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Part Three: New Jersey's "Home Improvement Practices" Administrative Regulations

This is the third article in a series examining the administrative regulations titled "Home Improvement Practices" contained in the New Jersey Administrative Code. N.J.A.C. 13:45A-16.1 et seq.

In the last article of this series (the Summer 2004 issue of The Advocate) we learned that the "Home Improvement Practices" regulations have been held to apply to mixed use properties that include both residential and non-residential elements.

Contract Requirements

The contract requirement provisions of N.J.A.C. 13:45A-16.2(a)(12) may be among the most commonly overlooked legal requirements in the residential construction industry. The first of these is that all home improvement contracts for a purchase price in excess of \$200.00, as well as all changes to the terms and conditions thereof, must be in writing. This means that failure to record all change orders (however minor those changes may seem to the contractor or the consumer) in a written document signed by both parties, may give rise to a claim of fraud.

All home improvement contracts which are required by N.J.A.C. 13:45A-16.2(a)(12) to be in writing, and

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all changes in the terms and conditions of such contracts must be signed by all parties and must "clearly and accurately set forth in legible form all terms and conditions of the contract..."

N.J.A.C. 13:45A-16.2(a)(12) goes on to specify particular matters which must be included in all written contracts and change orders.

These include (but are not limited to) the following:

The legal name and business address of the seller, including the legal name and business address of the sales representative or agent who solicited or negotiated the contract for the seller. N.J.A.C. 13:45A-16.2(a)(12)(i).

A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall

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Great Quotations

"Every man has a right to utter what he thinks is truth, and every other man has a right to knock him down for it."

- Samuel Johnson

"A truth that's told with bad intent
beats all the lies you can invent"

- William Blake

include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products are to be used, a description of such products or materials shall be clearly set forth in the contract. N.J.A.C. 13:45A-16.2(a)(12)(ii).

The total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials, the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated. N.J.A.C. 13:45A-16.2(a)(12)(iii).

The dates or time period on or within which the work is to begin and be completed by the seller. N.J.A.C. 13:45A-16.2(a)(12)(iv).

A description of any mortgage or security interest to be taken in connection with the financing or sale of the home improvement. N.J.A.C. 13:45A-16.2(a)(12)(v).

A statement of any guarantee or warranty with respect to any products, materials, labor or services made by the seller. N.J.A.C. 13:45A-16.2(a)(12)(vi).

Guarantee and Warranty Requirements

N.J.A.C. 13:45A-16.2(a)(11) sets forth specific requirements regarding guarantees and warranties as follows:

"The seller shall furnish the buyer a written copy of all guarantees or warranties made with respect to labor services, products or materials furnished in connection with home improvements. Such guarantees or warranties shall be specific, clear and definite and shall include any exclusions or limitations as to their scope or duration. Copies of all guarantees or warranties shall be furnished to the buyer at the time the seller presents his bid as well as

at the time of execution of the contract, except that separate guarantees or warranties of the manufacturer of products or materials may be furnished at the time such products or materials are installed."

Building Permits

In addition, N.J.A.C. 13:45A-16.2(a)(10) contains contract requirements relating to building permits. These include the following:

"No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances." N.J.A.C. 13:45A-16.2(a)(10)(i).

"Where midpoint or final inspections are required under state laws or local ordinances, copies of inspection certificates shall be furnished to the buyer by the seller when construction is completed and before final payment is due or the signing of a completion slip is requested of the buyer." N.J.A.C. 13:45A-16.2(a)(10)(ii).

Part Four of this series appears in the Winter 2005 Issue of The Advocate



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