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HOMES | How to renovate your house without a hitch. *By Anne Kates Smith*

IN HINDSIGHT, the red flags were waving, says Karen, a suburban Atlanta homeowner. But in the hubbub of her home-remodeling project she didn't spot them in time. If only she had. "The financial dealing over this addition has been a nightmare," says Karen, who prefers to remain anonymous given the bad blood that still exists between her and the contractor who worked on her house.

Karen and her husband paid 40% of the cost up front (red flag number one) because the contractor said he needed money for materials. When she asked for receipts, bills and work orders for the subcontracted work, they never showed up (red flag number

two). Then came calls from the concrete company demanding payment for a foundation that had been poured months earlier (big, fat red flag number three). Finally came a letter stating that the concrete firm was putting a lien on the

house—as is the right of subcontractors and suppliers who've not been paid, even if the customer has paid the general contractor for the work. "That sent me through the roof," says Karen.

Through the roof and into a not-very-select club of homeowners with gripes against contractors, a club that is swelling along with the \$210-billion-a-year remodeling industry. The National Association of Home Builders projects that home remodeling will grow at a 13% rate this year, even as construction of new homes is expected to slow by 10%. Today, the average home is 32 years old, compared with 28 years old in 1993, and Americans are updating their 1970s-era houses to match current tastes.

Too often, though, renovation leads to frustration. Home-improvement contracting was the top category of consumer complaints in 2004, and it has ranked in the top three in each of the past five years, according to an annual survey by state and local consumer-protection agencies. The stakes can be enormous. "We're not talking about \$15,000 additions—we're talking \$150,000, \$200,000, \$500,000 additions," says Minneapolis construction lawyer David Hammargren. "As the size of the projects has increased, the size of the problems has increased."

An unexpected mechanic's lien, such as the one Karen faced, is a common complaint. Other gripes include defective work, contractors who fail to complete work when promised or farm out

too much of the work to unsupervised subcontractors, and crews that don't clean up the work site or that damage a homeowner's property.

Before storming off to the complaint department, ask yourself if you're at least part of the problem.

Did you invite trouble by jumping for the lowest bid? "The low-price contractor has no way to fulfill his contract other than by cutting corners," says Bob Pomeroy, an estimator for Answer Heating & Cooling, in Freeland, Mich. Are you communicating clearly? "We've been told to do things, and then, when the husband—usually it's the husband—comes home, he says, 'No way, I'm not paying for that,'" says Alan Hanbury, of House of Hanbury Builders, in Newington, Conn. "A lot of things come up in an eight-hour day. Designate one spouse as the official spokesperson."

TAKE PRECAUTIONS

A GOOD CONTRACT is the best defense against disputes. But few are airtight, and some projects blow up anyway. When necessary, regulators, consumer-protection agencies and, as a last resort, lawyers can help you pick up the pieces.

Karen solved her problem creatively. After she threatened to picket the contractor's exhibit at a home show, he agreed to pay the disputed tab. She met the concrete subcontractor on the steps of the courthouse with a \$3,600 check to head off a lien, which could have forced her to pay twice for the same work, clouded the title to her house and even caused her to lose her house to foreclosure.

In hindsight, the better solution would have been to demand receipts after paying for each subcontracted job. To protect yourself, have the builder acknowledge in writing that subcontractors and suppliers have been paid through the date on the check, and

specifically note the work you've paid for. Another option is to make out checks jointly to the contractor and the subs (all of whom must endorse the check before it's cashed). Or you can pay a fee to have a third party make sure everyone is paid—possibly the bank administering your construction loan. Before you get started, it never hurts to call suppliers and subs to ask about their dealings with the contractor. Be wary if the contractor hasn't worked well with the suppliers and subs in the past—or hasn't worked with them at all.

PARCEL OUT THE MONEY

HOW YOU PAY a contractor is almost as important as how much. You never want the money paid to get ahead of the work done because then you have no leverage in a dispute. Spell out the payment schedule in the contract, beginning with the amount to be paid up front. Some states limit down payments to 10% of the contract price; others allow one-third down. When kitchen cabinets or other materials need to be ordered, you can tailor early payments to meet those out-of-pocket costs.

Periodic payments after the work starts should correspond to completed segments of the project—foundation, framing, plumbing, electrical, drywall, flooring, all the way through finished carpentry and painting. You might tie payments to the cost of doing the work plus a percentage of the profit, or pay 10% to 15% after each milestone (assuming, of course, that the building inspector has signed off on all work that requires inspection). But the best way to ensure that work gets done when and how you want it is to leave a significant sum—at least 10%—to be paid only when the job is completed to your satisfaction.

