

News & Insights

Morgan Lawson for the Journal Record - Oklahoma mechanic's and materialmen's lien laws explained

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When deciding if a person who furnishes labor or materials for the construction or repair of an improvement on real property may obtain a mechanic's lien, it is crucial to analyze the statutory process of the state where the property at issue is located.

Under Oklahoma law, the first step to filing a lien is determining who is and is not eligible to file a lien. Typically, any party who provides labor or materials for the "erection, alteration, or repair of an improvement" is entitled to a mechanic's lien. This includes contractors, landscapers, surveyors, architects, engineers, and construction managers. However, it does not include architects or engineers who create plans which are not implemented on the property.

The next step, which is often missed, is the pre-lien notice. Prior to filing a lien statement, but no later than 75 days after the last date labor and/or materials are supplied, the party must send to the last known address of the original contractor and/or owner a pre-lien notice pursuant to Oklahoma statute. The two exceptions to a pre-lien notice are when the labor and/or materials are supplied to a residential project, or the aggregate claim is less than $10,000.

At least one day after the pre-lien notice is sent, the party can proceed with filing the lien statement. Included in the lien filing shall be the following information: (i) if applicable, a notarized affidavit verifying compliance with the pre-lien notice requirements; (ii) the amount of the claim; (iii) an itemized statement of the claim; (iv) the names of the property owner and contract claiming the lien; and (v) a legal property description. The lien statement must be verified by affidavit and filed with the county clerk in the county where the property is located.

Finally, the deadline to file a mechanic's lien in Oklahoma is dependent on the party's role in the project. If the party is an original contractor who had direct contact with the owners, the lien must be filed within four months after the last date labor and/or materials were furnished to the property. Other parties, those who do not have direct contact with the owner, and who complied with the pre-lien notice requirements, if

applicable, must file a lien within 90 days from the date labor and/or materials were last furnished to the property. Any action to foreclose a mechanic's lien must subsequently be filed within one year of filing the lien statement.

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