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**LUXURY BY DESIGN,
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Toll Brothers' subdivision at Hopkinton Highlands is minutes from Route 495. (Globe Staff Photo / John Tlumacki)

Home builder leaves a trail of bitter buyers

This series was prepared by the Globe Spotlight Team: Editor Walter V. Robinson, reporters Matt Carroll, Sacha Pfeiffer, and Michael Rezendes, and photographer John Tlumacki. This article was written by Rezendes, Pfeiffer, and Robinson.

4/29/01

HOPKINTON - The price -- up to \$800,000 -- seems not to matter. Buyers have long since put deposits on the remaining home sites at Toll Brothers' subdivision here, attracted by features that have made Toll the country's largest builder of luxury homes: walls of windows, two-story family rooms, and master bedroom suites large enough to host teenage sleepovers.

But new homeowners at Hopkinton Highlands will also get something Toll does not advertise. That is because three homes monitored by the Globe Spotlight Team during months of construction fail minimum standards of the state building code.

Walls were not properly secured to foundations. There were inadequate support for carrying beams. Framing was done with water-saturated wood,

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at a job site where lumber was left buried in snow for weeks at a time. Brick fronts were so sloppily built they may cause interior water problems.

"Exceptional energy efficiency" is what Toll says its homes provide. But the three houses under construction, as designed by Toll, do not meet state standards, according to an analysis done by a construction expert retained by the Globe.

Hopkinton's building inspector, Richard J. Bowker, said the quality of Toll's workmanship, compared to other builders he deals with, is "half-assed."

Toll Brothers, in a written response last week, refused to answer Globe questions about the Hopkinton building errors. But the company strongly defended its record as a quality home builder, adding that "Sometimes construction issues arise, and we pride ourselves in dealing with them directly, quickly and efficiently."

But Hopkinton is no aberration, the Spotlight investigation found. Lax supervision, sloppy construction methods, and use of inferior materials have generated substantial ill will among buyers in other Toll subdivisions in Greater Boston, where Toll has sold 1,200 homes since 1988.

Toll has also left a trail of embittered buyers elsewhere, including Connecticut, Virginia, and Illinois, some with homes where the framing is rotting under phony stucco coating that Toll advertised to unsuspecting buyers as the real thing.

The Spotlight Team also found that substandard home construction is a growing national problem, and that

subdivision revealed several building code, energy efficiency, and safety violations.

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CONTACT THE SPOTLIGHT TEAM

The Globe Spotlight Team would like to hear from readers willing to share their experiences -- or thoughts -- about new home construction. The Spotlight telephone number is **(617) 929-3208**. Confidential messages about new home construction and other issues can also be left at **(617) 929-7483**. You can email Spotlight at spotlight@globe.com.

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many national home building firms have taken advantage of a lack of government oversight.

Already faced with escalating home prices, unwary buyers are often victimized by questionable sales practices, slipshod construction, and home builders who cannot be found to correct problems once the builder has the closing check in hand. And Toll and other major builders often will not sell homes to buyers unless they sign away in advance their right to bring lawsuits.

During the nationwide building boom of the 1990s, the growth in housing starts has been eclipsed only by greater growth in the rate of complaints about builders. Much of the anger is directed at major national companies, like Toll and lower-end builders like KB Home and K. Hovnanian Companies, which have grabbed an increasing share of the lucrative home building market.

For the most part, the victims of substandard home construction nationwide are working-class families buying into huge housing tracts developed by other national builders, KB Home among them, in vast open spaces in Sunbelt states. In Massachusetts, many working-class buyers are priced out of the new housing market altogether.

Walter Blair Adams, a Wellesley architect and building code expert who was retained by the Globe, said the serious flaws he documented at Toll's most expensive Massachusetts subdivision in Hopkinton illustrate that wealthy buyers are just as likely to be victimized as those who buy starter homes elsewhere.

Toll Brothers, which built 3,800 homes in 20 states last year, is planning to build at least 1,000 more in Massachusetts, including a 197-home subdivision in Walpole, 56 homes in Scituate, 94 more homes in Hopkinton, and a major development in Plymouth, which may dwarf the others it has planned.

