

## **STATEMENT FROM STUART S. ZISHOLTZ**

Many contractors perform work for condominiums. The contractor is hired by the Board of Managers to perform work throughout the common elements in the building. Beware, the Lien Law, as well as the Real Property Law, do not protect the contractors sufficiently in order to secure payment.

Real Property Law Section 339-L prevents a contractor from filing a mechanic's lien when it is engaged by the Board of Managers to perform work in the common elements.

The common elements are defined as the land in all other areas of the property that are not expressly part of the individual units. A condominium unit is owned by an individual unit owner. Each individual unit is treated as a separate parcel of real property. The condominium Purchaser acquires title to his/her unit and also acquires an allocable share of the common elements.

While work performed on an individual unit is lienable, the common elements are not lienable.

The only recourse a contractor has is to pursue a claim against the condominium and Board of Managers for breach of contract and diversion of trust funds.

If a mechanic's lien is filed on the condominium's common elements, the mechanic's lien will be vacated. While this is a quirk in the Lien Law, the reality is that you must know, in advance, that your lien rights are worthless when performing work directly for the condominium.

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.