

**Real Estate Today**

# Buyers of New Homes Need a Good Real Estate Lawyer

By **JIM SMITH**  
**Jefferson County Realtor®**

Maybe some day it will be as hard to buy real estate in Colorado as it is back in New York or out in California, but for now it's almost heavenly to buy real estate here, compared to those two states. It's also heavenly to be a Realtor here compared to those locations.



That statement, however, goes out the window if you're talking about the purchase of a new home in Colorado.

I have represented buyers in the purchase of new homes from a variety of builders, and this past month I have experienced two such purchases that were vastly different from each other and point out the essential problem of new home purchases in this state.

The Colorado Real Estate Commission approves virtually all the forms used for the purchase of *existing homes* but does not review or approve contracts for new homes. No protection!

Builders of new homes are allowed to have their own lawyers craft their own contracts and to require all purchasers to use their forms instead of the state-approved forms. The variation in the terms contained in these forms is nothing short of astounding and somewhat frightening.

As a licensed Realtor, I am not allowed to practice law, so I always advise my clients to consult an attorney for the assessment of these contracts, but I can still give them my layman's impression of what is placed before them to sign.

Recently, when I saw the contract provided by the builder of some Jeffco condos, I *insisted* that my client consult a real estate attorney because the contract was

so patently unfavorable to the buyer. I referred this client to my friend and fellow Rotarian, Russ Sindt, who specializes in real estate, and he told me that in his 25 years of practice in real estate law, this was one of the most egregious builder contracts he had seen. If space permitted, he and I would give examples of the negative provisions, and you'd be amazed.

Armed with this feedback, my client met with the builder's agent and pressed Russ's points, but in the end the agent would not agree to a single modification of the contract and the buyer wanted the condo enough to take the risk and handed over a 5-figure earnest money check — money that this buyer could easily end up forfeiting under the contract.

My client will probably come out okay in the end, because this builder will probably want to do business again in Colorado, but both Russ and I were aghast at what we read in that contract.

By contrast, I represented another client in the purchase of a new home in Loveland, and that builder's contract required only \$2,000 earnest money and allowed for a contingency on the sale of the client's existing home, with a commitment to return the full earnest money as late as the closing date, if the house didn't sell. This builder was the polar opposite of the Golden builder.

### ***Staging Really Works!***

I followed my own advice and that of my staging expert, Valerie Grover, when I listed my personal home this month. The result was that the house went under contract on its first showing and at full price. Staging a home properly really works.

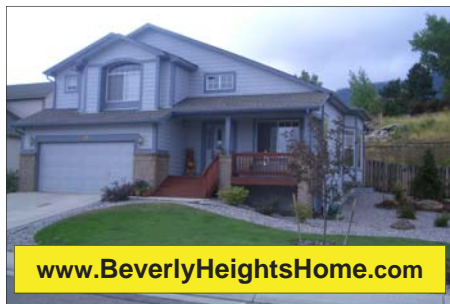
## Four New Golden Listings from Golden's Top Realtor\*



[www.109EagleCourt.com](http://www.109EagleCourt.com)



[www.346WhiteAsh.com](http://www.346WhiteAsh.com)



[www.BeverlyHeightsHome.com](http://www.BeverlyHeightsHome.com)



[www.479CanyonPoint.com](http://www.479CanyonPoint.com)

**109 Eagle Court** — 3 BR, 3½ Baths, 3,618 finished sq. ft. Backs to Iowa Drive greenbelt. Walk-out basement features a craft room and home theatre with removable stadium seating. Sub Zero refrigerator is included. **\$449,000**

**346 White Ash Drive** — 3 BR, 3½ Baths, 2,786 finished sq. ft. Lovingly maintained home in Mountain Ridge, one block from White Ash Mine Park, near Mt. Galbraith Open Space trailhead. 12x25 home office! **\$425,000**

**1905 Parfet Estates Drive** — 3 BR, 3 Full Baths, 2,397 sq. ft. Awesome back yard with deck, patio, grassy area, two waterfalls & stream. Main-floor study with walk-in closet could be 4th bedroom. Views! **\$459,000**

**479 Canyon Point Circle** — 4 BR, 4½ Baths, 4,388 finished sq. ft. Backs to Mt. Galbraith open space. 5-car garage. See website for full list of this home's many features. Truly the "best of the best" in Golden! **\$700,000**

### ***\*It's a Fact:***

*Jim Smith has closed 16 Golden listings since January 1, 2005, at an average 99.9% of original listing price.*

Based on an analysis of data from Metrolist, Inc.



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*See each listing's web site for extra photos, including aerial photos & virtual tours! Most or all of these listings will be open Saturday, 1-4pm*