

## **Stop Notices**

1. **What they are** – A stop notice is a written notice that “freezes” the flow of money from an owner to the original contractor, or from a construction lender to an owner
  - a. Applies only to private projects – Stop notices cannot issue on public projects or owner-occupied dwellings as defined at A.R.S. § 33-1002 (A.R.S. § 33-1053)
  - b. Monies withheld by owner (or by lender) must be sufficient to “answer that claim.” Presumably, this means an amount equal to the amount claimed plus anticipated expenses, such as legal fees (§§ 33-1057/1058)
  - c. Unlike liens, stop notices are “not invalid by reason of any defect in form if it is sufficient to substantially inform the owner of the information required” (§ 33-1052)
2. **Who can Issue**
  - a. “Any person entitled to record a claim of lien” – other than the original contractor – may issue a stop notice against the owner (A.R.S. § 33-1054)
  - b. Original contractors may only issue a stop notice against the lender (§ 33-1055)
  - c. Lenders can ignore unless a “bonded stop notice” for 150% of claim (33-1051/1058)
3. **Contents** - Stop notice must be signed and verified by the claimant or its agent and state in general terms all of the following (A.R.S. § 33-1051):
  - (a) **Description** of labor, professional services, materials, machinery, fixtures or tools furnished or agreed to be furnished by the claimant;
  - (b) **Name** of person to or for whom the labor, professional services, materials, machinery, fixtures or tools were furnished;
  - (c) **\$ Amount** for labor, professional services, materials, machinery, fixtures or tools **already furnished** and the total amount agreed **to be furnished**;
  - (d) **Amount**, if any, of payment **received** by the claimant for the labor, professional services, materials, machinery, fixtures or tools furnished or agreed to be furnished; and,
  - (e) **Name** and address of claimant.
4. **Demand for Stop Notice** – Owners and lenders can make a written demand for service of stop notices (§ 33-1054/1055)
  - a. Failure to serve stop notice within 30 days after demand forfeits stop notice rights
  - b. Demand for service of stop notice must be by registered or certified mail and must state in largest type: “Demand for service of stop notice pursuant to A.R.S. § 33-1054/1055”
5. **Service** – Personal service or certified mail to owner or lender. Service must occur “before the expiration of the time within which to record a claim of lien” (§ 33-1056)
6. **Deadline to File Suit** – “An action against the owner or construction lender . . . may be commenced at any time after ten days from the date of the service of the stop notice [but] not later than three months after the expiration of the period within which claims of lien shall be recorded . . . .” (§ 33-1063)
  - a. “Notice of commencement” must be served within five days after filing (33-1063(B))
  - b. Unlike lien foreclosure actions, the prevailing party in a stop notice action “shall” be awarded reasonable attorney fees