



HOW TO FILE A MECHANIC'S LIEN



THE CROMEENS LAW FIRM, PLLC

Attorneys And Counselors At Law

Why Liens are Important

The Construction Industry revolves on credit. This is the reason why Mechanic's and Materialman's Liens (M&M Liens) are so important.

Liens are the way to secure credit on a construction project

Liens are filed (in the County's Real Property records) they are against the property owners, (even when the owner of the property did not hire you).

Because the Owner may not have never know or had any contact with the claimant, the laws require very specific steps to have a valid lien.

By following the specific steps, the owner will have to pay even if they do not agree.

If a claimant misses, even one-step or sentence that is required in the notice letter the Lien will become invalid.

Who Can File a Lien?

Anyone who provides _____ and/or materials for the construction, repairs of a house, building or improvements to a property are entitled to a Lien.



Lien [

right to keep

property be

owed b

Homestead & Residential

A _____ is a residence that is owned by an individual in the state of Texas. Your homestead is protected against most Creditors.

Mailing Address: **7739 VALERA LN
HOUSTON TX 77083-5138**

Property Address: **PHEASANT TRACE VILLAGE SEC 1
7739 VALERA LN
HOUSTON TX 77083**

State Class Code				Land Use Code			
A1 -- Real, Residential, Single-Family				1001 -- Residential Improved			
Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map®	
9,996 SF	2,030 SF	678	8023	270 -- ISD 08 - Alief General	4754D	528L	
Value Status Information							
Value Status		Notice Date		Shared CAD			
Noticed		03/31/2020		No			
Exemptions and Jurisdictions							
Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2019 Rate	2020 Rate	Online Tax Bill
Residential Homestead	008	ALIEF ISD	25,000	Not Certified	1.244100		

This protection means you cannot have a lien against a property unless there is a construction contract signed and notarized by all the homeowners (husband and wife if a married couple) and filed in the counties' real property records.

Example: If an individual does not currently have a homestead, and is building a new residence, which is intended to be their homestead, it is considered their homestead even if they do not live in it.

Residential includes:

- Rental Properties
- Investment Homes
- Vacation Homes

*Residential Properties owned by an _____ do not fall under Homestead but do fall under the residential time line.

An individual and his or her spouse are only entitled to one homestead at a time (even if they own property in a different county).

Mailing Address: **7739 VALERA LN
HOUSTON TX 77083-5138**

Property Address: **CATALINA SQUARE SEC 4
11923 TROULON DR
HOUSTON TX 77072**

State Class Code				Land Use Code			
A1 -- Real, Residential, Single-Family				1001 -- Residential Improved			
Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map®	
7,150 SF	1,664 SF	665.03	8004	270 -- ISD 08 - Alief General	4854D	529N	
Value Status Information							
Value Status		Notice Date		Shared CAD			
Noticed		03/31/2020		No			
Exemptions and Jurisdictions							
Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2019 Rate	2020 Rate	Online Tax Bill
None	008	ALIEF ISD		Not Certified	1.244100		

Example: If you are building a residence while living in your homestead, the new residence will not be a homestead until you are physically living in the home.

TIMETABLE FOR RESIDENTIAL PROJECTS

(Tex. Prop. Code Ann. §53.252 (Westlaw 2005))

Month of Activity	Deadline for Notice to Owner & Original Contractor Subcontractor or Derivative Claimant	Deadline for Filing Lien Affidavit by All Claimants**
January	March 15	April 15
February	April 15	May 15
March	May 15	June 15
April	June 15	July 15
May	July 15	August 15
June	August 15	September 15
July	September 15	October 15
August	October 15	November 15
September	November 15	December 15
October	December 15	January 15
November	January 15	February 15
December	February 15	March 15

****WARNING:**

Tex. Prop. Code Ann. §53.103(2)-

To share in the Owner's retainage, the claimant's Mechanic's and Materialman's Lien Affidavit is due within 30 days of Final Completion.

Commercial jobs

Commercial jobs include:

- Spec Houses
- Warehouses
- Shopping Centers
- Private Schools, etc.

