



For Immediate Release  
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## **MADIGAN SUES COOK COUNTY DEVELOPERS OVER DOWN PAYMENTS FOR NEW HOMES**

*More than \$250,000 in Disputed Down Payment Never Returned*

Chicago - Attorney General Lisa Madigan filed suit in Cook County Circuit Court on Friday alleging that two Chicago area real estate developers have violated the Illinois Consumer Fraud and Deceptive Business Practices Act by failing to complete construction on 39 homes and by further failing to refund \$250,000 in down payments to the customers – most first-time home buyers with dreams of homeownership.

Madigan's lawsuit names two individuals as defendants: John J. Popp, Jr., of Aurora and Christopher Smith of Peotone. The suit also names three corporate defendants: Lord & Essex, Inc., located at 625 North Broadway in Aurora, and Pembroke Homes, L.L.C., and Estates at Brookmere, L.L.C., both of which are located at 89 Lawrence Lane in Matteson.

"For most of us, a home is the most important purchase that we will ever make," Madigan said. "These consumers paid hundreds of thousands of dollars of their hard-earned money as down payments for their dream homes, but the defendants are turning their dreams into nightmares."

Popp and Smith, through Lord & Essex, serve as the developers of the Brookmere subdivision in Matteson. Thirty-nine would-be homeowners entered into agreements with Popp and Smith and made down payments to purchase new homes, but the developers have failed to complete the homes or return the down payments. Popp and Smith also developed the Autumn Ridge subdivision in Crest Hill in Will County where another individual entered into a purchase agreement and made a down payment with no results. As part of the process for purchasing a new home in their subdivisions, the defendants require consumers to sign purchase agreements, which generally state that the homes will be completed within a two-year period. The defendants typically require that consumers pay a down payment of five percent of the home purchase price as earnest money on the homes. Additionally, several months after signing the contract, the consumers often made additional deposits to pay for upgrades and options. Some consumers also signed riders to the contracts that would allow them to cancel the purchase agreements under certain circumstances.

Madigan's complaint alleges that the Lord & Essex sales agents told some consumers they could expect their homes to be completed sooner than the two-year time frame stated in the contract. These verbal representations helped to convince some consumers to enter into purchase agreements and to take the next step of securing mortgage commitments. In many instances, however, consumers have complained that the defendants extended the completion date on their homes well beyond the promised time frame.

According to the complaint, some consumers have tried to exercise their contract cancellation riders and obtain down payment refunds when the defendants failed to complete the homes within the promised time period. Other consumers have attempted to cancel contracts when the defendants did not meet the contracted two-year time period. The consumers allege that the defendants told them they would refund the deposits, but have failed to do so. The defendants have allegedly received approximately \$250,000 in down payments from the 39 customers who have filed complaints with the Attorney General's office.

Madigan's complaint also alleges that for a number of homes that the defendants have completed and delivered to consumers, the defendants have failed to honor homeowner warranties and to make repairs to items under warranty when requested. The suit asks the court to prohibit the defendants from engaging in the business of selling homes or developing real estate and from further violating Illinois = consumer protection laws. It also asks the court to order the defendants to pay restitution to consumers, a civil penalty of \$50,000 and additional penalties of \$50,000 for each violation committed with the intent to defraud, along with the costs of the suit.

Madigan encouraged any other Lord & Essex customers with similar complaints to file a complaint with her consumer protection division by downloading the complaint form at [www.IllinoisAttorneyGeneral.gov/consumers](http://www.IllinoisAttorneyGeneral.gov/consumers) or by calling the Attorney General's Consumer Fraud Hotline at one of the following numbers:

Chicago 1-800-386-5438; TTY: 1-800-964-3013

Springfield 1-800-243-0618; TTY: 1-877-844-5461

Carbondale: 1-800-243-0607; TTY: 1-877-675-9339

Spanish-language Hotline: 1-866-310-8398

Assistant Attorney General Janice Parker is handling the case for Madigan's Consumer Fraud Bureau.