

New Jersey

BUILDING CONTRACTS

& MECHANIC LIENS



Department of Environmental Protection
Natural & Historic Resources
Historic Preservation Office



State of New Jersey
Department of Environmental Protection

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are a few dozen architectural historians in New Jersey and hundreds of avocational old-house researchers, but to date there has been no systematic examination of what must

surely rank as one of their potentially most important sources—the building contracts and mechanic lien records filed in the state’s twenty-one counties. These astonishing records help document construction or alteration of more than one hundred thousand New Jersey buildings.

The county government has long played a role in the regulation of real property in New Jersey. Historians are already familiar with the traditional duties, exercised by county clerks, to record deeds for the transfer of real estate and to record mortgages and their discharge to help ensure that land titles remain clear. Both responsibilities date from the colonial period. A provincial statute of 1714 authorized counties to record title deeds, a responsibility that was previously the exclusive domain of the provincial secretaries. The British colonial authorities in London disallowed this law in 1721, but while most counties abided by that ruling, some such as Monmouth continued to record deeds throughout the colonial period until state statute restored the responsibility to the counties after the Revolution. Mortgages began to be recorded in the counties after the Assembly enacted a law authorizing the practice in 1765. Although the probate of estates is handled by county “surrogates,” the pattern since the eighteenth century has been to centralize in the county clerk’s office most of the records that deal with land titles and real estate.

**New
Jersey’s
Building
contract
&
Mechanic
Liens**

“To Protect Mechanics and Contractors”

In 1820 a former assemblyman Edward Sharp, a high-profile landowner whose Federal-style house still stands in the Cooper Street Historic District in Camden, petitioned the legislature that he was about to subdivide a large tract of land in Newton Township on the edge



Edward Sharp House

of the then-small town of Camden in Gloucester (now Camden) County and that he believed it would encourage building and settlement if the legislature would pass a lien law to protect contractors who built there. At that time, most buildings were built on a time-and-materials basis, in which the owner contracted separately with the materials suppliers and the master craftsman who brought in his work crew. But building by contract was becoming increasingly popular. The master builder became a “contractor” when he decided to take only contract work, in which he would undertake to supply both the materials and the labor for a fixed price. Without a lien law a builder could sue his client to recover unpaid debts. But a lien law allowed a claim to be made against the property itself, not just against a person. This was believed to be a fairer and more

effective way to ensure that debts to contractors would be paid. Pennsylvania had adopted such a law for the benefit of Philadelphia in 1806 and gradually extended it to other towns in the state.¹ On February 25, 1820, the New Jersey legislature followed suit with a bill taken nearly word for word from the Pennsylvania law entitled “an Act for securing to Mechanics and others, payment for their labor and materials in erecting any house or other building within the limits therein mentioned.”² The “limits therein mentioned” were the bounds of the tract that Sharp was then subdividing. Whether he was having trouble getting good contractors to bid on his work is unclear, but the advantage that he sought from the law apparently didn’t help him much. Sharp lost his house in a sheriff’s sale five years later.³

The law evidently worked well enough for the contractors, however, because ten years later the legislature began extending it to other parts of New Jersey. By the late 1840s the law covered most parts of the state where substantial building activity was going on. Finally, in 1853 the law was applied statewide.⁴

The 1820 act and its successors had a number of provisions. Most importantly, they allowed builders and suppliers to place a “lien,” a temporary encumbrance on the title to a property (the “curtilage”) that was the subject of construction activity, simply by filing a claim for monies unpaid. The law speci-

fied that the claim had to be filed within six months after the work was performed or materials supplied, and that the lien would remain in force for up to two years, at the close of which the lien would lapse unless the aggrieved contractor instituted a lawsuit to recover the money. The law was also limited in another way: it covered construction and enlargement of buildings but specifically excluded mere alteration or repair work. Workmen repairing existing buildings could not file lien claims until 1847, when the legislature added an amendment to the law.⁵

