

## **LEGISLATIVE AMBASSADORS/FACE TO FACE VOLUNTEERS**

### **INSERT**

#### **First Legislative Contact**

Within the **Legislative Ambassadors/Face to Face Volunteers Insert** you will find a listing of the initial target legislators that will consider a Practice Act Upgrade as part of Committee action to bring the legislation to the full Legislature for a vote of approval. These individuals are the in-depth review agents for the full State Senate and Assembly. They decide if a Bill returns to Legislature for vote after it is first introduced by a legislature sponsor. Bills with sponsors on both committees have better chances of success than randomly sponsored bills, although multiple sponsors can dramatically increase the speed of success of a bill as well. Our lobbyist has done some groundwork with these committees, but we need to make Legislators aware that we are a real, concerned and active constituency tuned into current land use issues.

### **PRIMARY TARGETS LIST**

#### **State Senate**

##### **Commerce Committee**

##### **Byron M. Baer, (D) Chair and Senate Leader Ex-Officio**

**District 37**

**125 State Street, Hackensack, NJ 07601**

**(201) 343-3333**

##### **Nia H. Gill, EsQ., (D), Vice-Chair**

**District 34**

**425 Bloomfield Avenue, 2<sup>nd</sup> Floor, Montclair, NJ 07042**

**(973)509-0388**

##### **Gerald Cardinale, DDS, (R)**

**District 39**

**350 Madison Avenue, Cresskill, NJ 07626**

**(201) 567-2324**

##### **Raymond J. Lesniak, (D)**

**District 20**

**985 Stuyvesant Avenue, Union, NJ 07083**

**(906) 634-0880**

##### **Robert W. Singer ( R)**

**District 30**

**2110 West County Line Road, Jackson, NJ 08527**

**(732) 901-0702**

### **STATE ASSEMBLY**

#### **Regulated Professions and Independent Authorities Committee**

##### **Peter C. Eagler(D)-Chair**

**District 34**

**1113 Main Avenue, Clifton, NJ 07011**

**(973) 458-1130**

##### **Douglas H. Fisher, (D)-Vice-Chair**

**District 3**

**Kingsway Commons, 935 Kings Highway, Suite 400, Thorofare, NJ 08086**

**(856) 251-9801**

**14 East Commerce Street, 3<sup>rd</sup> floor, Bridgeton, NJ 08302**

**(856)455-1011**

**1 New Market Street, Salem, NJ 08079**

**(856)339-0808**

**Peter J. Biondi ( R)**

**District 16**

**1 East High Street, Somerville, NJ 08876**

**(908) 252-0800**

**James W. Holzapfel ( R)**

**District 10**

**852 Highway 70, Brick, NJ 08724**

**(732) 840-9028**

**Mary T. Previte (D)**

**District 6**

**320 N. Haddon Avenue, Suite 4, Haddonfield, NJ 08033**

**(856) 857-0777**

**Vincent Prieto (D)**

**District 32**

**1249 Paterson, NJ 0709**

**(201) 770-1303**

## **BACKGROUND FOR YOU TO CONVEY AN EFFECTIVE DISCUSSION:**

### **1. A BRIEF HISTORY AND WHERE WE ARE NOW: OUR SUCCESSES...**

NJASLA spent fifteen years to accomplish a Certified Landscape Architect Title Act, P.L. 1983, c.337. At that time, none of the other professions were willing to agree to a Practice Act with specific responsibilities text, although approximately 35 Practice Act States were in existence (early States dated from the 1950's). Secondly, the creation of a separate Licensing Board was opposed for purely economic reasons and led to the LAEEC as a subcommittee of the State Board of Architects. A third compromise called for the deletion of the "closely allied professional" clause, which negatively impacted a Landscape Architect's ability to establish or advance in a multi-discipline firm or limited partnership. The consequences of these compromises were not fully understood by the NJASLA leadership at that time. The altered legislation was adopted in 1983. The first revision to the legislation was adopted in 2002 and reinstated the "closely allied professional" clause removing an obstruction for advancement and potential financial gain for Landscape Architects.