HOUSTON TX 77024-1932

Property Address: 8431 KATY FWY
HOUSTON TX 77024

State Class Code		Land Use Code		Building Class		Total Units	
F1 -- Real, Commercial		8002 -- Land Neighborhood Section 2		E		0	
Land Area	Building Area	Net Rentable Area	Neighborhood	Market Area	Map Facet	Key Map®	
14,256 SF	4,980	0	9850	4014 -- Katy Freeway	5158C	491A	
Value Status Information							
Value Status		Notice Date	Hearing Status		Shared CAD		
Noticed		4/3/2020	Protest Received		No		
Exemptions and Jurisdictions							
Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2019 Rate	2020 Rate	Online Tax Bi
None	025	SPRING BRANCH ISD		Not Certified	1.320980		
	040	HARRIS COUNTY		Not Certified	0.407130		

Most Commercial Construction project have the following Tiers

- Owner
- General Contractor (GC)
- Subcontractor (Sub)
- Supplier

Breaking Down Commercial Construction Tiers

_____ : The Prime contract is between the Owner and GC, so the owner will usually not know who the other tiers on the job are.

The GC: The GC has a contract with the Sub, so they will not know who the suppliers is.

The Subcontract: The agreement is with the GC, so they do not know who the owner is.

The Supplier: The agreement is with the Sub, so they do not know who the GC or the Owners are.

No one know anyone unless you ask or research:

- Supplier should ask their customer
- Sub should ask their GC
- GC should ask their Sub



TIMETABLES OUTLINING DEADLINES

Caution: The following tables outline only the timetables for various deadlines; the attorney must have a clear understanding of the statutes to properly apply the tables.

Timetable for Nonresidential Projects

(Tex. Prop. Code Ann. §53.056 (Vernon 1995 & Westlaw 2005))

Month of Activity	Deadline for Notice to Original Contractor by a Subcontractor or Derivative Claimant	Deadline for Notice to Owner & Original Contractor By a Subcontractor or Derivative Claimant	Deadline for Filing Lien Affidavit by All Claimants**
January	March 15	April 15	May 15
February	April 15	May 15	June 15
March	May 15	June 15	July 15
April	June 15	July 15	August 15
May	July 15	August 15	September 15
June	August 15	September 15	October 15
July	September 15	October 15	November 15
August	October 15	November 15	December 15
September	November 15	December 15	January 15
October	December 15	January 15	February 15
November	January 15	February 15	March 15
December	February 15	March 15	April 15

****WARNING:**

Tex. Prop. Code Ann §53.103(2)-

Public Works

What jobs are public works?

- Fire Stations
- Police Stations
- Schools
- Anything owned by the _____ or City

Owner and Property Information						
Owner Name & Mailing Address: CITY OF HEDWIG VILLAGE 955 PINEY POINT RD HOUSTON TX 77024-2726			Legal Description: TR 49B-1 (NM) ABST 121 I BUNKER			
			Property Address: 955 PINEY POINT RD HOUSTON TX 77024			
State Class Code		Land Use Code		Building Class		Total Units
XV -- Other Exempt (Government)		8004 -- Land Neighborhood Section 4				0
Land Area	Building Area	Net Rentable Area	Neighborhood	Market Area	Map Facet	Key Map®
7,834 SF	0	0	9854.12	0 -- Place holder		
Value Status Information						
Value Status		Notice Date		Shared CAD		

Owner Name & Mailing Address: SPRING BRANCH ISD PO BOX 19037 HOUSTON TX 77224-9037			Legal Description: RES A BLK 1 (SCHOOL/RELATED USES) SPRING BRANCH ISD HUNTERS CREEK ELEMENTARY SCHOOL			
			Property Address: 10650 BEINHORN RD HOUSTON TX 77024			
State Class Code		Land Use Code		Building Class		Total Units
XV -- Other Exempt (Government)		None		E		0
Land Area	Building Area	Net Rentable Area	Neighborhood	Market Area	Map Facet	Key Map®
0 SF	0	0	9854.11	0 -- Place holder	5058D	491A
Value Status Information						
Value Status		Shared CAD				

Because the city or county owns public works jobs, they are exempt from lien. However, they do have a payment bond.

