

Know Your Rights and Limitations When You Photograph Property

Article by: Carolyn Wright

In general, if property is visible and can be photographed from a public place, you don't need a property release to use the image in any manner. This exclusion to copyright law includes buildings located on the property, but not statues or other items that may have separate copyrights. There also are restrictions on some governmental property for security purposes, such as federal seals and insignia, and military or nuclear installations. But if the statue or copyrighted item has minimal presence in your image, your photo still may fall under the exclusion. Otherwise, you must get permission to use the image for commercial purposes.

Nevertheless, some companies have tried to prevent the use – both commercially and editorially – of photographs of their buildings or objects via trademark protection or contract law. Examples include the Rock and Roll Hall of Fame, the lone Cypress tree at Pebble Beach, CA, and the “Hollywood” sign. While these attempts have been unsuccessful, they can be expensive to litigate. Is it worth it to you to spend thousands of dollars to test this issue? That's a choice you'll have to make.

If you want to avoid this battle, though, check the list of properties and objects collected by the Picture Archive Council of America that have been reported by its members to be allegedly protected. <http://www.stockindustry.org/resources/specialreleases.html>

On the other hand, photographers should protect their rights, too. Don't be intimidated from photographing what is within your legal rights. Check with an attorney to fully understand and exercise your privileges.

Take my advice; get professional help.

PhotoAttorney

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Carolyn E. Wright, Esq., has a unique legal practice aimed squarely at the needs of photographers. A pro photographer herself, Carolyn has the credentials and the experience to protect photographers. She's represented clients in multimillion dollar litigations, but also has the desire to help new photographers just starting their careers. Carolyn graduated from Emory University School of Law with a Juris Doctor, and from Tennessee Tech Univ. with a Masters of Business Administration degree and a Bachelor of Science degree in music.

She wrote the book on photography law. “88 Secrets to the Law for Photographers,” by Carolyn and well-known professional photographer, Scott Bourne, is scheduled for fall 2005 release by Olympic Mountain School Press. Carolyn also is a columnist for PhotoFocus Magazine.

Carolyn specializes in wildlife photography and her legal website is <http://www.photoattorney.com>