



Laws of Concern to Landscape Designers: Focus on NY

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more. Landscape architecture licensure exams test for technical proficiency in all these areas. There should be no question that a person educated and able to demonstrate mastery in these subjects is eligible to compete alongside other licensed professionals for projects where this proficiency is required.

For landscape designers, the problems begin when the legal definition of “landscape architecture” disregards the distinction between technical and non-technical aspects of the practice as well as existing state and local codes and regulations.

This is the first in a series of articles which will examine existing state and local laws that unfairly impact the profession of landscape design via unclear or non-specific language, unnecessary regulatory burden, or outright professional exclusion.

[New York State Education Law, Article 130, Article 148: Landscape Architecture Title & Practice Acts](#)

The NY definition of landscape architecture is all-encompassing: “...*preservation, enhancement or determination...of natural land features, ground cover and planting, naturalistic and aesthetic values, (and) Includes the location and arrangement of such tangible features as are incidental and necessary....*” Inclusion of the phrase “*incidental and necessary*” clarifies the law’s reach unmistakably: if you’re enhancing land in any way in New York State, and doing so for income, you need to be a registered landscape architect. Since landscape designers’ sole business is the design of enhancements to land, a logical conclusion is that no aspect of landscape design by an unlicensed professional is acceptable in New York State.

To challenge this thinking: Every land designer knows that slope stabilization is not always as simple as a five percent slope vegetated with *Rhus aromatica* ‘Gro-Low’. But sometimes it is. The language of the NY law is too vague to distinguish between existing slope conditions that warrant an engineered plan for stabilization and existing conditions that do not.

Another example: if you convert an area of open lawn to bluestone patio, elevate it seven inches, and pitch it at one to two percent to meet relevant codes, does that constitute an enhancement of such potential public hazard that only licensed professionals can design one? If this were true, why are standard rise/run ratios and minimum pitches for exterior surfaces included in state building codes?

The purpose of a building code is to establish standards for safe design and construction to ensure public health, safety and welfare. Further, permit requirements distinguish between work that must have a design or detail stamped by a licensed professional and work that does not. If the building code acknowledges that a range of rise/run ratios is acceptable in exterior stair construction, is it the opinion of ASLA that this standard is not sufficient to ensure public safety? Or that only licensed professionals are qualified to interpret the existing code?

Although the NY law includes a number of exemptions – for licensed engineers, arborists, gardeners, landscape contractors, etc – it includes no exemption for landscape designers as a class of professionals. Why? Adding one would fundamentally undermine the law, since the description offered as “landscape architecture” is in truth a definition of “landscape design.” This is obfuscation, because the technical proficiency of

The diverse community of landscape design practitioners in the U.S. has been increasingly divided in recent years. Despite the shared challenges of the sister professions of landscape design and landscape architecture, and despite their largely overlapping scope of work, a growing number of landscape designers report that their practices are being unnecessarily impacted by new legal definitions of the term “landscape architecture.”

For most professions, licensure is introduced and implemented on a state by state basis. This means that the American Society of Landscape Architects (ASLA) and its affiliated chapters have needed to launch a distinct and costly lobbying effort in each state to gain the support of state legislators. As of this writing, their efforts have met with overwhelming success: landscape architecture practice laws have passed in 45 states and bills have been introduced in at least three more.

Landscape architects have logical needs to pursue licensure: without it, they are denied some opportunities to compete alongside engineers and architects for the kinds of work they are trained to do. An accredited landscape architecture degree program provides rigorous instruction in vehicular circulation, brownfields remediation, park design, and much



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landscape architects generally far exceeds that of their unlicensed colleagues, and landscape architects sit through a purportedly grueling exam to prove it. Common sense and practical experience make clear that not all enhancements to land require a high level of technical know-how.

The broad language of the NY definition overreaches. It excludes many design professionals from practicing their trade for income, even in cases where non-engineered solutions meet construction standards and are the most affordable ones for consumers. This law also treads on the NY State Building Code, which exists to establish standards for construction methods and materials. These standards exist for the enhancement of public health, safety and welfare.

The real impact of this law on landscape designers in New York is just starting to emerge. APLD has learned of three NY landscape designers who have had to alter the range of services they offer in response to this new state law. These changes result in a loss of potential income, with no public benefit or increase in public safety. This disturbing news indicates that the NYS Office of the Professions is inclined to a strict or literal interpretation of the state law.

If you are a landscape designer in New York State and would like to better familiarize yourself with this law, please visit the Office of Professions page at www.op.nysed.gov/larch. Look for information about the APLD New York Chapter at www.apld.com/chapters/New_York_Chapter.

If you have concerns about how this law or another state law could impact your practice, please contact Laura Kuhn, onebirch@comcast.net.



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