Toll, which is based in Huntingdon Valley, Pa., is one of two national home building firms with a presence in Massachusetts. Pulte Corp. is the other.

Toll, which refused to let company officials be interviewed by the Globe after a single interview with its chairman, said in a statement that no national home builder has customers who are more satisfied than Toll's.

Indeed, Toll has many happy buyers. Even among those who hold grudges against the company for its shortcomings, the anger is often tempered by the realization that even the values of flawed homes have escalated sharply.

But while Toll claims that it provides luxury by design, many of its

Alternative views

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buyers say they are more likely to receive quality by chance. And despite Toll's unwavering defense, its own chairman admitted last month that Toll Brothers has had a disproportionate number of disgruntled customers in Massachusetts. In a March interview, Robert I. Toll blamed the problems on a "dumb tax" Toll paid for its early mistakes in the state.

As a team of Globe reporters was monitoring the subpar work in Hopkinton, Toll asserted that those problems have been corrected. "We have built a reputation for servicing the homes we build that's better than anyone else's," Toll said.

That assertion would come as a surprise to many Toll homeowners interviewed by the Globe, especially [Edward and Mary Bobka](#), who moved into their dream home at a Toll subdivision in Franklin four years ago this month.

Last month, they sold the house and returned to California after fruitless attempts to get Toll to rectify serious construction flaws that included a badly cracked foundation, sloping floors, and walls so warped the Bobkas dared not hang pictures on them. Experts retained by the family concluded that the house was sagging, and that its walls might even collapse in a hurricane.

Who would buy such a home from the Bobkas? Only Toll Brothers itself, but not until Anthony S. Summers, a Boston attorney, threatened a lawsuit. First, however, Toll set up a separate corporation for the \$505,000 repurchase of the house at its Franklin Oaks development. And Toll made the offer only after its lawyer threatened to tie the Bobkas up in court "with a half decade or so of litigation" if they talked to the Globe about their calamitous experience.

The cost to repair a home the Bobkas paid \$330,000 for is \$258,391, according to an estimate for the couple by Wrentham builder George R. Smith Jr., who Toll has called in before to correct defects in other homes.

"Toll Brothers, they really take your life away," Mary Bobka said in January, before her struggle concluded. "They make it their job to make you miserable."

The Bobka house is at least the third home Toll has bought back from Massachusetts customers since 1997.

Smith, who said Toll is a better company than sometimes portrayed, is nonetheless disheartened by its record on some homes. "I wish Toll had management with high ideals," Smith said. "If it did, they wouldn't have these problems."

Asked about the buyback, the company said: "We have amicably

resolved our dispute with the Bobkas."

The Bobka case is not an isolated example. Two months ago, Toll offered to buy back a home just two blocks away. The owners, Stanley and Eunice Kozikowski, have three repair estimates that top \$400,000. But after battling Toll for 12 years, they rejected the offer, demanding a settlement more than double what Toll offered.

The Kozikowski home has had so many problems that in 1998, then Building Commissioner Matthias J. Mulvey brought criminal charges against Robert Toll and his brother Bruce, Toll's vice chairman, for numerous code violations. A district judge recently dismissed the criminal charges, without resolving the alleged code violations.

Mulvey said the foundation and all three fireplaces need rebuilding, as well as other structural work. "You could call that house a lemon," Mulvey said.

To be sure, few new homes are delivered wart-free. But the Spotlight Team found that many Toll buyers discover troublesome, and sometimes serious, defects when they move in - and sometimes cannot get Toll to correct the problems.

In many cases, their only recourse is arbitration.

Dana Block, a Sharon homeowner who says her Toll home is now a "dream house," said the company ignored her repeated attempts to correct problems. Only when her attorney husband threatened to file a lawsuit did Toll respond.

Block's conclusion, shared by other buyers, is this: "I think... they just let you get to a point where you can't stand it anymore and most people just give up."

