with the home. Many components of a home, such as fixtures and appliances, also carry manufacturer warranties.

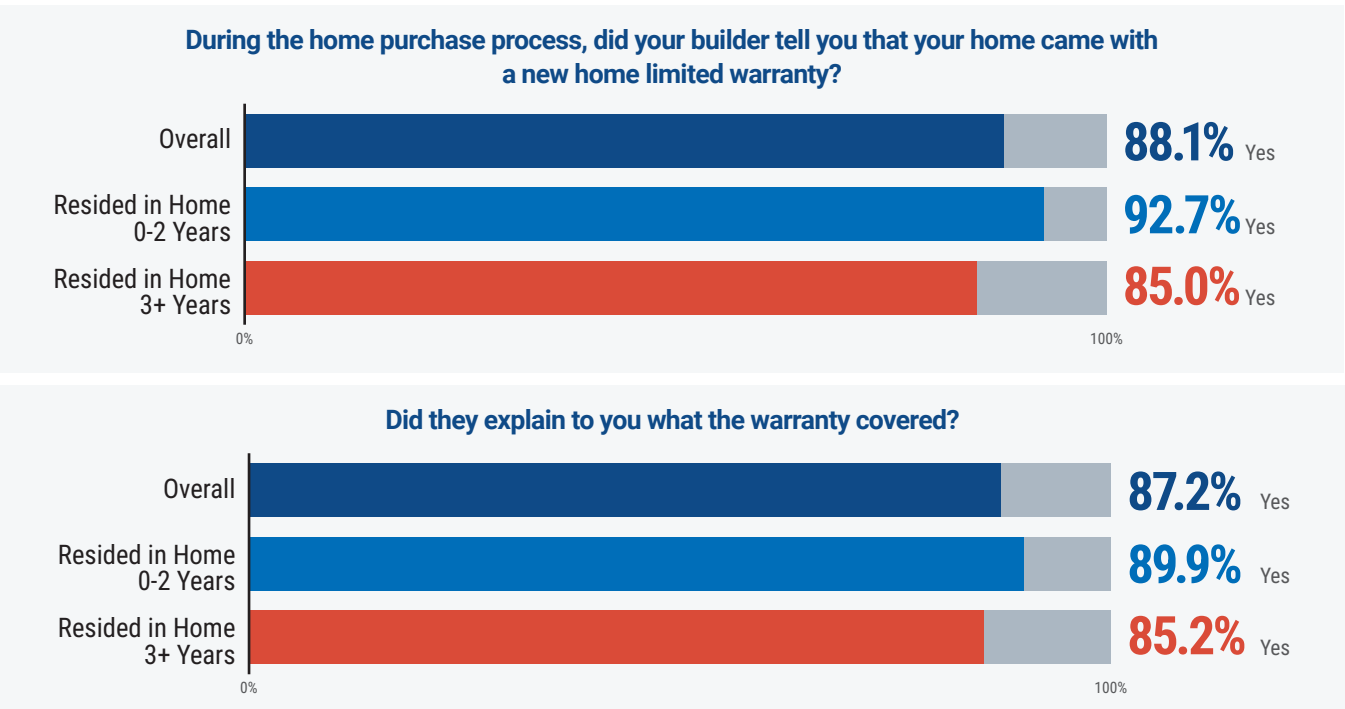
Builders in Nevada are putting greater emphasis on ensuring homeowners are informed about the existence of warranties and the process for filing claims. While 88 percent of all homeowners reported being informed about the new home limited warranty during the buying process, this figure rises to 93 percent among those who have lived in their home for two years or less. Additionally, newer homeowners were more likely to receive an explanation of the warranty coverage and guidance on how to file a claim. Builders are also taking a more proactive approach to warranty services, with over half of newer homeowners stating that the builder contacted them within the first year to schedule a warranty service.⁷¹

“
THEY WERE VERY MUCH GOOD AT FOLLOWING UP AND MAKING SURE
THERE WEREN'T ANY MORE ISSUES. THEY WOULD ALSO REMIND
ME 'YOU ONLY HAVE A CERTAIN AMOUNT OF TIME LEFT ON YOUR
WARRANTY, IS THERE ANYTHING ELSE YOU WANT TO ADDRESS'.

