



Homeowner Contractor Fraud

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 ALERT AND ADVISORY

Over the past two quarters, the Consumer Fraud Protection Unit of the District Attorney's Office - 18th Judicial District has received an extremely high number of consumer complaints around home improvement projects and hired contractors.

While most contractors are reputable and honest, some are not. A few complaints have originated from local organizations and businesses, but the majority have come from homeowners in areas of home repairs, renovations, and new construction. Other areas of Colorado are also seeing an increase in fraudulent activity, many events have been reported by local media around the state.

While some problems cannot be anticipated, we believe that homeowners may have avoided financial losses and project delays if they had researched the business or contractor and taken some precautions. Many problems could have been avoided if an attorney was involved during certain stages.

COMMON COMPLAINTS AGAINST CONTRACTORS

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

CONCERNS THAT MAY INCREASE A RISK OF THEFT

- Employees, subcontractors or suppliers inform you that they were not paid after you paid the contractor.
- Person misrepresents status as a licensed contractor.
- Person requests payment in cash or check made to individual, not a business.
- Person requests full payment prior to any work being started or completed.
- Person requests a large initial payment prior to preparing drawings, plans, conducting a survey, conducting soil testing-erosion control or obtaining a permit.
- Person does not provide a detailed list of work to be completed and related costs in a budget planning worksheet, but instead requires payments in broad stages.
- Person requires funds earlier than scheduled. Request signals that the person spent funds on a unrelated project or the person is already over budget and cannot meet contract price.
- 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.
- The person does not require change orders in writing, does not document all changes to plans, budgets or schedules.
- The Contractor requests that the homeowner be responsible for obtaining building permit(s) and necessary permissions from any HOA.
- Payments are not dependent on specific budget items and project benchmarks so you do not know what costs are paid and are not on notice that the project is over budget and cannot be completed per contract.
- Change orders are not in writing and signed before related items are ordered or work is started.

ADVISORY AND TIPS

1. **YOU MUST DO YOUR HOMEWORK** before selecting a contractor and signing a contract. Suggestions - Get recommendations from people you trust, those who have used the contractor, the Better Business Bureau, etc. Require references, specifically with homes in your area and check them.
2. **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.
3. **OBTAIN** bids from 2-3 different contractors, including a detailed budget. 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."
4. **VERIFY** contractor is licensed AND insured. Verify the business is registered with the Colorado Secretary of State. The building permit should be posted on the site within a day; verify it is authentic.
5. **VALIDATE** credentials of plumbers, electricians, HVAC, roofer, and other tradesmen. Colorado Department of Regulatory Agencies, local building departments, insurance companies, local trade associations in relevant field of work.
6. **REQUIRE** your contractor to obtain mechanic's lien waivers from all suppliers and subcontractors as a condition of payment.
7. **DEMAND** written contract based on a bid that is sufficiently detailed for the project. Final and staged payments should be dependent on the work passing inspection.
8. **READ AND UNDERSTAND** the contract before you sign it. 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 contracts.
9. **MAKE SURE** contract is not one-sided to primarily benefit the contractor.
10. If an **INSURANCE 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.
11. **NEVER** pay in full or sign completion certificate until project passes inspection by building department and all work has been completed.

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12. **BE EXTREMELY CAUTIOUS** if you are considering signing a contract with someone who comes to your home to solicit business, especially after unique events such as severe hail storms. It is illegal for a roofing contractor to waive 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.
13. **DO NOT EXPECT** to recover any money from a legitimate contractor whose business has failed, a fraudulent contractor or a thief. Collecting money based on a civil judgment or restitution order is always limited by a debtor's actual ability to pay.

CONSIDER WAYS TO MANAGE YOUR RISKS

- Choose a contractor that seeks payment after work is completed, and not before; structuring your payments to match the costs as they occur and not prepay for a large number of future costs.
- Research the costs of materials and labor 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

EDUCATION

Familiarity with Protection Acts and Entities

- Colorado Consumer Protection Act - CCPA
- Colorado Statutes Regarding Residential Roofing Services
- Colorado Mechanic's Lien Statute
- Colorado Department of Regulatory Agencies
- Better Business Bureau
- Colorado Trade Associations - Roofing, Landscaping, Concrete, Electricians
- Federal Trade Commission - www.ftc.gov

AREA OF CRIME

If you believe that you are the victim of a crime, file a police report. Depending on the variables at hand, a contractor not meeting the terms of a contract can be a civil matter or a criminal matter. Breach of contract is addressed in a civil lawsuit. A criminal charge of theft may be filed when a person knowingly obtains money by deception or without authorization and then uses those funds in a way to permanently deprive the victim of its use or benefit.



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