

Meeting Minutes

CALIFORNIA ARCHITECTS BOARD Landscape Architects Technical Committee

November 4, 2016
Sacramento, California

Landscape Architects Technical Committee (LATC) Members Present

Andrew Bowden, Chair
David Allan Taylor, Jr., Vice Chair
Patricia Trauth
Marq Truscott

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Trish Rodriguez, Program Manager
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
Tremaine Palmer, Special Projects Analyst
Kourtney Nation, Examination Coordinator
Gretchen Kjose, Retired Annuitant

Guests Present

Jason Bisho
Maureen Decombe, Association of Professional Landscape Designers (APLD)
Fernando Galli, Board and Bureau Relations, DCA
Amelia Lima, APLD
Dustin Maxam
Sarah Maxam
Greg Melton, Melton Design Group
Shawn Rohrbacker

A. Call to Order – Roll Call – Establishment of a Quorum

LATC Chair Andrew Bowden called the meeting to order at 10:30 a.m. and Vice Chair David Allan Taylor Jr. called roll. Four members of LATC were present, thus a quorum was established.

B. Chair's Procedural Remarks and LATC Member Introductory Comments

Mr. Bowden noted that the October 4, 2016 LATC meeting had been postponed due to a procedural issue regarding the meeting notice period.

C. Public Comment on Items Not on Agenda

There were no comments from the public.

(One public comment was received and acknowledged under Agenda Item F.)

D. Review and Possible Action on May 24, 2016 LATC Meeting Minutes

Mr. Bowden asked for comments concerning the May 24, 2016 LATC Meeting Minutes. There were no comments from the Committee members.

- **Patricia Trauth moved to approve the May 24, 2016 LATC Meeting Minutes.**
Marq Truscott seconded the motion.
Members Trauth, Truscott, and Chair Bowden voted in favor of the motion.
David Allan Taylor, Jr. abstained. The motion passed 3-0-1.

E. Program Manager's Report on Administration, Examination, Licensing, and Enforcement

Trish Rodriguez presented the Program Manager's report. She announced the LATC has a new Licensing/Administration Coordinator, Stacy Townsend. Ms. Rodriguez noted that November 3, 2016 was Enforcement Analyst, Matt McKinney's last day with the LATC and indicated recruitment to fill that position had begun.

Ms. Rodriguez reported that since LATC's last meeting in May, the Workload and Revenue report was completed and submitted to DCA in September. She advised that the next Strategic Planning session would have annual updates from BreEZe staff and DCA's Budget Office. She also noted that BreEZe is still in its release 3 phase, which was originally scheduled to begin in 2016. She said that LATC would commence implementation of BreEZe once notified by DCA.

Ms. Rodriguez reported that the proposed regulatory change to California Code of Regulations (CCR) section 2620 (Education and Training Credits), which allows teaching credit under a landscape architect, was approved by Office of Administrative Law and will take effect on January 1, 2017.

Ms. Rodriguez reported that staff continues to work on proposed changes to CCR 2620.5 (Requirements for an Approved Extension Certificate Program), noting that the Landscape Architectural Accreditation Board's (LAAB) new Accreditation Standards and Procedures,

which were approved and implemented in March 2016, contain numerous changes in curriculum requirements.

Ms. Rodriguez reported that LATC's proposed revisions to the *Disciplinary Guidelines* are with the Board's Regulatory and Enforcement Committee (REC). She continued that once revisions are approved by the REC and the Board, staff will incorporate them into LATC *Guidelines* so that they are aligned with the Board's *Guidelines*.

Ms. Rodriguez reported that staff had completed the *Consumer's Guide to Hiring a Landscape Architect*, to be discussed today under a separate agenda item. Ms. Rodriguez continued that, if approved at today's meeting, the *Guide* would be posted on LATC's website. Mr. Truscott inquired how accessible the *Guide* would be to the public and Ms. Rodriguez responded that the *Guide* would be included in initial licensure packets, available in LATC's lobby, at schools with landscape architecture degree programs, and as a PDF version on the website.

F. Discuss and Possible Action on Public Comments Regarding California Code of Regulations (CCR) Title 16, Section 2615 (Form of Examinations) Reciprocity Requirements

Ms. Rodriguez stated that the issue of reciprocity was first discussed by the LATC in December 2012, when a letter was received regarding California's reciprocity requirements. She continued that staff has completed a significant amount of work in assessing initial licensure eligibility and reciprocity requirements for all states, which is included for the LATC's information today as attachments to this agenda item.