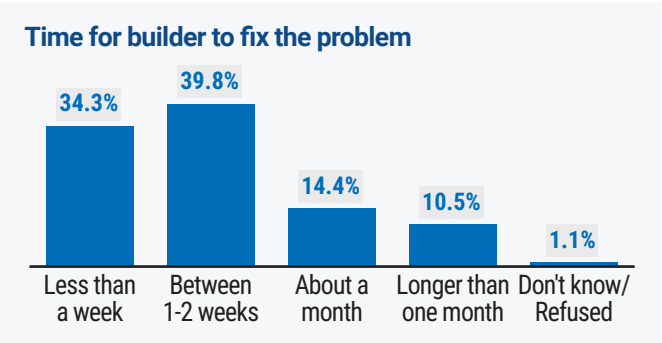
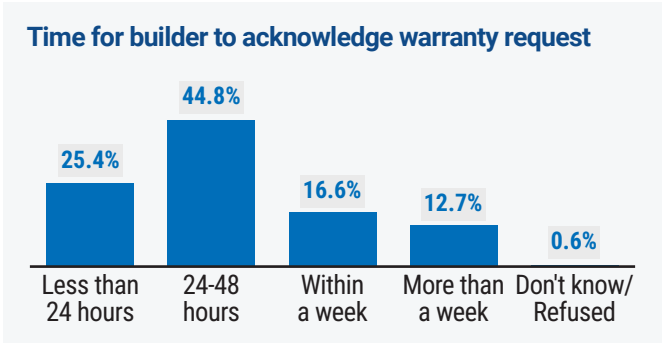
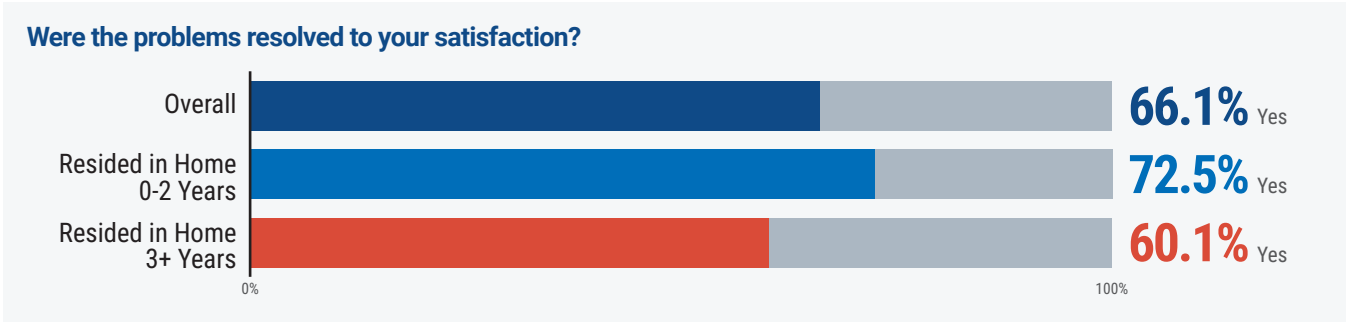
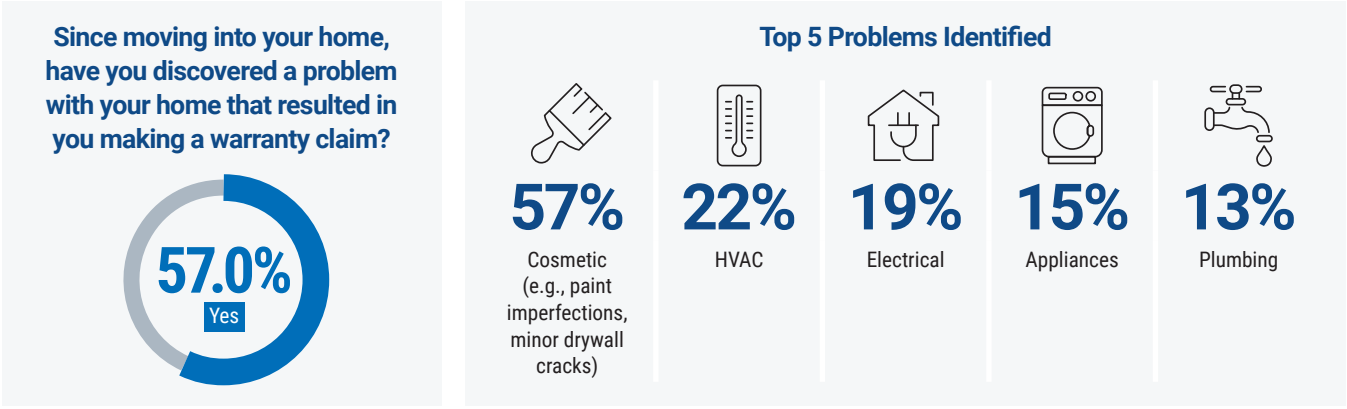
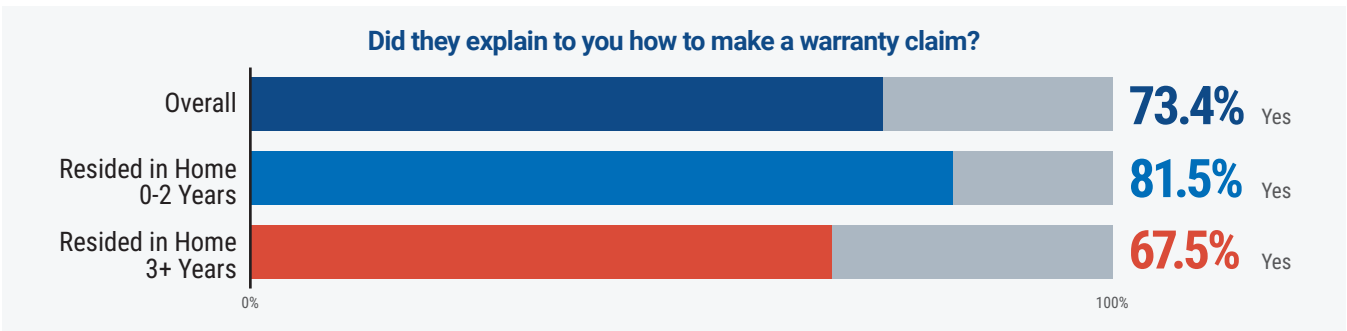
—Las Vegas Homebuyer

