



Consumer's Guide to Hiring an Architect



California Architects Board
*Public Protection Through Examination,
Licensure and Regulation*





California Architects Board

*Public Protection Through Examination,
Licensure and Regulation*

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INTRODUCTION

Are you thinking about hiring an architect? Individuals and businesses that wish to construct or modify sites, buildings, or other structures frequently hire architects to plan, design, and observe the construction of these projects. The California Architects Board (CAB) examines, licenses, and regulates more than 20,000 architects used by Californians. The Board's mission is to protect the welfare of the public by ensuring the professional performance of those architects licensed to practice in the state.

Because of the complex and technical nature of architectural services, misunderstandings sometimes arise between the consumer and the architect about plans, specifications, schedules, budgets, and the quality of the proposed services. The CAB hopes that this Consumer's Guide to Hiring an Architect will help prevent such problems from occurring by providing information on:

1. What types of projects do and do not require a licensed architect,
2. How to find and select an architect,
3. What the written agreement between you and your architect should contain, and
4. Information on the budgeting and construction for your project.

If you find that you have an unresolvable problem with your architect even after following the information in this guide, instructions for filing a complaint are included on page 16. By carefully planning and thoroughly discussing your project beforehand with your architect, you will hopefully avoid having to take this step.

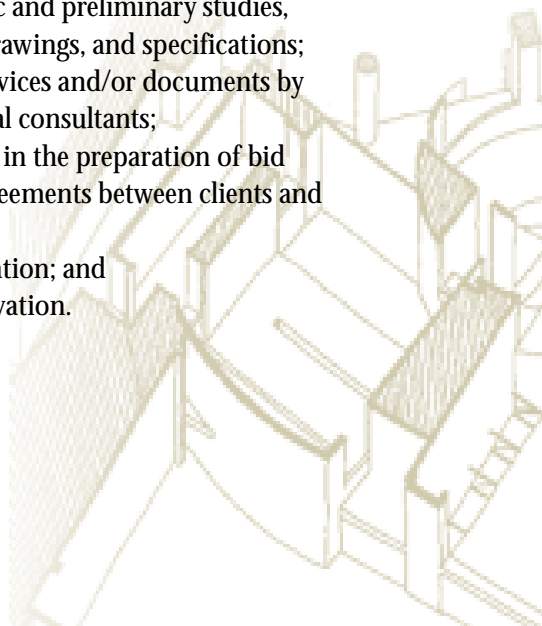


THE PRACTICE OF ARCHITECTURE

California law defines architectural practice as the planning of sites, and the design, in whole or in part, of buildings or groups of buildings and structures. Any person who uses the title of architect, or advertises to provide architectural services in California, must be licensed as an architect by the CAB.

To obtain a license, an architect must demonstrate competence by passing the national examination and the California Supplemental Examination, as well as providing evidence of at least eight years of education and experience. Architects are examined for competence in the following areas:

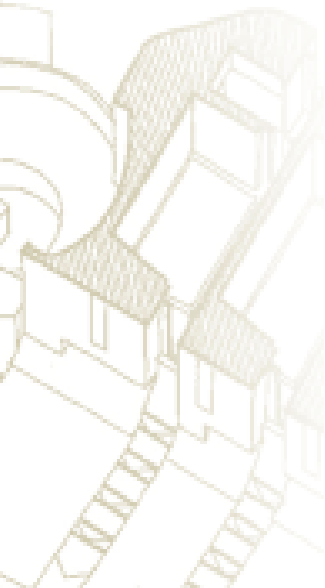
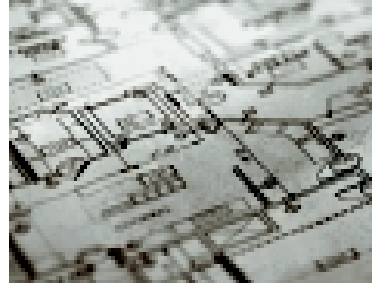
- applicable codes and regulations, and assistance in the governmental review process;
- investigation, evaluation, consultation, and advice;
- planning, schematic and preliminary studies, designs, working drawings, and specifications;
- coordination of services and/or documents by technical and special consultants;
- technical assistance in the preparation of bid documents and agreements between clients and contractors;
- contract administration; and
- construction observation.



