

# Re: Fw: Re: Design contract discount

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From: sperciballi@protonmail.com <sperciballi@protonmail.com>

To: avb.paralegal@gmail.com <avb.paralegal@gmail.com>

Date: Thursday, June 17th, 2021 at 1:41 PM

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Ana, in addition to our response yesterday after receiving your registered mail please see a more detailed timeline for your review to determine your best course of action.

This summary is focussed on the outstanding issues and payments. The contract for the Back was signed October 12, 2020 and contracted to be completed in 3 weeks. The contract for the Decks was signed October 26, 2020 and was contracted to be completed in four weeks. We are at 34 weeks and counting.

I have been very clear and articulate about the fact that I am more than happy to pay for the work once it is completed, and without deficiency. My preference would have been for this to all be completed back in December 2020, but here we are.

The total amount for the contracts are; Back - \$16,046 & Decks - \$35,256 including HST (which Manager guaranteed I would only pay half of). A total of \$43,922.80 has been paid so far (minus the additional costs that came up along the way including things that don't make sense like electrician). **The delta is \$7379.20, however the design discount and HST discounts have not been taken into consideration.**

- March 31 - Email sent to Manager asking to discuss rusting of the stairs and posts.
- April 7 - Workers come to the site and repaint stairs and posts.
- April 17 - Manager asks for remainder of payment for back contract. Manager is advised that the ceiling light still has not been deployed. He acknowledges and agrees, **however to date the ceiling light is still not installed**
- April 22 - Manager's first threat of legal action.
- April 23 - In response to the legal threat, the following deficiency list is sent to Manager, clearly nowhere near completed. The issue is that Manager has not been to the site in months.

For the remaining payment of \$3390 the following needs to be completed and addressed:

Privacy screens are not drilled to the front or rear deck.

Privacy screen slats in the back are not complete.

The gate that was broken while being moved needs to be repaired.

Air conditioner needs to be reinstalled and working.

We require the paint colors/codes for the white on the ceiling, and the iron out front.

At the front of the house there is a gap of 2-3 inches between the deck and the house. Is this considered complete? Is there a reason for it?

A discount of at least \$100 should be applied for the following (photos are attached):

The door under the stairs is nowhere near worth \$150. A hole was cut and hinges installed but no latch was installed to keep it closed. It took your guy less than an hour.

Several tiles in the backyard were broken and need to be replaced. I'm not interested in you doing this work.

For the remaining \$5000 this is what needs to be completed:

Iron railing needs to be drilled to the front deck.

Iron railings cables need to be installed.

- May 14 - Email sent to Manager indicating rust starting on the back railings. Manager denies claim. Manager indicates that additional holes are from galvanization and will be filled, **yet the holes have not been filled to date.**
- May 21 - Email sent to Manager indicating that the rust on the stairs is back.
- May 27 - Worker spends the day taking the stairs apart. No indication has been provided as to what was done to resolve the issue.
- May 27 - Manager asks for payment again.
- May 28 - Manager is advised that **the ceiling light is still not installed**, and that he will need to exercise patience since at this point **he has been given two additional attempts at resolving rust on the ungalvanized stair case and we will need time to see if their efforts are effective.** Manager has not responded to this message.
- June 14 - received final notice from Canada Post about registered mail, however had not received any subsequent notices.
- June 15 - Notification sent to Manager that the rust on the stairs has resurfaced enough to prove this problem is not going away, largely due to the fact that they were not galvanized.
- June 16 - picked up the mail and found a letter from the paralegal. The letter is dated June 6, with a requested response date of June 11, which was clearly not possible based on when it was received on the 16th. The same day an email was sent to the paralegal and manager with a brief summary.
- June 17 - This post is sent to the paralegal.

We are now offering KP Construction a third chance to resolve the rust issues on the staircase. We have obtained a second opinion and quote from an iron shop who says that the stairs must be galvanized. Please respond by June 24, 2020 to determine if KP Construction will be participating in this solution. No further changes are permitted to this site until the solution is discussed and agreed upon in advance. If you choose not to participate we will be working with another iron supplier to replace the stairs and potentially the railings which are starting to show signs of rust. At that point we would also be forced to take legal action aswell.

