GREATER ATLANTA HOME BUILDERS ASSOCIATION 1 SPRING 2024

ATLANTA

BUILDING NEWS



pg. 32



CONTENTS







FEATURES

- PROFESSIONAL DEVELOPMENT: WHY IT MATTERS
- 32 NAHB LEGISLATIVE WINS -WHAT THIS MEANS FOR HOMEBUILDING
- A REMODEL FOR THE 2024 34 HOMEOWNER: WHAT'S IN, WHAT'S OUT AND HOW TO ADAPT
- 38 WOMEN IN CONSTRUCTION
- 42 2024 GAHBA INSTALLATION AND AWARDS PROGRAM

DEPARTMENTS

- 5 President's Letter
- 6 **GAHBA Staff**
- **Board of Directors** 6
- Spike List
- 11 Legal Corner
- 13 Chapter Update
- 14 Council Round Up
- 18 EarthCraft
- 20 Education
- 22 Government Affairs
- Member Spotlight: Matt Hopkins 26
- HomeAid Atlanta



Dues payments to the Greater Atlanta Home Builders Association (GAHBA) are not deductible as a charitable contribution for federal income tax purposes. However, dues may be deductible as an ordinary and necessary business expense, subject to exclusions for lobbying activity. Contributions to a political action committee are not tax deductible. Because a portion of your dues is used for lobbying

by the National Association of Home Builders (\$34.58) and the Home Builders Association of Georgia (\$79), these amounts are not deductible for income tax purposes. You are advised to consult a professional tax adviser regarding the deduction of your dues payments to the GAHBA.

I DUNWOODY PARK S., STE. 200 ATLANTA GA 30338 (770) 938-9900 (770) 934-8363 FAX WWW.ATLANTAHOMEBUILDERS.COM

FOLLOW GAHBA ON SOCIAL MEDIA









ach year, I receive a number of calls from builder and developer clients who want to sue homeowners, neighboring property owners or others for slander and/or libel. This article will discuss the law relating to those claims.

Libel and Slander

Defamation is a general term that includes slander and libel. Slander is oral defamation, while libel is written defamation.

"Per Se" and General Defamation

Defamation, whether libel or slander, is also broken down into "defamation per se" and general defamation. Defamation per se includes only statements:

- about the plaintiff in connection with the plaintiff's trade or profession that are calculated to cause damage;
- that state or suggest the plaintiff committed a crime; or
- charging the plaintiff with having "some contagious disorder or being guilty of some debasing act that may exclude him from society."

General defamation is a catch-all category that includes any "disparaging words productive of special damage which flows naturally therefrom." The "trade or profession" type of per se defamation is further discussed below since it's the most common type of defamation encountered by builders and developers.

General and Special Damages

The distinction between "per se" and general defamation is significant. With the former, damages to the plaintiff are assumed to have occurred and a jury is entitled to award damages in an amount it deems appropriate without specific proof of amount. With general defamation, damages must be specifically proven. That can often be difficult since specific damages (called "special damages") do not include general injury to reputation. They include only damages such as lost income and profit. Punitive damages may be recoverable for per se or general defamation if the statement was made with ill will or very little care for its accuracy.

Falsity

To prove defamation, a plaintiff has to demonstrate that the statement was false. If a homeowner complains of "lots of defects" and there are, in fact, "lots of defects," there's no defamation claim. Truth is an "absolute defense" to defamation. Minor inaccuracies will not render a substantially accurate statement defamatory, but facts taken out of context or arranged to create a false meaning can be defamatory.

Publication

Defamation only occurs if the allegedly defamatory statement was conveyed to someone other than the plaintiff and that person actually read or heard and understood the statement. The law refers to this as "publication," whether the statement was oral or written.

Trade or Profession Defamation

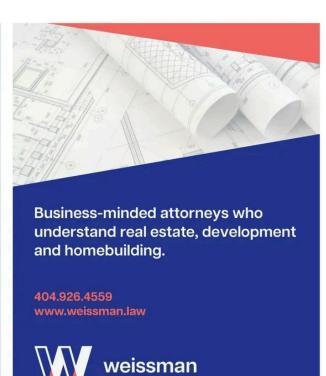
As discussed above, "trade or profession" defamation does not require proof of special damages. To fall in that category, the statement must reference or relate to the plaintiff's trade or profession. It can't just be about someone who has a trade or profession. A statement that a physician stole land does not defame the physician with reference to his profession, but a statement that a grocery store owner keeps false weights is in reference to their trade.

Generally, a statement about a single instance of alleged poor construction or unprofessional conduct is not enough to constitute trade or profession defamation. The statement must charge a more general defect of character or lack of knowledge, skill or capacity. An untrue statement that a builder's homes "all have lots of code violations" would probably be defamatory, while an untrue statement that the defendant's house has lots of code violations may not be defamatory.

Expressions of opinion are generally not enough to establish trade or profession defamation. Georgia law does not, however, provide blanket protection to opinions. If an opinion can reasonably be interpreted as stating or implying defamatory facts, which are capable of being proved false, that statement can be defamatory.

Greater Atlanta Home Builders Association









- ▶ Portable Restrooms
- ▶ High-Rise Systems
- ▶ Hand Hygiene Solutions
- ► Trailer Solutions
- ▶ Temporary Fences
- ▶ Roll Off Dumpsters

1.800.TOILETS



UnitedSiteServices.com



United SITE SERVICES

Greater Atlanta Home Builders Association 37