**STORY**

Welcome back to the **Your Project Shepherd Podcast**. The last episode ended with Brian, Heather, and Derek needing to pull together a contract to meet the bank's requirements for their loan. Since this is Derek's first rodeo, he doesn't have anything, but they feel like they can draft something together that will make them and the bank happy. Let's see how that goes.

At the coffee shop, Heather leans her head back and takes a deep breath. This used to be her happy place. Derek says that he did some digging and found some templates online that they can download. Heather says “just make sure it's specifically for a custom home build, because I want to make sure that you are building a high-end custom home.”

Derek says, "I wouldn't want to build it any other way." Brian asked Derek if he'd gotten the links that they had emailed of some other home listings they liked. Derek's like, "Yeah, of course, those are nice, but they're really expensive. I'll be sure to keep those in mind, but I'll find some ways to keep the costs under control."

Later that night, Derek sends them the completed contract. After carefully reading through it, they agree that it looks good as far as they know. The next day, Brian, Heather, and Derek all add their signature digitally, and it's official. The contract was signed right away. Brian emails the contract to the loan officer at the bank. To his surprise, he hears back within just a couple of days that the contract is accepted and within a couple of weeks the appraisal comes back good too.

If it weren't for Heather being pregnant, Brian would be buying the most expensive bottle of champagne for them that night. Instead, he brainstorms which flowers to send her as he heads to the office.

Meanwhile, Heather gives Derek a call to let him know their plans are finally becoming a reality.

Rick says "That's great. I'm glad you're keeping me posted, but did you reconsider maybe using one of the builders that I recommended?"

Heather says "no, we are still going to use Derek. Rick was like "the Facebook guy?"

Heather said "yeah, we did find out through Facebook, she said, but he's built houses before. We actually just signed a contract with them, which is what's one of the reasons I called. Would you mind taking a look at the contract?"

Rick is like, "yes, send it over - but you really should have had a construction attorney look at this before you signed." Heather and Rick, stay on the line while Rick reads through the contract. She hears lots of sounds coming from Rick as he scans it. Hmm. Finally, he says, "this looks like a template contract your builder pulled from a free website. I know I'm not an attorney and I'm not trying to pretend to be one, but from what I just read, Derek can do whatever he wants." Heather argues, "that's what the plans are for, right?" Rick says, "Well, it's more than that. Even the part about him following the plans that I made and the engineering isn't well-defined, this almost looks like a purchase contract for a production house out in the suburbs where you just kind of get what you get.

You are spending a lot of money to build this house with no guarantee of results. I really wish he had sent this to a construction attorney before you signed. Not have me look at it after the fact."

Heather rolls her eyes, "Well, I guess it's too late to go back on that now. We'll just have to keep an eye on him, and you'll help with that, too, right?"

**INTERVIEW**

**Curtis Lawson:** Welcome back to another episode of ***The Your Project Shepherd Construction Podcast***, your personal Guide to the custom home construction process. I am your host Curtis Lawson, and you hear me, say this each week, but I'll keep repeating it because it's so important:

We teach that every successful construction project, must have four key components that are demonstrated by a sip very simple drawing of a house - you might see a child sketch out, the foundation is planning, the left wall is your team, the right wall is communication, and the roof is proper execution. If all of us Bones are strong, your project will succeed. Today’s guest on the show is attorney author, and fellow podcast host, **Karalynn Cromeens (KC)**

**KC:** Hi

**Curtis:** Welcome to the show.

**KC:** Thank you so much for having me.

**Curtis:** *Yeah, we are excited. Karalynn, you are the managing partner of* **The Cromeens Law Firm***, right?*

**KC:** Yes sir

**Curtis:** And you guys specialize in construction law

**KC:** Yes, sir

**Curtis:** So, tell us about your background and your business.

**KC:** Absolutely - I've been a construction litigator for eighteen years. We've done both litigations from the homeowner side and from the contractor side, and I really come at construction law having grown up in the industry, and so really what I'm really good at for both my owner clients and my contractor clients is breaking down the legal side of it into understandable chunk; so having a contract that both parties can understand kind of thing.