She summarized that the national average of combined training or education for all states is 7 years, that there are 4 states that provide an "education only" pathway and 27 that provide a "training only" pathway to licensure.

Ms. Rodriguez reported that a proposed regulatory amendment to CCR section 2615 (Form of Examinations), which would allow reciprocity for candidates (licensed in another jurisdiction but who do not meet California's education requirements) was approved by the LATC at its November 17, 2015 meeting. She advised that the proposed regulatory amendment was noticed in August 2016, which began a 45-day public comment period that ended on September 27, 2016. During the public comment period, 296 comments (291 were substantially similar) were received opposing the length of post-licensure experience being proposed for reciprocity candidates who do not meet California's education requirement. Ms. Rodriguez concluded that at today's meeting the Committee is asked to review the public comments on the proposed regulation and take action.

Ms. Trauth began the discussion by asking for background information on a letter received from Kody Ryff after the close of the public comment period. Mr. Bowden stated that Mr. Ryff's letter was to be considered under Agenda Item C, Public Comments for Items not on Agenda. DCA Legal Counsel, Gary Duke, stated that although Mr. Ryff's letter would not be part of the formal rulemaking record, it would be appropriate for the LATC to consider the issues he presented if it so chooses.

Mr. Bowden stated that Mr. Ryff's letter suggests alternatives to the LATC's proposed regulatory amendment by reducing the number of years of experience required, noting that as proposed, the number of years of experience required for a reciprocity candidate without a degree in landscape architecture, would prevent the individual from being licensed in California until the age of 35 or thereafter.

Mr. Truscott reiterated that the proposed regulatory language allows a candidate who holds a valid license in good standing and who has been offering professional services for 10 out of the last 15 years to be eligible for reciprocity. He also noted that the California Architects Board (Board) does not require an educational component for reciprocity. Mr. McCauley stated that the Board's only additional practice requirement is for candidates who have not completed the formal structured internship program (Architectural Experience Program (AXP)), and the requirement is three additional years of practice experience. Mr. Bowden stated that since LATC does not have the Board's structure of an internship program, it is limited to dealing with what is currently in regulation. He suggested that LATC discuss the internship issue in Strategic Planning.

Mr. Taylor expressed his opinion that the proposed time frame of 10 years of post-licensure experience appears to be excessive. Ms. Trauth stated that since California requires a combination of 6 years training and experience for initial licensure, 6 years of additional experience for those without a degree in landscape architecture seems more appropriate. Mr. Bowden stated that the intent was to allow the time frame to be non-continuous.

Vickie Mayer reminded the Committee that it decided at a prior meeting that 10 years was appropriate based on extensive research of other jurisdictions' requirements. Mr. Bowden stated that the number was based on reciprocity requirements in Arizona and New York, which have similar licensing populations.

Mr. Bowden stated that in 2005, the LATC's Education Subcommittee evaluated the education and experience requirements for examination, and their findings contain data pertinent to the discussion of reciprocity. He recommended that the Committee take the findings of the Subcommittee into consideration and apply them to reciprocity. He also recommended discussing the reciprocity requirements during the upcoming Strategic Planning session and Ms. Trauth concurred.

Mr. Truscott stated that the Committee has been addressing the reciprocity issue for years and that it should move forward. Ms. Rodriguez noted that the LATC denied two applications in 2014 and three in 2015 for not meeting the education requirements. She added that there are no current reciprocity applications pending that will be denied under the current reciprocity standards.

Mr. Truscott inquired if the Committee could amend the previously approved regulatory language. Mr. Duke responded that amending the proposed language would require publishing a 15-day Notice thereby providing the opportunity for public comments on the proposed amendments. Mr. Duke stated that if LATC would like to re-examine all of the requirements in order to make changes, he would recommend withdrawing the rulemaking package and starting over.

Ms. Trauth asked Mr. Duke about the drawbacks to modifying a provision of the regulation and then reviewing the rest of the regulation during Strategic Planning. Mr. Duke responded that it would be a policy decision for the LATC. Mr. Bowden added that LATC would be considering alternate degrees, through the Education Subcommittee, during Strategic Planning.

- **Marq Truscott moved to proceed with the rulemaking file.**

Patricia Trauth seconded the motion.

