



NOTICE OF MEETING

May 24, 2012

9:30am – 1:00pm

Exceptions and Exemptions Task Force

2420 Del Paso Road, Sequoia Room

Sacramento, CA 95834

(916) 575-7230

The Landscape Architects Technical Committee (LATC) will hold an Exceptions and Exemptions Task Force meeting as noted above. The agenda items may not be addressed in the order noted. The meeting is open to the public and held in a barrier free facility according to the Americans with Disabilities Act. Any person requiring a disability-related modification or accommodation to participate in the meeting may make a request by contacting Maryann Moya at (916) 575-7230, emailing latc@dca.ca.gov, or sending a written request to LATC, 2420 Del Paso Road, Suite 105, Sacramento, California, 95834. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

Agenda

- A. Welcome and Introductions
- B. Discuss Purpose of Task Force
- C. Review Business and Professions Code Section 5641 (Chapter Exceptions, Exemptions)
- D. Review and Discuss Background Material from 2002 Scope of Practice and Exemptions and Exceptions Task Force, and Identify Additional Research Material, Tasks, and Milestones
- E. Public Comment Session
- F. Select Future Meeting Dates

Adjourn

Please contact Maryann Moya at (916) 575-7230 for additional information related to the meeting. Notices and agendas for LATC meetings can be found at www.latc.ca.gov.

Agenda Item A

WELCOME AND INTRODUCTIONS

Linda Gates, Chair of the Exceptions and Exemptions Task Force will open the meeting with introductions and remarks.

Agenda Item B

DISCUSS PURPOSE OF TASK FORCE

The Exceptions and Exemptions Task Force is charged to determine how the Landscape Architects Technical Committee can ensure clarity about Business and Professions Code Division 3, Chapter 3.5, Article 3, section 5641 Chapter Exceptions, Exemptions, and ensure that these provisions protect the public.

Agenda Item C

REVIEW BUSINESS AND PROFESSIONS CODE SECTION 5641 (CHAPTER EXCEPTIONS, EXEMPTIONS)

The Exceptions and Exemptions Task Force will review Business and Professions Code section 5641 and discuss whether the language needs clarity and if the provisions within the section protect the public.

REFERENCES:

1. Landscape Architects Practice Act – Exceptions and Exemptions

LANDSCAPE ARCHITECTS PRACTICE ACT
BUSINESS AND PROFESSIONS CODE
Exceptions and Exemptions

Article 1 General Provisions

§ 5615. "Landscape Architect" – Practice of Landscape Architecture

"Landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this chapter.

A person who practices landscape architecture within the meaning and intent of this article is a person who offers or performs professional services, for the purpose of landscape preservation, development and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible construction observation. Landscape preservation, development and enhancement is the dominant purpose of services provided by landscape architects. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architects perform professional work in planning and design of land for human use and enjoyment. Based on analyses of environmental physical and social characteristics, and economic considerations, they produce overall plans and landscape project designs for integrated land use.

The practice of a landscape architect may, for the purpose of landscape preservation, development and enhancement, include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

This practice shall include the location, arrangement, and design of those tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities, in accordance with the accepted public standards of health, safety, and welfare.

This chapter shall not empower a landscape architect, licensed under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.

Article 3 Application of Chapter

§ 5640. Unlicensed Person Engaging in Practice – Sanctions

It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for a person to do any of the following without possessing a valid, unrevoked license as provided in this chapter:

- (a) Engage in the practice of landscape architecture.
- (b) Use the title or term "landscape architect", "landscape architecture," "landscape architectural," or any other titles, words, or abbreviations that would imply or indicate that he or she is a landscape architect as defined in Section 5615.
- (c) Use the stamp of a licensed landscape architect, as provided in Section 5659.
- (d) Advertise or put out a sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in the practice of landscape architecture.

§ 5641. Chapter Exceptions, Exemptions

This chapter shall not be deemed to prohibit any person from preparing drawings for the conceptual design and placement of tangible objects and landscape features or plans, drawings, and specifications for the selection, placement, or use of plants for a single family dwelling. Construction documents, details, or 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.

§ 5641.1. Chapter Exceptions, Exemptions - Personal Property

This chapter shall not be deemed to prohibit any person from preparing any plans, drawings, or specifications for any property owned by that person.

§ 5641.2. Chapter Exceptions, Exemptions – Nurserypersons

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 planting plans or drawings as an adjunct to merchandising 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.

§ 5641.3. Chapter Exceptions, Exemptions - Architects, Professional Engineers, and Land Surveyors

An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for which he or she is licensed or registered, is exempt from the provisions of this chapter, except that an architect, professional engineer, or land surveyor may not use the title "landscape architect" unless he or she holds a license as required under this chapter.

§ 5641.4. Chapter Exceptions, Exemptions - Landscape Contractors

A landscape contractor licensed under the statutes of this state, insofar as he or she works within the classification for which the license is issued, may design systems and facilities for work to be performed and supervised by that landscape contractor and is exempt from the provisions of this chapter, except that a landscape contractor may not use the title "landscape architect" unless he or she holds a license as required under this chapter.

§ 5641.5. Chapter Exceptions, Exemptions - Golf Course Architects

(a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, a golf course architect.

(b) As used in this section, "golf course architect" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of a golf course, in accordance with accepted professional standards of public health and safety.

§ 5641.6. Chapter Exceptions, Exemptions - Irrigation Consultants

(a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, an irrigation consultant.

(b) As used in this section, "irrigation consultant" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of landscape irrigation, in accordance with accepted professional standards of public health and safety.

§ 5642. Partnership, Corporation — Unlicensed Person

This chapter shall not be deemed to prevent a landscape architect from forming a partnership, firm, or corporation with, or employing, persons who are not landscape architects if the signature, date, and license number of the landscape architect appears on all instruments of service. In no case shall the other members of the partnership, firm, or corporation be designated or described as landscape architects.

The name of the licensed landscape architect shall appear wherever the firm name is used in the professional practice of the partnership, firm or corporation, and such landscape architect shall reside in California when such partnership, firm or corporation maintains a California office or mailing address. The name of such licensee shall appear on all partnership, firm or corporation stationery, brochures, business cards and any instruments of service used or provided in the professional practice of the partnership, firm or corporation.

No partnership, firm or corporation shall engage in the practice of landscape architecture unless the work is under the immediate and responsible direction of a licensee of the board.

Failure of any person to comply with this section constitutes a ground for disciplinary action.

§ 5644. Chapter Applicability to Other Code Provisions

Any person who holds a valid state license or other such authority which authorizes the person to engage in a business or occupation, insofar as the person engages in a professional, occupational or business activity within the scope of that license or other authority, shall not be required to be licensed under this chapter.

Agenda Item D

REVIEW AND DISCUSS BACKGROUND MATERIAL FROM 2002 SCOPE OF PRACTICE AND EXEMPTIONS AND EXCEPTIONS TASK FORCE

The 2012/2013 Strategic Plan for the Landscape Architects Technical Committee (LATC) directs LATC to “Appoint and convene a task force to address Landscape Architecture/APLD/Residential Designer issues, including BPC section 5641.” LATC set June 2012 as the target completion date for this objective.

LATC previously appointed a Scope of Practice Exceptions and Exemptions Task Force in 2002. The 2002 Task Force was charged with reviewing and discussing the Landscape Architects Practice Act exceptions and exemptions. The Task Force was provided with parameters that LATC believed should be used in evaluating what activities unlicensed design professionals could safely perform. Those parameters concerned issues of public safety that are involved in single family residential design, such as: 1) altering of drainage patterns; 2) retaining walls above the normal three feet; and 3) site structures, particularly overhead structures. The Task Force met on November 13, 2002 and represented landscape architects and landscape designers who primarily work in residential settings. The Task Force drafted proposed amendments to the Practice Act which were presented at the December 12, 2002 LATC meeting. LATC approved proposed amendments, additional language, and reorganization of the exemptions found in the Practice Act.

After the December meeting, there was concern regarding the proposed language for BPC 5641. Staff and legal counsel drafted modified language to address the concern. At the March 27, 2003 meeting, LATC approved the proposed language to amend BPC section 5641. The proposed amendments to BPC sections 5641, Chapter Exceptions, Exemptions; 5641.5, Golf Course Architects Exempted; and 5645, Irrigation Consultants Exempted; and the proposed language to amend the Practice Act relating to chapter exceptions and exemptions for architects, professional engineers, land surveyors, and landscape contractors was approved by the Board at its June 12, 2003 meeting. On September 19, 2003, staff submitted proposed legislation to the DCA Legislative Unit for consideration for submittal to the Legislature. On March 24, 2004, LATC was notified that this proposed amendment would be included in

Senate Bill 1549. On September 22, 2004, the bill was approved by the Governor. The amendments to the Practice Act took effect on January 1, 2005.

LATC experienced an increase in complaints filed against landscape architects and unlicensed individuals in fiscal year (FY) 2009/2010. Complaints rose from an average of 30 per year prior to 2009, to 86 complaints received in FY 2009/2010. The increase in complaints in FY 2009/2010 was due to two large groups of complaints sent from two anonymous complainants. The average number of complaints has since returned to a normal level.

The increase in complaints raised concern from various professional groups over the laws regulating landscape architecture. In response to this concern, LATC appointed the 2012 Exceptions and Exemptions Task Force. The 2012 Task Force is charged with examining the exceptions and exemptions of BPC section 5641 to ensure clarity and protection of the public.

REFERENCES:

1. Architects Practice Act – Chapter Exemptions
2. Professional Engineers Act – Chapter Exemptions
3. Contractors License Law – Exemptions and Applicability to Unlicensed Persons
4. Council of Landscape Architectural Registration Boards (CLARB) Model Law
5. CLARB's Model Regulations
6. August 15, 2002 Sunset Review Task Force Meeting Summary Report
7. November 13, 2002 Scope of Practice Exceptions and Exemptions Task Force Meeting Summary Report
8. December 12, 2002 LATC Meeting Agenda Item G
9. December 12, 2002 LATC Meeting Summary Report
10. Association of Professional Landscape Designers Sunset Review Testimony

Architects Practice Act – Exemptions

BUSINESS AND PROFESSIONS CODE

§ 5537 Exemptions; Dwellings, Garages, Agricultural and Ranch Buildings; Supervision of Licensed Architect or Registered Engineer Required

(a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- (2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units Architects Practice Act each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- (3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- (4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible control of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

§ 5537.1 Exemptions; Structural Engineer

A structural engineer, defined as a registered civil engineer who has been authorized to use the title structural engineer under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter

§ 5537.2 Exemptions; Contractors

This chapter shall not be construed as authorizing a licensed contractor to perform design services beyond those described in Section 5537 or in Chapter 9 (commencing with Section 7000), unless those services are performed by or under the direct supervision of a person licensed to practice architecture under this chapter, or a professional or civil engineer licensed pursuant to Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under that chapter.

However, this section does not prohibit a licensed contractor from performing any of the services permitted by Chapter 9 (commencing with Section 7000) of Division 3 within the classification for which the license is issued. Those services may include the preparation of shop and field drawings for work which he or she has contracted or offered to perform, and designing systems and facilities which are necessary to the completion of contracting services which he or she has contracted or offered to perform.

However, a licensed contractor may not use the title "architect," unless he or she holds a license as required in this chapter.

§ 5537.4 Exemptions; Professional Engineer

A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

§ 5537.5 Exemptions; Civil Engineer

A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a civil engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

§ 5537.6 Exemptions; Landscape Architect

A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a landscape architect may not use the title "architect," exclusive of the word "landscape," unless he or she holds a license as required in this chapter.

§ 5537.7 Exemptions; Land Surveyor

A land surveyor licensed under the provisions of Chapter 15 (commencing with Section 8700) of Division 3, insofar as he or she practices the profession for which he or she is licensed under Chapter 15 of Division 3, is exempt from the provisions of this chapter, except that a land surveyor may not use the title "architect," unless he or she holds a license as required in this chapter.

§ 5538 Planning or Design Affecting Safety of Building or Its Occupants; Nonstructural Store Front or Interior Alterations or Additions Excepted

This chapter does not prohibit any person from furnishing either alone or with contractors, if required by Chapter 9 (commencing with Section 7000) of Division 3, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering such labor and materials to be used for any of the following:

- (a) For nonstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment.
- (b) For any nonstructural or nonseismic work necessary to provide for their installation.
- (c) For any nonstructural or nonseismic alterations or additions to any building necessary to or attendant upon the installation of those storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those alterations do not change or affect the structural system or safety of the building.

Professional Engineers Act – Exemptions

BUSINESS AND PROFESSIONS CODE

§ 6737. Architectural exemption

An architect, who holds a certificate to practice architecture in this State under the provisions of Chapter 3 of Division 3 of this code insofar as he practices architecture in its various branches, is exempt from registration under the provisions of this chapter.

§ 6737.1. Structure exemption

(a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- (2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- (3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- (4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible charge of, a licensed engineer, or by, or under the responsible control of, an architect licensed pursuant to Chapter 3 (commencing with Section 5500). The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation.

§ 6737.2. Supplementary practice by civil engineer

Nothing in this chapter shall prohibit a civil engineer, registered under the provisions of this chapter, from practicing or offering to practice any engineering in connection with or supplementary to civil engineering studies or activities as defined in Section 6731.