**Curtis:** *Yeah, and you also have written a couple of books that are geared towards contractors and subcontractors?*

**KC:** Yeah, so the first book I wrote was *Quit Getting Screwed* and that's more for commercial subcontractors and that's negotiating all the terms that are in a commercial subcontract. Then the second one is *Quit Getting Stiffed*, which is lien rights for Texas. So, you know, a contractor doesn't get paid, they know how to file a lien to collect your money.

**Curtis:** *And you also have your own podcast, which is the key to the Quit Getting Screwed Podcast. Is that right?*

**KC:** Yep. So, we talked about all the ways, not to get screwed, the construction industry and I have some fun guests on there to look at Barbie the Welder and just some, you know, some actually some very powerful women in the construction industry. It's been, it's been a lot of fun.

**Curtis:** Yeah, there's a lot of ways to get screwed in the construction business, both on the homeowner and contractor side.

**KC:** Absolutely

**Curtis:** Our target audience here is homeowners and although you mostly work with contractors, we have some contractors listening to this as well I know, but I thought your perspective and working with Builders will give our listeners and viewers some great insight into how they avoid getting screwed

**KC:** Absolutely

**Curtis:** And at the end of the day, what we want is for everybody to have a successful project to get what they paid for - the homeowner, gets a happy ending the contractor gets paid, you know? That's the goal, right?

**KC:** Absolutely. I think that's what most contractors want too. Yeah, it’s just that sometimes the wires get crossed, right? And so that's what we try to prevent because I think they would start out with the same goal somewhere along the line if we're not working for not clear, then we get off track.

**Curtis:** Yeah, and no one goes into a project saying, I hope this ends in a lawsuit.

**KC:** Exactly, nobody wants to hire lawyers and spend time in the courtroom promise me. I promise you; nobody has to do that.

**Curtis:** But it happens, and that's why you and I both always have work

**KC:** Exactly

**Curtis:** Things go wrong, unfortunately.

**Curtis:** *In your experience, what are the most common causes of disputes between a contractor and a homeowner?*

**KC:** I think it's number one, it starts with the contractor managing the homeowner’s expectations, right? Because contractors are normally an expert at what they do; they have to be clear and explain that process to the homeowner because what happens a lot of times (because it's what you do) is you just assume everybody knows what you know. The homeowner is coming out of the project from what they've heard or what they've seen on HGTV, which is not a realistic perspective, and if the contractors do not take the time to walk the homeowner through what this project really going to look like, then we get crossways right from the front end. For example, the possibility of change orders of all of those things is just explained upfront and an honest schedule, right? That is, that's a big one that I see is that, you know, whether we're building someone's home or remodeling, someone's home that they're in, that is their most Sacred Space, right? And it's, they want to know when you are going to be out of their house when they can move in or, you know what I'm saying, and so it's a lot and so being upfront and honest about the process, I think is a lot of times where things go south and then secondly, communication, Even the hard things. A lack of communication is huge. So many of these cases I've tried shouldn't have gone to trial but the first time the two parties even talked was at mediation. You spent thousands of dollars to do what we could have done before. It's a lack of communication.

**Curtis:** Yeah. As you said, I mean, the home was the most personal thing that you can deal with, you know, aside maybe from someone's marriage, and oftentimes the marriage and the home are tied closely together. So, when you are dealing with that, emotions just naturally, Run high.

**KC:** Absolutely, it is already that way – the more that you can explain the process and just be honest about it, the less likely you… because I teach contractors how to **C.Y.A.** I tell them to do that by explaining to the homeowner very clearly what's going to happen.

**Curtis:** So, when their relationship starts with the homeowner and the Builder, if you start off with a Loosely defined contract, loose/poorly defined expectations, you are setting up for failure from the beginning, and you know, that document that defines the relationship is the contract, right?

