



Home Renovators Beware - Don't Just Sign the Contract!

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A home renovation project can be an extremely stressful endeavour at the best of times. Not only can there be significant disruption to the residents of the home, but delays and unforeseen costs commonly arise. In order to reduce the risks to homeowners who are undertaking a renovation project, it is highly recommended that they have a lawyer review the contract before it is signed and any work commences, even if the project is a relatively small one.

Often homeowners don't consider it necessary to have the contract reviewed by their own lawyer, especially when the relationship with the contractor is in the early stages, and everyone is on their best behaviour and getting along. However, this is precisely why the parties should ensure that the contract terms are agreed to and documented at this stage. Once problems or disputes arise, it is often very difficult for the parties to arrive at a mutually agreeable resolution if the contract is unclear, lacks sufficient details, or even worse, if it contains clauses that are extremely unfavourable to the homeowner.

Renovation contracts can be short and simple, lengthy and detailed, or somewhere in between. Regardless of the length and complexity of the contract, the main goal is to ensure that the contract accurately reflects the important details of the agreement and properly balances the risks and obligations of the parties.

The essential elements of a contract are as follows:

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1. Scope of work: specifies the work that will be performed, the materials and equipment that will be supplied, and who is responsible for the various aspects of the project, such as developing the design, providing the necessary labour and materials, and obtaining all required permits.
2. Timing: sets out the start and completion dates for the work, and how any delays will be dealt with.
3. Price: specifies whether the cost is structured as a fixed fee, on a time and materials basis, or as the cost of the work plus a construction management fee.
4. Changes and extras: sets out how changes to the work or extras to the contract will be handled, priced, and documented, as well as who will be responsible for the cost.
5. Payment schedule: details when invoices will be submitted by the contractor and payments will be made by the homeowner.
6. Holdback: Ontario's Construction Act requires the paying party to deduct and retain a 10% holdback amount from each payment owing to the contractor, for the benefit of any subcontractors or suppliers who register a construction lien to collect payments owing.
7. Insurance: sets out the types of insurance that are required, the policy amounts, and which party is responsible for obtaining each type of insurance.
8. Health and safety: specifies which party is responsible for health and safety matters at the project site, including ensuring that workers' compensation is in place for all workers.
9. Termination: details whether either party can terminate the contract, and under what circumstances, as well as the process for termination.
10. Warranty: sets out the type(s) of warranty that will be provided, including the duration of each warranty.
11. Dispute resolution: specifies the process to be followed in the event of a dispute between the parties.
12. Construction liens and actions: addresses how any construction liens, lien actions, or other lawsuits initiated by a third party will be handled, including whether the

contractor will be responsible for vacating (i.e., removing) the lien from title.

13. Clean up: details which party will be responsible for disposing of debris and cleaning up the site.

There are many other terms that can also be included in a renovation contract, however, determining whether any of them are necessary will depend on the specific concerns of the parties and their respective tolerance for risk.

Although having a lawyer review a renovation contract may seem like an unnecessary expense, especially when a homeowner is trying to fund a renovation, such cost may pale in comparison to the potential losses and damages that a homeowner may suffer as the result of a problematic renovation project combined with an unfavourable contract.

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If you would like more information or assistance regarding any of the matters discussed in this Construction Alert, please contact our firm.

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