§ 6737.3. Exemption of contractors

A contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3, is exempt from the provisions of this chapter relating to the practice of electrical or mechanical engineering so long as the services he or she holds himself or herself out as able to perform or does perform, which services are subject to the provisions of this chapter, are performed by, or under the responsible charge of a registered electrical or mechanical engineer insofar as the electrical or mechanical engineer practices the branch of engineering for which he or she is registered.

This section shall not prohibit a licensed contractor, while engaged in the business of contracting for the installation of electrical or mechanical systems or facilities, from designing those systems or facilities in accordance with applicable construction codes and standards for work to be performed and supervised by that contractor within the classification for which his or her license is issued, or from preparing electrical or mechanical shop or field drawings for work which he or she has contracted to perform. Nothing in this section is intended to imply that a licensed contractor may design work which is to be installed by another person.

§ 6738. Engineering businesses

(a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice, within the scope of their license, civil (including geotechnical and structural), electrical, or mechanical engineering as a sole proprietorship, partnership, limited liability partnership, firm, or corporation (hereinafter called business), if all of the following requirements are met:

(1) A civil, electrical, or mechanical engineer currently licensed in this state is an owner, partner, or officer in charge of the engineering practice of the business.

(2) All civil, electrical, or mechanical engineering services are performed by or under the responsible charge of a professional engineer licensed in the appropriate branch of professional engineering.

(3) If the business name of a California business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist and Geophysicist Act (Chapter 12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the engineering work in the branch in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of any person not licensed in this state if that person is appropriately registered or licensed in another state. Any offer, promotion, or advertisement that contains the name of any individual in the business, other than by use of the names of the individuals in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(c) The business name of a California engineering business may be a fictitious name. However, if the fictitious name includes the name of any person, the requirements of paragraph (3) of subdivision (a) shall be met.

(d) A person not licensed under this chapter may also be a partner or an officer of a civil, electrical, or mechanical engineering business if the requirements of subdivision (a) are met. Nothing in this section shall be construed to permit a person who is not licensed under this chapter to be the sole owner of a civil, electrical, or mechanical engineering business, unless otherwise exempt under this chapter.

(e) This chapter does not prevent an individual or business engaged in any line of endeavor other than the practice of civil, electrical, or mechanical engineering from employing or contracting with a licensed civil, electrical, or mechanical engineer to perform the respective engineering services incidental to the conduct of business.

(f) This section shall not prevent the use of the name of any business engaged in rendering civil, electrical, or mechanical engineering services, including the use by any lawful successor or survivor, that lawfully was in existence on December 31, 1987. However, the business is subject to paragraphs (1) and (2) of subdivision (a).

(g) A business engaged in rendering civil, electrical, or mechanical engineering services may use in its name the name of a deceased or retired person provided all of the following conditions are satisfied:

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, prior to and after the death or retirement of the person.

(2) The person shall have been an owner, partner, or officer of the business, or an owner, partner, or officer of the predecessor in interest of the business.

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing board if that person is operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

(4) The person, if retired, has consented to the use of the name and does not permit the use of the name in the title of another professional engineering business in this state during the period of the consent. However, the retired person may use his or her name as the name of a new or purchased business if it is not identical in every respect to that person's name as used in the former business.

(5) The business shall be subject to the provisions of paragraphs (1) and (2) of subdivision (a).

(h) This section does not affect the provisions of Sections 6731.2 and 8726.1.

(i) A current organization record shall be filed with the board for all businesses engaged in rendering civil, electrical, or mechanical engineering services.

(j) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

§ 6739. Exemption of federal officers and employees

Officers and employees of the United States of America practicing solely as such officers or employees are exempt from registration under the provisions of this chapter.

§ 6740. Exemption of subordinates

A subordinate to a civil, electrical or mechanical engineer licensed under this chapter, or a subordinate to a civil, electrical or mechanical engineer exempted from licensure under this chapter, insofar as he acts solely in that capacity, is exempt from licensure under the provisions of this chapter. This exemption, however, does not permit any such subordinate to practice civil, electrical or mechanical engineering in his own right or to use the titles listed in Section 6732, 6736, and 6736.1.18 2012 Professional Engineers Act

§ 6741. Exemption of nonresidents

Any person, firm, partnership, or corporation is exempt from registration under the provisions of this chapter who meets all the following:

- (a) Is a nonresident of the State of California.
- (b) Is legally qualified in another state to practice as a civil, electrical, or mechanical engineer.
- (c) Does not maintain a regular place of business in this state.
- (d) Offers to but does not practice civil, electrical, or mechanical engineering in this state.

§ 6742. Exemption for real estate broker or salesman

Any person, firm or corporation holding a license as real estate broker or real estate salesman, when making appraisals and valuations of real estate properties, while engaged in the business or acting in the capacity of a real estate broker or a real estate salesman, within the meaning of the California Real Estate Act is exempt from registration under the provisions of this chapter.

§ 6743. Effect of chapter on surveyors

This chapter does not affect Chapter 15 of Division 3 of this code, relating to surveyors, except insofar as this chapter is expressly made applicable.

§ 6744. Exemption for land owner

This chapter does not require registration for the purpose of practicing civil engineering, by an individual, a member of a firm or partnership, or by an officer of a corporation on or in connection with property owned or leased by the individual, firm, partnership, or corporation, unless the civil engineering work to be performed involves the public health or safety or the health and safety of employees of the individual, firm, partnership or corporation.

§ 6745. Exemption for building alterations

This chapter does not prohibit any person, firm or corporation from furnishing, either alone or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service or other data covering such labor and materials:

- (a) For store fronts, interior alterations or additions, fixtures, cabinet work, furniture or other appliances or equipment.
- (b) For any work necessary to provide for their installation.

(c) For any alterations or additions to any building necessary to or attendant upon the installation of such store fronts, interior alterations or additions, fixtures, cabinet work, furniture, appliances or equipment; provided, such alterations do not affect the structural safety of the building.

§ 6746. Exemption for communications companies under the Public Utilities Commission

Plans, specifications, reports and documents relating to communication lines and equipment prepared by employees of communications companies which come under the jurisdiction of the Public Utilities Commission, and by employees of contractors while engaged in work on communication equipment for communications companies which come under the jurisdiction of the Public Utilities Commission, are not subject to the provisions of this chapter.

§ 6746.1. Exemption for employees of communications industry

The provisions of this act pertaining to licensure of professional engineers other than civil engineers, do not apply to employees in the communication industry, nor to the employees of contractors while engaged in work on communication equipment. However, those employees may not use any of the titles listed in Section 6732, 6736, and 6736.1, unless licensed.

§ 6747. Exemption for industries

- (a) This chapter, except for those provisions that apply to civil engineers and civil engineering, shall not apply to the performance of engineering work by a manufacturing, mining, public utility, research and development, or other industrial corporation, or by employees of that corporation, provided that work is in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.
- (b) For purposes of this section, “employees” also includes consultants, temporary employees, contract employees, and those persons hired pursuant to third-party contracts.

Contractors License Law

BUSINESS AND PROFESSIONS CODE

§ 7027. Advertising as contractor

Any person who advertises or puts out any sign or card or other device that would indicate to the public that he or she is a contractor, or who causes his or her name or business name to be included in a classified advertisement or directory under a classification for construction or work of improvement covered by this chapter is subject to the provisions of this chapter regardless of whether his or her operations as a builder are otherwise exempted.

§ 7027.1. Advertising by unlicensed person; Penalties

(a) It is a misdemeanor for any person to advertise for construction or work of improvement covered by this chapter unless that person holds a valid license under this chapter in the classification so advertised, except that a licensed building or engineering contractor may advertise as a general contractor.

(b) "Advertise," as used in this section, includes, but not by way of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave or any electronic transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

(c) A violation of this section is punishable by a fine of not less than seven hundred dollars (\$700) and not more than one thousand dollars (\$1,000), which fine shall be in addition to any other punishment imposed for a violation of this section.

(d) If upon investigation, the registrar has probable cause to believe that an unlicensed individual is in violation of this section, the registrar may issue a citation pursuant to Section 7028.7 or 7099.10.

§ 7027.2. Advertising by person not licensed

Notwithstanding any other provision of this chapter, any person not licensed pursuant to this chapter may advertise for construction work or work of improvement covered by this chapter, provided that he or she shall state in the advertisement that he or she is not licensed under this chapter.

§ 7027.3. Penalties for fraudulent use of incorrect license number

Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both that fine and imprisonment. The penalty provided by this section is cumulative to the penalties available under all other laws of this state. If, upon investigation, the registrar has probable cause to believe that an unlicensed individual is in violation of this section, the registrar may issue a citation pursuant to Section 7028.7.

§ 7027.4. Advertising as insured or bonded; Requirements; Cause for discipline

(a) It is a cause for discipline for any contractor to advertise that he or she is "insured" or has insurance without identifying in the advertisement the type of insurance, including, for example, "commercial general liability insurance" or "workers' compensation insurance" that is carried by the contractor. The contractor may abbreviate the title of the type of insurance.

(b) It is cause for discipline for a contractor to advertise that he or she is "bonded" if the reference is to a contractor's license bond required pursuant to Section 7071.6 or to a disciplinary bond required pursuant to Section 7071.8.

(c) “Advertise,” as used in this section, includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure or business vehicle or in any newspaper, magazine, or by airwave or any electronic transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, for the direct or indirect purpose of performing or offering to perform services that require a contractor’s license.

§ 7027.5. Authority for landscape contractor to design systems or facilities; Prime contract for pool, spa, hot tub, outdoor cooking center or fireplace; Subcontracting work outside of the field and scope of activities

(a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, “outdoor cooking center” means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(c) Work performed in connection with a residential landscape project specified in paragraph (2) or (3) of subdivision (b) that is outside of the field and scope of activities authorized to be performed under the Landscape Contractor classification (C-27), as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may only be performed by a landscape contractor if the landscape contractor also either holds an appropriate specialty license classification to perform the work or is licensed as a general building contractor. If the landscape contractor neither holds an appropriate specialty license classification to perform the work nor is licensed as a general building contractor, the work shall be performed by a specialty contractor holding the appropriate license classification or by a general building contractor performing work in accordance with the requirements of subdivision (b) of Section 7057.

(d) A violation of this section shall be cause for disciplinary action.

§ 7028. Engaging in business without license; Fine and punishment; Statute of limitations

(a) It is a misdemeanor for a person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the person is particularly exempted from the provisions of this chapter.

(b) A first conviction for the offense described in this section is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(c) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (d) are applicable, the court shall impose a fine of 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed contractor, or five thousand dollars (\$5,000) whichever is greater, and, unless the sentence prescribed in subdivision (d) is imposed, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(d) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than five thousand dollars (\$5,000) nor more than the greater amount of ten thousand dollars (\$10,000) or 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed contractor,

and by imprisonment in a county jail for not more than one year or less than 90 days. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.

(e) A person who violates this section is subject to the penalties prescribed in subdivision (d) if the person was named on a license that

was previously revoked and, either in fact or under law, was held responsible for any act or omission resulting in the revocation.

(f) If the person engaging in the business of or acting in the capacity of an unlicensed contractor has agreed to furnish materials and labor on an hourly basis, "the contract price" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(g) Notwithstanding any other provision of law, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

(h) For any conviction under this section, a person who utilized the services of the unlicensed contractor is a victim of crime and is eligible, pursuant to subdivision (f) of Section 1202.4 of the Penal Code, for restitution for economic losses, regardless of whether that person had knowledge that the contractor was unlicensed.

COUNCIL OF LANDSCAPE ARCHITECTURAL
REGISTRATION BOARDS
MODEL LAW

Approved September 2002, Amended September 2004

A. Purpose of the Act

In order to protect public health, safety and welfare, this Act regulates the title and practice of landscape architecture in [jurisdiction]. No person or business entity may engage in the practice of landscape architecture nor use the designation of Landscape Architect, Landscape Architecture, or Landscape Architectural, nor advertise any title or description tending to convey the impression that he or she is a landscape architect, unless the person or business entity is authorized in the manner hereinafter provided and thereafter complies with all the provisions of this Act. The practice of landscape architecture shall be deemed a privilege granted by the board, based on the qualifications of the individual as evidenced by a license.

[Commentary: This act provides for the licensure of individuals as landscape architects and requires that business entities be authorized by the board to offer landscape architectural services. By requiring certificates of authorization for business entities, the act ensures that a licensed landscape architect is responsible for a business entity's landscape architectural work.]

B. Definitions

Board – The board regulating Landscape Architects in [jurisdiction].

Business Entity – A firm, partnership, association, limited liability company or corporation.

Certificate of Authorization – A certificate issued by the board to a business entity permitting them to offer or provide landscape architectural services.

Landscape Architect – A person who complies with all provisions of this Act and is licensed by the board to engage in the practice of landscape architecture.

License – An authorization granted by the board to practice landscape architecture.

[Commentary: The following definition of Practice of Landscape Architecture contains three sections. The first paragraph broadly defines the practice of landscape architecture as the application of landscape architectural knowledge and skill. This section should be included in all definitions as it provides the basis for the boards' interpretation of landscape architectural practice and gives the board discretion in interpreting the scope of the profession. The subsequent sections add clarifying language in increasingly more specific levels. Although it is recommended that the first section stand alone these additional levels may be added depending on the statutory structure of the jurisdiction.]

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Practice of Landscape Architecture – Any service where landscape architectural knowledge training, and experience are applied.

[Commentary: The second section lists some of the professional skills that are part of the practice of landscape architecture. It is recommended that the first section stand alone; however, depending on the statutory structure of the jurisdiction, the following may be desirable to amplify the scope of the profession.]

