

**Frequently Asked Questions**  
**Dispute Resolution Program**

## **FILING COMPLAINTS**

**I have a valid complaint against a contractor. Why can't I just apply to the CCB and get my money?**

Many complainants wonder why the CCB doesn't operate like an auto insurance company. In that type of complaint a complainant simply applies to the company for reimbursement, and in a short time, the insurance company either pays or not. The CCB is limited by the authority granted by the legislature. The laws that govern the CCB allow us to try to help the parties resolve the dispute. If we can't get the dispute resolved, then the contractor's bond may be held responsible for damages awarded the complainant by a court.

**Why is the CCB so mean (or strict) about time limit for filing a complaint?**

The statutes that govern our claim process set out the time frames in which claims must be filed. Unfortunately, those laws do not allow us any discretion to make exceptions and process complaints that are not filed within the required time, regardless of the reason that the complaint was filed outside of that time. We would process your complaint if the law allowed us to do so, but it does not.

The fact that we are not legally able to process your complaint does not mean that you cannot sue the contractor in a court of law or another forum. You may want to contact an attorney for advice on other legal ways to deal with the problem.

We believe the legislature limited the time to file CCB complaints because the CCB complaint process is tied to a surety bond, which the State requires every licensed contractor to purchase. A surety bond without a fixed time limit or a time limit longer than one year would be more expensive. When the legislature balanced the interest of consumers in a longer time limit against the interest of contractors in a more affordable bond, the legislature may have been influenced by the knowledge that a consumer who could not file a timely complaint could still seek relief in the court system.

**Why do I have a one-year limit to file a complaint when I have a five year warranty?**

Your warrantee is part of your personal contract with a contractor. As with other terms of that contract, not all are within the jurisdiction of the CCB. As stated above, the time limitation for filing a complaint are prescribed by Oregon law. There is no provision under the law that can extend those limitations because of terms set in your personal contract.

**The contractor kept saying he would fix the problem but did not. Why can't I file a complaint past the one year since he kept saying he would come back until the one year was up?**

Please see above about time limits for filing a complaint.

**I did not find any problems with the work until after one year. Why can't I file a complaint within one year of the date I found the problems?**

Please see above about time limits for filing a complaint.

**I am a lumber yard in Central Oregon. I supplied lumber to a contractor. The contractor did not pay for it. I am certain the lumber was used on a building in Oregon because no one would buy lumber and haul it to another state from here. Why do I have to give a particular address where the lumber was installed in order to file a complaint?**

Oregon law requires that claims involving residential property be filed with and processed by the CCB. Complaints involving large commercial property must be filed in court with notice to the CCB and the contractor's surety company. If a complainant does not know where material is installed, there is no way to determine if the complaint was filed under the correct procedure or what bond is responsible.

The State of Oregon provides the CCB complaint process as a way to access a contractor's bond. When the legislature set up our process, it chose to put limits bond access that do not apply to a litigant in court. If a complainant cannot provide an address where a product was installed, that does not prevent filing a court action to collect an unpaid bill. It does, however, prevent access to the contractor's bond. Note that the CCB processes hundreds of material supplier complaints a year that do meet this requirement.

A person furnishing materials or labor may file a lien against the property if they are not paid. The complaint process is an alternative to filing a lien in order to protect the home owner. If you do not have the job site address then you cannot file a lien against the property. If you are not able to file a lien, then the home owner is not at risk and a complaint would not be necessary.

# INDUSTRY STANDARDS

## **What is a construction industry standard and what does it have to do with my complaint?**

An industry standard cannot always be defined. It is the standard care of the industry regarding a specific part of a construction job. Our investigators have observed the construction industry over the years, through their position at the agency and through their personal experience in construction. They will review the work the contractor performed and determine, based on several things, if that work was performed within industry standards. Some standards are explained in publications that our investigators use. They will write a report stating whether or not they believe the work meets industry standards. They will state what standard they feel is appropriate. If they used a publication for that standard, they will cite that publication.

Please see below for more information on these publications.

## **Is there any publication that details what the industry standard is on a particular type of work?**

The CCB investigators use a variety of publications to review the work the contractor did on the project. The main publications they use are the NASCLA Residential Construction Standards adopted by NASCLA March, 2009; the National Association of Home Builders of the United States Residential Construction Performance Guidelines (Third Edition) and the Residential and Light Commercial Construction Standards (R.S. Means Co, Inc, 2002). When reviewing a home inspection complaint, they will reference OAR Chapter 812 Section 8. They occasionally refer to manufacturer's specifications for installation or warranty. If they need information that they are not able to locate in a publication or that they have not observed in the past, they may find it on the internet. If this is the case they will cite where they got the information.