Chair, Andrew Bowden asked for discussion.

The discussion opened with public comments from the audience. Dustin Maxam introduced himself and expressed dissatisfaction with the LATC's review of the public comments. He stated that of the 296 comments received, only one was in support of the proposed amendments and the other 295 supported his opposition.

Mr. Maxam stated that he felt the Committee did not understand his proposal and the reasoning behind it. He continued that his revised language is an alternative that is more equitable, less burdensome, and equally effective in ensuring the health, safety, and welfare of the public. Mr. Maxam indicated that the proposed language was taken out of context from Arizona's and New York's requirements. Mr. Bowden asked Mr. Maxam if he had anything new to add that was not included in his written comments.

Mr. Maxam went on to note that out of 3,600 licensed California landscape architects on the 2016 roster, nearly half were licensed prior to 1998, the year LATC was established. He continued that nearly 50% of California landscape architects have more than 18 years of professional experience, and that the majority are approaching retirement. Mr. Maxam stated that the LATC grants less than 100 new licenses every year, and with the current trend, it is not possible to replace those leaving the profession without major changes. He continued that LATC's proposed regulatory language requires so much experience, 18 years in some cases, that most individuals who gained licensure under the previous Board of Landscape Architects and early years of the LATC, who were licensed under more inclusive educational requirements, would not qualify for licensure under current law.

Mr. Maxam concluded by explaining that in his opinion, practicing or offering professional services for 10 of the last 15 years is excessive, while a more balanced approach, aligned with Council of Landscape Architectural Registration Boards (CLARB) and some other states, is 2 of the last 5 years and any college degree. He added that offering professional services for 6 of the last 10 years aligns with many other states.

Amelia Lima, Jason Bisho, Shawn Rohrbacker, and Greg Melton introduced themselves and agreed with Mr. Maxam's position. Mr. Rohrbacker also stated that Committee members may have believed that 10 years was excessive, and would have been dismayed if the Committee decided to move forward.

Ms. Lima inquired on the statistics Ms. Rodriguez provided earlier regarding the number of reciprocity applicants. Ms. Rodriguez responded that the statistics were from research on the affected number of reciprocity applicants. Mr. Maxam stated that it is 2-3% or possibly more of the number of licenses granted a year.

Sarah Maxam agreed with Mr. Maxam's position. Ms. Maxam stated that in an attempt to streamline the process, a defensible position was given. She continued that more public comments would not surface, as Mr. Maxam's position is what the public desires. Ms. Maxam added that by not taking action today, the LATC would be ignoring the will of the public.

Mr. Truscott noted that Mr. Maxam's letter and all information presented has been considered. Mr. Truscott again moved to proceed with the rulemaking file. Ms. Mayer suggested an amendment to have more discussion at the Strategic Planning session in order to address the public comments and Mr. Truscott agreed to amend his motion.

Mr. Bowden stated a concern for the language of the motion. He continued that by proceeding with the rulemaking file, there would be no further discussion or modifications. Mr. Truscott clarified that the motion would grant time to make modifications to the approved regulatory language. Mr. Bowden indicated that he was no longer in favor of the proposed regulatory language because he felt the timeframe is no longer appropriate based on the public comments received.

- **Marq Truscott moved to amend the motion to withdraw the motion to proceed with the rulemaking file.**

Patricia Trauth seconded the amendment to the motion.

David Allan Taylor, Jr. moved to table the item until the Strategic Planning session with the intent to vote on amendments to the regulatory language during Strategic Planning.

Patricia Trauth seconded the motion.

Maureen Decombe stated that in the agenda it states "discuss and possible action on public comments." She expressed confusion on why there was not a deeper discussion of the public comments and further analysis in front of the public. Mr. Bowden reiterated that the public comments were reviewed and considered, but the Committee would like more time to analyze the public comments in order to discuss them further at the Strategic Planning session.

Members Trauth, Truscott, Taylor, and Chair Bowden voted in favor of the motion. The motion passed 4-0.

G. Council of Landscape Architectural Registration Boards (CLARB)

Ms. Rodriguez reported that she and Ms. Trauth attended CLARB's annual meeting on September 22-24, 2016.

