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Good Neighbors Worth Their Weight in Gold

By [J. Neil Lanzi](#)

Every homeowner has one—that dreaded "honey do" list. You've got to expand the flower bed, pull weeds, fix the fence, replace gutters, mow grass, trim trees, etc. Your list may also have even bigger projects. New fences, bigger decks, landscaping, in-ground pools, and other projects may go a long way in making your summer more enjoyable, but if not carefully planned and executed, you may get tangled up with legal headaches stemming from those things intended to create less stress at home.

Homeowners associations were created to ensure that neighborhoods and communities maintained a certain degree of aesthetic value and uniformity. Homeowners associations have the legal right to enforce the rules and regulations spelled out in charters or agreements. If you or your contractor violate the covenants, the homeowners association may pursue a civil lawsuit to enforce its covenants. If more oppressive, if county codes are violated, the County's code enforcement division may issue citations and ultimately obtain a lien against your property. None of this even comes close to the ire of an angry neighbor.

So what can you do to avoid unforeseen legal hassles? Here are a few tips that will hopefully keep you on everyone's good side:

- Hire a contractor who will file for all of the necessary permits. Each county has their own regulations regarding residential development, including rules for decks, additions, fences and pools. Making sure your contractor knows and will follow the rules set by the County makes everything go smoother and gives you confidence that your contractor has the necessary experience.
- Schedule a meeting with the president of the homeowners association and/or the head of the construction/architectural committee in your association. Your simple project may require approval or construction may be otherwise restricted to certain times of year. Don't wait to find out until there is already a giant mud pool in your backyard.
- Make sure your contractor is aware of noise ordinances and parking regulations in your neighborhood. No one wants to wake up early on a Saturday to hammers and circular saws.
- Property lines can be a sticking point, so make sure the work being performed is on your land and not across restricted easements. Not 100% sure? Hire a surveyor to determine property lines before you begin any work.
- Most importantly, talk to your neighbors and let them know you're embarking on a project. A quick visit will be appreciated and may minimize or eliminate neighbor complaints which interfere with your project.

Don't Ignore Your Contract Notice Provisions

By [Michael Stover](#)

The obligation to provide notice can be a critical aspect of any contract. Timely notice allows the parties to investigate the situation or circumstances, preserve necessary documents or information and mitigate damages by providing timely remedies or solutions to the problem if possible. Timely and proper notice lets the responsible party know that the person providing notice intends to preserve and protect its rights. Moreover, the notice itself can become a contemporaneous record of the nature and extent of the adverse conditions, and, when properly documented, can preserve important information and facts before memories begin to fade, key people move on and documents become lost. Timely and proper notice is typically required by law or the contract documents and failure to comply with such notice requirements may result in a forfeiture, waiver or limitation of your rights. Because the failure to comply with notice requirements can have drastic economic consequences it is essential for the parties to know and understand the requirements that are applicable to the project.



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First, you need to determine what notice provisions exist. You need to check all of the contract documents, including those incorporated by reference, to determine if any applicable notice provisions are in those documents. It is important that a thorough review of the contract documents be conducted to determine which documents apply to a particular circumstance and to determine if there are any documents which are incorporated by reference that might control the timing and form of notice required.

Second, when giving notice you must strictly follow the requirements set forth in the contract as to timing, form, substance, method of delivery, person and place of delivery, etc. Such provisions should be strictly followed to avoid claims that the notice was defective or improper. Thus, if the notice provision requires the notice to be in writing and to be delivered by certified mail, make sure such requirements are followed. Many times there are conditions that must occur before notice can be given such as the passage of a period of time, consent or approval of a third party or notice must be given in multiple stages. Such conditions must be followed for the notice to be valid and effective.

Third, notice provisions may exist outside of the contract. There are notice requirements for mechanic's liens, payment and performance bond claims and insurance claims. Ascertaining and following those requirements are critical to preserving claims.

Fourth, follow the maximum "more is better." When providing notice it is always better to provide as much information as possible to avoid a circumstance where the party receiving the notice claims that your notice was insufficient. Provide as much information as you can in the initial notice and then follow up when additional information becomes available.



WEBINAR: Advanced Concepts in Sexual Harassment

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