



The Project File - Retain or Not to Retain – And For How Long?

It's a question faced by every design professional at one time or another: Just how long should copies of project documents be retained? Or would it be better if the documents were discarded so they can't cause harm in the future?

From a claim standpoint, the absolute worst thing a design professional can do is to dispose of project documents without having some form of a retention policy in place. If a subpoena is issued to produce a design professional's project documents or a lawsuit is filed and their documents are required for discovery, providing copies of documents can assist a design professional in defending a lawsuit or even prevent a design professional from being named in one. The very last thing anyone wants to do is trash documents that should have been retained, for concern that they could find themselves answering allegations that they destroyed relevant evidence.

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So the question is, exactly which documents should a design professional retain? And for exactly how long of a period? There are no ironclad rules when it comes to project documentation retention. The laws differ by state and it is highly recommended that design professionals seek the advice of legal counsel to establish document retention guidelines that meet their individual state requirements.

Initially, project documents should be retained for a minimum period of the statute of limitations or the statute of repose in a design professional's state, whichever is later. A statute of limitations bars lawsuits after a designated period of time has elapsed following an injury due to an error or the finding of an error. A statute of repose prevents lawsuits against design professionals after a certain period of time following the completion of services or substantial completion of a project. The time frames for both statutes vary from state to state.

The following is an instance that involved a New Jersey architect who finished the designs for a custom single family home more than 10 years before he was served with a lawsuit. New Jersey has a 10 year statute of repose, which starts to run from the time a design professional's services are completed. A lawsuit that is filed after the statutory time period expires may be dismissed on the grounds that the statute of repose prevents it. The client's home was built utilizing an exterior finished surface (EIFS), and the homeowners brought a suit, alleging the stucco type finish was faulty and made it possible for moisture to penetrate and damage their house. Even though the architect had concluded his design of the home more than 10 years earlier, because the firm did not keep any project documents or a copy of the contract between him and the client, he was not able to prove that he should be dismissed from the lawsuit.

due to the statute of repose. As the certificate of occupancy was issued by the municipality within the 10-year statute of repose time period, the suit against the design professional was permitted.

So where does this leave the design professional? At the very least, design professionals have to institute document retention policies and standards in their offices and preserve documents for every project. The following is a list of suggested documents that a design professional should retain:

- Drawings and specifications, which also should include calculations, any updates and revisions made to the plans and specifications;
- All contracts with owners and any sub-consultants;
- Construction Documents, including shop drawings, field reports, correspondence with the contractor, documentation of any field tests;
- Copies of submittal logs, requested change orders and any and all claims for delay or extras, shop drawing approvals and reviews, approvals of contractor pay requests;
- Documentation of all site visits, including notes, observations, deficiencies, those steps taken to correct the deficiencies, substitutions, any direction or advice provided to contractors and the owner;
- Correspondence, hand written or electronic, including all documentation to and from the contractor, meeting minutes, e-mails, letters, faxes, and memos relating to discussions with the owner and contractors as well as correspondence related to critical aspects of the project, directions and advice given, deficiencies on the project, change in scope, and recommendations provided;
- Literature and brochures from the manufacturer and manufacturer warranties;
- Any and all studies or reports that were prepared and delivered.



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Whatever project documentation retention policy your firm chooses to follow, put the policy in writing and make certain to adhere to it on every project. Whether the documents should be saved as hard copies or via electronic versions is dependent on the state in which the project is located, as well as your firm's location. The recommendations provided are just suggestions and should not serve as an alternative to advice of legal counsel in your state. We

recommend that the advice of an attorney be obtained to determine a record retention policy and standard that is not only best for you, but that also conforms to the laws of your state.



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