

## **Written Change Orders – Use Them or Risk It**

Well, here is another installment on “What Not To Do!” This month’s topic involves written change orders. If you have read some of my prior articles, then you have noticed that I stress the importance of documenting various transactions your business is engaged in. As we all know, the initial bid you give to a customer is often different than the final product. Changes happen on construction projects all the time and for countless reasons. But, there has to be a way to track the changes being made to the scope of work in order to properly adjust the cost of the project; i.e. written change orders. Without those written change orders, then it is likely someone will end up on the losing end of the stick.

Let me set the stage for you. The owner of commercial real property hired a general contractor (my client) to construct a commercial build-out. The general contractor then hired various subcontractors to perform labor and provide the necessary materials. The plumbing subcontractor and the general contractor executed a contract which included the scope of work and the cost of labor and materials. However, as the project progressed, the owner of the property included additional services and materials to the plumber’s scope of work. No written change orders were ever used. Eventually a dispute arose between the general contractor and the plumber as to the cost for the additional services and materials that were provided to the project.

The dispute between the general contractor and plumber went to trial. At trial, each party presented their proofs. The general contractor’s theory was “*I never authorized that work to be provided, the owner did, so I am not responsible for the cost.*” The plumber’s theory was “*I did have authorization, otherwise how would I know what work to do?*”

In the end, the court entered a judgment in the general contractor’s favor. The plumber could never prove that he had authorization to provide the additional services and materials. The court based its reasoning on the lack of written change orders. Because the plumber failed to use written change orders there was no proof that the general contractor knew of, or authorized, the additional labor or materials that were provided by the plumber.

So, there is the lesson for this month. Always use written change orders. You never know when a dispute will arise.

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