



Association of
Professional
Landscape
Designers
California Chapter

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.