



Changes in Construction Lien Act Endanger Property Owners

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Last year the Construction Lien Act was changed. The purpose was to better protect property owners. The changes would achieve that goal - if people follow the new requirements. Unfortunately, it appears the new requirements are being ignored, as has been the case with the act before. Now, though, the consequences of ignoring the act are worse for property owners.

The act allows the players in a construction transaction to protect themselves by using notices of commencement, notices of furnishing, sworn statements, various lien waiver forms, and liens. A major change last year requires the property owner to confirm each subcontractor and supplier identified on a sworn statement has provided a lien waiver. The property owner cannot rely on a lien waiver given to him or her by the contractor but must instead contact the supplier or subcontractor. This change has the effect of shifting the risk of a forged or incomplete waiver from the supplier or subcontractor to the property owner.

The process set forth in the construction lien act, if followed, is effective at protecting the parties to a construction project. The new changes strengthen that. But this protection is only achieved if the parties follow the process. Contractors, subcontractors, and suppliers usually don't want the bother. Sometimes the construction lender and title insurance company will push the process, but too often they don't follow the steps properly, for example skipping the notice of commencement. Now, more than ever, the property owner needs to insist the process be followed, properly, right from the notice of commencement through the verification of all lien waivers.

If you have questions about these changes, we can help. Just give us a call.

Cunningham Dalman, P.C. is a full service law firm located in Douglas, Michigan, as well as in Holland, Michigan. Our attorneys possess skill and experience in a broad spectrum of areas of practice, and have proudly served the lakeshore community for over 100 years. Contact us at 269-857-7879.



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