



THE REAL ESTATE REPORT

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A monthly column on the real estate market and related issues in the upper Hudson River Valley by Roderic H. Blackburn, principal of R. H. Blackburn & Associates, Inc.—Real Estate of Kinderhook, NY. It also appears in *Berkshire HomeStyle* and *Capital District HomeStyle* magazines. Questions and welcome. If received in error notify blackburn@berk.com.



Building a Better Way

How many times have you heard the owner's lament: can you recommend someone reliable... Now multiply that by several "reliables" for the would-be owner who wants to build his own house and is looking for a general contractor or a bunch of sub-contractors. Every homeowner/friend has a tale of woe about a shoddy or over-priced job left incomplete or way behind the promised date. Brer Rabbit's Tar-Baby misadventure comes to mind: the more he tried, the worst it got. Less attention getting are tales of heroics, such as the plumber who came out in the dark of January to shut down a red-hot runaway boiler.

But before our would-be owner gets to the point-of-no-return he has already had exasperations aplenty. In the game of finding a home, he is only at the first down. There are weekends of house hunting, full of anticipation but mostly full of disappointment as the ideal in his mind confronts the reality of "issues" - inadequate privacy, close to a main road, small rooms, too expensive, substandard updates, serious condition problems. And what he can overlook or rationalize away his wife cannot.

Second down: Look for a nice parcel of land, after all this region has a lot of open land still, unlike counties closer to New York. Lovely undulating hills and woods, ponds and views all beckon but most parcels for sale are too small, too big, too expensive, or failing in those desirable amenities. Countless weeks and months (and tick checks!) later a parcel comes up with "potential," that is, if you cut enough trees for a view (but not too much or you will see the highway or the neighbors); or dig out a swamp to get a pond (if the Corp of Engineers, EnCon, and the town planning board will let you).

Third down: Design. You both have ideals which need to be conveyed as ideas to each other and then to a designer, architect, engineer, and/or builder, even if out of a pattern book. The process is like three dimensional counseling, or even psychotherapy - with sharp differences. Too many cooks and you spoil the soup; too few and ingredients get overlooked - at more cost than taste. This is where we come to the crux of this column: *what are the pitfalls of designing, specifying, bidding, awarding, supervising, and paying for a new house?* Judging by the number of owner laments we all hear, there are a lot of pitfalls. If you add in the laments of the professionals there are even more. While finding an existing house, or finding land and designing an ideal home is largely a creative act, we assume process of building will be too. That's the biggest mistake.

First of all, owners are inexperienced with construction. Sec-

ond, their interests are not the same as those they would hire, especially when it comes to how the financial pie gets sliced. Architects and designers tend to put creative issues first, budget second. Engineers know how to make it safe, but not lovely. Builders and subcontractors will get their profit out of what they don't have to do; if the contract and specifications are fuzzy and incomplete enough, they can cut corners and save themselves money, not the owner. When it comes to money, none of them is on the same side of the table as the owner; none is an agent of the owner. From this basic conflict of interest come most of the arguments and legal actions arising when an owner is trying to get a house built. Why do owners put themselves in this position? After all, if they buy a house they can have their own real estate agent represent them to look after their interest with undivided loyalty (though some still do not avail themselves of this protection). And, of course, if they bring a suit for damages

they will hire their own attorney, not representing themselves or relying on their opponent's attorney.

So why not have your own experienced agent when building a house? It is a nearly unheard of concept -- yet going it alone is fraught with liabilities. Well, not completely unheard of. Large commercial developments have pioneered the concept of Construction Management. Indeed there is a Construction Management Association of America (CMAA) which defines Construction Management (CM) as "The process of professional management applied to a planning, design and construction project from



Managing the restoration of a period home can be as demanding as new construction. Here one negotiates with the original builder, not the current architect/designer, trying to "read" his intentions for style and function yet accommodate contemporary needs.

inception to completion for the purpose of controlling time, scope, cost and quality." Curiously CM has not been applied to residential building, precisely where owner inexperience needs it the most - until now.

