

Construction Law in Arkansas: Construction Lien Filings and Property Descriptions – Sometimes Less Is More.

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Though Arkansas materialmen's and mechanics' lien law rarely appears in appellate court opinions, within the last 12 months there was an exception. On December 6, 2017, the Arkansas Court of Appeals held that, pursuant to Ark. Code Ann. § 18-44-101, one cannot have a materialmen's lien against a property that it did not improve. *JMAC Farms, LLC v. G & C Generator, LLC*, 537 S.W. 3d 274 (Ark. Ct. App. 2017). Ark. Code Ann. § 18-44-101(a) provides that a material supplier of an improvement to real estate, to secure payment, will have a lien on the improvement plus up to one acre of land upon which the improvement is situated. Section 115(b) requires that a material supplier must notify the owner of the real estate in writing that the supplier is entitled to payment but has not been paid in order to secure the lien. And Section 117 outlines the filing procedures necessary for a supplier to secure its lien.

The court in *JMAC Farms*, echoing the Arkansas Supreme Court, held that "the materialmen's-lien statutes . . . are strictly construed, thus requiring strict compliance." The plaintiff supplier in *JMAC Farms* moved to foreclose on a lien it filed against the defendant's property for generators it provided for the defendant's poultry houses. However, the detailed legal description on the lien documentation filed with the county clerk described real property on which only a house and a barn sat – the legal description did not describe the remainder of the property where the new poultry house construction was located. Thus, because the plaintiff filed a lien against specific real property on which it made no improvements, the lien was invalid for lack of strict compliance – even though the property described may have been owned by the defendant.

What is the takeaway for Arkansas construction attorneys, suppliers, subcontractors, and contractors who may pursue materialmen's or mechanics' liens on a construction project property to secure payment? First, strict compliance with Arkansas' lien statute does not mean you need a deed-level legal description of each specific property. Second, if you provide a detailed real property description, make sure it describes the construction site where the materials or labor were provided (especially for multiple sites). Remember that for describing property for lien filing purposes, general may be better than specific, and, sometimes, less is more.