

Open House Creates Greater Awareness of Profession in Maryland State Capital

ASLA members in Annapolis, Maryland, opened their doors to receive visitors and exhibited their work to the public on April 24 as part of Landscape Architect's Day. Maryland Governor Parris Glendening dedicated the day to landscape architects for their many contributions to the state including their work as stewards of the natural and cultural character of the Maryland landscape.

Pictured (clockwise starting at the top left) during the event are David Barnes, ASLA; Landscape Architect; the staff of Graham Landscape Architecture (J. Patrick Graham, ASLA, and Pearse O'Doherty, ASLA, partners); James Urban (right), ASLA, Landscape Architect, and Miles Barnard; and Deborah M. Schwab, ASLA, Landscape Architect.



BILL WELSH

ETHICS

Watcha Gonna Do? *Landscape Architecture Ethics*

The Situation

Cant Helpya, ASLA, is employed full-time for the Department of Public Works, Small Town, USA. Although he has a well-paying job as a municipal planner, he yearns for more outlets for his creative design talents. He is therefore delighted when an opportunity arises to bid on a project to restore the gardens of a private estate that lies in the rural landscape just outside the town limits.

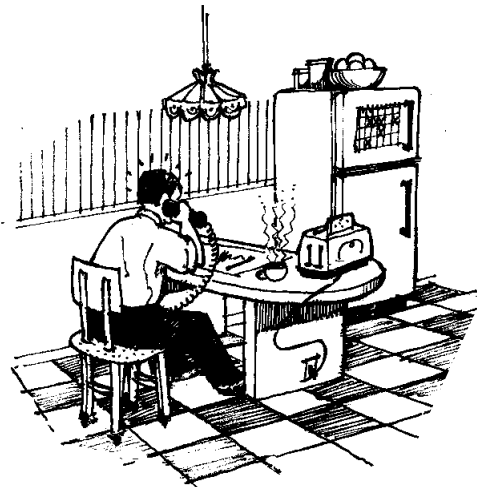
The client, Stately Appearance, hires Cant Helpya based on his proposal, which, incidentally, is priced very competitively seeing as Cant Helpya has no overhead to speak of. The project, which is on a large scale, will undoubtedly require diligent oversight by Cant Helpya. In this sense, Stately Appearance fully expects that Cant Helpya will be available practically on a daily basis to monitor the progress of the project and troubleshoot any crises that may develop.

The Department of Public Works where Cant Helpya is employed forbids employees from using its facilities and equipment

for any work outside its domain. So Cant Helpya spends many a long night working at his kitchen table putting together the design. Absent from Cant Helpya's proposal is any mention of the fact that he is only available for consultation on evenings or weekends and that he doesn't carry errors and omissions insurance.

Shortly after the project begins on a Monday, the client and landscape contractor disagree over how to proceed with construction of a new walkway designed to connect the estate's terraces to a river landing. When Cant Helpya finally returns the call Monday evening, he tells Stately Appearance that he won't be able to visit the site until Saturday.

"What do you mean, you can't visit the site until this weekend?" shouts Stately Appearance into the phone. "We must have this project finished by the end of the summer, and, at this rate, we won't be finished until next spring! Why didn't you tell me



VAN L. COX

you weren't available during the week?"

Watcha Gonna Do?

Has Cant Helpya violated the ASLA Code and Guidelines for Professional Conduct by failing to make full disclosure of his availability, insurance status, and other limitations inherent in part-time employment? Has he deliberately or otherwise misled his client by not providing a comprehensive list of his services? What recourse is available to Stately Appearance in this situation?

For his part, *(Continued on Page 9)*

COFPAES Takes Action on Design Issues

By Stan Bowman

The Council on Federal Procurement of Architectural and Engineering Services (COFPAES) held its spring meeting in Washington, D.C., on April 20–21, 1998.

The 1998 chair of COFPAES is John Jackson, ASLA, and ASLA's official delegate is Steve Quiggle, Affiliate ASLA. Founded in 1966, COFPAES works to advance the public interest through assurance of excellence in design and construction of public projects.