In one sense, Toll is a victim of its own seductive marketing. The company's Web site sets the industry standard with features that allow customers, with a mouse click, to assemble their own dream houses by using Toll's optional floor plans. And its model homes are loaded with expensive upgrades and personal touches intended to turn lookers into buyers.

"People expect a Rolls Royce, not a Chevrolet," said Thomas P. Armitage, a former Toll executive. But in fact, Toll builds production homes. "It's high end, but it's a production home," he said.

"Look," Armitage explained, "a house that was \$220,000 eight years ago is now \$440,000. So you add a few options and in their minds, people say, 'This is a half million dollar home.' They think it ought to be a baronial mansion, and it isn't." What Toll delivers, he said, is a big house for the money, "a good meat and potatoes home with some snap

and a nice design.

"What you're not getting is the next level, a fine quality building," said Armitage, who managed the construction of some of Toll's Massachusetts subdivisions.

But for Toll, what it sells it must build. And satisfying the expectations it creates requires careful coordination between experienced project managers and skilled subcontractors, a challenge that even custom builders struggle to meet.

Toll's marketing boast, "No other builder is as committed to quality as Toll Brothers," is hard to justify. The Globe found that many Toll subdivisions have been a revolving door for harried managers with so many sales and construction responsibilities that they have little time to supervise inexperienced subcontractors, at a time when skilled craftsmen are at a premium.

The results can be disastrous.

Last year, when Toll began a 62-unit empty-nester development in East Greenwich, R.I., the town's building inspector, John M. Hoyle Jr., was appalled at the careless construction he found: framers whose nails kept missing studs, and wall sections that were improperly anchored to foundations, including a wall that hung an inch above the foundation. Hoyle called it the "magically floating wall."

"This is outright poor workmanship," Hoyle said. "It is shabby, shabby, shabby construction." He added: "This is all basic stuff. If you were a builder for more than a year, you should know this stuff."

Yet Hoyle said his attempts to get Toll's supervisor to correct the problems, much less understand them, were unavailing. Exasperated, he said, he told Skip Kelleher, Toll's New England vice president, "You're building junk," and warned him that the project might be halted.

That got Kelleher's attention. According to Hoyle, Kelleher then replaced the supervisors and the subcontractors. Hoyle said he is now satisfied with the workmanship on the project.

If Hoyle was stunned by Toll's modus operandi, Wrentham builder Smith is not, after extensive experience correcting Toll's mistakes.

Smith said he has observed inexperienced - and often unsupervised - Toll subcontractors build one problem on top of another, leaving Toll and the buyers with expensive mistakes to correct.

Among the errors, Smith cited poorly done foundations - sometimes poured on uncompacted fill - that create serious problems, even if

everything else is done perfectly. Toll, he added, often uses second grade lumber, and premanufactured wall sections that - as the Globe saw in Hopkinton - are damaged after being left unprotected in snow and rain. Then too, Smith said, inexperienced framers do not always make certain that the floor atop the foundation is level before putting up wall sections that are themselves not always straight.

"Sometimes the framing contractors forget what a level is," Smith said. What Smith calls "an accumulation of irregularities" can cause serious problems in a new home.

The Bobka house is a case in point. In a report on file in the Franklin Building Department, Smith reported the home's walls were "out of plumb" in 66 places, with variances in some cases 1 3/4 inches within an 8-foot span.

Toll has also turned to Michael Mullane, a Plainville mason, to fix some homes with serious defects. In one case, a Canton home Toll bought back from its owner in 1996, Mullane faced a major structural challenge: The foundation had been poured on uncompacted soil.

"The foundation had cracked, sunk and settled, and amplified other framing and structural problems," Mullane said in an interview. He cited many errors: virgin ground that should have been compacted, building inspectors who missed the error, Toll supervisors who did not check the work, and Toll's failure to hire subcontractors "with consciences and the courage to do the right thing."

