

STATEMENT FROM STUART S. ZISHOLTZ

I was contacted by a contractor who performed work on a public project which dragged on for years. He wanted to pursue a claim for unanticipated delays in completing the project.

Most public projects contain a no-damage for delay clause in the contract. There may also be a clause which directs that the contractor file a written Notice of Delay in order to obtain an extension of time and preserve any chance of bringing a claim for delay damages. The time frame associated with the Notice is extremely short and may only be two business days after commencement of any condition which is causing a delay in the project.

Moreover, the contractor may be required to provide a written narrative and a supporting schedule detailing the anticipated impact of each change that resulted in the delay. The impact schedule must address specific activities relating to the changes to the scope of the work and must incorporate the present accepted schedule for the project. Each impact analysis must be submitted within 20 working days after a delay occurs or after a notice of direction or change order is issued. If a contractor does not timely submit an impact analysis requesting additional compensation and/or an extension of time within 90 days after a notice of direction or change order is issued, the contractor will have waived any right to additional compensation and/or extension of time.

If a contractor is seeking delays in a public project, it is essential to understand the time frames and the terms and conditions of the contract. Failure to do so may waive any delay claim.

Never let your lien time run out.

For a free copy of a pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the Association.