

Ronald W. Dalrymple, Executive Director
Arizona Board of Technical Registration

September 28, 1999
Nº 199-019 (R99-029)

Questions Presented

You have asked whether designing a golf course (i) constitutes the practice of landscape architecture as defined by Arizona Revised Statutes ("A.R.S.") § 32-101(B)(18), and (ii) requires the use of an Arizona registered professional.⁽¹⁾

Summary Answer

Designing a golf course involves the practice of landscape architecture as defined by A.R.S. § 32-101(B)(18), and requires the use of a registered professional.

Background

Arizona law requires that any person practicing landscape architecture in this State have a certificate of registration from the Board of Technical Registration ("Board"). A.R.S. § 32-121.⁽²⁾ It is a Class 2 misdemeanor for any person who is not properly registered with the Board to practice or hold himself or herself out as qualified to practice landscape architecture. A.R.S. § 32-145. The purpose of this registration is to "provide for the safety, health and welfare of the public." A.R.S. § 32-101(A).

To qualify for a professional registration as a landscape architect, a person must be of "good moral character or repute," have the required amount of education and experience, and pass an examination. A.R.S. § 32-122.01. *See also* Arizona Administrative Code ("A.A.C.") R4-30-101 (defining "good moral character and repute"). The Board is required to waive the examination under certain circumstances.⁽³⁾ A.R.S. § 32-126(A); A.A.C. R4-30-203. The Board has the authority to discipline registered professionals for, among other things, gross negligence, incompetence, "or other misconduct in the practice of the registrant's profession." A.R.S. § 32-128(B).⁽⁴⁾

Analysis

The practice of landscape architecture involves certain professional services that are performed "in connection with the development of land and incidental water areas." A.R.S. § 32-101(B)(18). The services include "consultations, investigation, reconnaissance, research, planning, design or responsible supervision." *Id.* To be classified as landscape architecture subject to the registration requirements, the "dominant purpose" of these services must be:

[t]he preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and esthetic values, the settings of and approaches to buildings, structures, facilities or other improvements, natural

drainage, and the consideration and the determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards.

Id. ⁽⁵⁾

According to your opinion request, designing a golf course requires reshaping natural land features, integrating natural ground cover into a design, determining appropriate new ground covers and plantings, addressing the control of water flow, designing appropriate water delivery systems, designing safe golf cart pathways and entries and exits to tee areas and greens, designing fairways that meet client needs and provide adequate safety zones for golfers in adjacent fairways, addressing issues related to erosion and environmental concerns and, finally, integrating these and other components into a golf course design.

Designing a golf course, as described in your opinion request, would involve services embraced by the statutory definition of landscape architecture. *See* A.R.S. § 32-101(B)(18). To design a golf course, a person develops plans that involve extensive landscaping of an area. The work requires consideration of problems related to erosion, wear and tear, appropriate ground cover, and other tasks specifically listed in the definition of landscape architecture. Therefore, under A.R.S. § 32-121, a person who performs such work is practicing landscape architecture and must be a registered professional.

Arizona first began requiring the registration of landscape architects in 1968, two years after the Arizona Court of Appeals held that, under the law then in existence, a golf course designer need not be a registered architect. *See* 1968 Ariz. Sess. Laws ch. 92; *Jackling v. Snyder*, 3 Ariz. App. 63, 65-66, 411 P.2d 822, 824-25 (1966). Because the registration requirements for landscape architects are intended to protect the health, safety and welfare of the public, those provisions should be liberally construed to accomplish their objectives. *See State v. Sanner Contracting Co.*, 109 Ariz. 522, 524, 514 P.2d 443, 445 (1973) (measure whose purpose is to protect health and welfare is entitled to liberal construction to accomplish its objective). Applying the registration requirement to the design of golf courses helps ensure that the person doing the work is qualified and subject to a disciplinary system to protect against professional misconduct.