Fourth down: This concept was entirely new to me too (although I do recall the old English practice of hiring a "clerk-of-the-works") until I sat down with Joseph Rapp of Rapp Construction Management of Hudson, NY. In 2000, after twenty-five years as a builder of residential homes, he came to the conclusion that there was a better - a fairer - way to build.

He reinvented the "homebuilding delivery system" using the principles of Construction Management to change the contractual relationship between the owner and the management of the project.

"I began to offer a service to owners wherein I would provide all of the services I had as a general contractor except I would be acting as an advocate and an agent for the owner, for a fixed fee, not out of what I could squeeze out in profits. A general contractor's profits often has no relationship to the scope of

work whereas the CM's compensation or fee is directly and more accurately a function of the amount of time and resources needed to deliver the project."

Typically a construction manager is paid a fixed amount based on a percentage (usually 10-15% depending on the scope and complexity of the project) of the estimated or actual cost of the project, or on a cost per hour basis. CM contracts make allowances for changes in the scope of work and for additional services. The CM now works as an advocate for the homeowner and, together with the owner, supervises the designer and all of the subcontractors and vendors, a process where the owner achieves the desired outcome. The CM is the single point of responsibility, balancing time, cost and quality in the best interest of the owner.

The CM approach allows a construction expert and advocate for the owner to become part of both the team and the process from the beginning – thereby allowing early cost analysis during the design phase and ensuring that the design meets the anticipated budget and schedule.

As Rapp sees it, "The CM process is completely transparent from the owner's point of view; all project information is available and explained so the owner understands the true cost and scope of the project. Designs can be value engineered with input from the owner to reduce cost. The true costs of changes in terms of time and money can be easily understood and decided upon in an informed manner by the owner."

In the construction phase the CM provides all of the services a homebuilder would be providing except that the CM is directly responsible to the owner as the agent of the owner. The CM, with the owner, evaluates and hires the general contractor or subcontractors whose warranties of work are directly to the owner. The CM's trade discounts are passed on to the owner without a profit cut. The CM provides a standard of care to the owner and the project above that of the homebuilder or the general contractor. The CM and the owner usually get

together once a week for project meetings to review schedules and budgets, and to assess any issues.

"Using the CM approach," says Rapp, "has allowed us to produce homes of greater quality, less cost and in a shorter amount of time. It allows the owner to be part of the process, while under the traditional delivery system he would not. The savings in cost and time to owners can sometimes be as much as ten to twenty percent of the overall cost and duration of construction schedule."

Rapp feels that such expert supervision and inspections reduce or eliminate the chances of substantial defects in workmanship. Thus liability and warranty issues are controlled by strict contract negotiation and administration. Having perfected the CM process with owners and developers, his firm is also working with land developers and investors, providing them product designs, value engineering, budgeting, bidding, scheduling, and complete product and infrastructure construction. Services also include marketing, homeowner orientation and warranty and customer service program administration.

Unless I am missing some mysterious revelation, a lot of owner laments and Tar-Baby tales could be put to rest in this country if the approach to building described above became the norm. People get in trouble when they try to practice in a profession for which they are not trained. If you are buying or selling property, get your own agent - a broker. If you need legal advice, get your own lawyer.

If you are building or renovating a home, indeed embarking on any kind of construction, get your own agent, a construction manager. Knowledge pays; in fact knowledge

will likely pay for itself. If you like to be creative and take charge, stick to your own profession or express yourself where money and liability are not involved. Those Brer Rabbit stories are full of wisdom. Touch down!



Hoisting the peak. There was a time, still observed in Europe, of crowning a new house with a small evergreen when the peak was first framed. Today, with mechanicals and assemblages galore, construction is a just-in-time assembly line requiring attentive management, too busy for ceremony.

Acknowledgement:

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