**KC:** Absolutely. Absolutely. Here’s the thing about a contract. So, we have two kinds of consumer homeowners, people that read everything very thoroughly and have lots of questions and you have people that just sign it. It will not manage expectations if you don't bother to read it. So, I tell, I was so, my contractor clients, if it's clear, or I usually have their things that in the contract that is very important, I would walk the customer through that just so that they know and have them initial - the contract is supposed to guide us. We do not want to be looking at it to figure out what we're supposed to do during the project because then some things have already gone awry.

**Curtis:** Yes, it is similar to getting married, but you have not talked about expectations in the marriage: who's going to be the grocery shopping, who has to buy all the Christmas presents, who's going to pay the bills, who will do the cooking? You needed to have some of those conversations before you ever tie the knot, right?

**KC:** Absolutely, and a good Builder is interested in what the homeowner wants, right? They come out of the project from the perspective of, why are you doing this? Help me, understand what your goals are - being more of a listener than they are a talker. That is what it should be.

**Curtis:** So, what makes a good contract?

**KC:** So, you know, having a clear term of exactly what the scope of work is so all parties, understand, you know, are we going off drawings? Or we just have a scope of work, where we are remodeling the kitchen – what’ that include, what does that not include - such as being upfront. Being upfront about payment terms - When the contractor expects payment and Sue would like for a new build or remodel, it might always not be 100% clear to the homeowner when payment is expected or when they reach that milestone, so I always tell my clients put in their contracts ‘INVOICE’ when they expect payment in the terms of what happens if it is not received and what the owner can do if they disagree with the work that's been done. To have that process up front and another BIG is schedule info - having a schedule in there - I tell my contractor clients always go long if you finish it Early you are a hero – if you finished late, your zero. Another big one is the possibility of change orders - what the process would look like because unless you are in construction when a homeowner goes to hire somebody, they know what they're doing, this is the price, they do not realize that there could be other components of the contractor doesn't know.

**Curtis:** Right

**KC:** And then I think another one that's a hugely important point for both contractors and owners is the punch-out process: what that looks like, and that we have it in the contract that we're going to do one walk-through you are going to make a list; we're going to do that one walkthrough we will do that one correction and then after that, full payments expected and then after that, it's a warranty claim.

**Curtis:** Yep

**KC:** A lot of the time we linger on a project on what is actually complete.

**Curtis:** I think what goes along with that too is how you define the performance standards. What standard are you holding the work to the judge - whether it's right or wrong?

**KC:** Absolutely. It depends on what kind of that should be in the contract.

The painting contractors, and the PCA, has a guideline there are some General Building guidelines, you can reference in the contract that way if something does happen, what is reasonable – what’s not? What it also comes down to is if something goes wrong, and the first thing, the owners going to do is hire an inspector, and inspectors going to go say this is wrong, this is wrong, this is wrong and potentially it depends on what code were, judging it up, right? And so that has got to be listed in the contract and so do because I've seen a lot of the times that yes, you could do it this way, but it's also you could do it this way, and its plans aren't clear. It was not necessarily wrong; it is just not the way that that inspector would do it.

**Curtis:** I think most things that people argue about are not even really code issues, they are more cosmetic issues where code has nothing to do with what your drywall looks like but that's what people care about at the end of the day, at least at first, right? Is, how does my paint job will look and absolutely, and things like that? So, if you do not have those things defined, what's the performance standard and what's the corrective action, that's a big opportunity for argument.

**KC:** Absolutely, and in any, you know, just being clear - I always use a painting example. The PCA has a standard that you must stand 4 feet away from the wall to touch the paint, right?

**Curtis:** In normal light.

**KC:** Exactly, as opposed to somebody standing over your back with a flashlight. So, we're upfront about that. We know all know what to expect on the front end.

**Curtis:** Yeah I think every client because I've seen it every time I build a house, you know, they put their nose up by the wall and they look for tiny imperfections and I always have to say, “you know, that's not reality, we have to stand, like you said, you know, Define it, three feet, four feet, six feet, whatever, but normal light, why you can't shine a spotlight on there and then pick out the dots.”

