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Real Estate Alert

AIA's Retirement of 1997 Construction Forms Spurs Shift to New AIA 2007 and 2008 Forms

At the end of this month the American Institute of Architects (AIA) will be "retiring" most of its 1997 series AIA construction contract forms in a push to switch users to the updated and revised AIA 2007 series forms.

Many owners, construction managers, architects and contractors who would typically contract using the AIA forms are either unaware of the impending

shift from the AIA 1997 forms to the new (and revised) AIA 2007 series that will take place **after May 31, 2009**, or not familiar with the changes being made in the new documents. In addition, few industry professionals have experience in using the newer AIA 2008 "Integrated Project Delivery" forms. These parties may soon be left scrambling to educate themselves on the nuances of the new AIA 2007 and 2008 forms (and their numerous changes) and to develop a new library of AIA forms for use when the construction sector regains momentum.

The information in this alert concerns changes to the AIA construction contract forms. The new forms replace the most significant 1997 series forms.

- [AIA Contract Documents Page](#)
- [AIA Contract Documents Software Download Page](#)

Most widely used forms are changing

After May 31, 2009, AIA electronic form users will be unable to generate clean, executable versions of some of today's most widely used AIA contract forms such as:

- the **AIA A101-1997 version** (*Standard Form of Agreement Between Owner and Contractor—Stipulated Sum*);
- the **AIA A107-1997 version** (*Abbreviated Form of Agreement Between Owner and Contractor for Construction Projects of Limited Scope—Stipulated Sum*);
- the **AIA A111-1997 version** (*Standard Form of Agreement Between Owner and Contractor—Cost Plus a Fee with a GMP*);
- the **AIA A201-1997 version** (*General Conditions of the Contract for Construction*);
- the **AIA B151-1997 version** (*Abbreviated Standard Form of Agreement Between Owner and Architect*); and
- the **AIA B141-1997 version** (*Standard Form of Agreement Between Owner and Architect—Parts 1 and 2*).

New forms unveiled in late 2007

At the end of 2007, the AIA unveiled a new series of standard construction contract forms that are intended to update and replace the older 1997 series documents. This new series contains updated 2007 versions of the AIA A101, A107 and A201 forms, as well as the new A102, B101, B102, and B201 forms (which replace the 1997 versions of the A111, B151 and B141 Part 1 and B141 Part 2 forms, respectively).

Addressing industry trends

In its new AIA 2007 series, AIA has attempted to revise and update several of its standard construction form provisions to better suit current industry practices and emerging construction trends. For example, the new AIA A201–2007 version has significantly revised the dispute resolution mechanism utilized by the Owner and Contractor. Under the AIA A201–2007 form, arbitration is no longer mandatory (as was the case in the 1997 version) and the parties have a new option to designate a third-party initial decision maker as the first means of resolving disputes (which initial decision making role was solely reserved for the Architect in prior A201 versions). The effects of such dispute resolution changes remain to be seen, although some have already speculated that the need to retain a third-party initial decision maker may undesirably increase future construction project budgets. Additionally, the language in the 1997 version of the A201, that prohibits the joining of arbitration claims by the Owner against the Architect with claims against the Contractor, has been replaced with language in the AIA A201–2007 version that permits such joinder. As an example of the substantive revisions to the B-Series of AIA documents, the new B101–2007 form expressly provides for a "Standard of Care" by which the architect shall perform its services. This key concept was missing in the prior 1997 versions of the B151 and B141 forms.

Support for IPD and BIM

Further, in recent years the industry has been gravitating towards the use of the "Integrated Project Delivery" (IPD) approach to construction projects. This approach unites all team members—the owner, architect, construction manager, engineers, general contractor and subcontractors—in a collaborative effort with the objective of achieving design and construction of projects with as little waste as possible. The IPD approach is also conducive to allowing parties to more efficiently utilize the "Building Information Modeling" (BIM) design method. In response to this emerging trend, the AIA released a new family of "Integrated Project Delivery" forms in 2008 for use with projects that are developed and constructed under the IPD approach.

Although made up almost exclusively of architects, the AIA document committee has attempted to create in the 2007 and 2008 documents, forms which do not heavily favor any particular party. However, most parties which use such forms will find the need to make revisions to suit their particular needs and concerns, and that of their specific projects. Will you be left scrambling to understand the new AIA 2007 and 2008 forms? For assistance in navigating your way through the new AIA forms or any other construction industry forms, please feel free to contact our office.

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