She reported that the next administration of the Landscape Architect Registration Examination (LARE) would be December 5-17, 2016 and noted that prior LARE pass rates were included in the meeting packet for the Committee's information. Ms. Rodriguez also noted that the results of CLARB's recent task analysis, identifying knowledge, skills, and abilities required at the initial point of licensure, would be incorporated into the LARE beginning in April 2017.

Ms. Rodriguez stated that nominations for CLARB's Board of Directors and Committee on Nominations were due in September and that, on behalf of the LATC, Mr. Bowden and Ms. Trauth had selected the following candidates under consideration: Christine Anderson, Nicole Cruchfield, Allison Fleury, Julia Gambrel, and Phil Meyer. Ms. Rodriguez asked the Committee to vote on the elections ballot.

- **Marq Truscott moved to approve the elections ballot.**

Patricia Trauth seconded the motion.

Members Trauth, Truscott, Taylor, and Chair Bowden voted in favor of the motion. The motion passed 4-0.

H. Discuss and Possible Action on Strategic Plan Objective to Adopt New Methods and Identify New Resources to Effectively Educate Consumers Regarding Health, Safety, and Welfare Issues Within Landscape Architecture

Ms. Rodriguez noted that, as part of its 2015-16 Strategic Plan, LATC members and staff worked in collaboration to develop two new consumer education publications, the *Consumer's Guide to Hiring a Landscape Architect* and *Consumer Tips for Design Projects* which were provided today for the Committee's review, comments, and possible approval.

Mr. Bowden inquired as to how the publications would be distributed to consumers.

Ms. Rodriguez stated that they would be sent to new licensees as part of their initial licensure packet, available in LATC's lobby and at accredited schools associated with landscape architecture, and on the LATC website. Mr. McCauley stated that the Board supplies building departments, firms, and local regulatory agencies with their *Guide*. Mr. Truscott suggested that the *Guide* and *Consumer Tips* be sent to planning and community development departments.

Mr. Truscott also inquired, in terms of funding, what resources the LATC has to disseminate the publications. Ms. Rodriguez stated that mailing is an option, as well as distributing them at LATC meetings held at schools throughout the state. Mr. McCauley advised that there is a distribution list for planning departments that could be utilized and Ms. Mayer added that an email could be sent to LATC's subscribers indicating the *Guide* and *Consumer Tips* are available on the website, or could be requested directly from the LATC.

Ms. Decombe expressed concern that that the photographs and plant materials depicted in the proposed *Guide* show water features, high water use plant pallets, and lawn dominated designs that do not support water conservation. Ms. Decombe also had comments on the table in the *Guide* that lists the professional qualifications of landscape architects, landscape contractors, architects, civil engineers, irrigation consultants, nurserypersons and unlicensed practitioners. She advised that she felt the qualifications of irrigation consultants and unlicensed persons could be misinterpreted by the information provided and landscape designers were not listed. She opined that one of the goals of the *Guide* should be to clarify the differences between landscape designers and landscape architects, and that the postsecondary education and experience of landscape designers should be included to truly educate consumers. She concluded by saying the *Guide* seems to imply the only persons qualified to engage in residential landscape design belong to the professions listed.

Mr. Taylor suggested including information on the California Landscape Contractors Association and APLD, stating that a description of what each profession can and cannot do, might be helpful to consumers. Mr. Bowden stated that the table reflects the fact that an unlicensed individual is not required to have postsecondary education; therefore, the table is factual. Ms. Trauth stated that landscape designers were previously included; however, the list became extensive and cumbersome. Mr. Bowden added that listing all professions was not feasible. Mr. McCauley stated that as a regulatory agency, LATC's publications must reflect what is in the Practice Act.

The LATC agreed that the publications should contain pictures of compelling low water landscapes with California plant material and asked staff to obtain images for review at the next LATC meeting.

I. Discuss and Possible Action on Strategic Plan Objective to Explore Methods for Developing a Teleconferenced Educator's Roundtable Comprised of School Representatives to Increase Collaboration and Communication for Future LATC Strategic Plans

Ms. Rodriguez reported that for the upcoming Strategic Planning session, staff would like direction from the Committee as to the topics to be considered under this objective.

Mr. Truscott stated that he was in support of having educator roundtable discussions and Mr. McCauley indicated they could be held in conjunction with LATC meetings as a regular agenda item. He continued that schools and landscape architect organizations would have an opportunity to report on changes to the degree programs, trends, and other related issues. Ms. Trauth noted the success the LATC has had holding Committee meetings at various landscape architect schools across the state.