The practice of Landscape Architecture applies the principles of mathematical, physical and social sciences in consultation, evaluation, planning, design (including, but not limited to, the preparation and filing of plans, drawings, specifications and other contract documents) and administration of contracts relative to projects principally directed at the functional and aesthetic use and preservation of land.

[Commentary: The third section lists some of those services that are a part of the practice of landscape architecture.]

These services include, but are not limited to:

1. Investigation, selection and allocation of land and water resources for appropriate uses;
2. Formulation of feasibility studies, and graphic and written criteria to govern the planning, design and management of land and water resources;
3. Preparation, review and analysis of land use master plans, subdivision plans and preliminary plats;
4. Determining the location and siting of improvements, including buildings and other features, as well as the access and environs for those improvements;
5. Design of land forms, storm water drainage, soil conservation and erosion control methods, site lighting, water features, irrigation systems, plantings, pedestrian and vehicular circulation systems and related construction details.

C. Board Structure, Operations and Powers

1. Composition – The Board of Landscape Architects shall be composed of....

[Commentary: Every jurisdiction organizes its regulatory boards according to the laws of the jurisdiction. The Model Law suggests two possible structures -- one for a separate board and one for a joint board. Each structure has positive and negative features. Generally speaking, the separate board structure provides for the maximum involvement by landscape architects in the regulatory process while the joint board structure is less expensive and provides for more interaction between related professions.]

[Alternative 1: Separate or single board – This board represents a single profession only. All staff and resources are applied directly to functions associated with the specific profession. Recommended size: no less than 5 members. Majority of members are licensed landscape architects with no less than one public member.]

[Alternative 2: Joint board – This board shares staff and resources, and regulates

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multiple professions. Each profession should be equally represented, in addition to a small number of public members. Board size may vary according to number of professions represented.]

2. Board Member Qualifications – All board members shall be citizens of [country] and residents of [jurisdiction]. Landscape Architect members shall hold a valid license from [jurisdiction] to practice landscape architecture and shall have been licensed as a landscape architect for at least five years prior to their appointment. Public members shall be persons who are not by education or experience involved in the practice of landscape architecture, are not related in any way to a landscape architect, and do not have a financial interest in the practice of landscape architecture.
3. Appointment Process – Members shall be appointed by the Governor [or other means]. Members shall hold office for staggered terms of [number] years, with terms expiring on [date] of each year, or until their successor is appointed. Any vacancy occurring other than by expiration of a term shall be filled by appointment by the Governor [or other means] for the unexpired term. No member shall serve more than [number] successive full terms on the board.
4. Officers and Quorum – The board shall elect a Chair and Vice-Chair. A majority of the total number of board members shall constitute a quorum.
5. Powers and Duties of the Board –
 - a. The board shall promulgate regulations to govern the practice of landscape architecture, consistent with [jurisdiction's] Constitution, its laws and this Act, and with the purpose of protecting the public health, safety, and welfare.
 - b. The board shall establish the qualifications required for licensure to practice landscape architecture.
 - c. The board shall issue a license to qualified applicants for the practice of landscape architecture.
 - d. The board shall establish qualifications for business entities to offer or provide landscape architectural services and issue a certificate of authorization for such services.
 - e. The board shall levy and collect fees for services related to this Act.
 - f. The board shall maintain active membership in the Council of Landscape Architectural Registration Boards (CLARB), or its successor, and shall take all steps necessary to maintain the confidentiality and security of examination materials.
 - g. The board shall meet at least once per year.
 - h. The board shall keep a record of its proceedings and activities.

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- i. The board may revoke, suspend, or refuse to renew a license or certificate of authorization for just causes as enumerated in the regulations of the board.
- j. The board shall receive complaints concerning the conduct of any person or business entity whose activities are regulated by this Act.
- k. The board shall enforce the statutes and regulations pertaining to the practice of landscape architecture, including investigation of alleged violations of statutes or regulations, and refer suspected criminal violations to appropriate law enforcement authorities. The board shall take appropriate disciplinary action if warranted, including imposing a fine for any statutory or regulatory violation not to exceed [\$_____].

D. Exemptions

- 1. Nothing in this Act shall prohibit any architect, professional engineer, or land surveyor registered under the statutes of [*jurisdiction*] from providing services for which they are licensed.
- 2. Nothing in this Act shall prohibit a nurseryman, gardener, landscape designer, or landscape contractor from preparing planting plans or installing plant material provided the project scope does not impact the public health, safety or welfare.
- 3. Nothing in this Act shall prohibit individuals from making plans, drawings or specifications for any property owned by them and for their own personal use.

Notwithstanding the provisions of this section, any person exempted under this section shall not make use of the title “landscape architect”, or other similar words or titles, which imply licensure as a landscape architect, unless licensed pursuant to the provisions of this Act.

E. Unlawful Acts and Enforcement

- 1. It shall be unlawful for any person or business entity to:
 - a. Practice landscape architecture without holding a valid license or certificate of authorization as required by statute or regulation.
 - b. Use the terms “landscape architect,” “landscape architecture,” or “landscape architectural” to denote a standard of professional competence without being duly licensed.
 - c. Use any titles, words, letters, or abbreviations to denote a standard of professional competence that may reasonably be confused with landscape architect or landscape architecture without being duly licensed.
 - d. Perform any act or function that is restricted by statute or regulation to persons holding a license to practice landscape architecture, without being duly licensed.
 - e. Offer landscape architectural services without a license or certificate of authorization to practice landscape architecture.
 - f. Materially misrepresent facts in an application for licensure or certificate of authorization.
 - g. Willfully refuse to furnish the board with information or records required pursuant to statute or regulation.

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- h. Procure, or assist another to procure, through theft, fraud or other illegal means questions or answers to the Landscape Architect Registration Examination, or its successor.
- i. Violate any statute or regulation governing the practice of landscape architecture regulated pursuant to this Act.

Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a *[high level of misdemeanor]*. The third or subsequent conviction for violating this section shall constitute a *[low level of felony]*.

- 2. In addition to the criminal penalties provided for in subsection 1 above, the board, without need to comply with *[the jurisdiction's Administrative Process Act]*, shall have the authority to enforce the provisions of subsection 1 of this section and may institute proceedings in equity to enjoin any person, partnership, corporation or other entity from engaging in the unlawful acts enumerated in this section.
- 3. In addition to the criminal penalties provided for in subsection 1 above, the board may also make application to the district court, without giving bond, for civil enforcement of a violation of any statute or regulation in accordance with this Act. The board may assess civil fines and costs, after proper notice and an opportunity to be heard, against any person or business entity for a violation of statute, regulation, or order enforceable by the board in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and each subsequent violation. All civil fines or costs assessed and collected under this section shall be remitted to the *[jurisdiction]* treasurer and credited to the *[jurisdiction]* general fund *[(jurisdiction's) literary fund, or other requirement]*.

F. Applicability to Local Jurisdictions

[Commentary: In some jurisdictions, state law supersedes local law and therefore this section may not be needed. In other jurisdictions, this section may be useful as a means to address barriers to landscape architectural practice at the local level.]

- 1. No municipal, city, local or other ordinance, policy or action shall reduce or limit the scope of professional practice defined by this act.

COUNCIL OF LANDSCAPE ARCHITECTURAL
REGISTRATION BOARDS
MODEL REGULATIONS
Amended September, 2004

I. Purpose

These regulations are promulgated by the Board of Landscape Architects under [*cite act or statutes*] for the purpose of protecting the public health, safety and welfare. These regulations contain the information necessary to become licensed as a landscape architect, or offer landscape architectural services as a business entity. These regulations also contain the standards of practice for landscape architects and possible sanctions to be rendered for failure to adhere to these standards.

II. Severability

If any provision or application of these regulations is found to be invalid for any reason, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and therefore, the provisions of these regulations are declared to be severable.

III. Compliance with ADA (For U.S. jurisdictions)

The board and the [*jurisdiction*] support and fully comply with the provisions of the Americans with Disabilities Act (ADA), 42 USC Section 12101 et seq. Contracts between the board, examination vendors, and examination administrators contain the necessary provisions for compliance with the ADA. Requests for accommodations must be in writing and received by the board at least 45 days before examination. The board may require a report from medical professionals along with supporting data confirming the nature and extent of the disability. It is the responsibility of the applicant to provide the required information in a timely manner. The costs of providing such information are the responsibility of the applicant. The board shall determine what, if any, accommodations will be made.

[**Commentary:** *Canadian provinces should replace this section with the appropriate reference to Canadian standards.*]

IV. Definitions

As used in these regulations, the following terms shall have the following meanings unless the context or subject matter clearly requires a different interpretation. Any reference to gender throughout these regulations is intended to be gender neutral; i.e., “he” shall mean “he or she”.

Applicant – An individual who has submitted an application for licensure to the board.

CLARB – The Council of Landscape Architectural Registration Boards, or its successor.

Applicant Record – Verified documentation of an individual’s education, experience, examination, licensure and professional conduct. The board may accept information compiled by CLARB in a Council Record as sufficient documentation.

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CLARB Certificate – Certification by CLARB that a landscape architect has met the minimum standards of education, examination, experience and professional conduct established by the Council and is thereby recommended for licensure in all member jurisdictions.

CLARB Standards of Eligibility – Standards for education, experience, examination and professional conduct that are approved by CLARB's member boards and adopted by the board as the minimum standards for licensure.

CLARB Uniform Continuing Education Standards -- Standards for content, structure and duration of continuing education that are approved by CLARB's member boards and adopted by the board as the minimum standards for licensure renewal.

Direct control and personal supervision – That degree of supervision by a landscape architect overseeing the work of another whereby the supervisor has been directly involved in all judgments affecting the health, safety and welfare of the public.

Licensure examination – The licensure examination for landscape architects prepared by CLARB and accepted by the board.

Principal – An individual who is a landscape architect and is in charge of a business entity's landscape architectural practice.

Responsible charge – The direct control and personal supervision of the practice of landscape architecture.

Seal – A symbol, image, or information in the form of a rubber stamp, embossed seal, computer generated data, or other form acceptable to the board that is applied or attached to a document to verify authenticity of the document's origin.

V. Fee Schedule

[Commentary: Insert a list of fees charged by the Board. It is recommended that fees that originate from outside of the Board, such as exam fees, be listed as "cost to the Board plus" \$XX "administrative fee." Such language eliminates the need to amend the regulations each time an external fee changes. It also prevents those situations where a Board may be forced to subsidize a fee if it cannot change the regulations in time to account for a fee increase.]

VI. Requirements for Licensure

A. Standards

To be granted a license, an applicant must be of good moral character and must demonstrate to the satisfaction of the board that the applicant has:

1. Satisfied the education and experience requirements established by the board.

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2. Successfully completed the licensure examination where the examination, administration and grading were conducted in accordance with CLARB standards at that time, and
3. A history of acceptable professional conduct as verified by employers and registration boards.

Applicants shall meet applicable entry requirements at the time the application is submitted to the board.

[Commentary: An important benefit of licensure for landscape architects is the ability of the licensed professionals to move easily from jurisdiction to jurisdiction. This movement provides for greater selection for the public, increased competition among qualified professionals and greater mobility for licensees. The current practice of listing specific standards for licensure in the regulations makes it difficult to establish uniform standards and virtually ensures standards will vary from jurisdiction to jurisdiction.

To provide for ease of reciprocity, the Model Regulations include references to the national standards for licensure adopted by CLARB's member boards. All laws that use this reference will therefore always have the same standards. As the national standards change over time, the standards in each of these jurisdictions will be automatically updated, thereby ensuring reciprocity.

It is preferred that references to the CLARB Standards of Eligibility indicate the most recent edition; however, in some jurisdictions, it may be required that a specific publication date be included. In such cases, it will be necessary to revise the Regulations when the standards are changed so that all jurisdictions maintain equivalent requirements.]

B. Application Procedures

1. An applicant who is not licensed in any other jurisdiction shall submit an application to the board accompanied by the appropriate fee. Such application shall include the information required by the Applicant Record. The Board may accept a CLARB Council Record as the application for licensure. If the applicant has not passed the licensure examination, the applicant shall complete the examination process. Alternatively, at the discretion of the board, applicants may be admitted to the licensure examination upon demonstrating to the satisfaction of the board that they have successfully completed the education and professional conduct requirements for licensure. In such cases, the board shall establish deadlines for submission of an application for examination and shall provide instructions for examination administration. The board may permit an applicant to apply on other forms prescribed by the board.
2. An applicant who is licensed in another jurisdiction shall submit an application to the board accompanied by the appropriate fee. The board may accept as such application a Council Certificate furnished by CLARB. The board may permit an applicant to apply, without a CLARB Certificate, using other forms prescribed by the board.

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3. Applicants who have been found ineligible for any reason may request further consideration by submitting written evidence of additional qualifications, education or experience. No additional fee will be required provided the requirements for licensure are met within one year from the date the original application was received by the board. After that period, a new application will be required.
4. The board may make further inquiries and investigations with respect to the qualifications of the applicant, to confirm or clarify information submitted. The board may also require a personal interview with the applicant.
5. Failure of an applicant to comply with a written request from the board within 60 days of receiving the notice, except where the board has determined ineligibility for a specified period of time, may be sufficient cause for disapproving the application.