MUST I HIRE AN ARCHITECT FOR EVERY BUILDING PROJECT?

You do not have to hire an architect for every building project. Current California law provides that persons who are not licensed as architects or registered as civil or structural engineers can design certain types of buildings or parts of buildings. Generally, persons who are not engineers or architects can design:

- single-family dwellings of woodframe construction that are not more than two stories and basement in height;
- multiple dwellings containing no more than four dwelling units that are of woodframe construction not more than two stories and basement in height and not more than four dwelling units per lot;
- garages or other structures added to dwellings of woodframe construction that are not more than two stories and basement in height;
- agricultural and ranch buildings of woodframe construction, unless the building official deems that an undue risk to the public health, safety, or welfare is involved;
- nonstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment, including nonstructural work necessary to provide for their installation; and



- nonstructural or nonseismic alterations or additions to any building necessary for the installation of storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those alterations do not change or affect the structural system or safety of the building.

However, before you hire someone to design a new structure or alter an existing structure, you should consult the local building official in your city or county building department to determine whether or not a licensed architect or registered engineer must design the structure. The building official will advise you if your project can be done by an unlicensed person or if it will require a licensed architect or engineer to prepare and submit plans and specifications. You may save time and money by first discussing your project with the building official. In deciding if you need a licensed architect, the building official will consider existing state laws as well as public health, safety, and welfare. The building official will also consider local environmental conditions such as snow loads, winds, earthquake activity, or tidal action.



FINDING AND SELECTING AN ARCHITECT

To begin, you will want to obtain the names of several architects from more than one source. You can ask for recommendations from someone you know who has worked with an architect. You can also look in the yellow pages of the telephone directory under “Architects” for individuals, firms, and professional associations of architects. Some architects specialize in designing certain types of structures such as single-family dwellings, multiple residential, commercial, institutional, or industrial structures, while others design a variety of building types. You may find it to your advantage to contact several architects or architectural firms. The CAB does not maintain a referral service and cannot recommend architects; however, CAB can advise you if an architect is currently licensed and whether any disciplinary action has been taken against that architect.

After receiving referrals and recommendations from various sources, you will need to determine which architect from the list you have compiled will be able to provide the services you need at a cost you are willing to pay.

BASIC CRITERIA

Prior to selecting an architect, you need to develop basic criteria for your project and provide this to the architects being considered. The basic criteria for your project should include, but not necessarily be limited, to:

- the services you expect the architect to perform;
- the size, appearance, and functional requirements of your building;

- what you intend to spend for design fees, if known;
- what materials you wish to use;
- what you intend to spend for construction;
- how the project will be financed and, if known, by whom;
- anticipated starting and completion dates of your project; and
- how you intend to construct the project.

Request For Information

You should request information on qualifications and experience from several architects. After reviewing their qualifications, you may want to interview a number of architects to determine their understanding of your project and their compatibility in working with you. During the selection process, you may want to ask some or all of the following questions:

General Information

- Do you have a valid California architect's license? If so, what is your license number?
- Do you carry insurance? If so, what type(s)? How long have you carried each type and what are the policy limits?
- How long have you been in business?
- How many persons are employed by your firm?
- How have you kept current in your practice?
- Do you intend to use consultants for this project? If so, whom do you propose to use? What are their qualifications and your experience with them?
- What percentage of your practice involves the type of structure I intend to build?

Experience

- Have you recently designed the type of structure I intend to build? How many times?
- May I see examples of your previous projects that are similar to my project (sketches, photos, plans)?
- When and what was your most recent project?
- May I have the names, addresses, and telephone numbers of the clients whose projects you are using for these examples?
- What was the actual construction cost versus budgeted cost for these projects?

Services

- What services did you provide for these clients during the design, bidding, and construction phases?
- What services do you propose to provide for my project during each of these phases?
- Who will provide these services, you or your employees?

