



## Home Renovation: Contractors and Contracts

**You've decided that a renovation project will add good value to your home, you've settled on a budget, and you've decided how to finance your project. Now comes the most important decision: who will do the work?**

**This article, the first in a series on home renovation, discusses how to select a contractor and reach agreement on a contract. What information should you have before you make your decision? And once you've decided on a contractor, what are the basics of a good agreement that will protect your interests?**

### Selecting a Contractor

There are many ways to identify possible contractors for your project. You might contact the contractor who worked on a project in your neighborhood that you admire, or respond to an advertisement in your local newspaper. But before you commit to any contractor, you should take the following steps to ensure that you've selected the right person for your project.

### Get Three Bids

Take the time to get three bids on your project. You do not want to feel that you are being overcharged once the project has begun. Before you seek your bids, prepare a detailed plan of the work you want done. Give the same information to each of the contractors whom you ask to prepare bids so you can make a valid comparison.

If the prices diverge substantially, first look at differences between the **core work** and the **finish work**. Core work includes the work on floors, walls, ceilings, and everything that goes behind them. The cost for this work should be about the same from contractor to contractor. Finish work includes work on moldings, trim, tile, and cabinetry. The cost of materials and workmanship on these items can vary significantly. If differences in the cost of finish work don't account for the overall cost difference, find out why one bid seems unusually high or low. Make sure all the contractors have the same understanding of the job.

### Find Out as Much as You Can

A reputable contractor should be able to provide you with several references to former clients. Take the time to call these references and ask if you can see the work the contractor did for them. Find out what it was like working with the contractor.

Also talk to individuals who work in the home renovation community—such as electricians, plumbers, or interior designers—or to local realtors.

What do they know about the contractor you are considering for your project? Finally, double check your contractor's credentials. Contact your state's licensing firm to confirm that the contractor is licensed and bonded.

### Make Sure Your Contractor Carries Insurance and Offers a Warranty

Be sure your contractor has both workers' compensation and general liability insurance and ask to see his or her current certificates of insurance. Workers' compensation insurance provides coverage to the contractor and the contractor's employees in the event of job-related injuries. General liability insurance covers negligence that results in injury to the person or property of someone other than the contractor and his or her employees. If your contractor doesn't carry the proper insurance, anyone injured at your home during the renovation project is likely to sue you as well.

Ask whether your contractor provides a warranty on his or her work and make sure that it is mentioned in the contract. Some contractors may also offer an extended warranty for an additional fee.

### Your Contract with the Contractor

Your project is likely to cost tens—maybe hundreds—of

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thousands of dollars. It is essential to protect your investment by a written contract that spells out the terms of your agreement with your contractor. At this stage, spending a few hundred dollars to have a lawyer help you review and negotiate a contract will be a smart investment.

You will likely begin negotiations with your contractor presenting a “standard” contract for the work. Treat this as a starting point—all contracts can be negotiated, changed, or rewritten. Your lawyer can assist you in negotiating clauses specific to your project. All contracts should address some essential issues.

### *Mechanic’s Liens*

Mechanic’s liens can be filed against your property by anyone providing services, labor, or materials for work performed on your property. If a lien is filed against your property, you won’t be able to borrow money against your property or sell the property without paying the lien. If a lien remains unpaid, in many states a lienholder can force you to sell your property to satisfy the lien.

To avoid this situation, your contract should provide that the contractor’s and any subcontractor’s lien rights on completed work are waived as you make periodic payments. The contract should provide that at the end of the project you must receive full waivers of lien rights from everyone involved in the project before you make final payment.

### *Warranties and Insurance*

As discussed earlier, make sure the contract provides warranties for the work and materials used in your project. The contract should also include a **waiver of subrogation** clause, which provides that the contractor cannot sue you for reimbursement of damages if the contractor is found liable for injuring someone. The contract should also provide that the contractor will **indemnify** (reimburse) you if you are found liable for any injuries occurring during the renovation.

