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## Copyright Infringement Carries Consequences

The home plans you see during the Valley Home Builders Association's signature events are true testaments to the vision of VHBA builders. Because there is so much work that goes into the design and construction of a home, there are also laws in place that protect each home's unique design. Just as there has been copyright protection in place for decades to safeguard the original works of authors of literary, dramatic, musical and artistic works, in 1990, copyright protection was extended to include architectural works. With respect to new home construction, the federal copyright laws protect the copying of all or a portion of a home design. Protection is found in two different areas:

- The protection of the design plans (including blueprints and floor plan layouts).
- The protection of the completed structure; this extends to its overall interior and exterior appearance.

This means that while you are welcome to gather a variety of home plans at the VHBA events, you need to remember that the plans builders have available for you, detailing the layout and the exterior of the home, are for educational purposes only. You may not copy those plans. If you bring plans gathered at VHBA events to another builder and ask him or her to duplicate the same home for you, you would be in direct violation of the 1990 Copyright law.

Many copyright infringement cases in Wisconsin have resulted in extensive litigation, and significant judgments. The consequences for plan stealing are very serious and can result in substantial financial penalties. Recent parties convicted of architectural copyright infringement have been required to pay anywhere from \$15,000 to \$125,000. In future cases, penalties may be higher or lower depending on the extent of copyright infringement. To avoid copyright infringement claims, consider this advice:

- Never ask one builder to copy all or part of the design or finished appearance of another builder.
- When interviewing builders and shopping for different home designs, ask each builder you interview whether he or she has a home design that incorporates the style or features you are looking for. Explain the style or features by giving examples; but keep in mind that copying is prohibited.
- Make sure that you are purchasing the rights to a legitimate plan by asking the builder to confirm that he or she has the right to build the plan or design that you have selected.

If you see a specific feature, like a sunroom, in a home that you like, you could ask the builder you would like to work with if they have something similar in one of their home designs or if they could design something similar. The key to avoiding copyright infringement is to understand that copying any part of another builder's plan is against the law. If you ask your builder to construct the exact feature found in another builder's home, it is a violation. Keep in mind that individual standard features or design elements that are functionally required may not be copyrighted (such as doors, windows and stairs).

One question frequently encountered by attorneys is how handwritten sketches are viewed with regard to the copyright law. Many homeowners believe that when they contribute their own sketch to a builder, detailing ideas for a floor plan or a specific design idea, that they have rights to the final design of the home. In reality, the person who puts the ideas into final form owns the copyright. When an owner's sketch is incorporated into an architectural design it becomes part of the architectural design and becomes the property of the person who drew the plan. While the homeowner still has rights to his or her sketch, that is the only part of the plan he or she may take to another builder without having to worry about infringing on the copyright owned by another party.

Another common myth is that if you alter a plan by a certain percentage, you are not in violation of copyright laws. Simply using another builder's plan as a starting point would place you in jeopardy of violating the law.

Copyright infringement – two simple words brought on by one simple action – copying. If you want your home building experience to be a positive one, stick with the plans you know are legitimate.