

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ASHFORD CONDOMINIUM, INC.,)	No. ED94645
a/k/a ASHFORD CONDOMINIUM)	
OWNERS' ASSOCIATION,)	
)	
Appellants,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable Barbara W. Wallace
HORNER & SHIFRIN, INC., and)	
LAMB CONSTRUCTION)	
COMPANY, LLC,)	
)	
Respondents.)	FILED: November 16, 2010

Ashford Condominium, Inc. (Ashford) appeals from the judgment of the trial court granting summary judgment in favor of defendants Horner & Shifrin, Inc. (Horner) and Lamb Construction Company, LLC (Lamb). In 2008, Ashford filed a petition seeking damages for breach of contract and negligence against Horner and Lamb in connection with repair work performed on exterior structures (collectively referred to as “decks” in the decision) of the condominium complex in 2000. The trial court found that Ashford’s claims were not brought within the time limits required by law and were barred by the applicable five-year statute of limitations, Section 516.120 RSMo 2000.

AFFIRMED

Division Four Holds: The evidence before us conclusively proves that Ashford had reason to believe that an inadequate installation of flashing plagued the decks’ construction project more than five years prior to the time it filed its petition. Despite having notice of a potentially actionable injury toward the end of 2000 and early in 2001 when the project finally culminated, Ashford did not file its lawsuit against Horner or Lamb until 2008. By delaying commencement of its suit, Ashford permitted the five-year limitations period of Section 516.120 to foreclose any remedy it may have had against Horner and Lamb on its claims. We hold that summary judgment in favor of Horner and Lamb is supported by the evidence before us and affirm the trial court’s judgment.

Opinion by: Kurt S. Odenwald, P.J. Robert G. Dowd, Jr., J. and Nannette A. Baker, J., Concur.

Attorney for Appellant:	Steve Koslovsky
Attorney for Respondent - Horner & Shifrin, Inc.:	Philip J. Christofferson
Attorneys for Respondent - Lamb Construction Company:	R.C. Wuestling, M. Adina Johnson & Matthew T. Nagel

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