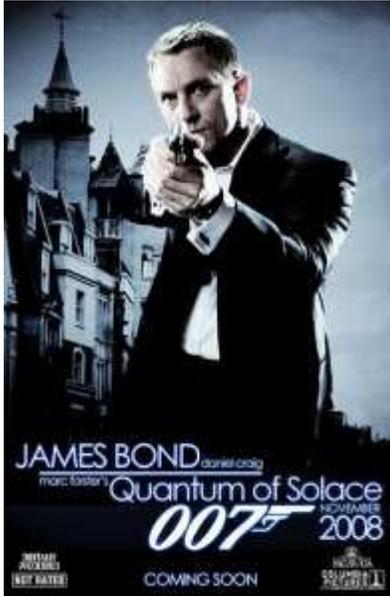


The 123s of Current NC Lien Law: Issues for Owners

By [Melissa Dewey Brumback](#)

[Adopted from [Construction Law in North Carolina](#) 11/18/2010]

Last week, we talked about [the ABCs of liens](#) for contractors, subcontractors, and design professionals. For every yin, there is a yang. Today we'll talk about the 123's of how to handle a lien claim if you are the Owner of the property.



An Owner can always "Bond off" a lien

If you are the owner of the property, you may not have been aware that subcontractors were not being paid, if lien waivers were not being submitted or were fraudulently executed by the general contractor. Being served with a Notice of Claim of Lien on Funds and/or a Claim of Lien on Real Property can literally stop work on a project. Many construction deeds of trust and similar bank financing require owners to keep the property free from liens or other claims on title.

If you are the Owner faced with a Lien on your property, what can you do?

Rule #1: Never pay "over" a lien. Even if you owe the contractor \$80,000, and the subcontractor's lien is for \$5,000, do not think you can set aside \$5,000 for the subcontractor (to be worked out later) and pay the contractor \$75,000.

Rule #2: Consider your options carefully:

Option 1: Finish the project without any additional payment to the contractor. Pay for a replacement contractor to finish, offset those payments, pay lien claimants from remaining funds.

Option 2: Issue a joint check payable to the lien claimant and the contractor.

Option 3: Bond off the lien upon funds (N.C.Gen. Stat. [44A-20](#))

To bond off the lien, you issue either a bond (equal to 1 ¼) or a cash payment (equal to the full lien value) to the Clerk of Court, which is held pending resolution of the dispute.

Rule #3: If the project is upside down, consider negotiating directly with a subcontractor for a reduced payment in exchange for a lien cancellation filed by the subcontractor.

Rule #4: Whatever you do, do it after consultation with your [construction law attorney](#). Liens cannot be ignored, and properly handling them can make or break your project.

Experience working with a lien on your property? How did you handle the situation? Also, as always, if you have questions or comments about this or any other post, drop me a line at mbrumback@rl-law.com.

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