

Managing Home Improvement: How to Avoid the Money Pit

Hiring a contractor and performing home improvement projects can be one of the most intrusive, expensive and emotionally disruptive undertakings homeowners make. Finding a trustworthy, ethical, and professional contractor who keeps your design, cost, and timing issues in good stewardship is vital to success. Comparing bids and estimates when you are not sure of your design, scope of work, and product selections leads to frustration and non-specific contract terms. Not understanding the law regarding change orders, liens, and workman's compensation issues can leave a homeowner at great risk for cost obligations, unnecessary property burdens and devastating payments to injured workers. What starts out as a desire to improve your quality life, investment value, and aesthetic dreams can quickly become a money pit nightmare.

This paper briefly describes contractor tactics, homeowner pitfalls, and legal issues regarding home remodeling, new construction and home improvement. After illustrating the various problem areas homeowners encounter, the paper presents a path to cut costs, control contractor abuse, and protect homeowners from undue obligations.

Contractor Traps and Homeowner Pitfalls

Bidding Process – Homeowners find contractors through bids and referrals. Word of mouth is a great way to find a contractor that you can trust. When negotiating at arm's length, homeowners get bids from one or more contractor. A basic rule is to get three bids and choose based on cost, presentation, and your gut feeling. In this way homeowners can get a sense of market value and assurances that they have covered the bases through negotiation. Caveat emptor (Buyer Beware). Bids are not cost guarantees.

Contractors Bids -- General and Sub contractors know that to get a job they need to make a good presentation and, most importantly, give a good price. Most bids allow homeowners to choose products that allow the contract price to increase. In addition, contractors allow for vague terms that enable them to increase the price based on field conditions. While some changes may be unavoidable, many alterations can be avoided by negotiating a solid framework at the beginning.

Change Orders-- Contractors also know that, once they have a contract, their ability to increase cost is simple. California law *recommends* change orders be written and negotiated before any changes to the contracted scope of work is made. However, if there is no written change order, then the contractor is entitled to a reasonable return for the work performed. The contractor can charge you for unwritten changes and use the courts to enforce the bill if the work benefitted your property.

Getting a contract with a low bid and then adding work through change orders commonly results in an increase to contract price. Many times changes are necessary due to unforeseen conditions and homeowner desires. Getting "caught up" in the activity occurs

regularly and results in poorly negotiated and often extensive scope of work, time and cost increases. Contractors rely on homeowner's enthusiasm and lack of construction knowledge to make wholesale changes to the scope of work without the negotiation and temperance that went into the initial contract.

Product Selection – Choosing products can greatly affect the contract price. Most contractors use product and labor costs as a basis for establishing profit and overhead mark-ups. Costs associated for products vary drastically. A bathroom shower valve can cost anywhere from \$50.00 to \$5,000.00. Contractors often provide a baseline product price to get the low bid and then are very effective at recommending better quality and higher priced products. The more you spend the more the contractor makes; changes to the contract price without written and negotiated documentation.

Emotional Challenges -- Homeowners invite strangers to come into their home, tear it apart and put it back together. They often live on-site while the work is done. The house will not be clean – indeed at times the facility will be hazardous. Project fatigue and frustration occur more often than not especially when homeowners do not understand or get realistic assessments of the schedule and process. Emotional stresses can exacerbate and complicate the remodel process.

Scheduling and Performance – Contractors may paint a rosy scheduling picture as an inducement to the homeowner to sign the contract. Then they use their practiced skills at explaining delays: unforeseen conditions, homeowner changes, product backorders, illness and vacations just to name a few. While contractors get to go home and sleep in their own beds, you have to live in the mess and hope it gets done sooner rather than later. Most remodeling contracts are not crafted with adequate incentives and homeowner controls to ensure timely completion.

Quality Control – Many homeowners are not skilled in the building trades and do not understand quality craftsmanship. They hire contractors based on recommendations and through the bidding process and often have to rely on someone's "word" that quality is included. Taking the time to inspect every aspect with a knowing eye is nearly impossible. Official inspections and permit compliance often fail to root out quality problems: inspectors are understaffed, overworked, and review many projects daily. Code compliance and inspections helps ensure structural and sequencing integrity but should not be used as the only quality control device.

Unfortunately most quality issues show up after the contractor has finished. For remodel work the statutory time guarantee is one year. Many product and workmanship failures come after that time thus leaving the homeowner with no recourse.

