

SPIKE REPORT

Bold names indicate recent activity.

Statesman (500 – 999 credits)

Frank Jenkins 908
Darin McMurray 801

Super Spike (250 – 499 credits)

Michael Dannenhauer 476
Jack Engel 362
 Richard Durling 313
Scott Gregory 293
 Dan Dannenhauer 266

Royal Spike (150 - 249 credits)

Fred Sylvester 240
Joseph Brickner 238
 Butch Ritter 226
Jason Williams 221
 Bobby Lyons 193
 Mark Stichter 188
 Sal Recca 161
Steve Dannenhauer 161

Red Spike (100 – 149 credits)

Mike Hoyt 148
Jackie Zeh 136
Dennis Cantwell 131
 Tom Smith 118
 Eric Renz 115
 Mark Penfield 113

Green Spike (50 – 99 credits)

Anne Prince Halpern 71
 Jeffrey Seitz 67
 Wyman Stokes 61
 Joe Catanzariti 58
 Randall Vann 50

Life Spike (25 – 49 credits)

Jay Coughlin 47
 Matt Bevins 45
 Gary Aubuchon 38
 Ken Kingon 36
 Dorothy Bevington 34
 Randy Thibaut 31
 James Carraher 30
 Reed Herndon 29
 Bud Hornbeck, Sr. 29
 Jerald L. Wallace 28

Blue Spike (6 – 24 credits)

David Cobb 23
 Stephanie Hughes 20
 Phil Gaylor 19
 Tim Shaw 17
 Jerry Corzine 16
 Ken Torrens 15

Jenny Malone 15 KC Lodispoto 15

Brian Farrar 14
 Mark Wiles 14
 Jeff Porzig 11

Paul Copeland 10

Bob Ryan 10
 Chris Wilson 9
 Lynn Novak 9
 Mark Stevens 8

Steve Richards 8

Chad Miller 8
 Antonio Domingues 8
 Robert Young 7

As of February 23, 2007

STARTING OUT ON THE RIGHT FOOT:

Understanding the Purpose and Procedure of the Notice to Owner

By Edward C. Lohrer, Pavese Law Firm / Cape Coral Office

Florida's construction lien statutes were designed with many different purposes in mind. Perhaps one of the most important purposes, at least from a construction industry standpoint, is to prevent the unjust enrichment of homeowners at the expense of sub-contractors, suppliers, etc. The construction lien bestows a security upon the lienor for a debt incurred in providing a product or labor that cannot be retained to secure payment. As with almost any system, the lien law is subject to abuse, and the legislature has attempted to limit such abuse by providing numerous substantive and procedural safeguards for property owners.

The purpose of the Notice to Owner is to inform a property owner that potential lienors exist who are making improvements to the property, who do not have a contract with the owner and who may ultimately look to the owner to ensure payment by making a claim against the owner's property. The Notice protects the owner in several ways, most notably by allowing him to withhold money from the general contractor until potential lienors are paid. In order to establish and maintain a valid construction lien, a Notice to Owner is a mandatory procedural requirement for any lienor not in privity with the owner or the owner's agent. The Notice must be served no later than forty-five (45) days from the first furnishing of materials or labor to the property or prior to the final payment being made in reliance on a final contractor's affidavit, whichever occurs first. Service of a Notice to Owner is a preliminary step that must be taken to preserve the right to claim a valid future lien. The failure to serve a Notice to Owner within the specified period of time is a complete defense to a lien, as is the failure to include the statutorily prescribed warnings in the Notice.

In other words, the failure to timely serve a Notice to Owner or failure to include the appropriate language in the Notice will likely result in the loss of lien rights and any subsequent lien recorded against the subject property will be invalid, and possibly fraudulent.

It is very important to serve the Notice to Owner as soon as practical after work has begun. A concern among smaller sub-contractors or suppliers is that serving a Notice to Owner may anger the general contractor and prevent them from obtaining future work. While this is a valid concern, potential lienors should be aware that the ability to serve a Notice to Owner is a statutory right, and it is illegal for any contractor to attempt to coerce a lienor into not availing themselves of this right. Like many sub-contractors, most property owners do not understand the purpose of the Notice to Owner. While not a requirement, the owner should be made aware that service of a Notice is only a preliminary step in claiming a lien and is in reality protecting the owner by allowing them to ensure the potential lienor is paid before the need to record a lien arises.

It is important to remember that, like all Florida Statutes dealing with construction liens, the statutes are complex. There are many statutory provisions and requirements dealing with the Notice to Owner that are outside the scope of this article. This article was designed to give potential lienors a basic awareness of the Notice to Owner so that initial steps may be taken to preserve future lien rights. An attorney with experience in the area of construction law should always be consulted to help ensure all statutory requirements are followed and to maximize the chances of preserving future lien rights.

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