[Commentary: Traditionally, applicants have applied to take the L.A.R.E. as the final step in fulfilling the requirements for licensure (education, experience and examination,) the Model Regulations stipulate that applicants should apply to the member board after having completed all requirements. This approach utilizes the Council Record as the licensure application thereby centralizing the record keeping process, establishing uniform application forms and processes and freeing member boards from these administrative tasks.]

C. Issuance of a License

Upon review by the board of the applicant's satisfactory completion of all the licensure requirements, the board will issue a license. Each license issued by the board will be valid until the expiration date noted on the license.

VII. Requirements for a Certificate of Authorization for Business Entities

A. Standards

A business entity formed for the purpose of offering to provide or providing landscape architectural services is required to obtain a certificate of authorization from the board. Each business entity shall meet the following requirements:

1. Each business entity shall designate one or more licensed landscape architects as being in responsible charge of the landscape architectural services and decisions of the firm. In the case of multiple offices, each office shall have a designated landscape architect in responsible charge of that office.
2. Each landscape architect designated as being in responsible charge of the business entity's landscape architectural activities and decisions shall file a notarized affidavit of responsibility with the board.

B. Application Procedures

A business entity shall submit an application to the board, accompanied by the appropriate fee. The application shall be on forms prescribed by the board and shall contain the following information:

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1. Name and address of each partner, manager, officer, member, director or shareholder, indicating the professional status of each and their jurisdiction's license number.
2. Name and address of each landscape architect designated as being in responsible charge of the business entity's landscape architectural activities and decisions.
3. Affidavit of responsibility from each landscape architect designated as being in responsible charge of the business entity's landscape architectural activities and decisions.
4. A copy of the business entity's articles of incorporation, partnership agreement, limited liability operating agreement, or other document forming the business entity, and any amendments.

C. Issuance of Certificate of Authorization

Upon satisfactory completion of all application requirements, the board will issue a certificate of authorization. A certificate of authorization issued by the board shall be displayed at the business entity's principal place of business where the public can readily view it.

VIII. Renewal, Reinstatement and Replacement

A. Change of Address

Any change of address shall be reported to the board in writing within thirty days of the change.

B. Expiration and Renewal of a License

1. Prior to the expiration date shown on the license, a landscape architect shall submit a renewal application and required fee to the board. The landscape architect must certify continued compliance with the Standards of Practice and Conduct and continuing education requirements as defined in these regulations. Upon satisfactory completion of all renewal requirements, the license shall be renewed for a two-year period.
2. Failure to receive a renewal notice and application shall not relieve the landscape architect of the responsibility to renew. If a renewal notice is not received, the landscape architect may submit a copy of the license, the required fee, and a signed statement indicating that the landscape architect continues to comply with the Standards of Practice and Conduct and continuing education requirements.
3. The board may deny renewal of a license for the same reasons it may refuse initial licensure or discipline a landscape architect.
4. If the renewal application and fee are not submitted to the board within 30 days following the expiration date noted on the license, a late renewal fee shall be required, unless reinstatement is required as noted below.

C. Reinstatement of a License

1. If a license has been expired for six months or more, but less than four years, the landscape architect shall be required to submit a new application, which shall be

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evaluated by the board to determine if the applicant meets the renewal requirements. A reinstatement fee will also be required. In addition, the applicant must complete all delinquent professional development hours for one renewal cycle.

2. If the license has been expired for four years or more, the applicant will be required to submit a new application, meet current entry requirements, and submit the new application fee in addition to the reinstatement fee. The board may require the applicant to submit to all or parts of the licensure examination and/or complete all delinquent professional development hours required for at least one renewal cycle.
3. The board may deny reinstatement of a license for the same reasons it may refuse initial licensure or discipline a landscape architect.
4. The date the renewal application and fee are received in the board office shall determine whether the license shall be considered for renewal or reinstatement.
5. A license that has been reinstated shall be regarded as having been continuously licensed without interruption.

D. Expiration and Renewal of a Certificate of Authorization

1. Prior to the expiration date shown on the certificate of authorization, a business entity shall submit an application for renewal and the required fee to the board. The application shall contain the following information:
 - a. The name and address of each partner, manager, officer, member, director or shareholder indicating the professional status of each; and
 - b. The name and address of each landscape architect designated as being in responsible charge of the business entity's landscape architectural activities and decisions. If the designated landscape architect is not the same as indicated on the previous filing, the landscape architect shall file an affidavit of responsibility with the renewal application.

Upon satisfactory completion of all renewal requirements, the certificate of authorization shall be renewed for a two-year period.

2. A certificate of authorization not renewed by the last day for the period for which it was issued is not valid after that date. Any renewal application postmarked after the last day will be returned.
3. Any changes in the names and addresses of the partners, managers, officers, members, directors or shareholders, or the designated landscape architect, occurring between filing intervals shall be reported to the board within thirty days following such a change.
4. An application for a new certificate of authorization is required from a business entity in the following situations:
 - a. The name of the business entity is changed.
 - b. The business entity has failed to timely renew the certificate of authorization in accordance with these regulations.

F. Replacement of a Certificate

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Any landscape architect may obtain replacement for a lost, destroyed or damaged current certificate upon submission of a fee and a written statement indicating the nature of the loss, destruction or damage.

IX. Continuing Education Standards

- A. Continuing education, if required by the member board, shall be completed in accordance with the standards adopted by the board. The board may adopt the standards set forth in the CLARB Uniform Continuing Education Standards.

[Commentary: Since many boards have adopted continuing education requirements, this optional wording is included here to provide for the uniform application of such requirements. It is preferred that the regulations refer to the most recent edition of the CLARB standards.]

B. Exemptions

A landscape architect may be exempt, upon board review and approval, from continuing education requirements in any of the following situations:

1. The new landscape architect's first renewal period is less than two years from the original date of licensure.
2. A landscape architect is called to active duty in the armed forces for a period of time exceeding 120 consecutive days in a calendar year. This individual may be exempt from obtaining one-half of the required continuing education during that renewal period.
3. A landscape architect experiences physical disability, illness, or other extenuating circumstances that prevents the landscape architect from practicing landscape architecture. The landscape architect shall provide supporting documentation for the board's review and approval. If the landscape architect elects to return to practice, the landscape architect shall complete all professional development hours required for one renewal cycle, in addition to those required for the next licensure renewal.

C. Records

Each landscape architect shall maintain:

1. A log showing the subject and type of activity claimed, the sponsoring organization, location, duration and instructor's or speaker's name.
2. Documentation sufficient to prove completion of the activity claimed, such as attendance verification records, completion certificates or other documents;
3. Records for at least four (4) years; and
4. Copies of all records that may be requested by the board for audit verification purposes.

D. Audit

Upon request, each landscape architect shall provide proof of satisfying the continuing education requirements. If the landscape architect fails to furnish the

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information as required by the board or if the information is not sufficient to satisfy the requirements, the license shall not be renewed.

E. Disallowance

If the board disallows one or more continuing education activities claimed, the board may, at its discretion, allow the landscape architect up to 120 days after notification to substantiate the original claim or to complete other continuing education activities sufficient to meet the minimum requirements.

X. Standards of Practice and Conduct

A. Competence

1. In practicing landscape architecture, a landscape architect shall act with reasonable care and competence and shall apply the technical knowledge and skill that is ordinarily applied by landscape architects of good standing practicing in the same locality.
2. In designing a project, a landscape architect shall take into account all applicable construction laws, zoning codes and other applicable laws or regulations. A landscape architect shall not knowingly design a project in violation of such laws and regulations.
3. A landscape architect shall undertake to perform professional services only when the landscape architect, together with those whom the landscape architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
4. No person shall be permitted to practice landscape architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

B. Conflict of Interest

1. A landscape architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to in writing by all interested parties.
2. If a landscape architect has any business association or direct or indirect financial interest that is substantial enough to influence the landscape architect's judgment in connection with the performance of professional services, the landscape architect shall fully disclose this in writing to the client or employer. If the landscape architect's client or employer objects to such association or financial interest, the landscape architect shall either terminate such association or interest or offer to give up the commission or employment.
3. A landscape architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
4. When acting as the interpreter of landscape contract documents and the judge of contract performance, a landscape architect shall render decisions impartially, favoring neither party to the contract.

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C. Full Disclosure

1. A landscape architect shall disclose whenever he/she is being compensated for making public statements concerning landscape architectural issues?
2. A landscape architect shall accurately represent to a prospective or existing client or employer the landscape architect's qualifications and clearly define the scope of his/her responsibility in connection with work for which the landscape architect is claiming responsibility.
3. If a landscape architect becomes aware of a decision made by his/her employer or clients against the landscape architect's advice, that violates applicable construction laws, zoning codes or other applicable regulations and that will, in the landscape architect's judgment, materially and adversely affect the public health, safety and welfare, the landscape architect shall:
 - a. Report the decision to the local authorities or other public official charged with the enforcement of such laws and regulations;
 - b. Refuse to consent to the decision; and
 - c. In circumstances where the landscape architect reasonably believes that other such decisions will be made notwithstanding his/her objection, then the landscape architect shall terminate services with reference to the project. In the case of a termination in accordance with this paragraph of this rule, the landscape architect shall have no liability to the client on account of such termination.
4. A landscape architect shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with an application for licensure or renewal.
5. A landscape architect shall not assist in the application for licensure of a person known by the landscape architect to be unqualified in respect to education, examination, experience or character.
6. A landscape architect possessing knowledge of a violation of these rules by another landscape architect shall report such knowledge to the board.

D. Compliance with Laws

1. A landscape architect shall not, in the practice of landscape architecture, knowingly violate any criminal law.
2. A landscape architect shall neither offer nor make any payment or gift to any governmental official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the landscape architect is interested.
3. A landscape architect shall comply with the laws and regulations governing professional practice in any jurisdiction.

E. Professional Conduct

1. A landscape architect shall not sign nor seal drawings, specifications, reports or other professional work for which the landscape architect does not have direct control and personal supervision and over which the landscape architect has no legal authority. However, in the case of portions of professional work prepared by

Model Regulations

the landscape architect's consultants registered under this or another professional registration law of this jurisdiction, the landscape architect may sign or seal that portion of the professional work if the landscape architect has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

2. A landscape architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the landscape architect is interested.
3. A landscape architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

F. Seal Requirements

1. All final professional documents, including maps, plans, designs, drawings, specifications, estimates and reports issued by a landscape architect shall contain a seal, signature and date whenever they are presented to a client or public or governmental agency. A landscape architect's license must be in full force and effect in order to seal documents.
2. A seal shall contain the following information:
 - a. Jurisdiction of licensure
 - b. Landscape architect's name
 - c. License number
 - d. The words "Landscape Architect"
 - e. Any other information required by the board.
3. A signature shall be:
 - a. A handwritten message containing the name of the person who applied it; or
 - b. A digital signature that is an electronic authentication process attached or logically associated with an electronic document. The digital signature must be:
 - (1) Unique to the person using it
 - (2) Capable of verification
 - (3) Under the sole control of the person using it
 - (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

A digital signature that uses a process approved by the board is presumed to meet the criteria set forth in subsection b. above.
4. For the purpose of sealing printed drawings, specifications, and contract documents, each landscape architect shall obtain an embossing seal and a reproducible facsimile of a design approved by the board to be used in accordance with these regulations on documents prepared by or under the supervision of a landscape architect. *[A facsimile of the seal design should be included in these regulations.]*
5. The seal or reproducible facsimile shall be applied on all original drawings to produce legible reproduction on all copies or prints made from said drawings.

Model Regulations

This provision does not in any manner modify the requirements of paragraph X.F.4.

6. No landscape architect shall affix his/her seal or signature to documents that were developed by others not under the direct control and personal supervision of the landscape architect.

XI. Sanctions and Disciplinary Actions

- A. Complaints – The board shall receive written complaints against any regulant. The board shall cause the complaint to be investigated within a reasonable time period. The board will hear the findings and action will be recommended or taken.
- B. Hearings – The accused regulant shall have a right to a hearing in accordance with *[the jurisdiction's Administrative Process Act – this refers the regulant to the specific procedures for the hearing process.]*
- C. Disciplinary Actions – The board may suspend or revoke a license, or fine a regulant, if the board finds that:
 1. The license was obtained or renewed through fraud or misrepresentation;
 2. The landscape architect has been found guilty by the board, or a court of competent jurisdiction, of any material misrepresentation in the course of professional practice, or has been convicted of any felony or misdemeanor that, in the judgment of the board, adversely affects the landscape architect's ability to perform satisfactorily as a landscape architect;
 3. The landscape architect is guilty of professional incompetence or negligence;
 4. The landscape architect has abused drugs or alcohol to the extent that professional competence is adversely affected;
 5. The landscape architect has violated any of the Standards of Practice and Conduct, as defined in these regulations.
 6. The landscape architect has violated any *[statutory provisions dealing with landscape architects, cited here]* or any provision of these regulations.

End

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State of California
Department of Consumer Affairs
Gray Davis, Governor



SUMMARY REPORT

CALIFORNIA ARCHITECTS BOARD LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

Sunset Review Task Force Meeting
August 15, 2002
Sacramento, California

MEETING ATTENDED BY:

Sunset Review Task Force Members Present

Dennis Otsuji, Chair
Richard Ciardella
Linda Gates
Tom Lockett
David Mitchell
Richard Zweifel

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
Erin Mynatt, Enforcement Coordinator
Justin Sotelo, Enforcement Analyst

Guests Present

Cynthia Choy Ong, CAB Member
Don Chang, Legal Counsel (arrived at 9:45 a.m.)
Sandra Gonzalez, LATC Member
William Roach, President-elect, American Society of Landscape Architects, Sierra Chapter
(arrived at 8:45 a.m.)
David Tatsumi, LATC Member

A. Welcome and Introductions

Sunset Review Task Force (SRTF) Chair Dennis Otsuji called the meeting to order at 8:15 a.m. Mr. Otsuji stated that the focus of today's meeting is to: 1) review Part I of the Sunset Review Report; 2) identify the status of SRTF assignments relating to Part II of the Sunset Review

Report; and 3) discuss and possibly approve suggested statutory changes to the Landscape Architects Practice Act.

