



CITY OF LAKE FOREST
ADMINISTRATIVE POLICY

**PROCESSING REQUESTS FOR COPIES OF BUILDING PLANS
(CALIFORNIA HEALTH AND SAFETY CODE SECTION 19851)**

BACKGROUND

California Health and Safety Code section 19851 governs a City's ability to allow inspection of and/or provide copies of building plans.¹ Section 19851(a) states that building plans shall be open for inspection as a public record only on the premises of the building department. This policy lays out a procedure for preparing and releasing copies of building plans.

REQUIREMENTS

The City may provide copies of building plans if the following requirements are met:

- (1) The City receives written permission to duplicate the plans from both the certified, licensed or registered professional (the "professional") who signed the original documents and the original or current owner of the building. As explained below, the professional cannot "unreasonably" withhold permission.

If the building is part of a common interest development, then instead of the owner, the City must receive written permission from the board of directors or the governing body of the association (such as a Homeowners Association board).

OR

- (2) The City receives a court order.

PROCEDURE

If someone submits a Public Records Act request for a copy of building plans, the City must do the following:

- (1) Provide an affidavit form to the requester to complete and sign (Section 19851(c)). (Form 1: Affidavit from Requester). The affidavit **MUST** state the following:
 - (a) The copied plans will only be used for the maintenance, operation, and use of the building.

¹ This section does not apply to copies of plans for any building containing a bank, other financial institution, or public utility.

- (b) The "drawings" are "instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record."
 - (c) Pursuant to Business and Professions Code section 5536.25, a licensed architect who signs plans, specifications, reports or documents shall not be responsible for damage caused by any unauthorized changes made to the plans or documents, as long as the architect's services were not also a proximate cause of the damage.
- (2) Send the signed affidavit form and a written request via registered or certified letter to the professional and the original or current owner (or HOA board) requesting written permission to make copies of the building plans. (Form 2: Permission to Duplicate Plans).

The City will charge current rate for duplication of plans. Refer to current Fee Schedule.

In addition to costs for actual duplication of building plans, such a fee will include the postage cost of sending the registered or certified letter. If a professional copy service is required for duplication of building plans, the costs for such service would be "reasonably necessary to cover the costs of the building department" and will be passed on to the requester.

WITHHOLDING PERMISSION

It appears that the only persons who can legally obtain a copy of building plans without a court order are persons who are involved in maintaining, operating and using the building. The statute doesn't say "maintaining, operating or using the building." Every word of a statute is important, so we read this to mean that the requester must be involved in all three activities: maintaining, operating and using the building.

The professional cannot "unreasonably" withhold permission to allow the plans to be copied. "Unreasonable" is defined in Health and Safety Code section 19851(f) as follows:

- (1) The professional fails to respond to the City within 30 days of receiving the City's registered/certified letter and the signed affidavit. The City can give the professional up to 60 days to respond if the professional is unavailable due to serious illness, travel or other extenuating circumstances.
- (2) The professional refuses to give permission after receiving the signed affidavit and the City's registered/certified letter.

Since Section 19851(f) does not include any directions on how to proceed when a professional "unreasonably" withholds permission for duplication of the plans, please discuss matter with City Clerk and/or City Attorney as to how to proceed. Each request will be considered on its own merit and staff will decide whether to release plans.

SUBPOENAS AS "COURT ORDERS" FOR COPIES OF BUILDING PLANS

From time to time, the City may receive a subpoena for copies of building plans. Each situation is unique, please contact the City Attorney if a subpoena is demanding copies of building plans.

Authority

This Policy is adopted pursuant to the authority granted in and consistent with Chapter 2.08.060. (E) of the Lake Forest Municipal Code of the City Manager. This Policy may be amended at the discretion of the City Manager at any time.

Debra Rose, City Manager

Date

Attachments:

1. Form 1: Affidavit from Requester
2. Form 2: Permission to Duplicate Plans



CITY OF LAKE FOREST

CITY CLERK'S OFFICE

100 Civic Center Drive, Lake Forest, CA 92630
General: 949 460-3420 Fax: 949 461-3515
www.lakeforestca.gov

AFFIDAVIT REQUESTING DUPLICATION OF OFFICIAL COPY OF PLANS

Project address: _____ Permit # _____

I, _____ declare as follows:

1. I hereby request that a duplicate of the official copy of the plans for the above project maintained on file by the Building Division be provided to me.
2. I agree to pay for the current rate for duplication of plans (refer to current fee schedule).
3. I agree to pay for postage costs of sending the registered or certified letter to the architect *and* the current owner of the property (if requester is not the owner).
4. That the copy of the plans shall only be used for the maintenance, operation and use of the building.
5. That drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed or registered professional of record.
6. That subdivision (a) of Section 5536.25 of the Business and Professions Code states that a licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to, or use of, those plans, specifications, reports, or documents where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the architectural rendered by the architect who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____

Name: _____

Signature: _____

Address: _____

City: _____ Zip: _____

E-Mail: _____

Phone: _____

CITY CLERK USE ONLY

REQUESTER IS: PROPERTY OWNER NOT OWNER

PERMISSION REQ. FROM: OWNER ENGINEER

POSTAGE AND CERTIFIED MAIL FEE DUE: \$ _____

MAILED ON: _____ DEADLINE: _____



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CITY CLERK'S OFFICE

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General: 949 460-3420 Fax: 949 461-3515
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PERMISSION TO DUPLICATE OFFICIAL COPY OF PLANS

Project address: _____ Permit # _____
Date of Request: _____

Architect/Engineer: _____
Address: _____
City: _____ Zip: _____

Property Owner or Association: _____
Address: _____
City: _____ Zip: _____

A request has been made of the City of Lake Forest to provide a duplicate of the official copy of the plans for the above project maintained on file by the City. Pursuant to Health and Safety Code Section 19851, a copy of the plans may not be duplicated in whole or in part except (1) with the written permission, which permission shall not be unreasonably withheld as specified in Health and Safety Code Section 19851, subdivision (f), of the certified, licensed or registered professional or his or her successor, if any, who signed the original documents and the written permission of the original or current owner of the building, or, if the building is part of a common interest development, with the written permission of the board of directors or governing body of the association established to manage the common interest development, or (2) by order of a proper court or upon the request of any state agency.

Enclosed is a completed and signed copy of the affidavit filled out by the individual or entity requesting the copy of the plans.

The City hereby requests your permission to duplicate the above-mentioned plans and provide them to the requesting party. Failure by the professional to respond to the City's request within thirty (30) days of receipt of the request, or refusal to give permission for the duplication of the plans after receiving the signed affidavit and registered or certified letter, may be deemed an unreasonable refusal, and pursuant to the provisions of Health and Safety Code Section 19851 (f), the City may provide the plans as requested.

Please indicate your response below:

- I have received the requisite materials under Health and Safety Code Section 19851 and, hereby, give my written permission for the plans to be duplicated.
- I have received the requisite materials under Health and Safety Code Section 19851 and refuse to give my written permission for the plans to be duplicated.
- Other:

Dated: _____

Name: _____

Signature: _____

Address: _____

City: _____ Zip: _____

E-Mail: _____

Phone: _____

Please return original signed form to:

City of Lake Forest
City Clerk's Office
100 Civic Center Drive
Lake Forest, CA 92630