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FILING A MECHANIC'S LIEN: The Basics You Need to Know Before Filing

FACULTY

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Filing a Mechanic's Lien: The Basics You Need To Know Before Filing

Agenda

5:45 – 6:25 – Introduction and mechanic's lien basics

6:25-6:35 – 10 minute break

6:35 – 7:25 – Specific mechanic's lien issues, examples and pitfalls to avoid

7:25-7:35 – 10 minute break

7:35 – 8:25 – Summary of advanced topics (public improvement liens, trust fund claims, arbitration considerations, etc.)

8:25-8:30 – Q & A

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FILING A MECHANICS LIEN:

THE BASICS YOU NEED TO
KNOW BEFORE YOU FILE

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2/27/2015

WHAT IS A MECHANICS LIEN?

BASED ON THE ASSUMPTION THAT WHEN A PERSON IMPROVES THE VALUE OF REAL PROPERTY, THE PROPERTY OWNER SHOULD HAVE TO PAY FOR THAT BENEFIT

WHILE ALL 50 STATES HAVE SIMILAR LIEN LAWS, NEW YORK HAS ONE OF THE MOST PRO-LIENOR STATUTORY SCHEMES



BASICS OF FILING A MECHANICS LIEN

(IN GENERAL: TO PROTECT

- * CONTRACTORS
- * SUBCONTRACTORS
- * VENDORS & SUPPLIERS
- * LABORERS
- * ARCHITECTS & ENGINEERS
- * CONSTRUCTION MANAGERS (DURING THE CONSTRUCTION PHASE OF THE PROJECT)

LIEN LAW § 3

THAT...



- * WORK
- * PERFORM SERVICES
- * SUPPLY MATERIALS
- * MANUFACTURE MATERIALS THAT ARE FOR BUT NOT DELIVERED TO THE REAL PROPERTY

LIEN LAW § 3

FOR PERMANENT PRIVATE OR PUBLIC IMPROVEMENTS TO REAL PROPERTY

PERFORMED AT THE REQUEST OR WITH THE CONSENT OF THE OWNER (LIEN LAW § 3)



WHO DOES NOT QUALIFY?

*UNLICENSED CONTRACTORS SEE CALLOS V. JULIANELLI, 300 A.D.2D 612 (2D DEPT 2002); CPLR 3015

*ATTORNEYS

*PROPERTY MAINTENANCE SEE WEISMANN V. MARSHMOWICZ, 109 A.D.3D 768 (1ST DEPT 2013)

*LESSORS OF TOOLS OR EQUIPMENT SEE INTERCOUNTY CONSTR. CORP. V. CHARLES E. VALCHIS, INC., 235A.D 864 (2D DEPT 1933)



WHAT IS AN IMPROVEMENT?



LIEN LAW § 2

INCLUDES THE DEMOLITION, ERECTION, ALTERATION OR REPAIR OF ANY STRUCTURE UPON, CONNECTED WITH, OR BENEATH THE SURFACE OF, ANY REAL PROPERTY AND ANY WORK DONE UPON SUCH PROPERTY OR MATERIALS FURNISHED FOR ITS PERMANENT IMPROVEMENT, AND SHALL ALSO INCLUDE ANY WORK DONE OR MATERIALS FURNISHED IN EQUIPPING SUCH STRUCTURE WITH... FIXTURES... AND SHALL ALSO INCLUDE THE DRAWING BY ANY ARCHITECT OR ENGINEER OR SURVEYOR, OF ANY PLANS OR SPECIFICATIONS OR SURVEY, WHICH ARE PREPARED FOR OR USED IN CONNECTION WITH SUCH IMPROVEMENT...



IN OTHER WORDS: WHAT IS LIENABLE?