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Wednesday, June 16th, 2021 at 5:14 PM, Stephen Perciballi <sperciballi@protonmail.com> wrote:

Hi Ana,

I have received your letter regarding KP Construction.

Did you client tell you about the email thread attached?

Regarding phase 1 of the contract the interior light in the renovated extension has not been installed and is still on the floor. This is an incomplete service.

Regarding phase 2 of the contract and the remaining payment for the railings, did he tell you that the stair case is rusting? After the installation they have come back to resolve it twice and the rust continues to come back. The reason it will always come back is because they were not galvanized according to Konstantin.

I sent him an email updating him yesterday that we sought a second opinion from an iron working professional who has done work in our neighborhood who agrees that the only solution is to galvanize the staircase.

Your case is predicated on completed and satisfactory work. Do you think they will favour your case with this additional information?

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----- Original Message -----

On Tuesday, June 15th, 2021 at 7:40 PM, Stephen Perciballi <sperciballi@protonmail.com> wrote:

Unfortunately the rust is back after just a couple of weeks. A photo of the bottom of the step is attached.

We sought a second opinion who agrees with what you originally said, the only way to prevent rust on iron is to galvanize. You did not have the stair case galvanized.

These steps are going to need to be replaced. The new ones will need to go in the day these are removed.

Let me know if you will be participating in this process.

Sent from ProtonMail for iOS

On Fri, May 28, 2021 at 1:09 PM, Stephen Perciballi <[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:  
Konstantin,

Payment is not 40 days past due because the work hasn't been completed. I wish this had all completed and paid in full in December.

It's been months since you have personally been to the site, leaving me with the responsibility of pointing out what has been completed and not. This additional time from me was unanticipated.

1. The light fixture for the extension is sitting on the floor. This should be mounted on the ceiling.
2. The stairs at the front of the house have been installed, however at this point you have been given 2 chances to resolve rust issues. The second of which just finished yesterday and we don't even know what was done. You now have to exercise the same patience that I have had on this project that was contracted to take 4 weeks and is now at 21 weeks with zero explanations as to why. We need to see if the rust returns over the next couple of months. If you do not want to wait my recommendation is to remove the stairs now and remove them from the price to avoid further conflict and we will find a new provider. If you do want to stand by your work and resolve this, great. Otherwise we are seeking quotes in case we need to replace them ourselves. This is the reason clients hold the last payment, so that they have recourse when the work is not completed or completed inadequately. We didn't spend \$60,000 and 6 months of ours lives removing a rotten porch to replace it with a new rotten one.

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----- Original Message -----

On Thursday, May 27th, 2021 at 8:07 PM, Manager KP Construction  
<[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:  
Hi Stephen,

Friendly reminder about the unpaid invoice for the back addition contract. This work was completed and the invoice sent 40 days ago. After this period of time our accountant passes unpaid invoices to the legal office for collection.

Thanks

On Thu, May 20, 2021 at 6:18 PM Manager KP Construction <[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:

Here is all information related to contract's finances. I have attached invoices for the first contract and second contract outstanding.

**First contract. Back addition \$14800+HST. Partial design deduction \$600+HST**

**Second contract. Front and Back decks \$32300+HST. Partial design deduction \$1100+HST**

**Total provided design service \$2300+HST (paid at the beginning). Outstanding uncovered design service fee \$600+HST**

**Both contracts completed.**

**First contract outstanding \$3000+HST**

**Second contract outstanding \$5000+HST**

**Additional service, outstanding payment \$350+HST**

**- \$600+HST credit to the client for design service**

**Grand total \$7750+HST**

You can make e transfers to the following email [info@kpconstruction.ca](mailto:info@kpconstruction.ca) or send cheque by mail. Mailing address 18 Cathedral High st, unit 2. Markham L6C0P2

Thanks

On Thu, May 13, 2021 at 11:04 AM Stephen Perciballi <[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:  
Yes this looks like them. And there are 5 broken.

