



## **CONSIDERATIONS IN HIRING A CONTRACTOR**

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## CONSIDERATIONS IN HIRING A CONTRACTOR

1. Interview each contractor you are considering. Here are some questions to ask:

***How long have you been in business?*** Look for a well-established company and check it out with consumer protection officials. They can tell you if there are unresolved consumer complaints on file. One caveat: No record of complaints against a particular contractor does not necessarily mean no previous consumer problems. It may be that problems exist, but have not yet been reported, or that the contractor is doing business under several different names.

***Are you licensed and registered with the state?*** Minnesota requires that all residential contractors or remodelers be licensed by the State. Ask for the contractor's license number. Check with the Minnesota Department of Labor & Industry. Website: <http://www.doli.state.mn.us>.

***Will my project require a permit?*** Minnesota requires permits for building projects, even for simple jobs like decks. A competent contractor will get all the necessary permits before starting work on your project. Be suspicious if the contractor asks you to get the permit(s). It could mean that the contractor is not licensed or registered, as required by your state or locality.

***How many projects like mine have you completed in the last year?*** Ask for a list. This will help you determine how familiar the contractor is with your type of project.

***May I have a list of references?*** The contractor should be able to give you the names, addresses, and phone numbers of at least three clients who have projects similar to yours. Ask each how long ago the project was completed and if you can see it. Also, tell the contractor that you'd like to visit jobs in progress.

***What types of insurance do you carry?*** Contractors should have personal liability, worker's compensation, and property damage coverage. Ask for copies of insurance certificates, and make sure they are current. Avoid doing business with contractors who do not carry the appropriate insurance. Otherwise, you will be held liable for any injuries and damages that occur during the project.

***Will you be using subcontractors on this project?*** If yes, get a list, and make sure they have current insurance coverage and licenses, if required. Also ask them if they were paid on time by this contractor. A "mechanic's lien" could be placed on your home if your contractor fails to pay the subcontractors and suppliers on your project. That means the subcontractors and suppliers could go to court to force you to sell your home to satisfy their unpaid bills from your project. Protect yourself by asking the contractor, and every subcontractor and supplier, for a lien release or lien waiver.

## **Contractors: Avoiding Rip-Offs**

Not all contractors operate within the law. Here are some tip-offs to potential rip-offs.

A less than reputable contractor:

- solicits door-to-door;
- offers you discounts for finding other customers;
- just happens to have materials left over from a previous job;
- only accepts cash payments;
- asks you to get the required building permits;
- does not list a business number in the local telephone directory;
- pressures you for an immediate decision;
- offers exceptionally long guarantees;
- asks you to pay for the entire job up-front;
- suggests that you borrow money from a lender the contractor knows. If you are not careful, you could lose your home through a home improvement loan scam.

## **Checking References**

Talk with some of the remodeler's former customers. They can help you decide if a particular contractor is right for you.

You may want to ask:

- Can I visit your home to see the completed job?
- Were you satisfied with the project? Was it completed on time?
- Did the contractor keep you informed about the status of the project, and any problems along the way?
- Were there unexpected costs? If so, what were they?
- Did workers show up on time? Did they clean up after finishing the job?
- Would you recommend the contractor?
- Would you use the contractor again?

## **Checking With Minn. Department of Labor & Industry**

All residential contractors and remodelers must be licensed by the State.

MDOLI website ([www.doli.state.mn.us](http://www.doli.state.mn.us)) lists licensed contractors and if enforcement action has been taken against them.

## ENTERING INTO A CONTRACT

### Contents of Home Improvement Contracts

A contract spells out the who, what, where, when and cost of your project. The agreement should be clear, concise and complete. Before you sign a contract, make sure it contains:

- The contractor's name, address, phone, and license number, if required.
- The payment schedule for the contractor, subcontractors and suppliers.
- An estimated start and completion date.
- The contractor's obligation to obtain all necessary permits.
- How change orders will be handled.

A change order -- common on most remodeling jobs --- is a written authorization to the contractor to make a change or addition to the work described in the original contract. It could affect the project's cost and schedule. Remodelers often require payment for change orders before work begins.

- A detailed list of all materials including color, model, size, brand name, and product.
- Warranties covering materials and workmanship.

The names and addresses of the parties honoring the warranties -- contractor, distributor or manufacturer -- must be identified. The length of the warranty period and any limitations also should be spelled out.

- What the contractor will and will not do.

For example, is site clean-up and trash hauling included in the price? Ask for a "broom clause." It makes the contractor responsible for all clean-up work, including spills and stains.

