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SUMMARY REPORT

CALIFORNIA ARCHITECTS BOARD  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

March 27, 2003  
ONA, Inc.  
9275 Sky Park Court, Suite 150  
San Diego, CA 92123

Committee Members Present

Linda Gates, Chair  
Sandra Gonzalez  
Stephanie Landregan

Staff Present

Doug McCauley, California Architects Board (CAB) Executive Officer  
Mona Maggio, Landscape Architects Technical Committee (LATC) Program Manager  
Erin Mynatt, Enforcement Coordinator  
Don Chang, Legal Counsel

Guests Present

Andy Branam, Center for Public Interest Law  
Amelia Lima, Association of Professional Landscape Designers (APLD)  
Tom Lockett, LATC Scope of Practice Exceptions and Exemptions Task Force Chair  
David Mitchell, LATC Sunset Review Task Force Member (SRTF)  
Dennis Otsuji, SRTF Chair  
Richard Zweifel, LATC Education Subcommittee Chair

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

Chair Linda Gates called the meeting to order at 9:35 a.m. and Mona Maggio, LATC Program Manager, called the roll.

**B. Chair Remarks**

Ms. Gates reported that she, along with Sandra Gonzalez attended the Council of Landscape Architectural Registration Boards' (CLARB) Spring Regional Meeting, February 28 – March 1, 2003, in Austin, Texas. She added that the meeting experienced lower attendance due to budget concerns throughout the member jurisdictions. Ms. Gates also stated that CLARB's continuing education program, C<sup>2</sup>Ed, is not generating the revenue CLARB had planned and that it is taking much longer to come on line than they anticipated. The program is now beginning to

target allied professionals in addition to landscape architects. Another issue discussed was that of computer-based testing for the multiple-choice sections of the Landscape Architect Registration Examination (LARE). CLARB will conduct a Beta test on August 11, 2003. There are some unresolved concerns that may arise out of this move to computer-based testing. Ms. Gates stated that a highlight of the Regional Meeting was the nomination of Ms. Gonzalez as CLARB President-elect.

Ms. Gates and Ms. Maggio also provided a brief overview of the activities of the upcoming day at the American Society of Landscape Architects, California Council's (CC/ASLA) State Conference. The LATC will hold a roundtable with the membership on Friday morning to discuss the upcoming Sunset Review hearings and what the CC/ASLA chapters can do to assist in the effort. Also Doug McCauley, Terri Thomas and Senator Liz Figueroa will participate on a panel on how to effectively lobby legislators.

**C. Public Comment Session**

Ms. Gates welcomed the visitors and asked that they introduce themselves to the LATC. There were no public comments at this time.

**D. Approve the November 13, 2002 LATC Scope of Practice Exceptions and Exemptions Task Force Summary Report**

- ◆ **LATC members unanimously accepted the November 13, 2002 Scope of Practice Exceptions and Exemptions Task Force Summary Report.**

**E. Approve the December 12, 2002 LATC Sunset Review Task Force Summary Report**

- ◆ **LATC members unanimously accepted the December 12, 2002 Sunset Review Task Force Summary Report.**

**F. Approve the December 12, 2002 and February 7, 2003 LATC Summary Reports**

- ◆ **Sandra Gonzalez moved to approve the December 12, 2002 LATC Summary Report.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**
- ◆ **LATC members unanimously accepted the February 7, 2003 LATC Summary Report.**

**G. Program Manager's Report**

Ms. Maggio presented an overview of the LATC's budget and how the State budget deficit is impacting the LATC. She specifically reviewed some of the measures that the Governor's office requested that all boards, bureaus, and divisions implement. Ms. Maggio also reviewed the airport parking restrictions that are being enforced, as well as other efforts that are being enforced due to the budget deficit.

Additionally, Ms. Maggio shared that in January 2003, the LATC was notified that its reserve fund was earmarked for a proposed loan of \$1,000,000 to the General Fund. This loan will be made to the General Fund at the end of the 2002/03 fiscal year. On February 8, 2003 the LATC was notified that its reserve fund was targeted for an additional loan of \$225,000 to the General Fund. These funds will be transferred to the General Fund in October 2003. The projected fund reserve will be 2.9 months in FY 2003/04, and 1.3 months in FY 2004/05.

