STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

CHRISTOPHER THOMAS
CONSTRUCTION, LLC,

Plaintiff,

vs. Case No. 2015-2588-CB

JSR FUNDING, LLC, CHRISTIE
EAGLE, CHAD ANDERSON, and
MICHIGAN SCHOOLS AND
GOVERNMENT CREDIT UNION,

Defendants.
_____/

OPINION AND ORDER

Defendant JSR Funding, LLC ("JSR") has filed a motion for reconsideration of the Court's January 15, 2016 Opinion and Order denying its motion for summary disposition without prejudice.

In the interests of judicial economy the factual and procedural statements set forth in the Court's January 15, 2016 Opinion and Order are herein incorporated.

I. Standard of Review

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. Id. The grant or denial of a

motion for reconsideration is a matter within the discretion of the trial court. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

II. Arguments and Analysis

In its motion, JSR contends that the Court improperly applied the substantial compliance doctrine. First, JSR takes issue with the Court's finding that the second element of the doctrine weighed in Plaintiff's favor. Specifically, JSR argues that Plaintiff did not readily secure a renewed RBCL where it took Plaintiff until September 22, 2015 for Plaintiff's RBCL to become reinstated.

With respect to the second element, the Court looks to whether the contractor renewed its license after completion of performance. *Latipac, Inc v Superior Court of Marin County*, 64 Cal2d 278, 283; 411 P2d 564 (1966). The Court in *Latipac* noted that a subsequent renewal "lends confirmation to plaintiff's continuing competence and responsibility during the period of performance." In this case, it is undisputed that Plaintiff and Mr. Stroud subsequently had their licenses reinstated. Moreover, JSR has not presented any evidence that Plaintiff or Mr. Stoud's fitness fluctuated between the date the licenses expired and the date that they were reinstated. Moreover, while the Court notes that it took an extended period of time for Plaintiff to have it RBCL reinstated, its office manager has presented uncontested testimony that Plaintiff was continuously working with LARA to get the RBCL license reinstated as quickly as possible. (See Plaintiff's Exhibit F.) The Court remains convinced that the evidence weighs in favor of a finding of substantial compliance. Thus, Defendants having submitted sufficient evidence to raise a question of fact as to the second element (as well as the third element) of the doctrine of substantial compliance, JSR's motion for

summary disposition was and is properly denied. Consequently, JSR's request for reconsideration is without merit.

JSR also contends that because Plaintiff's RBCL and Mr. Stoud's RBL were suspended at the time the liens in question in this case were filed, the liens must be discharged. However, the Michigan Court of Appeals in *Mich Roofing & Sheet Metal v Duffy Rd Props*, 90 Mich App 732; 282 NW2d 809 (1979) has held that the substantial compliance doctrine can operate to allow maintenance of an action to foreclose on a lien.[1] In this case, the Court has held that the substantial compliance doctrine could potentially allow Plaintiff to proceed on its claims. As a result, the Court is also convinced that Plaintiff could continue on its lien-based claim if the substantial compliance doctrine test is satisfied in this case. As a result, JSR's positon is without merit.

III. Conclusion

For the reasons discussed above, Defendant JSR Funding, LLC's motion for reconsideration of the Court's January 15, 2016 Opinion and Order is DENIED. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last claim nor closes the case.

IT IS SO ORDERED.

Date: MAR 01 2016

Kathryn A. Viviano

Hon. Kathryn A. Viviano, Circuit Court Judge

[1] Vacated and remanded by 409 Mich 887, 295 NW2d 230 (1980); however, the substantial compliance doctrine and holding that lien could be maintain under the doctrine was reaffirmed on remand 100 Mich App 577, 581; 298. NW2d 923 (1980).