

D.R. Horton describes mineral rights disclosures

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DURHAM – Texas-based national homebuilder D.R. Horton Inc. disclosed Friday the procedures the company uses to notify home buyers when it's reserving the rights to the oil, gas, petroleum or natural gas under properties it sells in North Carolina.

The release follows a request made last week by the state attorney general's office for copies of the oral and written disclosures the company made to home buyers in the state about its mineral rights reservations.

The N.C. Real Estate Commission has also opened a file to look at whether the company adequately disclosed to homeowners when it was reserving mineral rights, said Janet Thoren, legal counsel for the commission. The agency licenses real estate agents in the state, including D.R. Horton, Thoren said.

D.R. Horton has sold properties in Durham County and elsewhere in the Triangle without the mineral rights connected to properties. In some cases, the company has transferred the mineral rights to a subsidiary, DRH Energy Inc.

Thoren said that any licensed seller in the state has to disclose material facts about a property it's selling, and the reservation of mineral rights is one of those facts. The timing of that disclosure is important, she said.

"It should be at a time when a purchaser can make a reasonable decision about whether to proceed with the transaction. For example, when you get to closing, it's probably too late," Thoren said.

In a fact sheet released Friday, D.R. Horton said the company requires multiple disclosures to be made about its mineral rights reservations during the home purchase process.

Those disclosures includes oral disclosure by the company's sales agents prior to the signing of the contract, disclosure in the contract itself, disclosure in the homeowner's title insurance commitment, and disclosure in the deed that transfers the property's ownership.

The contract is generally signed weeks before the closing takes place, an official with the company said in an email.

The company also said attorneys paid by D.R. Horton are required to provide separate

written disclosure for home buyers about mineral rights reservations, to discuss that disclosure with them, and to have the buyer sign the disclosure prior to closing.

D.R. Horton is also planning to require an additional disclosure to be made as a result of discussions with the N.C. Department of Justice and the N.C. Real Estate Commission. That disclosure would be a separate, written document, signed by buyers prior to the contract.

“We would certainly welcome any efforts by D.R. Horton to improve disclosures to consumers,” said Noelle Talley, a N.C. Department of Justice spokeswoman, who said in an e-mail that the attorney general’s office is still reviewing information sent by the company.

Thoren said the commission suggested “early on” that the company might consider doing a separate disclosure – a document separated out from everything else to make it more clear to the homeowner what’s happening.

There is a disclosure about the company’s mineral rights reservations in the contract the company is using that has to be signed before any of the process starts to purchase a home, Thoren said.

But the commission has not finished its investigation yet.

“We’ll finish our investigation, and look into the disclosures and whether or not (we) feel disclosures (were) adequate or not, and at that point, (we’ll) make a decision whether or not there’s anything else we need to do,” she said.

D.R. Horton said it’s not uncommon in the United States, and in North Carolina’s coastal areas, for real estate sellers to sever the mineral rights of a property from the surface rights.

The company said it’s been reserving mineral rights in North Carolina since 2007, before recent interest in oil and gas exploration in the state.

“D.R. Horton retains minerals in many areas of the country, including North Carolina, where we do not believe currently commercially producible minerals have been found,” D.R. Horton officials said in an e-mail.

In a law passed last year, state legislators required a state environmental department to look into directional and horizontal drilling and hydraulic fracturing, a natural gas extraction technique known as fracking.

A state Senate energy committee unveiled Wednesday proposed legislation that would bar fracking in the state for more than two years while regulations are being developed, according to The Associated Press, and also proposes the establishment of a nine-

member board to take over authority to develop regulations.

There will be a free community information held Tuesday in Durham about hydraulic fracturing and gas rights. The meeting will be at 7 p.m. at the Durham Agriculture Extension Center located at 721 Foster St.

The meeting was organized by the Durham County Agricultural Cooperative Extension Service, and Rural Advancement Foundational International-USA, a Pittsboro-based farmer advocacy organization.

It include information on the hydraulic fracturing process, on the potential impacts of drilling on crops, livestock, forest land, and water resources, on oil and gas lease terminology, and negotiating a fair mineral rights lease.

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