

This Just In 09/06/01

Architects' Rights Protected by Washington State Supreme Court *Statute of repose upheld*

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In a unanimous decision, the Washington State Supreme Court ruled today that the statute of repose **does not** violate the state or federal constitutions. In the case of *Lakeview Blvd. Condominium Association v. Apartment Sales Corporation*, the AIA Washington Council filed a friend-of-the-court brief that urged the court to uphold the current statute of repose.

This statute (RCW 4.16.310) bars construction lawsuits six years after construction work is completed. The statute protects architects, engineers, and contractors' rights because it provides a date certain after which no claim can arise.

The plaintiffs' attorneys argued that the statute of repose is "unconstitutional" on two grounds. First, they argued that the statute prevents "open access to courts" in violation of Washington Constitution Article I, § 10. They claimed that the statute prevented a person who wanted to sue for construction defects more than six years after the building was constructed from going to court. Second, the plaintiffs' attorneys argued that the statute violated the equal protection clause, because it protected builders only—not the owners or tenants—from

construction-defect liability.

The court upheld the statute on equal protection grounds, although it declined to rule on the issue of "open access to the courts." However, the case law the court cites about this issue supports the AIA position that the statute is in fact constitutional. The court also acknowledged that "the legislature can pass laws, like statutes of limitations and repose, that tend to promote public welfare."

The Washington Supreme Court ruling is available on the court's Web site. www.courts.wa.gov/opinions/opindisp.cfm?docid=703248MAJ

The AIA and several engineering organizations have developed model liability reform language for states to adopt. For a copy of the Model Architect and Engineer Liability Laws visit the member section of AIA's Web site www.aia.org and search for "Model Architect and Engineer Liability Laws." The publication you will find also covers model language for sole-source workers' compensation, certificate of merit, and Good Samaritan statutes.

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