### **... AND OUR DISAPPOINTMENTS IN ADVANCING AUTHORITY**

The first phase of the LA UP involved a legal review of the prior efforts to advance the position of Landscape Architects through the administration of regulations that arose out of the existing legislation (The Site Plan Rule is the common name for three separate Chapters of Title 13 of the New Jersey Administrative Code all entitled "Permissible Division of Responsibility in Submission of Site Plans and Major Subdivision Plats." The three chapters govern Architects, N.J.A.C. 13:27-7; Engineers and Land Surveyors, N.J.A.C. 13:40-7; and Professional Planners, N.J.A.C. 13:41-4).

The absence of the specific practice responsibilities has enabled other licensed professionals to assume a role as "sole protectors of the public health, safety and welfare" to obstruct growth in the LA profession in New Jersey. Opposition arguments

from other professional groups, misunderstandings within the Landscape Architect community and an inconclusive report from the Deputy Attorney General's Office effectively influenced the Department of Community Affairs to abandon a "pre-proposal" of revised regulations in 1998. Similar action of opposing professionals "blocked" a positive regulatory decision by the Board of Architects in the disposition of a petition of the Landscape Architect Evaluation and Examination Committee in 1999.

The review concluded that omission of more specific wording in the "broad" definition of the title act and the very nature of a "title only" act were at the heart of arguments being used by others to "prove" that landscape architects could not perform the following services as related to the Municipal Land Use Law:

- siting of individual buildings,
- any design of land contouring,
- preparation of construction details,
- manipulation of topography or
- management of drainage and irrigation systems,
- and direction of utility connections and extensions;

despite the following facts:

- the activities have been legally upheld as part of the practice of Landscape Architecture in other States (now 38 Practice States and 9 Title States) for many years,
- the activities are tested as part of registration as a New Jersey Certified Landscape Architect and
- the actual duties of Landscape Architects in sole practice, engineering and multi-discipline offices regularly include these activities.

The lack of a Practice Act also leaves the profession open to further incremental restriction of responsible scope of work activities by "specialists" dealing with "state of the art" environmental protection, restoration, sustainable and Low Impact Development issues long championed by Landscape Architects in the United States and New Jersey. Wetland Scientists, Geologists, Urban Foresters, and a proliferation of new disciplines, such as Leisure Services Professionals, Open Space Planners, Certified Tree Experts, "Bioengineering", "Green Engineering" and Landscape Engineer experts all are consistently seeking licensing that obstructs Landscape Architects from traditional areas of practice, while the licensed professions are routinely exempted from these restrictions.

## **2. WHAT WE WANT TO ACHIEVE: DEFINITION OF PRACTICE**

Five years of intensive policy review and discussion, a new Model Law promulgated by ASLA, informed input from the active members and task forces of both the NJASLA and ASLA and participation in the National Licensure Summit Program and the "50 by 2010" ASLA Licensure Program all contributed to the NJASLA LA UP Program review and action plan.

The route toward stronger professional service to the public health safety and welfare in New Jersey and enhanced work activities appropriate to the level of education, testing and actual activities that are performed by Landscape Architects is through a Practice Act upgrade that defines the full scope of practice of Landscape Architects including overlapping areas of expertise between the design and planning disciplines. A non-exclusionary clause specifically exempts the other professions in those areas where

overlapping activities are already specifically determined in existing enabling acts for the closely allied licensed professionals.

A united response of all Landscape Architects is crucial to the success of the overall upgrade and introduction of practice responsibilities for Landscape Architects in New Jersey. You must be aware that an individual Landscape Architect need not personally assume all the enumerated responsibilities in every project he/she works on and is not obligated to do so. The responsibilities outlined are within the scope of the wide-ranging practice areas of Landscape Architects in national practice and individual additional training and proficiency in evolving fields of Landscape Architecture interest, as already described and condoned in the present Title Act. Withholding the opportunity to formally perform these activities in New Jersey negatively impacts the quality of the built environment in New Jersey and provides a negative impression of New Jersey-based Landscape Architects attempting to practice in neighboring states. This is believed to be a significant factor in the apparent difficulty to retain Landscape Architect numbers and grow the profession in the State.

### **DRAFT REVISION TEXT**

Please do not reveal to “other professionals” at this time. This draft is subject to further change pending Feedback reports and other components of Phase two.

