

**CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
ORDER OF ADOPTION**

California Code of Regulations, Title 16, Division 26

Amend Section 2630 as follows:

2630. Issuance of Citations

- (a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 148 of the Code against landscape architects or unlicensed persons who have committed any acts or omissions which are in violation of the Landscape Architects Practice Act or any regulation adopted pursuant thereto.
- ~~(b) The Board's executive officer is authorized to issue citations containing orders of abatement, orders of correction, and/or administrative fines pursuant to Section 148 of the Code against unlicensed persons who have committed any acts or omissions which are in violation of the Landscape Architects Practice Act or any regulation adopted pursuant thereto.~~
- ~~(e)~~ Each citation:
- (1) shall be in writing;
 - (2) shall describe with particularity the nature and facts of the violation, including specific reference to the provision or provisions of law ~~determined~~ alleged to have been violated;
 - (3) may contain one or more of the following:
 - A. an assessment of an administrative fine;
 - B. an order of abatement fixing a reasonable period of time for abatement of the violation;
 - ~~C. an order of correction;~~
 - (4) shall be served on the cited ~~person~~ individual, in person, or at the address of record on file with the Board, or the last known address, ~~in person, or~~ by certified and regular mail with return receipt requested;
 - (5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation;
 - (6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, ~~that~~ the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation;
 - (7) shall inform the licensed person that failure to pay the fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Board. If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine;
 - (8) shall inform the unlicensed person that failure to pay the fine within 30 days of the date of assessment, unless the citation is being appealed, may result in the executive officer applying to the appropriate superior court for a judgement in the amount of the ~~administrative~~ fine;

(A) The sanction authorized under this Section shall be separate from, and in addition to, any civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148, 5526 and 5630, Business and Professions Code.
Reference: Sections 125.9, 148 and 149, Business and Professions Code.

Amend Section 2630.1 as follows:

2630.1. Assessment of Administrative Fines

- (a) In no event shall the administrative fine be less than ~~\$50~~ \$250 or exceed ~~\$2,000~~ \$5,000 for each violation.
- (b) In ~~determining~~ assessing the amount of an administrative fine, the executive officer shall consider the following ~~factors~~ criteria:
- (1) The nature and severity of the violation;
 - (2) The good or bad faith exhibited by the cited person;
 - (3) Evidence that the violation was willful;
 - ~~(34)~~ (34) History of ~~previous~~ violations of the same or similar nature;
 - ~~(45)~~ (45) The extent to which the cited person has cooperated with the Board and the Board's investigation;
 - ~~(56)~~ (56) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation; and
 - ~~(67)~~ (67) ~~Any factors in extenuation or aggravation related to the violation~~ Such other matters as justice may require.;
- (c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
- (1) Class "A" violations are violations which the executive officer has determined involve ~~either a person who, while engaged in the practice of landscape architecture, has violated a statute or regulation relating to the practice of landscape architecture and which has caused bodily injury to another person, or a person who has committed a class "B" violation and has two or more prior, separate class "B" violations~~ has violated Business and Professions Code section 5640 by, including but not limited to, acting in the capacity of a landscape architect or engaging in the practice of landscape architecture. A class "A" violation is subject to an administrative fine in an amount not less than ~~one thousand five hundred one~~ seven hundred and fifty dollars (~~\$1,501~~ \$750) and not exceeding two thousand five hundred dollars (~~\$2,000~~ \$2,500) for each and every violation.
 - (2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of landscape architecture, has violated a statute or regulation relating to the practice of landscape architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public, or a person who has committed a class "C" violation and has ~~two~~ one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than ~~five hundred one~~ one thousand dollars (~~\$501~~ \$1,000) and not exceeding ~~one two thousand five hundred~~ two thousand five hundred dollars (~~\$1,500~~ \$2,500) for each and every violation.
 - (3) Class "C" violations are violations which the executive officer has determined involve a person who, while engaged in the practice of landscape architecture, has violated a statute or regulation relating to the practice of landscape architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class "C" violation is subject to an administrative fine in an amount not less than two

hundred and fifty dollars (\$50 \$250) and not exceeding ~~five hundred~~ one thousand dollars (\$500 \$1,000) for each and every violation.

(d) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine of up to between \$2,501 to \$5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate a willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

Note: Authority cited: Sections 125.9, 148, 5526 and 5630, Business and Professions Code.
Reference: Sections 125.9 and 148, Business and Professions Code.