

Beware the Bootstrap!

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By Ashley Landesman

The *Construction Act*, R.S.O. 1990, c. C. 30 (the “**Act**”), imposes strict deadlines on lien claimants to preserve and perfect their liens. The *Act* also explains the circumstances which would result in a lien expiring.

When faced with a payment dispute, contractors often decide between delaying the registration of a lien to focus on amicably resolving their dispute versus promptly registering a lien to meet the strict deadlines in the *Act* and secure their legal interests.

Contractors may be tempted to deal with this dilemma by attending on site unauthorized to perform inconsequential or trivial work that adds no value to the improvement, for the sole purpose of artificially extending their deadline to register a lien. This practice is referred to as “bootstrapping”. Not only is this practice ineffective in achieving the desired effect of prolonged lien rights but it is also sanctionable by law.

In the recent decision of *Accurate General Contracting Ltd. v. 485 Logan Developments Inc.*, [2025 ONSC 3498](#), Associate Justice Wiebe addressed this very issue, finding that the lien claimant had engaged in bootstrapping in an effort to extend their lien preservation period.

The lien claimant argued that their lien was timely because they performed four items of work within the applicable lien preservation period. One of the items was the relocation and installation of certain smart switches (to connect cellphones to light switches) and another item was the installation of video doorbells in certain units. These two items were allegedly performed within days of the registration of the lien. Associate Justice Wiebe found that the items of work did not qualify as extending what would otherwise have been an expired lien period.

Associate Justice Wiebe found the evidence by the lien claimant to support the smart switches and doorbell work was likely contrived and amounted to bootstrapping.^[1] Associate Wiebe drew inferences from the evidence that the alleged work, if performed, was negligible. In fact, the lien claimant never even invoiced for this work.

Associate Justice Wiebe declared the lien expired and ordered that the lien be vacated, the security returned, and the action to enforce the lien dismissed. Associate Justice Wiebe went one step further and actually ordered that the lien claimant pay damages pursuant to section 35(1)2 of the *Act*, which imposes liability for damages on any person who preserves a claim for lien who “knows or ought to know that he or she does not have a lien”.^[2]

This case is a cautionary reminder to avoid the practice of bootstrapping (unless you want your lien booted off title).

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

[1] *Accurate General Contracting Ltd. v. 485 Logan Developments Inc.*, [2025 ONSC 3498](#), at paras 27 and 34; *Accurate General Contracting Ltd. v. 485 Logan Developments Inc.*, [2025 ONSC 3498](#), at paras 22 to 36

[2] *Accurate General Contracting Ltd. v. 485 Logan Developments Inc.*, [2025 ONSC 3498](#), at paras 37 to 39; *Construction Act*, section 35(1)2.

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