Fees

- What will the fee schedule be?
- How will your fees for my project be determined and what services do the fees cover?
- Will you provide probable construction cost estimates for my project?
- If consultants (civil, geotechnical, testing and inspection, etc.) are necessary, are their fees included in your basic fee?
- What additional costs (e.g., permit and other governmental fees) or services (e.g., time spent obtaining necessary permits and other approvals) do you anticipate for my project?
- How do you establish your fees for additional services and reimbursable expenses?

- Will there be a charge for redesign if it is necessary to meet the construction budget?
- Will there be additional charges for changes required by the building department or other government agency?
- How are additional charges computed for design changes requested by me?

Time

- Can you meet my proposed schedule?

MAKING THE FINAL DECISION

You may call the CAB to verify the license status of the architect(s) you are considering. Although an architect may display a license indicating that he or she is licensed by the state, the license may be invalid if the architect has not renewed the license, has had his or her privilege to practice suspended, or had his or her license revoked. The CAB, upon written or telephone inquiry, will also inform you of any reportable complaints or disciplinary actions filed against the architects. Check the references that each architect has given you and ask the following questions:

- Did the architect adhere to required schedules and budgets?
- Were you pleased with the architect's services and your working relationship with the architect?
- Did the architect listen to your concerns and attempt to resolve them?
- Would you hire the architect again?
- What problems surfaced during the project?

If possible, visit the project sites the architects have used as examples of their services.



THE AGREEMENT FOR DESIGN SERVICES

Since January 1, 1996, California law has required that any architect who agrees to provide architectural services for a client must have a written contract. The contract must be executed by the architect and client prior to commencing services, unless the client states in writing that the services can be started before the contract is executed or that the client, after being informed about the statutory provision, does not want a written contract. However, the CAB recommends that you have a written agreement for design and/or construction services with the architect. Many architects prepare their own agreements or have them prepared by an attorney; others use American Institute of Architects (AIA) standard forms of agreement appropriate to the type of project and services required.

Whatever agreement is used for professional services, it is a legal document that binds you and the architect to certain obligations for the life of the project and, in some cases, beyond project completion. It should include the specific services that you and your architect have agreed upon and the conditions under which these services are to be rendered. Otherwise, issues could arise that may be both expensive and time-consuming to resolve.

Review the agreement carefully. It is yours and the architect's responsibility to understand and follow the agreement. You have the right to question and change the terms of the agreement before signing it, even if it is a printed form. Because it is a binding legal document, you may wish to have your legal counsel review the agreement

before you sign it. You, the owner, should retain an original copy of the signed agreement. In addition, you should not make agreements with other parties regarding your project without first notifying the architect with whom you have the primary agreement.



MANDATORY ITEMS FOR THE WRITTEN CONTRACT

California Business and Professions Code Section 5536.22 requires that a written contract for architectural services contain, as a minimum, the following items:

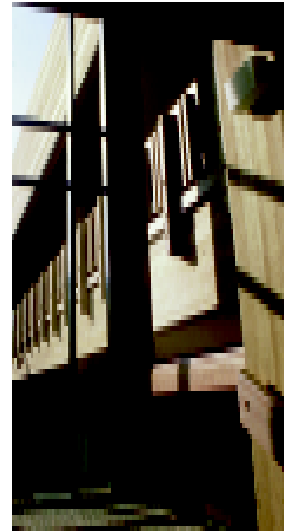
1. A description of services to be provided by the architect to the client.
2. A description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties.
3. The name, address, and license number of the architect and the name and address of the client.
4. A description of the procedure that the architect and the client will use to accommodate additional services.
5. A description of the procedure to be used by either party to terminate the contract.

