

ARCHITECTS' LIEN RIGHTS: A NATIONAL CONVERSATION, A LOCAL IMPERATIVE

Part two – Share your compelling story with us

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Most business owners, including local architectural firm owners, suffered through the last great recession of the late 2000s. We had previously dependable clients coming up short on cash, we had clients drifting into bankruptcy, we had institutions with a lack of cash flow and funding, and we had such restrictions on credit that new and ongoing projects were put on hold. Limited Liability Companies who hired us were disappearing. We always had a contract in hand, but many of these weren't worth the paper they were printed on. In other states, architectural firms were filing liens, but in Ohio, we have no lien rights. We then pursued lawsuits, in order to try to recover what we earned, but desperate clients reacted in anger by newly questioning the quality of our work. Too often won-judgments were not recoverable. We then needed to layoff valued staff and some of them ended up leaving the profession; my business partner was one of these.

Times were hard not too long ago. I bet you have a story or two like this. If you do, share these with us, and eventually, we'd like our legislators to hear about them. If you do not have such a story, you were then among a minority of architectural firms to slip through the recession unscathed.

Three, of many, short, compelling stories to share: one about utilizing lien rights.

"Our firm does work regionally. Before the recession, we had a second office in South Bend, Indiana. Through our Cleveland office and our South Bend office, leading into the recession, we faced a number of clients who weren't paying their bills. One suburban-Chicago Indiana-client comes to mind. He withheld payment on his contract with us for ten facilities while we were working on the second, but then his accounting firm mailed us a check, overpaying us on our then open invoices. The client said the accountant made a mistake and demanded his money back, including that which we had already earned. We let him know that we were using the money towards his open balance and putting the rest into escrow, and that we would be paying ourselves out of escrow to close out the second project, per our agreement. We completed a new building that we were proud of with exemplary services and the client chose not to continue with us on the third through tenth buildings. We heard that he changed accounting firms and didn't pay the next architect. Without the accountant's mistake, we didn't know what to do. We did not know that we had lien rights in Indiana. We were disappointed by the lost work but not disappointed to lose a deadbeat client."

“For a local client, after a successful housing project in Shaker Heights, Ohio, we were hired to design a large townhouse development in western Michigan. We created a master plan, obtained approvals, created prototypes, and started working drawings on a number of buildings, completing the first set. Our client then decided not to pay us. We filed our lien, as we could in Michigan, ahead of a number of subcontractors and the bank. We proceeded through mediation and into arbitration while construction continued, including on buildings that were not submitted for permit. We won in arbitration and turned this into a judgment in the Michigan courts. As units were being sold, money to cover the liens was placed into escrow (bonded off) to shield the new homeowners from the project’s liens. Our client’s LLC filed bankruptcy and the bank took over the project. Four years later, we collected our lien amount but not our judgment amount. Without these lien rights, even though we had a contract, we would not have been able to collect on a bankrupt and dissolved company.”

“On smaller Ohio projects, then and now, we have sometimes chosen to walk away from an earned amount owed, and it has hurt. We would prefer to file liens.”

What about you? What stories do you have? Without naming names, we invite you to send your stories to the AIA Ohio Lien Rights Task Force via email: christopher@architects-llc.cc. With your support and a feasible path, we will then create a strategic legislative campaign to advocate for our/your lien rights. We’d like to utilize your stories, and possibly your testimony, to convey the importance of lien rights for Architects in Ohio.

In creating a strategic legislative campaign, it is important to understand how we lost our lien rights in Ohio and how we became known as “not bringing value to the site.” For this, see part three in our series on lien rights.