

Release Me!



This month we're going to go over the "need-to-knows" of construction liens and how they can impact your company and how you get paid.

Here's a quick overview:

- Also called Mechanic's Liens, liens are claims against a property title by a professional (General Contractor and/or Subcontractor) that has supplied either labor or material to that property.
- Liens are used to protect the contractor from not being paid for the service that it provided, thus denying the property owner the rights to sell said property.
- A Lien Release/Waiver, makes it so that the professional gives up its right to file a lien and possibly waive other legal rights related to payments for performed labor or material supplied.

Pretty vanilla, right? Here's where it can get messy. There are two types of Lien Waivers—Conditional and Unconditional.

Conditional Waiver: Used to prompt a payment to the subcontractor that has not yet been paid for completed labor. **The lien on the property title is not released until payment has been received. We like this one!**

Here's an example of the contractual wording of a Conditional Waiver:

"THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT."

Unconditional Waiver: **Used to release the property title lien regardless if you have been paid or not.**

Basically, the property owner is forcing you to waive your right to file a lien on the property whether you have been paid or not. **We do not like this one!**

Here's an example of the contractual wording for an Unconditional Waiver:

"THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM."

Ensuring that you get paid for the work that you either performed or supplied is critical—it could impact your ongoing jobs, future jobs, and overhead! If you're unsure about your contractual rights and want another set of eyes to review a contract, we would encourage you to forward it our way for a review. That's why we are here!