

Whatcha Gonna Do?

The Situation

As a contractor specializing in housing developments, Steelsmore built the landscape components of one project after another for the communities that sprung up around Edge City, USA. For the first project, Takentoodee Cleaners, ASLA, produced an original design for Steelsmore, which he purchased.

The plan for Steelsmore's housing project was one of the last designs Takentoodee Cleaners rendered before she temporarily relocated. As was her habit, Takentoodee Cleaners registered the design with the Copyright Office. To register a work of visual arts, she had to send the following three elements in the same package: (1) a completed application from Visual Arts; (2) a nonrefundable filing fee of \$20; and (3) a nonreturnable deposit of the material to be registered (one or two copies of the project, depending on whether the project is unpublished or published, respectively).

She obtained the information necessary to register her design from the Library of Congress Copyright Office at 202-707-6737. In the process, she learned that many of the most frequently requested circulars are available at www.loc.gov/copyright.

After that, Takentoodee Cleaners turned her attention to other projects. A year later, one of her professional colleagues informed her that Steelsmore Construction had used her original design for subsequent housing developments without notification, permission, or compensation.

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Takentoodee Cleaners wanted two things from Steelsmore. First, she wanted to stop Steelsmore from continuing to use her design. Second,



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she wanted payment for using her design for subsequent projects without her permission.

What should she do? Should she stand in front of the bulldozers on the construction site? Should she spread the word throughout the housing industry that Steelsmore was dishonest? Should she report Steelsmore to the National Association of Home Builders and the Associated Landscape Contractors of America? Should she write to the ASLA Ethics Committee for advice? Should she take Steelsmore to court?

When she called Steelsmore, he said, "I bought all of the rights to the design when I paid you for the first project. I'm sorry, but I can use the design without your permission."

The Recommendation of the Ethics Committee

The Ethics Committee noted that works registered after January 1, 1978, are protected for the life of the creator plus an additional seventy years. The

committee also noted that violation of copyright laws may result in criminal prosecution and civil penalties.

The committee therefore suggested that Takentoodee Cleaners report the activities of Steelsmore to the proper authorities and file a civil suit against Steelsmore Construction for violation of copyright laws.

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 NW, Washington DC 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 NW, Washington DC 20001-3736.