



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Mike Monroney  
Aeronautical Center

P.O. Box 25082  
Oklahoma City, Oklahoma 73125

November 3, 1992

David C. Johnston, Jr.  
Pierce Couch Hendrickson & Baysinger  
P. O. Box 26350  
Oklahoma City, Oklahoma 73126

Dear Mr. Johnston:

Downtown Airpark, Inc.

We have received your October 21, 1992, request for opinion together with attachments. After review of the Federal Aviation Act of 1958 (the "Act"), pertinent FAA Regulations, Title 42 Oklahoma Statutes § 91 et seq, and pertinent case law we conclude that the Aircraft Registry, Conveyance Examiner properly declined recording the claim of possessory lien executed by Downtown Airpark, Inc., against aircraft N801EB as presented to the FAA on September 30, 1992.

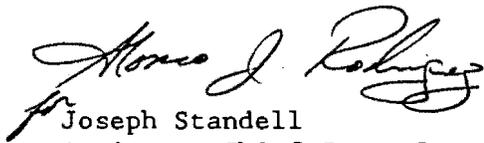
The FAA has consistently interpreted the Act to allow for the perfection of certain non-consensual lien interests by filing and recordation with the FAA. Federal Register, Vol. 46, No. 242, Page 61528, as supplemented by Federal Register, Vol. 49, No. 79, Page 17111. However, the FAA generally accepts lien statements for recordation only from those states which, in turn, have "notice" statutes providing for the filing or recordation of such liens. The pertinent general guidelines for the FAA recordation of these non-consensual liens are:

- the work must have been performed in a state which provides for the perfection of a lien against personal property by the filing or recordation of a repairman's lien at a governmental office (e.g., county clerk or Secretary of State);
- the repairman's lien statement must be filed at the FAA within the time limits prescribed by state law or the lien document which is filed at the FAA must contain a "filed" or "recorded" stamp by the appropriate local governmental office indicating that the lien document was timely filed at the local level; (§§ 49.11, 49.13, 49.17 and 49.31 of the FAA Regulations; also see FAA Examination Guidelines, Chapter 4, Section 5 (1984) ("FAA Guidelines").

The validity, priority and enforceability of a "special lien" or a "possessory lien" together with its perfection, notice and foreclosure do not appear to be dependent upon timely filing, but rather upon possession and compliance with other specific statutory procedures. Our review discloses that there appear to be no provisions for local government filing or recordation of a § 91, possessory lien per se. The FAA generally accepts for recordation a lien

statement representing a lien against aircraft, whether possessory or non-possessory, only if work was performed in a state which has a statutory scheme providing for the timely filing or recordation of such lien statement at a local government office. Because there appear to be no such filing requirements for a possessory lien in Oklahoma, it is our opinion that the FAA Conveyance Examiner properly declined recordation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Standell".

Joseph Standell  
Assistant Chief Counsel  
Aeronautical Center