- *LABOR
- *MATERIALS
(EVEN IF MANUFACTURED FOR THE PROJECT, BUT NOT DELIVERED)
- *RENTAL EQUIPMENT (BY THE PARTY THAT RENTED IT)
- *OVERHEAD
- *PROFIT ON WORK ACTUALLY PERFORMED & MATERIALS ACTUALLY PROVIDED
- *BROKERAGE COMMISSION FOR OBTAINING A LEASEE FOR A TERM OF THREE OR MORE YEARS FOR ALL OR PART OF THE REAL PROPERTY



WHAT ISN'T LIENABLE?

- *LOST PROFITS *SEE EAST HILLS METRO, INC. V. J.M. DENNIS CONSTR. CORP., 183 MISC.2D 439, 441 (SUP. CT. NASSAU COUNTY 2000), AFFD, 277 A.D.2D 348 (2D DEPT 2000)*
- *DELAY DAMAGES
- *ATTORNEYS FEES



NOTE: A LIEN THAT INCLUDES NON-LIENABLE ITEMS MAY BE SUBJECT TO DISCHARGE UNDER LIEN LAW § 49(6)



OTHER EXAMPLES

- *CONSTRUCTION SUPERVISION OR SUPERINTENDING *SEE CARLA A. MORSE, INC. V. RENTAR INDUS. DEV. CORP., 85 MISC.2D 304, 308-09 (SUP. CT. QUEENS COUNTY 1976), AFFD, 56 A.D.2D 30 (2D DEPT 1977), AFFD, 43 N.Y.2D 92 (1978)*
- *SOLICITATION OF BIDS AND SECURING OF CONTRACTORS AND SUBCONTRACTORS (IS *NOT* LIENABLE) *SEE ID.*
- *CONSTRUCTION FINANCING CONSULTING HAS BEEN HELD TO BE *LIENABLE* *SEE ATKINSON V. TIBLIONE, 130 MISC.2D 971, 972 (SUP. CT. SCHENECTADY COUNTY 1991)*



OWNER CONSENT LIEN LAW § 3

- THE CONSENT OF THE OWNER TO THE IMPROVEMENT THAT IS THE SUBJECT OF THE LIEN IS REQUIRED
- OBVIOUSLY NOT AN ISSUE WHERE THE OWNER HAS CONTRACTED WITH THE LIENOR DIRECTLY
- PRIVITY OF CONTRACT IS NOT REQUIRED FOR CONSENT



CONSENT ABSENT PRIVITY

"CONSENT REQUIRES MORE THAN MERE ACQUIESCENCE AND BENEFIT, BUT SOME AFFIRMATIVE ACT OR COURSE OF CONDUCT ESTABLISHING CONFIRMATION"
SEE GORM (IRONWORKS, INC. V. GUF CONST. CORP., 292 A.P.2D 495 (2D DEPT 2002))

EXAMPLES

- WORK PERFORMED ON BEHALF OF A LESSEE WITH LESSOR CONSENT. SEE PRAMMOTIS V. 36-09 33RD STREET CORP., 48 A.P.3D 736 (2D DEPT 2008)
- CONTRACT VENUEE IN POSSESSION THAT HAS CONTRACTED TO MAKE IMPROVEMENTS TO THE PROPERTY. SEE M & B PLUMBING & HEATING CO., INC. V. CAMMAROTA, 103 A.P.2D 879 (3D DEPT 1989)



GENERAL VS. SPECIFIC CONSENT

KARSON, INC. V. KUGA DEVELOPMENT, LLC, 36 A.P.3D 807 (2D DEPT 2007); ALTHOUGH LESSOR HAD KNOWLEDGE OF AND ACQUIRED TO GENERAL IMPROVEMENT PLAN OF LESSEE, LIEN VACATED WHERE NO EVIDENCE OF AFFIRMATIVE CONSENT TO SPECIFIC WORK CONTAINED IN THE LIEN

FERRARA V. PEACHES CAPITAL, 138 A.P.3D 4391 (4TH DEPT 2016); LIEN UPHeld WHERE LEASE REQUIRED LESSEE TO INSTALL THE ELECTRICAL UPGRADES THAT WERE THE SUBJECT OF THE LIEN