Nevada builders are also improving their responsiveness and resolution of warranty claims, achieving high levels of homeowner satisfaction. Among homeowners who filed warranty claims, two-thirds reported that their issues were resolved to their satisfaction, with newer homeowners expressing even higher satisfaction rates. Most claims involved cosmetic issues, such as paint imperfections and minor drywall cracks. Builders demonstrated promptness in addressing these concerns, acknowledging warranty requests within 48 hours in 70 percent of cases and resolving—that is, completing an inspection to identify the problem, scheduling repair services with the appropriate trade and following-up with the homeowner—within two weeks for nearly three-quarters of issues.⁷²

HOMEOWNER AWARENESS AS OF 2024



Source: LUCE Research, Nevada New Home Warranty Experience Survey (2024). Note: The survey was conducted with a sample of 478 homeowners in Nevada who purchased a new home directly from a builder.



Source: LUCE Research, Nevada New Home Warranty Experience Survey (2024). Note: The survey was conducted with a sample of 478 homeowners in Nevada who purchased a new home directly from a builder. Multiple responses allowed when categorizing identified problems.

“ “

WE ALWAYS DEALT WITH THE SAME (WARRANTY) PERSON... WE WOULD HEAR BACK FROM THAT PERSON WITHIN A DAY OR TWO, SOMETIMES THE SAME DAY... THAT'S EXCELLENT SERVICE.

–Reno Homebuyer

“ “

DESIGNED OVER 25 YEARS AGO AS AN ALTERNATIVE TO CONSTRUCTION DEFECT LITIGATION, THE RESIDENTIAL RECOVERY FUND HAS PROVIDED APPROXIMATELY \$15,000,000 TO NEVADA HOMEOWNERS THROUGH A SIMPLE AND EXPEDITED PROCESS THAT GETS HOMES FIXED QUICKLY AND WITHOUT THE NEED TO HIRE AN EXPENSIVE LAWYER. THE PROCESS IS EASY FOR THE HOMEOWNER AND THE NEVADA STATE CONTRACTORS BOARD STAFF IS AVAILABLE TO WALK ANY HOMEOWNER THROUGH THE PROCESS.

–Kent Lay, Member, Nevada Contractors Board

RESIDENTIAL RECOVERY FUND⁷³

Established in 1999 through legislation sponsored by Assemblywoman Barbara Buckley, Nevada's Residential Recovery Fund (RRF) provides financial recourse for single-family homeowners who suffer damages due to a licensed contractor's failure to properly execute a contract. Administered by the Nevada Contractors Board (NCB) and funded through assessments on licensed contractors engaged in residential construction, remodeling, repair or improvement, the RRF was designed to help homeowners resolve issues without the expense and hassle of legal action.