### *Cost and Payments*

Your contract must state how much the project will cost, and be clear about the work to be performed. The contract should break down the cost of labor and materials for different categories of the work (for example, plumbing, carpentry, and electrical work). Don’t accept a contract that provides only for an hourly rate or a **cost-plus basis**, which means that the contractor gets paid his or her costs plus a percentage set by the contractor as profit. In both hourly rate and cost-plus situations, the contractor will have little incentive to hold down costs. If you have not yet made final decisions on certain finish or fixture details, make sure the contract provides

for a means of determining their costs. Your contractor will also want provisions for unanticipated problems that arise during the project. Make sure that the contract spells out what problems might arise and what the solution and anticipated cost for correcting those problems would be.

Payments under the contract should be spread out over the course of the project. Payments are typically timed to coincide with certain milestones (for example, demolition, framing, appliance delivery, etc.). Make sure that the final payment is not due until all the work is completed and you have received lien waivers from all the necessary parties.

### *Change Orders*

You are almost certain to change your mind about something after your project begins. These changes almost always increase the cost of your project. Your contract should provide that all change orders must be in writing, describe the work to be completed and its cost, and be approved by you in writing before the work can begin.

### *Start and Completion Dates*

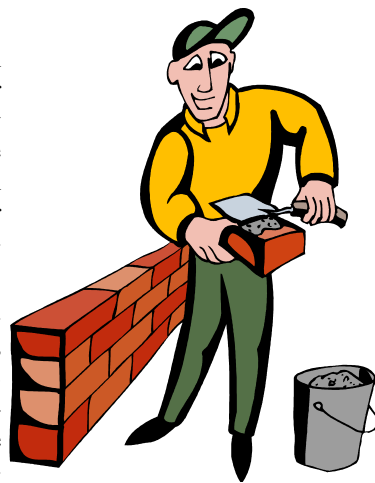
The contract should provide for set start and completion dates for the project. If there is a financial penalty if these dates are not met, the contractor will have an extra incentive to set reasonable dates that give you a clear sense of how long the project might last.

### *Responsibility for Permits and Inspections*

The contractor should have responsibility for obtaining the necessary building permits for the project, which virtually all renovation projects will require. Do not consider any renovation without the proper permits. If you do so, the city could require you to tear down any work that is not up to code.

### *Attorneys’ Fees and Arbitration*

The contract should provide that the prevailing party in any lawsuit is entitled to attorneys’ fees and court costs from the losing party. Also request a clause providing for arbitration in the event of a dispute, which is usually faster and less expensive than a lawsuit, and make sure you have a right to have a lawyer represent you in arbitration.



### **Joke of the Quarter**

#### **What type of tracks?**

Two lawyers were out hunting when they came upon a couple of tracks. After close examination, the first lawyer declared them to be deer tracks. The second lawyer disagreed, insisting they must be elk tracks.

They were still arguing when the train hit them.



### Trigger Events for Changing Your Estate Plan

An **estate plan** is your blueprint for where you want your property to go after you die. As part of planning your estate, you might need to write a will, create a trust, and name beneficiaries to your life insurance, among other things. Planning your estate properly ensures that your hard-earned property will be distributed in accordance with your wishes, and can help ensure that your loved ones will be provided for.

Everyone should take the time to plan their estate. But even after you've created an estate plan, you cannot sit back and relax. Life does not stand still, and your circumstances are likely to change—you may have more children, acquire more assets, lose some assets, or some beneficiaries under your will may predecease you. Your children will grow up, you and your spouse may split up. Most of these life changes will occasion a change in your estate plan. You may also move to a different state—from New York to South Carolina, say—and different state laws might affect your tax and estate planning. And state or federal law may change, making some of your estate planning obsolete, or even counterproductive.

