Legal Article on Contractor's License Laws – Top Five Issues by Michael L. Mau, Esq.

Contractors in California are required to be licensed for the various construction work that they perform, through licenses issued by the California Contractor's State License Board ("CSLB"). The CSLB regulates and enforces the Contractor's State License Laws ("CSLL"), as codified in the Business & Professions Code ("BPC") Section 7000, et seq.

The prime directive for contractors is to have and maintain your license at all times! In a nutshell, it is a misdemeanor, and thus illegal, for any person or entity to engage in the business or act in the capacity of a contractor, without a license. BPC § 7028. There are several exemptions to these license laws, but covering them is beyond the scope of this brief article. *See*, BPC § 7040, et seq. This prime directive may seem simple enough, but there are several important clarifications to keep in mind when discussing a contractor's license and this article will attempt to highlight the author's Top Five Issues:

1. Contractors should not lend out their licenses, ever. Under BPC Section 7114(a), the CSLB can issue a citation or initiate disciplinary proceedings against a licensed contractor who allows an unlicensed person to use his license. Generally, this is intended to prevent the improper use of a contractor's license, such as to evade the licensing requirement. Section 7114(b) was just added in 2007, to also allow the CSLB to order a licensee to pay an injured party, including payment for any injury caused by the unlicensed person. In this fashion, a licensed contractor not only faces administrative penalties but now faces the potential of paying a monetary fine to an injured consumer. BPC § 7114.

2. Contractors must use their correct license number. Contractors are required to list his or her license number in: (a) all construction contracts; (b) subcontracts and calls for bid; and (c) all forms of advertising. BPC § 7030.5. So just a simple typographical mistake on a contract or advertisement, or using the wrong number due to a change of legal entity, is a violation which can subject the contractor to discipline. Even more telling, is the situation when a person willfully and intentionally uses a number that does not correspond to the correct license number held by that person, with the intent to defraud a customer; such a person can be fined up to $10,000.00 and imprisoned up to one year, or both. BPC 7027.3.

3. Contractors must act in the name listed on their license. In California, the "dba" or "doing business as" is a common occurrence. Some contractors have gone beyond this and act solely in the name of a "dba," when they should only be acting in the name as actually listed in the license. For example, if "John Smith, Inc." is the licensee, then they should enter into contracts as "John Smith, Inc." If "John Smith, Inc." does business as "Creative Construction," it should not enter into any contracts solely as "Creative Construction." Doing so is a violation of the CSLL, which can subject the contractor to discipline. BPC § 7117.

4. Contractors must maintain a contractor's license bond. The license bond must be by an admitted surety, and filed with the CSLB. The contractor's bond is for the express benefit of (a) any homeowner contracting for home improvements on his or her personal family residence damaged due to a violation of the CSLL by a licensee, (b) any person damaged as a result of a willful and deliberate violation of the CSLL by a licensee, or by the fraud of the licensee in the execution or performance of a construction contract, or (c) an employee of the licensee not paid wages by the licensee. BPC § 7071.5 (certain entities and trust funds are also covered). The bond is for a penal sum of $12,500.00. *See*, 7071.6. Many times you will see a contractor advertise themselves as a "bonded contractor." However, it is illegal to do so if all you are referring to is

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the license bond! BPC § 7027.4. Those advertising as a "bonded contractor" should therefore be referring to their having Payment & Performance Bond capacity to cover their work (which type of bonds are beyond the scope of this article).

5. All prime contracts and home improvement contracts have mandatory language that must be printed, each time there is a new such agreement. Prime contracts must have the following statement in at least 10-point type:

   "*Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826.*"

   Contrast, home improvement contractors have a larger requirement, and these contracts must have in at least 12-point type:

   "*Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.*

   Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

   Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

   For more information:
   Visit CSLB's Web site at www.cslb.ca.gov
   Call CSLB at 800-321-CSLB (2752)
   Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

BPC 7030 (italics added for emphasis). Contractors should be aware of this language requirement, and be sure that this language is printed, in the minimum type size required, on every applicable contract and agreement. Failure to do so can result in disciplinary action.

These top five issues should always be kept in mind when dealing with a contractor's license. Please note, nothing contained in this article shall constitute legal advice. Articles are provided for educational and informational purposes only and should not be utilized without our express written permission. Please consult with an experienced construction attorney if you are involved in a claim as a contractor or a consumer.

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