The GC is required to have a payment bond on a public works job; you will have to file a claim with the insurance company if you're owed money on a public works job.

TIMETABLE FOR PUBLIC WORKS

(Tex. Gov't. Code Ann. §2253.041 and §2253.047 (Vernon 2000 & Westlaw 2005))

Month of Activity	Deadline for Notice to Original Contractor by Subcontractor or Derivative Claimant	Deadline for Surety Company, Notice to Owner & Original Contractor Subcontractor or Derivative Claimant
January	March 15	April 15
February	April 15	May 15
March	May 15	June 15
April	June 15	July 15
May	July 15	August 15
June	August 15	September 15
July	September 15	October 15
August	October 15	November 15
September	November 15	December 15
October	December 15	January 15
November	January 15	February 15
December	February 15	March 15

**** WARNING:**

Tex. Gov't. Code Ann. §2253.046-

To recover on a claim for payment of retainage, written notice of the claim to the prime contractor and surety must be sent within 90 days of Final Completion.

Collection

- GC: You usually have Constitutional lien rights.
- Constitutional lien rights: Because you have a direct contract with the owner of the property you do not have to send any notices, you have the right to place a lien on the property at any time as long as they continue to own the property.
- Subcontractors: You will have to follow the statutory guideline.



Job Info Sheet

- This should have the project information, job name, exact address, GC address and phone number, and owner information - if provided.

Verify Information Provided

- County Appraisal District will provide you with some information on the property and Owner. The website can sometime be late on updating information.
- <https://hcad.org/>
- The _____ will tell you if the property is Residential, Commercial or Public Works.

Residential

State Class Code	Land Use Code	Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map ^{1/2}
A1 -- Real, Residential, Single-Family	1001 -- Residential Improved	9,996 SF	2,030 SF	678	8023	270 -- ISD 08 - Alief General	4754D	528L

Commercial

State Class Code	Land Use Code	Building Class	Total Units	Land Area	Building Area	Net Rentable Area	Neighborhood	Market Area	Map Facet	Key Map ^{1/2}
F1 -- Real, Commercial	8002 -- Land Neighborhood Section 2	C	0	407,809 SF	184,004	175,055	5910.04	4023 -- Southwest Freeway Near	5055B	530C

Public Works

State Class Code	Land Use Code	Building Class	Total Units	Land Area	Building Area	Net Rentable Area	Neighborhood	Market Area	Map Facet	Key Map ^{1/2}
XV -- Other Exempt (Government)	None	E	0	0 SF	0	0	9854.11	0 -- Place holder	5058D	491A

Verify the GC

- Call the GC main office number, verify they hired your customer.
- Verify their mailing address via Secretary of State or Texas Comptroller.

Secretary of State

<https://www.sos.state.tx.us/>



The screenshot shows the homepage of the Texas Secretary of State website. At the top, there is a dark blue header with a white star icon and the text "Texas Secretary of State" and "Ruth R. Hughs". Below the header is a light blue navigation bar with links for "Elections", "Business Services", "Notary, Apostilles & Authentications", "Rules & Open Meetings", "International Relations", and "Forms & Other Services". A black banner with white text provides a COVID-19 update: "COVID-19 - As recommended precautions continue to increase for COVID-19, the James E. Rudder Building will be closed to visitors and customers beginning Wednesday, March 18, 2020. The Office of the Secretary of State is committed to continuing to provide services to ensure business and public filings remain available 24/7 through our online business service, SOSDirect or use the new SOSUpload. Thank you in advance for your patience during this difficult time." Below the banner is a white section with a blue triangle graphic on the left. The text "How May We Assist You?" is centered. Below it is a search bar with the placeholder text "Use Our Search" and a "Go" button. To the right is the "SOSDirect" logo, which includes a star icon and the text "SOSDirect" in a bold, blue font, with "Business Searches and Online Filings." underneath.

