

**CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE**

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State of California
Department of Consumer Affairs
Arnold Schwarzenegger, Governor



SUMMARY REPORT

CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

December 12, 2003
Sacramento, California

Committee Members Present

Linda Gates, Chair
Christine Anderson
Stephanie Landregan (arrived at 10:15 a.m.)
Anna Mendiola
Dennis Otsuji

Staff Present

Doug McCauley, California Architects Board (CAB) Executive Officer
Vickie Mayer, CAB Assistant Executive Officer
Mona Maggio, Landscape Architects Technical Committee (LATC) Program Manager
Mary Anderson, Examination Coordinator
Patricia Fay, Licensing Coordinator
Justin Sotelo, Enforcement/Special Projects Analyst
Terri Villareal, Enforcement Coordinator
Don Chang, Legal Counsel

Guests Present

Cynthia Choy Ong, CAB Liaison
Kent England, California Landscape Contractors Association (CLCA) Board Member
Sandra Gonzalez, Council of Landscape Architectural Registration Boards (CLARB) First Vice
President/President Elect (joined at 1:00 p.m. via telephone conference call)
Alexis Slafer, Director, University of California, Los Angeles, Extension Certificate Program
Richard Zwiefel, LATC Education Subcommittee Chair

A. Call to Order – Roll Call – Establishment of a Quorum

Chair Linda Gates called the meeting to order at 10:10 a.m. and Mona Maggio, LATC Program Manager, called the roll. Three members of the LATC present constitute a quorum. There being four present, a quorum was established.

B. Chair's Remarks

Ms. Gates welcomed newly appointed LATC members Christine Anderson, Anna Mendiola, and Dennis Otsuji to the Committee and Terri Villareal to the LATC staff. Ms. Anderson, Ms. Mendiola and Mr. Otsuji each provided a brief summary of their education and work history.

Ms. Gates reported that the Sunset Review Hearings previously scheduled for December 2, 2003 were cancelled and rescheduled for January 6, 2004. Ms. Gates noted that agenda items H and I in the meeting packet have a cover page which states, "Due to Executive Order S-2-03, the Landscape Architects Technical Committee is precluded from taking action under the Administrative Procedure Act on regulatory packets, as such, action on the attached agenda items relating to proposed regulatory changes will not be taken at this meeting. Documents referenced on the cover page are not included." However, since the mailing of the meeting packet, staff has received further clarification of the Executive Order and the Committee may now take action on these agenda items. The pertinent documents will be provided for the LATC's review later when the agenda items are discussed.

Ms. Gates reported that on September 11 – 14, 2003, she and Ms. Maggio attended CLARB's Annual Meeting in Salt Lake City, Utah. Ms. Gates also met with CAB's Executive Committee on November 25, 2003 to review the LATC's draft responses to the Joint Legislative Sunset Review Committee's (JLSRC) issues, questions and preliminary recommendations. She thanked the Executive Committee for their time in reviewing the LATC's draft responses and providing suggested edits for our report.

C. Public Comment Session

Alexis Slafer, Program Director of the Landscape Architecture Program at the University of California, Los Angeles (UCLA) Extension Program introduced herself to the Committee.

Kent England, also introduced himself to the Committee. Mr. England is a landscape contractor, a landscape architect and a current board member with the CLCA.

D. Approve the July 17, 2003 LATC Summary Report

Because the LATC was without a quorum at its July 17, 2003 meeting, the LATC recommended that CAB accept the July 17, 2003 Summary Report rather than the Committee actually approving the report.

- ◆ **Linda Gates moved to recommend that the California Architects Board accept the July 17, 2003 LATC Summary Report.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

E. Program Manager's Report

Ms. Gates announced that because a number of the agenda items may require lengthy discussions the Program Manager's Report would be moved to the end of the meeting or perhaps carried over to the next meeting. She encouraged the Committee to read the report for an update on the LATC's internal operations.

F. Update on Sunset Review Hearing and Possible Action or Delegation of Authority on Responses to Joint Legislative Sunset Review Committee's Issues, Questions, and Preliminary Recommendations

Ms. Gates reported that on November 19, 2003 the LATC received additional questions from the JLSRC and background information on November 21, 2003. Staff prepared draft responses to the questions which were reviewed by the LATC on November 24, 2003 and CAB's Executive Committee on November 25, 2003. Recommended edits from both the LATC and Executive Committee have been incorporated into the second draft that was emailed to the LATC members on December 11, 2003 for a precursory review prior to the meeting.