Mr. Otsuji added that he would like to schedule a one-day SRTF meeting to be held prior to the end of the year to review both Part I and II of the Sunset Review Report.

B. Approval of February 7, 2002 Sunset Review Task Force Summary Report

- ◆ **Linda Gates moved to approve the February 7, 2002 Sunset Review Task Force Summary Report.**
- ◆ **Richard Zweifel seconded the motion.**
- ◆ **The motion carried 4-0-2 (Tom Lockett and David Mitchell abstained).**

C. Report on Task Force Assignments

Mona Maggio advised the SRTF that staff is continually working on both Part I and II of the Sunset Review Report and added that the copy of Part I which was emailed to the SRTF and LATC members on August 9, 2002 has been updated. Ms. Maggio distributed a copy of the most recent draft of Part I to the SRTF. Mr. Otsuji asked the SRTF to provide Ms. Maggio with their edits/comments but provided an opportunity to share comments and ask questions during this time. Mr. Otsuji stated the first paragraph of Part I needs a clearer definition of landscape architecture; it might be too technical for the Joint Legislative Sunset Review Committee (JLSRC). Ms. Maggio explained that this paragraph is the law as written in the Landscape Architects Practice Act. Richard Ciardella stressed that it is vital to state the resources and actual collaborative efforts and joint studies shared between the Board and LATC. Suggestions provided included: 1) complaint disclosure study; 2) judgement and settlement reporting; and 3) collaboration with the Board as a starting point when beginning a project/study on a particular issue.

Doug McCauley advised the SRTF that Senate Bill 2025 which extends the sunset date for the Board and LATC for an additional year was on the consent calendar in the Senate Appropriations Committee. The bill must still clear the Assembly and then the bill would be forwarded to the Governor for his review and signature. Mr. Ciardella suggested that the LATC and the Board schedule a strategy meeting with the Department of Consumer Affairs' (DCA's) Sunset Review Committee in October 2002. Mr. McCauley offered to review the JLSRC hearing schedule and recommend one for the SRTF and LATC members to attend. This will allow individuals to attend the hearings of other boards and bureaus under DCA to acquire a more comprehensive understanding of the hearing process.

Mr. Mitchell reported that the California Chapter of the American Society of Landscape Architects (CCASLA) is holding its spring meeting on March 28-29, 2003 and added that this would be a good opportunity for the LATC to meet with the CCASLA to discuss and strategize the issues for the upcoming JLSRC hearings.

D. Suggested Statutory Changes to the Landscape Architects Practice Act

Erin Mynatt presented this agenda item. Ms. Mynatt stated that the 2002 Strategic Plan directs the LATC and staff to assess the extent of unlicensed activity, review the current exemptions and recommend appropriate course of action. She advised that although the LATC has set a target date of June 2003, with the approaching date of Sunset Review, the issue of clarification of exemptions and scope of practice is of great importance. She reminded the SRTF that in the JLSRC 1996 findings, it was noted that the Board of Landscape Architects (BLA) had expressed difficulty in determining unlicensed activity under the Practice Act and that the multiple exemptions posed a difficulty in fairly determining what is exempt. In addition, the enforcement program has continually encountered consistent concerns and issues relating to the exemptions as currently stated in the Practice Act.

1. Discuss and Make Possible Recommendations to Amend Business and Professions Code Sections:

- **5640 Unlicensed Person Engaging in Practice-Sanctions**

Ms. Mynatt stated that in developing the proposed amendment to Business and Professions Code (BPC) section 5640 she referenced the Council of Landscape Architectural Registration Boards' (CLARB's) Model Law and State of Florida Law (481.329,4). Don Chang clarified that the term "L.A." did not need to be included as it was covered in the statute under abbreviations. With minor edits, the SRTF agreed to recommend the proposed amendment to BPC 5640 to the LATC.

- **5641 Chapter Exceptions, Exemptions**

Ms. Mynatt reported that she met with Mr. Otsuji and Mr. Chang for guidance in drafting an amendment that would serve as a starting point for this discussion. The SRTF reviewed the suggested language and recommended: 1) the statute not exempt titles but exempt actions; 2) to define the term "garden design"; 3) to reference in the statute that the exceptions/exemptions refer to single family residential projects and; 4) consider issues of public safety, e.g., site structures, alternating drainage patterns and retaining walls above 3 feet that would require the skills and knowledge of a landscape architect. The SRTF agreed that this issue needs additional research and input from unlicensed individuals, as well as licensees who primarily work in residential settings. The SRTF agreed to recommend to the LATC that a task force be appointed to work on the amendment to BPC 5641. The SRTF also recommended that the task force be comprised of a minimum of five members, and include representation from landscape architects, garden designers and one member from the LATC. Mr. Otsuji asked the SRTF to submit to him the names of individuals who might be interested in participating on the Exceptions/Exemptions Task Force.

- **5641.5 Golf Course Architects Exempted and 5645 Irrigation Consultants Exempted**

Ms. Mynatt explained that BPC 5641.5 and 5645 were included for the SRTF's review and discussion for any amendments that should be made to clarify the exemptions of golf course architects and irrigation consultants. The SRTF agreed that at this time there are no issues with either statute.

- 5657 Business Address Change-Notice Requirement

Ms. Mynatt stated the proposed amendment further clarifies the required addresses of record, reconciles the statute and California Code of Regulations section 2604, and aligns the statute with the similar law for the Board. The SRTF directed staff to work with Mr. Chang to finalize the language to amend the statute and agreed to recommend it to the LATC.

- 5659 Inclusion of License Number-Requirement

Ms. Mynatt stated the proposed amendment clarifies the requirements for stamp and signature on instruments of service, and aligns the statute with the similar law for the Board. The SRTF directed staff to work with Mr. Chang to finalize the language to amend the statute and agreed to recommend it to the LATC.

2. Discuss and Make Possible Recommendation to Amend the Landscape Architects Practice Act Relating to Unlicensed Landscape Architectural Practice in Political Subdivisions:

Ms. Mynatt stated that in drafting language for a proposed statute she referenced the California Board for Professional Engineers and Land Surveyors, Missouri State Law (327.421), and the Public Contract Code. The intent of the proposed statute is to require public entities to work with licensed landscape architects on public works projects. After discussion, the SRTF recommended that staff further research this proposal by: 1) determining the affected groups; 2) determining the opposition groups; and 3) contacting Roy Hamburg as a resource for engineers. Mr. Chang stated that by clarifying BPC 5640 and 5641 this statute would be redundant and not necessary. He suggested we revisit this issue after we have completed work on BPC 5640 and 5641.

E. Discuss and Make Possible Recommendation Regarding Joint Legislative Sunset Review Committee's 1996 Finding Relating to Professional Competence of Landscape Architects

Ms. Mynatt presented this agenda item. Ms. Mynatt stated that the 2002 Strategic Plan directs the LATC and staff to "Discuss issues of continued competency in landscape architectural practice to determine potential course of action." The LATC has set a target date of June 2004, however, with the approaching date of Sunset Review, the issue of continued competency needs to be addressed.

Ms. Mynatt advised the SRTF that in the JLSRC 1996 Findings, it was noted that the Board of Landscape Architects had expressed an interest in exploring options of continuing education for its licensees, yet had not initiated a continuing education requirement for renewal of licensure. Additionally, she advised that CLARB has established uniform continuing education standards for member boards considering mandatory continuing education requirements and numerous states are requiring continuing education requirements for licensees at the time of license renewal.

Ms. Mynatt concluded that because this was a major finding in the 1996 report, staff requests the SRTF to provide a recommendation as to how to address this concern in Part II of the Sunset Review Report. The SRTF suggested the following be included in Part II: 1) clarification that continuing education is one avenue to attain post-licensure professional competency; 2) reference the Board's study on post-licensure competency and that based on this study no

significant problems were identified that would warrant mandatory continuing education at this time; 3) the LATC tracks complaints to identify a pattern that may be remedied by continuing education; 4) implementation of the California Supplemental Examination which examines California laws and subject areas that are unique to practice in the State of California; 5) reference the findings of the Focus Group Report; 6) the LATC uses communication vehicles such as its newsletter and Web site to update licensees of new issues; and 7) state the LATC supports continuing education but at this time does not have data to require it be mandatory.

F. Review and Update Work Plan and Timeline

The timeline was reviewed and updated by staff and the SRTF. Mr. Otsuji asked the SRTF members to review the assignment chart and get back to staff on any unresolved issues for Part II and to leave their comments for Part I with Ms. Maggio today.

The next SRTF meeting is scheduled for October 11, 2002 in the Board's office in Sacramento.

The meeting adjourned at 11:30 a.m.

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State of California
Department of Consumer Affairs
Gray Davis, Governor



SUMMARY REPORT

CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

Scope of Practice Exceptions and Exemptions Task Force
November 13, 2002
Sacramento, California

MEETING ATTENDED BY:

Scope of Practice Exceptions and Exemptions Task Force Members Present

Tom Lockett, Chair

Laurie Calloway, Association of Professional Landscape Designers (APLD) (replaced Debbie Ruskin)

Richard Ciardella

Lynn Cunningham

Linda Gates

Jackie Ignon

William D. Roach, Jr., American Society of Landscape Architects (ASLA) Sierra Chapter President

Andrea Swanson

Staff Present

Doug McCauley, California Architects Board (CAB), Executive Officer

Mona Maggio, Landscape Architects Technical Committee (LATC), Program Manager

Mary Anderson, Examination Coordinator

Justin Sotelo, Enforcement Coordinator

Don Chang, Legal Counsel

Guests Present

Deanna Glory, APLD

Connie Lefkowitz, APLD

Robert Littlepage, APLD

Sadie Melov, APLD

A. Welcome and Introductions

Chair Tom Lockett thanked all Task Force members for attending the meeting today. He stated that the Task Force consisted of a cross-section of individuals that share an interest in the Exemptions portion of the Landscape Architects Practice Act. Mr. Lockett asked each member to introduce himself/herself, mention his/her professional background, and state the reason for his/her interest in sitting on the Task Force.

B. Review and Discuss Exceptions and Exemptions Related to Landscape Architect Licensure and Make Possible Recommendations to Amend the Business and Professions Code, Including But Not Limited to, Section 5641, Chapter Exceptions, Exemptions

Mr. Lockett asked Don Chang to provide a summary of the Task Force's charge and to establish the parameters for today's discussion.

Mr. Chang stated that the purpose of today's meeting is to address concerns raised with respect to the Exemptions in the Practice Act. He stated that the current language under Business and Professions Code (BPC) section 5641 (Chapter Exceptions, Exemptions) is ambiguous. The statute allows unlicensed persons to prepare plans and drawings 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. Mr. Chang pointed out that the ambiguity lies within the first paragraph of section 5641. He stated that in the past the Board typically did not consider residential projects as a potential risk to public health, safety, and welfare. However, current trends have revealed that more and more high-scale residential projects now include design elements (extensive grading/drainage, hardscape, overhead structures, etc.) that could pose more of a risk to the consumer or public. Mr. Chang stated that the purpose of the Task Force is to reduce the ambiguity in the statute, while at the same time establish appropriate criteria that ensure public safety and recognize the value of landscape designers.

He stated that the LATC, at its previous meeting, discussed potential parameters for unlicensed individuals doing single-family residential design which might be appropriate for public safety issues. The LATC agreed that the following items should be considered when determining appropriate parameters: altering drainage patterns, retaining walls, and site structures (particularly overhead structures).

Mr. Lockett stated that his objective was to review all exemptions in the Practice Act and better define the practice parameters for all professionals who are exempted in the Act.

Laurie Calloway volunteered to make an opening statement to initiate discussion. She provided APLD's definition of landscape design, its mission statement, a list of California schools offering landscape design and horticulture programs, information on its California Chapter, information on its certification process, etc. Ms. Calloway stated that APLD members offer design services for low to mid-level, as well as some high-end, residences. She stated that APLD was founded in 1989 and currently has 1,000 members nation-wide, with approximately 100 in California. She stated that she cannot speak for garden/landscape designers who are not members of APLD. She discussed levels of membership within APLD and continuing education requirements for members. She stated that APLD has a strong partnership with the California Landscape Contractors Association and that all members work with licensed contractors. She also stated that members practice and follow guidelines under BPC section 5641 and that the association does support enforcement of the current law.

Mr. Lockett pointed out that further clarification would be needed in order to understand elements of the definition of landscape design; particularly “appropriate hardscape elements including incidental paving and building materials.”

Ms. Calloway stated that APLD members provide conceptual drawings of paving, overhead structures, etc.; however, they do not prepare construction documents or advocate how elements are installed or built. She stated that they rely on the expertise of the contractor to ensure that elements are built/installed correctly.

Mr. Lockett brought up BPC section 5644 (Chapter Applicability to Other Code Provisions) to gain a better understanding of which licensed professionals fall under this statute. Mr. Chang pointed out that the language was intended to not exclude any licenses which may subsequently be enacted. It recognizes any professional and recognizes their authority to practice within the scope of their license.

