

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
STAX BUILDING & DEVELOPMENT,)
LLC,)
)
Plaintiff,)
)
vs.)
)
HHI YACHT CLUB VENTURES, LLC,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE 14TH JUDICIAL CIRCUIT
CASE NUMBER: 2023-CP-07-01127

ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS MECHANIC’S
LIEN (Does Not End Case)

This matter is before me upon Defendant’s Motion to Dismiss Mechanic’s Lien.

The Motion was heard before the undersigned at 2:30 p.m. on November 7, 2023. Arguments were presented by Jason W. Ward, attorney for the Defendant, HHI Yacht Club Ventures, LLC, and Michael Mogil, Esquire, attorney for the Plaintiff, Stax Building & Development, LLC. After hearing arguments from counsel, and careful review and consideration of the subject statute, I find as follows:

FINDINGS OF FACT

1. Plaintiff, a licensed builder, filed its initial Notice and Certificate of Lien (“Mechanic’s Lien”) with the Office of the Register of Deeds for Beaufort County, South Carolina, on February 8, 2023, in Book 153 at Page 1828. Said filing did not contain Plaintiff’s contractor license number as required by Section 29-5-15, S.C. Code Ann.

2. Plaintiff, a licensed builder, amended its Mechanic’s Lien by an amendment filed with the Office of the Register of Deeds for Beaufort County, South Carolina, on March 31, 2023, in Book 154 at Page 1314 (“First Amendment”). Said filing did not contain Plaintiff’s contractor



license number as required by Section 29-5-15, S.C. Code Ann.

3. Plaintiff, a licensed builder, amended its Mechanic's Lien again by an amendment filed with the Office of the Register of Deeds for Beaufort County, South Carolina, on June 14, 2023, in Book 157 at Page 426 ("Second Amendment"). Said filing did not contain Plaintiff's contractor license number as required by Section 29-5-15, S.C. Code Ann.

4. Plaintiff, a licensed builder, amended its Mechanic's Lien for a final time by an amendment filed with the Office of the Register of Deeds for Beaufort County, South Carolina, on July 13, 2023, in Book 157 at Page 1200 ("Third Amendment"). Said filing did contain Plaintiff's contractor license number as required by Section 29-5-15, S.C. Code Ann.

5. Plaintiff filed this action on June 14, 2023, and an Amended Complaint on July 18, 2023, seeking, in part, to foreclose the Mechanic's Lien, as amended.

6. Defendant timely answered the Amended Complaint and filed its Motion to Dismiss Mechanic's Lien on September 18, 2023. Plaintiff filed its Memorandum in Opposition to same on November 7, 2023.

ANALYSIS/CONCLUSIONS OF LAW

1. Defendant's Motion to Dismiss Mechanic's Lien seeks to have the Mechanic's Lien, as amended, dismissed and invalidated as a result of Plaintiff's failure to comply with Section 29-5-15, S.C. Code Ann. (the "Statute"), which is set out below.

SECTION 29-5-15. Filing requirements; penalty for frivolous lien.

(A) To file a mechanics' lien, a contractor must provide the county clerk of court or register of deeds proof that he is licensed or registered if he is required by law to be licensed or registered. As proof of licensure or registration, the contractor must record his contractor license number or registration number on the lien document when the lien document is filed.

(B) A contractor who files a frivolous lien is subject to a fine up to five thousand dollars, the loss of his registration or contractor license, or both.

HISTORY: 2009 Act No. 40, Section 2, eff June 2, 2009.

2. The Plaintiff, a licensed builder, clearly failed to include its license number on the Mechanic's Lien, First Amendment, and Second Amendment, only including it in the Third Amendment, which was in excess of six (6) months after Plaintiff's last day of work on the subject property.

3. The Statute was amended in 2009 to require a contractor to provide proof of its licensure, and the amendment contains the word "must" two times in setting forth this requirement.

(A) To file a mechanics' lien, a contractor *must* provide the county clerk of court or register of deeds proof that he is licensed or registered if he is required by law to be licensed or registered. As proof of licensure or registration, the contractor *must* record his contractor license number or registration number on the lien document when the lien document is filed.

Section 29-5-15, S.C. Code Ann. [Emphasis added].

4. While other portions of the mechanic's lien statute allow for information to be amended and/or revised, such as Section 29-5-100, which states, in part, that "No inaccuracy in such statement relating to the property to be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials shall invalidate the proceedings", the 2009 amendment to Section 29-5-15 makes clear that the contractor's licensure information must be contained on the lien when filed.

5. Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute. Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the

court has no right to impose another meaning. *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 54, 742 S.E.2d 359, 360 (2013).

6. The facts in the present matter, together with a plain reading of the Statute, require that this Court grant Defendant's Motion to Dismiss Mechanic's Lien.

CONCLUSION

I therefore conclude as follows:

Defendant's Motion to Dismiss Mechanic's Lien is granted, and Plaintiff shall immediately release and cancel the Mechanic's Lien and all amendments thereto.

Beaufort, SC
_____, 2024

Marvin H. Dukes, III
Master-in-Equity for Beaufort County



Beaufort Common Pleas

Case Caption: Stax Building And Development Llc VS Hhi Yacht Club Ventures Llc

Case Number: 2023CP0701127

Type: Order/Dismissal

So Ordered:

s/Marvin H. Dukes III #3069