**KC:** Exactly.

**Curtis:** People care about that way more during the punch list process when they first move in, than they do after moving in the house, living in the house. They are like, you are never going to see a DOT on the wall.

**KC:** Exactly, and that's why I think too that we dress address the punch list in the contract. Because as you are going through homeowners, if they don't know that that's going to happen, can get anxious about the way you have kind of left things. If you are moving on to a different section, in this one section to 100 percent complete and they could think that you are not finished. You are saying that you are not going to finish, so I've seen that happen a lot too and you know, disputes go sideways. Being upfront saying “I am mostly finished, but we realize that we have these punch items that need to be done which we will substantially complete.

**Curtis:** So, most Builders, at least that I'm friends with, and my circle, use kind of a standardized construction contract – most of them use the TAB (the Texas Association of Builders) contract. You do contracts as well. It is pretty common for people to use kind of a standard form contract*. If they don't have a standard form contract or a professionally written contract, is that a big red flag for somebody working with a builder?*

**KC:** Yes, depending on the project size, right, to okay, if you have a small repair or something and they don't have a full contract and it is just a couple pages, you know it’s ok. But, if we're doing a new build or for doing a substantial remodel, having something that explains it – it shows the maturity of the Builder because it takes these guys a while to get that. So, you are looking at somebody who has their contract, and they know what it means. Here is the other thing too, is that a contract doesn't have to be full of legalese to be effective, and so just because a contract doesn't have legalese doesn't mean it wouldn't be effective so I think the better contract is one where both parties should be able to understand it. The standardized contracts where the Builder should be able to answer: Why is this in here?

**Curtis:** Yeah, most are like, I've never read that part either.

**KC:** Exactly, and so, you know, training the contractor, what that means that they can talk to the homeowner about what that means, and this is standardized contracts, so sometimes it's not relevant to your contract, so you can take that out.

**Curtis:** Yeah, even standardized contracts that can be negotiable or I mean every contract is negotiable, right?

**KC:** Absolutely and there's a level of, you know, I think if you come, if you want to negotiate your contract, I think that's cool. I think you come at it from the way of – “what does this mean? Here's why I can't agree to that, or why I think that's unreasonable and let's find something in the middle”. That's the best way. That's how contract negotiation should be it shouldn't be just across the room “I'm not doing this” - It's always a negotiation on both sides.

**Curtis:** So, if a consumer goes to meet with a builder or they get the point of signing a contract to build our hands, the two more emails, it to him or whatever, what should they do with that contract at that point, before they sign it? The obvious is to read it…

**KC:** You know read it. If it is big enough, it's a new build, I would have reviewed it with an attorney just so you know, so they can explain to you what it means from your side. Go through piece by piece and if you have questions, just ask, because you don't want to get to the end of the middle of this thing to get to a problem and you don't know what your contract means right then yeah, it's not very effective at all.

**Curtis:** Yeah, I've seen a lot of people who do that, who take the contractor, an attorney for review. He'll cross out half of it, mark up half of it, and I get it back and it's like Swiss cheese, but normally we wind up somewhere in the middle, right?

**KC:** Absolutely

**Curtis:** I mean, a lot of those notes and comments are just, hey, I'm making you aware of this. It's not that I'm not expecting the Builder to actually change this because most of them won’t, but this is the Winces of what you are signing, this is this, what you are entering into that you might understand.

**KC:** Exactly, and that's her job. It's not that you have to negotiate everything, but here's what it is and then you can decide if that's important to you, or if it is not, and it's the same thing with the contractors that you know make sure they understand the contractors the contracts they're signing.

**Curtis:** Yeah, just understanding the risks that you are entering into absolutely every contract is it is a risk…

**KC:** And at this level, you can't negotiate if you go open a credit card, you are not going to be able to negotiate that contract, right? And if there are some contracts, we can't negotiate but this, you definitely can.

