

GREENVILLE, S.C.

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DONNIE S. TANKERSLEY
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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Precision Boring and Tunneling
Company, Inc.,)

Plaintiff,)

vs.)

The Western Carolina Regional
Sewer Authority and Nalews, Inc.,)

Defendants.)

ORDER

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This matter is before the Court upon Motion of Western Carolina Regional Sewer Authority and Nalews, Inc. to dissolve a mechanics lien filed by Precision Boring and Tunneling Company, Inc. It appears that Nalews, Inc. is the general contractor for the construction of a waste treatment facility for the sewer authority upon its property in Greenville County. Precision Boring and Tunneling Company is a subcontractor of Nalews, Inc. and has filed a lien to secure payment of sums allegedly due under its subcontract.

The defendants contend that the sewer authority is a political subdivision of the state and that under the holding in Atlantic Coast Lumber Corporation v. Morrison, 152 S.C. 305, 149 S.E. 243, a public building or facility cannot be subjected to a mechanics lien.

The plaintiff, on the other hand, submits that where the lien is filed by a subcontractor, Section 29-5-40 of the 1976 Code of Laws limits the liability of the owner to the amount owed by him to the general contractor. The plaintiff, therefore, contends that it is entitled to a lien upon the balance of the contract fund held by the sewer authority.

It is clearly the law in this state that a mechanics lien cannot be filed against a public project. In the Atlantic Coast Lumber case, supra, the plaintiff, a materialman, sought foreclosure of a mechanics lien filed against a building owned by the McClellanville School District.

The Court stated:

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