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Avoid Costly Mistakes When Hiring a Contractor - What Every Property Owner Should Know

Whether you're building a new home, adding an extension, or renovating your commercial space, hiring the right construction company is one of the most critical decisions you'll make. Too often, property owners encounter legal and financial trouble because they didn't carefully vet their contractor or review the construction agreement with a critical eye. Here's what you need to know to protect yourself.

Beware of One-Sided Construction Contracts

Many standard construction contracts are written heavily in favor of the contractor. Some common one-sided terms to look out for include:

- Broad "no liability" clauses that release the contractor from damages or delays.
- Unclear or subjective definitions of "completion", making it hard to argue that work is unfinished or defective.
- Mandatory arbitration clauses that restrict your right to take legal action in court.
- Front-loaded payment schedules that leave you with little leverage if problems arise.

Before signing anything, have an experienced real estate attorney review the contract to ensure your interests are protected and to negotiate fairer terms if needed.

Progress Monitoring and Payment Schedules

It's essential to establish clear milestones and definitions of progress in your contract. Payment schedules should align with these milestones—not arbitrary timelines. Never pay the full contract price up front, and avoid contractors who demand large down payments without providing adequate assurance.

We recommend including:

- A detailed scope of work
- Timelines tied to objective benchmarks (e.g., framing complete, plumbing rough-in, electrical signed off)
- A retainage clause, where a portion of payment is withheld until final inspection and approval

Subcontractors and Mechanics Liens

Many contractors use subcontractors for specialized tasks like plumbing, electrical, or HVAC work. While this is normal, you must ensure subcontractors are paid, or they may file a mechanics lien on your property—even if you've already paid the general contractor.

To protect yourself:

- Ask for a list of all subcontractors in writing
- Request lien waivers from subcontractors upon payment
- Consider a joint check agreement where you pay both the contractor and subcontractor directly

How to Properly Vet a Contractor

Before hiring, take these steps to evaluate your contractor:

Referrals and Reputation

- Ask for recommendations from trusted friends, neighbors, or professionals.
- Follow up with multiple former clients. Ask to see finished projects and inquire about communication, timeliness, and satisfaction.

Review Prior Work

- Visit past job sites if possible. Look for signs of quality craftsmanship, attention to detail, and long-term durability.

Check the Better Business Bureau (BBB)

- Look for any complaints or patterns of issues.

Confirm Licensing and Insurance

- Verify that the contractor is properly licensed for your municipality and carries general liability and workers' compensation insurance.

Search for Legal History

- Conduct a background check for prior lawsuits by or against the contractor. Frequent litigation may indicate unresolved disputes or business practices that lead to conflict.

Final Thoughts

A construction project is a major investment. Protecting that investment starts with due diligence and solid legal preparation. At James G. Dibbini & Associates, P.C., we assist clients in reviewing and negotiating construction agreements, resolving disputes, and navigating lien or permit issues.

Already dealing with contractor issues?

If you find yourself already entangled in a dispute with your contractor—whether due to delays, defective work, payment disagreements, or threatened or filed mechanics liens—contact our firm right away. We can help you evaluate your legal options, whether that means negotiating a resolution or pursuing or defending litigation in court.

Thinking of starting a project?

We strongly encourage you to reach out before signing a contract or breaking ground. A small investment in legal review upfront can save you time, money, and stress down the road.

Email James Dibbini now at jdibbini@dibbinilaw.com or call at 914-240-8270.

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