

Protect Your Lien Rights

Four things you need to know ...



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1

Know your deadline for filing the lien

There are different time limits for recording a mechanic's lien depending on the type of project. Generally:

Residential Projects

Must file within 60 days of the last day worked

Commercial Projects

Must file within 75 days of the last day worked

Public Projects

Must be served upon the public authority within 120 days of the last day worked, then filed within 30 days thereafter

It is important to remember that a final inspection of work, or warranty work, is generally not considered to be the last day of work on the property. So to avoid any litigation on the issue, it is best to record and/or deliver the lien within the applicable time period from the last date active work was performed on the site pursuant to the contract.

2

Know if you have to provide a "Notice of Furnishing"

Generally, if a Notice of Commencement has been issued or posted on a non-public project, then a Notice of Furnishing is required to be delivered, by certified mail, to the owner and the prime or principle contractor within 21 days of when you first do work on that project. On public projects, a subcontractor or material supplier is required to serve a Notice of Furnishing upon the principle or prime contractor within the same time period. Delivering a Notice of Furnishing can be a required step to preserve your lien rights. However, you are generally not required to deliver a Notice of Furnishing upon a party with whom you have a contractual relationship.

Consult an attorney to ensure your lien rights are being preserved and that you have a legally sufficient Notice of Furnishing form.

3

Know what you are signing

Be careful that in entering your contract for the project, it does not contain a provision in which you waive your lien rights. "No lien" contracts are enforceable in Ohio, provided the language is clear. Likewise, do not sign anything in which you release your lien rights prematurely.

If you have not received full payment on the project, any lien release should be qualified, in terms of a "conditional" or "partial" lien release.

4

Know what information your counsel will need to prepare a mechanic's lien

Given that the clock begins running as soon as you complete your work on a project, it is often important to be able to move quickly to prepare and file your lien affidavit.

Here is the information your counsel will need in order to prepare the lien:

- » The name of the owner
- » The address or (preferably) a legal description of the property
- » The first day worked
- » The last day worked
- » The balance owed