

FEBRUARY 22, 2005

ETHICS: HOW DOES THE ASLA ETHICS CODE APPLY TO YOU?

An ethical question for members, along with guidance from the ASLA Ethics Committee.

Larry K., who owns a small five-person landscape architectural firm, decided to respond to an RFQ issued by the State Planning Office inviting historians and landscape architects with experience in preparing Cultural Landscape Reports (CLRs) to prepare a CLR using the National Park Service Standards for the Governor's Mansion. Larry realized that he knew nothing about preparing a cultural historic report; in fact, he was sure he had never even worked on a historic site. He did, however, have good connections at the State Planning Office. He reasoned that, when going for his bachelor's degree in landscape architecture, he had taken a history course, so why couldn't he do this project? He contacted the National Park Service (NPS) to acquire the CLR standards mentioned in the RFQ, read through the standards, and put together his qualifications, claiming that he was qualified, capable, and experienced in preparing a CLR that would meet the NPS standards and therefore could perform the work required to deliver a CLR for the project. He did not include a historian on his team or samples of any work on CLRs or historic properties. His instincts, however, proved correct, and his state connections were strong enough to win him the project.

The RFQ identified the original designer of the grounds, stated that the SHPO had an extensive file, and said also that the local city library and city historic commission had information. Larry decided, however, to start by calling a couple of his old professors and found that one of them was teaching a graduate level course dealing with historic landscapes and the processes of preparing a CLR. This professor said that one of his graduate students used the site as his thesis project and prepared a CLR for the site that conformed to the NPS standards. At the university library, Larry struck gold, finding the thesis. The paper covered everything and also pulled together all the photos and maps from the sources identified in the RFQ. It was heavily footnoted, had a great bibliography, and was, as his professor thought, even in the NPS format for a CLR.

He proceeded to use the thesis as his historic inventory and documentation; he used the text, footnotes, historic photographs, and historic plans as well as the analysis of the existing extant historic features at the site. The thesis, however, looked at all four NPS standard treatments (preservation, restoration, rehabilitation, and



reconstruction), and the author prepared a treatment plan for each. Larry selected only the rehabilitation treatment and modified it to respond to the project program. During this entire process, he did not even try to inquire about the author of the thesis, much less contact him. If he had, he would have found out that the author was a registered landscape architect before he went for his master's, currently had his own landscape architectural firm in a neighboring city, and had also submitted for the RFQ. No credit was given for the author's work, and the thesis was not included in the bibliography.

Unfortunately for Larry, he was not aware that the author of the paper was contracted by the State Planning Office to do peer reviews of submitted work because the state had not previously prepared a CLR. When the author of the thesis saw Larry's draft report, he immediately recognized that his thesis was the basis for Larry's CLR and that Larry had not credited any of his thesis work. The author did not raise this issue during the review of Larry's draft report, but later, after thinking more about it, he followed up with a letter to Larry with copies to the ASLA Ethics Committee and the State Planning Office. His letter raised issues of plagiarism and professional ethics. He also felt that Larry dishonestly represented the CLR as his own work to the State Planning Office.

What do you do?

There are four parties involved in the situation: Larry, the client, the author of the thesis who was also the peer reviewer, and the ASLA Ethics Committee. The questions the situation raises include: Has Larry misrepresented the authorship of the work he presented to his client? Has he, in fact, plagiarized the graduate student's thesis? Can the State Planning Office accept his report? What is the recourse of the graduate student author?

The author felt that, at a minimum, he should be given credit for his research and preparation of his thesis even if he was a graduate student at the time. He pointed out that he was a licensed landscape architect in the state at the time he prepared the thesis, but he also acknowledged it was graduate student work. He realized that the thesis was available at the university, but recognition of his work was still possible, and it was the ethical thing to do. He did not understand why Larry did not even try to contact him since he could have through the Alumni Office at the University.

This was the first time the State Planning Office had contracted for a CLR, but monies were available to fund this type of project so the office took advantage of them to study the landscape rather than doing a standard contract. The planning office brought the author in as a peer reviewer because he was the second choice for the CLR, given his previous experience and his work on the site when he was a student. Now, the project manager for the State Planning Office questioned whether the agency should accept Larry's report and whether the agency should compensate him for the remainder of the report, about half of the agreed-upon fee. The planning office terminated Larry's contract and turned the information over to its legal department.

Recommendation of the Ethics Committee

The Ethics Committee found that Larry misrepresented his qualifications. He did not compensate for his lack of experience by bringing anyone onto his team with this experience or by bringing in a historian to aid in the historic inventory and documentation. They also found that he was entitled to the fair use of the graduate student CLR in developing his project; however, he could not use the report in its entirety and claim it as his own, could not use parts of the report without attribution, and could not use the photographs from the report without the permission of the author. In failing to attribute the thesis while incorporating the work as his own, he violated copyrights and misrepresented the work to the State Planning Office.

The Ethics Committee found Larry in violation of the following:

R1.101 Members shall treat other Members, clients, employers, employees, and the public with honesty, dignity, and integrity in all actions and communications of any kind.

R1.102 Members, in the conduct of their practice, shall not violate the law, including any federal, state, or local laws, and particularly laws and regulations in the areas of antitrust, employment, environment, and land use planning, and those governing professional practice.

R1.108 Members shall truthfully, without exaggerated, misleading, deceptive, or false statements or claims, inform the client, employer, or public about personal qualifications, capabilities, and experience.

R1.110 Members shall neither copy nor reproduce the copyrighted works of other landscape architects or design professionals without prior written approval of the author.

R1.301 Members shall undertake to perform professional services only when education, training, or experience in the specific technical areas involved qualifies them together with those persons whom they engage as consultants.

For more information, contact Cara Woodson Welch ASLA's Director, Government Affairs and Legal Counsel.