Homeowners who have been harmed by a licensed contractor can file a claim with the NCB, which has the authority to reimburse them through RRF and take disciplinary action against the contractor's license if necessary. Individual claims are capped at \$40,000, with a total limit of \$750,000 per contractor or 20 percent of the fund's balance, whichever is lower. Since its inception, the program has awarded approximately \$15 million to over 1,600 claimants.⁷⁴ The RRF complements other sources of repair funding, ensuring homeowners can fully recover from construction-related damages. Policymakers and homeowners alike recognize the fund as an effective and efficient means of resolving contractor disputes and facilitating repairs.



“

THE RESIDENTIAL RECOVERY FUND IS ONE OF THE GREATEST RESOURCES WE HAVE IN PLACE TO PROVIDE A FINANCIAL REMEDY WHEN A LICENSED CONTRACTOR FAILS TO UPHOLD THEIR RESPONSIBILITIES AT A COST TO THE CONSUMER.

—Margi Grein, Former Nevada State Contractors Board Executive Officer⁷⁷



THE FACT THAT THE CONTRACTORS BOARD REVOKED THEIR LICENSE, SO THEY WON'T BE ABLE TO DO THIS TO ANYONE ELSE IN THE STATE OF NEVADA AND ALSO REIMBURSED US FROM THE RESIDENTIAL RECOVERY FUND IS HUGE.

—Anne Martz, Homeowner⁷⁸

CHAPTER 40

If all else fails, a homeowner can pursue redress by instituting a construction defect action against a builder, commonly known as a “Chapter 40” action in reference to the pertinent chapter of the Nevada Revised Statutes. This process begins when a homeowner provides the builder with a notice identifying any defects in the home. The builder, along with any implicated subcontractors, has the opportunity to inspect and repair the alleged defects. If repairs are not adequately made, the homeowner may file a complaint and pursue relief in court, including recovery of attorney fees and costs.

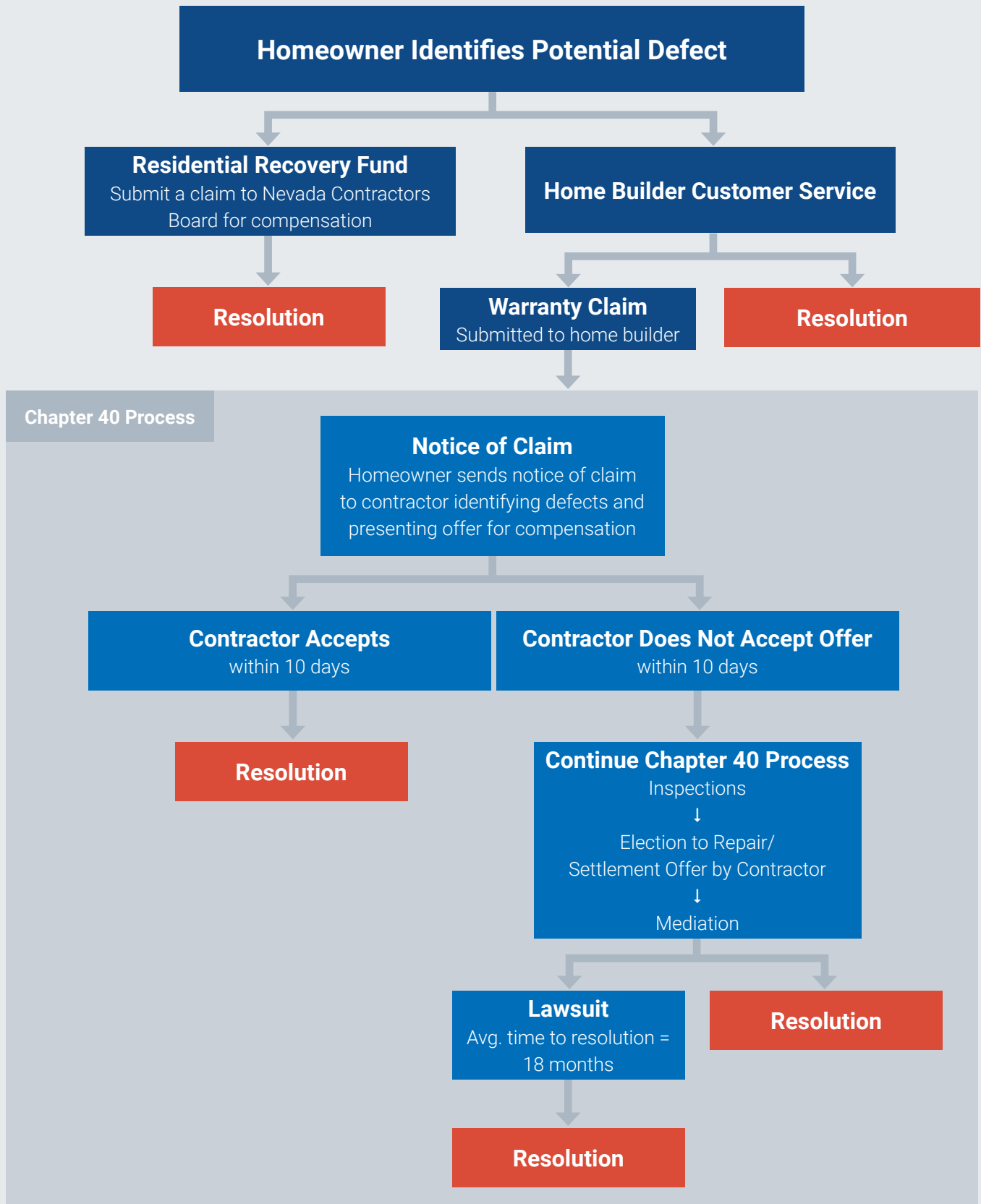
Despite legislative changes introduced in 2015 that modified aspects of the claims process, Chapter 40 remains a viable legal avenue for homeowners seeking to address construction defects. While procedural requirements and time limitations have been adjusted, homeowners continue to file and successfully resolve claims under Chapter 40. The structured process ensures that builders have an opportunity to make repairs, but when those efforts fail, homeowners retain the right to legal recourse.

