

Understanding mechanics' liens

What is a mechanics' lien?

A mechanic's lien is a security interest in the title to property for the benefit of those who have supplied labor or materials that improve the property. The lien exists for both real property and personal property.

Who can file the mechanics' lien?

If a contractor or subcontractor/supplier isn't paid, they must file a "claim of mechanic's lien" in the county where the property is located. The contractor or subcontractor/supplier then has typically two to six months to work out a solution with the property owner or file a lawsuit.

How can I prevent a mechanics' lien?

The best protection against a mechanics' lien is for the homeowner to employ reputable firms with sufficient experience and capital and/or require completion and payment bonding of the construction work. The issuance of checks payable jointly to the contractor, material men, and suppliers is another protective measure, as is the careful disbursement of funds in phases based upon the percentage of completion of the project at a given point in the construction process. The protection offered by mechanic's lien releases can also be helpful.

How do I remove a mechanics' lien?

Even if a mechanics' lien is recorded against your property you may be able to resolve the problem without further payment to the lien claimant. This possibility exists where the proper procedure for establishing the lien was not followed. While it is true that mechanics' liens may be recorded by persons who have provided labor, services, or materials to a job site, each is required to strictly adhere to a well-established procedure in order to create a valid mechanics' lien.

Will a mechanics' lien affect Title?

In the event you discover that a lien has been recorded but no effort has been made to enforce the lien, a title company may decide to ignore the lien. However, be prepared to be presented with a positive plan to eliminate the title problems created by this type of lien. This may be accomplished by means of a recorded mechanics' lien release from the person who created the lien, or other measures acceptable to the title company.

Excerpts of an article that was published by the California Land Title Association. Member companies of the California Land Title Association are dedicated to facilitating the transfer of real property throughout California and increasing the public's awareness of the value and purpose of title insurance.

