

# BUILDING REVIEW

Lee Building Industry Association

www.bia.net

May 2007

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## BIA news

**May 22<sup>nd</sup>**  
**General Membership Meeting**  
Hosted by: Stevens Industries  
\$5 per person  
5:00 pm – 7:00 pm  
BBQ, Beer, Wine & Prizes!

**June 14<sup>th</sup>**  
**CCCIA/Lee BIA Joint Membership Meeting**  
5:00 pm – 8:00 pm  
Crown Plaza, Fort Myers:  
Bell Tower Shops  
\$25 members / \$30 non-members

**June 28<sup>th</sup>**  
**Commercial Contractors Council Meeting**  
5:30 pm – 7:30 pm  
Pelican Preserve –  
Magnolia Room  
\$25 members / \$30 non-members

**July 24<sup>th</sup>**  
**BIA Bistro Bash**  
5:30 pm – 7:30 pm  
Bistro 41 – Bell Tower Shops  
\$25 per person



## Pinnacle Pride



*Congratulations to Stock Development for another big win at the Pinnacle Awards. The development group walked away with 14 awards, including the News-Press Grand Award. Please see center spread for more photos and a complete list of winners.*

## LCEC announces fee changes in 2007

Not-for-profit electric distribution cooperative, LCEC faces many unique challenges. One of its biggest obstacles is the time and labor intensive task of delivering electric service to a rapidly growing customer base throughout an expansive, and sometimes rural, service area. In other ways, however, LCEC's challenges are similar to many other businesses, such as the challenge of providing quality service at competitive

prices while maintaining fiscal responsibility. To ensure that LCEC is meeting this challenge, the organization engaged an independent consultant to evaluate and perform a comparative study of fees and charges assessed by other electric utilities in the state of Florida. Data was collected from 11 electric distribution cooperatives, four investor-owned utilities and five municipal electric systems in Florida. Utilizing the results

from the study, an internal task force formulated a new fee structure, and it was recently approved by the LCEC Board of Trustees. The new fee structure more accurately reflects the cost of providing services to individual customers and eliminates the need to subsidize the cost across the customer base. The fee changes went into effect on January 1, 2007, and impact services

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## RECORDING A LIEN IS EASY, RIGHT?: How to Ensure Your Lien Holds Up in Court

*By Edward C. Lohrer*

Recording a statutory construction lien in Florida is not an incredibly exciting experience. To be sure, Florida's lien law is complex and not to be taken lightly, but with enough time, research and the occasional bit of sound advice, the average citizen can usually muster enough effort to record a valid lien. As always, when dealing with any aspect of the lien law the best approach is to consult a knowledgeable attorney. Nonetheless, many lienors choose to prepare and record their liens in-house, and over time become quite proficient at it. What many lienors lose sight of is that preparing and recording a lien is merely one step out of many; there are numerous things that can go awry between the recording of the lien and the filing of a foreclosure suit to enforce the lien. Most of these things are preventable, and by paying special attention to a few key procedural requirements, lienors can help ensure their lien will hold up when it is attacked in court.

One simple step lienors often overlook after recording a lien is the necessity of serving a copy of the claim of lien on the owner within fifteen (15) days of recording the lien. This is purely a procedural requirement and failure to comply with it is not a complete defense to a claim of lien, as the owner will have to show he suffered an adverse affect as a result. At the very least however, it can complicate matters and can exaggerate the cost and

time it takes to enforce the lien, and at worst the lien can be declared invalid. Another step that is easily ignored is the preparation of a Final Contractor's Affidavit (this step only applies to a contractor under direct contract with the owner). This must be served on the owner at least five (5) days before filing suit to enforce the lien. Failure to give an owner a Final Contractor's Affidavit is a complete defense to a claim of lien. In other words, any efforts to enforce a claim of lien are useless if this Affidavit has not been timely served.

One of the most common reasons lienors lose their lien rights is because they fail to respond to proactive steps taken by the property owner after a lien is recorded. Normally a claim of lien is valid for one year, however there are several tactics property owners can use to reduce this time period. The most common thing a lienor will likely see is a Notice of Contest of Lien, which shortens the time period for enforcing the lien from one year to sixty (60) days. A lien will become invalid if a lawsuit to enforce the lien is not filed within sixty (60) days of the clerk certifying that a copy of the Notice has been sent to the lienor. Another common tactic used by property owners is to serve a Request for Sworn Statement of Account on the lienor. This action requires the lienor to furnish certain information, in the form of an affidavit, to the owner within thirty (30) days. Failure to respond to the Request

will generally result in a loss of all lien rights.

There are other methods used to require the lienor to take some action or risk the loss of lien rights, but the point is that a lienor cannot record a lien and then sit by passively as things occur around him. A lienor should immediately contact an attorney after receiving documents or notices regarding a recorded lien. Failure to take action will likely result in a complete loss of lien rights, leaving the lienor at a severe disadvantage in trying to collect money owed.

*Edward C. Lohrer joined the Cape Coral office of Pawese Law Firm in 2005.*

*His primary areas of practice include commercial and general civil litigation, with a specialization in construction law. He also practices in corporate and real estate law.*

## Mark Your Calendars!

**Bistro Bash will be here before you know it.**  
**Tuesday, July 24<sup>th</sup>**  
**5:30 pm – 7:30 pm**  
**\$25 per person**  
**Bistro 41,**  
**Bell Tower Shops**