

Headlines

Before you buy property in Western NC, read this!

Landslide Hazard Mitigation

The residents of Western North Carolina are on a precipice literally and figuratively and unless immediate action is taken to stop development of hazardous mountain land, earth movement and landslides will escalate causing unnecessary loss of life and severe financial damage. There are standards that can be legislated to help prevent the next succession of landslides. But if no action is taken, the 15 county landslide disasters of 2004 will only be a preview of the future devastation that is awaiting the region

Those responsible for public safety issues in North Carolina have only to look to California for guidance on how to mitigate the causes of landslides and other natural hazards. In 1998 the state of California passed an urgency statute titled the Natural Hazards Disclosure Act. The legislation recognized that the existing regulatory incomformity and lack of oversight were allowing developers to construct homes, roads, and other buildings in hazardous areas and that these actions were substantially increasing the probability of more disasters. The Natural Hazards Disclosure Act defined natural hazard areas as zones of required investigation. This means that before a development permit can be issued or before a subdivision can be approved, cities and counties must require a site specific investigation to determine whether a significant hazard exists at the site. If the findings determine slope instabilty then engineering measures must be used to reduce the risk to an acceptable level.

In addition to requiring strict regulation and control over the development of hazardous land, the Natural Hazards Disclosure Act compels all sellers of real property and their agents to provide prospective buyers with a "natural hazards disclosure statement." In strong language the Act advises all prospective buyers of the risks they are assuming when they choose to buy property in a high risk hazard area. The Disclosure Statement, Civil Code Section 1002.6c, warns all prospective buyers that the high risk designation may, "limit owners' ability to develop property, obtain insurance or to receive assistance after a disaster." The Statement also suggests that buyers and sellers, "may wish to obtain legal advice regarding these hazards."

Meanwhile in North Carolina, twenty five months after the fifteen county wide landslide disasters, Governor Mike Easley issued a press release to the residents of Western North Carolina advising them that the first of the state landslide maps had been completed for Macon County. The hazard map shows historic landslide events in the county and attempts to determine factors of slope instability and how far a mountainside would move in the event of slope failure. The Governor said, "These maps will show which areas are prone to landslides and that will help developers, county officials, and residents decide where to safely build homes, roads,

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and other structures."

As Governor Easley clearly states, landslide mapping provides critical information for all parties involved in the regulation, development and purchase of hazardous land.

It is unacceptable that for more than two years the state has allowed local governments and developers in Western North Carolina to willfully disregard established geologic safety standards. Local and county governments have permitted hundreds of major and minor subdivisions on unmapped and very likely dangerous ground. Not one of the regulators in the 21 county landslide prone districts have required investigation into the stability of the building sites.

Developers have profited greatly from this laissez-faire regulatory environment and have been allowed to place homes virtually any where they please. This unsafe regulatory environment has placed the residents in Western North Carolina at substantial risk. It should be noted that the costs of geologic stability mapping are reasonable. The Town of Boone was professionally mapped for \$20,000.

The thousands of individuals and families who have bought mountain slope property in Western North Carolina are unwitting participants in the next series of inevitable landslide disasters. Realtors and developers are not being required to disclose that all of the land in the 21 counties that make up the western region of the state are located in high risk landslide hazard zones. All owners of mountain slope property should be concerned that their home sites and access roads were developed without the proven safeguards of landslide mapping and site specific stability testing.

In order to protect their future interests, mountain property owners should ask the builder or developer of the property to provide an engineering report that states their home site is safe. Builders and developers are not qualified to make these assessments. Slope stability can only be determined by state licensed engineers and geologists. The costs for site specific geologic stability analyses are affordable, generally less than \$500.

If the seller is unable to provide existing site specific stability studies for the property, then the seller should be responsible for the costs of obtaining these reports. Builders and developers are well aware of the critical necessity of establishing this baseline, but since the state and local governments have not required these safety measures they have not been included in development costs. If engineering studies prove the site to be unstable then the seller should be responsible for the expense of correcting the engineering flaws. Geo-technical engineering measures can be successful in providing security and stability to the site but often there are no remedies to halt eroding mountain slopes. For this reason prospective buyers of mountain slope property should insist upon site specific safety documentation.

There are easy ways for homeowners to inspect their property for the early signs of stress and slope failure. Cracks that appear around doors and windows and basement walls are the first indications of serious problems on the building site. Other observable signs of ground instability are cracks and fissures in the soil around the property.



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There is pending landslide litigation against Mountain Air Development Corporation. Mountain Air is located in Yancey County and is one of the oldest and most recognized resort communities in Western North Carolina, (mountainaircc.com/). Within the resort two slope side condominium buildings have suffered serious structural damage from landslides. The property owners are suing the developer, his contractors, and consultants for negligence and breach of contract for failure to provide proper slope stability analysis and geotechnical engineering for the building sites. Listed in the Complaint: the condo buildings have been severely damaged, including separating of the decks from the buildings, cracking in foundation and supports, movement of stairs and walls. Austin View Villas Condominium Association, Inc., v. Mountain Air Development Corporation et al (06 CVS 51 and 06 CVS 54)

Mountain homeowners in Western North Carolina as those in California are being confronted with another destructive phenomenon... a creeping earth movement that cannot be prevented or stopped. The complete loss of ten homes in the Hunters Crossing Ridge development in Waynesville are examples of the catastrophic effects of this type of landslide in North Carolina. The first indications of structural instability in the properties were cracks in basement walls. Within weeks of this observation, the mountain's continued movement had caused large cracks and crevices to appear in the yards and parking areas around the homes. The distressed homeowners employed an engineering firm to determine if the properties could be stabilized. Extensive studies and tests determined that there were no engineering measures available to stabilize the ground under the properties. The ten families who lost their homes in November 2005 have also sadly discovered that there is no insurance to cover their losses.

Homeowners in California have also suffered financial loss from this same type of slow moving landslide. In the spring of 2005 three new multimillion dollar hillside homes in the Anaheim Hills neighborhood of Orange County had to be demolished after geologists and city inspectors concluded that the homes were sitting on an old, unstable, and uncontrollable landslide deposit.

The mountains of Western North Carolina are like mountains everywhere, inherently unstable and often dangerous. For more than two years the state of North Carolina has allowed mountain slopes and ridges to be developed with reckless abandon. The consequences of these actions will be severe.

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