Mr. Chang also pointed out that the Task Force was charged with reviewing the exemption under BPC section 5641. However, Mr. Lockett suggested that eliminating ambiguities for other design professionals would assist the LATC’s enforcement staff.

The Task Force discussed the possibility of structuring/listing the Landscape Architects Practice Act Exemptions in a similar manner to those found in the Architects or Professional Engineers Practice Acts. The Task Force determined that the following professionals may need separate exemptions under the Landscape Architects Practice Act: Architects, Civil Engineers, Landscape Contractors, Foresters, and Land Surveyors.

The Task Force suggested inserting the word “planting” in the third paragraph of BPC section 5641 to clarify the plans or drawings exempted for Nurserypersons who hold a license under the Food and Agriculture Code.

Ms. Calloway stated that landscape designers, as members of APLD, comply with local and city ordinances and defer to engineers or contractors for structural or construction plans that need to be approved by the city. She stated that members primarily focus on aesthetic concepts. However, they do not hire the engineer or contractor, the clients do.

After extensive discussion, the Task Force agreed to propose the following exemption for Garden Designers:

This chapter shall not be deemed to prohibit any person from preparing conceptual plans for single-family residential gardens. These conceptual plans shall not be used as construction documents. No person shall be prohibited from preparing plans or drawings for the selection, placement or use of plant materials for single-family residences.

- ◆ **William Roach made a motion to have staff prepare proposed new language under the Garden Design Exemption to be presented to the LATC for review.**
- ◆ **Jackie Ignon seconded the motion.**
- ◆ **The motion carried unanimously.**
- ◆ **Linda Gates made a motion to replace the first paragraph under BPC section 5641 with the Garden Designer Exemption; retain the existing second paragraph of the statute; set up a**

separate exemption for Nurserypersons; research the field of Golf Course Architecture to determine if the exemption needs to be reviewed; contact the American Society of Irrigation Designers regarding clean-up language; and create separate exemptions for Architects, Civil Engineers, Landscape Contractors, Foresters, and Surveyors.

- ◆ **Jackie Ignon seconded the motion.**
- ◆ **The motion carried unanimously.**

Mona Maggio suggested that staff could draft proposed exemption language with legal counsel's assistance and then distribute it to Task Force members for their review prior to the LATC's December meeting. The LATC will consider the Task Force's recommendations at its meeting.

C. Select Future Meeting Date

The Task Force decided to not schedule a future meeting until the LATC has had an opportunity to review its recommendations.

Agenda Item G

REVIEW AND APPROVE SCOPE OF PRACTICE EXCEPTIONS AND EXEMPTIONS TASK FORCE RECOMMENDATIONS TO AMEND THE LANDSCAPE ARCHITECTS PRACTICE ACT BUSINESS AND PROFESSIONS CODE STATUTES, INCLUDING BUT NOT LIMITED TO SECTION 5641 CHAPTER EXCEPTIONS, EXEMPTIONS

The 2002 Strategic Plan directs the LATC and staff to “assess extent of unlicensed activity, review current exemptions and recommend appropriate course of action.” The LATC has set a target date of June 2003, however, with the approaching date of Sunset Review, clarifying exemptions and scope of practice for unlicensed individuals is a high priority for the LATC.

Staff has reviewed the exemptions of other jurisdictions, as well as those of other design boards in the State of California. At the Sunset Review Task Force (SRTF) August 15, 2002 meeting, staff presented their findings along with the 1996 Joint Legislative Sunset Review Committee’s findings as they relate to unlicensed activity and exemptions. In addition, staff presented proposed amendments to current statutes in the Landscape Architects Practice Act. After discussing the issues that were raised and the proposed amendments, the SRTF agreed that this issue needed additional research and input from unlicensed individuals, as well as licensees who primarily work in residential settings. The SRTF agreed to recommend to the LATC that a task force be appointed to develop an amendment to Business and Professions Code (BPC), Section 5641 – Chapter Exceptions, Exemptions..

The LATC appointed a Scope of Practice Exceptions and Exemptions Task Force that held its first meeting on November 13, 2002. The Task Force was charged with examining the scope of practice as well as the exceptions and exemptions. The Task Force was provided with parameters that the LATC believed should be used in evaluating what activities unlicensed design professionals could safely perform. Those parameters concerned issues of public safety that are involved in single family residential design, such as:

1. altering of drainage patterns;
2. retaining walls above the normal three feet; and
3. site structures, particularly overhead structures.

The Task Force reviewed the current scope of practice and exceptions and exemptions of the Landscape Architects Practice Act, as well as the exemptions of the Architects Practice Act, Professional Engineers Practice Act, and Contractors License Law. After an initial review of these statutes, the Task Force recommended the attached changes be made to BPC Section 5641, as it relates to unlicensed and allied design professionals.

After the November 13, 2002 meeting, staff met with legal counsel to discuss the Task Force's recommendations and determined that further clarification of BPC Section 5641 was needed. Staff conducted extensive research as to the exemptions of other jurisdictions, as well as like design boards of the State of California. Legal counsel and staff determined that based on the research conducted, experience obtained through enforcement, and input from the Task Force, staff's recommendation (Attachments #3 and #4) would best meet the goals of clarifying the exemptions and establishing a clear standard for enforcement purposes. Staff recommends that LATC review and recommend the following amendments and additions to the Landscape Architects Practice Act.

Requested Action

1. Discuss and make possible recommendations to amend BPC Sections: 5641 Chapter Exceptions, Exemptions; 5641.5 Golf Course Architects Exempted; and 5645 Irrigation Consultants Exempted;
2. Discuss and make possible recommendations to amend the Landscape Architects Practice Act relating to chapter exemptions, exceptions, creating statutes that clarify the exceptions and exemptions for architects, professional engineers, land surveyors and landscape contractors.

ATTACHMENTS

1. November 13, 2002 Scope of Practice Exceptions and Exemptions Task Force Summary Report
2. Scope of Practice Exemptions and Exceptions Task Force Recommendations for BPC 5641
3. Additional Possible Amendments to BPC Section 5641 Chapter Exceptions, Exemptions; 5641.5 Golf Course Architects Exempted; and 5645 Irrigation Consultants Exempted
4. Possible Addition of Statutes to BPC – Chapter Exemptions, Exceptions – Architects, Professional Engineers, and Land Surveyors; and Chapter Exemptions, Exemptions – Landscape Contractors
5. Landscape Architects Practice Act – Scope of Practice Exceptions and Exemptions
6. Architects Practice Act – Chapter Exemptions
7. Professional Engineers Act – Chapter Exemptions
8. Contractors License Law – Exemptions and Applicability to Unlicensed Persons

Attachment #1 – November 13, 2002 Scope of Practice Exceptions and Exemptions Task Force Summary Report

Attachment #2 – Scope of Practice Exceptions and Exemptions Task Force Recommendations for BPC Section 5641

5641 Chapter Exceptions, Exemptions

This chapter shall not be deemed to prohibit any person garden designer from making preparing conceptual plans or drawings 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 single family residential gardens. These conceptual plans are not to be used for construction drawings.

~~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 planting 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.~~

5641.1 Chapter Exceptions, Exemptions – Personal Property

This chapter shall not be deemed to prohibit any person from making any plans, drawings, or specifications for any property owned by that person.

5641.2 Chapter Exceptions, Exemptions – Nurserypersons

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 planting 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.

Attachment #3 – Possible Amendments to BPC section 5641, Chapter Exceptions, Exemptions; 5641.5 Golf Course Architects Exempted; and 5645 Irrigation Consultants Exempted

5641 Chapter Exceptions, Exemptions – Landscape Design

This chapter shall not be deemed to prohibit any person from ~~making~~ engaging in the practice of “landscape design.” For the purposes of this chapter, landscape design shall be defined as: preparing plans or drawings 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,~~ soil amendments, mulches, edging, gravel, and other similar materials; and drawings that include only recommendations for the conceptual placement of tangible objects for landscape design projects for single family residential units. Construction documents, details, and specifications for the tangible objects shall be designed or approved by licensed professionals as required by law.

~~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.~~

5641.1 Chapter Exceptions, Exemptions – Personal Property

This chapter shall not be deemed to prohibit any person from making any plans, drawings, or specifications for any property owned by that person.

5641.2 Chapter Exceptions, Exemptions – Nurserypersons

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 planting 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.

~~5641.5 Golf Course Architects Exempted~~ Chapter Exceptions, Exemptions – Golf Course Architects

(a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, a golf course architect.

(b) As used in this section, "golf course architect" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such

service is the design of a golf course, in accordance with accepted professional standards of public health and safety.

~~5645 Irrigation Consultants Exempted~~ 5641.6 Chapter Exceptions, Exemptions – Irrigation Consultants

(a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, an irrigation consultant.

(b) As used in this section, "irrigation consultant" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of landscape irrigation, in accordance with accepted professional standards of public health and safety.

Attachment #4 – Possible Addition of Statutes to Business and Professions Code – Chapter Exemptions, Exceptions – Architects, Professional Engineers, and Land Surveyors; and Chapter Exemptions, Exceptions – Landscape Contractors

5641.3 Chapter Exemptions, Exemptions – Architects, Professional Engineers, and Land Surveyors

An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for which he or she is licensed or registered, is exempt from the provisions of this chapter, except that an architect, professional engineer, or land surveyor may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

5641.4 Chapter Exemptions, Exemptions – Landscape Contractors

A landscape contractor licensed under the statutes of this state, may design systems and facilities for work to be performed and supervised by that landscape contractor, insofar as he or she works within the classification for which he or she is licensed. The licensed landscape contractor is exempt from the provisions of this chapter, except that he or she may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

Attachment #5 – Landscape Architects Practice Act – Scope of Practice Exceptions and Exemptions

5615 "Landscape Architect" – Practice of Landscape Architecture

"Landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this chapter.

A person who practices landscape architecture within the meaning and intent of this article is a person who performs professional services, for the purpose of landscape preservation, development and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible construction observation. Landscape preservation, development and enhancement is the dominant purpose of services provided by landscape architects. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architects perform professional work in planning and design of land for human use and enjoyment. Based on analysis of environmental physical and social characteristics, and economic considerations, they produce overall plans and landscape project designs for integrated land use.

The practice of a landscape architect may, for the purpose of landscape preservation, development and enhancement, include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

This practice shall include the location, arrangement, and design of those tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities, in accordance with the accepted public standards of health, safety, and welfare.

This chapter shall not empower a landscape architect, licensed under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.

5640 Unlicensed Person Engaging in Practice – Sanctions

It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5000) or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person, who, without possessing a valid, unrevoked license as provided in this chapter, engages in the practice of landscape architecture or uses the title or term "Landscape Architect" in any sign, card, listing, advertisement, or in any other manner that would imply or indicate that he is a landscape architect as defined in Section 5615.

5641 Chapter Exceptions, Exemptions

This chapter shall not be deemed to prohibit any person from making plans or drawings 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.

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.

5641.5 Golf Course Architects Exempted

(a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, a golf course architect.(b) As used in this section, "golf course architect" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of a golf course, in accordance with accepted professional standards of public health and safety.

5642 Partnership, Corporation – Unlicensed Person

This chapter shall not be deemed to prevent a landscape architect from forming a partnership, firm, or corporation with, or employing, persons who are not landscape architects if the signature, date, and license number of the landscape architect appears on all instruments of service. In no case shall the other members of the partnership, firm, or corporation be designated or described as landscape architects.

The name of the licensed landscape architect shall appear wherever the firm name is used in the professional practice of the partnership, firm or corporation, and such landscape architect shall reside in California when such partnership, firm or corporation maintains a California office or mailing address. The name of such licensee shall appear on all partnership, firm or corporation stationery, brochures, business cards and any instruments of service used or provided in the professional practice of the partnership, firm or corporation.

No partnership, firm or corporation shall engage in the practice of landscape architecture unless the work is under the immediate and responsible direction of a licensee of the board.

Failure of any person to comply with this section constitutes a ground for disciplinary action.

5644 Chapter Applicability to Other Code Provisions

Any person who holds a valid state license or other such authority which authorizes the person to engage in a business or occupation, insofar as the person engages in a professional, occupational or business activity within the scope of that license or other authority, shall not be required to be licensed under this chapter.

5645 Irrigation Consultants Exempted

- (a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, an irrigation consultant.
- (b) As used in this section, "irrigation consultant" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision,

where the dominant purpose of such service is the design of landscape irrigation, in accordance with accepted professional standards of public health and safety.

Attachment #6 – Architects Practice Act – Chapter Exemptions

5537 Exemptions; Dwellings, Garages, Agricultural and Ranch Buildings; Supervision of Licensed Architect or Registered Engineer Required

(a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- 1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- 2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- 3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- 4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible control of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

5537.1 Exemptions; Structural Engineer

A structural engineer, defined as a registered civil engineer who has been authorized to use the title structural engineer under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title “architect,” unless he or she holds a license as required in this chapter.

5537.2 Exemptions; Contractors

This chapter shall not be construed as authorizing a licensed contractor to perform design services beyond those described in Section 5537 or in Chapter 9 (commencing with Section 7000), unless those services are performed by or under the direct supervision of a person licensed to practice architecture under this chapter, or a professional or civil engineer licensed pursuant to Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under that chapter.

