



AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS

CALIFORNIA COUNCIL
AMERICAN SOCIETY OF
LANDSCAPE ARCHITECTS

March 11, 2016

Ms. Julie Saare-Edmonds, Senior Environmental Scientist and ITP Project Manager
Department of Water Resources - Water Use and Efficiency
Landscape & Green Building Programs
Julie.Saare-Edmonds@water.ca.gov

RE: Independent Technical Panel (ITP) Report to the Legislature, *Recommendations Report to the Legislature on Landscape Water Use Efficiency*

Dear Ms. Saare-Edmonds:

The California Council, American Society of Landscape Architects (CCASLA) respectfully submits the following comments, suggestions, and recommendations regarding the ITP's Report to the Legislature, *California Landscape Water Use – A Framework for the Future* (the Report). CCASLA appreciates the work of the ITP and is thankful for this and the many opportunities afforded us previously to assist in development of the Report's language. As with many similar efforts, it usually is not until late in the process that much of the discussion and draft documentation begins to be truly comprehended. Such is the case particularly with the workforce development recommendations of the Report. We have had much internal discussion regarding these provisions including the importance of professional qualifications and how these relate to the Report's primary goal of improving water use efficiency in the landscape.

Regardless of the various subjects discussed, it always appears to come down to two key issues: measuring professional competency, and protection of the consuming public. You see, we have come to understand that much of the discussion to-date has focused on what services the various stakeholder groups are capable of, or should be qualified to deliver. Much of this has had to do with interpretation of current consumer law. We have concluded that although this does have some bearing on development of the workforce necessary to help meet the stated goals of the Report (who delivers the services), another key and perhaps more important question is, why are these services so critically important (what services are delivered)?

Some stakeholders have chosen to question whether the current labor/services market is biased and have recommended changes to current consumer law (professional licensure) as a means to address their grievances. CCASLA firmly believes that the truer question is whether the consuming public has the knowledge and/or information to make a fair and educated assessment of the services they desire or otherwise understand the importance of utilizing the services of trained, qualified professionals. Our experience is that the majority of the consuming public has very little knowledge of the construction, operation, and maintenance of irrigation systems, appropriate plant selection and other landscape issues. This lack of knowledge is compounded

by an even greater misunderstanding of the costs associated with landscape design and development. All too often, these same consumers end up basing their consumer decisions primarily on cost, not fully understanding the potential consequences associated with those decisions.

Another issue involves consumer protection and what recourse consumers have if they become dissatisfied with the results of services rendered. Professional licensure, certification, and other state programs that establish minimum professional competency are extremely important in addressing consumer protection. Only these types of programs can help the public understand that the practitioners they are purchasing services from have demonstrated the knowledge, skills and abilities necessary to help protect their interests. This is not to say that the potential for consumer harm is eliminated. In fact, this is the primary reason why licensed or otherwise state-sanctioned practitioners are typically required to carry errors & omissions and professional liability insurance policies. These policies are specifically designed to provide restitution to harmed consumers and others when the practitioner fails to meet their legal obligations. Most insurance companies will not offer these types of policies to non-licensees or others incapable of demonstrating professional competency. This is an extremely important factor to bear in mind when recommending any changes to consumer law and the workforce necessary to deliver these services to consumers. The ITP should consider these financial implications when evaluating any recommendations that would lessen testing of professional competency rather than strengthening it.

Based on CCASLA's continuing review of the Report, we choose to comment on the following Sections and recommendations, and will let our previous input stand in support of the ITP's efforts to improve landscape water use efficiency throughout the State of California:

Section 6: State Model Water Efficient Landscape Ordinance (MWELo) Future Revisions & Process Updates

In regards to the Public Education section, §492.17(a)2 (b)2, "How to Hire Trained Landscaped Professionals" we propose the following small, but important change in the language:

"Information available shall include detailed specifications on how to hire ~~trained and licensed landscape architects, licensed contractors, and landscape designers and maintenance workers~~ qualified landscape professionals to implement the provisions of MWELo, and the benefits of using such professionals."

