



BUILDING BAROMETER

A weekly publication to stay informed on industry news and member opportunities.

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Don't Hire Unlicensed Contractors or Subcontractors - The Newest Reason Why, and Background on Why Even Professional TBBA Members Must be Wary

Don't Hire Unlicensed Contractors or Subcontractors – The Newest Reason Why, and Background on Why Even Professional TBBA Members Must be Wary

By Justin R. Zinzow, Zinzow Law

You awake in your blaze orange jumpsuit to yelling and stagnant air, unsure what time it is because your room has no doors or windows. In case you had not guessed, you are in prison for violating the law. It is a felony to engage in construction activities without holding a license if one is required by the state. It is also a crime if you, a licensed trade contractor or general contractor, intentionally hire or assist an unlicensed contractor. If you hire someone who later acquires the license you have still violated the law. In addition to facing jail time, you can also be fined up to \$10,000, and your license can be suspended or revoked for assisting unlicensed contractors by contracting with them.

Tampa Bay Builders Association members are well trained professionals at the forefront of the construction and development industry and would never intentionally hire unlicensed contractors. Yet there are many complicated traps one can fall into.

It is basic knowledge that installation of plumbing, roofing, and complex electric circuits requires licensing. But not all work fits neatly into the license needed or license not needed boxes. For example, a state electrical license is required for the installation of residential digital satellite equipment, but is not required for the installation of audio entertainment systems. Even if you are confident no state license is required, state licensed contractors are prohibited from disregarding or violating any city or county ordinance concerning local licensing. If you willfully disregard or violate those requirements by hiring a trade contractor who does not have a required local license, you may be committing a misdemeanor.

Perhaps today you are intimately familiar with the state licensing categories, as well as the 47+ local licensing categories in Pasco county and 31+ categories in Hillsborough county. But laws change, and they can sometimes be applied retroactively, such as in the case of construction licensing and unlicensed contractors, so great care must be taken.

The newest reason to be wary is that in a ruling last month in *Brock v. Garner Window & Door*, one of Florida's appellate courts indicated that even though an unlicensed contractor may not be entitled to enforce its contract provisions in defense of a claim, that same unlicensed contractor is still entitled to assert other defenses when sued for defective work. Before *Brock* the courts were clear that public policy strongly weighed against unlicensed contractors having many, if any rights. The *Brock* court has now seemingly softened this public policy. While the defense at issue in *Brock* was that the lawsuit was filed too late and was therefore barred by the statute of limitations, the principal espoused by the court would seem to have no limits. Perhaps now an unlicensed contractor or subcontractor can assert the defense that someone else is to blame for the defect, or that the defect claim as been waived by virtue of some prior agreed repair which was completed.

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Unlicensed contractors and subcontractors may now leave you, the licensed contractor, stuck holding the financial loss.

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The only time you should be caught wearing blaze orange is during hunting season, so for all of these reasons and so many more, do not hire unlicensed contractors. Take great care in determining whether a state or local license is required, and verify that a license is valid. State licenses can be verified through the Department of Business and Professional Regulation's website, and local licenses can generally be verified through each city or county's website or by calling.

Justin R. Zinzow is Florida Bar Board Certified in Construction law and is one of the attorneys at Zinzow Law. For more information you may email him at jjinzow@zinzowlaw.com or visit www.zinzowlaw.com



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