Oral promises also should be added to the written contract.

Minnesota law also requires a written statement of your right to cancel the contract within three business days, if you signed it in your home or at a location other than the seller's permanent place of business.

During the sales transaction, the salesperson (contractor) must give you two copies of a cancellation form (one to keep and one to send back to the company) and a copy of your contract or receipt. The contract or receipt must be dated, show the name and address of the seller, and explain your right to cancel.

## **Keeping Records**

Keep all paperwork related to your project in one place. This includes copies of the contract, change orders and correspondence with your home improvement professionals.

Keep a log or journal of all phone calls, conversations and activities. You also might want to take photographs as the job progresses. These records are especially important if you have problems with your project -- during or after construction.

## **Completing the Job: A Checklist**

Before you sign off and make the final payment, use a checklist to make sure the job is complete. Check that:

- All work meets the standards spelled out in the contract.
- You have written warranties for materials and workmanship.
- The job site has been cleaned up and cleared of excess materials, tools and equipment.
- You have inspected and approved the completed work.
- **You have signed lien waivers** - proof that all subcontractors and suppliers have been paid.

## **DISPUTES AND LEGAL RIGHTS**

### **Where to Complain**

If you have a problem with your home improvement project, first try to resolve it with the contractor. Many disputes can be resolved at this level. Follow any phone conversations with a letter you send by certified mail or fax. Request a return receipt. That is your proof that the company received your letter. Keep a copy for your files.

If you cannot get satisfaction, consider contacting one or more of the following organizations for further information and help:

- Minn. Dept of Labor & Industry – Contractor licensing department
- Your state or local Builders Association.
- Your local Better Business Bureau.
- Local Building Inspection Dept.

## Construction Defects

Q: What is a construction defect?

A: A construction defect is a condition in your home that reduces the value of the home. Some defects are obvious such as water seepage, but many are less obvious and do not become apparent until years after the home was built.

Q: What causes a construction defect?

A: A construction defect can arise from a variety of factors, such as poor workmanship or the use of inferior materials. Many arise from a combination of factors, including:

- Improper soil analysis and preparation
- Civil and structural engineering
- Negligent construction
- Defective building materials

Q: What are some of the most common types of construction defects?

A: The most common types of defects involved in litigation include:

- Mold
- Water issues
- Electrical systems
- Landscaping and soil
- Faulty drainage
- Foundation, floor, wall and roof cracks
- Dry rot
- Heating and electrical

Q: How is a construction defect proved in court?

A: It depends on the defect. Some defects are obvious and are called "patent." Other defects are hidden or do not become apparent until years after the home was built. These defects are called "latent." A successful construction defect litigation claim relies on the testimony of experts who specialize in specific areas of construction. The experts investigate the defect, evaluate the cause and make recommendations for how to remedy the defects.

Q: What kind of damages can be recovered?

A: It depends on the facts and circumstances of your case, but in general the cost of repairs and the decline in the value of your home may be recovered.

Additionally, other recoverable damages might include the loss of the use of property during the repair, the cost of temporary housing, court costs, and, in some instances, the attorneys' fees if provided for in the contract or by your state's laws. Of course, any personal injuries resulting from the defect may be recovered. In some instances punitive damages may be assessed against the defendant if the court finds their behavior to be reckless and intentional.

Q: Who pays for the damages?

A: Typically the defendant's insurance company that was in effect when the damage was first noticed will be responsible for paying the damages.

Q: Are there any time limits on filing a lawsuit for repairs?

A: Yes. In Minnesota the basic SOL is two years from date of discovery of problem. There is also ten-year limit from completion of work.

Q: Who is legally responsible for construction defects?

A: There may be several responsible parties, but generally the responsibility will lay with the general contractors, developers, and the builders of residential structures even if the work was performed by subcontractors or if the defective materials used in construction were manufactured by others. Architects, designers and other involved parties may also be defendants in litigation.

Q: Should I make repairs while the lawsuit is pending and can I recover those costs in the lawsuit?

A: Usually the homeowner or homeowner's association is required to protect property from sustaining additional damage. Such costs are recoverable in the lawsuit. Failure to perform routine maintenance and reasonable repairs can cause or contribute to additional damages, which could be offset from the owners claim and lead to the defense of "failure to mitigate damages."

Q: Can I sell my home during a pending lawsuit?

A: Generally homeowners are allowed to sell their home during the lawsuit, but most states have a disclosure law that requires a homeowner to disclose to a potential buyer that the home is involved in litigation.