AGENT OF OWNER: COWMECHANICAL, INC. V. MADISON PARK OWNER LLC, 37 A.P.3D 820 (4TH DEPT 2012) (ISSUE OF FACT PRECLUDING SUMMARY JUDGMENT DISCHARGING LIEN WHERE LIENOR PERFORMED WORK COVERED BY CONTRACT BETWEEN KNOWN AFFILIATES OF LIENOR AND THE CONSTRUCTION MANAGER Hired BY THE OWNER, I.E. THE AGENT OF THE OWNER



HOW LONG TO FILE A MECHANICS LIEN?

LIEN LAW § 10

* 8 MONTHS FOR A COMMERCIAL PROJECT

* 4 MONTHS FOR A SINGLE-FAMILY DWELLING

NOTE: YOU GENERALLY CANNOT REVIVE EXPIRED LIEN RIGHTS BY RETURNING TO THE PROJECT TO PERFORM PUNCHLIST, TOUCH-UP OR GUARANTY/WARRANTY WORK SEE NELSON V. SCHRANK, 273 A.D. 72 (2D DEPT 1947)



SERVICE OF LIEN

LIEN LAW § 11

* SERVE ON PROPERTY OWNER AND PARTIES THAT YOU CONTRACTED WITH; CAN SERVE ON LENDER FOR ADDITIONAL LEVERAGE

* SERVE BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED ALLOWED BUT NOT REQUIRED) SEE L&J PLUMBING & HEATING CO. V. GATEWAY DEMOLITION CORP., 173 MISC.2D 277, 278 (SUP. CT. QUEENS COUNTY 1999)

* SERVE 3 DAYS BEFORE OR 30 DAYS AFTER LIEN FILING

* FILE THE AFFIDAVIT OF SERVICE WITHIN 35 DAYS OF LIEN FILING

STRICT COMPLIANCE IS REQUIRED SEE THOMPSON BROS. FILE CORP. V. ROSEADLUM, 124 A.D.2D 672, 674 (2D DEPT 2014)



CONTENTS OF THE LIEN

LIEN LAW § 9

* NAME & ADDRESS OF LIENOR & LIENORS ATTORNEY

* NAME OF PERSON THAT THE LIENOR WAS EMPLOYED BY OR WITH WHOM THE CONTRACT WAS MADE

* NAME OF THE OWNER OF THE REAL PROPERTY

* DESCRIPTION OF LABOR PERFORMED OR MATERIALS FURNISHED

* TOTAL AGREED PRICE OR VALUE AND TOTAL AMOUNT UNPAID - BROKEN DOWN BY SERVICES & MATERIALS

* FIRST AND LAST DATES THAT SERVICES PROVIDED AND/OR MATERIALS DELIVERED

* DESCRIPTION OF THE PROPERTY - SECTION/BLOCK/LOT

* MUST BE VERIFIED



ISSUES REGARDING CONTENT

* VERIFICATION CAN BE MADE BY ATTORNEY OR AGENT

* BE CAREFUL IN NEW YORK COUNTY

• SUBSTANTIAL COMPLIANCE IS ALL THAT IS REQUIRED SEE MURDOCK V. KLEIN, 250 A.D. 127 (2 DEPT 1937); LIEN LAW, § 23; LIEN LAW, § 12-A (AMENDMENT OF LIENS)

• MISIDENTIFICATION OF LIENOR CORRECTABLE SEE CAPS MGMT. CORP. V. Q REALTY & DEVELOPMENT, INC., 143 A.D. 3D 692 (2 DEPT 2010)



WHAT ABOUT MISDESCRIPTION OF THE OWNER?

