

CONSUMER PROTECTION

WHY YOU SHOULD HIRE A LICENSED PAINTING CONTRACTOR

By Bruce D. Rudman
Abdulaziz, Grossbart & Rudman

In the practice of law, we often encounter prospective clients who either unwittingly hired an unlicensed contractor, or, who had purposefully hired an unlicensed contractor believing that they would get a better deal by doing so. It is not surprising that an unlicensed contractor can often offer a lower price; however, the lower price often comes with an abandoned project, poor work product, irregular project schedules, or illegal up-front payments. While there are some exceptions to this opinion, and there may be an experienced unlicensed tradesperson who performs quality work at a fair price, that would be the exception and not the norm.

A painting contractor who is licensed by the Contractors' State License Board ("CSLB") brings to the table a pedigree that demonstrates that they have met the minimum standards imposed by the CSLB to obtain a license. Those minimum standards are four years of full-time work in the trade, plus in most cases the qualifier on the license has taken and passed examinations on the law and the particular trade to be performed.

If you hire an unlicensed contractor and their worker is hurt on the job, they could potentially sue you.

Once someone is licensed, they are regulated. **All licensed contractors are bonded, and that bond provides some protection (discussed below) for claims against the contractor.** If the licensed contractor has employees, they must have workers' compensation insurance. There are very few contractors, particularly specialty contractors, such as a painter, who work alone. That means that the workers are protected if there is a job-site injury, including falling from a ladder or a roof, or other on the job injuries, and the property owner is protected by this insurance from a claim by the injured worker. **You should know that the Labor Code has a provision that in the event that someone is required to be licensed, and they are not licensed, they cannot be considered an independent contractor, and on that basis, their employees become the hirer's (and by example the owner's) employees.** Thus, if you hire an unlicensed contractor and their worker is hurt on the job, they could potentially sue you.

Unlicensed contractors typically cannot get workers' compensation insurance, so if one tells you that they have such insurance, I would be very skeptical.

Licensed contractors are regulated, and unlicensed contractors – other than the potential for being cited for illegally contracting – are not. Particularly with respect to residential remodeling projects, these regulations govern the content of contracts, the timing and amount of payments including restricted down payments, the right to a three-day period to cancel after signing the contract, the disclosure of the presence of insurance, and the requirement and timing of the payment of their subcontractors. Contractors who value their license will observe these laws. We find that unlicensed contractors often do not comply with these rules even though they apply to all persons performing construction including unlicensed persons. Moreover, if a licensed contractor improperly walks off the job, you have a regulatory agency to complain to. **You also have a license bond of \$12,500 on residential projects or \$7,500 on commercial projects, against which you can seek a recovery for damages, but again, only if the contractor is licensed.**

Another thing to know is that it is very unlikely that an unlicensed contractor would ever be able to get liability insurance. That means that if the unlicensed person causes damage to your property, they do not have insurance to pay for those losses. While every licensed contractor does not necessarily have liability insurance, on residential projects they are required to tell you at the time of signing the contract whether they have insurance so that you can choose whether or not to hire them.

Verify Painting Contractor Licensure at www.cslb.ca.gov

To verify that your prospective painting contractor is licensed, you could call the Contractors' State License Board at 800-321-2752 or visit www.cslb.ca.gov. I would caution you that the CSLB search engine for licensees is sensitive to punctuation and if the company were, for example, called ABC Painting, you might need to search for "ABC Painting" or "A.B.C. Painting" or "A B C Painting."

As stated above, there may be some very good unlicensed persons out there; conversely, there could be some bad licensed contractors. But, if you consider hiring an unlicensed person you should be aware of all of the risks. If you are in doubt, you should seek the aid and advice of an attorney knowledgeable in construction law to assist you.



Bruce Rudman has been practicing in the area of California construction law for 19 years. He is an acknowledged expert in the area of contractor's licensing and has represented hundreds of contractors over the years before the Contractor's State License Board. Bruce is a respected speaker on Construction Law, including licensing and contract requirements, Mechanic's Liens and other construction related issues and remedies. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Bruce Rudman can be reached at Abdulaziz, Grossbart & Rudman: (818) 760-2000 or bdr@agrlaw.com or at www.agrlaw.com