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Ainealem "Alex" Gidewon and AG Entertainment,
Inc. Order on Motion to Dissolve Claims of Lien

John J. Goger
Fulton County Superior Court

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**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

AINEALEM "ALEX" GIDEWON)	
and AG ENTERTAINMENT, INC.)	
)	
Plaintiffs,)	
)	
v.)	Civil Action File No. 2016CV270971
)	
MICHAEL GIDEWON, 990 BRADY)	
AVENUE, LLC, and RONALD F.)	
JACOBS,)	
)	
Defendants.)	

ORDER ON MOTION TO DISSOLVE CLAIMS OF LIEN

This matter is before the Court on Defendants 990 Brady Avenue, LLC's Motion to Dissolve Claims of Lien. Upon consideration of the briefs submitted the Court finds as follows:

Plaintiff AG Entertainment filed two liens against certain real property at 990 Brady Avenue (the "Property") which is owned by Defendant 990 Brady Avenue, LLC ("990 Brady"). In its Verified Complaint, AG Entertainment claims that 990 Brady has refused to return personal property and/or trade fixtures, including 10-12 speakers (\$2,500 each), 5 chandeliers (\$3,000 each), 20 couches (\$2,000 each), LED lights (valued at \$10,000), 40 club lights (\$600-1,500 each), padded walls (\$11,000), a marble bar top (\$5,000), and a tent (\$25,000). It claims these items were installed at the Property in the VIP area of Compound nightclub in December 2015. The first lien was filed March 28, 2016 for \$50,686.51. The second lien was filed on March 30, 2016 for \$20,493.24. AG Entertainment seeks to foreclose on the liens in this lawsuit filed May 19, 2016.

990 Brady seeks to dissolve these liens on three grounds. First, 990 Brady argues the claim of lien did not occur within 90 days after the completion of the work as required under

O.C.G.A. § 44-14-361.1. 990 Brady asserts, “upon information and belief,” the work that forms the basis of the liens was completed well before December 31, 2016. Conversely, AG Entertainment has provided sworn statements that the liens were filed within 90 days of the furnishing of these materials. Since this issue is disputed, the Court cannot dissolve the liens at this point for untimeliness.

Second, 990 Brady argues that it did not contract with or request AG Entertainment to improve or furnish materials and/or services. By Affidavit, Defendant Michael Gidewon avers that he “was responsible for contracting for the installation of the property and fixtures into the building, not 990 Brady Avenue, LLC.” Regardless, AG Entertainment argues that it is allowed to file a materialmen’s lien on the Property under O.C.G.A. § 44-14-361, *et seq.* because the materials and fixtures provided by AG Entertainment were used to improve the Property. Under this statute, “All contractors, all subcontractors and all materialmen furnishing material to subcontractors, and all laborers furnishing labor to subcontractors, materialmen, and persons furnishing material for the improvement of real estate” have a special lien on the real estate or property for which they furnish materials “if [materials] are furnished at the instance of the owner, contractor, or some other person acting for the owner or contractor.” O.C.G.A. § 44-14-361(b). Georgia Courts have recognized that “there is usually no contract between the owner and supplier.” *Roofing Supply of Atlanta, Inc. v. Forrest Homes, Inc.*, 279 Ga. App. 504, 506 (2006). “Instead, a materialman's lien effectively permits the transfer of liability from the person who actually contracted with the materialman for materials to be used in improving real estate to the owner of the improved property.” *Id.* Therefore, the lack of contract between AG Entertainment and 990 Brady is not a sufficient basis to dissolve the liens.

Finally, 990 Brady argues that AG Entertainment itself admits that Defendant Michael Gidewon (“Gidewon”) may have relocated the personal property and/or trade fixtures at issue to another club. 990 Brady relies on AG Entertainment’s assertions in pleadings made “upon information and belief” that the personal property and/or trade fixtures were relocated to another club owned and operated by Gidewon. In his Affidavit, Gidewon avers that the personal property and/or trade fixtures are “no longer with the “VIP” area of Compound nightclub and has been moved offsite.” In response, AG Entertainment insists that it should be allowed discovery as to when and what portions of the property and fixtures were removed from the Property. Discovery closes September 6, 2016 and there are several motions to compel pending. The Court agrees that discovery should be concluded to resolve this disputed fact.

As such, the Motion to Dissolve Claims of Lien is **DENIED**. 990 Brady may renew its Motion at the close of discovery.

SO ORDERED this 16 day of August, 2016.



JUDGE JOHN J. GOGER
Superior Court of Fulton County
Atlanta Judicial Circuit

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