



Regulated Industries Complaints Office

235 S. Beretania Street, Ninth Floor

Honolulu, Hawaii 96813

cca.hawaii.gov/rico

COMMON CONSTRUCTION PROBLEMS AND HOW TO AVOID THEM

Thinking about remodeling your house or wondering who you should hire to paint? The Department of Commerce and Consumer Affairs (DCCA) and its Regulated Industries Complaints Office (RICO), offers the following information about common problems and how to avoid them.

The Problem: You thought you were getting hardwood floors; the flooring ordered is laminate.

Before starting any construction project, work with the contractor to create a set of construction specifications. The purpose of construction specifications is to define and clearly detail the materials you want ordered for your job. Make sure the contract includes an addendum that makes the plans and specifications for the project a part of the contract.

Remember, when it comes to construction, details, details, details! Take something as simple as a kitchen sink. Do you want a single or double bowl? 18 inches deep or 22? (Remember, if you choose 22 inches, you'll have less room for storage underneath.) And, then there's the faucet, the disposal, the sink strainer and the soap dispenser. Think about what you want, then think about it some more.

If the wrong materials are ordered, you can accept the delivery and modify the contract with the contractor. Or you can reorder the materials, and again, modify the contract with the contractor because the delay may affect the completion date.

The Problem: A city or county inspector tells you your project is not in compliance with city or county codes.

Before starting any construction project, check if building, electrical or plumbing permits are required. If required, ask the contractor who will be responsible for the permitting process. Get the name of the electrician who will pull any electrical permits, and the name of the plumber who will pull any plumbing permits. Make sure the individuals who pull the permits do the work.

If asked by a contractor to pull an "owner-builder" permit, ask why. An owner-builder is a property owner who has an owner-builder permit from the county to build or improve residential or farm structures for use either by the owner or his/her grandparents, parents, siblings or children. With an owner-builder permit, you are the general contractor for your project and assume full responsibility for the project, so it's important you know the risks and responsibilities associated with this type of permit.

The Problem: You encounter an unforeseen problem.

When you encounter termite damage, water damage, or other unforeseen problems, the only alternative to emergency spending is to stop the project, so it's important to fix your budget in advance and keep some in reserve to pay for changes or unanticipated costs.

Before starting any construction project, RICO recommends getting at least 3 bids or estimates. Make sure the bids are based on the same work and the same materials. If bid amounts vary significantly, ask why. Homeowners who chose the lowest bid may find all of the work and materials were not included in the lower price. Low bids may lead to additional costs and change orders. If changes need to be made, make sure any change orders are in writing.

The Problem: A subcontractor tells you he/she hasn't been paid for work they did on your job.

Before starting any construction project, discuss with your general contractor if subcontractors will be brought in for your job. Any subcontractors should be licensed. As the project progresses, get to know them and try to make sure they're getting paid. A subcontractor who does work on your project and doesn't get paid, or a material supplier who provides materials for the project and doesn't get paid, can file a lien against your property. As the project progresses, ask the general contractor to obtain lien releases for any partial payments made. When the project is done, make sure a notice of completion is published in a newspaper.

The Problem: A contractor tells you he/she needs more money.

Your construction contract should include a payment schedule that follows the amount of work completed. If a contractor is asking for money before a set milestone has been completed, ask why. If your contractor overlooked some part of the job and consequently your estimate was low, the contractor may be responsible for the oversight. Contractors will often ask for a down payment to get the job started, but avoid paying all of the money up front.

If problems or disagreements occur, try to negotiate with the contractor first. If you have any complaints about the work, keep notes and notify the contractor directly. Any agreements you reach should be in writing. Remember to keep copies for your own files.

- ✓ Review the Contractor Repair Act, Chapter 672E, Hawaii Revised Statutes, which requires homeowners to provide written notice to a contractor of any construction defect and provide the contractor an opportunity to offer to repair and/or pay for any defects. You are not obligated to accept any offer made by a contractor. Review this law carefully as there are strict deadlines and procedures under the law, and failure to follow them may negatively affect your ability to file a lawsuit or other action.
- ✓ If the problem is how the construction is being performed or the materials used, you can also contact the architect for the project to review the progress of the project, and the architect can determine whether there is a problem and also speak with the contractor
- ✓ Hire an attorney. You do not have to wait until the project is abandoned or the end of a project to hire an attorney. An attorney can protect all of your potential claims against the contractor, which may include delay damages, emotional distress, and loss of use.
- ✓ If you are unable to resolve your problems with the contractor and feel there may have been a violation of the contractor licensing laws, file a complaint with the Regulated Industries Complaints Office (RICO). You may obtain a Contractor Complaint form online at **cca.hawaii.gov/rico** or in person at any RICO office or by mail by contacting RICO. There are offices in Honolulu, Hilo, Kona, Lihue and Wailuku.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. This material is available in alternate formats including large print. Submit requests to the RICO Complaints and Enforcement Officer at 586-2666.