Most interesting for historians are the filing and recordkeeping provisions of these acts. Lien claims had to be filed with the “office of the clerk of the Inferior Court of Common Pleas” in the county where the construction took place. Building contracts also had to be in writing to be enforceable and were to be filed with the same court clerk.⁶ In 1847, court clerks were ordered to keep a “Mechanics and Laborers Lien Book,” in which to record lien claims. It also provided for a small claims court to adjudicate lien claims of less than \$100.⁷ In 1853, the law was rewritten and strengthened further. The 1853 act not only applied the law statewide, it also required contracts and lien claims to be filed with the county clerk, not the court clerk. The new law also provided relief to individual workmen from contractors who employed but did not pay them and it lengthened to a year the time permitted to file a claim.

But it also took out the provisions concerning repairing and altering that had been added in 1847. In unmistakable language the act stated, "...no building shall be subject to the provisions of this act, for any debt contracted for repairs done thereto or alterations made therein."⁸

The 1853 law also specified that each claim was to include the description of the building and lot, the name of the building owner, the name of the builder or contractor, the person making the claim, and a "bill of particulars" exhibiting the amount and kind of labor performed and of materials furnished. County clerks were ordered to provide "a suitable, well-bound book, to be called the lien docket," in which to enter the claims, and the clerk was instructed to enter in the book each of the items in the claim except for the bill of particulars.⁹

Lien Records and Contracts

For documenting building construction and design, there are six types of records for architectural historians to focus attention upon: building contracts, indexes to building contracts, mechanic lien filed papers, mechanic lien recorded (or docketed) claims, indexes to mechanic liens, and (after 1930) mechanic's notices of intention. The notices of intention describe work that was contracted for but not yet carried out.

The building contracts that are still available for our use are rich documents indeed; they describe the materials, workmanship, and design of buildings in ways that yield insights even photographs cannot duplicate. For architectural historians, the contracts are usually more helpful than any of the lien records discussed below. Even some of the nineteenth-century contracts, perhaps five percent, include architectural drawings. All include some written or printed specifications and they sometimes identify the architect who prepared them. They include structural and design considerations, describe finish treatments, and often give clues to the uses to which specific rooms were put. Among the many Monmouth County filings is an 1863 carpentry contract for additions to the Hotel Cristalar in Long Branch. This three-story hotel was being extended along pre-existing lines, in part to lengthen its existing second-floor billiards room. In addition to specifying the dimensions and qualities of all of the structural and finish lumber to be used and such things as the sizes of the architraves surrounding doors and windows, it also observed how the windows were to be fitted with blinds. "All the windows to have 1+1/4 inch thick french green painted rolling blinds to be hung with angular wrought iron hinges to hooks, and fastened and back fastened by the best spring blind fastenings." This level of detail is typical of the contracts that I've examined.¹⁰

Monmouth County Building Contract



Contract #121, dated 1875

Church of Our Lady Star of the Sea

Long Branch
Jeremiah O'Rourke, Architect
No longer extant.

Photo used with permission from

Long Branch People & Places

by Randall Gabrielan, 1998

County clerks numbered the contracts in the order they came in and filed them in docket cases, sometimes referring to them as building “agreements.” The number of contracts filed per county varied widely. In rural Cape May County, only 450 were filed between 1863 and 1892, based on the serial numbers of the surviving contracts. In contrast, builders in Essex County filed well more than 50,000 contracts between 1853 and 1900.

When a building contract itself cannot be found, an entry in an index to building contracts may have survived. Most counties have kept their indexes for a longer period than their contracts, even though they are not required by law to do so. And,

as in Essex County, where a large collection of contracts has survived, the surviving contracts represent only a small sample of the documents that had been filed.

Contracts were always indexed by name of property owner but sometimes also by name of contractor, and the indexes provide the contract file number and usually the date filed. When only the number is given, as

in the surviving Passaic County index, the approximate date of filing can usually be figured out by interpolation. Index entries are no substitutes for the contracts themselves, of course, but they can yield the year of construction and identify the con-

tractor, and sometimes even this much is unobtainable from other sources.

