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"Can Surveyors, Construction Managers, Architects and Other Design Professionals Engaged by the Owner of Real Property File a Construction Lien?"

Yes, so long as there is a visible commencement of work actually derived from their services upon the real property. Under Wisconsin lien law any person engaged by the owner of real property for the improvement of that property (other than an employee of the person) is entitled to a construction lien claim against the property so long as there is "visible commencement" of the work for which they were engaged. By statute, "person" includes "an architect, professional engineer, construction manager, surveyor or other service provider." §779.01(2)(d), Wis. Stats. The term "visible commencement" has been interpreted by Wisconsin case law to mean work or labor performed which the average person can readily see and recognize as the commencement of a permanent improvement to the property. Accordingly, when work upon land is commenced pursuant to plans and specifications created by a design professional, the design professional is entitled to a construction lien claim for payment of its services in the same manner as the builder utilizing its plans.

Unfortunately, the term "visible commencement" also highlights a practical difference between traditional construction lien claimants and design professionals. As noted above, an architect—as with any lien claimant—is only entitled to a construction lien claim if there is "visible commencement" upon the property actually derived from the services it has provided. However, unlike a builder or contractor, an architect's work is only visible upon real property through the medium of another's labor. The practical affect is that an architect is not entitled to a construction lien claim if the owner of the real property chooses to hire a second architect and utilizes the second architect's wholly unrelated plans. (However, there is Wisconsin case law allowing a lien claim by an architect whose plans were partially used by a subsequent architect).

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