

BEST PRACTICES TO AVOID PITFALLS IN RENOVATION CONTRACTS AND INFORMATION ON AVENUES OF DISPUTE RESOLUTION

This information guide seeks to provide contractors and consumers with best practices to minimise and contain disputes that may arise out of renovation works and provide information on avenues of dispute resolution. If, despite all efforts, the disagreements cannot be resolved amicably and have to be escalated to the courts as the last resort, this guide briefly outlines the alternative dispute resolution processes, such as mediation, conciliation and neutral evaluation, that are available.

The content in this guide is provided for informational purposes only, and should not be construed as legal advice. You should not act on the basis of any content included in this guide without first seeking formal legal advice. The contents of this guide contain general information and may not reflect current legal developments or specifically address your situation.

Before commencing renovation works: Set clear agreement on the scope of works, price and timeline

It is important that parties are clear as to the scope of works, the price and the timelines. These matters are best set out in writing and to be clearly agreed, preferably signed off. This will ensure that parties know their respective obligations, the same are properly managed, and any possible disputes are minimised. Consumers should also ensure that the name and Unique Entity Number (UEN) of the contractor stated in the contract match the records on the ACRA business registry. Where a contractor uses a trading name or brand, the legal entity responsible for the works should still be clearly identified. This ensures that the agreement is legally enforceable and minimise the risk of complications when seeking recourse or enforcing contractual obligations.

Where there are changes to the scope of work, price and/or timelines, that too should be set out in writing and clearly agreed. Even if changes are discussed and agreed verbally, parties should record the changes in writing. At the very least, parties should confirm/ record the changes by emailing or texting each other to minimise any possible disputes.

The scope of work and pricing should be clear, transparent and accurate. Amongst other things, the contractor should:

- (a) Provide a clear description for each item of work supplied and a clear description of the quantities, quality and/or materials supplied or services to be rendered.
- (b) Provide an itemised price list of goods and services in the contract, showing a breakdown of all charges and a description of the scope of work.
- (c) State which charges are fixed and which are estimates.
- (d) State whether the prices listed are exclusive or inclusive of GST or no GST chargeable.
- (e) State whether there is any deposit or upfront payment, if payment is to be made in stages, and whether any payment can be withheld until all defects are fixed.

Provide a clear indication of when the renovation is to commence and when it is to be completed. Timelines should be clear and realistic. The contractor should not overpromise. If there are assumptions and uncertainties (such as public holidays) underlying those timelines, they should be clearly communicated.

The warranties for the works should be clear and comprehensive. As the works may consist of a mixture of a supply of goods such as materials or fittings (which may have their own warranties) and services such as installation or design, the contractor should explain clearly the warranty coverage for each component that he is providing. Where applicable, written documentation should be provided. Clear and understandable warranties written in simple language (ie, without legal jargon) and any limitations such as exclusions for wear and tear should be clearly stated. A defects liability period should also be provided. This sets the consumers' expectations appropriately and minimises disputes in the future.

While renovation works are in progress: Keep updating and communicating with each other

It is important that the consumer is adequately and regularly updated on the progress of the works. If the contractor believes that the works may be delayed, this should be discussed with the consumer at the earliest possible opportunity. The contractor should identify the cause of the delay in writing to the consumer within a reasonable time immediately after the delay event occurs and thereafter inform the consumer after such delay event ends and whether as a result of the delay, an extension of time to complete the works is required. Parties can thereafter discuss and agree on the next steps, which can include agreeing on extending the completion date.

If the consumer wishes to change the scope of works, delays should be expected. It is prudent to discuss with the contractor any change(s) in scope and the effect it would have on the progress of the works, before making any decision.

It is recommended that the consumer regularly inspects the works to ensure that they are progressing well. It is not uncommon for instructions to be misunderstood, or errors to be made by the contractor or his workers. A consumer may spot such errors which can then be rectified at an early stage, avoiding disputes in the future or more expensive rectification works.

After renovation works are completed: Maintain clear records

It is important to keep an accurate record of the condition of the premises after handover. Photos therefore should be taken of the condition of the premises after the handover.

Where defects are detected, the consumer should identify such defects and record the same in writing, for example by preparing a list of defects (with photos), and request the contractor to rectify the defects within the defect liability period. The contractor should consult the consumer after rectifying such defects and obtain the consumer's acknowledgement that the defects have been satisfactorily attended to. Accurately and properly identifying any defects will aid parties in resolving any dispute over defects. The contractor is more likely to remedy the defects if there is clear, documented evidence of the defects.

If there are disagreements: Seek help before going to the courts

If the contractor does not agree to rectify any defects, the consumer should first attempt to resolve the dispute with a third party before pursuing the matter in court.

- Consumers Association of Singapore (CASE)

The consumer can lodge a complaint with CASE who may invite parties to resolve the matter through mediation. For homeowners who have engaged CaseTrust accredited renovation contractors, the accredited contractors must attend mediation at CASE upon the consumer's request and their attendance is not optional.

- Mediation by a third party

The consumer may also seek the contractor's agreement to resolve the matter through mediation schemes run by a third party. Mediation is a cost-effective process and fairly informal. The mediator's task is to facilitate and assist parties to reach a mutually acceptable resolution.

The last resort – The courts

If the matter cannot be resolved and the parties wish to commence a claim in court, a party should first ascertain whether the claim can be lodged in the Small Claims Tribunals (SCT). Legal representation is prohibited for matters lodged with the SCT. More information on the jurisdiction of the SCT is available at this URL: <https://www.judiciary.gov.sg/civil/small-claims>.

Where the claim cannot be heard at the SCT, a party may wish to seek legal advice on how to commence a claim. The parties should obtain advice on the merits of the claim, as well as understand the risks and costs of any potential court litigation. To have a clear picture of the merits of the claim, the consumer may wish to engage a surveyor who can assess the defects and cost of remedying the defects. The costs and time spent to pursue a claim in court can be disproportionate to the amount in dispute. In such a case, it may not be worthwhile to commence court litigation and greater efforts should be made to resolve the matter out of court and through negotiations.

If a claim is filed in the State Courts of Singapore, parties will be encouraged to explore alternative court dispute resolution processes such as mediation, conciliation and neutral evaluation to resolve the dispute. In a mediation, a neutral third party, usually a judge, guides the parties to find a solution that meets the parties' concerns. In a conciliation, a judge may suggest possible solutions for the parties' consideration. In a neutral evaluation, a judge provides an early assessment of the parties' case and estimates the likelihood of success at trial. Further information about these alternative court dispute resolution processes can be found at <https://www.judiciary.gov.sg/alternatives-to-trial>.
