

With Lien Deadlines - The Devil Is In The Details

Last year, we wrote a blog post titled: [Think You Know The Last Date You Delivered Materials or Performed Services? Think Again](#). The point of the post addressed this complex issue:

Every state provides contractors and materialmen the right to lien a project, but they also require these parties to file their liens within a certain “lien period.” The lien period always has a beginning point and an ending point...but the question sometimes arises, when exactly does the lien period begin and end?

While this question may seem simple on the surface, leave it to the court system and lawyers to muck it all up. Depending on the project's location, the lien period may begin when labor and/or materials are last furnished, or at the end of the entire project. Even more specific - and perhaps, more confusing - the lien period may begin when the work is substantially complete or when its finally complete. Sometimes, punchlist or warranty work will extend the lien period, and sometimes it won't.

The Michigan Court of Appeals just released an opinion that addresses this question in that state. Commenting on Michigan's Construction Lien Act, the court of appeals confirmed that the 90-day filing period does not get extended when a contractor provides repair or warranty work to the project.

Here is the rule in the court's own words, with the most critical language highlighted in bold print:

According to MCL 570.1111(1) and MCL 570.1104(5), a repair completed pursuant to a contract is an "improvement" and the last furnishing of an improvement commences the 90-day filing period. Thus, for example, where a contractor is specifically hired to repair an aspect of the property, such as a nonworking door or a leaky roof, that contractor is making an "improvement" to the property for which the contractor is entitled to claim a lien. However, as this Court held, in *Woodman v*

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Walter, 204 Mich App 68; 514 NW2d 190 (1994), the performance of "warranty work" to correct deficiencies in work performed, or defects in fixtures installed, by the contractor does not constitute an "improvement" under the Construction Lien Act because "[i]t does not confer any value beyond the value furnished at the time the initial installation work was completed." Id. at 69. Therefore, in such situations, "[t]he ninety-day filing period commences on the date of completion of the original installation work and is not extended by the later performance of warranty work." Id. at 70. **The distinguishing factor between a repair constituting an improvement to the real property, which allows for the commencement of the 90-day filing period, and warranty work, which does not allow for the recommencement of the 90-day filing period, is whether the work in question conferred any value beyond the value furnished by the completion of the original work.**

The case is [Stock Building Supply, LLC v. Parsley Homes of Mazuchet Harbor, LLC](#), and you can read the full-text of the opinion by clicking on the case name. Also, check out [an article by Walter, Norcross & Judd about the case posted on JDSupra](#).

Read this article on the Construction Lien Blog here:
<http://constructionlienblog.com/?p=939>

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