The Committee reviewed each question and response and recommended edits to be integrated into the report.

Ms. Maggio asked the Committee to allow staff to finalize the responses for the January 6, 2004 meeting and to delegate authority to staff to finalize the edits to the report with final approval by the Board President.

- ◆ **Linda Gates moved to approve delegating authority to finalize the responses to the JLSRC issues, questions, and preliminary recommendations to staff, with final approval by the Board President.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

G. Discuss and Possibly Take Action Regarding the Council of Landscape Architectural Registration Boards' (CLARB) Proposed Changes in the Administration of the Landscape Architectural Registration Examination (LARE)

Ms. Gates stated that on October 9, 2003, staff received a memo from CLARB summarizing the 2003 Annual Meeting. CLARB reported a supportive response from member boards to proceed with the implementation of the computer-administered examination. CLARB had planned on implementing the first computer-administered examination in March 2003, but during the Annual Meeting a few board representatives indicated their respective boards needed additional time to review statutes and regulations and make changes to internal processes. Based on this feedback, CLARB will administer the first computer-administered exam for the multiple-choice sections A, B and D in August 2004. The June 2004 exam will consist of only the graphic performance sections C and E.

The Committee discussed the transition from a paper/pencil exam to computer-administration and agreed to support the change in administration, but not CLARB's decision to usurp California and other states' authority to determine a candidate's eligibility by CLARB setting its own eligibility standards and determining a candidate's eligibility to sit for the exam. Additionally, the Committee discussed the increase in candidate application and exam fees that CLARB will be charging.

Ms. Slafer expressed concerns that graduates from the extension certificate programs would not qualify under CLARB's eligibility criteria requirements for sitting for the exam. Ms. Gates stated that CLARB is developing an appeal process for candidates who do not meet its eligibility criteria. Those candidates would apply directly to the state in which the candidate wishes to obtain licensure. Each state could "approve" the candidate to sit for the LARE and would notify CLARB of its decision to allow the candidate to sit for the LARE.

Ms. Maggio stated CLARB has reported it is working with the few states that have "special requirements." However, staff has received a letter from the South Carolina Board voicing its concerns with CLARB's proposed changes to the LARE. Additionally, staff has been in contact with the landscape architect licensing/regulatory agencies in Maryland, Virginia, Texas, Nevada and Washington. It appears in conversations with staff and board members from these states that other states are also voicing concerns to CLARB but CLARB is not sharing the information with other member jurisdictions.

Don Chang recommended the Committee send a letter to CLARB's Executive Director Clarence L. Chaffee and the board of directors stating that the LATC supports the decision to administer the multiple-choice sections of the LARE via computer. However, the LATC will continue to follow its statutory mandate to determine California candidates eligibility to sit for the LARE. Mr. Chang will assist staff with drafting the letter for the Committee's approval.

The LATC directed staff to poll each CLARB member jurisdiction to determine if: 1) the new examination process would require statutory and/or regulatory amendments in that state/jurisdiction; 2) its Board members and/or legal counsel reviewed its state laws pertaining to the written examination and eligibility requirements; 3) it accepts CLARB's interpretation of its state laws; 4) the administration of the LARE is a revenue source for that particular state/jurisdiction; and 5) it had any concerns about CLARB implementing the new examination process without a vote from its Member Boards.

Ms. Gates asked staff to obtain a copy of CLARB's bylaws and research the voting requirements, i.e., what issues require a vote by the Board of Directors and what issues require a vote by the member states. Ms. Gates noted that as we receive responses to our poll, the Committee may want to consider proposing a resolution at the 2004 regional meeting, such as placing a moratorium on implementing the computer exam to allow members to review their laws and bring to a vote at the annual meeting. She directed staff to research the process for submitting a resolution to the CLARB membership.

