

Design Professionals' Guide to Design Professionals' Liens (California)



Step 1: Determine Whether Construction on the Project Ever Commenced:

- Exclusive lien remedy for design professionals in cases where no actual construction of the planned work of improvement is commenced prior to recordation of the notice of lien.
- If work has commenced then the remedy is to record a mechanic's lien, not a design professionals' lien (*must record correct type of lien or may not be able to recover*).
- Design professionals' liens are not available for single family, owner occupied residence with construction costs of less than \$100,000.

Step 2: Determine Governmental Approval:

- A building permit or other governmental approval must have been obtained in connection with or utilizing the services rendered by the design professional (Civil Code section 3081.2).
- If governmental approval was not obtained then design professional lien is not available.

Step 3: Send Demand Letter Specifying the Default and Amounts Owed:

- 10 days prior to recording a design professionals' lien a written demand for payment specifying the default and the amount owed, must be served by certified mail postage prepaid (Civil Code §3081.3(b)).

Step 4: Record Design Professionals Lien:

- After 10 days have elapsed from the date the owner received the demand letter record a design professionals' lien in the County in which the project is located (Civil Code section 3081.3).
- Must record a design professionals' lien within 90 days of learning or have reason to know that the owner is not commencing the work (Civil Code §3081.7).

- A design professionals’ lien does not relate back to the time when the design professional rendered its services on the project, but is effective from the date it is recorded (Civil Code section 3081.2, 3081.4(a)).
- A design professionals’ lien cannot exceed the lesser of the design professional fee for any services rendered prior to the commencement of work or the reasonable value of the services provided (Civil Code 3081.2).

Step 5: File Lawsuit for Enforcement of Stop Notice:

- File lawsuit within 90 days after the recording of the design professionals’ lien (Civil Code section 3081.4).
- The lien automatically expires if the work of improvement is actually commenced or if the design professional does not file suit to enforce the lien within 90 days of recording the lien (Civil Code §3081.4).

	Private Project	Public Project
Design Professionals’ Lien	Construction cannot have commenced, and design professional must have obtained governmental approval related to design and serve a demand letter at least 10 days prior recording the design professionals’ lien. Also, must file lawsuit within 90 days of recording lien.	Design Professionals’ Liens are available on public works project and steps are identical to private works projects.

Remember: While these are the general rules for projects in California, these rules are not exhaustive. You should contact Morris Polich & Purdy regarding specific projects and/or questions. A consultation with counsel early in a project may save you time and money later on.

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www.mpplaw.com



Los Angeles
213.891.9100

Irvine
949.769.6900

San Diego
619.557.0404

San Francisco
415.984.8500

Las Vegas
702.862.8300