



# nyrej

## **Surefire ways to protect yourself from potential construction nightmares**

June 25, 2012 - Spotlights

I would like to discuss with you today the pit-falls of working with construction professionals who are having financial problems. One of the big concerns is that they under-bid the job and then cannot finish the project for the agreed upon price.

Following are some recommendations to assist you in facing this type of challenge.

Ask questions about the contractor's financial health when getting bids on a project. Get back up information from corporate tax returns, check to see if they defaulted on any loans and have paid their sub-contractors, even do a credit check on their company using Dunn and Bradstreet, the Better Business Bureau and/or New York City Dept. of Consumer Affairs. Never assume that companies that you work with in the past are financially solvent now. Corporations can turn on a dime. One day they may be doing really well, the next day they may be bankrupt. Do a lot of research before you enter into any agreement with the contractor for any construction project. Also obtain references from their last two clients to see if quality work done to client's satisfaction and project was completed in a timely manner. I prefer to go with the middle priced bidders because the low bidder may not be able to complete the job or may ask for extras along the way. Lastly, speak to the president of the company directly to see how responsive they are.

Secondly, make sure that you have a very good contract with an excellent payment schedule. The payment schedule should very clearly reserve at least 10% of the total construction cost until the job is completed. Never disburse funds ahead of time to the contractor. You should only pay them for work completed and the cost of materials. Attorney William Slutsky, who specializes in real estate law, says that he approves a deposit and allows the architect or property managers to approve payments based on the percentage of work performed. He also prepares excellent contracts that minimize the risk of default.

Thirdly, if all else fails and the contractor just can't complete the job and requires a revised payment schedule, it is imperative that the client obtain a construction bond for the cost of the work that is remaining. A bond is an instrument used by a surety company that guarantees that they will pay the client in the event that the contractor defaults on the contract. This is a very important document because it provides a sense of security for the client and also obligates the contractor to finish the job otherwise they will obtain a poor credit rating with the bonding company and may not be able to be bonded in the future.

Bonded contractors should be used on any large project. When you negotiate with the contractor in the beginning make sure that you have the contractors bonding information.

Fourthly, make sure that the contractor provides you with written guarantees and warranties for all the work that was done and all the equipment that was installed. This will obligate the contractor to correct any mistakes and errors made during the construction project at no extra cost. This can save

the owner a great deal of money. This should cover labor, materials and all expenses in order to repair or replace faulty work or defective materials.

Lastly, hire a construction administrator to inspect and represent the client's interest during the construction project. Things will usually go wrong early and if not corrected immediately, will mushroom into major headaches. A competent construction administrator is usually an architect with lots of hands-on experience doing construction. They will help recommend budget options, review work and approve disbursement of payments, do controlled inspections for the city, trouble shoot issues as they come up, work out construction schedules, negotiate costs and extras, answer tons of questions regarding details, negotiate with the contractor to save you money and time.

The best contractor or client may run into financial problems during a project. These issues do not have to be insurmountable. It is very important to take necessary precautions to protect yourself from adverse financial problems that may come up. Keep a tight watch on the payments, keep control of the extras, keep the contractor to a schedule, maintain quality control, abide by all regulations, retain an architect with extensive construction experience, obtain a construction bond, have a solid contract, take careful notes and last but not least, hire competent professionals to assist you!

I hope that this will help you in the future in working with contractors and if you have a further questions please contact me.

Read more about bonding: [http://www.ehow.com/about\\_5295907\\_bonding-construction.html](http://www.ehow.com/about_5295907_bonding-construction.html)

William Gati, AIA, is the president of Architecture Studio, Kew Gardens, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540