# INVESTIGATIONS

## **Why does the CCB insist on holding an on-site meeting when the parties have entered into a verbal settlement?**

If you have a verbal settlement with the contractor and it is breached, it is very difficult to enforce that agreement. The details of the agreement can be vague, and your understanding may be different from the contractor's understanding. You may not know what you can or should do if the agreement is breached.

If our investigator comes out to the job site, he can discuss the agreement with you and the contractor and put it in writing. You both will have a clear understanding of the agreement and what to do if it is breached.

**Why can't we schedule the on-site meeting around my work schedule? Can I send in times best for me?**

Before an on-site meeting is scheduled, you can send in a list of times when you will not be available to meet. However, our investigators schedule meetings several weeks in advance based on the job location and estimated meeting length. Because of these factors and notice requirements, they may not be able to schedule to meet your needs. This could also be affected by the reasons you cannot be available (i.e. scheduled doctors appointments, etc.)

**Do I have to let the contractor come into my house when the CCB comes out for an on-site meeting?**

The law requires you to let the contractor come to the job site and into the property while the on-site meeting is being held. The investigator will be present the entire time. The only exception to this is if there is a legal order (like a restraining order) forbidding the contractor to be on the property.

**Do I have to let the contractor's subcontractors or employees come into my house when the CCB comes out?**

You are not required to let the contractor's subcontractors or employees come to the job site for the on-site meeting. However, their attendance may help in reaching a settlement, especially if the work in question was work a subcontractor or employee performed.

You must allow a contractor to bring an attorney to the job site for an on-site meeting.

**I want to file a complaint but the contractor wants to come back and try to fix the work first. Do I have to let the contractor try to fix the work before I can file a complaint?**

You do not have to let the contractor correct the work before you file a complaint. However, if you let the contractor make repairs, you may not need to file a complaint.

**Can I go ahead and do the work since the complaint process takes so long?**

There is no law that prevents you from having the work corrected or completed before an on-site meeting is held. However, you must be able to prove the issues existed and that the respondent is responsible for each problem. If you have the work done before the meeting, you lose the chance to have a neutral third party look at the job as it exists after the contractor worked on it.

**Do I need an attorney for the on-site meeting because the other party has one?**

See language in investigation instructions.

If the other party has an attorney, that attorney will not be excluded because you do not have an attorney present. If you decide at the meeting that you do not want to participate because the other party has an attorney, that could cause the meeting to be postponed and lengthen the time to process your complaint.

**The on site isn't for a month. The complaint process is so long and I can't cook or stay in my house. Who is going to pay for restaurants and motels?**

The law requires a complainant to mitigate their damages. That means taking the necessary steps to lessen ongoing damages or expenses, such as tarping a leaking roof or repairing a shorting electrical switch that could cause a fire.

If damages occur between the time the contractor did the work and the time the work gets repaired, the contractor may not be held liable for all of those damages. An example would be a leaking roof. If you do not take steps to stop the leak (tarping, etc) and that leaking caused damages to the interior of your home, the contractor might not be responsible for the damages caused by the leaking. You may want to talk with an attorney before proceeding with the work.

**Are the investigators capable of handling volatile situations?**

All of our investigators are experienced negotiators. If a situation may get out of control, they will take steps to defuse the situation or, if necessary, stop the meeting. If you feel that there may be a problem at the meeting, you should notify your analyst in writing, so they can pass that information on to the investigator and he can be prepared.

## **FEE & NOTICE**

**Do I send my processing fee with the complaint form?**

The CCB will ask you for the processing fee when they decide they have jurisdiction and can process the complaint.

**What does my pre-complaint notice need to say? Do you have a form I can use?**

The notice must say that you intend to file a CCB complaint. We have a sample pre-complaint notice on our website that you may use. You will find it under Programs, Dispute Resolution, and it is titled "Sample Pre-Complaint Notice".

# MISCELLANEOUS

## **Why can't I speak to the Investigator that came to my house?**

Once the Investigator does the on-site meeting and issues a report, his part of the process is complete. The Dispute Analyst will handle all further processing of the complaint.

## **The contractor is calling and harassing me. What can you do to stop him?**

We cannot make a contractor leave you alone. You should call an attorney or your local law enforcement agency to deal with this problem.

## **I have looked up several contractors' complaint histories. Some of them list 0 (zero) complaints in the last three years and many more have no number listed at all. Should I take that information to mean that they have no (0, zero) complaints against them?**

If the website lists 0 (zero) there may have been complaints filed in the past that are closed. If there is no number listed at all, there have not been any complaints received against the license number.