Christine Anderson suggested that staff draft a notice regarding the proposed changes to the LARE and California's position on this matter and post it on the LATC Web site. She added that candidates who are employed at her office are beginning to discuss this issue and are asking her questions. Ms. Maggio responded that staff would develop a notice and have it sent to the LATC and legal counsel for review and approval.

Ms. Gates stated one of the outgrowths of this issue is the need to review the eligibility requirements as well as the statutes and regulations related to the examination. She recommended the Educational Subcommittee, chaired by Richard Zwiefel, be charged to review the exam eligibility requirements. LATC members Anderson and Mendiola offered to serve on the subcommittee. Ms. Gates shared that Tom Lockett, Steve Lange and Alexis Slafer also expressed an interest in serving on the subcommittee. Ms. Landregan suggested including a new licensee on the subcommittee. Ms. Gates recommended the LATC discuss all subcommittees and task force appointments during strategic planning. She added during strategic planning the LATC should specify the sub committee's charge and identify the statutes and regulations the subcommittee is to review.

H. Review and Give Preliminary Approval of Proposals to Amend Title 16, Division 26, California Code of Regulations (CCR) Section 2624, License Renewal Three Years After Expiration, Adopt CCR Section 2624.1, Expired License – Five years After Expiration, and Amend Business and Professions Code (BPC) Section 5651, Examination of Applicants

Justin Sotelo presented this agenda item by reporting that prior to June 2001, the LATC accepted all re-licensure applications (under BPC section 5680.2) from individuals whose licenses had been expired or cancelled for more than three years. The statute did not specify a time limit for submitting a re-licensure request. He reported that at its May 2000 meeting, the LATC discussed the difficulty in evaluating an applicant's competence when the applicant's license had been expired for a number of years. Therefore the LATC suggested that a time limit of three - five years after expiration of one's license be the period in which an individual could request re-licensure. Mr. Sotelo stated that in June 2001, CCR section 2624, License Renewal Three Years After Expiration, was adopted. The purpose of the regulation was to allow an individual whose license has been expired for more than three but less than five years, to establish to the Board that he or she is qualified to practice landscape architecture without taking and passing the licensing examination. An individual whose license has been expired for more than five years would have to apply for and pass all sections of the current licensing examination to be eligible for a new license.

Mr. Sotelo reported that despite the stated purpose of CCR section 2624, the current language still allows an individual whose license has been expired for more than five years to establish to the satisfaction of the Board that he or she is qualified to practice landscape architecture (under the reference to BPC section 5680.2).

Mr. Sotelo noted that the proposed amendments to CCR section 2624 and the proposed adoption of section 2624.1 are consistent with CCR section 2624's original purpose. Dividing the current regulation into two regulations will provide clarity and specific criteria for applying for re-licensure and address the licensure issue for those whose license has been expired for five or more years.

- ◆ **Stephanie Landregan moved to amend Title 16, Division 26 of CCR section 2624, License Renewal Three Years After Expiration, and to adopt CCR section 2624.1 Expired License – Five Years After expiration and to Recommend the CAB authorize LATC to go forward with the notice once the Governor has lifted the Executive Order or a procedure has been developed to go forward.**
- ◆ **Dennis Otsuji seconded the motion.**
- ◆ **The motion carried unanimously.**

(See agenda item K for additional discussion on the re-licensure process.)

Mr. Sotelo reported that the purpose of the proposed amendment to BPC section 5651 is to clarify the LATC's written examination waiver for reciprocity candidates by specifically adding that applicants currently licensed by a U.S. jurisdiction, Canadian province, or Puerto Rico qualify for the waiver. In addition, the proposed amendment deletes the CLARB certification and proof of job experience waiver option. Staff recommended deleting the CLARB certification language as the requirements could change which could potentially be in conflict with the written examination waiver.

