

A Condensed Underdrain History

In November 2013 a contractor working with a homeowner on water issues revealed a 'private underdrain' left by the builder/developer of the Conservatory (KDB, a subsidiary of D R Horton).

From November 2013 to March 2014 extensive research led to the conclusion that the 'private underdrain' did belong to the Homeowners by definition in CCIOA (Colorado Common Interest Owners Associations).

From April 2014 to July 2014 the HOA Board researched Construction Defect Law Firms and hired Benson, Kerrane, Storz & Nelson (BKSN). This began the long process of investigation, hiring a contractor, digging up manholes searching for clean-outs and mapping the networks in our system.

Although it supposedly passed city inspection, no existing as-builts or plans were available. The system was found to be undersized, inaccessible, too deep, clean-out access points spaced too far apart, not constructed correctly, broken in places, and filled with debris.

During 2015—2016 the HOA Board continued through the legal process moving forward towards arbitration. More motions and legal papers were filed. Many depositions were taken and at least three mediations were held without significant progress.

In December 2016 a special hearing on Statutes of Limitation and Repose was granted. In April of 2017 the Conservatory HOA was awarded \$13.5 million dollars. After expenses and attorney's fees the association took home \$7.8 million dollars for underdrain repairs. One of the largest residential construction defect arbitration awards in the state's history.

Although that seems like a lot of money, it was not enough to rebuild the entire system. Repairs and upgrades had to be designed to address the most pressing areas and locate/add access points to maintain the system. First was the design of the repairs by SBSA (Solutions Before Solutions After) our Engineering Firm and owner's representative for the project. Together with the contractor RE (Reconstruction Experts) the repairs began in the fall of 2017 and were completed in the fall of 2019. The project came in under budget. That money plus the contributions made annually since 2016 established a reserve fund to continue annual maintenance and handle unforeseen repairs.

Currently, the association does routine maintenance annually based on an O & M Manual specifically developed for the community by our engineering firm.