

206 CR 29

Canton, NY 13617

March 7, 2000

Senator James Wright  
State Office Building  
317 Washington Street  
Watertown, NY 13601  
c/o Therese

Dear Therese,

Enclosed please find a list of proposals for new laws and changes to existing laws to better protect consumers who are involved in building a home.

1. Lien law changes needed:

As the lien law stands now, suppliers can place liens on homeowners for unpaid contractor-ordered materials, even if the contractor has violated General Business Law, Article 36A, sec. 771, contract provisions, and the homeowner is unaware that any agreement exists between the contractor and the supplier. This is unbelievably unjust.

In addition, the present lien law erroneously assumes that the homeowner receives the benefit of the materials in all cases.

In our case, we will be able to show the court, through

hard documentation and the sworn testimony of a former CMS employe, that materials ordered and keyed to our name were:

- a) delivered to our site by suppliers, then removed from this site to other jobs by CMS employes.
- b.) delivered to our contractor's home, and sent to job-sites other than ours.
- c) switched with used materials.

Please consider this: Even though the liens have been lodged against us, the suppliers tell us that we are not entitled to a complete accounting of all items ordered keyed to our name, because that is our contractor's private financial information! The only way we can obtain complete information is to initiate a civil law suit at our expense! Yet, even if we win the civil suit, we are not allowed to be reimbursed for our attorney's fees.

Our contract did not have the required lien warning phrase; evidently the penalties outlined in Sec. 773, (maximum \$2000. fine) were not severe enough to concern a contractor who was about to make \$80,000.

The aforementioned fines should be dramatically raised, and the Attorney General's Office should fine every violator brought to their attention, without exception.

## 2. Pain and suffering:

Pain and suffering of the aggrieved party is not taken into account in construction cases. It should be taken into account when the case involves construction of a primary family home, for the following reasons:

- a) the disruption of family life is irreparable, the time lost, irretrievable
- b) unwarranted damage to the family's credit rating (through liens) can ruin the hopes and dreams (College, etc.) of children. Unreimbursed legal expenses can do the same.

In our case, while our former home in Potsdam was the unofficial social headquarters for the neighborhood, none of our children have brought a single friend inside this house in the two years we have lived here.

My 87 year old mother, who used to live with us, and took an apartment expecting to live alone for 6 to 8 weeks (promised project completion time), has now lived alone for almost three years. She has become a Compulsive Contest entrant; not to win money for herself, but to win my family's money back, so that we can rebuild and live together again. She is not senile, but she has been driven out of her mind while watching her child and grandchildren

suffer. It appears that we will need to seek outside help for this problem.

Imagine these things happening to your family. How would it make you feel, to know you had no recourse?

### 3. Legal fees.

In construction of a primary home, aggrieved families should be able to recover, and judges should be able to award, legal fees and Court Costs.

### 4. Insurance coverage.

Either contractor's general liability insurance requirements must be amended to include coverage for faulty workmanship, OR homeowner's insurance should cover all costs involved in repairing faulty construction.

When we had shingles blowing off our new home, we called our homeowners insurance company, and they told us this: they would not be responsible for any faulty construction. Our contractor had no insurance to cover faulty workmanship. All emergency repairs to this building have been paid for by us.

5. Needed: Criminal penalty for altering construction from architect's/engineer's plans without written approval.

The civil law that covers this issue is so mild as to be completely ineffective. Our home has been seriously structurally compromised by changes made by our contractor but approved by no one.

6. Liability of local governing body and code enforcement officer.

If a building permit has been applied for, granted, and paid for, then the local governing body should be responsible for inspecting the structure and seeing to it that it meets NYS code requirements. If they do not do so, they should be a party to the liability, along with the contractor.

In our case, an FOIA request by us to the Town of Pierrepont revealed that no inspection was performed by the code enforcement officer at any time during construction.

7. Proposed law: Persons who are employed as building inspectors cannot perform contracting work for their inspection clients.

Citing his experience as an inspector for the St. Lawrence County Housing Council, (an organization which we were led to believe was an official office of St. Lawrence County) our contractor inspected several homes for us. Each, he said, had major problems that would be difficult and expensive to repair.

He convinced us to allow him to build us a new home, promising that it would be built better, faster, and less expensively than any other contractor in the North Country could build. Once again, he spoke of his experience with the SLCHC, and promised our home would be built right.

Our new home has so many problems that, rather than trying to repair it, it would be less expensive to knock it down and start all over again. Our architect's and engineer's reports will be made available to you upon request.

3. Proposed law: Independent, not-for-profit organizations should not be permitted to use the name of a city, town, county, or the state as a part of their corporation name.

This law would eliminate the confusion that we were under while being led to believe that our contractor was officially employed by St. Lawrence County. In addition, it would eliminate confusion for many who might not wish to release confidential information to such organizations.

The building season is nearly at hand, and families such as ours will, once again, be poorly protected from unscrupulous contractors, unless you get the word out! Thank you for your help.

Sincerely,  
Pat Biggs