

STATEMENT FROM STUART S. ZISHOLTZ

Throughout the years of writing articles, I have emphasized the importance of obtaining a home improvement license when performing residential work. This license can be obtained through the local Department of Consumer Affairs when performing work on a one, two or three family house, condominiums or co-op. Failure to obtain a home improvement license is a valid defense to prevent the homeowner from paying the contractor.

It is also vital that you renew your application and maintain your license while performing residential work. In a recent decision, the Appellate Division, Second Department, modified a lower court's determination after the New York City Department of Consumer Affairs refused to renew a home improvement license.

In that particular case, a principal of a contractor plead guilty to criminally negligent homicide after a trench excavated by him collapsed upon and killed a worker who was in the trench at the contractor's direction. The principal admitted that he did not shore the trench, as required by regulations promulgated pursuant to the Federal Occupation Safety and Health Act (OSHA) requirements to prevent it from collapsing.

When the contractor sought to renew his application for a home improvement license, the New York City Department of Consumer Affairs denied the application without any explanation.

On appeal, the Appellate Division, Second Department, modified the ruling on the grounds that the New York City Department of Consumer Affairs did not specifically address the various factors set forth in the statute and, therefore, did not act properly when it denied the contractor's application for a renewal.

The important thing to learn is that your actions on a job site could be detrimental to your ability to obtain a license in the future. You must perform your work diligently, professionally and responsibly.

Never let your lien time run out!

For a free copy of a pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the Association.