

Original link:

[http://www.palmbeachpost.com/business/content/business/epaper/2009/02/09/a2f\\_samplescol\\_0209.html](http://www.palmbeachpost.com/business/content/business/epaper/2009/02/09/a2f_samplescol_0209.html)

## Technicality gives couple grounds to end deal for Port St. Lucie home

By [EVE SAMPLES](#)

Palm Beach Post Staff Writer

Monday, February 09, 2009

A Wellington couple have managed to do what many who bought at the market's peak are dreaming of: escape a new-home contract.

A Miami-based arbitrator ruled in January that the contract **Kurt and Micheline Moeding** inked with **Kolter Homes** violated federal law, and that they should get their \$76,114 deposit back. The couple signed up for the \$629,580 home at Kolter's **Verano** community in Port St. Lucie in 2006 - before home values plummeted.

The tool the Moedings used to get out of the deal is a technicality in the **Interstate Land Sales Full Disclosure Act**.

The law requires developers to make time-consuming reports to the **U.S. Department of Housing and Urban Development**, unless they claim exemptions. The exemption Kolter used: It promised to complete homes at Verano within two years of signing a sale contract.

The problem, according to the arbitrator's Jan. 22 decision, is that Kolter gave itself wiggle room by stating it wouldn't be bound by the two-year deadline if weather or other obstacles interfered.

"The arbitrator ruled that it really wasn't a firm commitment," said the Moedings' Coral Springs-based lawyer, **Scott Gelfand**.

He sees the decision as a "potentially crippling blow" to Kolter since the builder used the same contract for other sales.

"I expect that this will open up the floodgates," he said.

Kolter maintains that the contract is valid, and it's evaluating its options about the decision.

"Kolter believes that the arbitrator actually made a mistake," company spokeswoman **Mary Kay Willson** said.

Across the country, buyers eager to escape overpriced contracts have turned to the Interstate Land Sales Full Disclosure Act as a way out. It's not that they care that developers may have violated a relatively obscure federal law. They just want out of deals that don't look so hot since the market turned.

"It's a function of the economy, it's a function of Kolter not delivering in the Moedings' minds," Gelfand said. "And this was a legal mechanism they turned to."

- All the talk about an economic "state of emergency" in St. Lucie County is creating something of an image problem.

Not long after county commissioners kicked around the idea of declaring an emergency in January, the county started getting concerned calls - including one from one of its bond agencies. It issued a news release last week to set the record straight.

"Despite the decrease in property values we've seen in recent years, St. Lucie County's budget has been, and remains, balanced," County Administrator **Faye Outlaw** said in the statement.

County spokesman **Erick Gill** said the commission was talking about the declaration as a way to inject money into the local economy by giving preference to local contractors.

When a state of emergency is in effect, the county can quickly award contracts to local firms without going through its normal bidding process. The county, once among the fastest-growing in the country, is grappling with about 10,000 foreclosures and thousands more that are pending.

- To shed some light on the resources available to local businesses, the **Business Development Board of Martin County** will host a free half-day workshop Feb. 18.

Topics will include local and state incentive programs, import and export assistance, and workforce development.

The workshop is 8 a.m. to noon at **Indian River State College's Wolf High Technology Center** in Stuart. To reserve a space, call (772)463-2821.