ADDITIONAL RECOMMENDED ITEMS IN THE WRITTEN CONTRACT

Beyond those items required by law, the CAB recommends that an agreement for architectural services also include:

- the title and address of the project;
- at what phases of the architect's services the client's approval must be given before he or she proceeds to the next phase;

- the time frame in which the design services must be completed;
- the construction budget and what items it includes;
- an itemized listing of the architect's basic services;
- the maximum fee for these basic services;
- a listing of the disciplines of consultants that may be needed (i.e., engineering, geotechnical, landscape, etc.), and a clarification of who hires the consultants and who approves and pays their fees;
- a list of the reimbursable costs that are not included in the basic fee;
- a list of what services constitute additional services and at what cost;
- a clarification of whose approval is required before these additional service costs are incurred;
- whether assistance with establishing a contract between a contractor and owner will be provided;
- the date of anticipated start of construction;
- a provision for cost escalation or contingencies for delay of construction;
- a provision for cost escalation or contingencies for changes in the project scope during construction;
- a schedule of when and in what amounts payments are due;



- whether construction observation services are included;
- the amount of the retainer fee and how/when/where it will be applied;
- how final payment is computed if the agreement is terminated;
- a procedure for handling disputes between the parties should the need arise (for example, arbitration or mediation);
- a clarification of who owns the project documents; and
- a clarification of who is responsible for keeping project account records and when they may be reviewed.



KEEPING RECORDS

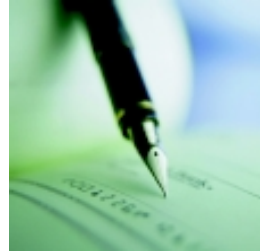
The written agreement is not the only document you should keep. You should also keep a written record of all verbal communication with your architect that relates to the project. Do not assume your architect will interpret everything you discuss with him or her the same way you do. When you have a meeting or discussion with the architect about your project, write the architect a memo confirming your understanding of that meeting or discussion. These memos can help to prevent misunderstandings from occurring and may prove invaluable should a problem or dispute occur. Include the date and time of your conversation in the memo, as well as the date you write it.

You may also want to write memos or notes to yourself about the progress of the project. Photographs or videotapes taken at regular intervals (with notes as to the dates that the photos are taken) can be very useful in establishing a historical record of the project.

Keep detailed financial records by ensuring the architect provides detailed invoices. Also keep records of the date and amount of each payment you make. Require the architect to obtain your written approval before additional costs are incurred.

Carefully evaluate each phase of the project. Make sure your architect knows your written approval is necessary before proceeding to the next project phase.

Make sure that you receive a copy of all documents you sign, and keep a copy of all documents you give to your architect.



A WORD ABOUT MONEY

You should be aware of several dos and don'ts for managing your money for your project.

Before you sign the written agreement, clearly establish the total amount of money (including contingency funds) you are willing to pay for the design and construction of your project, the number of payments you will make to your architect, and the amounts and schedule for these payments. Make sure this fee schedule is recorded accurately in the written agreement, and that you make each payment to the architect as called for in the agreement. If you have obtained a loan for your project, ensure that it covers both the cost of your architect's services and the construction cost.

Don't pay an excessive advance or retainer fee before services have commenced on your project. Don't make the final payment until the project is complete in accordance with your agreement and you are satisfied with the services your architect has provided you.

Careful planning and discussion with your architect, as well as accurate record keeping, should prevent any fee disputes.

CONSTRUCTION HINTS

Unless you are experienced in construction, you probably should not attempt to build your structure. The construction should be performed by a properly licensed and experienced building contractor. Therefore, it is important for you to ensure that the construction documents (building plans and specifications) you receive from the architect are complete enough for you to obtain bids from one or more contractors, as well as complete enough for the contractor to construct your project.

Do not assume that the plans your architect gives you are sufficient for the building contractor simply because you were able to obtain a building permit. Discuss the plans with your architect and your contractor to ensure that they are suitable for bidding and construction purposes.



WHAT TO DO IF A PROBLEM OCCURS WITH YOUR PROJECT

You, the consumer, have a right to receive careful and professional service from the architect you have hired. Even if you have read and followed this guide and have done everything possible to prevent problems, you may still feel that you have a complaint about your architect. What should you do?

First, discuss the problem thoroughly and calmly with your architect. If the architect is violating your written agreement, review the agreement and other relevant documentation with the architect. If you and your architect are unable to settle the problem, your next step should be to call or write the CAB.

