

Pennsylvania Strengthens Application of One-Year Statute of Repose Under Pennsylvania Home Inspection Law

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In two recent decisions, the Pennsylvania Superior Court reaffirmed the application of Section 7512 of the Pennsylvania Home Inspection Law (68 Pa.C.S.A. § 7512) to bar claims against home inspectors filed more than one year after delivery of the home inspection report, finding that Section 7512 is a statute of repose which is not tolled by the discovery rule.

In both *Tibbett v. Eagle Home Inspections, LLC*, 305 A.3d 156 (Pa. Super. 2023) and *Gidor v. Mangus*, 2024 WL 80950 (Pa. Super. 2024), the Pennsylvania Superior Court concluded that the respective home inspectors were entitled to dismissal as a matter of law due to the plaintiffs' failures to timely pursue claims for alleged home defects, and that the time-bar applied to all claims arising from the home inspection report.

The *Tibbett* and *Gidor* decisions are impactful holdings for home inspectors in Pennsylvania. There is a scarcity of case law related to the application of Section 7512, and these cases clarify the existing tension respecting interpretation of Section 7512 as a statute of limitations or statute of repose. The distinction is important, as the latter eliminates the application of the discovery rule, a critical finding when home defects may not present until years after a home inspection.

Further, the statute of repose under Section 7512 is more favorable than other tort or contract based statutes of limitations in Pennsylvania. To be sure, in the absence of the application of Section 7512's one year time bar, tort claims (e.g. negligence, negligent misrepresentation) against home inspectors would have statutes of limitations of two years, claims of breach of contract of four years, and claims for violation of the Unfair Trade Practices and Consumer Protection Law six years from the date of discovery of the purported defect.

Home inspectors are not indefinite guarantors of the condition of a home. In fact, many home inspection agreements and/or home inspection reports explicitly state that they are a "snapshot" in time of the conditions on the date and time of the inspection. Environmental conditions change; plumbing and electrical systems fail; and defects may present after delivery of a home inspection report. Requiring home inspectors to indefinitely guarantee the integrity of a property is unconscionable, unrealistic and would significantly drive up the expense of home inspections to compensate for anticipated litigation. Doing so would be against public policy and disadvantageous to consumers and the real estate industry.

The *Tibbetts* and *Gidor* holdings are helpful decisions for home inspectors and may aid in their extrication from pending litigation where a lawsuit is brought in excess of one year after delivery of the home inspection report. It is important for home inspectors to deliver the report as soon as practicable after an inspection, given that the date of delivery starts the one-year clock. Transmission by email, which is time-stamped, is favored over mail, and requiring acknowledgement of

receipt, including with a signature, is even better. □

Dana A. Gittleman is a shareholder in the Professional Liability Department in the Philadelphia office of Marshall Dennehey, P.C. She routinely defends claims and lawsuits brought against home inspectors, insurance agents and brokers, attorneys, real estate professionals, financial entities, large product manufacturers, lenders, directors and officers and other professionals. She may be reached at dagittleman@mdwccg.com.