

Many Liars pay for home improvements only to learn costly lesson of buyer beware

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Complaints about home improvement contractors' shoddy or incomplete work are prevalent across Long Island, but many homeowners may never fully recover the money they paid them, lawyers and advocates say.

While consumer protection agencies can help mediate settlements between consumers and contractors, impose fines and suspend or revoke licenses, they have limited powers to enforce restitution, and legal remedies are costly, time-consuming and often ineffective.

"When a problem arises and things break down between a homeowner and a contractor, it can be a tough road to recoup all your money," said Madalyn Farley, commissioner of the Nassau County Office of Consumer Affairs, "especially when the contractor is unlicensed."

Home improvement complaints compose more than half of all Long Island consumer complaints, consumer affairs officials said, with an uptick after the devastation left by superstorm Sandy in October 2012. They account for over half of the more than 2,000 total consumer complaints typically lodged each year in Nassau, Farley said.

Suffolk County's consumer affairs division received 813 complaints against home improvement contractors in 2013 and 746 last year, more than half of all complaints. In 2012, 605 complaints were filed; in the two years before that, 608 and 618 complaints were made, respectively.

"This is a big, big problem in the industry," said advertisement | [advertise on newsday](#) Ben Jackson, a general contractor in Freeport and chairman for the Long Island government affairs committee of the National Association of the Remodeling Industry, adding that it worsened with the influx of contractors after Sandy. "Too many people are getting devastated because it's difficult to get the money back from an unscrupulous contractor."

Contractor Laurence Carolan, owner of House of Laurence of Merrick and the remodeling association's national government affairs chairman and local board secretary, said, "With 18,000 licensed professionals [on Long Island], most of the time contractors want to resolve the issues that might have been brought."

The "bad people [who] get the attention" do damage to "the guys who are out to make an honest living, and want to do the right thing," he said.

Responses can be 'limited'

Last year, the Suffolk County consumer affairs division successfully mediated about a third of the home improvement complaints, with the rest unresolved, found invalid or referred to other jurisdictions.

Because consumer affairs agencies cannot impose a judgment if mediation fails, consumers must resort to civil court litigation, and pay a sheriff to pursue an award if the contractor doesn't pay up. Contractors, said those familiar with the process, can shield assets, declare bankruptcy, or change business names to elude collection.

"We are very limited in our powers in the home improvement area," said Barbara Stoothoff, administrative director of the Suffolk County Department of Labor, Licensing and Consumer Affairs. Stoothoff said she'd like to see administrative judges with enforcement authority oversee the agency's hearings, although that would require county legislation and funding to accomplish. "It's really up to the consumer to do their due diligence before they hire someone," she said.

Homeowners who can't collect a civil court judgment are eligible to apply for as much as \$5,000 from Suffolk's restitution fund, and up to \$10,000 in Nassau -- but only if they used a licensed contractor.



Russ Haven, legislative counsel to the New York Public Interest Research Group, a consumer not-for-profit, has lobbied for more protections for homeowners, including a statewide registry of contractors.

"Right now it's the Wild West when it comes to home contractors," he said. "Anybody can get into the business, and it's hard to find an authoritative place to check on a contractor. If you are cheated or treated poorly you don't have great options to get redress."

Thomas Viverito of West Islip would agree, having had no success in getting money back from a contractor for work he allegedly failed to perform after Sandy. "You just meet so many dead ends when you try to recoup your money, it's a shame," he said.

In 2013, more than \$12 billion was spent on home improvements in the New York metro area, the highest amount in the nation, according to Harvard University's Joint Center for Housing Studies.

Home improvement and construction was No. 2 on the 2014 top 10 complaint list of the Better Business Bureau covering Long Island, and it is consistently among the first three of a national survey's top 10 complaint list.

Proactive legal safeguards

Homeowners could do more to protect themselves, however, say lawyers who see the results when they don't.

They often fail to demand a detailed legal contract specifying materials, costs, labor, timetables, and other protections, or fully research a contractor's licensing and complaint history with the county.

"It's an area where an ounce of prevention is worth all the curing I can do after the fact," said attorney John Caravella, whose construction litigation and arbitration firm has offices in Uniondale and Manhattan. Besides a detailed contract, "the biggest safeguard" for a homeowner is to make sure payments are made in direct proportion to the work completed, he said.

Homeowners generally hire a lawyer to review a real estate contract, but most do not for costly renovation projects, said lawyer Michael Berkley, whose Garden City firm also handles construction-related cases. "It is a difficult system for consumers to . . . have a remedy, no question about it," he said.

Licensing gives the county consumer affairs agencies some leverage over contractors, especially compared with those who are unlicensed. Only residential remodeling contractors are required to obtain a license. New applicants must give business and background information, and in Suffolk, pass a test on relevant legal codes.

Unlicensed contractors, if they can be located, face a misdemeanor charge with a fine and a year in jail. But licensing doesn't always protect consumers.

Contractor loses license

Take the case of Terence Connelly -- most recently doing business as Home Doctor Home Improvement, Roof Doctor and Long Island Expediting of Mastic -- who had a Suffolk home improvement contractor license until March.

He lost it for violating contract laws, after a hearing in which two families testified he'd taken nearly all their insurance money to repair their fire-damaged houses while performing about half the work.

Records at Suffolk consumer affairs showed Connelly had a history of complaints and problems. Since 1993, he compiled more than 90 complaints (most for defective work and failure to complete jobs), 21 violations, one prior license revocation and intermittent years of working unlicensed.

Yet he was able to get a new license in 2008, records show.

"We are trying to crack down on that, quite frankly," Stoothoff said of Connelly's 2008 license. "We are being more cautious in who we give a license to."