Although a registered professional must perform the work that falls within the statutory definition of landscape architecture, some aspects of golf course design may not be included in this definition. For example, a professional golfer whose expertise is the game of golf, not the technical area of landscape architecture, might participate in the design of the golf course with regard to issues such as enhancing the difficulty of the course. The primary purpose of this work is to develop a golf course that achieves certain recreational goals; its "dominant" purposes are not the technical issues that are the focus of the statutory definition of landscape architecture. Professional golfers who participate in the design of a golf course in this manner may be identified as golf course designers, but may not hold themselves out as qualified to

practice landscape architecture unless they are registered professionals. *See* A.R.S. § 32-145(1) (prohibits non-registrant from holding himself or herself out as qualified to practice landscape architecture and other professions within the Board's jurisdiction). Although a person whose work focuses only on the recreational aspect of golf course design need not be registered, a registered professional must remain responsible for the technical aspects of the project that are included within the definition of landscape architecture.⁽⁶⁾

Conclusion

The design of a golf course involves the practice of landscape architecture, as defined by A.R.S. § 32-101(18). Therefore, designing a golf course in Arizona requires the use of a registered professional.

Janet Napolitano
Attorney General

1. The terms "registered professional" or "registrant," as used in this Opinion, mean a licensed architect, assayer, engineer, geologist, land surveyor, or landscape architect as defined by A.R.S. § 32-101(B)(2), (5), (10), (14), (16), and (19).
2. The Board also has jurisdiction over architects, assayers, engineers, geologists and land surveyors. A.R.S. § 32-101(A). Before practicing any of these professions in Arizona, a person must receive a certificate of registration from the Board. A.R.S. § 32-121.
3. The Board is required to waive the examination requirement for any person who: (1) is registered and in good standing in another state or foreign country which has registration requirements that are "substantially identical" to Arizona's; (2) holds a "certificate of qualification in good standing issued by a national bureau of registration or certification," such as the Council of Landscape Architectural Registration Boards, or (3) has been a professional registrant in another state or foreign country for at least ten years. A.R.S. § 32-126(A); A.A.C. R4-30-203.
4. Disciplinary action may include: (1) revocation of a certificate of registration; (2) suspension of a certificate of registration for up to three years; (3) imposition of administrative penalties of up to \$2,000 per violation; (4) imposition of restrictions on the scope of the registrant's practice; (5) imposition of peer review and professional education requirements; (6) imposition of probation requirements that may include restitution payments to clients and others; and (7) issuance of written reprimands. A.R.S. § 32-128(A).
5. The practice of a landscape architect is distinct from the practice of a licensed landscape contractor. While a registered professional landscape architect, among other things, designs and plans landscaping (A.R.S. § 32-101(B)(18)), licensed contractors may not design and plan landscaping. A contractor is synonymous with the term "builder." A.R.S. § 32-1101(A)(3). Landscaping and irrigation contractors, whether residential or commercial, may treat, condition, prepare and install topsoil; plan all decorative vegetation; excavate, trench, bore, backfill, and grade as necessary for installation of landscaping and irrigation systems; install slabs, walkways, decks, and walls, with exceptions; and install, repair and maintain irrigation systems. *See* A.A.C. R4-9-102.
6. Whether, and to what extent, registered professionals other than landscape architects may participate in the design of golf courses is beyond the scope of this Opinion. The services of several of the professions subject to the jurisdiction of the Board overlap. *See, e.g.,* A.R.S. § 32-101(B)(11) and -101(B)(21)(e) (setting, resetting or replacing points to

guide the location of new construction is the practice of both land surveying and engineering). For example, an engineer could lawfully design the grading and drainage plan for a golf course. *See* A.R.S. 32-101(B)(11). Additionally, a registrant "may engage in [the] practice in another [profession] . . . only to the extent that the person is qualified and to the extent that the work may be necessary and incidental to the work of the registrant's profession on a specific project." A.R.S. § 32-143. The determination of whether a specific project is within the scope of a registrant's practice is a question the Board must determine on a case-by-case basis.

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