

Licensing Photographs for a Publication

Contributed by the Architectural Photography Specialty Group of the American Society of Media Photographers

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THE VALUE OF PHOTOGRAPHY

When properly handled, placing attractive images in a trade or consumer publication is a win for everyone. The publication gets better images, the architect gets favorable coverage, and the photographer gets a licensing fee for the use of the images.

Editorial images have tremendous value for both the publisher and the architect. The magazine benefits because high-caliber professional photography adds to both the design and the depth of the stories. Good architecture, represented by good photography, attracts a more affluent and professional readership. This, in turn, allows the magazine to charge premium rates for its advertising. It also buffs the magazine's prestige. Although difficult to measure, prestige is more than a feel-good; it smoothes the road and opens doors for the magazine's editors and sales reps.

The architect benefits by getting visibility and renown. Not only is the cost of an editorial-use license far lower than the price of an ad in that same magazine, but the credibility of editorial content is also far higher than advertising. In addition, the architect can purchase reprints from the publisher at a tiny fraction of the cost of commissioning a similar piece from a graphics house or advertising agency.

Besides these benefits to the architect and publisher, the publication can benefit the entire architectural profession and especially its students and emerging practitioners. Architectural designs are not created in a vacuum but within an evolving tradition or cultural milieu, which both influences and is influenced by the newest designs. Written descriptions and drawings are important in this process, but photographic images are the most direct form of communication. Without photos, architects would have to travel to see examples of successful design. It is no exaggeration to say that good photography is a bedrock element of architectural progress.



M + C Saatchi, New York City—Architecture by Kapell and Kostow; photography by Chun Y. Lai.

WHAT'S A PAGE WORTH?

Magazine subscribers rarely have any idea what the one page in a publication is worth. It's a lot! To find out just how much, visit the publication's Web site, follow the links for advertisers, and look at the media kit.

One example: A standard full-page ad in the January 2006 issue of *Architectural Record* cost \$14,750.

ISSUES THAT MAY ARISE

Conflicts can arise, however, when the publisher, architect, and photographer have different expectations about rights and licenses. For example, if the architect has submitted the images as part of a story pitch, the publisher may believe that it's the architect's

responsibility to secure the publication rights. The architect may not see why there should be any restrictions on the uses of the photographs. The photographer may be unsympathetic to the publisher's deadline pressure, and so on.

It is a rare magazine publisher who would run a feature story without pictures, especially if the images had been instrumental in getting the story planning started. At the same time, the publisher would prefer not to drop the story out of hand; the magazine staff has probably invested time in story development and would have to find something else to run in its place, with the deadline inexorably getting closer each day. However, if the necessary rights are not in hand, those are the unpleasant choices the publisher faces.

(This Best Practice refers primarily to magazines—and, by extension, all periodicals—including journals, newsletters, and their online equivalents. However, we do not mean to exclude books from the discussion. Deadlines are usually less urgent in the book business, but the upfront investment of staff time and writers' advances can create the same financial dynamics.)

In the worst case, there may be a standoff, with neither the architect nor the publisher agreeing to pay for the use rights and the photographer unwilling to give the rights for free. If so, the book or the article will be killed and everyone will lose something.

SECURING AN EDITORIAL LICENSE

Since the magazine receives the most direct financial benefit from the use of the images, it is most often the magazine that pays the photographer for the necessary license. The publication typically contacts the photographer directly and pays a fee commensurate with the value the images contribute to the magazine's success. Several factors determine this fee, including the number of images to be used, their printed size, and their placement. Thus, a photo used on the cover has a higher value to the magazine than photos used inside. Other factors include the magazine's editorial payment rates for photos that it commissions from freelancers, the magazine's circulation, and the rates it charges advertisers.

(Licensing of images for books follows the same principles as magazine licensing. The fee is based on the type of book [e.g., college text, popular press, coffee-table, trade paperback], the press run, and the size and placement of the images.)

However, the publisher may refuse to pay this fee, either as a negotiating ploy or an attempt to shift its editorial cost to another party. It is in the publisher's interest to get the license at the lowest cost, of course, and he may sometimes play a little hardball. However, most photographers have established pricing, which is based on the value that the images bring to the publication. Despite the publisher's protestations, it's quite rare that a publication truly cannot pay. When that happens, it's a sign that the publication is soon to fold, because rights licenses are such a small part of the total editorial, printing, and distribution cost.

If the publisher can't or won't pay for the rights, the other option is for the architect to obtain the editorial-use license. The cost is the same either way, and many architects find that spending time dickering over who pays is costlier than simply taking the initiative.

It is rare that an architect will license broad publication rights in advance, although it can be done. Without knowing what use a future publisher or art director might make of the images, the photographer would write the license to cover a wide range of possibilities and charge accordingly. This is not usually a wise use of the architect's working capital.

EXECUTIVE SUMMARY: EDITORIAL LICENSING

- Editorial publication rights are not typically granted to architects unless specifically stated in a written licensing agreement.
- A publication's content is its most valuable asset, attracting both readership and advertisers. If the publication refuses to acknowledge the value of photography and does not secure an editorial license, the responsibility for licensing the rights may revert to the architect.
- A photo credit is not equal to the value of the content (images) received by the publisher.

THE VALUE OF A PHOTO CREDIT

It is often argued that a photo credit, like a byline, has value to the photographer as a form of advertising. This is true in one sense: Its value depends on its prominence on the page. However, it's not true that the credit can be used to negotiate down the license fee. Most photographers have already factored its value into their fee structure.

In this respect, photographers and architects have much in common. Architects like to see their firm's name on the sign above the construction fence, but they nevertheless expect to be paid for their design work. Professional photographers view a credit line in much the same way. A visible photo credit may improve the photographer's chances of getting future work, but it's not payment for the work that was completed.

CONCLUSION

In the optimum scenario, when an architect and a publisher begin discussing a story, they decide who will be responsible for securing the license rights for the images they want. The fee depends not on who pays it but on the value that the specific use brings to the publication. In practice, the value of high-quality images, both to the publication and to the architect, is always much greater than the cost—and that's why everyone wins when the deal is completed.

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