



**JAMES G. DIBBINI
& ASSOCIATES, P.C.**

Attorneys At Law

TRUST. COMMITMENT. INTEGRITY.

NEWSLETTER

570 YONKERS AVENUE, YONKERS, NY 10704 (914) 965-1011

Mechanic's Liens: Getting A Property Owner to Pay Up

Mechanic's liens give contractors, subcontractors, suppliers and other professionals in the business of improving real property a way to collect after doing work for, and/or providing supplies to, owners that don't want to pay up.

A mechanic's lien is a security interest in the title to property held by an individual, or company, who has improved the property by supplying the owner with labor and/or materials. Once a mechanic's lien is properly filed, a lienor can recover by commencing an action to foreclose on the lien which forces the owner to sell the property in order to pay the lien off.

A mechanic's lien can be an effective tool in making sure you get paid but it is crucial that you follow all applicable laws when filing the lien because if you don't, it may be defective and it could be declared void by the Court. Also, if it is declared void after the statute of limitations is up, you cannot re-file and it may be harder to recover from the property owner.

Mechanic's liens can be filed against property owned by the state or a public corporation, which is known as a public improvement, or property owned by an individual or entity, which is known as a private improvement.

Lienors can file a mechanic's lien, or the "notice of lien," anytime during the progress of the work or can file within eight months either after the contract is complete or from the date the last item of work was performed or material was supplied. However, for single family dwellings, the mechanic's lien must be filed within four months instead of eight.

So what do you have to include in your mechanic's lien? There are several pieces of information you need to collect before you begin drafting your lien. The following information must be included in your mechanic's lien:

- ◆ Owner's name and correct legal address of the property including the section, block and lot. Note: You can get this information from the property deed.
- ◆ Name and address of the company or individual you contracted with to do the work and/or supply materials.



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- ◆ Agreed price, and the amount unpaid, for the services and/or materials provided.
- ◆ Description of the work performed and/or items supplied.
- ◆ Dates when you started and finished.

Once you have your mechanic's lien drafted, it's time to file it with the County Clerk's office and serve it on the owner. The lien must be filed in the County in which the property is located. Also, it is important to call the Clerk's office before filing to see if there are any additional fees. Another important aspect of filing the mechanic's lien is making sure the lien is properly served on the property owner. Without proper service, the lien will be found defective. The notice of lien must be served upon the property owner within five days before, or thirty days after, filing the notice of lien. Also, once served, you are required to file proof of such service with the Clerk's office within thirty-five days after the notice of lien is filed.

It should be noted that a mechanic's lien lasts for only one year after it is filed unless an action is commenced to foreclose the lien. However, before the one year is up, lienors can file an extension to extend the lien for another year as long as the property is not a single family dwelling. Extensions for liens on single family dwellings can only be extended by court order.

James G. Dibbini & Associates, P.C. has over 20 years of experience helping contractors and sub-contractors protect their interests and recover from non-paying property owners either through settlement or foreclosing on the lien. If you need help filing a mechanic's lien, give us a call at (914) 965-1011 or email us at jdibbini@dibbinilaw.com.

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