Changes in the value of your assets might also be a trigger for changing your will. Many people who had large portfolios in the boom years of the 1990s might have suffered drastic reductions in the value of their stock, and might want to reconsider how much of their diminished estate they want to leave to charity, for example. Or if you left stocks to one child and an equivalent value of real estate to another, those values may change drastically with fluctuations in the stock or real estate market. The law also changes—changes to the estate tax law (which may change again depending on the nation's budget deficit or even military actions) should make many people think about updating their estate plans.

It's a good idea to review your will and your inventory of assets and recipients at least once a year to make sure everything is accounted for. You may want to pick a certain day, such as your birthday or the Fourth of July, or some other date that will jog your memory, to help remind you to do this annually. Remember that this area of the law differs, often drastically, from state to state, so it's especially important to check—or have your lawyer check—how your state's law affects your estate plan.

#### *Changing Your Will*

If you have relatively few changes to make, you may be able to change your existing will. An amendment to a will is called a **codicil**. (It sounds a bit like a cold medicine, and you might think of it as a cure for an obsolete will.) You can't simply cross out old provisions in your will and scribble in new ones if you want the changes to be effective; you have to formally execute a codicil, using the same formalities you used when executing the will itself. This means that you must have witnesses to your signing of the codicil, and the signatures must usually be notarized. Of course, it's vital that codicils be dated so the court can tell that they were made after your will. Codicils should be

kept with the will..



#### *Writing a New Will*

Sometimes when you undergo a major life change, such as divorce, remarriage, having more children, or winning the lottery, it's a better idea to rewrite your will from scratch rather than making a lot of small changes through codicils. It's best to do this by executing a new will that states that it revokes the old one. There are two schools of thought about what to do with the old will. Some lawyers recommend that you destroy it, if possible in front of your lawyers and the witnesses of your new will. Others do not recommend destroying prior wills: A prior will can be very useful in avoiding arguments that there was undue influence in changing a will. If there are a number of wills that have similar provisions, prior wills are often very good evidence.

When you write a new will, be sure to include the date it's signed and executed, and put in a sentence that states that the new will revokes all previous wills. Otherwise, the court is likely to rule that the new one only revokes the old where the two conflict—which could cause problems.

If you fail to change or rewrite your will to account for changes in your life, the courts will give as much effect to your old will as possible. Some changes may be accommodated by the law, regardless of what your will says. For example, if you have a new child and don't explicitly say you don't want her to inherit anything, then the law may give that child a share of your estate. Likewise your spouse is entitled to a certain percentage of your estate (that varies by state), no matter what you say in your will.

### **REMINDER**

We offer a free estate planning consultation  
for our clients.

Contact us at [www.floydlaw.com](http://www.floydlaw.com) or call  
**(843) 238-5141** for an appointment!



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THE FLOYD LAW FIRM PC



#### Word About Our Firm

The Floyd Law Firm PC is a general practice law firm established in 1973. We have three attorneys who can handle almost every type of legal work which you, your family or your business may require. We take great pride in our team of lawyers, legal assistants, legal secretaries, and staff members. Each attorney, legal assistant and legal secretary is an expert in one or more fields. This expertise allows us to provide superior legal services in a number of fields of law such as Personal Injury Claims, Community Association, General Trial Work, Golf Industry, Estate Planning, Estate Administration, Elder Law, Real Estate Transactions, Family Law, Worker's Compensation, Wills and Trusts and Criminal Law. We hope you will meet our well-qualified team and allow them to work together for your benefit.

**Website:**

**[www.floydlaw.com](http://www.floydlaw.com)**

## NEWS FROM THE FLOYD LAW FIRM

Congratulations to the following employees who celebrate anniversaries with the FLF:

*Evone P. Morris*, Real Estate, 39 years on April 1.

*Peggy Sue Ross*, Real Estate, 2 years on April 7.

*Linda S. Davis*, Receptionist, 3 years on April 22.

*Dundee W. Carter*, Attorney, Real Estate and Probate, 1 year on May 31.

*Frank J. Bryan*, Attorney, Litigation, 12 years on June 1.

*Dalton B. Floyd, Jr.* was recently named Chairman of the South Carolina Higher Education Foundation.