This year is expected to be one of COFPAES's most proactive years to date, according to Jackson.

In 1998 COFPAES will fund the publication of a book on federal compensation for professional design services. The book will explain how the federal compensation process operates, how to make a profit on federal contracts, and what are the procurement pricing trends. The ASLA Bookstore will offer the book to ASLA members later this year at a special price.

COFPAES will take an active role in the rewrite of the American Bar Association's *Model Procurement Code for Local Governments*. This model code, which has been adopted by numerous legislatures and local governments, reinforces the use of qualifications-based selection (QBS) for

procurement of professional design services.

The Council voted to oppose new regulations from the Small Business Administration to raise the maximum size for architecture, engineering, and surveying and mapping services participation in federal small business incentive programs. The artificial rise in the size standard could put small landscape architecture firms at a competitive disadvantage for federal work by grouping with much larger engineering or architecture firms. COFPAES also went on record as supporting the inclusion of landscape architecture services into a common, smaller size standard for the entire design industry. Final regulations should be issued by late summer.

Other COFPAES initiatives include the inclusion of a QBS mandate in the ISTEA reauthorization bill [see related article], opposition and funding to defeat California Proposition 224—which would inhibit the contracting out of professional design services in the state—and the offering of a course to design professionals on the procurement process and how to compete for federal work.

In addition to the formal meeting, COFPAES hosted the semiannual meeting of the Joint Architect-Engineer Committee on Federal Contracting. This program

brings together procurement officers from the federal government to discuss trends in federal procurement law and regulations. Topics at this meeting included a report from key congressional staff from the government oversight committees, federal initiatives on the use sustainable design, the small business size standard changes, ISO 9000 and how it will affect the operations of federal contracting agencies, and a roundtable on the built environment in the federal sector.

COFPAES comprises seven member organizations: the American Society of Landscape Architects, the American Institute of Architects, the American Congress on Surveying and Mapping, the American Consulting Engineers Council, the American Society of Civil Engineers, the National Society of Professional Engineers/Professional Engineers in Private Practice, and the American Road and Transportation Builders Association/Planning and Design Division.

The next meeting of COFPAES will be on October 26–27, 1998. If you would like further information on COFPAES or federal procurement law and procedures, contact Stan Bowman, ASLA government affairs manager, at (202) 216-2330 or sbowman@asla.org.

ETHICS

(Continued from Page 8) isn't Cant Helpya only doing what any other business would do to survive and succeed by landing a lucrative business venture despite his part-time availability? If he sincerely believes he can get the work done despite his other commitments, then didn't he in fact deal openly and honestly in marketing himself and his talents to Stately Appearance?

Recommendation of the Ethics Committee

The Ethics Committee found Cant Helpya in violation of R1.202 for failing to make full disclosure regarding whether he was insured and in violation of ES 1.2

for not making full disclosure to his client regarding his schedule restraints.

R1.202 states, "Members shall make full disclosure during the solicitation and conduct of a project of the roles and professional status of all project team members and consultants, including their state licenses and professionals degrees held, if any, availability of coverage of liability and errors and omissions insurance coverage; and any other material potential limitations."

ES 1.2 states, "Members should seek to make full disclosure of relevant information to the clients, public and other interested parties who rely on their advice and professional work product."

In this situation, the best recourse available to Stately Appearance would be

to file a complaint with the ASLA Ethics Committee.

Editor's Note: One of the objectives of the ASLA Ethics Committee is to educate members about the ASLA Code and Guidelines for Professional Conduct. The code contains important principles relating to duties to clients and to members of the Society. Readers are invited to send their comments on cases appearing in LAND to Managing Editor, 636 Eye Street, N.W., Washington, D.C. 20001-3736 or e-mail to bwelsh@asla.org. Members are invited to submit questions regarding ethical matters along with supporting data to Allen Hixon, FASLA, Ethics Committee Chair, c/o ASLA 636 Eye Street, N.W., Washington, D.C. 20001-2357.