

Protecting Yourself against Unscrupulous Contractors – What Homeowners Need to Know

Prepared for the Franconia Citizens Advisory Committee
January 19, 2011

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DISCLAIMER: The following materials offer construction business information only and do not constitute legal, accounting, or tax advice. Readers and attendees are strongly encouraged to seek experienced professional advice in the review of contracts or other legal or financial activities where liability or compliance issues are of concern.

I. Contractor Licensing Laws

- Virginia Business License
- Virginia Contractor License
- Local Business License
- Local Contractor License
- Trades License
- RRP Certification

Virginia Business License - Virginia State Corporation Commission - www.scc.virginia.gov

Code of Virginia - Virginia Administrative Code (VAC)

Virginia Contractor/Trades License - Department of Professional and Occupational Regulation (DPOR) - www.dpor.virginia.gov

Virginia Contractor License

Class

- Class C - Single contract or project over \$1,000 but less than \$10,000 (2 exceptions)
- Class B - Single contract or project \$10,000 or more, but less than \$120,000
- Class A - Single contract or project \$120,000 or more

Classification

Specialty

Local Business License - www.fairfaxcounty.gov/dta/business_bpol.htm

Local Contractor License - www.fairfaxcounty.gov/dpwes/navbar/faqs/contractorlic.htm

Building Permit - www.fairfaxcounty.gov/living/buildingpermits

RRP - Renovation, Repair and Painting - <http://www.epa.gov/getleadsafe>
<http://www.epa.gov/lead/pubs/renovation.htm>

II. Contract Types – Basis of Payment

- Lump sum / stipulated sum / fixed price
- Cost-plus /unit price

Four Indispensable Contract Terms

1. Parties
2. Project
3. Time of performance
4. Cost

Virginia Residential Construction Contract Requirements

Failure to use a written contract or have all parties sign contract - 18 VAC 50-22-260.B.8.

Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

Improper contract - 18 VAC 50-22-260.B.9.

Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:

- a. When work is to begin and the estimated completion date;
- b. A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment;
- c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
- d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
- e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
- f. Disclosure of the cancellation rights of the parties;
- g. For contracts resulting from a door-to-door solicitation, a signed acknowledgment by the consumer that he has been provided with and read the Department of Professional and Occupational Regulation statement of protection available to him through the Board for Contractors;
- h. Contractor's name, address, license number, class of license, and classifications or specialty services; and
- i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

General Conditions of the Contract

Responsibilities
Representatives
Schedule
Insurance / Bonds
Differing Site Conditions
Changes in the Work
Delays
Payment / Retainage / Release of Liens
Hazardous Materials
Warranties
Termination
Dispute Resolution
Choice of Law
Attorney Fees

III. Contractor Verification

SCC

DPOR

Fairfax BPOL – 703-222-8234

Fairfax Class C – 703-222-0801

Building Permit

Fairfax County Consumer Protection - www.fairfaxcounty.gov/consumer/complaint_history.htm

Virginia Judicial System - www.courts.state.va.us

Real Estate - icare.fairfaxcounty.gov/Search/GenericSearch.aspx?mode=ADDRESS

Website - www.google.com

Drive By

References

IV. Disputes

§ 54.1-1115.A Prohibited acts.

The following acts are prohibited and shall constitute the commission of a Class 1 misdemeanor:

1. Contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without a license or certificate, or without the proper class of license as defined in § 54.1-1100 for the value of work to be performed.
2. Attempting to practice contracting in the Commonwealth, except as provided for in this chapter.
3. Presenting or attempting to use the license or certificate of another.
4. Giving false or forged evidence of any kind to the Board or any member thereof in an application for the issuance or renewal of a license or certificate.
5. Impersonating another or using an expired or revoked license or certificate.
6. Receiving or considering as the awarding authority a bid from anyone whom the awarding authority knows is not properly licensed or certified under this chapter. The awarding authority shall require a bidder to submit his license or certificate number prior to considering a bid.

§ 18.2-200.1. Failure to perform promise for construction, etc., in return for advances.

If any person obtain from another an advance of money, merchandise or other thing, of value, with fraudulent intent, upon a promise to perform construction, removal, repair or improvement of any building or structure permanently annexed to real property, or any other improvements to such real property, including horticulture, nursery or forest products, and fail or refuse to perform such promise, and also fail to substantially make good such advance, he shall be deemed guilty of the larceny of such money, merchandise or other thing if he fails to return such advance within fifteen days of a request to do so sent by certified mail, return receipt requested, to his last known address or to the address listed in the contract.

Virginia Judicial System

Small Claims Court: civil cases where the amount in question does not exceed \$5,000.

General District Court: misdemeanor criminal offenses and civil cases where the amount in question is over \$4,500 but not over \$15,000.

Circuit Court: felony criminal offenses and civil cases where the amount in question exceeds \$15,000. Circuit Courts may also hear civil cases where the amount in question is the same as in GDC - between \$4,500 and \$15,000.

Administrative/Regulatory Law

Complaint

Transaction Recovery Fund - www.dpor.virginia.gov/dporweb/enfocomp.cfm