**Curtis:** Yeah. So, if, if a contract is poorly written and it does kind of hit the fan and ends up in court or arbitration or whatever, what controls the outcome with that point?

**KC:** So, then you are having somebody a third party who is not part of your agreement, kind of decide what happens, right? So, in Texas, if you are in Texas and every state is different, some states have this process, you have to go through before it gets to builders. Some states have, you know, a whole consumer board that protects residential consumers, but, in Texas specifically, before you can sue a builder, you got to send them a letter, telling them everything, that's wrong. Giving them a chance to correct it. So, I think, you know that process needs to be followed – I’m sorry I lost my train of thought ha-ha.

**Curtis:** Yeah, it's okay. It's just what controls the outcome of something? It goes to court or it's up arbitration, or whatever?

**KC:** So, and then at that point, you are having somebody outside the agreement, say what your agreement meant and if and then it's going to be a very expensive process because they're going to use other evidence to try to interpret the agreement between you and that process by itself is just hugely expensive and then it never goes the way. The party wants it for you the best for litigation is to break even for both sides and that never happens. So, a homeowner client - unless it's substantial the first thing we want to do, if things go south between your builders, yes, we'll send the letter. Yes, we'll do that. But I want you to take your funds to finish your house, right? So, it can make sense to pay a lawyer to go after you have limited funds let's send the letter and reserve our rights because I can't see you unless I send the letter but let's go forward with fixing the house because that's the most important thing or finishing the project or moving back in, you know, I talked to the homeowner clients all the time we can get there, but I'd rather you spend the money that you have on finishing your house.

**Curtis:** So if the contract doesn't have those performance standards that we talked about a minute ago if those aren't defined, who interprets that in court? Who interprets what is right and wrong?

**KC:** Reasonable standard by a judge or a jury who knows nothing about construction - that is not good for either party. I have taken several cases, and jury trials from the Builder side and I can always Jurors and judges identify with homeowners before they do Builders.

**Curtis:** Yes because they are homeowners.

**KC:** When they see the punch list items, blown up such as damages left there, it's very dramatic and it's very “oh, I can't believe you left the house this way” and to contractors, the perception is that this is a punch list item that if you would just allow me to finish, I could have gone it finished.

**Curtis:** Yeah. In a contract, what documents or clauses, or what are some common things that are left out, but should be there?

**KC:** Let's see here. So, we kind of went over change orders already and schedule. Okay. So, things that should be in there that are left out sometimes. Who has a right to terminate and what happens upon termination if we can have a mutual termination - It’s similar to a prenup. But most of the “how are we going to manage” issues are left out a lot, although it would be hugely important. Once you sign a contract, you are both bound to perform, you are bound to build and they're bound to pay you, right? And if we breach that contract, you know what happens? Is there a buyout provision where the Builder can say “I know a breach the contract but here's your limit on Damages?” I've seen some contacts and if the owner does it, you know, you keep the deposit what is “The Break-Up” situation look like? The next fall is if their party isn't at fault, or you didn't get a payment, or the Builder didn't correct something, how long do they have to fix that before you can terminate? So those are some of the big issues that I see that are not commonly addressed in contracts, especially ones that new guys just getting started. They do not think of all these things that they need to go into the contract.

**Curtis**: Yeah. If things really do go south and they do go to court or arbitration or whatever? What does that cost? Typically as kind of hard to say because it depends, but are we talking like 10,000 bucks? Are we talking a million bucks?

**KC:** Hundreds of thousands to get ready - I have a big one to represent homeowners - their house is a mess - most cases aren't that big, but hundreds of thousands is going to take us to take this thing arbitration.

**Curtis**: Wow

**KC:** Well put on evidence, get expert witnesses and that's from the homeowner side, right? It just is expensive from a contractor’s side!

**Curtis:** But both sides will spend that much money

**KC:** Absolutely

**Curtis:** I've heard that at least here in Texas, the court systems are pretty backed up - I assume that's probably a nationwide problem, but how long does it even take for a case to go to trial?

