

KNOW YOUR

building remodeling rights

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Whether you are dealing with a remodeling contractor or a licensed plumber or electrician, consumer advocates stress that it is a mistake to make assumptions about your legal rights.

Even well-informed homeowners tend to be overly trusting when it comes to contracting for home improvements and other services, said Elaine Price, director of the Westchester County Department of Consumer Protection.

They hire contractors without doing proper background checks, fail to check whether the company is licensed to do business in the country where they live, forget to ask for proof of insurances, and make large deposits on work the contractor had not even committed to start, she said.

They usually think the law will be on their side if they fall victim to an unscrupulous builder, remodeler or tradesperson. It is, Price said but only up to a point. "Once a home improvement contractor has really botched a job and decides to go out of business, or relocate to another area under a new corporate name, then the homeowner is left hanging," she said.

There is always the option of a lawsuit – unless, of course, the contract the homeowner signed with the contractor prohibits it or requires the homeowner to submit to arbitration. However, even when the homeowner has the right to sue, it may not be cost effective.

Many cases are too big to settle in New York State Small Claims courts and too small to go to the expense of a lawyer, said New City attorney Julian Schulman. Only cases seeking damages of less than \$5,000 can be filed in Small Claims courts in New York.

Larger cases would have to be handled by an attorney. But "to be worthwhile from the standpoint of legal fees and costs, the claim has to be at least five figures, or more than \$10,000," Schulman said.

Some attorneys place that figure even higher. A random check of 10 law firms throughout the northern suburbs found the average firm would only consider a case if the potential damages were at least \$35,000 to \$40,000.

Edgar Santizo hired a Long Island-based firm called Unique Chimney to inspect his chimney flues before he installed a new furnace. The Chimney sweep came for a routine cleaning. When he arrived, he told the homeowner he needed a chimney liner- and then installed it without obtaining a building permit from the White Plains building department. Before Chimney repairs can legally be performed in White Plains, a resident must submit an engineers report and a photograph of the area to be repaired in order to obtain a building permit.

Santizo said White Plains building officials worked with inspectors from the Westchester County Department of Consumer Protection to get his \$900 back after they determined that the liner was installed unnecessarily.

County officials issued an appearance ticket for the owner of the Long Island based company, who agreed during a hearing to remove the liner and return the money to the homeowner.

The company did not return calls for comment. It is still operating in Westchester, but under strict supervision of county consumer protection officials. It must regularly inform customers that the chimney sweeping industry is under close scrutiny by county investigators, and alert them that they have the right to call Consumer Protection before authorizing any work.

Companies that perform chimney cleaning and maintenance are considered home improvement contractors, Rockland and Putnam counties, all home improvement contractors are required to have a license from the county where they intend to work, even if their offices are located outside the county.

A license, however, is not a guarantee of competence or quality. It is up to the homeowner to decide whether licensed contractor is a skilled contractor. That means looking at the contractors previous jobs, talking to references and comparing quality of his or her work against other licensed contractors.

The busier the remodeling companies, the harder it may be for consumers to find reputable firms, consumer advocates warn.