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~~FILED~~  
~~ENDORSED~~

02 APR 23 AM 11:15

LEGAL PROCESS #11

7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SACRAMENTO

10 MJB BIXBY CONSTRUCTION, INC. )

CASE NO. 02AS02430

11 Plaintiff, )

COMPLAINT FOR FORECLOSURE OF  
MECHANIC'S LIEN; BREACH OF  
CONTRACT

12 vs. )

13 RAPHAEL M. LEE, SUSAN C. YEE,  
and DOES 1 through 100, inclusive, )

UNLIMITED CIVIL OVER \$100,000

14 Defendants. )  
15

16 COMES NOW Plaintiff MJB BIXBY CONSTRUCTION. INC., and alleges as follows:

17 **FIRST CAUSE OF ACTION**

18 1. Plaintiff at all times herein mentioned is and was a contractor doing business in the State of  
19 California and duly licensed to act as a contractor under the laws of the State of California to perform  
20 all works of improvement described hereinafter which were performed by Plaintiff.

21 2. Defendants RAPHAEL M. YEE and SUSAN C. YEE (hereinafter referred to as "Yee") at all  
22 times herein mentioned were the owners or reputed owners of that certain property located in the County  
23 of Sacramento, State of California, and more particularly described in Plaintiff's claim of lien, a copy  
24 of which is attached as Exhibit A hereto and incorporated herein by this reference. Said property is  
25 hereinafter referred to as the "Real Property."

26 3. Plaintiff is unaware of the true names and identities of Defendants DOES 1 through 100  
27 inclusive, and has sued said DOE defendants by such fictitious names. Plaintiff is informed and believes  
28 and thereon alleges that each of said Defendants claims an interest in the Real Property which is the

1 subject of this action. Plaintiff will seek leave to amend this Complaint to assert the true names and  
2 identities of said DOE defendants at such time as those identities have been discovered.

3 4. Plaintiff is informed and believes and thereon alleges that each of said DOE defendants is and  
4 at all times herein was the agent, servant, master, or principal of each and every other Defendant named  
5 herein and is liable to Plaintiff for the damages sustained by Plaintiff either directly or indirectly,  
6 vicariously or otherwise.

7 5. On or about October 10, 2001, Plaintiff and Defendants Yee entered into a written contract  
8 (attached hereto as Exhibit B and incorporated herein) for the construction of certain works of  
9 improvement to be located on the Real Property described herein and to furnish and provide all necessary  
10 labor and materials therefor in connection therewith, and to do all things in accordance with the terms  
11 and conditions of said contract. Each of said Defendants agreed to pay to Plaintiff the sum of the  
12 contract price together with such additional sums as may be subsequently agreed either orally or in  
13 writing in accordance with the terms of the contract.

14 6. From and after the execution of the contract as described hereinabove, Plaintiff furnished and  
15 supplied to the Real Property labor and materials used in the work of improvement constructed thereon  
16 in accordance with the terms and conditions of the contract pursuant to the request of Defendants Yee.  
17 There is presently due, owing and unpaid pursuant to the contract, a sum of more than One Hundred  
18 Four Thousand dollars (\$104,000), of which sum Ninety-Five Thousand Five Hundred and 51/100  
19 dollars (\$95,500.51) represents the fair and reasonable value of the work and materials performed and  
20 supplied by Plaintiff to the Real Property and the balance of which represents storage charges incurred  
21 by Defendants after all due credits for payments made, credits, offsets, and adjustments together with  
22 interest thereon at the legal rate of ten percent (10%) per annum from and after February 14, 2002.

23 7. On February 14, 2002, Plaintiff recorded with the County Recorder of Sacramento, the county  
24 in which the Real Property is situated, Plaintiff's verified Claim of Mechanic's Lien, a copy of which is  
25 attached hereto as Exhibit A. Prior to the recording of said lien, thirty (30) days had not elapsed or  
26 expired since the recordation of a valid Notice of Completion nor had ninety (90) days elapsed since the  
27 completion of the work of improvement on the Real Property, together with interest thereon at the legal  
28 rate of ten percent (10%) per annum from and after February 14, 2002.

1 8. Plaintiff's contract with Defendants Yee provides for the recovery of all reasonable attorneys'  
2 fees incurred in the enforcement of Plaintiff's contract; and therefore, Plaintiff is entitled to recover, in  
3 addition to all sums set forth hereinabove, Plaintiff's reasonable attorneys' fees incurred herein.