IN *RIGANO V. VIDAR CONSTRUCTION, INC.*, 24 N.Y. 3D 440 (2011), THE COURT OF APPEALS HELD THAT A MISDESCRIPTION OF THE OWNER, AS OPPOSED TO A MISIDENTIFICATION, WAS CORRECTABLE *MUNC PRO TUNC*

• RESOLVED A SPLIT BETWEEN THE DEPARTMENTS AND REVERSED SECOND DEPARTMENT HOLDING THAT A MISDESCRIPTION OF THE OWNER WAS A JURISDICTIONAL DEFECT

• MISDESCRIPTION REQUIRES THAT THE NAMED PARTY BE "CLOSELY RELATED" TO THE TRUE OWNER, THUS PUTTING THE TRUE OWNER ON NOTICE OF THE LIEN

• BASED (T) HOLDING ON THE PROVISION OF THE LIEN LAW THAT IT IS TO BE LIBERALLY CONSTRUED " TO SECURE THE BENEFICIAL INTERESTS AND PURPOSES THEREOF " - LIEN LAW, § 23



EXTENT OF LIEN

WHAT INTERESTS CAN BE LIENED?

* LEASEHOLD INTERESTS (TO ACQUIRE LIEN AGAINST LESSOR NEED LESSOR'S COMMENT)

* COOPERATIVES:

• QUESTION OF WHETHER A MICHIGAN'S LIEN CAN ATTACH TO A TENANT-STOCKHOLDER IS AN OPEN QUESTION (HAS BEEN HELD TO BE PERSONALTY IN OTHER SITUATIONS) SEE JT THE TAX COURT, 2002, 43 B.V. 2D 05 (1977)

• CONSENT OF COOPERATIVE CORPORATION SEE FARM. CONTR. LIEN, V. ALATRE, 112 N.Y. 2D 212, 487 N.Y.S.2D 100 (1986)

* CONDOMINIUMS:

• CANNOT OBTAIN A LIEN AGAINST THE ENTIRE COMMON ELEMENTS ABSENT UNANIMOUS CONSENT OF THE UNIT OWNERS PURSUANT TO REAL PROPERTY LAW, § 339-L

• NEED TO EXCLUDE THE ENTIRE COMMON AREA OR LIMIT THE LIEN TO SPECIFIC SUBLOTS SEE MATTER OF PLMR. POWER ENTERPRISES, INC., 200 A.D. 2D 604 (2D DEPT 1994)



DURATION OF LIEN LIEN LAW § 17

- *ONE YEAR FROM INITIAL FILING
- *CAN OBTAIN ONE ADDITIONAL YEAR BY FILING AN EXTENSION, THEN BY COURT ORDER
- *EXCEPT FOR LIENS ON A SINGLE-FAMILY DWELLING, WHICH REQUIRE A COURT ORDER FOR ANY EXTENSION



DURATION OF LIEN LIEN LAW § 17

- MUST COMMENCE ACTION TO FORECLOSE ON THE LIEN PRIOR TO EXPIRATION
- FORECLOSURE ACTION MUST BE ACCOMPANIED BY NOTICE OF PENDING
- NECESSARY PARTIES IN FORECLOSURE ACTION:
 - THE PROPERTY OWNERS
 - ALL MORTGAGE LIENORS THAT FILED PRIOR TO NOTICE OF PENDING
 - ALL OTHER LIENORS THAT FILED HIS MORTGAGE TO THE LIEN OF THE PLAINTIFF NOT PRIOR TO THE FILING OF THE NOTICE OF PENDING
 - DEBENTURE CREDITORS
 - TAXING AUTHORITIES
- LIEN LAW § 44
- DEFENDANT LIENORS CAN RELY ON THE NOTICE OF PENDING FILED BY THE PLAINTIFF, BUT WATCH OUT FOR EXPIRATION AFTER THREE YEARS PURSUANT TO CPLR 2013



CASE LAW ON EXTENSIONS

NAVILLUS TILE, INC. V. LCMAIN, LLC 98 A.D.3D 979 (2D DEPT 2012); COURT COULD ORDER LIEN EXTENSION WHERE APPLICATION WAS FILED WITH CLERK BEFORE EXPIRATION BUT NOT PRESENTED TO COURT UNTIL AFTER

