

PRACTICE BULLETIN: Board Guidelines Regarding Work Started by a Previous Architect – October 12, 2017

Background

The ALBNL *Code of Ethics* dates from the 18th of October 2010. Under Section 3.5, which is devoted to the topic of “Conduct”, a License Holder’s obligations with respect to the commencement of work that has been explored or prepared previously by another License Holder, are presented:

8. A License Holder may only accept a commission for a project when the services of any License Holder previously retained for the project have been terminated.
 1. A License Holder, on being either approached or instructed to proceed with services for which the License Holder knows or can ascertain by reasonable inquiry that another License Holder is or has been engaged by the same client, shall notify the other License Holder in writing of that fact.
 2. The foregoing notwithstanding, there are several necessary pre-conditions to a “successor” firm’s providing services which are based upon and which continue and complete those initiated by its predecessor:
 - (i.) there must have been no supplanting of the original firm by a successor firm;
 - (ii.) the resignation or termination of the original firm must have been done in accordance with the terms of its client/architect agreement;
 - (iii.) the original owner must have paid for the services of the original firm;
 - (iv.) in the case of property transfer to a new owner, there must have been legal acquisition by the new owner of the original architectural firm’s copyright and drawings (either directly from the original firm or from the original owner, if that owner was legally entitled to sell them).

In addition, there is a more general clause under Section 3.5 that also merits examination under this topic:

7. A License Holder shall not supplant or attempt to supplant another License Holder after the other License Holder has been retained or definite steps have been taken toward the other License Holder’s retention.

In years past, the NLAA Codes of Ethics, and indeed, professional tradition, may have been more specific with respect to a License Holder’s professional obligations when accepting a commission already progressed by another License Holder. The pre-conditions under 3.5.8.2 (see above) are quite clear, but in determining the basis for these, the License Holder is left to his/her own devices.

Further to the background on this topic, most Canadian jurisdictions under CALA (now known as ROAC “Regulatory Organizations of Architecture in Canada”) have similar pre-conditions under their respective Codes of Ethics. The Ontario Association of Architects (OAA) has gone a step further and released a “Practice Tip” entitled ***When a Client Changes Architects – Different Client or Project***’ which is rather more encompassing and specifically asks the following questions:

1. *Is the subsequent architect obliged to contact the previous architect?*
2. *Can the architect providing services to the new client use the documents of the previous architect?*

The response to Item (1) is quite relevant for this guideline. It states:

<http://www.oaa.on.ca/professional+resources/practice+tips+&+regulatory+notices/practice+tips/1>

“The architect providing services to the new client is not obliged to contact the previous architect unless there is a question of using any part of the documents prepared by the previous architect. Circumstances specific to the project and etiquette may nonetheless prompt a courtesy call to the previous architect.”

In former years, NLAA members routinely contacted fellow members if there was any evidence of past work on the same project. This was regarded as a professional obligation. There was also a general sentiment that the architect should make specific inquiry to the client regarding the potential past involvement of other License Holders. This was to ensure that there was no risk (however inadvertent) of

- (i) supplanting another architect,
- (ii) the resignation/termination that had occurred was compliant with whatever Client/Architect agreement was in place,
- (iii) that the services were paid in full, and, in the case of project / property transfer,
- (iv) copyright and/or drawings of the original design were legally acquired.

This ALBNL guideline is intended to reinforce the notion of open and transparent communications with a potential client or with a repeat client on a new project. If any doubts linger as to the veracity of the client’s disclosure, contacting your peers and engaging in frank discussion is recommended. Making the call should not be intimidating, and alternatively, receiving the call should be respected. The OAA further suggests that if there is lingering doubt regarding the conditions of the previous architect’s suspension or if you are being requested to maintain aspects of a previous design, a registered letter to the License Holder is in order. Bear in mind, that if you have no intention of using the project’s past design or related drawings, you are not obliged to seek clarification on the latter point.

Always explore past relationships with your client on any given project. Previous involvement by other architects and/or design professionals may be a red flag that will be informative and instructive on a go forward basis. The ALBNL encourages you to openly discuss these professional obligations with your clients and potential clients. This will “raise the ethics bar” for you, your peers, clients and the public at large.

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