**The definition of the “practice of landscape architecture” is the crucial revision that will raise the existing Title Act to a Practice and Title Act.** This First Draft presents the following description for inclusion in the Act and is in keeping with the detailed definition present in the ASLA Model Law endorsed by the Council of Educators of Landscape Architecture and Council of Landscape Architect Registration Boards. The NJASLA has highlighted the following for clarity in review. The actual format of the First Draft is in keeping with that of state bill preparation. (The LA UP changes to the original Title Act are [ ] for removed text and **BOLD** for new text):

a. [“Certified landscape architect”] **“Licensed landscape architect”** means an individual who, by reason of his knowledge of natural, physical, mathematical **and social** sciences, and the principles and methodology of landscape architecture and landscape architectural design acquired by professional education, practical experience, or both, is qualified to engage in the practice of landscape architecture and is (certified) **licensed** by the board as a landscape architect.

b. "The practice of landscape architecture" means any service in which the principles and methodology of landscape architecture are applied in consultation, evaluation [and] planning, **and design**, including

the preparation and filing of sketches, drawings, plans and specifications, and responsible administration of contracts relative to projects principally directed at the functional and aesthetic use of land[.], **vegetation, water and natural resources.**

**These services include, but are not limited to,**

**the investigation, interpretation, selection and allocation of land, landform, vegetation, water and natural resources for appropriate uses;**

**the preparation, review and analysis of land use master plans, subdivision plans and preliminary plats;**

**the location, siting and arrangement of individual and multiple buildings, systems, approaches, settings and environments for facilities, structures, roadways, walkways, trails or other improvements;**

**the formulation of plans, feasibility studies, graphics, and graphic and written criteria to govern the management, planning and design of land development, preservation, restoration and conservation programs;**

**the design of landforms and grading, storm water drainage, soil conservation and erosion control methods, site lighting, water features, irrigation systems, planting, trails, pedestrian and vehicular circulation systems, other site features and related construction details;**

**the design of roads, bridges and structures with respect to the functional and aesthetic requirements of the land areas on which they are to be placed in collaboration with appropriate professionals;**

**and the preparation and submittal of plans, documents, and permit applications (including, but not limited to stormwater management, environmental and wetlands permits and plans).**

#### **NON-EXCLUSIONARY CLAUSE**

One significant issue of opposition from other professions involves exclusivity of practice area to the point of restriction of another profession from performing activities that are overlapping or incidental to its practice area. As can be seen in the language to be deleted from the existing Title act, that text provides no protection of the practice of Landscape Architecture. We are sensitive to this issue and have included a “non-exclusionary clause” we hope will be acceptable to other professions while protecting both title and practice areas:

[Nothing contained in this section shall be construed to restrict or otherwise affect the right of any person or corporation to engage in the practice of landscape architecture, but no person or corporation shall hold himself out as, or use the title "certified landscape architect," unless he has been certified pursuant to this act.]

**No person or corporation may engage in the practice of landscape architecture and no person shall hold himself out as, or use the title of “licensed landscape architect”, unless he has been licensed pursuant to this act. Nothing contained in this section shall be construed to restrict or otherwise affect the right of any licensed architect, engineer, interior designer, planner or land surveyor to practice within the confines of those**

**adopted laws and promulgated rules regarding those closely allied professions.**

## **GRANDFATHERING PRESENT CERTIFIED LANDSCAPE ARCHITECTS**

As a matter of clerical housekeeping, a clause for the transition of the Certification shall include a grandfather clause (see below) and uniform replacement of [certified] to **licensed** throughout the new text:

**All New Jersey Certified Landscape Architects at the time of adoption of this revision shall be considered exempt from examination and fully eligible for immediate instatement as a New Jersey Licensed Landscape Architect.**

## **LAEEC/BOARD OF ARCHITECTS RELATIONSHIP**

While the LAEEC/ Board of Architects relationship is unchanged, the LAEEC is charged with determining practice activities through regulation and from the new practice revisions. This portion of the act is the “prelude” of the subsequent implementation steps that lie ahead regarding not only the “Site Plan Rule”, but also various NJDEP and NJDOT regulations. (NJASLA will advance revision to texts of old and new legislation and regulation for activities that should include the involvement of Landscape Architect practitioners):

