



Homeowner

Contractor Fraud 2022

CONSUMER ADVISORY AND PROTECTIVE TIPS

HAPPENING IN THE DISTRICT

The Office of the District Attorney - 18th Judicial District

Proudly Serving Arapahoe, Douglas, Elbert, and Lincoln Counties

FRAUD ADVISORY

The Consumer Fraud Protection Unit of the District Attorney's Office - 18th Judicial District continues to receive consumer complaints related to home improvement projects and hired contractors. The potential financial loss to homeowners can be huge, so our office is issuing an updated Fraud Advisory.

While most contractors are reputable and honest, some are not. While some disputes may be limited to civil claims for breach of contract or unjust enrichment, others may also constitute violations of criminal law. Some problems cannot be anticipated but we believe that homeowners may avoid financial losses and project delays if they research the scope of the project, the business, the contractor and take some precautions. Many problems may be avoided if you consult with an experienced attorney.

COMMON COMPLAINTS AGAINST CONTRACTORS

- Failure to provide any materials and/or services after initial deposit or later payment.
- Incomplete and unfinished work based on amount paid.
- Poor quality and workmanship/work not conforming to building codes.
- Work on project stalls due to unreasonable delays/contractor not communicating with homeowner.
- Contractor refuses to complete work unless additional money is paid or contractor requests money before it is due under the contract.
- New or additional damage is caused by the contractor during project.
- Local Building Department orders work to stop because no building permit was issued, no inspections were performed, or work failed inspections.
- Subcontractors, contractor employees or suppliers are threatening to file liens against the property because the general contractor failed to pay them.

- Homeowner later discovers: Contractor was not licensed to obtain building permit or perform plumbing, electrical, HVAC work; no building permit or inspections obtained for the project; no current liability insurance held by contractor; work performed by unlicensed tradesmen; homeowner's funds are used for other projects; homeowner's funds are not used to pay employees, subcontractors or suppliers; subcontractors and/or suppliers file mechanics liens against property.

CONCERNS THAT MAY INCREASE A RISK OF THEFT

- Person misrepresents status as a licensed and/or insured contractor.
- Person requests the homeowner obtain all building permits themselves.
- Person requests full payment prior to any work being started or completed.
- Person requests payment in cash or check made to individual, not a business.
- Person requests an initial payment much greater than typical costs associated with getting a project started.
- Person requires funds earlier than scheduled. Request signals that the person may have spent funds on an unrelated project or the person is already over budget and cannot meet contract price.
- Person does not provide a detailed list of work to be completed and related costs, such as a budget planning worksheet, to account for how your money will be spent and to put you on notice that the project may not be completed for the contract price. The best practice is to have payments scheduled to match expenses at different stages throughout the project.
- The person does not require change orders to be in writing, or does not document all changes to plans, budgets or schedules prior to requesting or receiving funds.
- The contract does not specify a start date or completion deadline, the project does not start as scheduled or stalls for an unusual amount of time.
- Employees, subcontractors or suppliers inform you that they were not paid after you paid the contractor.

ADVISORY AND TIPS

- **UNDERSTAND** that a contractor must make a profit to stay in business and complete projects. Be prepared to pay more than expected in order to get what you want and need, because a contractor shouldn't use someone else's money to complete your project.
- **BE AWARE** that the Mechanics Lien Statute protects contractors, suppliers, employees and subcontractors by giving them the right, under certain circumstances, to place a lien against your home if they are not paid.
- **OBTAIN** bids from 2-3 different contractors, including a detailed budget. The bids should be as detailed as possible to permit a direct comparison between them. Best if payments are scheduled to match expenses at different project stages and you do not pay too much to just "get the project started."
- **YOU MUST DO YOUR HOMEWORK** before selecting a contractor and signing a contract. Assume you may lose all of the money you pay out if you do not. Suggestions - Do not select a contractor/company just because they are listed on a particular service website or have recommendations from strangers. Get recommendations from people you know have recently had work completed by the contractor by asking for references. Research the contractor and company with the Better Business Bureau. Many insurance companies maintain a list of trusted professionals.
- **DEMAND** written contract based on a bid that is sufficiently detailed for the project. Final and staged payments should be dependent on the completion of the stage and that the work passed inspection.
- **VERIFY** a contractor is licensed AND insured. Verify the business is registered with the Colorado Secretary of State. The building permit should be obtained by the contractor, not you, and be posted on the site before any work is started. Verify that the building permit is authentic with your local building department.
- **VALIDATE** credentials of plumbers, electricians, HVAC technicians, roofers, and other tradesmen. Review records maintained by the Colorado Department of Regulatory Agencies, local building departments, insurance companies, or local trade associations in relevant field of work.
- **REQUIRE** your contractor to obtain mechanic's lien waivers from all suppliers and subcontractors as a condition of payment.
- **READ AND UNDERSTAND** the contract before you sign it. Expect you may have to assume the financial risk related to circumstances beyond the control of the contractor such as skyrocketing costs of supplies or hidden defects. If the contract is for a significant amount of money, consider consulting an attorney before signing. Do not sign immediately or sign a contract that has blanks or is unclear in any way. Homeowners are legally bound by the terms of legitimate contracts.
- **BE EXTREMELY CAUTIOUS** if you are considering signing a contract with someone who comes to your home and solicits business, especially after unique events such as severe hail storms. It is illegal for a roofing contractor to waive or refund your insurance deductible. Use caution when "special pricing" offers are given, especially if a bid is significantly less than other bids or if a bid sounds too good to be true.
- If the **INSURANCE COMPANY IS PAYING A CLAIM**, review and understand the adjuster repair estimate and know what additional costs are the homeowner's responsibility if the insurance company does not pay.
- **NEVER** sign a completion certificate until the building department issues a certificate of occupancy or conducts a final inspection, and do not make a final payment unless all of the work has been completed.

ARE YOU THE VICTIM OF A CRIME?

If a contractor does not meet the terms of a contract, consult with an attorney as soon as possible if you want to pursue a civil complaint for breach of contract, unjust enrichment, or another cause of action. If you believe that you are the victim of a crime, file a complaint with your local police department or sheriff's office. The District Attorney may file charges of theft when a person knowingly obtains money by deception or without authorization and then knowingly uses those funds in a way to permanently deprive the victim of its use or benefit.

If you have filed a criminal complaint with your local law enforcement agency and they have declined to open an investigation, or if you just have questions about a problem you are experiencing related to home repairs, renovations, and new construction, you are welcome to contact Jamie Sorrells, the Director of Consumer Fraud Protection for the 18th Judicial District Attorney's Office.

CONSIDER WAYS TO MANAGE YOUR RISKS

- Choose a contractor that is financially secure and that only seeks payment after work is completed, and not before.
- Research the costs of materials and the construction techniques required to complete your project to assess progress and whether a bid is unreasonably high or low. Learn from others who have had similar repairs or renovations.
- Consult with an attorney about the contract before signing.

CONTACT CONSUMER FRAUD PROTECTION 18TH JUDICIAL DISTRICT

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