However, this section does not prohibit a licensed contractor from performing any of the services permitted by Chapter 9 (commencing with Section 7000) of Division 3 within the classification for which the license is issued. Those services may include the preparation of shop and field drawings for work which he or she has contracted or offered to perform, and designing

systems and facilities which are necessary to the completion of contracting services which he or she has contracted or offered to perform.

However, a licensed contractor may not use the title “architect,” unless he or she holds a license as required in this chapter.

5537.4 Exemptions; Professional Engineer

A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title “architect,” unless he or she holds a license as required in this chapter.

5537.5 Exemptions; Civil Engineer

A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a civil engineer may not use the title “architect,” unless he or she holds a license as required in this chapter.

5537.6 Exemptions; Landscape Architect

A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a landscape architect may not use the title “architect,” exclusive of the word “landscape,” unless he or she holds a license as required in this chapter.

5537.7 Exemptions; Land Surveyor

A land surveyor licensed under the provisions of Chapter 15 (commencing with Section 8700) of Division 3, insofar as he or she practices the profession for which he or she is licensed under Chapter 15 of Division 3, is exempt from the provisions of this chapter, except that a land surveyor may not use the title “architect,” unless he or she holds a license as required in this chapter.

5538 Planning or Design Affecting Safety of Building or Its Occupants; Nonstructural Store Front or Interior Alterations or Additions Excepted

This chapter does not prohibit any person from furnishing either alone or with contractors, if required by Chapter 9 (commencing with Section 7000) of Division 3, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering such labor and materials to be used for any of the following: (a) For nonstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment.

(b) For any nonstructural or nonseismic work necessary to provide for their installation.

(c) For any nonstructural or nonseismic alterations or additions to any building necessary to or attendant upon the installation of those storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those alterations do not change or affect the structural system or safety of the building.

Attachment #7 – Professional Engineers Act – Chapter Exemptions

6737 Architectural Exemption

An architect, who holds a certificate to practice architecture in this State under the provisions of Chapter 3 of Division 3 of this code insofar as he practices architecture in its various branches, is exempt from registration under the provisions of this chapter.

6737.1 Structure Exemption

(a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- 1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- 2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- 3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- 4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Administrative Code or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation.

6737.2 Supplementary Practice by Civil Engineer

Nothing in this chapter shall prohibit a civil engineer, registered under the provisions of this chapter, from practicing or offering to practice any engineering in connection with or supplementary to civil engineering studies or activities as defined in Section 6731.

6737.3 Exemption of Contractors

A contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3, is exempt from the provisions of this chapter relating to the practice of electrical or mechanical engineering so long as the services he or she holds himself or herself out as able to perform or does perform, which services are subject to the provisions of this chapter, are performed by, or under the responsible supervision of a registered electrical or mechanical engineer insofar as the electrical or mechanical engineer practices the branch of engineering for which he or she is registered. This section shall not prohibit a licensed contractor, while engaged in the business of contracting for the installation of electrical or mechanical systems or facilities, from designing those systems or facilities in accordance with applicable construction codes and standards for work to be performed and supervised by that contractor within the classification for which his or her license is issued, or from preparing electrical or mechanical shop or field drawings for work

which he or she has contracted to perform. Nothing in this section is intended to imply that a licensed contractor may design work which is to be installed by another person.

6739 Exemption of Federal Officers and Employees

Officers and employees of the United States of America practicing solely as such officers or employees are exempt from registration under the provisions of this chapter.

6740 Exemption of Subordinates

A subordinate to a civil, electrical or mechanical engineer registered under this chapter, or a subordinate to a civil, electrical or mechanical engineer exempted from registration under this chapter, insofar as he acts solely in such capacity, is exempt from registration under the provisions of this chapter. This exemption, however, does not permit any such subordinate to practice civil, electrical or mechanical engineering in his own right or to use the title, "civil engineer" or "structural engineer" or "electrical engineer" or "mechanical engineer" or "soil engineer."

6741 Exemption of Nonresidents

Any person, firm, partnership, or corporation is exempt from registration under the provisions of this chapter who meets all of the following:

- (a) Is a nonresident of the State of California.
- (b) Is legally qualified in another state to practice as a civil, electrical, or mechanical engineer.
- (c) Does not maintain a regular place of business in this state.
- (d) Offers to but does not practice civil, electrical, or mechanical engineering in this state.

6742 Exemption for Real Estate Broker or Salesman

Any person, firm or corporation holding a license as real estate broker or real estate salesman, when making appraisals and valuations of real estate properties, while engaged in the business or acting in the capacity of a real estate broker or a real estate salesman, within the meaning of the California Real Estate Act is exempt from registration under the provisions of this chapter.

6743 Effect of Chapter on Surveyors

This chapter does not affect Chapter 15 of Division 3 of this code, relating to surveyors, except insofar as this chapter is expressly made applicable.

6744 Exemption for Land Owner

This chapter does not require registration for the purpose of practicing civil engineering, by an individual, a member of a firm or partnership, or by an officer of a corporation on or in connection with property owned or leased by the individual, firm, partnership, or corporation, unless the civil engineering work to be performed involves the public health or safety or the health and safety of employees of the individual, firm, partnership or corporation.

6745 Exemption for Building Alterations

This chapter does not prohibit any person, firm or corporation from furnishing, either alone or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service or other data covering such labor and materials:

- (a) For store fronts, interior alterations or additions, fixtures, cabinet work, furniture or other appliances or equipment.
- (b) For any work necessary to provide for their installation.
- (c) For any alterations or additions to any building necessary to or attendant upon the installation of such store fronts, interior alterations or additions, fixtures, cabinet work, furniture, appliances or equipment; provided, such alterations do not affect the structural safety of the building.

6746 Exemption for Communications Industry

Plans, specifications, reports and documents relating to communication lines and equipment prepared by employees of communications companies which come under the

jurisdiction of the Public Utilities Commission, and by employees of contractors while engaged in work on communication equipment for communications companies which come under the jurisdiction of the Public Utilities Commission, are not subject to the provisions of this chapter.

6747 Exemption for Industries

(a) This chapter, except for those provisions that apply to civil engineers and civil engineering, shall not apply to the performance of engineering work by a manufacturing, mining, public utility, research and development, or other industrial corporation, or by employees of that corporation, provided that work is in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.

(b) For purposes of this section, “employees” also includes consultants, temporary employees, contract employees, and those persons hired pursuant to third-party contracts.

Attachment #8 – Contractors License Law – Exemptions and Applicability to Unlicensed Persons

7027.5 Landscape Contractor; Design Authority

A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor

7027.2 Advertisements; Unlicensed Persons

Notwithstanding any other provision of this chapter, any person not licensed pursuant to this chapter may advertise for construction work or work of improvement covered by this chapter, provided that he or she shall state in the advertisement that he or she is not licensed under this chapter.

7027.3 Incorrect License Number; Penalty for Use

Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number which does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both the fine and imprisonment. The penalty provided by this section is cumulative to the penalties available under all other laws of this state.

7028 Contracting Without License; Second and Subsequent Offenses; Limitation of Actions

(a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless such person is particularly exempted from the provisions of this chapter.

(b) If such a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

(c) In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(d) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
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State of California
Department of Consumer Affairs
Gray Davis, Governor



SUMMARY REPORT

CALIFORNIA ARCHITECTS BOARD LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

December 12, 2002
Sacramento, California

Committee Members Present

Linda Gates, Chair
Stephanie Landregan
Sandra Gonzalez

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
Erin Mynatt, Enforcement Coordinator
Justin Sotelo, Enforcement Analyst
Don Chang, Legal Counsel

Guests Present

Cynthia Choy Ong, CAB Liaison
Richard Ciardella, LATC Sunset Review Task Force (SRTF)
Deanna Glory, Association of Professional Landscape Designers (APLD)
Connie Lefkowitz, APLD
David Mitchell, SRTF
Debbie Ruskin, APLD
David Tatsumi, SRTF
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 8:40 a.m. and Mona Maggio, LATC Program Manager, called the roll.

B. Chair's Remarks

Ms. Gates introduced and welcomed Stephanie Landregan to the LATC. She reported that Ms. Landregan was appointed by Assembly Speaker, Herb J. Wesson, Jr., and that although she replaces David Tatsumi on the Committee, Mr. Tatsumi will continue to assist the LATC by serving as a member on the Sunset Review Task Force.

Ms. Gates reported that she, along with Sandra Gonzalez, David Tatsumi and Mona Maggio, attended the Council of Landscape Architectural Registration Boards' (CLARB) Annual Meeting September 12-15, 2002 in New Orleans, Louisiana. She added that the meeting was very well attended and only three states did not send a representative. Workshops included: Making Outreach Happen; Understanding CLARB Finances; Legal Liability Trends for Landscape Architects; and Strategic Planning – The Future of Licensure. The general session included discussion on CLARB's finances, election of Board Officers and voting on resolutions. Ms. Gates stated that CLARB's continuing education program, C²Ed, is not generating the revenue CLARB had planned. CLARB had hoped to have 60 hours of continuing education courses available but presently has 30 course hours. She stated that CLARB is seeing a decline in the number of candidates taking the licensing examination, which also is affecting its finances. However, this is not the case in California where we continue to see an increase in our candidate population. The American Society of Landscape Architects (ASLA) gave a PowerPoint presentation on Homeland Security as landscape architects are playing a vital role in its planning. Ms. Gates stated that the regional meeting discussion covered many of the same issues that were discussed during the general sessions. Ms. Gates announced that the highlight of the meeting for California was Ms. Gonzalez being elected as 2nd Vice President for CLARB's Board of Directors.

Ms. Gates also reported that LATC members and staff attended the ASLA Annual Conference and Exposition in San Jose on October 21, 2002 and that she gave an update on the LATC's accomplishments and status of the Sunset Review Report. She added that CCASLA asked that a LATC representative attend chapter meetings.

C. Public Comment Session

There were no public comments.

D. Approval of August 15, 2002 LATC Summary Report

- ◆ **Sandra Gonzalez moved to approve the August 15, 2002 LATC Summary Report.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

E. Program Manager's Report

Ms. Maggio reported that she attended the California Architects Board meeting and Strategic Planning Session on December 5-6, 2002 in Berkeley, California. The Board's focus this year is on Sunset Review, and the structured intern development program. Ms. Maggio stated that she

would bring some of the Board's ideas for its Strategic Plan to the LATC's Strategic Planning Session on January 7, 2003.

Doug McCauley announced that the Board officers for 2003 are Denis Henmi, President; Jeffrey Heller, Vice-President; and Cynthia Choy Ong, Secretary.

Ms. Gonzalez stated that her charge as 2nd Vice President of CLARB would focus on student outreach. She added that this is the first time California will be represented on the CLARB's Board of Directors.

Mr. Tatsumi thanked Mary Anderson and Justin Sotelo for their support during his licensure presentation to the students at California State Polytechnic University, Pomona on November 21, 2002. The students had questions that were best answered by staff. He called the LATC office during the presentation and Ms. Anderson and Mr. Sotelo were able to provide the appropriate response.

F. Discuss and Develop Agenda to Celebrate 50 Years of Licensure for Landscape Architects in California

Ms. Maggio stated that in 2003, California landscape architects will celebrate 50 years of licensure under the Landscape Architects Practice Act, established in 1953. Ms. Maggio asked the LATC to discuss how to best commemorate this milestone. Staff suggested the LATC ask the CCASLA and the ASLA to assist with acknowledging the accomplishments of licensees over the past 50 years. Ms. Landregan suggested that staff help provide a timeline of accomplishments over the past 50 years for the ASLA to highlight. Mr. McCauley cautioned that it might be more appropriate for CCASLA and ASLA to drive these efforts. He also asked Ms. Landregan if CCASLA chapters had planned any special projects to commemorate the anniversary. Ms. Landregan shared that this anniversary would be highlighted during the CCASLA State Conference, March 28-29, 2003 in San Diego. She added that this landmark should also be highlighted during National Landscape Architecture Week in April 2003. She proposed that the LATC could see if the CCASLA chapters could perform 50 community projects to commemorate the anniversary. Ms. Landregan also shared that CCASLA is developing a Public Service Announcement and offered to present it at the January meeting.

G. Review and Approve Scope of Practice Exceptions and Exemptions Task Force Recommendations to Amend the Landscape Architects Practice Act Business and Professions Code Statutes, Including But Not Limited to Section 5641 Chapter Exceptions, Exemptions

Erin Mynatt presented the recommendations of the Scope of Practice Exceptions and Exemptions Task Force for amending Business and Professions Code (BPC) section 5641. Additionally, Ms. Mynatt provided the LATC with staff's findings regarding the exemptions and exceptions of other jurisdictions and like design boards. Ms. Mynatt asked the LATC to review and discuss the recommendations to amend BPC sections 5641 Chapter Exceptions, Exemptions; 5641.5 Golf Course Architects Exempted; and 5645 Irrigation Consultants Exempted. Secondly, the LATC was asked to discuss and make possible recommendations to amend the Landscape Architects Practice Act relating to chapter exceptions and exemptions for architects, professional engineers, land surveyors, and landscape contractors.

Ms. Gates provided an overview of the issues that the LATC identified as 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.

◆ **Stephanie Landregan moved to approve the following language for BPC section 5641:**

5641 Chapter Exceptions, Exemptions

This chapter shall not be deemed to prohibit any person from ~~making preparing~~ 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~~ or conceptual design and placement of tangible objects and landscape features for single family dwellings.

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.

