

**McGowan v. Cross,**  
**991 F.2d 790, Nos. 92-1480, 92-1584 (4th Cir. Apr. 22, 1993)**

Year	1993
Court	United States Court of Appeals for the Fourth Circuit
Key Facts	Plaintiff, owner of a contested piece of property, purchased a copyrighted house plan, made modifications to the plan, and initiated construction of a home on that property. Prior to completion, the property and incomplete house were conveyed to plaintiff's ex-wife, pursuant to a court order. The ex-wife finished constructing the house with the assistance of defendant landscape architect, using the plan plaintiff had purchased and modified. Defendant made several copies of the plan to obtain required permits and to complete construction. Plaintiff claimed that defendant's copies infringed his copyright in the modifications he made to the original plan. Plaintiff appealed the district court's ruling in defendant's favor.
Issue	Whether defendant's use of plaintiff's modified architectural plans to finish construction of a house constituted a fair use.
Holding	Upon weighing the statutory fair use factors, the court held that defendant's use of the architectural plans was fair. The court found that defendant did not intend to use the plans for commercial purposes, but that he reproduced the plan for the sole purpose of finishing construction of the house. The court also found that the architectural work was more factual than creative in nature, weighing in favor of a finding of fair use. The court noted that the defendant's wholesale copying of the plans weighed against a finding of fair use. However, the court found that the plans were copied and used only for purposes of completing the house and not for purposes of competing with plaintiff in the market.
Tags	Fourth Circuit; Painting/Drawing/Graphic
Outcome	Fair use found

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