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----- Original Message -----

On Tuesday, May 11th, 2021 at 6:45 PM, Manager KP Construction

<[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:

We will get tiles for the backyard in one of the next days. 5 tiles need to be replaced? 2'x2'? <https://www.lowes.ca/product/pavers-stepping-stones/oldcastle-24-in-l-x-24-in-w-gray-square-patio-stone-101503>

I will ask my account to prepare an official statement based on outstanding payments. I will send all information you sent to the accountant as well.

On Mon, May 10, 2021 at 9:51 AM Stephen Perciballi <[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:

Regarding the tiles I've changed my mind. I was trying to be generous to get you guys out of here sooner but it's not working. So at this point will need you to get the tiles here and replace the broken ones.

We did a full audit this weekend of all payments. So far only a discount of \$600 has been applied from what we can see and there is no indication that an \$1100 additional discount was applied. I'm happy to share the full payment records with you.

The contract also indicates that the discount will be applied to the total cost of the design contract which is \$2599, not \$2300.

As a result the second last payment will be \$1391.  $\$3390 - (\$2599 - \$600)$ .

If you add these last 2 payments to what has been paid already we are in between the total contract prices with and without HST. If you expect me to pay anything more that would indicate that there was no discount for making all of those cash payments.

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----- Original Message -----

On Sunday, May 2, 2021 6:11 PM, Manager KP Construction

<[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:

Hi Stephen,

The last missing parts will be installed at the same time as railing hardware. It should be ready for pick up from the supplier in one of the next days, will be installed the right after. I'm ok regarding the discount for broken tiles <https://www.lowes.ca/product/pavers-stepping-stones/oldcastle-24-in-l-x-24-in-w-gray-square-patio-stone-101503>

On the first contract discount was \$600

Second contract \$1100

The last \$600 wasn't received yet, should be deducted from one of the last payments.

It may help if you review this with your accountant. All information in the contracts.

Thanks

On Thu, Apr 29, 2021 at 9:40 AM Stephen Perciballi

<[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:

The back is still not done. Payment for the remainder will be provided when these are complete. And they were supposed to all be done this week, and here we are going into May. And you are holding me back on starting landscaping work as I don't want your workers coming and going while the landscapers prepare the ground.

- The privacy screens are not bolted to the deck.
- The stone tile is still under the stairs (appears to be holding it).
- A latch on the door under the stairs (I prefer a discount you insist on fixing).
- Broken tiles (I prefer a discount you insist on fixing).

Regarding the design contract:

- I received a discount on the first contract.
- You haven't answer the question about where I received the \$600 discount.
- The discount was to be on the design contract. The design contract of \$2300 + HST = \$2599.

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----- Original Message -----

On Wednesday, April 28, 2021 7:09 PM, Manager KP Construction

<[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:

Cost of the design \$2300+HST

Please see the attachment. We discussed it before signing the contract.

Reminder about outstanding balance for back addition contract.

On Wed, Apr 28, 2021 at 8:38 AM Stephen Perciballi

<[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:

The cost of the design was \$2599. I can send you that contract if you need.

What's not clear is when did I get these discounts?

- There was a discount of \$1100 from the first contract.
- At what point did I receive a \$600 from the second contract? I searched your emails from the word discount and there are none.

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----- Original Message -----

On Tuesday, April 27, 2021 10:37 PM, Manager KP Construction

<[info@kpconstruction.ca](mailto:info@kpconstruction.ca)> wrote:

Please check both contracts, scope of work and payment schedule. You have all info there.

Deducted \$1100 and \$600. Total design cost \$2300  
Outstanding \$600 - can be deducted from one of the contracts

On Tue, Apr 27, 2021 at 10:32 AM Stephen Perciballi

<[sperciballi@protonmail.com](mailto:sperciballi@protonmail.com)> wrote:

There was an agreement that the full cost of the design contract would be discounted from the cost across both contracts. I don't have any record of this discount being applied. Please clarify.

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