- ◆ **Sandra Gonzalez seconded the motion.**
- ◆ **The motion carried unanimously.**
- ◆ **Stephanie Landregan moved to approve the proposed language for BPC sections 5641.1, 5641.2, 5641.5, and 5641.6. As well as the following language for the additional amendments to sections 5641.3 and 5641.4:**

5641.3 Chapter Exceptions, Exemptions – Architects, Professional Engineers, and Land Surveyors

An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for which he or she is licensed or registered, is exempt from the provisions of this chapter, except that an architect, professional engineer, or land surveyor may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

5641.4 Chapter Exceptions, Exemptions – Landscape Contractors

A landscape contractor licensed under the statutes of this state, may design systems and facilities for work to be performed and supervised by that landscape contractor, insofar as he or she works within the classification for which he or she is licensed. The licensed landscape contractor is exempt from the provisions of this chapter, except that he or she may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

- ◆ **Sandra Gonzalez seconded the motion.**
- ◆ **The motion carried unanimously.**

H. Update and Make Recommendations on the Proposed Revisions to the LATC Complaint Disclosure Policy and Procedures

Ms. Maggio reported that the Department of Consumer Affairs (DCA) began evaluating and revising its existing 1979 Consumer Complaint Disclosure Policy and Procedures in 2001. She stated that many DCA agencies have regulations to support their policies and procedures, the LATC being one of those agencies. Ms. Maggio mentioned that the California Architects Board (Board) began reviewing its existing policies and procedures around that same time and that the LATC had decided to follow the Board's lead with this matter. She reported that the LATC discloses complaint information when a disciplinary action is final. Ms. Maggio stated that the Board's Regulatory and Enforcement Committee (REC) appointed a task force to review their policy and procedures and that at the December 5, 2002 Board meeting, the Board approved recommended revisions that would comply with the Department's proposed standards. One item of concern for the task force, REC, and the Board was the timeframe for disclosure of citations. She stated that the Board decided to disclose citations for 20 years. Vickie Mayer stated that the Board did not resolve the issue of disclosing administrative actions on their Web site and in their newsletter and that they will be discussing it again at their next meeting.

- ◆ **Sandra Gonzalez moved to adopt the Complaint Disclosure Policy and Procedures revisions approved by the Board and to have staff review California Code of Regulations section 2608 (Complaint Information System) and prepare a rulemaking file with amendments to the regulation, if necessary.**
- ◆ **Stephanie Landregan seconded the motion.**
- ◆ **The motion carried unanimously.**

I. Discuss and Make Recommendations to Amend California Code of Regulations (CCR) Section 2620, Education and Training Credits

Ms. Mynatt presented that in the Joint Legislative Sunset Review Committee's (JLSRC) 1996 Findings, it was noted that the Board of Landscape Architects (BLA) proposed educational and training requirements were seen as artificial barriers to entry into the profession. At the time the 1996 Sunset Review Report was submitted, the BLA had proposed amendments to the educational and training requirements. The amendments changed the law to the current CCR section 2620 and BPC section 5650. The JLSRC and Center for Public Interest Law (CPIL) argued that the BLA's attempt to lessen the barrier actually strengthened the barriers to licensure in requiring that the licensees have formal education in landscape architecture. In the JLSRC findings, the DCA was instructed to review the proposed regulatory amendments to ensure that they did not create an artificial barrier to entering the profession.

Staff recommended that the LATC revisit this issue through strategic planning and address it through analysis of the current requirements for examination and compare to other jurisdictions and like design boards. The LATC agreed that this was an issue that should be continually evaluated and asked that it be discussed during strategic planning.

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

Ms. Maggio reported that the conference call scheduled for December was cancelled.

K. Enforcement Program Report

Ms. Mynatt presented an overview of the actions of the Enforcement Program since the August 2002 meeting. She provided a summary of Citation 2001-02 pending with the Attorney General's office for administrative hearing in May 2003. Additionally, Ms. Mynatt reviewed the two citations issued and final as of November 30, 2002. Finally, Ms. Mynatt and Mr. Sotelo provided a brief overview of the Complaint and Enforcement Statistics for September, October, and November 2002 and Fiscal Year 2001/02.

L. Review and Update Action and Communication Plans

Mr. Sotelo presented this agenda item. The LATC discussed and updated its Action and Communication Plans in relationship to the 2002 LATC Strategic Plan. Targeted completion dates to accomplish tasks/actions necessary to achieve each objective were reviewed and updated.

M. Announcement of Future Meetings

The Committee set tentative meeting dates for March 28, 2003 in San Diego; July 17, 2003 in Sacramento and October 2, 2003 in San Luis Obispo. A meeting will also be held in May in conjunction with the University of California at Los Angeles Extension Program's 25th anniversary.

N. Adjournment

The meeting adjourned at 12:50 p.m.



APLD California Chapter Legislative Update

Testimony to Senate Business, Professions, and Economic Development Committee

March 21, 2011
Oversight Hearing
Sunset Review for California Architects Board and
Landscape Architects Technical Committee

My name is Maureen Decombe, and I am a residential landscape designer and C-27 Licensed Contractor. I am here today representing the Association of Professional Landscape Designers-California Chapter. Thank you for the opportunity to speak with you today about pending legislation to extend the Landscape Architects Technical Committee. APLD is in support of the Committee's continuation, with consideration of the following points.

We have reviewed the Sunset Review package prepared for the Committee by the LATC and staff, as well as the response and request for clarification from the Committee. APLD California concurs with the Committee recommendation on Identified Issue #1, and with the stated goal of the LATC to pursue continued dialog with APLD toward clarification of Exemption 5641, we support the continuance of the LATC.

Because this is our first time appearing before the Business and Professions Committee, I would like to tell you about our organization. The California Chapter of the Association of Professional Landscape Designers is a 400 member, all-volunteer organization. Our national organization has an additional 800 members in other parts of the country. In California, APLD holds monthly educational programs for our members and green industry partners in seven local districts, including Greater Los Angeles, San Diego, San Francisco, East Bay, North Bay, and Sacramento Districts; and will host the National Conference in the San Francisco Bay Area in 2012.

Our educational programs include standards and practices; water and irrigation efficiency; fire safety considerations for landscape design; Low Impact Design, including storm water pollution prevention; invasive horticultural plant prevention; as well as principles of space layout, climate-appropriate plant selection, and placement of other garden elements. More information can be learned about our educational programs on our website, www.apldca.org.

Although a significant number of our members, like myself, are Licensed Contractors and some are Licensed Landscape Architects, a majority of our membership practices legally in the unregulated realm of Residential Landscape Design. California Code does not specifically address the Residential Landscape Designer; though we fall under the purview of the LATC as regards regulation and enforcement of provisions of the Landscape Architects Practice Act, which address unlicensed activity.

As such, we take pains to point out that unlicensed activity in Residential Landscape Design is not illegal activity. Furthermore, our organization and members are committed to the public health, safety, and welfare, as demonstrated by our actions, focus on continuing education, and responsible business practices. Though not required by the State, many members carry Errors and Omissions, as well as Liability Insurance policies; and our organization worked hard to gain access to that insurance for our members. We have, to my knowledge, no record, public or otherwise, of a consumer complaint about any member endangering the public health safety and welfare, and a review of the LATC enforcement actions posted on their website reveals no APLD member—past or present—as a recipient of a fine or other penalty from the LATC.

Most of our members attend two-year landscape design programs at local community colleges, and some go on to receive four-year degrees from UC Extension programs. Several of our members are highly qualified graduates of Masters Degree programs in Landscape Design, and are much sought after for high end residential design projects. A significant number of our members have received APLD certification through a rigorously documented peer-review process managed by our national organization. The focus of our association's educational programs is residential, and to my knowledge, few of our members ever design commercial projects, unless, of course, they are licensed to do so.

Our members refer millions of dollars of work per year to licensed landscape contractors, thus contributing to job creation not only for ourselves as entrepreneurs, but for qualified licensed contractors and their employees. Furthermore, many of our members work in teams with licensed landscape architects, contractors, engineers, and other licensed professionals to create planting designs and influence the conceptual layout of spaces for residential properties.

But our most important function by far is the work that we do for the normal, every day residential consumer, with a small urban or suburban lot. Previous testimony to the Joint Sunset Review Committee has stated that although notable exceptions exist in the high-end residential market, the majority of landscape architects characterize themselves as working on public and commercial projects.

This is not the realm of Residential Landscape Designers, neither in a legal nor practical sense. Most of us design gardens for your neighbors, friends, and family. We are there for the consumer who needs guidance to make good choices for the enjoyment of their own back yards.

Members of our board have attended all LATC meetings for the past year, and have been impressed with the process, and particularly the hard work of staff and members as they manage a significant work load during furloughs and hiring freezes. We have asked many questions and made several requests for information, all of which have been attended to with due care. Our presence has been welcomed, and we have learned a great deal about the overlap of our professions, as well as the vast areas in which our professions do not, and should not overlap.

What brought us into this active engagement—after a period of relative quiet—relates directly to one of the questions asked by your Committee, namely, Identified Issue #1. We, too, want to understand the significant increase in enforcement actions against unlicensed persons, and particularly what constitutes the “other” category of complainants.

We acknowledge and respect the meaning and importance of the title “Landscape Architect”, and that it represents significant commitment, education, and experience. We are proud that, to our knowledge, not one of our unlicensed members who was sent a cease and desist letter in the recent spate of complaints used the title “Landscape Architect” claimed to be a Landscape Architect, or offered “Landscape Architectural Services” in their advertising instruments.

During the process of examining these complaints, at our request, overbroad interpretations of section 5641 were identified by the LATC as an anomaly, and swift action was taken by the Executive Officer once we were able to communicate this trend. We agree with the LATC that continued dialog and partnership with the goal of clarifying exemption 5641 is the solution to preventing similar situations in the future.

The responsiveness of our members to these complaints has, to our knowledge, led to the closure of each of these cases, with no further action required by the LATC. We also acknowledge that some of these members had at least one statement or claim which was clearly in violation of the advertising provisions of the Landscape Architects Practice Act, for instance, stating that they do “commercial work”.

Our educational efforts around standards and practices have addressed these issues, particularly the barrier to commercial and public spaces. To that end, we now characterize our organization in California as serving the interests of the Residential Landscape Designer. We recognize that language is important, and that care must be taken to represent ourselves accurately, so that our members internalize and apply a clear understanding of what is permitted under a legal scope of practice for Residential Landscape Design.

We appreciate the opportunity to be here today, and hope that the State will bear in mind that without access to Residential Landscape Designers, consumers' choices would be unduly limited. This becomes exceedingly important when we consider the significant increases in regulation, and how State mandates affect residential design.

Landscape design packages are now required for compliance with state-mandated water-efficient landscape ordinances, and residential consumers need our help to meet these standards. In particular, an understanding of plant water needs is critical to the successful design of these residential spaces to meet mandated water budgets. We anticipate that environmental regulation will increase in the residential urban and suburban space. How will Los Angeles meet the 20 by 20 mandates without changing the way that small residential gardens are designed?

In light of this, we are committed to bring before you, at a future date, a clear exemption to the California Landscape Architects Practice Act, which is aligned with similar state regulation of professions. The residential exemption for single-family dwellings of woodframe construction, under the California Architects Practice Act, is such a regulation.

Under this exemption, section 5537 of the California Architects Practice Act, an individual is permitted to prepare plans, drawings, or specifications for dwellings of not more than two stories and basement in height. Yet under the current LANDSCAPE Architects Practice Act, the same individual who designed that woodframe structure would not be permitted to design the arbor that stands outside of that dwelling.

We believe that consistency in state regulations is paramount to the efficient enforcement of reasonable laws to protect the public. I thank you for your time, and again reiterate the APLD California Chapter's support of the continuance of the LATC.

Agenda Item E

PUBLIC COMMENT SESSION

Members of the public may address the Exceptions and Exemptions Task Force at this time. The Task Force Chair may allow public participation during other agenda items at her discretion.

Agenda Item F

SELECT FUTURE MEETING DATES

May

| | | |
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| 24 | Exceptions and Exemptions Taskforce Meeting | Sacramento |
| 28 | <i>Memorial Day</i> | <i>Office Closed</i> |

June

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| 11-12 | Landscape Architect Registration Examination (LARE) Sections C & E Administration | Various |
| 14 | California Architects Board (Board) Meeting | Sacramento |
| 20-22 | National Council of Architectural Registration Boards Annual Meeting and Conference | Minneapolis, MN |

July

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| 4 | <i>Independence Day</i> | <i>Office Closed</i> |
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August

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| 14 | Landscape Architects Technical Committee Meeting | Sacramento |
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September

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| 3 | <i>Labor Day</i> | <i>Office Closed</i> |
| 10-22 | LARE Sections 1 & 2 Administration | Various |
| 13 | Board Meeting | TBD |
| 13-15 | Council of Landscape Architectural Registration Boards Annual Meeting | San Francisco |
| 28-1 | American Society of Landscape Architects (ASLA) Annual Meeting | Phoenix, AZ |

October

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| 1 | ASLA Annual Meeting (cont'd) | Phoenix, AZ |
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November

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| 12 | <i>Veteran's Day Observed</i> | <i>Office Closed</i> |
| 22-23 | <i>Thanksgiving Holiday</i> | <i>Office Closed</i> |

December

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|------|------------------------------------|----------------------|
| 3-15 | LARE Sections 3 & 4 Administration | Various |
| 5-6 | Board Meeting | TBD |
| 25 | <i>Christmas</i> | <i>Office Closed</i> |