The index to mechanic liens usually provides a little more information. Unlike a building contract index, in which it is always clear who the contractors were, the mechanic lien index identifies the property owner, the claimant, and the person who contracted the debt. These details help in piecing together who, beside the contractor, participated in the project. The person who contracted the debt will be the owner of the property if it is the contractor who filed the claim or if the owner served as his own contractor. However, if subcontractors or suppliers filed the claim, they would have named both the owner and the contractor who hired or engaged them. Likewise, if a workman filed a claim, he would have fingered both the owner and the contractor for whom he worked. These relationships are not spelled out in the index; the researcher must figure them out. The index will give the book and page in the lien docket where the claims were recorded.

Proceeding next to the lien docket, a researcher quickly finds that a typical claim includes the items described above plus a brief description of the building that was constructed, the property it was built upon, and the amount of money at issue. The description may be as little as a phrase or a sentence, or as much as a paragraph. In 1857, when an unpaid supplier of millwork filed his lien claim against Hightstown

merchant Samuel Sloan’s just completed Italianate house, he described it as a “two-story frame dwelling house fronting twenty-five feet in width by thirty-six feet in depth with a wing on each side eleven and one half feet in width by sixteen feet in depth, the whole having a finished attic and a two-story kitchen and wash house in the rear twenty-four feet in depth by twenty-one feet in width.” The apparent purpose of these descriptions was to show that the scope of construction was easily large enough to account for the size of the claims. What results is an abstract or summary of the lien claim. The entry sometimes gives both the date on which the owner bought the property and the seller from whom he purchased it. When this information appears, it is usually quite clear what property the claim is associated with, presuming that a researcher has already conducted a title search.

Lien docket entries are important records, because for any specific building a researcher is more likely to find a lien claim than a contract. From lien claims one can find out who the contractors were, even if no contract was ever filed. In some cases, several lien claims were filed for the same building project, and sometimes they reveal business relationships among contractors, subcontractors, and suppliers. For example, when a project to build an opera house went awry in Asbury Park in 1887, subcontractors, suppliers, and workmen together filed twenty-five lien claims.



Church Street School,
Essex County

The opera house project reveals both the richness of detail of many of the filed lien claims and the complexity of large nineteenth-century building projects. This three-story frame building, 100 feet by 130 feet, was constructed largely between March and May 1887, with most of the claims filed that June. The building's owner was the Asbury Park Building and Improvement Association, which contracted with a Newark builder, I.S. Nesbit & Co. (Isaac S. Nesbit and William H. Nesbit). Although Nesbit & Co. itself did not file a claim, several of the other claims identify Nesbit as the general contractor. As construction progressed, some of the basic construction materials were supplied by nearby firms. Two Asbury Park concerns furnished Nesbit with brick, Ludlow & Sons and Drummond & Wilcox. Local hardware merchants Colvin & Hope provided basic hardware such as nails, screws, hinges, and tools. Major & Loomis of Lakewood furnished some plank and siding. But Dodge & Co. of Jersey City provided the bulk of the structural lumber, flooring, lath, and shingles. Macknet & Doremus of Newark furnished the plumbing fixtures, light pendants, and other piping, while the firm of Macknet & Felsberg was the steam heating contractor. Nesbit also relied on a Newark decorating firm (Bonnell & Co.) for interior painting, graining, and wallpapering, and Bonnell, in turn, relied on a New York City supplier (Ball & Co.). The Standard Paint Co. of New York furnished

most of the roofing material.¹¹

Several counties that have destroyed their contracts, such as Mercer and Warren, still have their lien docket. They can be found under various names on the spines of their folio-sized bound volumes—"Mechanic Liens," "Mechanic Lien Claims," "Lien Docket." This lien data is also useful to help trace a building's repairs or alterations. When trying to determine the course of a building's physical evolution, it may be important to check the lien dockets for each owner over the course of the period for which the dockets survive.

The lien claims themselves sometimes survive in their original form as filed papers. In such cases, the main advantage of using the filed papers is that they normally include the bills of particulars, itemized enumerations of materials supplied or days and hours worked. These can be of vital importance if the purpose of the research is to reconstruct or restore the original appearance of the building. A few counties, such as Passaic, have docketed the bills of particulars along with the abstracts of the claim.