The subcontractor who put in the forms for the foundation, he said, "should have said, 'You can't put foundation footings in this slop.'" But when such problems occurred, Mullane added, Toll's philosophy "was, 'Do not stop, keep on going even if it's wrong.'"

After correcting flaws for Toll in homes in Canton, Sharon, and in three subdivisions in Franklin, Mullane said: "It's much easier to do it right the first time."

Smith's and Mullane's criticisms are similar to those voiced by building commissioners who have overseen Toll's work. They often criticize the quality of Toll's craftsmanship, and the materials it uses. One example: In Sharon, where Toll built almost 200 homes, the company substituted cheaper wooden beams for steel I-beams that were called for to provide structural support. That cost-cutting measure was potentially dangerous, said Joseph Kent, the town's building inspector. Kent ordered new supports for many of the wooden beams.

Toll homes, Kent said, have not "aged well" because of poor construction made possible by lack of quality control.

"I started just seeing what I thought was sloppy work. I'd mention it to

the super and it would be fixed on the home I mentioned, but it was a continuing problem," he said. "There were just really sloppy, stupid, job-site, pain-in-the-neck contractor issues. I don't know how they get away with it."

As for Toll's subcontractors, Kent said: "There were some hacks. There's no other way to describe it. These people were terrible.... Anybody who's a craftsman, in my mind, would have the integrity to do it right."

Christopher Laskey, Kent's counterpart in Canton, where Toll built two subdivisions, added: "Toll Brothers are minimalists. They take the aspects of the code, which is basically a minimum code, and they use it to their advantage."

Toll emphatically disputes such assertions. But Robert Toll, in a March 20 telephone interview, acknowledged that Toll has been snakebit in Massachusetts.

It was probably true, Toll said, that the company had its highest rate of warranty claims in Massachusetts, where Toll had "several iterations of senior management."

Asked what went wrong, he replied: "We paid a higher dumb tax in the Boston suburbs than elsewhere. When you start in a new territory, you don't know if your management is sufficiently experienced, dedicated, and determined to bring the same high quality...we are known for.... We found there were different mores, different standards, different subcontractors, and different suppliers.... I know we did have a difficult time for a while in Massachusetts."

During that interview, Robert Toll promised to send two vice presidents to Boston on March 23 to answer the Globe's questions. But two days later the company canceled the interview. Instead, it said it would "fully" respond with written answers through Joseph Baerlein of the Rasky/Baerlein Group, a Boston spokesman it retained to deal with the newspaper.

But with Robert Barnett, a Washington attorney, also helping guide its strategy, Toll left many questions unanswered for weeks on end, and has refused to answer other questions at all, even declining to provide the Globe with information it shares with visitors to its open houses.

Some of its answers have been wrong: For three weeks, the company denied ever using a trouble-plagued synthetic stucco in New England, even though it had already settled claims with some homeowners. It also insisted that a cardboard-thin wall sheathing it has used on its luxury homes was approved everywhere Toll built homes. In fact, building inspectors in some towns with Toll subdivisions prevented the company from using it.

On its Web site,(www.tollbrothers.com), Toll has a spot for testimonials from happy buyers, although after questions from the Globe, Baerlein acknowledged that Toll posted the praiseworthy comments without seeking permission.

Nonetheless, several buyers reiterated how happy they remain. Except Vincent S. Antonacci.

An attorney who lives in Franklin, Antonacci - "Vincent A. of Franklin Oaks" on the site - applauds Toll for making his 1998 purchase "a pleasurable and rewarding experience."

But that was then. Since he moved in, Antonacci said, he has had problems with Toll. He had water in his basement through a crack in the foundation. Toll, he said, spent several months denying responsibility, then took six months to fix the problem.

Antonacci's present opinion would not make the testimonials.

"They don't seem to have the same reputation here" as in Virginia, where Antonacci lived before. In Massachusetts, he said, "Toll doesn't give their homes the care they need to. I've heard other homeowners complain about Toll here. They [Toll] seem to have problems with their subcontractors and a lack of oversight."

In a subsequent interview earlier this month, Antonacci said the foundation crack is leaking again.

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