Perhaps best summed up by Jim Wadhams, representing the Coalition for Fairness in Construction, during the 2003 legislative session:

“[This] does not suggest that contractors don’t make mistakes, and we’re not here to suggest that homeowners do not have defects: we know they do, we’ve seen pictures, and we’ve seen reality. We’re not here to suggest that there should be no lawsuits. We’re here because homeowners want their houses either completed or repaired. We’re here because homeowners don’t want to be in litigation if it can be avoided. We’re here because homeowners still want the right to sue the builder who won’t fix it or won’t fix it right.”⁷⁵

According to the most recent Annual Report of the Nevada Judiciary, Chapter 40 construction defect cases are still being filed. A total of 29 new Chapter 40 filings were opened during fiscal year 2024, with an additional 15 new cases filed related to other construction defects.⁷⁶ The continued filing of Chapter 40 claims demonstrates that the system remains an essential tool for ensuring accountability in residential construction.

HOMEOWNER CONSTRUCTION DEFECT RESOLUTION OPTIONS



CONSTRUCTION DEFECT LAW AND THE 2025 LEGISLATIVE SESSION

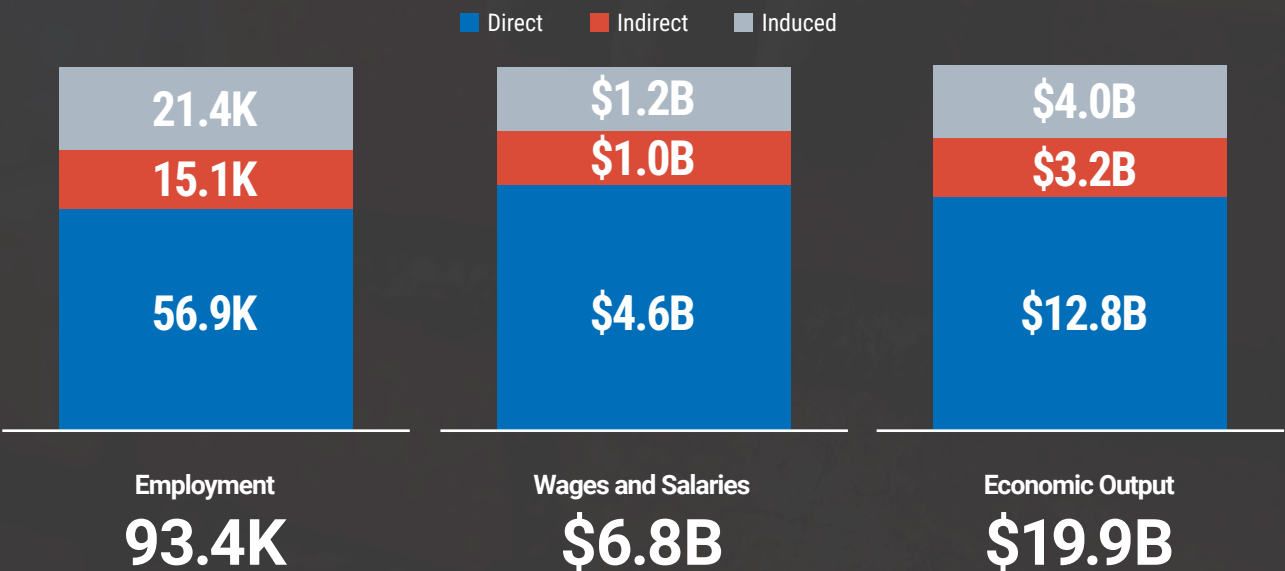
The residential construction industry is a cornerstone of Nevada’s economy, contributing significantly to employment, economic growth and the creation of vibrant communities. In 2024, the construction industry accounted for approximately 8.6 percent of Nevada’s gross domestic product (GDP), or \$20.5 billion, with the residential building sector representing over 40 percent of that value.⁷⁹ Extending to the broader real estate industry, the sector’s impact becomes even more pronounced—according to the National Association of Realtors, real estate accounted for nearly a quarter of Nevada’s GDP in 2023, the second-largest contribution of any state nationwide.⁸⁰