Texas Secretary of State
Ruth R. Hughs

Elections Business Services Notary, Apostilles & Authentications Rules & Open Meetings International Relations Forms & Other Services

COVID-19 - As recommended precautions continue to increase for COVID-19, the James E. Rudder Building will be closed to visitors and customers beginning Wednesday, March 18, 2020. The Office of the Secretary of State is committed to continuing to provide services to ensure business and public filings remain available 24/7 through our online business service, SOSDirect or use the new SOSUpload. Thank you in advance for your patience during this difficult time.

How May We Assist You?

Use Our Search

SOSDirect
Business Searches and Online Filings.

🔍 Taxable Entity Search

Search


Tax ID
Use the 11-digit Comptroller's Taxpayer Number or the 9-digit Federal Employer's Identification Number.

OR

Entity Name

OR

File Number
Use the File Number assigned by the Texas Secretary of State.

I'm not a robot 
reCAPTCHA
Privacy · Terms

🔍 Search

🔄 Reset

Once you have all your information, you are ready to release your material.

Collection Notices: Notices Start when the debt is incurred, when material is supplied and when work is performed (NOT WHEN YOU FINISH THE JOB).

Example on Residential: Labor or Material supplied in January

First statutory notice is an Intent to Lien Notice, to Owner, GC and Customer must be sent out March 15th via certified mail return receipt.

*Remember to include your invoices or accounting statements.

Note: It does not matter if you supplied at the beginning of the month or at the end of month, it all falls under the same time.

If you miss the Intent, notice or send to the wrong address for any reason, DO NOT file a lien, it will be invalid. **There is a \$10,000.00 penalty for filing an invalid lien.**

Lien Filing: Filed of Record by April 15th, in the real property records where the project is located.

Lien should include:

- Owners, GC and Customer information
- Who your agreement was with
- Legal description
- When and what type of work you did
- Date notice was sent out

A copy of the lien must be sent to the Owner, GC and Customer within five days of filing. You can send a copy of the lien being filed, you do not have to wait for the original lien to be returned to your office.

Example on Commercial: Labor or Material supplied in January

First Notice: Notice to the GC and Customer must be sent out March 15th via certified mail return receipt. *Remember to include your invoices or accounting statements.

Note: It does not matter if you supplied at the beginning of the month or at the end of month, it all falls under the same time.

Second Notice: Statutory notice is an Intent to Lien Notice, to Owner and GC and Customer must be sent out April 15th via certified mail return receipt. *Remember to include your invoices or accounting statements.

If you miss the Intent, notice or send to the wrong address for any reason, DO NOT file a lien, it will be invalid. **There is a \$10,000.00 penalty for filing an invalid lien.**

Lien Filing: Filed of Record by May 15th in the real property records where the project is located.

Lien should include:

- Owners, GC and Customer information
- Who your agreement was with
- Legal description
- When and what type of work you did
- Date notice was sent out.

A copy of the lien must be sent to the Owner, GC and Customer within five days of filing. You can send a copy of the lien being filed. You do not have to wait for the original lien to be returned to your office.

Example on Public Works: Labor or Material supplied in January

First Notice:

Notice to the GC and Customer must be sent out March 15th via certified mail return receipt. *Remember to include your invoices or accounting statements.

Note: It does not matter if you supplied at the beginning of the month or at the end of month, it all falls under the same time.

Second Notice:

_____ - this notice is sent to the Owner, GC, Insurance Company and Customer, and must be sent out April 15th via certified mail return receipt. This notice includes an affidavit of sworn statement, along with a copy of the payment bond.

7014 0150 0001 8385 8951
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. HOLD AT DOTTED LINE.
CERTIFIED MAIL™

7014 0150 0001 8385 8951
7014 0150 0001 8385 8951

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 0.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70 optional
Restricted Delivery Fee (Endorsement Required)	5.05 optional
Total Postage & Fees	\$11.53
Postmark Here	
Sent To	Reggie Redbird
Street, Apt. No., or PO Box No.	123 N Main St
City, State, ZIP+4	AnyTown IL 99999

PS Form 3800, August 2005 See Reverse for Instructions

Waivers

The state of Texas has provided 4 statutory waivers that should be used.

