



Download the free
Layar App



Scan this page



Discover
interactive content



DON'T GET STUCK WITH A BUILDERS LIEN

FOLLOW WITH
layar

It's any homeowner's worst nightmare. You're relaxing in the new addition that was built for you—and paid for—a few months ago, and suddenly you're being sued.

Your contractor didn't pay a subcontractor for work on your home... and you're left holding the bag! The subcontractor has registered a builders lien against your property for the money owed, and has commenced legal action, resulting in the Certificate of Pending Litigation also being filed against your property.

COULD THIS HAPPEN TO YOU?

It could—and does—happen regularly. A builders lien is a claim against a property for money owing. It can be filed by a subcontractor or supplier who has provided labour or materials, but has not been paid. The majority of owners don't learn about a lien claim until a CPL has been filed.

So if you're planning a home renovation project, or buying a recently renovated or constructed home, you need to know about the Builders Lien Act.

Under the Act, you're protected provided you hold back 10 per cent of the total cost of the project. (If the total cost of the project, including materials, is over \$100,000, the holdback money must be kept in a jointly administered savings account with the main contractor.)

This "holdback" lasts a minimum of 55 days following completion, abandonment or termination of the relevant contract to give subcontractors or suppliers the legal allowable time to register a lien. Once you've verified that no liens have been filed, you can release the funds to your main contractor.

And if there is a lawsuit? Here are two ways

this could play out:

SCENARIO 1: NO HOLDBACK FUNDS

The BC Supreme Court could order the home owner to pay for the total amount of the lien claim—even if it's more than 10 per cent of the project!

If the homeowner can't come up with the money to satisfy the lien, in rare cases the courts could order the sale of the home to fund the claim.

SCENARIO 2: 10 PER CENT WITHHELD FOR 55 DAYS

The home owner pays the full holdback amount to the courts (or the amount of the lien, if less, and the rest to the main contractor). Now the homeowner can have the lien and CPL cleared from the title. You need to protect yourself.

If you're selling your home, a lien or CPL on your title can stop the sale of your house in

its tracks! The holdback provides a way for you to remove these obstacles quickly.

And if you're buying a recently constructed or updated home, any lien on it passes to you. Ask your lawyer if you need to include a provision in your contract of purchase and sale to withhold 10 per cent of improvement costs from the vendor. Your Realtor can also help safely guide you through the process.

So make sure you're covered: hold back 10 per cent.

By: Theresa Borsman (Note: This information does not constitute legal advice. Always contact an experienced lawyer when dealing with Builders Liens.)

“A builders lien protects workers and suppliers from non-payment. But what protects you from a builders lien?”