

STATEMENT FROM STUART S. ZISHOLTZ

Once a lien is properly filed, it is extremely difficult and costly for an owner or a general contractor to remove the mechanic's lien.

In certain instances an owner or a general contractor can obtain a discharge bond. This procedure involves the owner or general contractor posting collateral, paying a bond premium and legal fees and obtaining a bond from a surety company. Many times there are personal guarantees as well. Other means of obtaining a discharge of a mechanic's lien include depositing the funds in escrow or with the Clerk of the Court. This assures the lienor that his claim will be paid in the event he is successful in establishing a valid mechanic's lien.

A third and more unorthodox method of discharging a mechanic's lien is for the general contractor or owner to institute an action to declare the lien void for failure to comply with the specific provisions of the Lien Law.

In the latter method, the owner or general contractor must establish that the face of the lien is invalid or the lienor failed to comply with a specific provision of the Lien Law. The owner or general contractor cannot argue that the lien is exaggerated or the amount claimed is not due, etc. Those are material facts which must be addressed in litigation or at trial.

The Lien Law was enacted for the benefit of the contractors and subcontractors. The legislature made it easy to place a lien on a property but very difficult for it to be removed.

Never let your lien time run out!!

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