



City of San Ramon COPYRIGHT RELEASE FORM

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City of San Ramon COPYRIGHT RELEASE FORM (CONT.) FREQUENTLY ASK QUESTIONS

The City of San Ramon maintains a laserfiche/microfiche record of approved architectural drawings as a reference. The architectural drawings are available for review; however copyright law protects the duplication of these drawings without the owner's consent.

Q: What is a copyright?

A: Copyright is a form of protection provided by federal law to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works; including architectural works. This protection is available to both published and unpublished works. Copyright protection affords the creator the right to control the display, publication, reproduction and creation of derivative works.

Q: Why is the City treating architectural works (plans and drawings) differently than other types of documentation?

A: While many types of work may be eligible for copyright protection, architectural works are given specific protection under U.S. Copyright law. (An architectural work is "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.")

Q: Why is the City saying architectural plans are copyrighted if I don't see the © symbol on it?

A: There are a few reasons. Federal law no longer requires copyright holders to place the symbol on a work for it to have copyright protection. Also, architectural works are given specific protection under U.S. Copyright law.

Q: Doesn't California Public Records Law mean the City has to give copies to the public?

A: No. Federal copyright law supersedes California Public Records law. Requestors still do have the right to view copyrighted material under the Public Records law, but may not make copies of the material without the copyright owner's consent.

Q: Who is the "owner" of a copyright?

A: The "owner" is the party that holds the copyright and has the exclusive right to allow copies of the work. For architectural works such as plans and drawings, this may be either the architectural firm that drew the plans, or the party that hired the architectural firm as "work for hire," such as a builder or individual homeowner.

Q: How can a customer determine who holds the copyright on plans or drawings?

A: The customer may view the plans/drawings and investigate who owns the plans/drawings by contacting the architect or owner represented on the plans. The City accepts that the customer has done their due diligence in investigating ownership and obtaining the proper release or making a determination that their use qualifies as "fair use." (See, e.g. Title 17 U.S.C. Section 107.)

Q: How do I know if I'm qualified to copy under fair use?

A: This is not an easy question to answer, but in general, it is acceptable to copy if it is for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. It is also generally acceptable to copy small portions of a plan for limited, non-commercial use, such as a copy of a particular section in order to locate electrical or a support wall, etc. It is not acceptable to copy a full set of plans or drawings to avoid having to pay the owner for copies of those plans. It is not fair use if the purpose is to gain commercial advantage. IF THERE IS ANY DOUBT, IT IS ADVISEABLE TO CONSULT AN ATTORNEY. OUR STAFF CAN NEITHER DETERMINE NOR ADVISE YOU ON IF A CERTAIN USE MAY BE CONSIDERED FAIR USE.