

1979 WL 43225 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 27, 1979

*1 Mr. Henry P. Fulmer
Deputy Director
S. C. Land Resources Conservation Commission
2221 Devine Street
Suite 222
Columbia, South Carolina 29205

Dear Mr. Fulmer:

You recently wrote this Office and requested our assistance in connection with changing the statutes concerning the disciplining of landscape architects. In particular, you noted the concern of the Landscape Architects Board of Registration that no specific disciplinary penalties were set forth within its Act.

Presently, [Section 40-28-180 of the Code](#) lists the grounds for disciplinary action. However, no specific penalties are contained either in that Code Section or in any other statute pertaining to landscape architects.

We would suggest that [Section 40-28-180](#) might be amended as follows to accomplish your desired goal:

[Section 40-28-180](#). Disciplinary Action.

A. A landscape architect shall be deemed to have committed misconduct upon a finding:

- (i) That the holder of a certificate of registration is practicing in violation of the provisions of this chapter.
- (ii) That the holder of a certificate has obtained the certificate by fraud or misrepresentation, or that the person named in the certificate has obtained it by fraud or misrepresentation.
- (iii) That the holder of a certificate is impersonating a landscape architect or a former landscape architect of the same or similar name, or is practicing under an assumed, fictitious or corporate name.
- (iv) That the holder of a certificate has aided or abetted, in the practice of landscape architecture, any person not authorized to practice landscape architecture under the provisions of this chapter.
- (v) That, in the practice of landscape architecture, the holder of a certificate has been guilty of fraud or deceit.
- (vi) That, in the practice of landscape architecture, the holder of a certificate has been guilty of negligence or willful misconduct.
- (vii) That the holder of a certificate has been guilty of gross incompetence.
- (viii) That the holder of a certificate has affixed his seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or under his immediate responsible direction or has permitted his name to be used for the purpose of assisting any person, not a landscape architect, to evade the provisions of this chapter.

B. Every registered landscape architect who is deemed to have committed professional misconduct shall be disciplined in accordance with the seriousness of such misconduct by:

- (i) Revocation of the landscape architect's certificate of revocation;
- (ii) Suspension of the landscape architect's certificate of registration for a specified period of time;
- (iii) Reprimand of the landscape architect.

We believe that this proposal provides one method of amending [Section 40-28-180](#) to achieve the desired goal of specifying the disciplinary actions possible against a landscape architect. However, it should be noted that this is only a suggestion as to how to accomplish this goal, and that other amendments could be used to achieve the same result. For instance, it would also be possible for one section of the Code to consider the grounds for disciplinary action and another section of the Code to specify the types of discipline available.

***2** I would be more than happy to meet with you at any time to review in greater detail this proposed statutory amendment.

Very truly yours,

Keith M. Babcock
Assistant Attorney General

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