Mr. Bowden stated that each school program concentrates on different areas of landscape architecture and he felt, as part of Strategic Planning, the goal should be to prepare graduates for the LARE. He expressed his opinion that one of LATC's responsibilities is to determine how the quality of education graduates receive relates to licensure.

Mr. Bowden suggested that a possible topic could be community college transfer agreements with LAAB accredited degree programs. He continued that in architecture, there are reciprocal agreements between community colleges and schools of architecture where an associate degree earned grants entry into the school of architecture. Mr. Bowden noted that there are no such agreements between community colleges and schools of landscape architecture.

Mr. Bowden also suggested researching an integrated path to licensure for landscape architects similar to the one in place for architects. Mr. McCauley explained that this consists of integrating licensure components into the degree program. He advised that once enrolled in one of these programs, approved by the National Council of Architectural Registration Boards, students complete the required coursework and license requirements. He noted that this includes the Architectural Experience Program. Mr. McCauley stated that hours are logged in various content areas in the internship phase, and that one begins early testing at an eligibility point determined by the school. Mr. McCauley added that once students graduate from the program,

they are positioned to become licensed. Mr. McCauley concluded that the program can reduce the amount of time it takes for individuals to become licensed.

Mr. Bowden inquired as to how the LATC could facilitate a similar program, stating that CLARB and other organizations would have to be in support to move forward. He wondered if LATC could initiate the process. Ms. Trauth supported the concept and suggested it be placed on the agenda for Strategic Planning. Messrs. Bowden and Truscott agreed, with Mr. Truscott adding that it might be challenging to gain a concerted effort from all parties.

J. *North Carolina State Board of Dental Examiners v. Federal Trade Commission Case Review* – Department of Consumer Affairs Legal Counsel

Mr. Duke began by stating that the case involving North Carolina State Board of Dental Examiners and the Federal Trade Commission was an important Supreme Court case regarding occupational licensing. He noted that this case does not affect California licensing boards as much as other states because California has a well-developed and complex regulatory system with checks and balances in place.

Mr. Duke reported that the basis of this case involved the North Carolina State Board of Dental Examiners sending cease and desist letters to businesses who were providing teeth whitening services, as well as property owners. The letters were sent as the result of several complaints filed by dentists who were concerned about the impact on their businesses, as opposed to the health, safety, and welfare of consumers. He stated that the United States has a history of promoting competitive and fair business practices through anti-trust and other statutes. Mr. Duke concluded that, due to the dental board's reasoning for mailing the cease and desist letters, the Supreme Court ruled that they were engaging in anti-competitive conduct which restricted the free market.

**K. Election of LATC Officers for Fiscal Year 2016/17
Discuss and Possible Action on LATC Officer Election Procedures**

Ms. Rodriguez reported that the Board holds elections for officers at the last meeting of the calendar year and the newly elected officers begin their terms at the first meeting of the new year. In order to align with the Board's procedures, LATC was asked to elect its Chair and Vice Chair for calendar year 2017. Mr. Bowden noted that with this amendment to the procedures, the officers elected today would begin their roles at the January 2017 meeting.

- **David Allan Taylor, Jr. moved to change the elections of officer positions (Chair and Vice Chair) to the last meeting of the calendar year, and who will assume roles on January 1 of the following year.**

Patricia Trauth seconded the motion.

Members Trauth, Truscott, Taylor, and Chair Bowden voted in favor of the motion. The motion passed 4-0.

- **Andrew Bowden moved to nominate Patricia Trauth as Chair for 2017.**

David Allan Taylor, Jr. seconded the motion.

**Members Trauth, Truscott, Taylor, and Chair Bowden voted in favor of the motion.
The motion passed 4-0.**

- **David Allan Taylor, Jr. moved to nominate Marq Truscott as Vice Chair for 2017.**

Andrew Bowden seconded the motion.

**Members Trauth, Truscott, Taylor, and Chair Bowden voted in favor of the motion.
The motion passed 4-0.**

L. Review Tentative Schedule and Confirm Future LATC Meeting Dates

Mr. Bowden indicated the next LATC meeting is scheduled for January 17, 2017, followed by a Strategic Planning session on January 18, 2017. The meeting will be held in Sacramento.

M. Adjournment

The meeting adjourned at 1:53 p.m.