While many complaints against him were settled through mediation, others remained unresolved, or were referred to small claims court or the county restitution fund, records show.

Mediation failed in 12 of the 47 complaints filed when he worked under a license held by his mother, Barbara Connelly, from 2001 to 2005, and in four of the nine complaints lodged in the three years after it expired. Barbara Connelly said she took out the license on her son's behalf after his own license was first revoked in 1998.

The homeowners who testified in the consumer affairs hearing -- Daniel and Aurelia McAleese of Ronkonkoma and Carrie Neckles of Shirley -- said they have had no success in getting restitution from Terence Connelly.

They are in civil litigation with him, and Neckles said she can no longer afford a lawyer. They are still struggling to finish their homes and get certificates of occupancy.

Connelly's lawyer at the consumer affairs hearing, Michael Brown of Central Islip, dismissed the violations as "technicalities." He said that Connelly has thousands of satisfied customers and was in legal compliance. And he alleged the homeowners simply didn't want to pay for agreed-upon upgrades.

The McAleeses and Neckles deny that. They acknowledge they signed inadequate contracts, but said the contracts specified that upgrades in square footage were covered in the agreed-on price. They said Connelly didn't do much of the interior work and failed to match their payments with documented expenses.

"He had \$299,000 to build a 1,060-square-foot house; I would say that is plenty," Neckles said.

Connelly has been sued dozens of times in small-claims court. Of the plaintiffs reached for an interview who had judgments awarded, none had collected any of the money.

The law firm that represented Connelly in his civil cases declined to comment.

In interviews, Louis Zappulla of Selden said Connelly never paid a \$3,030 judgment in 2001 for a roof job "that leaked like a sieve." Thomas and Gina Malz of Setauket said Connelly never paid their \$2,230 judgment won after he disappeared with their deposit for a roof job in 2000.

Other ex-clients are still bitterly angry over their dealings with him.

Jason Damianos, owner of Jason's Vineyard in Jamesport, said Connelly put a lien on a half-finished tasting room there in 2008 after walking off the job when Damianos refused to meet Connelly's escalating demands for money, even as he failed to finish work for which he'd been paid.

And Joe Biondo said Connelly botched a roofing job at his Shirley condo complex. Connelly redid it, Biondo said, but it still leaked and had to be replaced. He said, "It was a nightmarish, shoddy job that cost the community something like \$80,000 to redo everything."

Industry's trust worries

Jackson said unscrupulous or inept contractors create distrust of contractors in general. While the idea isn't universally embraced by the building industry, his group advocates certification and training for all new contractors, he said. The group recently established a relationship with the Nassau consumer affairs office, reviving and sitting on its advisory home improvement industry board.

"What we're proposing will help consumer affairs, help contractors and help homeowners by making our industry more professional," Jackson said, adding he believed more money "has to be pumped into consumer affairs for enforcement."

In addition to civil complaints, consumers can complain to the local district attorney, where cases can also be referred by consumer affairs. Some contractors have faced jail time on larceny and other charges.

However, Edward Heilig, financial crimes division chief at the Suffolk district attorney's office, said a prosecution must show criminal intent, which can be difficult to prove.

Consequently, the majority of cases prosecuted are where little or no work is performed after acceptance of payment, he said.

"After that, it starts getting into a very gray area of criminal versus civil," he said. "It may be stealing but we have to prove it . . . beyond a reasonable doubt. That's what makes it so difficult."

A spokesman for the Nassau district attorney's office said some defendants can plead to a lesser charge if they agree to pay restitution.

"One of our office's primary goals in these cases is to obtain appropriate restitution for homeowner victims, whether the restitution is paid prior to criminal charges being filed or through a criminal prosecution," the spokesman said.

In Suffolk, the district attorney's office filed two grand larceny charges in January against Richard Kloska of American General Contracting for allegedly taking money from two Sandy victims for work he didn't perform. Kloska's next court appearance is set for July 17. His attorney, William Keahon, declined to comment on behalf of Kloska.

One victim, Donna Hochman of Lindenhurst, said she hired Kloska because he was doing work in her flooded neighborhood. "I contracted with him [Kloska] through my attorney . . . to do the foundation for \$20,000," said Hochman, who is Lindenhurst's school board president. "He cashed it, didn't do any work and then he turned around [and said] before he would go forward, he wanted \$187,000."

He refused to return the deposit, she said, then sued her for breach of contract and loss of earnings.

When more than a half-dozen of Kloska's customers complained to consumer affairs, they were told in a meeting by the agency's then-acting commissioner that his suspended license had been restored when he paid a \$5,000 fine, said Hochman's attorney, H. John Bopp of Lindenhurst.

However, Suffolk Legis. Kevin McCaffrey (R-Lindenhurst) said it was unclear whether the agency had taken any official action before Kloska obtained a court-ordered stay, now lifted, on agency action.

Hochman said her losses to Kloska are complicating, and delaying, her grant of federal money to repair Sandy damage.

"I'm in a real mess. I have people suing me now because I can't pay to do work I'd contracted for," she said.

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AVOID PITFALLS OF HOME RENOVATIONS

* **Contact offices of consumer affairs** in Nassau (516-571-2600) and Suffolk (631-853-4600) to find out whether contractor is licensed and has history of complaints.

* **Consult Suffolk Consumer Affairs'** Consumer Checklist at nwsdy.li/suffolkchecklist.

* **Insist on a contract** detailing materials, costs, labor, timetables, guarantees, lien release and payment schedules.

* **Consult attorney** for review and approval of contracts.

* **Contact NYS Workers' Compensation Board** to see whether contractor has workers' compensation and disability benefits insurance at nwsdy.li/employercoverage.

* **Example of a model contract:** nwsdy.li/contract.

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