

\$35.6 million settlement ends condo defects fight

By Mitch Himaka
and Kristine Moe
Staff Writers

Five years of litigation between condominium owners and the developer of a Tierrasanta condominium project over soil problems and construction defects ended yesterday when a judge approved a \$35.6 million settlement.

The Christiana Cos., builders of the Villa Martinique development, agreed to buy back the condominiums from 357 homeowners out of 440 who agreed to the settlement. The remaining 83 have opted to remain in their units and will receive a smaller cash settlement.

The agreement was approved by

Superior Court Judge William L. Todd Jr.

Attorney Bryan R. Gerstel, who represented the homeowners, said homeowners will be paid from \$73,000 to \$97,000 for the repurchase of their condominiums.

Christiana Cos. attorney A. Daniel Bacalski said the company was happy with the settlement.

"We've been working on it a long time," he said. "We find it to be reasonable. The terms were fair and just."

He said Christiana will take over the condominiums purchased, make repairs and use them as rentals.

The Villa Martinique area, which

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is bounded by La Cuenta Drive, Tierrasanta Boulevard, Clairemont Mesa Boulevard and a canyon to the east, is built on 70 acres of land — of which 40 acres were developed into 55 separate buildings housing 440 units.

Court documents said the project was built on fill soils as deep as 90 feet in some sections.

Gerstel contended that the fill was inadequate to support the buildings, sewer lines and utility lines as well as other improvements.

The suit alleged the defective soil and inferior material used to build the homes caused the buildings to crack, tilt, break, sink and sag.

Bacalski said Christiana's counter-suits against subcontractors involved in the building are still pending.

Christiana's defense in the suit claimed the city wanted low-income housing in the Villa Martinique area and refused to approve the project unless costs were kept low.

The builder contended that Villa Martinique was built within the constraints placed by the city.

Gerstel said escrow is expected to close between June 15 and Sept. 15 with the date to be decided after he meets with Todd and Bacalski.

Residents of Villa Martinique reacted with cries of relief when they

heard that the judge had approved the settlement.

"I'm so glad," said Carmen Garcia, who with her husband want to move into a larger home. "We were trying to sell two and a half years ago, but we couldn't. No one would buy."

"I want out; I've wanted out for years," said Don Nielsen, recuperating from knee surgery at the condo he has owned for four years.

Nielsen has an inch-wide crack in the concrete floor under the carpet, extending from his bedroom down the length of the hall. Drafty breezes enter from a gap between the front door and its frame. Virtually all the walls have patched cracks.

"I've spent a lot of work and a lot of money to make the place more livable," he said.

Nielsen complained that the settlement is still \$20,000 less than what he was told at the beginning of the lawsuit proceedings he would be getting for the sale. Other homeowners worry that the cash they get from the settlement will not be enough to buy elsewhere.

"I've been looking and I cannot find anything comparable to this," said Eva Blum, who has lived in her unit for almost 10 years. "I really don't know what to do."

Other condos she has seen are either too expensive, too small, or also built atop landfills.

"I'm too old to move," she said. "I thought once I got this, I would be settled for life."

But after moving in, her floor developed a crack across most of her living room, doors stopped fitting properly, and engineers detected a pocket of potentially explosive methane gas under her unit. Gas meters pepper the lawns of her area of the

condo complex.

Eric Melkerson and his wife are among the homeowners who elected to remain in their condos and take a cash settlement instead of selling.

The retired couple has lived there for 12 years, and Melkerson said their unit has no damage, even though it is near others that have sustained some of the worse cracks.