



News & Trending

NEWS

SCOTT MISKIMON, WAYNE MAIORANO AND TOBY COLEMAN AUTHOR ARTICLE IN THE NORTH CAROLINA BAR ASSOCIATION'S CHANGE ORDER PUBLICATION

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RALEIGH, N.C. – Scott Miskimon, Wayne Maiorano and Toby Coleman, lawyers in Smith Anderson's Real Estate Development practice, have co-authored an article in the *Change Order*, the newsletter published by the Construction Law section of the North Carolina Bar Association. The article, entitled "Have We Seen the End of the Pre-Sale: How Will Developers Get Their Condo Projects Built?," analyzes a recent North Carolina federal court's decision in the case of *Berkovich v. The VUE-North Carolina*. The court's ruling allowed the purchasers of a condominium unit to rescind a pre-construction sales contract and obtain a refund of their deposit because the contract did not technically comply with a strict application of the Interstate Land Sale Full Disclosure Act (ILSA). ILSA is a federal law that regulates the sale of subdivided land sold and marketed in interstate commerce. By allowing the purchasers out of their contract, the *Berkovich* decision is inconsistent with rulings from courts in other jurisdictions. The case is significant because it raises doubts as to the enforceability of pre-construction condominium sales contracts in North Carolina, which lenders frequently require in order to allow condominium developers to qualify for construction loans.

To read the entire article, please click [here](#).

About the Authors

Mr. Miskimon is a commercial litigator who prosecutes and defends significant business disputes in state and federal court. A large part of his practice involves commercial real estate litigation, and land use and zoning litigation. He is the co-author of the authoritative treatise *North Carolina Contract Law*, which he updates annually, and which has been frequently cited and quoted by North Carolina's appellate courts.

Mr. Maiorano advises clients on all aspects of the public and private construction process, including contracting, project management and closeout, payment and defect disputes in commercial and residential projects. He routinely represents all parties in the construction and development industry - owners, developers, contractors, sureties and lenders. Mr. Maiorano also advises clients with respect to real estate and development related matters, creditor rights and bankruptcy and general litigation.

Mr. Coleman practices in the areas of land use, litigation, and real estate.

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