Getting More Out of the Records

Some researchers are already beginning to use these records successfully. The Monmouth County Archives has the best and most complete overall collection of building contracts and mechanic liens of any county in New Jersey, and its staff has



Water Witch Casino, Middletown

done a fine job of indexing them. A few years ago, the historic preservation consulting firm Heritage Studies, Inc. used information from the contract for the Water Witch casino in Middletown in the National Register of Historic Places nomination for that building. In Essex County, two members of the Nutley Historical Society used the collection of Essex County contracts at the New Jersey Historical Society to discover the 1875 contract for the school that now houses their museum. The original 1864 specifications for the George Allen house in Cape May were found in the collection of Cape May County contracts at the Philadelphia Athenaeum and used to guide the recent rehabilitation and adaptive reuse of the house as a bed-and-breakfast. Other important collections of building contracts are held by the Camden County Historical Society, the Hunterdon County Historical Society, and the Morris County Heritage Commission, each for their respective counties. Every county, however, has some mechanic lien and building contract records.

So far, researchers have largely confined themselves to documenting individual buildings, but the records show much greater promise. Contracts and liens can reveal much more when they are looked upon collectively. By doing so, research can be widened to focus on all the builders within an entire town, for example, or to show how the building process itself changed over time. By looking at a lengthy period of mechanic



George Allen House
in Cape May

liens, one can more efficiently identify building dates and contractors than one can when looking for records one at a time. The same contractor will often show up more than once. In those counties where lien claims are indexed by claimant, it may be a simple matter to find all the claims filed by a specific builder. If the

nature of his role (contractor, subcontractor, laborer, or supplier) is not made clear in one document, it may be clarified in another. By looking at all of the liens filed during a contractor's working life, a coarse career profile can sometimes be assembled that could yield insight into the importance that specific building projects may have held for him or show his impact on the look of a given community.

Generally, the secret to getting the most out of historical source materials is to use them in intelligent combination. My

most fruitful opportunity to do so with lien records came two years ago when I researched the construction of Sloan's house in Hightstown, described above. A search of deeds and mortgages made clear that the property was an empty lot when Sloan bought it in 1855 and that he and his family were occupying the home by the spring of 1857. But details of Sloan's struggle to build the house and then to hold onto it only began to appear once I looked at Mercer County mechanic lien records. In this case, there were no building contracts to look for, because Mercer County has not retained them; even so, in checking the mechanic lien index it turned out there were three claims filed against Sloan for his house and another for a store that John Hammell, a Trenton contractor, built for him in Hightstown in 1855. One claim was from the builder, David B. Dey Jr. of Hightstown, but suppliers made the other two claims, and they gave clues to where some of the material used in the house came from.¹²

After looking at lien claims, a researcher should check the relevant city directories for the names of all the claimants or contractors mentioned. The directories will typically reveal some important things that the lien claims will not—the trades that each person was responsible for or the categories of materials or finish goods that each claimant provided. The Trenton directory not only confirmed Hammell's presence in Trenton, it provided his address and a more specific description

of his business.

Also combine the study of mechanic lien records with contemporary newspapers. Once a mechanic lien claim has been found, a researcher has a "target date" by which to focus a limited newspaper search. Many contractors and suppliers advertised in newspapers, and these advertisements give many useful details about their businesses. In addition, country editors of small-town weeklies, like Jacob Stults of Hightstown's Village Record, were especially proud boosters of their communities, and the local columns of their papers often contained terse entries about buildings just completed, under construction, or about to be begun. When Sloan's house was still under construction, the Village Record reported that the stylishness of the house would set a new standard for its neighborhood.¹³ The tone and content of these entries often give a more intimate perspective than the legalistic lien claims do, even if the claims often carry more architectural description.

