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CONSTRUCTION, BUILDERS' AND MECHANICS' LIENS IN CANADA 8th Edition

**David I. Bristow, Duncan W. Glaholt, R. Bruce Reynolds
and Howard M. Wise**

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This publication offers an exhaustive analysis of the construction, builders' and mechanics' lien legislation from all Canadian jurisdictions; legislative concordances, guidance on construction lien practice; a comprehensive set of construction law forms and precedents; and summaries and analysis of every significant case in the construction lien area decided in trial and appeal courts throughout Canada.

This release features updates to Chapter 2 (The Lienable Interest), Chapter 3 (The Lien Claimant), Chapter 6 (Enforcement of Liens), Chapter 7 (Loss, Discharge or Vacating), Chapter 9 (Construction Trusts), Chapter 10 (Jurisdiction), Chapter 11 (Practice Before Trial), Chapter 12 (Practice After Trial) and Appendix D (Legislation).

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Highlights

- **ENFORCEMENT OF LIENS—CONTENTS OF THE CLAIM FOR LIEN—SUM CLAIMED AS DUE OR TO BECOME DUE**—A “price” is determined by the stipulated price in a contract. It is only necessary to ascertain the “value” of the services provided if there is no agreement on the price of the services. Where there is a stipulated price, it may be necessary to determine the actual value of the services and materials supplied if work ended before the completion of an identifiable task or milestone. Otherwise, the price of the work is measured by the contract price. (*Trillium Masonry Group Inc v. Marydel Homes (Beaverton) Inc.*, 2025 CarswellOnt 11499 (Ont. S.C.J.)).
- **LOSS, DISCHARGE OR VACATING OF LIEN—VACATING AND DISCHARGING ON ANY OTHER PROPER GROUND – GENERALLY**—While a court may have serious misgivings concerning an inflated lien, where portions of the lien give rise to an arguable case, the lien will likely not be cancelled under s. 25 of the *Builders Lien Act*, but may be dealt with by considering the appropriate amount of security pursuant to s. 24. (*Mazzei Electric Ltd. v. Aragon (English Inn) Development Corp.*, 2025 CarswellBC 2234 (B.C. S.C.)).
- **LOSS, DISCHARGE OR VACATING OF LIEN—VACATING AND DISCHARGING ON ANY OTHER PROPER GROUND—GENERALLY**—An Ontario court has refused to discharge a lien on the basis of ongoing non-compliance with an adjudicator’s determinations. Given a finding that there are triable issues regarding set-off claims and counterclaims and given the circumstances of the adjudication, the court held in *Feldt Electric Ltd. v. Gorbern Mechanical Contractors Ltd.*, 2025 CarswellOnt 11374 (Ont. S.C.J.) that it would have been unjust and disproportionate to bar the lien claims from proceeding to a trial on the merits.
- **PRACTICE AFTER TRIAL—COSTS—AGAINST THE PLAINTIFF AND OTHER CLAIMANTS AFTER TRIAL**—In the Ontario decision in *Accurate General Contracting Ltd. v. 485 Logan Developments Inc.*, 2025 CarswellOnt 11299 (Ont. S.C.J.), substantial indemnity costs were also awarded where the plaintiff engaged in bootstrapping, i.e. in attending the site performing marginal work for the sole purpose of extending an otherwise expired lien period.