The economic impact of building a new home extends far beyond the immediate construction activity. Each home built generates ripple effects throughout the

economy, creating jobs for contractors, subcontractors, suppliers and service providers, while driving demand for building materials, equipment and related goods. Additionally, the development of new homes bolsters local tax revenues, funding essential infrastructure and public services that sustain thriving communities. Estimates suggest that the new home market in Nevada generates \$20.0 billion in total economic output and supports more than 93,400 jobs, highlighting the sector’s critical role in maintaining economic momentum and supporting statewide growth.

The housing market faces growing challenges, including constrained supply, rising interest rates and affordability concerns. These pressures affect both builders and prospective homeowners, highlighting the need for policies that support rather than hinder efforts

ECONOMIC IMPACT OF RESIDENTIAL CONSTRUCTION IN NEVADA



to address these issues. Recognizing these challenges, past legislatures enacted common-sense reforms—most notably changes to Chapter 40—that have helped to stabilize the residential building sector since 2015.

These reforms have contributed to an increased supply of attached housing, improved consumer awareness and satisfaction with builder warranties and a significant decline in Chapter 40 claims. Importantly, homeowners with unresolved issues still have full access to the justice system and can file construction defect claims against builders when necessary. Chapter 40 changes did not eliminate homeowner protections but helped curb excessive litigation that had previously driven up construction costs, discouraged multi-family development and limited new housing supply.

However, the effects of past legal uncertainties continue to impact Nevada's housing market. The period of excessive litigation placed financial strain on homeowners, increased insurance premiums for builders and significantly reduced multi-family housing construction. As a result, Nevada has struggled to fully recover from the recession and the pandemic, with housing supply failing to keep pace with demand. As legislators consider solutions to improve the availability and affordability of housing for Nevada families during

the 2025 legislative session, it will be important to maintain policies, such as construction defect reforms, that have supported and helped to expand entry-level housing supply. The recently published Guinn Center report, *Housing Affordability in Nevada: An Economic Analysis and Policy Considerations*, outlines policy options to further increase housing production, offering lawmakers a valuable resource as they consider strategies to address the state's housing challenges.

As policymakers explore strategies to expand housing supply and improve affordability, preserving policies that support market stability will be essential. Weakening Chapter 40 could reintroduce legal uncertainties that drive up costs, reduce new construction and place additional burdens on homeowners. A well-functioning housing market is critical not only for residents but also for Nevada's long-term economic growth, as businesses rely on a stable workforce and housing availability plays a key role in attracting and retaining workers. A collaborative, data-driven approach that brings together policymakers, industry leaders and community stakeholders will be key to maintaining a strong, resilient housing market that supports economic and community development.

ENDNOTES

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- ⁶ **Source:** Leading Builders of America. **Note:** Based on a survey of 1,967 homeowners across all home builders in all markets. Each of the four home builders asks the same questions to homeowners in each market after approximately 11-12 months of ownership. Data is presented as a weighted average of survey responses among the four home builders.
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