

Taking over a Project from another Landscape Architect

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Introduction and Intent

The Professional Practice and Ethics Committee wishes to provide some insight and guidance on a scenario that is often brought forward by our Membership, taking over the role of Landscape Architect after a previous Landscape Architect has worked on the same project.

There are several legitimate reasons you may be asked to take over a project from another Landscape Architect mid-way through the design or construction process. Some of these are simple and straightforward, such as the retirement or cessation of operations of the original Landscape Architect / Firm. There may be other less fortunate circumstances, such as a breakdown in the Landscape Architect-Client relationship.

Regardless of the reason, it is important to keep in mind the spirit and the letter of our *Code of Ethics and Professional Practice* (the “Code”), specifically Section 5.4, before taking over an existing project or file from another Member.

The intent is to ensure that the transition is validated and transparent, so that all parties involved, client, original Landscape Architect (LA1), and the newly retained Landscape Architect (LA2) have communicated, confirmed, and documented that the contractual obligations have been completed and there is clear understanding of the transition from LA1 to the newly retained LA2.

Summary:

It is not the obligation of LA2 to advocate for LA1. The process is to ensure that LA2 has communicated to LA1 that they have been retained. This accomplishes the intended goals of the Code of Ethics:

1. Notifies LA1 that there is another LA consultant being retained by the client, and if contract obligations have not been fulfilled LA1 can then react legally.
2. Allows LA1 to review, confirm, and acknowledge in written response that all information provided by the client to LA2 is accurate, and true.
3. LA2 has performed their ethical due diligence to contact LA1 to ensure they are aware of the transition, and satisfies, for LA2’s consideration, the status of contractual obligations between client and LA1 are complete.

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Steps to Guide conduct and assist in successful transfer

We offer the following suggestions to help guide your conduct and assist in successful transfer:

When approached by a client to complete work on a project, it is in best interest to clarify following items.

1. Confirmation with potential Client:

- a. Has there been any work on this project completed by another LA or LA firm.
- b. If there has been a previous LA working on the project, there should be confirmation in writing provided by the Client indicating:
 - i. The work that was completed by the original LA.
 - ii. The stage and milestones achieved on the project to determine that there is a clean point of transition and that there will not be reliance on previously produced drawings of LA1.
 - iii. Work to be completed by LA2 is to be based on new drawings produced by LA2.
 - iv. Confirmation in writing that the contract with the previous LA has been finalized.

Note: Finalized contract indicates;

- All works and tasks, contract obligations are complete.
- There are no outstanding items, or deliverables.
- All payments have been made.

2. The Communication and Confirmation with LA 1

- a. With this information provided by the potential client, LA2 through documented communication should then contact LA1.
- b. Provide written notification that client is seeking to retain LA2 on the project, and include all declarations and documentation provided by the potential client for confirmation purposes.

The goal of this communication is to:

- Inform LA1 of intent to work on the project.
- Provide copy of information provided by potential client to LA1 for confirmation of accuracy
- Request written acknowledgement that information provided by the potential client is valid, and all contractual obligations are complete.

Note: Situation could also be that LA1 performance was not acceptable or that there was a breakdown in relationship between LA1 and Client, resulting in termination. The client's desire to secure a new LA Consultant may be to move the project forward. The goal of communication is to ensure all parties are aware of intended transition, determine that information provided is accurate, and that all parties agree if contractual obligations are complete

Questions that could be used to assist with clarification of project status:

- Has your contract with the client been finalized? *Note: Finalized contract indicates payment has been made.*
- Are all works and tasks/obligations complete?
- Are there any outstanding items?
- What is the status of the project and is there a clear transition point allowing LA2 to continue with the project? (The situation could be that LA1 completed Phase 1 concept, and was not contracted to move forward with the remaining phases of the project.)
- Will new drawings be required for the project?

Confirmation of Outstanding Obligations

If upon receipt of communication, LA1 indicates that there are outstanding contractual obligations, i.e. final submission of drawings, Letter of certification, or financial payment, and the information provided is not confirmed as correct, LA2 then has knowledge of incomplete obligations or non-payment, as a result of properly completing the required communication process.

LA2 can then proceed with this knowledge and react accordingly.

If they were misinformed by the Client about the status of LA1 contract, LA2 can go back to the client and inquire further to determine the exact situation.

The decision to proceed with entering into a contract with the Client, is LA2's prerogative, with full knowledge of the status of all parties now confirmed.

LA1 is now notified that the client has retained another LA consultant, and they can take appropriate actions to rectify the situation and ensure contractual obligations are complete.

Note:

LA2 does not have an obligation to refuse work. It would be in their best interest to suggest to the client that moving forward will be productive if the contract with LA1 is not in dispute.

Choosing to proceed with a contract with the client can be made with all information disclosed and may allow for provisions by LA2, in the new contract to avoid getting into a similar situation as LA1.

Transition of work produced, and Ownership of Documents:

It is LA2's obligation to inform the Client that all work going forward must be produced and generated by LA2. To ensure that there is no reliance on drawings produced by LA1, any previous required drawings should be reproduced by LA2.

Part of communication with LA1 is to ensure the project was completed to a clean transition point. Remaining project scope should be able to be completed by LA2, without reliance on LA1's drawings. If certain previously produced drawings are required as base information, new drawings need to be produced under LA2's new contract.

Who maintains ownership of the originally produced "Documents" (drawings, reports, specifications and other) should be clarified before LA2 proceeds.

Work completed by LA1 must be able to be maintained under the intentions of their original contract obligations.

Design work, conceptual master plans completed by LA1 under contract and paid for by the client could be used as reference going forward with the project. If all contractual obligations are complete, and there is a clear documented transition with all parties in agreement, this would be an acceptable opportunity to have a second LA take over. Detailed drawings and specifications would then be produced under direction, supervision, and seal of LA2 based on a design or concept generated by LA1.

Taking on a project in the middle of detail design would not be feasible without new drawings fully produced by LA2.

Proper practice is to ensure that no work constructed under contract obligations by LA2 should be based on work of LA1.

This includes the certification of completion of constructed work as per drawings. LA2 cannot provide certification of drawings produced by LA1. Drawings should be reproduced by LA2 so that full ownership, liability and certification at completion of the project are executed by the LA that sealed the drawings.

Reproduction of drawings for work that LA2 is undertaking is critical to eliminate the confusion of liability. Detailed drawings, and drawings issued for construction should be under LA2's seal, thus maintaining that they take on clear liability for the project work, and continue to maintain the clean and clear transition from LA1.

Documenting correspondence confirming this will protect the financial interests of both Members.

Approval Agencies

One other consideration in the process of communication is with approval agencies. If the project is subject to approvals process with local Municipality or agencies, there may be undocumented requirements, and the Municipality or agencies should be made aware of the consultant change.

It is recommended that a Notice of transition should be provided to the Municipality, to verify what obligations are required for the approval process.

i.e. new drawings required to replace previous LA1 submission to date.

Confirmation with approval agencies requires that all drawings submitted require certification at completion of project by stamped LA who produced drawings.

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