



Beware of Licensing Issues When Thinking About Maintenance Work and Mechanics Lien Rights

Yesterday we published an article about Whether Maintenance Companies Have Mechanics Lien Rights. The article focused on whether the work performed by such companies qualified for a mechanics lien filing. This post, on the other hand, assumes that the maintenance work performed does actually qualify for lien rights. Instead, it focuses on one hurdle the company may need to overcome: Licensing.

A Contractors License May Be Required To File A Mechanics Lien

The question of whether a contractors license is required to file a mechanics lien is a difficult one. In some states, it is strictly required, and an unlicensed contractor can neither file a mechanics lien nor recover any amounts owed to it (California, for example). In other states, however, it is not as strictly required, and unlicensed contractors may be penalized, but may at least recover the "unjust enrichment value" of their work (Louisiana, for example).

We discussed this in more detail last year in a FAQs post: [If I'm Unlicensed, Can I File A Mechanics Lien?](#)

Determining whether a state is strict or forgiving with its contractor licensing laws is an important question for maintenance companies, but it's actually the second most important question. The first question these companies must ask is whether they are required to be licensed in the first place?

Does Maintenance Work Require A Contractors License?

This question cannot be answered in a single blog post because the answer will vary by a huge number of factors: The exact type of work performed, the scope and volume of work performed, the state, etc. Generally speaking, however, this is a thorny topic.

In my experience with contractor licensing laws across the country as a construction attorney, I've yet to encounter a licensing framework that addresses this maintenance issue head-on. Instead, maintenance companies and construction lawyers are left scratching their heads trying to fit a square peg (maintenance companies) in a round hole (laws that regulate more traditional construction services at a larger scale).

The unfortunate thing is that in a lot of circumstances, the maintenance work performed by these maintenance companies will very closely resemble work performed by contractors or subcontractors generally. Depending on the state's aggressiveness and position with its licensing laws, this could mean that a maintenance company must have a contractors license.

It is certainly a best practice to have a contractor's license if there is a possibility of being required to have it, and/or to speak with an attorney to help you navigate the murky waters.

Read this post on the Lien Blog at:

<http://www.zlien.com/blog/?p=9176>