



## Expensive Lessons

Building copyright infringement results in multi-million dollar awards.

By Christina B. Farnsworth

Beware mimicking homes and their plans, even those from brochures. Architectural plans always had copyright protection as drawings, but a 1990 federal law added structures to copyrightable creative works. Protection is broader, especially if building designers take the time to register copyright. According to a Nov. 5, National Law Journal (NLJ) article, 1991 saw 177 architectural works registered, versus 2,300 in 2000.

Think of it this way, says Chicago attorney James K. Zahn. Prior to December 1990 if someone looked at the Wrigley Building (a famous Chicago landmark) and drew a plan copying the building's design based on looking at it, that would not have been a copyright infringement. No more, says Zahn of Sabo & Zahn, perhaps the only legal firm in which the partners are also architects.

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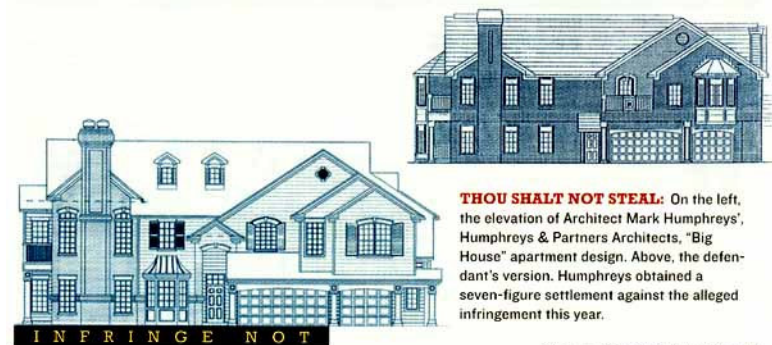
Infringed-upon architects and builders win big in court. According to NHJ, in September a Norfolk, Va., jury awarded more than \$5 million to Kipp Flores Architects, of Austin, Texas. The jury reached its verdict by taking the builder's \$17,000-per-house profit and multiplying by the project's 300 houses.

Even out-of-court settlements cross the million-dollar mark, well exceeding legitimate fees for legally obtained designs. Stephen E. Zlatos, partner in the Indianapolis law firm Woodard, Emhardt, Naughton, Moriarity & McNett, noted design fees would have been a fraction of the \$1.5 million settlement awarded Humphreys & Partners Architects of Dallas, in its claim against an Indiana apartment builder.

Zahn says many architects deliberately misspell words in the plans--all the better to catch truly flagrant infringers.

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**THOU SHALT NOT STEAL:** On the left, the elevation of Architect Mark Humphreys', Humphreys & Partners Architects, "Big House" apartment design. Above, the defendant's version. Humphreys obtained a seven-figure settlement against the alleged infringement this year.

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