

# **SCOPE OF THE PRACTICE OF LANDSCAPE ARCHITECTURE**

## **I. Preface**

While various State licensing laws govern the practice of landscape architecture, and define what constitutes “landscape architecture” in terms of professional services provided, the scope of practice - - or when some action actually becomes the practice of landscape architecture - - is not so easy to define. Whether an act or actions are the practice of landscape architecture is important from an enforcement standpoint because the North Carolina Board of Landscape Architects must often determine if conduct constitutes unlicensed practice. This task is frequently made more complex because many recognized services provided by Landscape Architects are also practiced by other licensed professionals, such as engineers, architects or hydrologists, or do not require a license.

The most difficult determination to be made is when the practice of landscape architecture begins. Does it begin with the plan or the concept? Does it only start when “pencil is put to paper?” Or does it only apply if the project is going to actually be built and is more than just a “conceptual plan?”

Hopefully, these issues are addressed below.

## **II. The Scope of Practice**

The enabling legislation for Landscape Architects in North Carolina, Chapter 89A of the General Statutes, refers to the arrangement of land for public health, safety and welfare. Traditionally, both in this state and across the country, this charge has been interpreted narrowly to include knowledge of materials and means of construction related to the arrangement of land, and the licensing exam reflects

this emphasis. Recently, discussions about the work that leads up to the preparation of construction documents has led to a broader discussion of the purview of Landscape Architects. Many professionals are involved in master planning and conceptual plans which may or may not lead to the preparation of construction documents, but which are an essential part of the process that results in built projects. Some of the questions that must be asked are:

- Does the preparation of concepts and master plans constitute the practice of Landscape Architecture?
- What are the liability issues if a client decides to build a project based on these master plan or conceptual drawings?
- What steps can individual Landscape Architect, landscape architectural firms and others who may prepare conceptual drawings or master plans, such as university students training to become professionals, take to protect themselves?
- What are the implications for such students or other non-licensees when they prepare master plans and concept drawings?

#### **A. The Definition of Landscape Architecture**

A wide range of subjects relate directly and indirectly to the practice of landscape architecture. The core curriculum for any degree in landscape architecture emphasizes, among other things, the health, safety and welfare aspects of the practice, and in North Carolina, licensees must obtain continuing education that pertains to public health, safety and welfare.

Landscape architecture or the practice of landscape architecture is defined

as:

The performance of services in connection with the development of land areas where, and to the extent that the dominant purpose of the services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to the erosion, wear and tear, blight or other hazards. This practice shall include the preparation of plans and specifications and supervising the execution of projects involving the arranging of land and the elements set forth in this subsection used in connection with the land for public and private use and enjoyment, embracing the following, all in accordance with the accepted professional standards of public health, safety and welfare:

- a. The location and orientation of buildings and other similar site elements.
- b. The location, routing and design of public and private streets, residential and commercial subdivision roads, or roads in and providing access to private or public developments. This does not include the preparation of construction plans for proposed roads classified as major thoroughfares or a higher classification.
- c. The location, routing and design of private and public pathways and other travelways.
- d. The preparation of planting plans.
- e. The design of surface or incidental subsurface drainage systems, soil conservation and erosion control measures necessary to an overall landscape plan and site design.

N.C.G.S. § 89A-1.

But when in the process of doing any one of these things does the act or acts requiring licensure begin?

## **B. The “Profession” vs. Protected Licensed Responsibilities**

In terms of licensing of Landscape Architects in North Carolina and the responsibilities of licensed Landscape Architects, it is essential to differentiate

between the purview of landscape architecture as a profession and the tasks which are the protected and licensed responsibility of our profession.

One view which may be relevant is that a drawing must be completed or supervised by a licensed landscape architect and stamped by a licensed landscape architect if the drawings prepared will result in physical changes to the land (e.g. earth will be moved). This statement attempts to define the licensed work of Landscape Architects, but what of the "bigger picture" concept and master plan work that precedes the licensed work of Landscape Architecture?

One of the relevant issues related to this discussion involves the interpretation of the term "welfare" in the North Carolina enabling legislation. Inherently, welfare fits the broader definition of the practice of Landscape Architecture, in that the arrangement of land for public welfare should include the initial analysis of the strengths and weaknesses and existing conditions, an investigation of possible alternatives which would improve the public welfare, or at least not negatively affect public welfare, and a set of recommendations for the preferred improvements. The process by which those recommendations are turned into construction documents would then proceed from that set of recommendations.

By this definition of welfare, landscape architecture includes conceptual as well as detailed work. Landscape Architects are uniquely qualified to engage in this work by virtue of their training in the arrangement of land for public health, safety and welfare. However, this conceptual/master plan work does not require, nor should it involve, the affixing of a seal or the observation and supervision of non-licensed landscape architects by a licensed Landscape Architect. In fact, many

consultants, some licensed (e.g. architects and engineers) and some not (e.g. planners, urban designers, landscape designers and unlicensed graduates of landscape architecture programs) are able to produce master plans and conceptual site plans.

The potential consequence of producing master plans and concept plans is that the client may decide to build from these plans. This would be inappropriate.

Landscape Architects need to protect themselves from potential liability by emphasizing the difference between the two phases of work and reinforcing them with agreements that clearly state that master plans and concept plans are “NOT FOR CONSTRUCTION.” Such drawings should seldom if ever have a seal affixed. This should be reinforced by written agreements between the Landscape Architect (or organization or individual) and the client stating clearly that if the drawings are used for construction, then the client releases the designer/firm/organization from any liability for such use.

Clearly there is not a clear-cut "dividing line" between concept drawings and/or master plans and construction documents, and projects must be evaluated on an individual basis, but this analysis suggests that thought about where that dividing line falls and what actions are appropriate for any given project is necessary to protect the Landscape Architect and the profession. It would also offer protection to unlicensed designers, organizations, and institutions such as universities that offer services as part of the educational experience and professional training.

That said, the corollary to this need for protection is the belief that Landscape Architects can and should be involved in the entire scope of the design process. The licensed Landscape Architect does, in fact, bring exceptional knowledge to this process by understanding the details of how concepts become reality and anticipating opportunities and challenges early in the process to ensure a more successful and realistic end product.