

Describing Property in a Lien Claim - What Counts?



One of the standard requirements of a lien claim is a description of the property that is to be subject to the lien. This makes sense, a lien is an encumbrance on the property itself, so a requirement that the property to be encumbered be described is reasonable. The amount of detail required in the description, however, varies greatly, and is a potential spot of confusion that could lead to an invalid lien claim.

Clearly, in the best of all possible scenarios, a lien claimant would include the full legal description of the property on the lien claim, along with the municipal address. This is the best possible description of the property, and is sufficient for a lien in any state, by definition. In fact, some states mandate the inclusion of a legal description of the property for a valid lien, anything else and the lien will not be recorded and/or will be ineffective.

Many states, however, do not require such a technically precise description of the property. This case, despite being less research intensive and generally easier for the lien claimant, still has potential sticking points. For example, a tax lot and block would probably be sufficient, but would a parcel number, a municipal address, less? When the requirement for a description is something along the lines of "a description of the property sufficient for identification thereof" the level of detail required by the description may be hard to determine. Even more so if the qualifier "by someone familiar with the area" is tacked on the end.

As a general rule, the more information you provide, probably the better (assuming it doesn't conflict). But what if you only have limited information? Unfortunately, there are no hard and fast answers to this question applicable over multiple states. The level of description required varies, even when the statutory language is the same. But, just for fun, let's look at some examples.:

Metes and bounds full legal description: always sufficient.

Short legal description: almost always sufficient unless full metes and bounds description mandated by statute.

Tax lot and block / Parcel number: helpful, and likely sufficient coupled with municipal address in states with no legal description requirement.

Municipal address: generally necessary, but also generally not sufficient by itself. There are exceptions to this, however, and some times merely listing the municipal address of a property is a sufficient description for purposes of a mechanic's lien.

Less than municipal address: this is really only a "description of the property" and is not generally sufficient. However, there are potential exceptions to this as well.

So, in a very restrictive jurisdiction, a lien claimant may be forced to provide the full metes and bounds legal description in order to have a valid mechanic's lien. In a very permissive jurisdiction, the lien claimant may be able to provide much, much less. In determining how much less, it probably depends not only on the mechanic's lien laws of the certain state, but also the size of the town in which the property is located. It is not too much of a stretch to envision a situation where a description like "the big yellow house with the green trim and white picket fence on Broadway" might only describe one house in a small town. In that case, is that description sufficient? It might be, especially if someone familiar with the area was able to identify what property was being described. The same could potentially go for a familiar description in a small town. In certain communities, describing a property as "the old Miller place" might constitute a description good enough to allow a person familiar with the area to know which place they were talking about, to the exclusion of all other properties in the area.

Would I recommend doing this? No. But that doesn't mean it would be ineffective 100% of the time. Just like most other things having to do with mechanic's liens - there is no single answer.

Read this post on the Lien Blog at:

<http://www.zlien.com/blog/?p=9023>