INSIGHTS + NEWS

Leah Rochwarg Quoted in "Appeals Court strictly construes Prompt Payment Act" in Massachusetts Lawyers Weekly

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The Massachusetts Appeals Court has ruled that a construction project owner's failure to reject a contractor's applications for periodic progress payments according to the strict requirements of the state's Prompt Payment Act constituted approval of the requests. The law, which only applies to commercial projects with a base contract value of at least $3 million, seeks to ensure that project owners review and process contractor invoices promptly by mandating that they approve or reject periodic payment requests within 15 days and make payment within 45 days. If an owner fails to provide a proper objection within 60 days, the request is deemed approved. The law requires that objections be in writing; that the owner specify its factual and contractual bases for the rejection; and that the owner certify its reasons as being in good faith.

Leah Rochwarg, who represents project owners, developers and contractors, spoke with *Massachusetts Lawyers Weekly* about the Court's decision in the case [*Tocci Building Corporation v. IRIV Partners, LLC, et al. (and a companion case)]:*

> Leah suggested in light of *Tocci* that parties incorporate the act's detailed requirements directly into a construction contract rather than merely by reference. She said, "Inclusion of the statute's detailed requirements in the contract may facilitate the submission and processing of progress payment applications." She emphasized that even if the act's requirements are not detailed in the contract, compliance is mandatory. Accordingly, she said, "parties would be wise to familiarize themselves with the detailed requirements of the law as well as the contract."

Continue reading "Appeals Court strictly construes Prompt Payment Act" on the *Massachusetts Lawyers Weekly* website (subscription required).

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