What Landscape Designers Should Know about Laws that Affect their "Right to Practice"

By: Laura Kuhn

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According to its charter, "the goals of APLD are to advance landscape design as an independent profession and to promote the recognition of landscape designers as highly qualified, dedicated professionals." As a matter of policy, APLD is committed to opposing all legislation that restricts a landscape designer's right to practice.

Our right to practice landscape design is being challenged across the country via legislation that strictly limits the scope of work and specific tasks that landscape designers are legally allowed to perform. Most of this legislation is sponsored by the American Society of Landscape Architects (ASLA). The purpose of ASLA-sponsored legislation is usually to introduce landscape architecture title and/or practice laws in a state where these do not already exist, or to strengthen these laws where they do exist.

ASLA often states that the purpose of these laws is to gain "parity" with other licensed professionals such as engineers and architects in a given state. The rationale for these laws is often stated that they are necessary to "guarantee" public health, safety and welfare. No law can actually accomplish this. In reality, these laws generally provide a framework for accountability for transgressions against public safety, health or welfare once they have occurred.

> Title laws generally establish that no one can use the term "landscape architecture" in reference to the services that they offer, or call themselves a "landscape architect" unless they meet the eligibility criteria of their state law, and they have registered with their state board of oversight.

> Practice laws go further to include that no one can practice "landscape architecture" unless they meet the eligibility criteria of their state law, and they have registered with their state board of oversight. These laws invariably include a definition of "landscape architecture." These definitions vary from state to state, often overlapping significantly with what the general public and we as designers commonly understand to be "landscape design."

Because of the broad overlap in descriptions of the sister professions of landscape design and landscape architecture, coupled with the standards for registration, ASLA-sponsored legislation often results in serious restrictions on the practice of landscape design as we know it. These restrictions are enacted despite the fact that the landscape design businesses that are impacted by these laws have not been shown to have adversely affected the public health, safety or welfare. There is no data – or even hearsay – of which APLD is aware that links landscape design as a profession to work that has been shown to jeopardize the public in any way. If it were common for landscape designers to produce sub-standard or dangerous work, it would likewise be common to hear of landscape design businesses being sued, going out of business, or being unable to purchase insurance.

The stories of how landscape designers have had to change their business practices, have lost business, or are known to be operating in violation of their state law, are numerous and varied. Operating in violation of a state law may result in a "Cease and Desist" order from the state. At this time, APLD's Legislative Affairs Committee is actively seeking reports from landscape designers of whether and how their businesses and livelihood have been impacted by these title and practice laws. If you feel you have experienced anything of this kind, please contact APLD with your story. Laura Kuhn, APLD Chair of Legislative Affairs, can be reached at onebirch@comcast.net.

Continued on page 15...