4 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

5 1. Against Defendants Yee in the amount of more than One Hundred Four Thousand dollars  
6 (\$104,000) together with interest thereon at the rate of ten percent (10%) per annum from and after  
7 February 14, 2002;

8 2. For costs of suit incurred herein;

9 3. For judgment as against all Defendants that Ninety-Five Thousand Five Hundred and 51/100  
10 dollars (\$95,500.51) be adjudged to be a lien on the Real Property described in Exhibit A hereto and that  
11 said land be adjudged and decreed to be sold by the Sheriff of the County of Sacramento, State of  
12 California, in accordance with the laws and practices of this Court, and that the proceeds of sale be  
13 applied to satisfy the costs of sale, the costs of these proceedings, and Plaintiff's claim and judgment;

14 4. That the interests and claims and the estates of all Defendants named herein, and each of  
15 them, be determined to be of inferior priority to that of Plaintiff and subject to Plaintiff's lien. That the  
16 Court further order that the Plaintiff, or any party to this action may become a purchaser at sale;

17 5. For such further relief as the Court may deem just and proper.

18  
19 DATED: April 19, 2002

**MOYER, PARSHALL & TWEEDY, LLP**

20  
21 By: \_\_\_\_\_

**CHARLES A. TWEEDY**  
**Attorneys for Plaintiff**  
**MJB Bixby Construction, Inc.**

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

MJB/Bixby Construction, Inc.  
1513 18<sup>th</sup> Street  
Sacramento, CA 95814

Sacramento County Recording  
Mark Norris, Clerk/Recorder  
BOOK 20020214 PAGE 1900  
Thursday, FEB 14, 2002 1:57:20 PM  
Ttl Pd \$23.00 Nbr-0001088843  
DLE/07/1-1

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**STATE OF CALIFORNIA MECHANIC'S LIEN**  
(Claim of Lien)



The undersigned, MJB/Bixby Construction, Inc. CSCL# 571821, referred to in this Claim of Lien as the Claimant, (FULL NAME OF PERSON OR FIRM CLAIMING MECHANIC'S LIEN) claims a mechanic's lien for the labor, services, equipment and/or materials described below, furnished for a work of improvement upon that certain real property located in the County of Sacramento, State of California, and described as follows: 8500 Rapozo Court, Antelope, California 95843

(DESCRIPTION OF PROPERTY WHERE THE WORK AND/OR MATERIALS WERE FURNISHED. ALTHOUGH THE STREET ADDRESS ALONE IS SUFFICIENT, IT IS RECOMMENDED TO GIVE BOTH THE STREET ADDRESS AND LEGAL DESCRIPTION.)

After deducting all just credits and offsets, the sum of \$ 95,500.51, (AMOUNT OF CLAIM DUE AND UNPAID) together with interest thereon at the rate of 10% per cent per annum from December 7, 2001, (DATE WHEN AMOUNT OF CLAIM BECAME DUE) is due claimant for the following labor, services, equipment and/or materials furnished by

Claimant: Owner owes these monies for work performed. A secondary lien will be placed for all additional cost incurred per contract. (GENERAL DESCRIPTION OF THE WORK AND/OR MATERIALS FURNISHED)

The name of the person or company by whom Claimant was employed, or to whom Claimant furnished the labor, services, equipment and/or materials is Ray<sup>Yee</sup> and Susan Yee, a married couple

(USUALLY NAME OF PERSON OR FIRM WHO ORDERED FROM, OR CONTRACTED WITH, CLAIMANT FOR THE WORK AND/OR MATERIALS)  
The name(s) and address(es) of the owner(s) or reputed owner(s) of the real property is/are: Ray<sup>Yee</sup> and Susan Yee, a married couple residing at 8500 Rapozo Court, Antelope, California 95843  
(THIS INFORMATION CAN BE OBTAINED FROM THE COUNTY ASSESSOR'S OFFICE WHERE THE REAL PROPERTY IS LOCATED)

**SEE REVERSE SIDE FOR ADDITIONAL INSTRUCTIONS**

Name of Claimant MJB/Bixby Construction, Inc.  
By President, Mark Bixby

**VERIFICATION**

I, the undersigned, declare: I am the President of MJB/Bixby Construction, Inc. (TITLE) (NAME OF CLAIMANT) the Claimant named in the foregoing claim of mechanic's lien; I am authorized to make this verification for the Claimant; I have read the foregoing claim of mechanic's lien and know the contents thereof, and the same is true to my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
February 14, 2002 (DATE OF SIGNATURE) (SIGNATURE OF THE INDIVIDUAL WHO VERIFIES THAT THE CONTENTS OF THE CLAIM OF MECHANIC'S LIEN ARE TRUE)

**EXHIBIT** 16