Design Issues – In addition to finding contractors, homeowners need to develop both architectural/structural plans and interior space and décor designs. While many contractors can facilitate the permit/design issues, they do not provide the interior décor support. Often project delays and field changes (cost increase) result from poor

management of interior design and construction interaction. Sequencing the project and avoiding changes to work already performed requires construction and design integration.

Management Styles -- Home remodeling contractors come in many varieties. There are large outfits with layers of management and supervision, as well as sole proprietors who do much of the labor and management themselves. Sub-contractors often specialize in one field and may not be able to handle the full management scope of a given project. While most subs can do their trade very well, they may not be able to anticipate what comes later and how their performance can simplify or obstruct subsequent activities. More management may help a complex project run smoother but can greatly increase costs. Not enough management can lead to expensive delays and mistakes. Homeowners can manage their own projects, however, without previous experience or special skills, many competent individuals quickly get in over their heads.

Contractor's Management Skills – Many contractors have excellent management experience and skills. Most come through the construction ranks to become project managers and supervisors. However, with regard to remodeling contractors in particular, management training is often learned in informal settings and is secondary to their experience as a carpenter or craftsman. While large construction firms and commercial contractors require training and education in construction management, the residential and much smaller remodeling industry is regulated mainly by the ability of the tradesman to pass the licensing test. They may know construction very well, but their ability to manage timing, costs, and sophisticated legal and planning issues can prove a breeding ground for homeowner aggravation and contract disputes.

Worker Compensation -- Homeowners can be exposed to expensive medical expenses when their contractor(s) fail to have adequate insurance. A search of the contractor's license number through the California Construction State License Board will indicate whether the contractor has workers compensation coverage. Many small contractors are exempt from having to purchase worker's compensation insurance. Accidents happen and workers get injured. Without insurance, the injured person may look to the homeowner for financial support. Before accidents occur, homeowners should be aware of the coverage and who is covered.

Exempt contractors may or may not have health insurance. General liability insurance is not health or injury protection -- this insurance applies to construction related problems and defects. Many small home remodelers, both general and specific trades, have insurance to cover themselves but they do not have insurance for their employees. CAUTION: If you hire an exempt contractor who works with helpers, you are probably the legal employer of those helpers.

A common practice is for two or more contractors to work together. They appear to be legal and bona fide contractors. However, with regard to injury, the primary contractor cannot circumvent workers comp in this way: a subcontract must apply to a specific scope of work and the sub must work independently to satisfy that separate contract. In the case of injury, the homeowner may be exposed as the default employer.

Even when homeowners check and enforce workers comp for their general contractor, they often do not verify coverage for all subcontractors. If an uninsured carpet or tile installer gets injured, for example, they may seek recourse from the property owner. Roofing is the only trade required by law to carry workman's compensation insurance.

Liens -- Liens are used to ensure payment for work performance. If value is added to a property then lien rights are probably present for those who performed the work. Homeowners run into problems when they pay their contractor and subcontractors are subsequently not paid. In order to remove the lien, they are probably best off paying the sub directly and suing the contractor for costs and penalties. Avoiding this pitfall requires careful monitoring of monthly bills through lien releases and attention to budgeting details.

Payment Plans -- The contract document must describe the timing and schedule of payments for performance. Cost-plus plans apply to work already performed with a multiplier for profit and overhead. Performance Percentage Plans base payments on completion progress either by contract or from inspection targets. Pitfalls apply to both. Cost-plus can allow cost overruns to sneak up on the homeowner. Percentage plans can be skewed to overpay the contractor before work is performed leaving the homeowner exposed to contractor mismanagement and fraud.

Summary -- Homeowners face a host of challenges when planning construction projects. A contract obligates parties to perform acts and pay for that performance. Contractors gain much power to obligate homeowners. Homeowners need to understand their exposures as well as the responsibilities and professional duties of their contractors to ensure that they are not victims of fraud, poor workmanship, and liability expenses.

Bridge over the Money Pit: A Residential Construction Manager

To overcome the numerous challenges facing homeowners, a Residential Construction Manager (RCM) enables homeowners to keep control of their projects. Unlike the contractor who's incentive is to increase costs and contract changes, the manager would not be influenced by those considerations. All incentives are for the homeowner's best interests. This independent manager represents the homeowners side and is in the best position to provide the following control and management services.

