

BREACH OF CONTRACT

Much care goes into keeping a community running smoothly and well maintained. In order to do so, it is often necessary to hire outside contractors or vendors to do the job. This requires a contract to be formed, written and agreed to it, but entering contracts creates its own set of risks to be aware of. When entering into a contractual agreement:

- Do not go it alone—seek the advice of counsel before entering into a contract with a third party vendor or contractor
- Do put the agreement in writing
- Contract terms should be clear and specific
- Do not sign a document on behalf of the association without having an attorney review it
- Make sure to include a way to terminate the relationship¹

Claim Example: The Homeowners Association (the “Association”) needed a new boiler. After soliciting bids from various contractors and researching the contractors’ backgrounds, the Association decided to go with a particular contractor. The Association drew up a contract and had a lawyer review it. The lawyer included specific contract terms which specified how and when payment was to be made, date of completion, and terms of termination should a disagreement occur. As the contractor began work, the Association started to become concerned as there were days the contractor did not appear or arrived late. The contractor also failed to obtain the required permits. Further, the contractor failed to order the necessary equipment components in a timely manner. Displeased with the work completed thus far, and concerned that the installation would be significantly delayed, and then finding out that the contractor had not obtained the required permits, the Association felt that the contractor was in breach of the contract. The Association decided to terminate the agreement and paid the contractor for the hours worked and expenses paid to date, per the contract’s termination terms, as outlined by the lawyer. However, the contractor believed that he was entitled to the full contract price and sued the Association for breach. The court dismissed the matter finding that the contractor had no case, due to the fact that the Association followed the contract’s terms when terminating the agreement.

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¹<https://altitude.law/resources/newsletter/dos-and-donts-of-association-contracts/>