BY DAVID M. McLAIN

Rise Above: Leveraging Drone Technology to Manage Risk

Drone footage can strengthen builders' legal defense

AS AN ATTORNEY who has represented Colorado's construction industry for the last 25 years, I have witnessed too many occasions and spent too much in settling construction defect claims because there was a lack of documentations regarding how a home or project was originally constructed. Based on a few recent, and very positive, case results, I am convinced of the benefits drone technology can provide to Colorado's homebuilding industry. In this article, I will attempt to make the case for use of this technology as a tool to provide the often-missing evidence builders need to defend themselves against construction defect claims.

Many project details, such as roofing, building wrap and window installation, are tough to access and document due to physical and/or time constraints. Verifying the quality of work, or how these systems are installed, can be crucial in defeating an allegation of defects in the work. Because plaintiffs' engineers often find a handful of defects and extrapolate across the entire home or project, it is crucial to be able to prove that the defects they find are just anomalies and not representative of the entire project. Drones can serve as agile inspection tools, effortlessly hovering over a project multiple times a day, capturing high-resolution images and videos and thereby documenting how various systems were installed. If they are reviewed contemporaneously by an individual knowledgeable about construction, they can also serve as an effective quality assurance/quality control tool.

Another issue that often comes up in construction defect claims relates to grade adjacent to foundations. When an owner claims insufficient grade adjacent to a foundation, it is difficult to prove what the grade was at the time of construction, especially when a builder does not obtain as-built grading certificates. While not as good as the grading certificate itself, drone footage of a yard or common areas at the time of final grading is at least some evidence of the grading at the time of sale. Later, when a claim is made, this footage could be invaluable in proving that the owner, or the owner's landscaper, altered the initial grade, causing the grading problems.

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As the industry continually seeks to improve quality and minimize risk, drone technology is a valuable tool, offering unprecedented levels of transparency, detail and efficiency. Employed wisely, this technology has the potential to reduce disputes, strengthen defenses in litigation and help change the landscape of residential construction risk management in Colorado.

Please feel free to reach out to me at (303) 987-9813 or by email at mclain@hhmrlaw.com if you would like to explore revamping your building practices in order to make yourself a hardened target.