

## Homeowners seek remedy for failed roof

Posted by Elizabeth Rhodes at 06:00 AM

**Q: In 1999 my husband and I bought a house that had recently been remodeled by a contractor, We were told it had a brand-new 30-year roof, however it started leaking within a year from nails working their way up through the shingles. That happened repeatedly. Recently we replaced the whole thing, and learned the old roof job had been done below code and in a substandard fashion. Do we have any recourse with the contractor who put the thing on?**

**A:** You may have, says Seattle attorney Tony Rafel, of Rafel Manville. But it would take some fact-finding to know that.

For starters, did the contractor give you a written warranty? "If the leaks were reported to the contractor within the warranty period, then there might be an action for failure to honor the warranty," Rafel says.

Otherwise you have a problem with the clock. The law says the statute of limitations is six years on a written contract (in this case your home purchase agreement). So under normal circumstances you're out of luck. But there is one possible exception: if the contractor knew the roof job was defective and concealed that from you.

"If fraudulent concealment is established, that would permit a claim to be brought even though it's beyond the statute of limitations," says Rafel. "But that would require showing knowledge on the part of the contractor of a latent defect."

The burden of proving that would be on you. That could mean finding subcontractors or others who worked on the house seven or more years ago and could testify that the contractor knew the roof application was sub-par. Obviously they would have been easier to find if you'd pressed the issue early on.

Let's say you do have a good case, either for failure to honor a warranty or for fraudulent concealment. To win you'll have to file a lawsuit in Superior Court. But whether you win or lose you can count on this: pressing your case will cost more in legal fees than you spent on the replacement roof.

"The bottom line with home defects like this is it's important to act promptly because you may have a terrific claim, but you may lose it if you don't assert it soon enough," Rafel says.

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