

[Resource](#) > [Client information notes](#)

What are an architect's moral rights?

Last edited 21 December 2011

A new Moral Rights Amendment to the Copyright Act protects the moral rights of artists, including architects. It is designed to protect their reputation, and the integrity of their work.

An architect has the right to be attributed as the designer of a project when it is constructed, and when the work is publicised or represented in print. They also have the right to be informed if their project is to be altered or demolished. Any alteration or demolition of a structure may, therefore, amount to derogatory conduct. If derogatory conduct is established the architect can require that their name no longer be associated with the project. This can significantly affect the value of a project designed by a well-known architect.

The Act does allow architects to consent to acts that infringe their moral rights.

Obligations of owners

This advice is intended to assist clients in understanding their obligations under the Copyright Amendment (Moral Rights) Act 2000 and to advise them of how the act may affect their project.

Background

The Copyright Amendment (Moral Rights) Act 2000 expressly protects moral rights instead of economic interests. These rights are personal to the authors of a work, are designed to protect the author's honour and reputation, and cannot be assigned or licensed. Moral rights are additional to the economic rights already provided for in the Copyright Act 1968. Only individuals, not corporate bodies, have moral rights.

The crucial date is 21 December 2000. From that date forward architects, and others, gained three rights:

- the right of attribution of authorship
- the right to take action against false attribution of authorship
- the right of integrity of authorship

The first two rights – ie the right of attribution and the right not to have authorship falsely attributed – subsist in works made before the commencement of the Copyright Amendment (Moral Rights) Act 2000 but actions can only be brought for infringements that occur after its commencement.

Architectural drawings, models of buildings and the completed building are each 'artistic works' as defined and are covered by these new provisions.

Right of attribution

The right of attribution requires that the architect and any others who have made an important contribution to the design of a project be identified. Usually the architect will advise what form of attribution is appropriate and who should be included in the attribution.

The forms of attribution that could be used include:

- a plaque or permanent sign somewhere on the project
- acknowledgement whenever the project is 'reproduced, published, exhibited or communicated to the public' – this would include publication in a newspaper, a marketing brochure or being featured in a book or magazine

You are not required to identify the architect if they agree that attribution is not necessary or if it was not 'reasonable in all the circumstances' to identify the architect. An agreement with an architect not to attribute their contribution to a project must be in writing.

False attribution

It is false attribution to identify a person as the architect if he or she is not the architect responsible for the design of the project. In most cases the architect will advise who should and should not be attributed.

Right of integrity

The provisions that deal with the right of integrity protect an architect from damage to their reputation if a project that they designed is subjected to 'derogatory treatment'.

'Derogatory treatment' is defined as a material distortion or alteration, a mutilation, or anything else that is prejudicial to the honour and reputation of the author.

If a project involves alterations or additions, the original architect must be notified. The notification must give the original designer three weeks to decide if they wish to:

- make a record of the building before alteration or demolition
- consult 'in good faith' about the alterations or demolition

If the original architect does not respond to the notice within the three-week period you may proceed immediately with the proposed alterations or demolition.

If the original architect advises you within the initial three-week period that they wish to make a record of the building or consult regarding the proposed alterations or demolition, you must allow a further period of three weeks for making the record and/or conducting the consultation.

Locating original designer(s)

If a project involves alteration to or demolition of an existing building the architect should be able to assist you to identify and locate the original designer so that he or she can be notified of your intentions.

It is advisable that the process of notification to the original designer should take place well before the time required for the notification becomes critical to the project program.

If the original designer cannot be identified or found, you should seek legal advice about your obligations.

Making a record before change, relocation or demolition

If the original designer wishes to make a record of the project before the alterations or demolition take place they are required to complete this process within the second three-week period.

Consulting original designer

If the original designer requests that consultations regarding the alterations to or demolition of the building is undertaken, these should also be completed within the second three-week period.

While the act states that these consultations should be undertaken 'in good faith' there is no legal obligation on you to incorporate any ideas or suggestions the original architect may make during the consultations. Clearly, however, it is in the best interests of the profession and of architecture in general, for the views of the original designer to be taken into account, where possible, in the design of the proposed alterations or demolition.

Published by the Australian Institute of Architects, Knowledge Services, Level 3, 60 Collins Street, Melbourne, Vic. 3000. Telephone 03 8620 3877, Facsimile 03 8620 3864.

This document is issued by the AIA for general guidance only. It does not provide legal, insurance, or other advice able to be relied on in specific circumstances. No responsibility for its accuracy or currency is accepted by the AIA, its office bearers, members, staff, or by its author(s).

