

# KEN PAXTON

## Home Remodeling and Repair

For most consumers, the home they own and live in is their largest and most important investment. Adding improvements, repairing damage, and keeping up with routine maintenance are all part of the smart consumer's effort to protect and increase the value of this important asset.

Scammers know you'll spend money to improve your home. Be sure you know how to protect yourself, and you should familiarize yourself with common home improvement scams.

## Door-to-Door Sales

Be cautious when a salesperson appears at your door uninvited. Two very common sales pitches often associated with home improvement scams are:

- The salesperson "was in your neighborhood and noticed that you needed" siding, storm windows, or some other improvement.
- The salesperson "just did some work in your neighborhood and has extra" building supplies that would be just enough to repave your driveway or reshingle your roof.

Both come-ons are red flags. Businesses that do a particular kind of home repair do not generally cruise neighborhoods, knocking on doors, looking for houses that need them. This would not be a very efficient way to find business.

And while most contractors will put up a sign in the yard where they are working to try and win some neighborhood business, they are not likely to go from door to door selling leftover materials. They are more likely to use the leftovers on the next real job.

Maybe not all door-to-door contractors are scammers -- but many scammers do work from door to door. Home improvement scams often flourish in the wake of disasters, especially violent storms such as hurricanes and tornados. Some legitimate repair specialists may work door to door in these circumstances, but so do con artists.

You need to know who the person is and how you would be able to find that person. Is it a legitimate businessperson with dependable contact information and a good reputation? Or a fly-by-night who will disappear with your money?

Too often, the unsolicited salesperson uses high pressure sales tactics: "The offer is for today only!" "Special price only if you do it today!" If you are being hurried into a decision, your answer should be NO. You need time to check them out, and if they are legitimate business people, they will welcome your questions.

# Choosing a Contractor

Take time to choose the person who will work on your home. It is a good idea to choose a contractor with an established physical address. It is common for people in construction to use cell phones, but you should be sure you can find anyone who has done work on your house, in case problems arise.

The best policy is to get bids from more than one person for any work you are going to have done on your house. Get the bids in writing, and look for detail about exactly what will be done. Depending on the nature of the work, you may wish to specify the kinds (grade or thickness) of materials that will be used.

Beware of the "low-ball" bidder whose price is much lower than everyone else's. Question the quality of the materials that will be used and the work that will be done. A very low bidder may not plan to include all the specific tasks you might expect, may use very cheap, inexperienced labor, or second-rate materials. Most of the legitimate bids will fall into a fairly close range.

Seek references. Ask to speak to satisfied customers, and ask them if you can visit their homes to inspect the work done by a contractor you are seriously considering. If you are hiring the kind of worker who must be licensed by the state (such as an electrician), contact the licensing agency to check the person's credentials and inquire about complaints.

The Texas Department of Licensing and Regulation (TDLR) is a state regulatory agency that currently oversees over twenty types of businesses, industries, trades and occupations. The agency is responsible for issuing licenses, conducting inspections, investigating complaints, assessing penalties, setting rules and standards and holding hearings.

Verify any claims the contractor makes about energy savings or increased security, home value, or other added advantages to the improvements you are buying.

## Be Smart about Contracts

Most home repair and remodeling work is performed under contract. Legitimate businesses will usually insist on having a contract for their own protection, and a well written contract should protect the homeowner, too.

**DO NOT** sign a contract with blanks in it. It happens: the blanks get filled in later, and the new terms are not likely to be in the consumer's favor.

**DO NOT** sign a contract until you have carefully read and understood every word of it. Sometimes it can be difficult to get out of a signed contract.

These precautions are important to remember whenever you sign a contract of any kind. Consumers contact our agency all the time complaining of unreasonable, even outrageous, terms of business. Too often, they have signed a contract they have not read which puts them at a disadvantage.

Do not allow anyone to rush you into signing a contract. The sales person should be willing to leave the contract with you so you can read it carefully on your own time. If anyone rushes you or tries to make you sign on the spot, or will not leave a copy for you to study, you should be suspicious of that person and the contract.

Make sure everything promised to you is in the written contract. Insist on a written contract that specifically states what the contractor will do, when the work will start, and when it will be completed. Make sure the contract includes everything the salesperson or contractor promised and spells out the cost of special orders and materials.

Be aware that most contractors will not allow you to change your mind for free about what you want done or how you want it done. Often a contractor will require a service charge for changing the work order, and this should be covered in the contract.

Get and keep copies of everything you sign at the time you sign it.

## What the Law Says

Any contract you sign for work on your homestead must contain the following warning next to the space for your signature:

"Important Notice: You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. Know your rights and duties under the law."

