A History Lesson for U.S. Legislators

By: Laura Kuhn

Monticello was not designed by a landscape architect. Neither was Kew Gardens or Shi Zi Lin. All are works of immense scope, beauty and complexity and all pre-date our modern concept of "landscape architecture."

The designers responsible for the features that distinguish these instantly recognizable sites were not landscape architects; they were – in the most concise possible language – landscape designers. The individuals who nurtured the "big picture" at each of these special places, who selected materials, oversaw layout, who anticipated and addressed the myriad details that are the hallmark of custom work – all were landscape designers. Some of them were also horticulturists, farmers, artists or the equivalent of today's engineers and surveyors. But in each case their primary task was to design on the land.

Yet despite the universal reach and implicit history of this field, laws across the United States steadily encroach on the profession of landscape design as we know it. Legislators are condemning the profession into a corner of incidental, minor work unworthy of public esteem. Usually sponsored by the American Society of Landscape Architects (ASLA), these laws have passed in at least 44 states as of this writing. U.S. legislators would benefit from learning the histories of the two professions, landscape design and landscape architecture, as they weigh the matter of ASLA sponsored legislation – but no one is insisting that they do this.

Consider the example of Central Park, the landmark design of Frederick Law Olmsted and Calvert Vaux, the very "fathers of landscape architecture" in the U.S.

Olmsted is often credited with the first use of the title "landscape architecture," though the term itself was not yet in common use during his lifetime. One could logically state that since Olmsted was among the first to call himself a "landscape architect," he must therefore have been practicing "landscape architecture." More germane than terminology, though, is the fact that Olmsted did not invent the skill sets that landscape designers and architects employ. Olmsted excelled in various aspects of his field and skillfully embraced the fashion and needs of his day – but he essentially followed a well-established path of applying fundamental design principals to the craft of shaping outdoor spaces. In other words, he was what we would today call a landscape designer. Likewise were the creators of Monticello, Kew and Shi Zi Lin.

APLD's home page states that "Landscape Design involves analysis, planning, design and creation of exterior spaces using plant material and appropriate hardscape elements." This definition allows for countless interpretations of the profession by those who practice it. Additional specificity would necessarily exclude certain professionals who engage in some but not all of the tasks that their fellow landscape designers perform. Some landscape designers are horticulturists, some are not. Some design garden architecture, some do not. But all are landscape designers, shaping space as landscape designers have done for thousands of years. We all know landscape design when we see it.

But this broad, universal understanding of landscape design is being fundamentally challenged via the passage of landscape architecture practice laws across the U.S. The essence of these laws is often a broad and misleading definition of "landscape architecture." As one example, the Pennsylvania law defines landscape architecture as:

> *"The performance of professional services, such as consultation, investigation, research, planning, design, preparation of drawings and specifications, or responsible observation of construction in connection with the development of land areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, planting, naturalistic and aesthetic values, the settings and approaches to structures or other circulation improvements, the shaping and contouring of water forms, the setting of grades and*

determining drainage and providing for storm water management and determination of environmental impacts and problems of land including erosion and sedimentation, blight and other hazards. This practice includes the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in the law and as may be prescribed by state or local authorities but does not includes the design of structures or facilities as are ordinarily included in the practice of engineering or architecture and does not include the making of land surveys."

In short, landscape architecture is everything we know to be landscape design, without refinement or qualification. Such a broad definition could lead one to mistakenly deduce that "landscape architecture" is in fact that millennia-old, broad, interdisciplinary field that anyone would recognize.

When landscape architects approach legislators with the hopes of gaining a sponsor for their proposed bill, they first explain to lawmakers who they are and what they do. Landscape architects proceed to describe the full scope of work they perform. It should not be deduced from this description, however, that all tasks performed by landscape architects are deserving of regulation. They are not. Because the profession of landscape architecture is a relatively recent offshoot of the much older profession of landscape design, there is significant overlap in the scope of work of these two professions: each involves the design of both hard and soft surfaces on the land; each resolves or prevents drainage issues; each manipulates landform for artistic and functional effects; each specifies plants.

As a result of this overlap, the erroneously broad definitions of the term "landscape architecture" included in today's practice laws are a serious burden to landscape designers, who risk running afoul of state law merely by practicing their profession where these laws are in effect. In challenging these laws, designers must defensively substantiate that they are worthy of doing their jobs, because in the stroke of a legislator's pen, their jobs can be and have been redefined as "landscape architecture," a profession now regulated in most states.

Most of our legislators know nothing about this. They are not landscape designers or architects; they are legislators. As such, they depend on their constituents who voice support or opposition for a bill to help educate them as to a bill's tenets, merits and potential impact.

Legislators who consider landscape architecture practice laws must learn that during the 19th century, the introduction of the term "landscape architecture" signaled not the birth of a wholly new profession, but the establishment of a specialty within the time-honored profession of "landscape design." We cannot assume they are already familiar with this profession, with its history, its global presence and its broad, interdisciplinary scope.

To the legislator who asks: "What is landscape architecture?" the onus should be on landscape architects to define and characterize what makes their profession distinct from that of the original profession of landscape design, rather than to merely describe the entire scope of work that they perform. It is only this area of distinction that ought to be argued before legislators as deserving of regulation. And legislators have no opportunity to recognize this distinction if it is not presented to them as such. It is incumbent on designers to clarify this for legislators, by rejecting wholesale the speciously broad definitions of "landscape architecture" included in most state laws.

The implication that all tasks performed by landscape architects are worthy of regulation carries the threat of unnecessary regulatory burden. The breadth of the definitions at the core of many state practice laws results in serious legal restrictions on the right of landscape designers to practice their profession in the ways that they have traditionally done. The claim from a practice law or bill's supporters that these restrictions are unintended is irrelevant.

The general public and their representatives are owed unambiguous and concise definitions of any profession being considered for state oversight. If the authors and sponsors of a bill can't adequately describe what is in need of state oversight – and why – they have failed to make their argument. If in an effort to make their argument, the authors overreach by wholly eclipsing another profession, it is the job of those opposing the bill to educate their representatives to that effect.

What is landscape architecture? Ask an ASLA member, while gazing on Central Park's Strawberry Fields. Insist on a detailed and thorough response.

What is landscape design? I know it when I see it.

If you are facing a title or practice bill in your state, APLD can assist you with strategy, letter writing or editing, sample letters to legislators or other tools to help you communicate your opinion effectively and appropriately to your representatives. APLD does not employ a lobbyist at this time. We do not have the ability to monitor the introduction of bills in all states. We are reliant on our members contacting us before we can be of assistance to you. The "Laws and Legislation" section of the APLD Web site includes many useful resources, and it is currently undergoing an extensive update.

If you hear of a bill being introduced at your state legislature that you think could impact your right to practice, please contact Laura Kuhn, Chair of Legislative Affairs, immediately with this information at onebirch@comcast.net.

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