Living with construction can be a nightmare. But instead of resenting the mess, craft a "broom clause" in the contract that assigns responsibility for cleanup or repair. That might have

saved Diane Hicks's sanity. When Hicks hired Home Depot to remodel the kitchen in her condo on Pawley's Island, S.C., she was unprepared for what followed. "They left the cabinets in the living room for a month—in dirty, filthy boxes on my brand-new carpet. There were nicks in the paint. And the granite guys dragged a slab across the carpet, burning a hole in it. They cut the granite inside the condo, and there was dust all over."

Home Depot repaired the carpet, but Hicks was unhappy with the finished project and received a partial refund. Says Home Depot spokesman Don Harrison: "We're responsible for more than 11,000 product installations daily. Unfortunately, it sounds like we let one of our customers down in this instance, and we regret it."

GET IT IN WRITING

COUNTLESS contractor disputes arise from dashed expectations, which you can prevent by describing both the job and the materials in excruciating detail. For example, instead of writing "Install country-style oak cabinets"—or, even worse, "Install cabinets"—experts suggest using precise language, such as "Install kitchen cabinets, per plan, manufactured by company XYZ, model ABC, with finish EFG and matching, 3-inch crown molding."

A start date and at least an approximate completion date are essential in any contract. But just as important is setting a time limit for fixing defects so that if disputes arise, they're not endless. After delivering a written notice, give the contractor, say, 48 hours, seven days, a month—whatever you negotiate—to correct the defects as agreed. Stipulate that if the repairs aren't made in time, you're free to hire someone else, using the money you would have paid the original contractor upon final completion of the job.

Despite all of your best defenses, you may still wind up at loggerheads with your contractor. If a kitchen-table

conference doesn't settle things, you will have to decide whether to complain formally, and to whom. A state licensing body could be an ally, but it might not be as bloodthirsty as you are. "We always try to solve disputes at the lowest possible level," says Pamela Mares, of the California Contractors State License Board. The board investigates more than 20,000 complaints against contractors annually, and it helped consumers get more than \$36 million in restitution in the fiscal year that ended June 30, 2005.

In most states, the process starts with a letter to the contractor. Mediation is often next, in which a neutral third party helps you and the contractor work out a solution. Complaints that remain unresolved may go to arbitration, in which you and the contractor are bound to abide by an arbitrator's final decision. They may also go to an administrative law judge, who will decide your case after a hearing. In California, the arbitration process takes about four months, and the state pays for the hearing, the arbitrator and one expert witness per complaint. Contractors who violate the law may be prosecuted and ordered to make restitution; ultimately, they may also lose their licenses.

LAST RESORTS

SOME STATES and municipalities, including California, Maryland, Massachusetts, Nevada and New York City, have established funds to reimburse homeowners for shoddy workmanship and violations of building codes, licensing requirements and home-improvement laws. Usually, you can tap the funds only if you've exhausted other means of resolution. And claims are typically limited—to \$35,000 in Nevada, for example, and \$15,000 in both Maryland and New York City. None of these protections is available if you hire an unlicensed contractor in a state that requires licensure, so don't even think about it. (To see which states license contractors,

visit www.contractors-license.org.)

In states where contractors aren't licensed, you can air a grievance with a professional organization, if your contractor is a member. "We take complaints very seriously," says Mimi Makar, executive director of the Greater Chicagoland chapter of the National Association of the Remodeling Industry (find a local chapter at www.nari.org). NARI typically arranges for another contractor to go to the job site to evaluate the problem, and it might get suppliers and even product manufacturers involved, too. Contractors who refuse to address substantive issues could have their membership revoked. The National Association of Home Builders' Remodelers Council (www.nahb.org/remodel) may also be able to help resolve an issue.

Absent a regulator or professional organization as an advocate, homeowners looking for restitution can turn to the Better Business Bureau or their local consumer-protection agency. Or a lawyer, of course. But most lawyers would rather you consult with them to review a contract before you sign than fight a contractor afterward. "In many cases, the costs are prohibitive," says Minneapolis lawyer Hammargren. "Attorneys' fees are just a fraction of the cost. Most people have no idea how difficult it can be emotionally." Or how tough it can be to collect an award. Dealing with an insurer can take years, and wrestling with an uninsured contractor can take an eternity.

There is good news, however, if your new gourmet kitchen or home theater is still on the drawing board. The remodeling market may be tilting in your favor as spending on home renovation slows from the recent breakneck pace. Reports are surfacing of contractors giving discounts, providing better plans and more detailed estimates, or following up with customers months after the job is finished—in other words, providing the kind of service that makes building your dream house bearable. ■

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