

A LAWYER'S TEN TIPS TO AVOID REMODELING STRESS

BY GEOFFREY HUDSON

Studies have shown that remodeling your home can be one of the most stressful events in your life. As an experience, it ranks with death, divorce, and moving. It has tested many happy relationships.

Ironically, remodels usually begin in a spirit of optimism at this time of the year, but can evolve into some nightmarish scenarios. It may be surprising, but poor workmanship is not the main cause for despair. By far, the biggest problem is that construction projects do not start on time, do not progress fast enough and they almost never finish on time, if indeed they ever finish. There are many reasons why delays can happen and the blame can usually be shared among the parties.

Of course, building contractors are the most obvious target. Ironically, even some of the best contractors are not adept at adhering to a schedule and bringing a job to completion. Nevertheless, to blame your contractor for all of the delays is unfair and misses the point

Anyone who has ever applied for a building permit in Napa County knows that it takes an astonishing amount of time, energy and patience. Minuscule problems with your proposed design can take forever to remedy. The reality is that the building department cannot employ enough examiners to give you a prompt response. Believe it or not, they will refer you to professionals you can pay to assist you in shortening the permit approval process. This can be a budget-buster before your builder has hammered his first nail.

Other agencies involved with water conservation and the environment, as well as P G & E, have their own separate approval procedures, and these can be equally slow and frustrating.

Thus, your idyllic Spring remodel can easily become your Fall remodel and that is not your contractor's fault. Some blame goes to simple human nature. Most consumers have difficulty envisioning their new kitchen or den or great room. Many projects begin without sufficient details, and so it is inevitable that homeowners are frequently changing their minds while work is in progress. Lack of clarity in project goals is a common source of tension and stress. Some people make their own two-dimensional sketches and expect contractors to estimate the costs and then build what the clients have drawn. This has the potential for disaster because it is not realistic to adhere to a budget when the design is changing constantly.

When homeowners call their attorneys in the middle of a job, they invariably complain that they are behind schedule and that there is not enough money left in the budget to complete the project. When contractors call their attorneys in the middle of a job, they invariably complain that the owner has changed the scope of the work, and thereby delayed the progress, but do not want to pay for changes, which have impacted the price and the schedule.

There is a state agency, the Contractors State License Board, which oversees consumer complaints against building contractors. Unfortunately, the CSLB is understaffed and it can take months to even get an appointment with an investigator. Unless your situation is egregious it is a futile exercise to file a complaint with them.

By this stage in the process the only helpful thing that the lawyers can do, short of litigation, is to facilitate negotiations between the parties. There are many skilled and knowledgeable construction mediators in the North Bay and most modern contracts provide for mediation as a means of resolving disputes. Again, lawyers and mediators are expensive and prolong the process, but the only alternatives, a civil suit or arbitration, can have ominous complications. **NVL**

Here are ten ways to avoid your dream remodel turning into your nightmare:

1. Obtain all necessary permits and approvals before you schedule a start date, and be sure to include power and water in your plans.
2. Assume that the contract completion date will need to be extended by unforeseen circumstances, which are no one else's fault.
3. Assume that the contract price will be increased by unforeseen circumstances, most likely by changes in your own expectations.
4. Obtain specifications with sufficient detail that you can gather reliable estimates for labor and materials.
5. Research and choose the vendors and subcontractors preferred by your general contractor and ascertain their availability before you start. Understand the sequence of work and discuss it with your contractor.
6. Negotiate a schedule of progress payments based upon clear milestones, and adhere to it. A provision for a small retention (usually 5 to 10%) will give you a comfort level.
7. Agree that all "Change Orders" be reduced to writing, prior to performance, and subscribed by both the owner and the contractor. Remember that C.O.'s necessarily involve both price and time.
8. Schedule a certain time every week to sit down with your contractor and review the progress of the work, the schedule and the billings.
9. Agree to a quick and inexpensive procedure for resolving disputes and understand that there will be disputes.
10. Finally, before you undertake any home improvement, you must have a written construction contract. At least show it to your attorney. Make sure it complies with the law, protects you if something goes wrong, and is biased for the success of your project, not its failure. It cannot be over-emphasized how important communication is to the relationship between a homeowner and a contractor. Once that relationship breaks down, it is difficult to repair, and so it is essential to define the relationship in advance.

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