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BULLETIN NO.

96-1

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Subject: **Contractor Pricing**

The Department of Community Affairs has been made aware that inspectors have been advising homeowners when they think contractors have overcharged for the work being performed. The Department originally thought this practice was uncommon, but has since learned that the problem is not limited to a few isolated cases. The problem is pervasive enough that a group of contractors has retained an attorney to take legal action against those inspectors who engage in this practice.

This practice may leave the inspector vulnerable to a lawsuit for slander, since such comments may damage the reputation of the contractors and cause them economic loss. Since inspectors are operating outside the scope of their employment if they comment on pricing, they are not covered by the New Jersey Tort Claims Act and may be held personally liable. Moreover, the municipality would not be obligated to pay their legal expenses.

Liability may result from simply stating that the price charged was too high, as well as by going so far as advising the homeowner to stop payment on the contractor's check. Inspectors are advised to refrain from these practices in the interest of professionalism and for their own personal protection from liability. Though truth is a defense to any charge of slander, it is unlikely that most inspectors would choose to incur the cost and aggravation of litigation.

Alleged overpricing is not the concern of an inspector. If an unsolicited comment concerning pricing is made by a property owner to an inspector, the property owner should be advised that he or she may contact the Division of Consumer Affairs, or if applicable, the licensing boards for plumbers or electricians.

BULLETIN