Ms. Maggio also shared that in October 2002, CLARB notified the LATC of additional increases in examination costs for the December 2003, June 2004, December 2004, and June 2005 examinations. She explained that the LATC was not able to submit a Budget Change Proposal (BCP) to augment the increase earlier, as the LATC did not receive notification of the increases until October 2002. As a result of these increases and the projected increase in the candidate population, the LATC submitted a Spring Finance Letter proposing an examination line item augmentation of \$115,000 for FY 2003/04 and an additional \$73,000 for FY 2004/05 and ongoing. The augmentation, totaling \$188,000, would cover the costs for purchasing and administering the LARE and facilitating the examination review sessions. Current expenditure authority is \$187,395, which is not sufficient to cover the increased examination costs. Kathleen Hamilton, Director of the Department of Consumer Affairs (DCA) approved the request and the Spring Finance Letter was forwarded to the State and Consumer Services Agency on February 14, 2003.

Ms. Maggio shared that she and Mr. McCauley attended the Senate Budget and Fiscal Review Subcommittee hearing on March 6, 2003. The Chair of the Joint Legislative Budget Committee requested that the hearing be an informational hearing where there would be full discussion of the issues so members could craft proposals for later action. The consent calendar was acknowledged but a vote was not taken. On March 11, 2003, the Assembly Budget Subcommittee approved the budgets for the LATC and the Board.

Ms. Maggio reported that staff mailed the Insurance Company Surveys on March 19, 2003. Prior to finalizing the survey, Dick Crowell, former Senior Vice President at DPIC Companies, Inc., offered his guidance on the development of the survey. He provided the names of three additional insurance companies that provide liability insurance to landscape architects. Ms. Maggio added that Mr. Crowell is very supportive of staff's efforts regarding the survey and the continued licensure of landscape architects. So far staff has received three surveys and the deadline for returning the survey is April 7, 2003. Staff will compile the results of the survey and incorporate the data into the Sunset Review Report.

Ms. Maggio shared that due to the budget deficit, the LATC would not be able to print the Spring 2003 Newsletter. However, staff has completed a layout of the newsletter and will post it on the Web site sometime next week. She added that mail outs to licensees, candidates and those on the LATC interested parties list would include a notice that the 2003 Spring Newsletter would be available on the LATC Web site.

Ms. Maggio instructed the LATC members that there is a required vehicle accident report form for accidents occurring while on state business. She provided copies for everyone to have with them.

Mr. McCauley provided an update to the LATC on the progress of the judgement/settlement reporting.

Mr. McCauley also addressed the concern with appointments to the LATC. He has sent a letter to Kathleen Hamilton, Director of DCA voicing the LATC's impending need for appointments as Ms. Gonzalez' grace period will expire in June 2003. He also shared that Ms. Maggio has continued to communicate with DCA Board Relations and the Governor's office regarding this need. Mr. McCauley shared that the Department is aware of the situation, but that a number of boards are facing similar situations.

#### **H. Review and Approve Draft Sunset Review Report for Referral to the California Architects Board's Executive Committee**

Dennis Otsuji, Chair of the SRTF led the discussion on the draft of the Sunset Review Report presented by staff. The LATC and SRTF members voiced their approval of the report and commended staff for their efforts. There was a general consensus that an Executive Summary and Table of Contents were needed to aid in the reading of the report. Ms. Maggio instructed the LATC and SRTF members to submit their edits to Erin Mynatt at the end of the meeting, or to her at the CC/ASLA LATC Roundtable tomorrow. Staff will then make the necessary edits to the report and submit the draft to Mr. McCauley for the Board's Executive Committee's approval on April 10, 2003.

#### **I. Review and Approve 2003 Strategic Plan**

Ms. Maggio presented the draft of the 2003 Strategic Plan prepared by Moore Iacofano Goltsman, Inc. (MIG). The LATC provided feedback and suggested edits to staff. Staff will incorporate the edits and additions into the Strategic Plan to be presented to the Board for its approval on June 12, 2003.

- ◆ **Stephanie Landregan moved to approve the 2003 Strategic Plan with minor edits.**
- ◆ **Sandra Gonzalez seconded the motion.**
- ◆ **The motion carried unanimously.**

Additionally Ms. Maggio shared that the LATC's contract with MIG is expiring in June 2003 and that the Department is encouraging boards and bureaus to cut back on costs by eliminating outside contracts. Ms. Maggio expressed that she would like to see the LATC be able to retain the services of MIG and renew the contract for a different strategic planning cycle, possibly an 18 month as opposed to the current 12 month cycle. She asked for the Committee's thoughts on this issue.