These include:

1. Conditional on Progress
2. Conditional on _____
3. Unconditional on Progress
4. Unconditional on Final Payment

Conditional on Progress

This waiver can be signed on exchange for a check payment that has been received or is being mailed. This waiver also means that you still have work or payment pending.

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law

Conditional on Final Payment

Conditional on final is provided when you receive a check payment and you are finished with the project.

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document

Unconditional on Progress

Unconditional on progress is provided when a progress payment has cleared your bank account (DO NOT SIGN IF YOU HAVE NOT RECEIVED PAYMENT).

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project _____

Job No. _____

The signer of this document has been paid and has received a progress payment in the sum of \$ _____ for all labor, services, equipment, or materials furnished to the property or to

Unconditional on Final Payment

Unconditional on Final is signed when you are paid in full and no balance is due, this even includes retainer (DO NOT SIGN THIS IF YOU ARE OWED ANY MONEY).

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project _____

Job No. _____

The signer of this document has been paid in full for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) on the property of

Retainage

By enforcing retainage, you can learn to protect yourself, your money, time, and resources in your construction projects. A retainage allows the client to pay only a portion of the full payment for a project and withhold the rest until a project's completion.

Breaking Down Retainage

Retainage is a standard practice within construction projects and is required by nearly all construction loans.

It is ___% of the contract amount between an owner and an original contractor on any project.

Although the legal definition of retainage says nothing about subcontractors, most original contractors take 10% from the amounts due to the subcontractor throughout the project.

Every contractor an owner hires directly is called the _____.
If any owner hires all of the trades directly, each contract is an original contract. This is important because all lien claimants could be limited to only 10% of the contract where they supplied labor or material.

Why is retainage important?

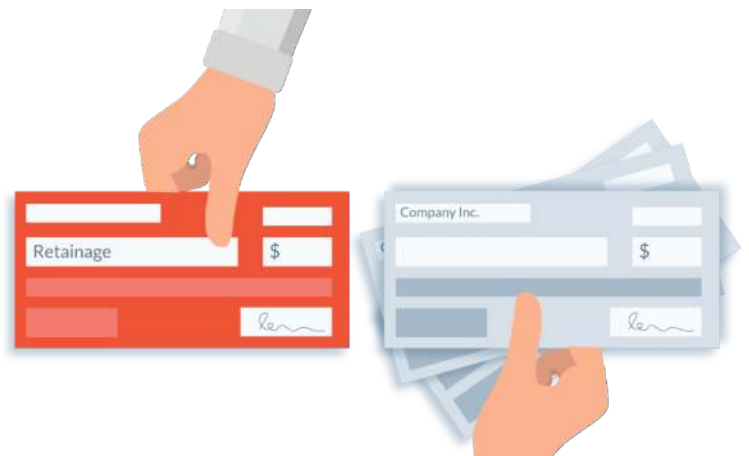
First, if adequately withheld, retainage is essential because it can limit the owner's liability.

*For example, If the owner withholds 10% of the entire project amount from the original contractor until 30 days after completion, the owner's only liability to lien claimants will be the 10%. If the amount of the lien claimants exceeds the retainage amount, the valid lien claimant's will share the 10% on a _____.

Second, if the owner properly withholds the 10%, the time frame for filing liens can be shortened. If the project is completed, an affidavit of final completion is filed with the county clerk, and the owner withholds the 10%.

*Remember that all liens must be filed within 30 days of _____. Normally, a lien claimant has until the 15th day of the 4th calendar month, after the last material is supplied to file its lien. This time frame can be shortened to 30 days after final completion if the owner follows the steps above.

Retainage generally does not become due to the subcontract until 30 days after final completion and/or when the general contractor receives the retainage payment. This ensures that a subcontractor will have a _____ on retainage, and they should file their liens at the completion of the project.



NOTES



Jessica Mora,
Lien Specialist & Office Director
The Cromeens Law Firm, PLLC
Houston: 713-715-7334
Austin: 512-839-9224
San Antonio: 210-328-1645



THE CROMEENS LAW FIRM, PLLC

Attorneys And Counselors At Law

hcadesa.org
thecromeenslawfirm.com