**9. a. With the approval of the State Board of Architects, the Landscape Architecture Evaluation and Examination Committee shall:**

**1.Promulgate rules, regulations, and guidelines for the practice of landscape architecture in New Jersey;**

**2. Promulgate rules and regulations for implementing continuing education requirements as a condition of license renewal for licenses issued under its jurisdiction.**

**3. Establish standards for continuing education, including the subject matter and content of courses of study, and the number and type of continuing education credits required of a licensee as a condition of biennial license renewal.**

**4.Approve only such continuing education programs as are available to all landscape architects in this State on a reasonable nondiscriminatory basis.**

**PHASE 2 WORK SHEET**  
**GOVERNMENTAL RELATIONS FOR LICENSURE UPGRADE**

Initial activity should center on the establishment of “what” and when the organization would like to present to the legislature for the purpose of amending the statute with regard to the practice of Landscape Architecture in New Jersey. We have a New Jersey model law that has received considerable scrutiny, but there are concerns that to directly attempt to adopt this in total may meet with severe objections from the more politically- influential professionals. It is the goal of NJASLA to use the NJ model law as a base draft, interact with possible opponents to find points of consensus, and emphasize positive aspects to assuage opponents and in response to our professional feedback reports refine language that could be reasonably presented to the legislature keeping in mind the need to, as much as possible, silence opposition.

**GRASSROOTS ACTIVITY**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>RESPONSIBLE PARTY</b>	<b>STATUS</b>	<b>TARGET DATE</b>
Membership awareness campaign	Publication of a PR piece to target ASLA membership about the need for reform and advocacy	ExCom		1 <sup>st</sup> at Annual Conference in Atlantic City February 7, 2005
Legislative Ambassador program (Face to Face Volunteers)	Establish a CLA contact for all 40 legislative districts			March, April and May, 2005
Establish membership meetings	Schedule meetings of the membership to explore this topic and increase political awareness	Face to Face Volunteers		1 <sup>st</sup> at ExCom April 19, 2005 Blake 152 Cook College

## COALITION FORMATION

ITEM	DESCRIPTION	RESPONSIBLE PARTY	STATUS	TARGET DATE
Identify supporting entities	Establish an outreach with engineering firms and other organizations who would be supportive	Face to Face Volunteers		June1, 2005

## LEGISLATIVE/EXECUTIVE EDUCATION

ITEM	DESCRIPTION	ACTUATORS	STATUS	TARGET DATE
Legislature	Meet with key members of the legislature's leadership and key committee members	PSI CLA district ambassadors	Several meetings were led over the summer with legislative leadership and the committee chairs of the regulated professions committee	Ongoing. All key meetings should be accomplished by September 2005
Executive	Meet with members of the Governor's staff & key individuals in DCA	PSI ASLA/NJ leadership	Key staff changes mean schedule for December/January	Internal status Meeting November 1, 2005
Identify potential sponsors/co-sponsors	Establish network of key support legislators	PSI ASLA/NJ Leadership	Last item after feasibility assessment	<b>January 06</b>
Introduce Bills in both Senate and Assembly				<b>February 06 or April 06 back up date</b>

## ***How to Work with the Opposition***

In the course of communicating the message to prospective coalition partners, you may encounter opposition from one or more groups. While opposition can come from anywhere, groups consisting of other regulated professionals or unregulated professionals are the most common opponents.

Other design professionals, such as architects, engineers, surveyors, etc., as well as landscape designers, nurserymen or landscape contractors, might perceive licensure of landscape architects as a challenge to their areas of expertise, or a threat to their livelihoods.

These groups must be managed the same way — through communication and education. To paraphrase the Election Day adage, "Talk early, talk often!" Talk to them early in the process of proposing the legislation change. With the members of other licensed professions, you will need to engage in *interest-based bargaining* as you present the message about why they should support your licensure effort. For this strategy, you must explain how working with landscape architects will further the interests of their own profession. You might explain, for example, how licensure for landscape architects will benefit the principals of multi-disciplinary firms by reducing their professional liability, etc.