- ◆ **Anna Mendiola moved to amend BPC section 5651, Examination of Applicants.**
- ◆ **Christine Anderson seconded the motion.**
- ◆ **The motion carried unanimously.**

I. Review and Give Preliminary Approval of Proposals to Amend Title 16, Division 26, CCR 2604, Filing of Addresses, and BPC 5657 Business Address Change – Notice Requirement

Mr. Sotelo stated that the purpose of the proposed amendments to CCR section 2604 and BPC section 5657 is to clarify the filing of address requirement for the licensees and to establish consistency between the statute and the regulation. He added that currently CCR section 2604 requires that a licensee immediately file a proper and current mailing address with the Board after a change of address, while the BPC section 5657 requires that a licensee file proper and current mailing and business addresses within 30 days after a change of address. Mr. Sotelo noted that the proposed amendments to CCR section 2604 and BPC 5657 will require that a licensee file a proper and current public address of record with the Board and require that the licensee do so within 30 days after a change of address, thus aligning the statute with the regulation and giving the licensees a definitive timeframe in which to file a change of address.

- ◆ **Stephanie Landregan moved to amend Title 16, Division 26, Section CCR 2604, Filing of Addresses to Recommend the CAB authorize LATC to go forward with the notice once the Governor has lifted the Executive Order or a procedure has been developed to go forward.**
- ◆ **Anna Mendiola seconded the motion.**
- ◆ **The motion carried unanimously.**
- ◆ **Anna Mendiola moved to amend BPC section 5657, Business Address Change – Notice Requirement.**
- ◆ **Christine Anderson seconded the motion.**
- ◆ **The motion carried unanimously.**

J. Review and Ratify the Modification of the Proposed Amendment of BPC 5659, Inclusion of License Number - Requirement

Mr. Sotelo stated that staff is asking the Committee to ratify a proposed amendment that has already been approved by the Committee and submitted to DCA. He stated at its August 15, 2002 meeting, the LATC reviewed and accepted the Sunset Review Task Force’s suggested amendments to the Landscape Architects Practice Act that included an amendment to BPC section 5659. The proposal was a result of many inquiries from licensees as to the requirements for stamping plans and other instruments of service, i.e., plan specifications, contracts and plans prepared for others. The purpose of the amendment is to clarify the requirement for licensees when preparing plans, specifications, and other instruments of service and contracts for others; and better align the language with the stamping requirements for architects and engineers. Mr. Sotelo added that although stamping plans, is an implied requirement under this statute by requiring a signature, date, license number, and renewal date, the language does not specifically state that a licensee is required to affix a stamp on plans and other instruments of service.

Mr. Sotelo stated that the proposed amendment was submitted to the Department of Consumer Affairs’ (DCA) Legislative and Regulatory Review Division on August 26, 2002 for consideration for inclusion in the DCA’s Omnibus bill. The LATC was asked to provide an additional justification to DCA on April 2, 2003 as a result of concerns from Senator Sam Aanestad that the proposal would create an additional financial burden for licensees. While preparing the justification, staff noted minor non-substantive edits that should be included to clarify the need for stamping plans.

- ◆ **Stephanie Landregan moved to ratify the modification of the proposed amendment to BPC section 5659 and add staff’s recommended language.**
- ◆ **Linda Gates seconded the motion.**
- ◆ **The motion carried unanimously.**

K. Review and Consider Request for Re-Licensure

Ms. Maggio stated that in October 2003 the LATC received a letter from Steven Sharafian, attorney with Long and Levit LLP on behalf of his client Marta Fry. Mr. Sharafian requested the LATC grant his client a new landscape architect license in accordance with the provisions in BPC section 5680.2. Ms. Maggio noted that Ms. Fry's license was issued on August 18, 1994 and expired on August 31, 1995.

Ms. Maggio reported that this matter came to staff's attention while determining an exam applicant's eligibility to sit for the LARE. As part of the evaluation process, Mary Anderson verifies that the licensee who signs the Certificate of Applicant's Experience has a valid license. Ms. Anderson discovered that Ms. Fry's license had expired and notified the applicant of the findings. The file was then transferred to the enforcement unit for determination of a violation of the Landscape Architects Practice Act.

