

ARCHITECTS' LIEN RIGHTS:

A NATIONAL CONVERSATION, A LOCAL IMPERATIVE

Part one – Overview

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Well-written, signed contracts for professional services are critical for any architectural practice. They set the scope of our professional services, manage client expectations and, in most states, are a legal requirement. However, collecting on unpaid contracts can be a hardship requiring a review of possible collection tools and rights.

Beyond collection services, small claims, lawsuits, mediation, arbitration, and implied threats, typically Architects also have lien rights, and yet most do not realize it. All states include lien rights for Architects, by either statute or case law, except one: Ohio. Based upon a poorly defended court case, Ohio Architects lost this right in 1931.

Without lien rights, Ohio Architects cannot legally tie services to the project-created land-value as others can; our rights are limited to our client agreement. What happens when we cannot afford to file a lawsuit to enforce our contract? What happens to our contract-rights when our client disappears or the company dissolves, which is not unusual for developer site-specific limited-liability-companies? When one brings value to land, lien laws recognize that those who created that value have a right to be paid. This is called a mechanic's lien. In Ohio, real estate agents, construction managers and contractors have recourse through a perfected lien. Ohio Architects are missing this right because we are legally seen as "not bringing value to the site." Not only are we missing an important debt-collection tool, but we also have lost a perception of value at the statehouse. We need to win back our lien rights in Ohio, and again have the rights that Architects enjoy across the country.

Lien rights are both a national issue and a states-issue. Each state determines its specific lien rights – and its steps to assert and perfect a lien – however, these rights are based in nation-wide common-law legal distinctions. The national AIA can bring together national allies and support awareness, education, and the shared impact of best practices, but advocacy will need to occur at the state level, at our Ohio statehouse. The AIA Ohio board, last month, created a state-wide task force to newly investigate our options towards re-gaining our lien rights.

To help this cause, we need your stories. We are looking for those of you who have compelling stories, about the hardship of not having lien rights or the successes that lien rights from other states have brought to your firm. Send these stories to christopher@architects-llc.cc. See part two in this series on lien rights for more on this topic.