When communicating with members of unregulated professions, you have to address the *fear factor*. These professionals may be wary of any effort that might lead to limits being put on the types of goods and services they can offer, and an increase in the number of professionals offering those services. You will have to explain how licensure for landscape architects will not have those effects, and may provide benefits to these unregulated professionals in several ways:

- Most of the services offered by nurserymen and landscape designers do not impact the public health, safety and welfare.
- Make sure that your licensure law contains a clause that will give these professionals exempt status, so their ability to practice will not be limited.
- The law may actually help their businesses, because it will provide for the public a clearer differentiation between the services offered by the licensed landscape architect and the landscape designer.
- Landscape contractors and nurserymen may also benefit from the new status because landscape architectural projects can serve to showcase the products and services these professionals provide.

One of the most effective ways to manage the opposition is to *infiltrate their membership*. This suggests some kind of covert operation, but it simply means that you should begin to interact with the members of the other professions on the grass-roots level. By attending social events and meetings on an informal basis, you will get to know individuals and learn first-hand the reasons for their opposition.

You should also analyze your chapter membership to determine any key contacts with design professionals, whether through work in multi-disciplinary firms or even by marriage. In work or play, these individuals will be well positioned to demonstrate their skills and lobby these professions. The other professionals will, in turn, get to know you and learn about the profession and the intent behind the licensure effort. It will become more difficult for either side to make sweeping generalizations about the values and

concerns of their opponents' profession when they have met and interacted with individual professionals on a regular basis.

Once you get to know your opponents, you may find that they are willing to negotiate. For example, they may agree to support your licensure effort if your group will reciprocate when it is their turn to upgrade their law, or perhaps they may be opposed to specific language in your legislation and a compromise can be reached. Using some of the techniques suggested on the following pages, you should be able to arrive at a solution that is mutually beneficial. The process of effectively neutralizing your opposition should be a learning experience that results in a strong network of inter-professional relationships, based on mutual respect and the shared desire to protect the health, safety and welfare of the public.

### ***How to Neutralize the Opposition***

Just like in any issue where there is not a consensus, a legislative effort for licensure upgrades can revolve around the strength of any group that may be opposing landscape architectural licensure. Even if a group may never support licensure for landscape architects, the main battle may be to neutralize the group so that they withdraw opposition. There are a series of steps toward neutralizing the opposition:

- Know WHO the opposition is.
- Understand WHAT the opposition's concerns are and WHY they are opposing licensure.
- LISTEN to the opposition first before presenting the entire landscape architectural position - listening helps to understand but also gives the opposition the opportunity to reveal their strategy.
- Be PREPARED to articulate how the opposition's interests will not be compromised. This preparation will include educating the opposition on the profession of landscape architecture, the qualifications of its practitioners, and the benefits of the profession.
- Be willing to COMPROMISE. Before entering into negotiations, understand the stages of fallback positions that you will accept. Be careful not to compromise beyond the point that would make legislation ineffective.

Typically, a series of meetings will be necessary to successfully negotiate with the opposition. In some cases, the opposition may be unwilling to meet, especially if they feel that they hold a stronger position. In this situation, an attempt to prevail upon your legislator to bring the two sides together can facilitate the start of negotiations. Once the legislative team has successfully arranged the meeting schedule, the team should designate a spokesperson. As the lead contact, the person must be well organized and understand the opposition's arguments, as well. In many cases, your lobbyist may be the best spokesperson because he/she is trained for mediation and negotiation. The mediating, neutralizing or negotiating process, under a controlled environment, has proven to be quite successful in neutralizing problems between two groups.

### **Who is the opposition?**

There are several groups that typically oppose any licensure efforts by landscape architects. Typical opposition groups may include:

- Engineers
- Architects
- Nurserymen
- Landscape Contractors
- Landscape Designers

Be sure to contact the appropriate licensure board and/or professional society for these groups. As previously mentioned, the legislative team should attempt to meet with these groups prior to the legislative session to begin working through any concerns of potential opponents. Do not assume on first contact that a particular group will be opposed to the bill — the dynamics of these relationships are different from state to state. Similarly, relationships developed with legislators will help to build support when legislation is introduced. A legislator may be opposed to a licensure upgrade, or at least not be willing to support it, if he/she is not informed of the reasons for the licensure effort or does not understand the impact of the legislation.

The best "weapon" in any of these discussions is ***information***. Always have materials available to educate and enlighten, and then the advocacy will follow.