The LATC members agreed that retaining the services of MIG was important to facilitate an efficient and effective strategic planning process. The Committee agreed that a less frequent cycle might be a better alternative. The LATC instructed Ms. Maggio to investigate their options and possibly hold the next strategic planning session in November 2004.

**J. Discuss and Approve Recommendations to Amend Business and Professions Code Section 5641, Chapter Exceptions, Exemptions**

Ms. Mynatt presented an overview of this agenda item, including the findings that were made by the Scope of Practice Exceptions and Exemptions Task Force on November 12, 2002. She reported that at the December 12, 2002 meeting the LATC approved language to amend the language of Business and Professions Code (BPC) section 5641. However, some concerns were raised as to the use of the language “conceptual design and placement of tangible objects and landscape features.” Staff and legal counsel prepared an amended version of the language for the Committee to discuss. Ms. Mynatt presented the LATC with three possible options they could consider:

1. Approve recommended amendment for submittal to the Board;
2. Amend the language and resolve any concerns they might have; or
3. Refer the amendment back to the Scope of Practice Exceptions and Exemptions Task Force for further consideration.

The general consensus was that it was in the LATC’s best interest to amend the language. Ms. Gates called on Tom Lockett, Chair of the Scope of Practice Exceptions and Exemptions Task Force to provide insight into the Task Force’s actions.

Mr. Lockett presented the findings of the Task Force and the reasoning behind their recommendations. He reiterated the intent to follow the parameters set out by the LATC regarding concerns of public health, safety, and welfare in single family residential design:

1. altering of drainage patterns;
2. retaining walls; and
3. site structures, particularly overhead structures.

Ms. Gates reinforced that the Task Force was looking to clarify the current exceptions and exemptions, not change the enforcement of the law. She stated that although they agreed that providing the consumer with greater choice is a concern, the LATC must remember their primary focus is on public health, safety, and welfare. Therefore, the Task Force felt that focusing on single-family residential services was paramount in the discussion. Ms. Gates asked the LATC and audience members to provide any suggestions and or concerns they might have with the language proposed by staff.

After discussion of various concerns that were raised, Legal Counsel Don Chang suggested the following language for the LATC to consider:

**5641 Chapter Exceptions, Exemptions**

This chapter shall not be deemed to prohibit any person from ~~making preparing drawings for the conceptual design and placement of tangible objects and landscape features or plans, or drawings and specifications~~ for the selection, placement, or use of plants ~~when the execution of such plans or drawings does not affect the public health, safety and welfare.~~ for a single family dwelling. ~~This chapter shall not be deemed to prohibit any person from making any plans, drawings, or specifications for any property owned by that person.~~

~~Every person who holds a valid license issued by the State of California, under the provisions of Chapter 1 (commencing with Section 6721) of the Food and Agricultural Code, authorizing engagement in the business of selling nursery stock in this state, may engage in the~~

~~preparation of plans or drawings as an adjunct to merchandizing nursery stock and related products, but may not use the title of landscape architect. Such activity is exempt from licensure under the provisions of this chapter.~~ Construction documents, details, and specifications for the tangible objects or landscape features, and alteration of site requiring grading and drainage plans shall be prepared by a licensed professional as required by law.

The LATC members reviewed the recommendation from legal counsel and asked staff if the proposed language would provide the clarification they needed for enforcement of the statute. Ms. Mynatt shared that since the proposed language addressed the three major parameters identified by the LATC, then this presented a much more clarified statute for enforcement purposes.

- ◆ **Sandra Gonzalez moved to approve the proposed amended language for amending BPC section 5641.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Mynatt reinforced for the benefit of the public audience that this is only the first step in a very long process to amending the statute. Staff will prepare the necessary documents with legal counsel's guidance to be presented to the Board for its approval. Ms. Gates echoed Ms. Mynatt's statements and reminded the audience member from the APLD that the statute had not been changed yet as far as enforcement of the Landscape Architects Practice Act. The current language of BPC section 5641 is the law governing unlicensed individuals and landscape design services.

**K. Review and Give Preliminary Approval of Proposed Regulations to Amend Title 16, Division 26, California Code of Regulations Section 2649, Fees**

Ms. Maggio presented the proposed changes to amend California Code of Regulations (CCR) section 2649, Fees. On October 2, 2002, CLARB notified the LATC that there would be an increase in the cost to purchase individual sections of the LARE.