Conclusion

For architectural history in New Jersey to advance, it is essential that building contracts and mechanic lien records become routinely consulted. The unfortunate neglect that these records have suffered has been mirrored by their low rate of survival. In the early twentieth century, when New Jersey adopted its first public records management law, setting up a rational procedure to distinguish

between important public records of permanent value that should be placed in archives, and lesser records of short-term value to be destroyed after a period of years, liens and contracts were placed in the latter category, and in the 1920s contracts were among the very first groups of records that some counties destroyed. The county clerks who held the fate of these records in their hands couldn't see a constituency out there for them; by and large, they still don't (the amount of these records that have been destroyed since 1980 is truly disheartening.)

Still, the glass is half full. A large amount remains that is worth working to keep. An

effort will be required to convince several counties to establish county archives and to remove these records from the unsuitable places where some of them are still kept.

Reorganization, removal, and new indexes will be needed to make these records more efficient to use. If in the future, as in some counties today, it will require a phone call, waiting a day for access to the records, and a special trip to the clerk's office, followed by an escorted visit to a remote warehouse, all to find out whether on the off chance a mechanic lien docket or a building contract index may contain one or more useful facts, then these records will never play a meaningful role in writing

the architectural history of New Jersey. But if an appreciation of the existence and breadth of these records becomes widespread, local historians and architectural historians may come increasingly to value them and use them, and we will obtain a clearer picture of how much they can tell us about our built environment.

Notes

¹ Laws of the Commonwealth of Pennsylvania (Philadelphia: 1806), 480, reproduced in "Session Laws of the American States and Territories," Pennsylvania, 1776-1899, fiche 63, copy at New Jersey State Library, Trenton.

² Acts of the 44th General Assembly of the State of New Jersey and Sitting (Trenton, N.J.: 1820), 124, hereafter cited as 1820 act.

³ Cooper Street Historic District National Register of Historic Places nomination, N.J. Historic Preservation Office, Trenton.

⁴ The 1820 act was first extended in 1830 to cover the whole town of Camden. Then in 1835 it was extended to cover Trenton and Nottingham (now Hamilton) Township (in the present Mercer County). In 1836 it was extended to cover all of Hunterdon County. The following year Somerset County was brought in, and so was West Windsor and the City of Paterson. Chesterfield Township in Burlington County was added in 1839, Jersey City, Van Vorst, and Bergen Townships in Hudson County in 1842, Burlington City in 1843, Mount Holly in 1844, the rest of Mercer County in 1845, and Willingborough in Burlington County in 1848. The southern tier was not left out for long: Salem and Cumberland were brought in in 1844 and Cape May County was added in 1849. In 1847 the law was extended to cover Newark, Elizabeth, Rahway, Woodbridge, South Brunswick, and Belleville Townships. For citations to the relevant laws, see Hood's Index to the Laws of the State of New Jersey, N.J., 1903), 692-693.

⁵ 1820 act, 125; Acts of the 71st Legislature (Trenton, N.J., 1847), 57, hereafter cited as 1847 act.

⁶ 1820 act, 125.

⁷ 1847 act, 57-58.

⁸ Acts of the 77th Legislature (Trenton, N.J., 1853), 438-39.

⁹ *Ibid.*, 438-439, 442. The legislature continued to tinker with the law after 1853, but its general provisions have remained in force ever since. An 1860 statute extended the law to include fixtures for manufacturing purposes, even if installed only temporarily. An 1863 act gave mortgages and other prior encumbrances priority over mechanic liens. Recodifications of the law in 1878 and 1898 added no significant new provisions. The first significant changes to the law were made in 1930, with the introduction of new types of records, including mechanic's notice of intention (to be filed before construction began), stop notices, and discharges of mechanic liens.

¹⁰ Contract for additions to Hotel Cristalar, November 24, 1863, Monmouth County Building Contracts, Monmouth County Archives [hereafter MCA], Manalapan Twp.

¹¹ Monmouth County Mechanic Liens, 1887, MCA.

¹² For the full story of Sloan's troubles, see Robert W. Craig, "The Samuel Sloan House," Hightstown-East Windsor Historical Society News March-April 1996, 1-5.

¹³ Village Record September 13, 1856.