**KC:** Yeah. So, you know, Harris County Texas, we were already backed up because we had Harvey and then our criminal courthouse is closed, our civil courthouse, got double-booked, and it was everything, and then Covid hit, so right now it's closer to two or three before you a trial.

**Curtis:** Wow

**KC:**  And that that process, that happens during that two or three years is, very expensive. Arbitration is more expensive on the front end, but the discovery process is shorter. You have a private individual, that's familiar with construction so you are looking at under a year to get that done. So, that's less. It's less expensive in the long run.

**Curtis:** And cost-wise is that less or more?

**KC:** So the actual cost you have to pay the arbitrators the independent party for his time so the arbitration cost way more than filing a lawsuit, but the attorney’s fees would be less.

**Curtis:** Okay. It is just less time involved.

**KC:** Correct

**Curtis:** You can’t stretch it out.

**KC:** In arbitration, you can't have the discovery disputes that you have at the courthouse because the rules are different. There are fewer rules in arbitration, meaning all the evidence comes in, and all the witnesses come in as opposed to the courthouse where you can fight about that and that becomes a very expensive process.

**Curtis:** Right. So changing gears a little bit let’s talk about this from your perspective - what should people be looking for aside from just having a contract, *what are some things people should be looking for when they're hiring a builder or contractor?*

**KC:** So I think a contractor that's interested in them and what they want and what their goals are and ask those questions, I think is hugely important. I think reviews, you know, I think if there are tons of bad reviews if there are one or two bad reviews, I think that happens to every company at some point, but you know if there are all bad reviews - I think that says something and they haven't responded, right? So Google searches you can check the courthouse to see if they've been sued before by a homeowner because that's public record - how that went. You know, are they responsive to you? I think even on the front end you can tell and usually and I tell my builder clients this all the time “Trust your gut” right? **Trust your gut**. If it doesn't work, don't Force It, right? Find somebody else because I see, you know, ‘I knew I shouldn't have done this or ‘I knew I should have hired somebody else’, right knew I shouldn't have, you know, that's most people end up in my office or saying that and so, I say, trust your gut is a big one.

**Curtis:** So most states have a licensing process for contractors - Texas does not for builders so, you know, HVAC Electrical Plumbing, all the trades, have some, or most of the trades have some licensure, but builders don't. I've always joked that in Texas, all I have to do is print a business card or so have a magnet on the truck, and boom, you are a builder.

**KC:** The wild west out here, you know. So there are pros and cons, right? The pros: It's you know, free enterprise and some level buyer-beware. The cons are, there's no regulation, right? There's nobody to go to, there's no agency to go to if something goes south. I know California has specific very specific contractor licensees and you can file a complaint and they'll investigate, which is another way to try to resolve the issue before. I think it's good in that respect, so I think it's, you know, it's got pros and cons. There was a point in time when Texas did it first, for a short period of a few years whenever the GHB was formed and, and they did that so the process has remained from that, but the licensing would have gone away. So, apparently, it didn't work out enough to get to stay.

**Curtis:** I think the lobbying kind of won out there.

**KC:** Exactly, you know. It puts it a lot more on the owner to do a lot more research to protect themselves and just because the Builder says he’s a “builder” doesn't mean anything. So you have to do some research.

**Curtis:** Yeah, so not that this is the end-all-be-all for choosing a builder, but there are some accreditations and designations, and things like that, that Builders earn that at least shows that hey, we're pursuing some education or spending some time working on their business, and they're in their knowledge. So I would say at least look for a builder, who has some letters after his name

**KC:** and a website that you can kind of see his work - I think all that's important. Absolutely

**Curtis:** Yeah, so one of your specialties is lien laws like we discussed a minute ago, so homeowners probably or many homeowners probably aren't familiar with what those are. So tell us about what are the types of liens that are involved in this process and how those work.

