

Top 5 Ways to Avoid a Lawsuit While Getting Home Improvements

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1. Materials and Specifications

Avoid vague instructions with your contractor. A construction contract must detail the precise quality of materials (i.e. make and model number) to be utilized. To illustrate, calling for hardwood floors is not enough nor is calling for oak hardwood floors. Instead, the grade of that hardwood should be material to the contract and a failure to set forth your expectations in your construction contract will result in your expectations being missed and fighting to ensue.

2. Change Orders

A change order refers to a modification to the scope of work that was first agreed upon by the homeowner and the contractor. This can be as simple as removing a wall during construction to open up a space. However, each change order will change the cost of the project and the completion date. Many times these change orders are agreed to verbally and off the cuff, frequently resulting in litigation. Change orders should be agreed upon by following a predetermined procedure that is called for in the construction contract.

3. Deadlines and Consequential Damages

Most contractors utilize a standard AIA (American Institute of Architects) Contract in their dealings. This contract waives all claims by homeowners for loss of use as a consequence of a contractor's missed construction deadlines. So, owners should either renegotiate this key term by way of what is called a liquidated damages clause (i.e. a predetermined sum of damages per day for missed deadlines) or they should instead purchase adequate insurance (i.e. loss of use coverage) in order to afford the cost of suitable alternative housing rental expenses (i.e. hotel) or to provide lost profits if it's a rental property.

4. Permits and Certificate of Occupancy (CO)

Before work begins, make sure a building permit is obtained. Municipal (city / town / village) codes often broadly result in architects, contractors, surveyors, tenants, lessees, owners and agents all facing liability for the failure to obtain such a permit. Additionally, and upon completion of a project, ensure that a new Certificate of Occupancy (aka Certificate of Compliance) is issued by the municipality, which certifies that the construction was completed in conformity with local laws. Beyond fines, one can face jail time for failure to obtain both a permit and a new CO. Additionally, municipalities often require that construction violating its code be corrected or abated (think teardown).

5. Adequate Insurance Coverage

General liability insurance provides coverage for accidental occurrence of bodily injury or property damage incident to the construction project. Yet, such a policy typically excludes coverage for faulty workmanship, negligent professional design services and property damage that occurs once the job is completed. What about the contractor going bankrupt and being unable to pay subcontractors? How about environmental pollutants requiring modifications to the scope of the project or substantial delay? It's imperative that a homeowner understands the insurance provided, its occurrence limits, deductible and exclusions prior to retaining a contractor to start construction.