- Setting a realistic opening budget and anticipating possible changes and costs
- Understanding contracts and their fair scope of work
- Knowing the value of construction work and materials
- Maintaining and enforcing a schedule
- Monitoring quality and sequencing
- Negotiating contracts and changes to contracts
- Enforcing insurance and worker safety issues
- Assisting with planning and design to help achieve goals without additional costs
- Advocating homeowner rights and responsibilities

- Approving bills and purchases and enforcing lien protections
- Working to reduce time and expenses rather than increasing the contract value
- Saving overall project expenses by monitoring change orders, contract terms, and day to day operational issues

Construction Management Overview -- The above model is used widely in government and commercial projects. Public agencies are required to get bids from multiple sources to ensure fairness and opportunity. In order to manage this process and see the project through from beginning to end, they are allowed to hire an independent construction management (CM) firm. Private commercial projects also employ CM firms to assist with contractor selection and project management and control. Corporations and government agencies know that paying for private and independent management will save time and money in the long run.

Residential projects traditionally do not hire independent construction managers. Homeowners generally think they can negotiate and manage their own projects; they do it work so why not at home? Contractors are skilled at selling themselves and their ability to represent the client's best interests. Many projects are not big enough to justify the added expense. Larger remodels and new homes may hire an architect or designer to fill the oversight role and, in some cases, a CM firm for the job. This is the exception rather than the rule.

Qualifications -- When hiring a Residential Construction Manager, homeowners should consider the following aspects:

- **Construction Background** -- Does the manager have skills in construction? What level of expertise and in what areas of construction is that skill set? Does s/he understand the complexities of home remodeling and its specific challenges? When changes are necessary, will s/he be able to provide realistic and effective suggestions in order to save time and money?
- **Legal Issues** -- Does the manager have the ability to understand and enforce the contractor's responsibilities? Will s/he be able to evaluate contracts, anticipate their loopholes, and ensure their performance? Will you feel protected from the legal pitfalls with regard to contract disputes, personal injury, and property liens?
- **Honesty** -- Can the manager give you the facts? When things go bad, do you want sugar coating or the inevitable news? Is the manager committed to your interest?
- **Design Experience** -- Does the manager understand design and space issues? Can s/he understand blue prints and structural considerations to encourage intelligent design choices? Does s/he have the skills to assist with product selections and ensure those decisions are made timely to avoid cost increases and delays?

- **Quality Control** -- Does the manager have an eye both for code compliance and long-term integrity? Will you rest easier knowing that an expert has provided oversight to all levels of craftsmanship?
- **Communication** -- Does the manager have the ability work with design professionals, government officials, and contractors and their employees? Will s/he help with an atmosphere conducive to success and professionalism? When problems arise, does the manager have the skills to maintain calm and productive conflict resolution?
- **Relationship with Trades** -- Does the manager have contacts to verify costs and workmanship practices? Can s/he knowingly solicit bids from capable and professional subcontractors? Can s/he get comparable bids that include contingencies and limit the need for change orders? Will the relationship between the RCM and the tradesmen provide "added value" to your project through attention to detail and goodwill?

Chrysalis Homes, Inc (CHI)

CHI combines real-world design-build experience, legal training, and mediation skills to offer homeowners a unique and broad based management service. CHI president, Christopher Morgan, takes a hands on approach to management and oversight in his efforts to create functional and aesthetically pleasing remodels. His unique and extensive background reaches into a broad range of fields that allow him to combine craft, art, and professionalism.

Below is a brief description of the special skills and background that Christopher Morgan brings to the table when you hire CHI as your Residential Construction Manager.

- Self-employed general contractor since 1991
- Construction trained on Oregon coast where weather extremes and fundamentally sound building practices are emphasized
- Construction experience from excavation through custom trim. Master carpenter skill set in concrete, framing, finish, doors, wood floors, tile, drywall, and most other residential trades
- Designed, managed, and built residential remodels since 1991.
- Practicing construction contract dispute attorney since 2003. Assists homeowners in resolving disputes with their contractors
- Mediation training through University of San Diego School of Law and Small Claims Court
- Bachelor of Communications from the University of Oregon Honors College.
- Client, lawyer, subcontractor referrals available

Contact information -- To start building the bridge over the money pit please call 619-417-8897 or visit our web site at <http://chrismorgan.us>.