



truebuildingpartners

The Framework to Project Success

Section 7.1 – Lien Waivers

What is a Lien Waivers

A conditional lien waiver is a legal document used in the construction industry to waive a contractor's right to file a lien against a property. It becomes legally binding when the contractor receives payment for their work.

If you are financing your project with a construction loan, banks require signed lien waivers for all subcontractor payments. They will not release funds without all of them. Even without a construction loan, lien waivers are important way to protect your investment. Key points about lien waivers include...

- **Purpose**
 - Lien waivers serve as proof of payment and protect property owners from double paying.
 - They ensure contractors receive payment for their services and cannot file liens.
- **How it Works**
 - The contractor agrees to waive lien rights upon receipt of payment.
 - The lien waiver becomes effective only when payment is received and cleared.
- **Benefits**
 - Lien waivers facilitate smooth payment processes in construction projects.
 - They reduce payment disputes and legal complications.

Understanding the Different Types of Lien Waivers

Construction liens are a legal claim by a contractor or subcontractor for money not paid for work completed on a house. It places a hold on the property as a way to secure the payment of a debt or unpaid invoice. Liens can impact the sale or refinancing of a property since most liens must be paid off before additional financial transactions occur.

With our Framework, we are providing two different types of Lien Waivers and explaining the difference:

- **Progress Payment Lien Waiver:** Progress payment lien waivers are used to waive lien rights for work completed and paid for up to a specific date.

- Issued when partial payment is made during the project.
- Waives lien rights only for the amount paid, not future work.
- Helps maintain cash flow throughout the construction process.
- Protects property owners from double payment for completed work.
- Often required before releasing progress payments to contractors or subcontractors.

- **Final Payment Lien Waiver:** Final payment lien waivers are used to waive all lien rights.
 - Issued when the final payment is made, signifying project completion.
 - Waives all lien rights for the entire project.
 - Confirms that all payments have been received in full.
 - Provides assurance to property owners that no future liens will be filed.
 - Often required before releasing the final payment or retainage fees.

What to Do with the Lien Waiver Templates

Because these are legal documents, we do recommend you get a legal professional to review and tailor these templates to your specific state. The documents are brief and should be quick to revise. There are only a handful of variables for you to complete.

Your builder should be getting these from their subcontractors, but, in reality, these are your documents. You should request these from your builder before every payment you make. Once your project is underway, this is the best way to protect your investment.