



# Contractor's Dirty Secret When Threatening To Bond Off Your Mechanics Lien

"Want to know a dirty secret in the construction industry?," asks an article we posted earlier this week about threats to "bond off" a mechanics lien claim. The dirty secret is this: If a contractor threatens to "bond off" your mechanics lien claim, that's a bigger problem for the contractor than it is for the lien claimant.

Here are 3 Reasons Why:

## 1) It Means The Contractor Has Contractual Pressure To Resolve Your Claim

General contractors have contracts with property owners, and subcontractors have contracts with general contractors. These contracts are usually pretty favorable to the party higher up in the contracting chain, and they almost universally contain a "no liens" provision. This provision consists of a promise to keep the construction project "free and clear" of lien claims. If a lien claim is filed, these parties automatically get placed into default of their contract.

As you might imagine, this can create big problems. The contractor may be terminated from the project, or may be back charged significant amounts to have the lien claim legally handled.

Accordingly, when a contractor comes to you and "threatens" to remove your mechanics lien claim, you can laugh a bit. That's because the contractor is being forced to do so. Contractors like to play this off as a strong play by them, but it's usually a reaction to pressure they have up the contracting chain to get the lien handled.

## 2) It Means The Contractor May Be Out Of Money And Unable To Pay You

So, if they have contractual pressure to resolve the lien claim, why don't they just pay it? Why do they file a bond claim?

While there are a number of possible justifications here, one distinct possibility is that the contractor can't afford to pay the claim amount. Contrarily, they can afford to pay the premium on a mechanics lien bond. So, getting the lien bonded off is sometimes a delay tactic.

You may think this is bad that the contractor cannot afford to pay off your entire claim. It is, of course, but once the claim is bonded you'll have the surety in place to guarantee your payment and the solvency of the contractor becomes a non-issue.

## 3) It Means The Contractor Is Going To Get Significant Pressure To Resolve Your Claim In The Near Future

Bonding companies have their clients (contractors) by the you-know-what. To get bonding capacity with these surety companies, the sureties require contractors to sign personal guarantees, to pledge assets, and to basically open up their entire businesses or lives to guarantee to the surety that they are worth the risk.

If you have a claim against a contractor's bonding company, therefore, the bonding company isn't going to just use their own money to shower your claim with attention. They're going to use the contractor's money. Every attorney fee and every cost of your proceeding is going to come out of the

contractor's pocket, and the surety isn't going to spare any expenses in the claims process.

Plus, at the end of the day, the surety has obligations to pay the claim if its a good faith and justly owed claim. This will put enormous pressure on the contractor to work it out.

Read this post on the Lien Blog at:

<http://www.zlien.com/blog/?p=8923>