When you sign a contract for home improvements on your homestead, the contractor can legally place a lien on the homestead. If you sign a contract containing the language quoted above and you fail to make the payments, the company can take away your home. Therefore, it is extremely important that you understand exactly what your obligations will be under the contract, and that you are confident you can meet those obligations. If you have any questions or doubts, consult an attorney before you sign the contract.

If there will be a lien on your home, make sure a notary is present to witness your signature. A notary other than the salesperson must be present to witness you sign the document creating the lien. It should be a warning to you if the salesperson does not have a notary present or if he says he will take care of the notarization later.

It bears repeating: get and keep copies of everything you sign.

If your contractor fails to pay the subcontractors and suppliers, YOU are responsible, even though you have not contracted directly with the subcontractor or supplier. Under Texas law, if a subcontractor or supplier who furnishes labor or materials for the construction of improvements on a property is not paid, the property may be subject to a lien for the unpaid amount.

If your homestead improvement exceeds \$5,000 in cost, the contractor is required by law to deposit your payments in a construction account at a financial institution. Ask the contractor for written verification of the existence of the construction account. Monitor deposits and disbursements to subcontractors, laborers, and vendors. Access to the account record should be included as a requirement in your written construction contract.

# Paying for the Work

It is normal for a contractor to ask for partial payment in advance, and provided that you have taken the precautions recommended above, you should expect to provide a part of the cost before the work begins. However, it is notorious that scammers involved in door-to-door rip-offs will ask for payment in full in advance, and then abscond without completing (sometimes without even starting) the job.

Even with a reputable business and a sound written contract in place, you should not pay in full until the work is complete and you have inspected it yourself and found it satisfactory. A partial payment schedule will usually specify what part of the job has been done when a partial payment is due. Inspect the work and make sure the contractor has met the schedule before you make your payment.

If you are asked to sign a certificate of completion, do not do so until all the work is completely finished, the site is cleaned up, and you are satisfied.

If the job is expensive enough that you will need to finance it, be sure to shop around for the best terms on the financing. This is separate from taking bids on the cost of the work. In choosing your source of financing, you will be concerned with the rate of interest, finance charges and the terms of the pay-out. As with any financing agreement, you should calculate the entire cost of interest and charges over the term of the loan.

A home improvement company may offer financing, but this is not necessarily the best option, even though it may seem easy to arrange the financing and the work contract at the same time. Be aware that some contractors will have you sign a credit contract to pay a certain price for the work plus a finance charge, then immediately sell the right to collect on the contract for 20-50% less than the contract price. That usually means you could have gotten the work done for 20-50% less by paying cash or arranging financing yourself.

If you are asked to sign a credit check application, read the form carefully and make sure it does not bind you to anything. Make sure it really is a credit check and not a contract. If you do not understand everything in the document, do not sign it until you have had someone else explain it to you.

# Mold Remediation

Not all water and mold damage is covered by your residential property insurance policy. Most of the homeowner's insurance policies sold in Texas are known as HO-A policies. In general, HO-A policies only cover sudden and accidental water leaks and do not cover damage resulting from continuous or repeated leakage. Many do not cover remediation of mold; those that do generally have a cap on coverage.

The other principal type of policy, commonly offered in Texas in the past, is referred to as HO-B. HO-B policies pay for the full replacement cost of the structure of your home, except for items specifically excluded. Few insurers in Texas are now offering HO-B policies.

Some homeowners who have filed claims for mold or water damage later experience difficulty in renewing or obtaining new insurance coverage for their homes. Contact the [Texas Department of Insurance](#) (TDI) for possible assistance if you have difficulty finding an insurer. CLUE tracks claims filed on properties all across the nation. The

database tracks both the claims history of your house and on claims filed a homeowner. CLUE is administered by LexisNexis.

In general, property claims filed with insurers are recorded in the CLUE database. In some cases, insurers may have reported inquiries about how to file a mold claim, even when no claim was made. Home buyers may request a building's CLUE report. Claims on your property may prevent potential buyers from obtaining homeowner's insurance. This in turn may limit your ability to sell the property. Therefore consider carefully whether to file repair claims on your home.

Under federal law, you can challenge incorrect information in your CLUE report. If you are denied homeowner's coverage because of a CLUE report, you are entitled to receive the report free. Contact the Equifax Insurance Consumer Center at (800) 456-6004. You do not have to report mold problems to your insurance company if you pay for the remediation. However in order to accept a claim, your policy may require you to report water damage to your insurance company within a set time (generally 30 days) after you discover or should have discovered the damage.