SHILIAN V. ALL SONS ELEC. CORP. 51 MISC.3D 1221(A), 2016 WL 2842752 (SUP. CT. NASSAU COUNTY MAY 9, 2016); ISSUING ORDER NUNC PRO TUNC EXTENDING LIEN ON SINGLE FAMILY RESIDENCE WHERE LIENOR INCORRECTLY FILED EXTENSION INSTEAD OF SEEKING COURT ORDER BASED ON WRONG ADVICE FROM ITS COLLECTION COMPANY



CASE LAW ON EXTENSIONS

THOMPSON BROS. PILE CORP. V. ROSENBLUM, 134 A.D.3D 1020 (2D DEPT 2015): WHEN NOTICE OF PENDENCY EXPIRES AFTER THREE YEARS PURSUANT TO CPLR 6513 AND IS NOT TIMELY EXTENDED, MECHANICS LIEN VACATED AS OF SAME DATE

APPLIES TO DEFENDANT LIENORS THAT WERE RELYING ON THE NOTICE OF PENDENCY



EFFECT OF FILING A LIEN

PROTECTED PAYMENTS

PAYMENTS AN OWNER MAKES AFTER IT RECEIVES THE LIEN DO NOT REDUCE THE LIEN FUND (LIEN LAW § 11)

SO WHAT IS THE LIEN FUND?



THE LIEN FUND

SUBCONTRACTOR, VENDOR AND SUPPLIER LIEN RIGHTS ARE COMPLETELY DERIVATIVE

*OWNER CONSENT REQUIRED

*NO INDIVIDUAL MECHANICS LIEN CAN EXCEED THE TOTAL AMOUNT OWED BY THE OWNER TO THE GENERAL CONTRACTOR AT THE TIME THE LIEN WAS FILED

LIEN LAW § 4



WHAT IS A DERIVATIVE LIEN RIGHT?

*SUBCONTRACTORS, VENDORS AND SUPPLIERS, ETC. ONLY HAVE LIEN RIGHTS TO THE EXTENT THAT THE CONTRACT IS NOT PAID

*IF OWNER HAS FULLY PAID THE CONTRACTOR, THEN THERE ARE NO LIEN RIGHTS FOR ANY PARTY

*APPLIES DOWN THE CHAIN, A SUB-SUBCONTRACTOR OR A VENDOR TO A SUBCONTRACTOR CANNOT ENFORCE ITS LIEN FOR AN AMOUNT GREATER THAN OWED TO THE SUBCONTRACTOR

SEE PERI FORMWORK SYS. INC V. LUMBERMENS MUT. CAS. CO., 112 A.P.3D 474 (2D DEPT 2013)

*SUBCONTRACTORS AND VENDORS CAN DEMAND THAT THE OWNER PRODUCE THE TERMS OF THE GENERAL CONTRACT AND THE AMOUNT OWED TO THE GENERAL CONTRACTOR - LIEN LAW : B



PRIORITY IN THE LIEN FUND

*MECHANICS LIENHOLDERS SHARE PRIORITY AMONG THEIR TIER (LIEN LAW § 13(1))

*SUBORDINATE TO PRIOR FILED MORTGAGES, JUDGMENTS, ETC.

*PRIORITY OVER LATER FILED MORTGAGES, JUDGMENTS, ETC.