**KC:** A lien is to protect unpaid contractors for work that have done and so that can either come from your prime contractor, which is the one whom you hired, which that's called a constitutional lien - there are very few requirements on what they have to do to perfect that lien - except if it's a homestead, then they have more requirements. But then the people that work for them also could file liens, if they're not paid. In Texas, before we get a pay up for you making the Builder sign all bills, paid affidavits, or waivers along the way; because at the end of the day that in Texas, the owner is holding a pool of funds - which is 10 percent of the contract amount - to satisfy lien claimants, if they don't get paid. If the owner gets notices that the people have remained unpaid, those need to be investigated before any further payments are made because if you don't, you could end up paying twice. So what a lien is, is a security interest in the project - it’s just like a mortgage, except it's filed by somebody who's owed money. So certain notice requirements have to be met, but it is a very strong remedy. It can, you know, for most homeowners, lengthen out their process because they can't go to final closing, they can't get permanent financing, they can't sell the house because there's a lien. It is a lot of leverage, and it needs to be taken very seriously.

**Curtis:** It's not just the Builder or the subcontractor but it can also be the material supplier, which some people aren't aware of so If you buy a bunch of lumber from the lumber yard and the lumber yard doesn't get paid the lumber yard can send a notice for your house.

**KC:** Absolutely. In Texas, if they do that, it's the 15th day of the second month that they need to send their notices to the owner. So, if you get one of those, don't rely on what the builder says, contact the supplier directly and make sure they get paid because it could result in a lien. I see that happen a lot, I represent material suppliers and the owners turned it over to the contractor - they told me that take care of it - and then they end up with a lien and it's a big mess.

**Curtis:** The 15th day of the second month, so you are essentially 45 days out.

**KC:** Yes

**Curtis:** From when the, when the stuff was purchased and now you are getting notice that they're not paid and the homeowner may have already paid the contractor for that or the bank may have released some funds or whatever.

**KC:** Being just very on top of the notices and knowing that those are those real notices, and they really do mean something.

**Curtis:** It's always good to have a discussion with the builder also because you know, find out what's going on in the builder’s world that's causing that, because there may be…

**KC:** They may pay the sub, and the sub did not pay the material supplier, and the builders trying to jump in and take care of it

**Curtis:** Also just having that relationship where you can call and say, “hey I noticed we got this lien is everything okay with you, or are you staying in business or do you guys having problems?”

**KC:** How do you feel about a building as a builder when they ask you that though?

**Curtis:** No. I so honestly about ten years ago, this happened to me. Our company was going through some rough stuff, and we had a lien notice sent to a customer, and the customer called me. He said “Hey Curtis, so we got this in the mail - should I be concerned? What's the deal?” I said, “nope, we're good, we went through a few weeks where we had a project fall through and a bunch of stuff that came up, but I've gotten it taken care of now.” So, having that open line of communication with the builder door, you are on good terms, and you can just say, hey, I know you are a human, you may have just made a mistake. It's cool. We can work it out. That's important too.

**KC:** I absolutely agree. There is a fine line of yes, I believe, you know, and that Lien Waiver too.

**Curtis:** Yes, for sure. I have said this on multiple episodes of this podcast as I definitely preach **trust but verify**.

**KC:** Exactly. Didn’t Ronald Reagan say that?

**Curtis:** Yes, for sure. Yes

**KC:** I think I quoted that somewhere once or twice

**Curtis:** I love that line. So again, changing gears a little bit. I think there are types of people who are very well suited to go through this custom home process, building a home and there are some people that probably shouldn't go through this process, just personality types or people at different stages of life*. So what's your thought on that?*

**KC:** If you are a control freak, you probably shouldn't just because it's there are so many variables are so many things always changing, you know, and it's a stressful process. Even the best approach is a stressful process: trying to keep a schedule, trying to organize people, trying to handle things as they come and it's a lot. It's hard, and it's not an easy and fun and easy thing - if you want to be a control freak and be there every day, managing the project, you probably should just buy a house that's built already. Maybe have it modified a little bit, but yeah.

