

Homebuilder wants \$4M back from subdivision developer

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The nation's largest homebuilder claims it is owed \$4 million from a subdivision developer in Aurora after that developer failed to deliver finished lots ahead of an August deadline.

The 850-acre Windler Homestead, a former family farm dating to 1881, is being turned into the Windler community of 5,800 residential units plus millions of square feet of retail and industrial space. Grandview Partners, a Connecticut-based firm, is Windler's developer.

Homes range from \$400,000 for 1,300 square feet to \$670,000 for 2,300 square feet. Five homebuilders are working there. D.R. Horton, a Texas company, is not among them.

Whether that is Grandview's doing or D.R. Horton's depends on whom you ask. In November, the former sued D.R. Horton for \$25 million, accusing it of reneging on plans to buy lots at Windler. Then, on Dec. 19, the homebuilding giant countersued Grandview for breach of contract.

"The delivery date was Aug. 2," last month's countersuit said. "The purchase and sale agreement provides that, should the seller fail to deliver finished lots ... (D.R. Horton) shall have the right to, among other things, receive its earnest money and grading deposit back.

"(Grandview) refused to return such funds as required by the PSA and, apparently, now wishes to keep them for itself despite its failure to deliver (the) finished lots," it explained.

Grandview says the August deadline was extended because of delays outside its control, including weather and permitting. But D.R. Horton calls those excuses manufactured.

"(This) seller has a pattern and practice of claiming force majeure delays when it fails to meet its required contractual deadlines," the homebuilder alleges of Grandview Partners.

D.R. Horton is asking Judge Patrick Pugh with Adams County District Court to award it the \$4 million it has paid to date, plus interest and legal fees. A trial has not yet been scheduled.

D.R. Horton's attorney is Scott Wilkinson with Davis & Ceriani in Denver. Grandview's lawyers are Brandee Caswell and Megan Christian at Davis Graham & Stubbs, also in Denver.