LIEN LAW § 13(1)



PRIORITY TIERS

*LOWEST TIER TAKES FIRST - LIEN LAW § 56

*FOR EXAMPLE

1. SUPPLIERS TO SUBCONTRACTOR 1
2. SUBCONTRACTORS 1 AND 2
3. GENERAL CONTRACTOR



DEFENDING AGAINST A LIEN

- *SERVE A DEMAND FOR A VERIFIED STATEMENT OF LIEN (LIEN LAW § 38); REQUIRES LIENOR TO IDENTIFY SPECIFIC WORK PERFORMED, MATERIALS DELIVERED AND TERMS OF THE CONTRACT. IF IGNORED, CAN PETITION COURT FOR AN ORDER DIRECTING COMPLIANCE AND, IF THAT IS IGNORED, CAN APPLY FOR AN ORDER CANCELLING THE LIEN
- *DEMAND FORECLOSURE OF THE LIEN (LIEN LAW § 59); REQUIRES LIENOR TO COMMENCE FORECLOSURE ACTION WITHIN 30 DAYS OR LIEN IS SUBJECT TO CANCELLATION)
- *CAN BOND OR FILE AND UNDERTAKING AT 110% OF THE LIEN AMOUNT (LIEN LAW § 104); LIEN TRANSFERS FROM REAL PROPERTY TO BOND OR UNDERTAKING (SEE MORTON V. TUCKER, 145 N.Y. 244 (1925))



DEFENDING AGAINST A LIEN

- *IF ACTION NOT YET COMMENCED, CAN DEPOSIT AMOUNT CLAIMED IN LIEN WITH INTEREST TO TIME OF DEPOSIT WITH CLERK (LIEN LAW § 20)
- *IF ACTION HAS BEEN COMMENCED, CAN PAY INTO COURT AMOUNT DETERMINED BY THE COURT TO BE SUFFICIENT TO PAY ANY JUDGMENT THAT MAY BE RECOVERED IN THE ACTION (LIEN LAW § 20)
- *CONSIDER THE TIMING OF A MOTION TO VACATE A LIEN BASED ON TECHNICAL DEFECTS
- *CANNOT HAVE FACIALLY VALID LIEN SUMMARILY DISCHARGED BASED ON INCORRECT INFORMATION (SEE MELNIKER V. GRAE, 439 N.Y. 327 (2D DEPT 1984))



ARBITRATION CONSIDERATIONS

- *FILING A LIEN DOES NOT CONSTITUTE A WAIVER OF A RIGHT TO ARBITRATE (LIEN LAW § 35)
- *COMMENCING AN ARBITRATION DOES NOT CONSTITUTE STARTING A FORECLOSURE ACTION (SEE APP. OF OXER, 36 MISC.2D 314 (SUP. CT. NASSAU COUNTY 1962))
- *LIEN LAW § 35 PROVIDES THAT THE ARBITRATOR'S DETERMINATION AS TO THE VALUE AND PRICE OF THE LABOR OR MATERIALS IS CONCLUSIVE IN A SUBSEQUENT ACTION TO FORECLOSE THE LIEN



**TRUST FUND OBLIGATIONS
LIEN LAW ARTICLE 3-A**

*HOLD FUNDS RECEIVED FROM OWNER IN TRUST FOR SUBCONTRACTORS, SUPPLIERS & VENDORS (LIEN LAW § 70(3))

*TIERED: OWNER, GENERAL CONTRACTOR, SUBCONTRACT, ETC., EACH HAVE THEIR OWN LEVEL OF TRUSTS, EACH WITH ITS OWN CLASS OF BENEFICIARIES

*NOT NECESSARY TO FILE OR EVEN HAVE THE RIGHT TO FILE A MECHANICS LIEN TO QUALIFY AS A TRUST BENEFICIARY (LIEN LAW § 71(f))



**TRUST FUND OBLIGATIONS
LIEN LAW ARTICLE 3-A**

*DIVERSION OF TRUST FUND ASSETS IS GRAND LARCENY UNDER THE LIEN LAW (LIEN LAW § 79-A)

*USED SPARINGLY, REQUIRES PROOF OF CRIMINAL INTENT BEYOND A REASONABLE DOUBT. SEE PEOPLE V. CHESLER, 50 N.Y.2D 203 (1980)