This language will simply serve to support the need to help educate the public to the importance of retaining the services of trained, qualified professionals in the design, implementation, and maintenance of landscape systems.

Section 8: Workforce to Accomplish This Transformation

Recommendation #1: Certification of Professionals

MWELo is not a new program. Since its inception, local jurisdictions have been tasked with its implementation and enforcement. Updating the regulation is important in that it helps improve the State's ability to meet water use efficiency goals & objectives while assisting local jurisdictions to improve their oversight capabilities. CCASLA continues to firmly believe that

the workforce necessary to continue implementing the MWELo update already exists; the key issues remaining to be: consumer protection and public education.

CCASLA also firmly believes that the mechanisms for entry into the workforce has been thoroughly vetted and is clearly defined in existing consumer law (professional licensure). Should the ITP desire to recommend an (expanded) certification process to allow for additional practitioners in the residential arena, this program should be clearly defined by a process including the many stakeholders in coordination with State consumer protection agencies.

Current law clearly defines the legal practice of landscape design. It does not preclude any individual from choosing nor practicing this work. More specifically, the Landscape Architects Practice Act and its exceptions & exemptions to practice DO NOT prevent any individual from practicing landscape design as a profession. It is extremely important to remember that as in any legally defined profession, the right to practice comes with a responsibility to protect the consuming public. Professional licensure and/or state-sanctioned certification is the only legally accepted measure of professional competency. Exception or exemption to this requirement is established only after thorough consideration by the State and not without additional measures to ensure the public remains legally protected.

To recommend exempting all residential practice from existing consumer protections would negate many previous decisions by the State's consumer protection agencies and the courts. It would bring into question the financial obligations licensees and certificate holders have placed themselves under in order to help ensure protection of the consuming public. It is for this reason that CCASLA recommends that the ITP leave all Section 8 recommendations as is and proceed with the recommendation to convene the stakeholder groups and State's consumer protection agencies to address all workforce issues.

Section 9: Public Perceptions & Social Norms

Recommendation #1 Defining Professionals : Recognition of Examples of Low Water Use Landscapes and a Sustainable Statewide Approach to Outreach and Information.

As previously discussed, the primary issue surrounding the public's perceptions of workforce qualification is clouded not necessarily by *who* is capable of delivering a particular service, but rather, a misunderstanding of the nature of landscape design in general. This lack of knowledge often leads to uninformed choices equating cost with value. Since the design, installation and maintenance of landscape systems is dependent upon a thorough knowledge of the methodologies supporting those activities, establishing minimum professional competency is vital to protecting the consumer. All landscape professionals will benefit from the establishment of minimum competency. Under the consumer laws of the State of California, this minimum competency is clearly defined. So long as any landscape professional operates within the boundaries of the law, there is nothing that precludes those same individuals from practicing their craft. The public is sophisticated enough to discern the importance that consumer law plays in their protection. If specific landscape stakeholders feel that existing law is discriminatory, there is a clearly defined process to undertake a review and amendment of those laws.

In the case of the Landscape Architects Practice Act, this process has been followed numerous times to the same conclusions; Landscape Designers are not deemed to be practicing illegally so long as they adhere to current law. Workforce issues in relation to implementation of the updated MWELo regulations IS NOT governed by the Landscape Architects Practice Act.

Individual jurisdictional agencies set the criteria under which this work is to be completed. It is with these agencies that, those specific operational methodologies should be addressed.

For this reason, CCASLA firmly believes in leaving the current language of Section 9 and its recommendations as-is. We do not see the language as inflammatory. Nothing in the language should be construed to imply that landscape designers or any other landscape professional is practicing illegally so long as they are operating within the current laws of the State.

Please feel free to contact us at (619) 238-8818 should you have any questions or wish to discuss CCASLA's thoughts on these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chiye", with a long horizontal flourish extending to the right.

Chiye Azuma, ASLA
President

A handwritten signature in black ink, appearing to read "Jon Wreschinsky", with a long horizontal flourish extending to the right.

Jon Wreschinsky, PLA, ASLA
Government Affairs Liaison