



By Joseph W.L. Griffiths, LL.B.

Home Horrors

How to avoid a home renovation nightmare

The author Pierre Burton once wrote "in the world of the big sell" - of which the home renovation/repair project is certainly a part - "the customer is held in no more regard by the salesman than the salesman is held by the customer. They are engaged in a running battle of wits, and if the salesman is the "shark" to his "prey", the "prey" is variously a mooch, an egg, a sucker or a mark."

It has been 46 years since Mr. Burton published the *Big Sell*. Today, we find ourselves living in an age where anything and anyone can be checked out instantly. From the ubiquitous Internet to the more traditional warnings published through the media, it would be tempting to believe that the escalation of consumer awareness has led to a decline in consumer fears of being swindled or duped.

And yet, despite the tools of the modern age, for the typical homeowner contemplating a renovation or repair project, the initial enthusiasm of the job is quickly cooled by the prospect of finding a reputable contractor. In fact, the search for a contractor who can be counted upon to price the job fairly, undertake the work proficiently and complete the project without major surprises can be overwhelming. Even where a contractor has glowing references and a spotless record, the fear of being swindled or taken advantage of is rarely diminished.

As most of us lack the requisite skills or experience to undertake such projects on our own, reliance on the professional contractor is essential and, quite frankly, a valuable practice. A professional contractor can, and should, assist you in meeting your expectations while reducing costs and ensuring compliance with federal, provincial and municipal standards.

While it may be true that there are those in the construction trade who have made a living preying on unsophisticated homeowners, and while you must certainly take appropriate steps to investigate any contractor before hiring them, in my own practice I have found that most contractors are hard working, honest and helpful individuals with little interest in swindling their customers.

No doubt, as Mr. Burton discovered back in 1963, the basic principles of sales and cons are largely the same: the larceny and ego of the customer are "the twin frailties that get played upon." However, what converts otherwise poor performance into the field of the swindle is the intention and interaction between you, as the homeowner, and your chosen contractor. Put another way, problems with your contractor often involve the "twin frailties" described by Mr. Burton but not as a result of any intention to swindle you. Rather, invariably, what a client will describe to me

as underhanded or shady business practices on the part of their contractor often turns out to be nothing more than a case of poor communication and unreasonable expectations between the parties.

What follows then, is a short list of advice that should help reduce your fear of dealing with contractors while also reducing the likelihood that you will find yourself in a lawyer's office trying to explain how and why your project fell apart.

First, don't be lazy or rushed. Finding a reputable and honest contractor can take time and effort but that investment will most certainly be rewarded with a finished product that is completed on time and on budget. Regrettably, I am often left with the impression that, when it comes to selecting a contractor in whom to invest their trust and money, my clients have done little more than engage in a haphazard game of eeny-meeny-miny-moe using the Yellow Pages in a kind of contractor roulette. To be clear, the Yellow Pages are filled with listings for both good and bad contractors but deciding which is which based on the quality of the ads is a poor selection method.

The starting place in the search for a reliable contractor should be enquiries of your friends and neighbours. If that isn't possible or practical, try making enquiries with local community groups such as the Better Business Bureau, the General Contractor's Association of Ottawa, the Ottawa Chamber of Commerce and other similar organizations. You might also try asking other trades people you have dealt with in the past such as plumbers, electricians and carpenters for help. While they may not be able to handle your current project they will most certainly know others in the industry that can.

Of course, a referral from one of these sources does not guarantee a perfect fit for your project. In that regard, there is no simply no substitute for interviewing a contractor in the same manner you would interview an employee. In particular, you should ask any potential contractor for the names and telephone numbers of their last three or four customers, their prior job experience, and about any litigation they might be involved in. Thereafter, you must insist on a reasonable opportunity to contact those references to ensure that the contractor completed this prior work satisfactorily.

Finding a contractor should not be confused with selecting one. The former involves finding those in the community who might be capable of doing the work. But even after you are satisfied that a prospective contractor is reliable and trustworthy, there are still other factors to consider. Beyond a mere price/estimate comparison, consideration must

be given to whether the contractor is likeable and able to communicate effectively. Too often my clients select a contractor because of price without considering whether they can work with the contractor to get the job done. As each of us has our own personality and style of communication, finding a contractor who is able to talk to you and listen to your concerns, someone who can explain their methods and choices and understand your expectations, should be just as important as getting a good price.

When talking to a prospective contractor don't assume anything and ask all of your questions. Have the contractor explain their vision to you in as much detail as required for you to understand what the job involves, what it will cost, how long it will take and who will be doing the work. The price may be great but if you don't understand the work to be undertaken, you may find yourself increasingly frustrated and angry as the job progresses.

Once you have settled on a contractor to do the work, make sure your agreement is reduced to writing. A written agreement that is clear and precise is the cornerstone of the homeowner/contractor relationship. Although you should always consider engaging the services of a lawyer to help you draft or review your contract, there is nothing inappropriate or underhanded about a contractor presenting you with a standard form contract for you to sign. You should always be wary, however, of any contractor who insists that nothing can be added or taken out.

The contract should fairly reflect all of the key promises and assurances you have received. In particular, the contract should reflect the price to be paid, the payment schedule to be followed and the start and finish dates. As a simple rule of thumb, if it isn't found in your written agreement, then you should assume it hasn't been agreed to. In Ontario, there is a standard form contract endorsed by those in the construction industry for use in construction work but for the average home renovation/repair project, the so-called CCDC contract would be far more than is required. Legally, it is often sufficient if the contract provides for holdbacks under the Construction Lien Act, protocols for dealing with extras or substitutions, a means of resolving disputes during the life of the job, insurance issues and warranty claims.

No sooner will you have signed the contract then it will seem that the job is off course and spinning out of control. In those moments, it is important to remain firm but flexible. Even the best, most proficient contractor can't always account for every possible nuance or variation in their work. As the project evolves, you should resist the urge to rely strictly on the black and white letter of your contract. Instead, you must strike a balance between insisting that your expectations be fulfilled while allowing for some variation by the contractor to get the job done. Insist on regular meetings with the contractor to review their progress and actively engage the contractor in trying to solve problems as they emerge.

Regardless of how the job progresses, however, document everything in writing and keep a journal or diary to memorialize the events and discussions taking place during the project. That way, should you be one of the unfortunate few

whose project ends in calamity, you will have a sufficient documentary record from which the job can be objectively reconstructed.

Avoiding a home renovation/repair project nightmare has more to do with effective communications and reasonable expectations than with standards and protocols. It requires a willingness to pay for quality service while insisting on open communications with the contractor during the life of the project. In the end, if you want to successfully manage a construction project always remember two things: there is no free lunch and there are no stupid questions.

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