WHAT CONSTITUTES A COMPLAINT?

The CAB has the power, duty, and authority to investigate alleged violations of the provisions of Business and Professions Code, Division 3, Chapter 3, Section 5500 et. seq. (Architects Practice Act). The CAB is also given specific authority to receive and investigate complaints against its licensees and to discipline violators accordingly. Do not hesitate to call or write the CAB about any questions or concerns you may have. The CAB takes action against architects for:

- fraud in obtaining a license;
- impersonation or use of an assumed or corporate name;
- aiding unlawful practice;
- signing others' plans or permitting the misuse of their name;

- fraud in the practice of architecture;
- negligence or misconduct;
- failure to accurately represent qualifications;
- conflict of interest; and
- incompetence or recklessness.

Disciplinary actions may include license revocation, license suspension, license probation, citations, civil injunctions, and/or referral to local district attorneys for criminal prosecution.

The CAB may also investigate complaints about unlicensed practice involving projects not exempted by state law.



HOW TO FILE A COMPLAINT

You may contact the CAB at the address listed at the end of this booklet. If you telephone the CAB, you will be sent a complaint form with instructions. Complaint information and forms are also available on CAB's website at www.cab.ca.gov. Fill out the form and return it to the CAB with any evidence to support your complaint. If you submit a letter, fully describe your complaint. Submit copies of all documentation that you believe will substantiate your complaint. Keep the originals of these documents, as well as a copy of your complaint letter. Include your name, address, and telephone number so that the CAB may contact you if more information is required.

You have the right to remain anonymous if you so choose by requesting it at the time you file your complaint. However, anonymity may add some difficulty or may prevent the CAB from fully investigating your complaint and/or prosecuting the case.

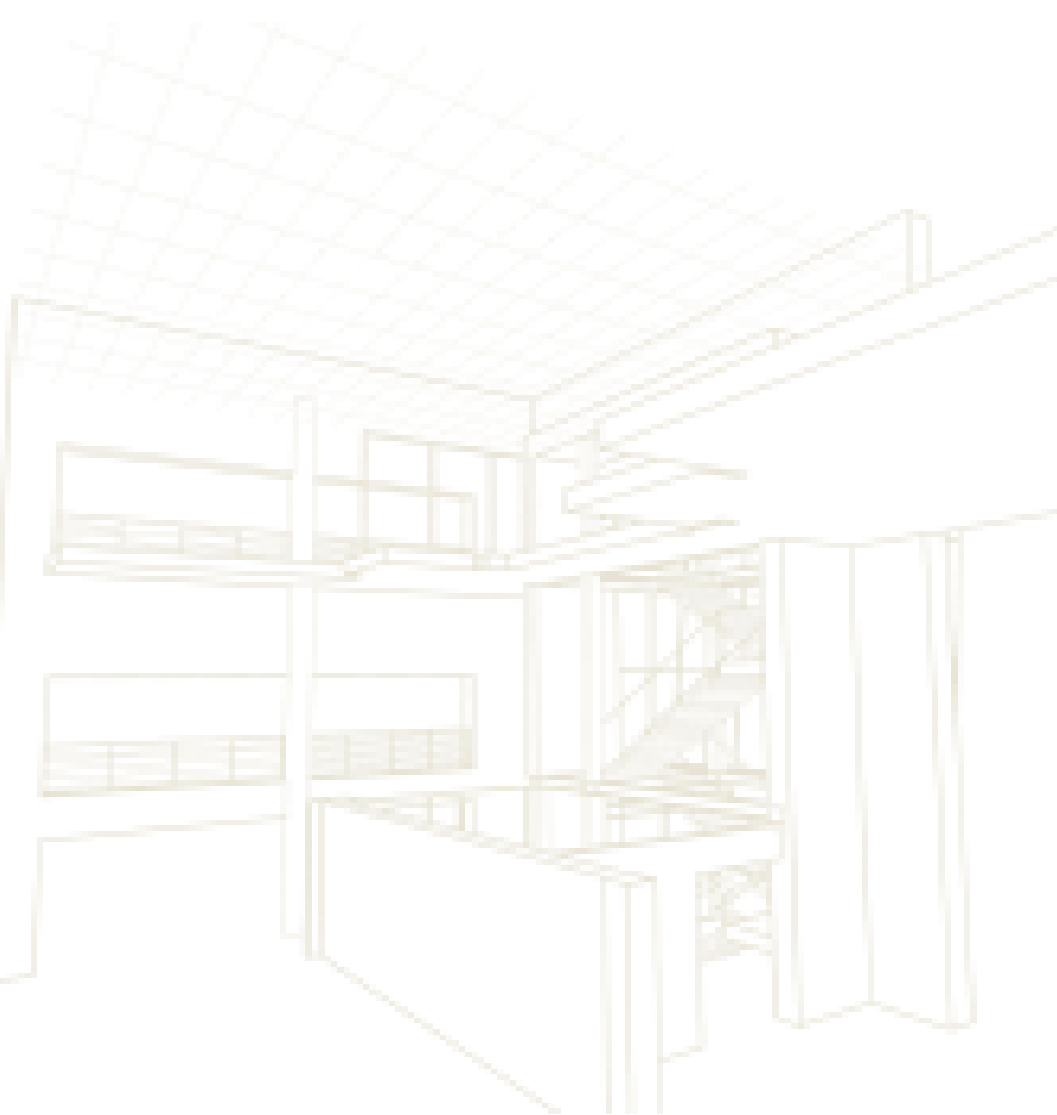
HOW WILL THE CAB RESPOND?