*TRUST CLAIMS ARE STILL VIABLE EVEN WHERE THE LIEN HAS BEEN DISCHARGED BY A BOND OR UNDERTAKING. SEE N.Y. PROFESSIONAL DR. WALL OF OC, INC. V. RIVERGATE DEV., LLC, 100 A.D.3D 216 (3D DEPT 2012)



**TRUST FUND OBLIGATIONS
LIEN LAW ARTICLE 3-A**

*IN A DIVERSION SUIT, CAN NAME INDIVIDUALS AS DEFENDANTS SEE ATLAS BLDG. SYS., INC. V. RENDE, 236 A.D.2D 494 (2D DEPT 1997)

*MUST BE BROUGHT AS A CLASS ACTION BY ANY TRUST CLAIM HOLDER FOR THE BENEFIT OF ALL TRUST BENEFICIARIES (LIEN LAW § 77)

*MUST BE BROUGHT NO LATER THAN ONE YEAR AFTER COMPLETION OF THE IMPROVEMENT, OR, WITH RESPECT TO SUBCONTRACTORS AND MATERIALMEN, ONE YEAR AFTER FINAL PAYMENT BECAME DUE, WHICHEVER IS LATER (LIEN LAW § 77(2))

*COMPLETION MEANS COMPLETION OF ALL WORK, NOT SUBSTANTIAL COMPLETION. SEE NORTHERN STRUCTURES, INC. V. UNION BANK, 57 A.D.2D 360 (1ST DEPT 1977), OPINION AMENDED, 58 A.D.2D 1042 (1ST DEPT 1977).



PUBLIC IMPROVEMENT LIENS

*DOES NOT APPLY TO REAL PROPERTY, BUT ONLY TO THE AMOUNT CURRENTLY DUE OR TO BECOME DUE UNDER THE CONTRACT (LIEN LAW § 5)

*NOT AVAILABLE TO DIRECT CONTRACTORS; ONLY AVAILABLE TO A PARTY PERFORMING LABOR OR FURNISHING MATERIALS TO A CONTRACTOR OR A SUBCONTRACTOR (LIEN LAW § 5)

*FOR EXAMPLE, SUB-MATERIALMEN DO NOT HAVE PUBLIC IMPROVEMENT LIEN RIGHTS. SEE *A & J BUYERS, INC. V. JOHNSON, PRAKE & PIPER, INC.*, 25 N.Y.2D 265 (1969)

*NOT SUBJECT TO OWNER-TRUSTS UNDER ARTICLE 3-A OF THE LIEN LAW. SEE *TRI-CITY ELEC. CO., INC. V. PEOPLE*, 96 A.D.2D 146 (11th DEPT 1983)



PUBLIC IMPROVEMENT LIENS

*MUST FILE NO LATER THAN THIRTY DAYS AFTER COMPLETION AND ACCEPTANCE OF THE PROJECT (LIEN LAW § 12)

*MAY DEMAND NOTICE OF COMPLETION AND ACCEPTANCE (LIEN LAW § 11-A) (BUT FAILURE TO DO SO EFFECTS NO EXTENSIONS)

*LIEN MUST BE FILED WITH THE HEAD OF THE DEPARTMENT OR BUREAU HAVING CHARGE OF SUCH CONSTRUCTION OR DEMOLITION AND WITH THE RELEVANT FINANCIAL OFFICER (E.G. COMPTROLLER) (LIEN LAW § 12)



PUBLIC IMPROVEMENT LIENS

*IF CONTRACTOR IS OWED MONEY:

*MAY BE PAID BALANCE IF THERE IS ENOUGH FOR PUBLIC ENTITY TO WITHHOLD 150% OF THE LIEN VALUE (LIEN LAW § 21(6-A))

*MAY APPLY TO COURT FOR ORDER DIRECTING PAYMENT AFTER WITHHOLDING LIEN VALUE, ONE YEAR OF INTEREST AND ADDITIONAL AMOUNT THAT COURT DEEMS SUFFICIENT TO COVER ALL COSTS AND EXPENSES (LIEN LAW § 21(6))




