

Bond Case Briefs

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MUNICIPAL ORDINANCE - ILLINOIS

Henderson Square Condominium Ass'n v. LAB Townhomes, L.L.C.

Appellate Court of Illinois, First District, Fifth Division - March 21, 2014 - N.E.3d - 2014 IL App (1st) 130764

Condominium association and its board of managers brought action against developers, alleging breach of the implied warranty of habitability, fraud, negligence, breach of city prohibition against misrepresenting material facts in the course of marketing and selling real estate, and breach of a fiduciary duty. The Circuit Court dismissed claims. Plaintiffs appealed.

The Appellate Court held that:

- Limitations periods provided for real estate construction claims, rather than statute of limitations applicable to unwritten contracts, governed action;
- Plaintiffs' allegations triggered fraud exception to the running of limitations period;
- City ordinance created a separate cause of action that could be based on representations made prior to completion of construction; and
- Plaintiffs sufficiently pleaded cause of action for breach of fiduciary duty.

City ordinance prohibiting the misrepresenting of material facts in the course of marketing and selling real estate created a cause of action separate from common law fraud, which was not limited to preexisting facts, but could be based on representations made prior to completion of construction.