

A CONSUMER'S GUIDES TO SELECTING A CONTRACTOR IN VIRGINIA

BE CAREFUL OF CROOKS:

Remember that summer is a bad time for the so-called "**Fly-By-Night**" **unlicensed contractor**. The other bad seasons for them are winter, fall and spring.

- Beware of any contractor who arrives at you home and announces a "serious" problem on your property that must be a taken care of immediately. Get a second opinion.
- Most reliable contractors are too busy to go door to door looking for work, or to solicit business by phone (although some will distribute neighborhood flyers or promotional mailings).
- Beware of special introductory offers. Beware of salesmen who want to use your home as "**model**" in exchange for a bargain rate.
- **Be alert for the fly-by-night sales pitches.** ("while we're in the neighborhood," or "we have some extra materials left over from a job down the street").
- Be suspicious of any offer to waterproof your roof, or to recoat or seal you driveway, or to make "on the spot" repairs.
- **Be suspicious of any offer that is good only today.**
- Be careful with any contractor who pushes for part or all of the payment in advance. This is especially true if it was the contractor who initiated the contract. Smart people pay at the stages of work, or when the job is complete. Some specialized, one of-a-kind custom work requires a good faith deposit, but exercise good judgment.
- **Never fall for a "lost" or "ruined" check ploy** and write another check for a job. It often results in both checks being cashed. Instead, get an address and mail the new check after you've stopped payment on the old one.

SELECTING THE CONTRACTOR:

This step often means the difference between a job well done and shabby work (or no work at all).

- **Deal with someone whose work is known.** Talk to friends, neighbors, associates.
- Local building supply firms know the better contractors. Contractors and home-builder associations can also recommend reputable member firms.
- **Deal with stable, proven contractors.** If possible look at some work a contractor has completed for someone else before considering that firm.
- **Try to get more than one bid.** Review each carefully to be sure you're receiving the best in quality of materials and workmanship for the lowest price.

DEALING WITH THE CONTRACTOR:

- In the final analysis, some of it comes down to a “gut feeling”. After talking with a builder, you have to ask yourself: “Is this who I want to remodel my bath? Put in my swimming pool or deck? Custom-build my new home?”
- But there are practical things you should also do to reinforce that “gut feeling”, like:
Making sure he’s licensed. Ask to see it (in Virginia, a “Class A” license is required for any job that exceeds \$70,000; otherwise, a “Class B or Class C” is sufficient). If he’s evasive, or won’t show a license, you can find out by calling the department of Professional and Occupational Regulation, although a better move is probably to scratch him off your list immediately. You have few recourses, legal and otherwise, if you hire an unlicensed contractor. A local “business license” is not enough; a state contractor license is also required.

Make sure he has liability and workmen’s compensation insurance covering employee injuries. If he has proper state and local business licenses, he probably does, but it doesn’t hurt to check.

NEGOTIATING THE CONTRACT:

- **Remember that an “oral agreement” is not worth much when things go wrong.** Also remember that any contract can become unenforceable, but a written one is the best kind you can have. Ask the contractor to leave it for you to read carefully for a day or so.
- A “bulletproof” contract is the best kind. It is usually specific, easy to read, with all of the services spelled out, all materials listed by model number or grade number, and a completion date that is acceptable. Good plans and specifications are an integral part of a contract, and spell out sizes, dimensions, spacings, building layout, electrical and plumbing work, materials, and all the outer details of a project.
- This is a good time to **ask for references**, including two or three local people for whom work has been done. Check them out. Go and see them. Were they pleased with the job? Was he available, and did he listen when there were problems? Did he return calls? Did he correct mistakes willingly?
- If time is important, consider a completion date with a penalty for every day late, and a bonus if the job is finished early. If he’s good, he’ll probably go for it (and collect the bonus).
- If you want a warranty, make sure it’s in writing, as part of the contract. Good contractors always guarantee their work.
- Make sure you have a right to terminate the contract if you are dissatisfied with the quality of work. (Careful: you can be sued for being unreasonable in terminating a contract. It might be just as effective to have a binding arbitration clause in the contract to settle disputes over quality).