Ms. Maggio explained the request before the LATC was to grant or deny Ms. Fry the opportunity to submit an application for re-licensure. Ms. Landregan asked why staff accepted this request if the law limits re-licensure applications to those whose license has been expired three - five years and Ms. Fry's license has been expired for eight years. Mr. Chang stated that the language in the current law allows an individual to ask the LATC for a waiver to the examination by proving his/her competence to practice landscape architecture by means of a portfolio review. Mr. Chang clarified that the applicant who exceeds the five year limit must first ask the LATC to submit a portfolio for review; whereas an individual who is within the time limit would follow the re-licensure process which includes submitting a re-licensure application and work samples. Mr. Chang stated that in cases where the license expiration exceeds the three - five year limit for re-licensure applications, he recommended staff inform the requester that it is the discretion of the LATC whether to grant or deny the request to submit an application for re-licensure. Mr. Chang stated that until the proposed amendments to CCR section 2624 is approved, staff should accept requests from candidates whose license has expired more than five years. Mr. Chang suggested staff prepare for the Committee's review a brief summary of the requester's license history and work history since the license has expired. The individual shall not pay any fees until such time that the LATC allows for a portfolio review (re-licensure application). If the Committee grants a request that exceeds the five-year limit, the applicant will be instructed to complete and submit the re-licensure application, work samples and all applicable fees.

Ms. Maggio stated that the basis for this case was the requestor (Ms. Fry) failed to submit her renewal fee timely and when she received the delinquent notice, she failed to pay the delinquent fee. Ms. Gates shared that though staff refers to the renewal notice as a courtesy notice, the fact is receipt of the renewal notice is what causes most licensees to remember to pay the renewal fee timely. Mr. Chang added that Ms. Fry has been stamping plans since 1995 and most likely placing a current expiration date on the stamped plans. Mr. Sotelo stated he asked Mr. Sharafian that specific question. Mr. Sharafian's response was that his client was placing a current expiration date on the stamped plans. Based on that, the LATC determined to deny the request.

Mr. Chang stated that there might be an occasion when a hardship request will come before the Committee and the Committee might want to allow an applicant who exceeds the five-year time limit to submit a re-licensure application. However, once the proposed amendments to CCR sections 2624 and 2624.1 are approved, the LATC will not be able to grant a request when a

license has been expired more than five years. Ms. Gates suggested the LATC consider extending the time limit for re-licensure requests from three - five years to three - 10 years. She asked staff how many requests have been received for re-licensure from individuals whose license is expired five or more years. She stated she believes consistency is the most important factor for the Committee. Mr. Sotelo stated staff receives approximately two cases per year that exceeds the five year time limit however we do receive telephone inquiries about re-licensure and staff has told the callers that the re-licensure process are for individuals whose license has been expired three - five years. Ms Landregan asked if the Committee would like to reopen discussion of agenda item H. Mr. Chang said that now that there is a full Committee, we might want to hold off on processing the proposed amendments in agenda item H for a few months. This would provide an opportunity for all Committee members to review requests for re-licensure, those that meet and those that exceed the re-licensure time limit. At a future meeting the Committee could re-visit the re-licensure process; the cases that had been reviewed and then the Committee could decide to proceed with the proposed amendments to CCR section 2624 and/or extend the re-licensure time frame.

A poll of the Committee determined it would retain the three - five year re-licensure time frame and continue with the regulatory process to amend CCR section 2624 as approved in agenda item H.

- ◆ **Anna Mendiola moved to deny Ms. Fry's request to submit a re-licensure application for the Committee's consideration. For the purpose of licensure Ms. Fry shall take and pass all sections of the Landscape Architect Registration Examination as well as the California Supplemental Examination and pay all applicable fees.**
- ◆ **Christine Anderson seconded the motion.**
- ◆ **The motion carried 4 - 1.**

L. Report on California Council of the American Society of Landscape Architects Conference Calls and the American Society of Landscape Architects National Annual Meeting and Exposition

Mr. Otsuji stated the Council has not met for a few months and continues having difficulty finding a date where a quorum would be present. He stated the Council wishes to meet with the LATC prior to the Sunset Review hearing to identify ways in which to offer support to staff and the LATC.

M. Enforcement Program Report

Due to the lateness of the day, this agenda item was not presented. Ms. Gates asked the Committee members to read the enforcement agenda page and contact staff with any questions.

N. Announcement of Future Meetings

Ms. Maggio announced the LATC would meet on January 23, 2004 in Berkeley to conduct its annual strategic planning session. The meeting will be held at the office of Moore Iacofano Goltsman, Inc., with Daniel Iacofano facilitating the strategic planning portion of the meeting.

O. Adjournment

The meeting adjourned at 5:00 p.m.