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## A Recent Case's Impact on the Determination of Contractor Licensure

A Florida court of appeals recently ruled that a contractor is considered licensed if it is associated with a qualifying agent licensed to perform the contract work on the effective date of the contract. Other courts previously looked to whether that same licensed individual also obtained the permit and later managed and supervised the construction project when determining licensure status. Under Florida law, a contractor can only enforce a contract if it was licensed *at the time it entered into the contract*. Knowing how and when a contractor qualifies as licensed is therefore of utmost importance.

In *Taylor Morrison Services, Inc. v. Ecos*,<sup>1</sup> there was no question that the contractor was associated with a licensed primary qualifying agent at the time it entered into the contract. The court therefore determined that the contractor was licensed under Section 489.128, Florida Statutes. Events occurring after the effective date of the contract, such as a change in licensees, fraud in the permitting, and a lack of project supervision, were irrelevant to the court's contractor licensure determination.

When protecting their contractual rights, the ruling in *Taylor Morrison* may be particularly pertinent for contractors and builders if 1) the licensed individual leaves or is terminated, or 2) a different individual ultimately obtains the permit or supervises the project. Having a licensed agent at the time the contractor enters the contract qualifies it as licensed throughout the project. This is a change. Previously courts held that contractors were unlicensed if the same qualifying agent did not obtain the permit and supervise the project. The new rule provides more freedom for contractors that meet the statutory requirements on the effective date of the contract.

Of course, this new rule does not relieve a contractor from all liability for events subsequent to the effective date of the contract. It merely allows the contractor to enforce the contract. The facts in *Taylor Morrison* illustrate that contractors still must ensure that a licensed individual lawfully obtains the permit and supervises the project to completion. This is true regardless of whether the contractor or a third party ultimately performs these duties. This new rule provides the contractor with some certainty. Courts determine contractor licensure based on whether the contractor has a qualifying agent at the time it enters into the contract—nothing more.

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<sup>1</sup> No. 1D14-2663, 2015 Fla. App. LEXIS 8096 (Fla. 1st DCA May 28, 2015).