- Payment schedule should be spelled out in the contract. For small jobs, payment normally is due in full at completion. For large projects, payments should be due as stages of the work are completed to your satisfaction and pass inspections.
- Make sure the contract says that work will be done to the highest standards". It will be helpful to you should a badly done job later require legal remedies.
- Make sure the contract specifies that you will be furnished with signed mechanic's lien waivers, or releases, from the suppliers and subcontractors (such liens against you property, if not waived, can make you liable for any bills you contractor fails to pay).
- Also, be very wary of signing if the agreement is a "lien sale" contract in which you house is collateral to guarantee payment. Make sure you're willing, in effect, to "risk the house" for this job.
- Beware of "paper" contract that include terms like "heir or assigns" when referring to contractor. Some people negotiate contracts, and then sell "the paper" to other contractors over whom neither you nor they have control. Be sure your builder is the one who will do the work.
- Remember that your best protection is a good itemized contract. All those oral promises should be in there, along with list of materials, start date, completion date, total cost, payment schedule. Check it over!
- If you want to be absolutely sure, it could be worth the fee to have an attorney, or a neutral contractor, look it over to be sure everything's in order.

WORKING WITH THE CONTRACTOR:

- Never ask for changes after the job has started unless you are willing to pay extra for them. The price was based upon what you originally asked for. Anything different nearly always costs more.
- If you do make changes, make sure a price is agreed upon, in writing, and a change form is signed by you and the contractor.
- Make sure that building permits are obtained by the contractor and posted for each kind of work that will be involved (building, electrical, plumbing and HVAC). Failure to do so can have costly results and become a legal nightmare for the home-owner. Each trade requires its own permit.
- Make sure that required on-site inspections of work are made by local building inspectors.

SPOTTING TROUBLE AHEAD:

- Sometimes good craftsmen and builders are poor businessmen who bid unrealistically low when starting out. If they do it more than once or twice, they'll go broke. Don't let your job be the one they go broke on. **If a deal looks too good to be true, it often is! Proceed at your own risk.**
- **Be suspicious of any contractor who asks you to obtain the various building permits in your name. That's his job.** It could mean he is unlicensed, or worse, in trouble with local building inspectors for repeated code violations.

- **An early sign that a contractor may be in trouble financially, or be overextended**, is when he and his workers fail to show up for work when scheduled, or spend only part of each day at your job (unless it's part of your agreement).

It happens, here's a typical situation: He's in trouble with his suppliers who are demanding payments he doesn't have. He's finished a job or two and the customers haven't paid, or won't pay. He's trying to finish those jobs that will pay the quickest, and bring other jobs up to a level that will bring in partial payments. He's in desperate need of cash to stay afloat.

If the contractor levels with you, and you are in a position to pay cash on delivery, you might be able to get your job finished ahead of schedule. **But do not pay for any work until it is completed and passes inspection.**

WHAT CAN I DO IF HE DOESN'T FINISH?

- If you have followed most of the advice in this publication, you should only experience some extra delays and some inconvenience. For example, you should be able to terminate the agreement when the contractor fails to perform according to its terms and complete the work on schedule. Just make sure your decision is a "reasonable" one under the circumstances. Your attorney will know.
- If you paid only for work that was completed and inspected before the contractor lost the job, then it shouldn't cost any more to hire another contractor to come in and finish it (unless you had one of those "too good to be true" deals in which case it is going to wind up costing you what it should have cost in the first place!)
- **And even if you didn't follow all of our advice, but dealt with a contractor who is properly licensed**, and if you take him to court and receive a not-collectible judgment proving that he acted in an "improper and dishonest" manner, then you may become eligible for a payment from the **Contractor Transaction Recovery Fund** for part, perhaps all, of any losses suffered from that transaction. If it happens, write to us or call for free information about that.

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