**Curtis:** Yeah. There are a lot of good houses on the market.

**KC:** Exactly and it's less stressful for you and everybody sometimes.

**Curtis:** I think people on both ends of the spectrum people who are total control freaks and people who are just totally disinterested, both can be a big problem because totally disinterested people, may not engage in the process, and then something the end and there was something comes up. There I go. Why is that like that?

**KC:** And you think “that would probably be me” - sounds good at the time, but then when I see it…

**Curtis:** Yeah, and we've had that happened to, you know, where we get to install some windows, and somebody was like “why are we installing those windows” and I was like “they are the ones you picked out and it's the ones that are in the contract? “ - “Well, I don't like these windows. Okay. Well, we have a problem now”!

**KC:** Exactly. People take a month to pick something out and so I put in the contract to is that the contractor’s schedule may change if you don't pick out the Selections in a timely fashion. I've seen that happen time, and time again - it takes them three weeks and by then the contractors moved on or had to move people to another place. Then it takes them a minute to get it back-to-back to where they were.

**Curtis:** Yeah, that kind of goes back to just engaging in the process saying, hey I’m going to build a custom home with a builder, I’m entering into the 2-year-long relationship where I need to participate, I needed to take part in meetings, I need to listen and read my emails and just pay attention to what's going on, otherwise things are going to go awry.

**KC:** Absolutely, for sure.

**Curtis:** So do you have any stories - I'm sure you do - but any good anecdotal tales of projects that went horribly awry that and then maybe talk a little bit about what could have been done differently to avoid that?

**KC:** Yeah, so I had a masonry contractor working directly for the owners who didn't have a contract that said he would do the scope of work. Got out there developing mock-up owners approved, and he started going at it and liked it - half of the house, it was a substantial size product project and he wasn't upfront with the owners about the products they had chosen were natural and that they would vary throughout the project, and that the mortar could vary and they were pissed when I got home and half the house was done and that's not what they expected - he wasn't upfront about that. So they took him to trial, and he didn't have a contract, so it was very expensive, and then the jurors saw that this incomplete project, so he lost. They wouldn't settle along the way, so we did try. In that case, there were no expectations and things like that that are nuanced such as ‘hey this is a natural product, there's going to be some variance” and being upfront about things. Managing expectations is a huge thing. No contract obviously, but even with one, take the time to go through it with a client, so they understand.

**Curtis:** Masonry is one of those things that I think actually has a lot of room for interpretation. We have had multiple disputes over the years involving masonry, you know, because, you know, mortar color can be a little bit different than the sample looked like; there's a lot of different interpretations of you know, this thing's popular right now like a schmear or a mortar wash on brick. There are a lot of different ways to do that and “I wanted a heavier, I wanted a wider, it's the wrong color.” It's hard to tell what your whole house is going to look like from a 2-square-foot sample. So yeah, a lot of disputes over that.

**KC:** Yeah. Absolutely

**Curtis:** Well I think that's all we have for today. I really appreciate you being here and if people who were either Builders or homeowners want to work with you or talk to you about a project, how do they find you?

**KC:** So, [**https://thecromeenslawfirm.com/karalynn-cromeens/**](https://thecromeenslawfirm.com/karalynn-cromeens/) **is the main source.** I'm on all the social platforms via Facebook, LinkedIn - all the good things they can reach out there to pretty active on there, so yeah, we are here for all the things.

**Curtis:** Also she does have her own podcast, as I mentioned earlier called [Quit Getting Screwed](https://the-quit-getting-screwed-podcast.castos.com/). If you are a contractor, it will probably interest you more, but definitely check out her podcast - I will link her podcast and website, all that stuff in the show notes for this podcast.

Again, thanks so much for being here. It was great.

**KC:** Thanks for having me, hope I could be helpful.

**Curtis:** Definitely. All right, that wraps it up for today. As I said at the beginning, every project has to have those four key components. We touched on some of that today, and the foundation is planning. The left wall is your team, the right wall is communication, and the roof protects it all - as proper execution. If you have all those components, your project will succeed!