



CONSTRUCTION BLOG

# Subcontractors Beware

AUTHOR: SUE SCHULTZ

An Illinois appellate court has held that buyers of residential property may maintain an action against subcontractors who provided labor in the construction of their home, if there is a defect in their home that makes it not suitable for its intended purpose as a residence.

Sienna Court Condominium Ass'n v. Roszak/ADC, LLC, No. 122022, 1st Dist.

This court found that homeowners may bring an action against the subcontractors, if the general contractor is insolvent, even if the GC maintained a warranty fund. When GC's enter their contract with the homebuyer, they are allowed to offer an express and limited warranty, in lieu of the implied warranty on which this case was based, as long as the buyer accepts the express warranty and knowingly waives the implied warranty. If a subcontractor is concerned with a GC's ability to pay its debts, it should determine whether the GC's contract with the buyer contains such a waiver and, if not, the subcontractor should price its work according to the increased risk.