To ensure that the cost to purchase the examination is offset with the fees charged, CCR section 2649, Fees, must be amended to include the increase. The proposed fees do not exceed the actual cost to purchase and administer the examination. Section 2649 (b)(1) should also be amended to delete the fees that were in effect from July 1, 1999 through June 30, 2002.

- ◆ **Sandra Gonzalez moved to approve the proposed amended language of CCR section 2649, Fees.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

#### **L. Discuss and Possibly Approve Licensee Survey**

Ms. Mynatt presented a draft licensee survey to be used as Phase II of the Market Conditions Assessment as stated in the 2000 Strategic Plan. She also shared that staff wished to gather information that would be helpful in the Sunset Review process, as well as addressing various issues identified in the 2000 Strategic Plan.

The LATC expressed concern about rushing this process, as it would be a beneficial tool for gathering valuable data about our licensees. Richard Zweifel expressed that the LATC should seek professional assistance in drafting a survey that would ensure the proper questions were asked in an appropriate way to obtain the most valuable information. Ms. Gonzalez also agreed but stated that some of the basic data staff was seeking could be asked in a more informal survey now. The LATC reviewed the draft prepared by staff and decided that questions 1-7 and 12 were acceptable for immediate use. Also they discussed the need to ask a question regarding the amount of acreage that each licensee directly impacts.

The LATC instructed staff to proceed with the basic licensee survey to obtain necessary data for Sunset Review purposes and decided to revisit the need for a more comprehensive licensee survey after CLARB released their 2004 Task Analysis.

#### **M. Review and Approve of Request for Re-Licensure**

The LATC reviewed a request for re-licensure from Mark Kopatz, former license number LA 2160. Ms. Gates reported that Mr. Kopatz was originally licensed in California in February 1982 and his license expired in January 1998.

Ms. Gates reported that the work samples submitted by Mr. Kopatz demonstrated current knowledge and minimal competency for entry-level practice and recommended that upon successful completion of the California Supplemental Examination, he be granted a new license.

- ◆ **Stephanie Landregan moved to grant Mark Kopatz' request for waiver of the Landscape Architect Registration Examination. For the purpose of re-licensure Mr. Kopatz shall take and pass the California Supplemental Examination.**
- ◆ **Sandra Gonzalez seconded the motion.**
- ◆ **The motion carried unanimously.**

The LATC reviewed a request for re-licensure from Steve Jacoby, former license number LA 2958. Ms. Gates reported that Mr. Jacoby was originally licensed in California in February 1989 and his license expired in March 1998.

Ms. Gates reported that the work samples submitted by Mr. Jacoby did not demonstrate current knowledge and minimal competency for entry-level practice and recommended the LATC deny his request for a waiver.

- ◆ Sandra Gonzalez moved to deny Steve Jacoby's request for waiver of the Landscape Architect Registration Examination and application for re-licensure.
- ◆ Stephanie Landregan seconded the motion.
- ◆ The motion carried unanimously.

**N. Report on California Council of the American Society of Landscape Architects Conference Calls**

Ms. Maggio shared that the conference calls of late had focused primarily on the CC/ASLA State Conference to be held March 28-29, 2003 at Balboa Park, San Diego. CC/ASLA has expressed interest in the Sunset Review process and how they can help aid in the process.

Ms. Maggio shared that she and Mr. McCauley attended a CC/ASLA meeting on March 7, 2003, in Sacramento, where she provided an update of the LATC's draft Sunset Review Report, State budgetary restrictions and how it is affecting the LATC, LATC outreach efforts, and discussion topics for the LATC's Roundtable Presentation at the State Conference.

**O. Enforcement Program Report**

Ms. Mynatt presented an overview of the actions of the Enforcement Program since the December 2002 meeting. She reviewed the two citations issued and final as of March 27, 2003 and provided a brief overview of the Complaint and Enforcement Statistics for February and January 2003, December 2002 and Fiscal Year 2001/02.

**P. Announcement of Future Meetings**

The Committee had set a tentative meeting date on May 3, 2003 in conjunction with the University of California at Los Angeles Extension Program's 25<sup>th</sup> anniversary. However, due to the budget constraints, Ms. Maggio stated that the LATC would have to cancel that meeting. She shared that if they need to vote on any business before Ms. Gonzalez's grace period expires in June 2003, the LATC would schedule a teleconference. Tentatively the next LATC meeting would be July 17, 2003 in Sacramento.

**Q. Adjournment**

The meeting adjourned at 3:30 p.m.