

Lien Inception

“When owners file bankruptcy or projects otherwise go south, lien priority often comes to the forefront. The idea is relatively simple. Priority is how courts determine which creditors get paid first. This often pits lenders against M&M lien claimants. For lenders, their liens typically arise when they record their deeds of trust. However, for M&M lien claimants, the Texas Property Code has very specific rules that must be followed,” warns Joe Virene in ***Texas Construction Law Blog’s Liens***.

“The Code provides that a ‘mechanic’s lien does not affect any lien, encumbrance, or mortgage on the land or improvement at the time of the inception of the mechanic’s lien’ Inception is the key word. The code goes on to state ‘the time of inception of a mechanic’s lien is the commencement of construction of improvements or delivery of materials.’”

Read the article.