The CAB encourages mediation and will attempt to mediate your complaint when appropriate. You are encouraged to notify the CAB as early as possible, so the CAB staff can help you resolve the problem.

The CAB will review your complaint and, if it believes the complaint has merit, will notify you and begin to investigate the complaint. If the CAB determines that your complaint does not have merit, you will be notified of the reason(s).

The staff will begin the investigation by evaluating the professional aspects of your complaint. The CAB will ask you to provide as much information as possible before processing the complaint. A letter to both you and the architect is sent out within 10 days of receipt of your complaint. The letter to the architect requests him or her to respond with an explanation of his or her side of the situation.

The CAB gives priority to complaints involving a person's life, health, safety, or welfare.



WHERE TO NOTIFY CAB

Send your letter to:

California Architects Board
400 R Street, Suite 4000
Sacramento, CA 95814-6238
Attn: Enforcement

Or Call:

(916) 445-3394
(800) 991-2223

Fax:

(916) 445-8524

Email:

cab@dca.ca.gov

Website:

www.cab.ca.gov



SPECIAL PROVISIONS IN THE EVENT OF A NATURAL DISASTER

In the event of a declared disaster such as an earthquake or flood, additional provisions of state law become effective.

PENALTIES FOR UNLICENSED PRACTICE

When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license. Only persons licensed by the CAB may call themselves architects and provide architectural services.

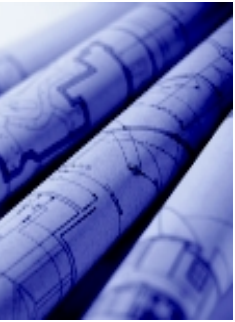
During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment.

REQUIREMENTS FOR RECONSTRUCTION

Individuals are advised to contact their local building officials for clarification of the requirements for repair or reconstruction of their project. It may not be possible to recreate the home or business as it existed before the disaster because they were designed years ago to conform to building codes that have been changed. In some instances, substantial design or redesign services may be necessary to meet current code requirements.

RELEASE OF COPY OF PLANS

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, an architect or other person who has prepared the plans used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the amount of damage for insurance purposes.



The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans. The plans cannot be used to rebuild any of the property without prior written consent of the architect or other person who prepared the plans. If prior written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

IMMUNITY FOLLOWING AN EARTHQUAKE

California has a good Samaritan law for licensed architects, engineers, and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state, or local emergency caused by an earthquake. This law provides that the “good Samaritan” architects who provide these services are immune from liability. This immunity applies only for an inspection that occurs within 30 days of the declared emergency.



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