In general, your insurer must begin an investigation within fifteen days after you file a written claim. The company may ask you for more information, and has another fifteen days after you send the information before it must accept or reject the claim. If the company agrees to pay the claim, it must do so within five days. If the company rejects the claim, it must give you the reasons in writing.

It is common for an insurance settlement check to be made out to both the homeowner and the mortgage company. Some mortgage companies will endorse the check to the homeowner, leaving the homeowner to arrange for remediation. Otherwise the lender usually uses the insurance checks to pay the contractor, with an inspector monitoring the work and releasing payments. Consult with your mortgage company about how involved it will become with the remediation work. If the company oversees the work, you should still understand who is responsible for ensuring the job is done properly, and the extent of your liability. Remain active in this process.

Remediation is more than just repairing damage caused by mold. It involves the process of evaluating the situation before repair work begins. It also involves removing and cleaning items contaminated with mold, treating potentially affected areas, and ensuring that mold does not reoccur.

All non-exempt mold assessors and remediators must be licensed by the Texas Department of State Health Services (DSHS). A person may hold licenses, but may not do both jobs on the same project. In addition, a person may not own an interest in both firms that do the assessment and the remediation on the same project.

There are exceptions to the licensing requirement. Homeowners can take mold samples or clean up mold in their homes without a license. Also, a person does not need license if the assessed or remediated area is less than 25 sq. ft., or where the remediation is part of construction or improvement of a one or two-family home. This exemption covers landlords and tenants (and their agents and employees) when the rental property has less than ten residential units. These exemptions do not apply if the people involved provide mold assessment and remediation professionally to the general public.

Review all bids with your insurer to determine which costs will be covered. If your lender is involved in the process, make sure the bid specifics and payment schedule meet the lender's requirements.

Check with DSHS to see if the contractors are properly licensed, and whether any complaints have been filed. Also check the company's complaint history with our office and the Better Business Bureau.

Be wary of possible conflicts of interest on the part of companies that provide multiple services. Remember that by law, the same person or company may not do mold assessment and remediation on the same job.

Some insurers may have a list of recommended mold specialists, but you must choose the contractor. Your insurer is prohibited from requiring you to use a specific company, but may assist you with your selection and with getting remediation work done in a timely manner.

After the contract is signed, licensed remediators are required to give you a Consumer Mold Information Sheet prepared by DSHS.

Under state law, a mold assessment must be done before remediation begins. Check your insurance policy to see if the remediation settlement should include the assessment cost.

The assessor must prepare a work analysis for each project, and give the client a copy before remediation begins. The analysis must state:

1. which rooms or areas are to be worked on;
2. the quantities of materials to be removed or cleaned onsite;
3. the proposed method of remediation for each area; and
4. the proposed clearance criteria for determining when remediation is complete in each area.

The licensed remediator must then produce a plan with instructions for each aspect of the project. The remediator must give the owner a copy of the plan before work starts, and keep a copy at the job site. The remediator must also notify DSHS about the project at least five days before work begins, except in emergencies.

Within ten days after completing remediation work, the remediator must give the property owner a certificate of mold remediation. The certificate must include a statement from a mold assessor that the contamination has been remediated in accordance with the clean-up plan. The certificate must also show if they fixed the underlying cause of the mold. Remember that the certificate only applies to mold removal - it does not cover other types of water damage repair.

Remediators must keep a record of all jobs they did over the last three years. This record must include before and after photos of the contamination scene, the written contract for remediation and all job related invoices. The remediator is required to give the homeowner a copy of all photos included in the project record.

Property owners should keep copies of the mold assessment, remediation contract, remediation certificate, photos and other related materials on file. If owner sells the property, he or she must give the buyer a copy of each remediation certificate issued on the property.

The rules do not apply to the following actions, when not done specifically as part of a mold assessment/remediation:

- routine cleaning
- real estate inspections
- repair or replacement of plumbing, ventilation, heating and air conditioning, electrical systems, air ducts or appliances
- use of construction materials during the building phase of raising a structure

If you have questions or complaints about the license status of a mold assessor or remediator, contact DSHS. Call (800) 293-0753 for more information.

We also accept complaints against mold assessors and mold remediation contractors, including matters related to warranties. You may also want to discuss the matter with a private attorney.

## Enjoy Your Improved Home!

You may be anxious to get started on a new home improvement project, or anxious to have damage repaired, but be sure to take enough time to check out the company, look at their work, review the contract, and find the best possible financing terms. Do not act on the spur of the moment, or jump on an offer that sounds like a fast-breaking opportunity. Proceed with care, take precautions, and enjoy your new, improved home!