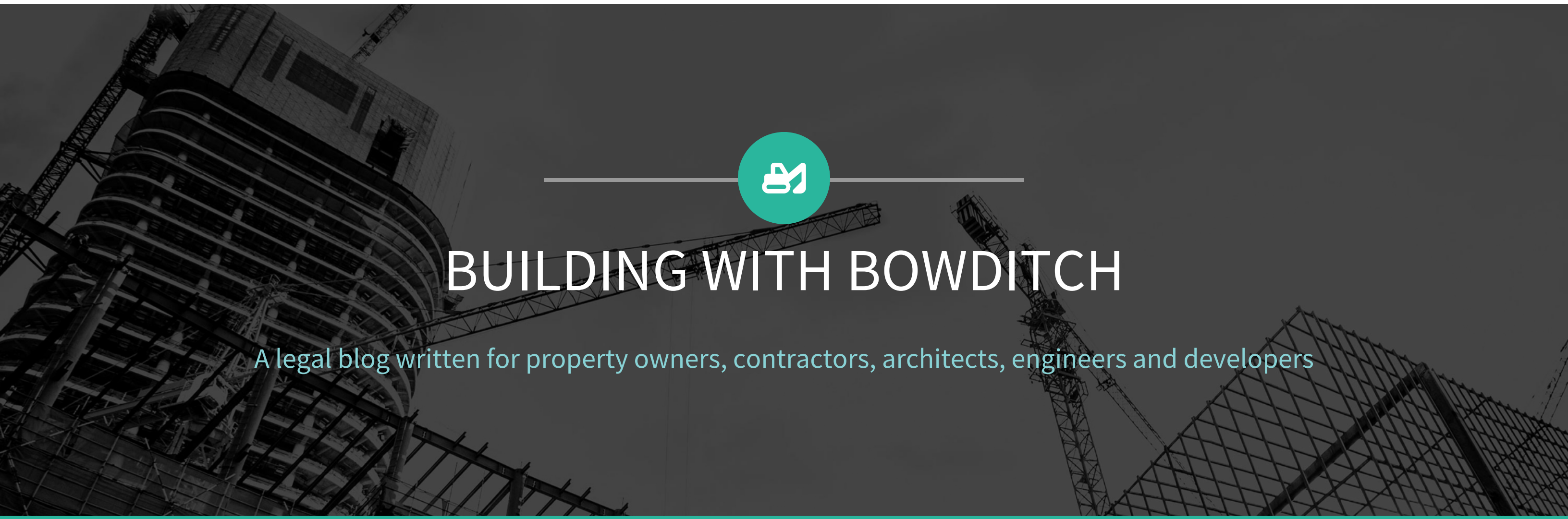

Getting Paid on Massachusetts Public Projects: Do Not Sleep on the Bond

BY M. MATTHEW MADDEN, JR. • JULY 27, 2026

On a private project, unpaid contractors usually think about lien rights. On a public project, the better question may be: where is the payment bond?

Massachusetts public construction projects are different because subcontractors and suppliers generally cannot secure payment by recording a mechanic's lien against public property. To fill that gap, G.L. c. 149, § 29 requires a payment bond on many public construction projects.

The statute applies to public building and public works contracts made on behalf of the Commonwealth, counties, cities, towns, districts, political subdivisions and other public instrumentalities when the contract amount is more than $25,000. The bond must be in an amount not less than one half of the total contract price and is intended to secure payment for covered labor, materials, equipment rentals, transportation charges and certain benefit obligations.

But a bond claim is only useful if the claimant preserves it.

A first-tier subcontractor or supplier with a direct contract with the prime contractor may enforce a payment bond claim if it has not been paid within 65 days after payment is due. The lawsuit must be filed in Superior Court within one year after the claimant last performed the labor or furnished the labor, materials, equipment, appliances or transportation included in the claim.

Lower tier claimants have an extra step. A claimant with a contract with a subcontractor, but no contract with the prime contractor, must give written notice to the contractor principal within 65 days after the claimant last performed the labor or furnished the covered materials or equipment. The notice must state, with substantial accuracy, the amount claimed and the name of the party for whom the work was performed or materials were furnished. The statute also specifies how that notice must be served.

That notice should not be treated as a casual project email. In *N-Tek Construction Services, Inc. v. Hartford Fire Insurance Co.*, 89 Mass. App. Ct. 186 (2016), the Appeals Court held that a lower tier claimant did not give sufficient written notice of its bond claim. The court emphasized that the notice must make clear that the claimant is looking to the general contractor, and potentially the bond, for payment.

A recent federal Miller Act decision makes the same practical point from a different angle. In *United States ex rel. American Civil Construction, LLC v. Hirani Engineering & Land Surveying, P.C.*, 58 F.4th 1250 (D.C. Cir. 2023), followed by No. 24-7020, 2025 WL 88664 (D.C. Cir. Jan. 14, 2025), the court confirmed that a payment bond can provide a meaningful path to recovery separate from ordinary contract remedies. That was a federal case, not a Massachusetts payment bond case, but it is a useful reminder: **do not ignore the bond**.

If you are waiting to be paid on a Massachusetts public project, do not wait until closeout to think about bond rights. Identify the bond, calendar the deadlines, send the right notice to the right party and evaluate your contract and bond remedies early. On public work, the bond may be the difference between an unpaid invoice and a collectible claim.