



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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Jim Ryan
ATTORNEY GENERAL

FILE NO. 97-015

LICENSED OCCUPATIONS:
Limits on Interior Designers in
the Practice of Their Profession;
Hiring of "Design Professionals"
by Interior Designers

Honorable Jack L. Kubik
Assistant Minority Leader
House of Representatives
630 Statehouse
Springfield, Illinois 62706

Dear Representative Kubik:

I have your letter wherein you inquire whether the amendments made by Public Act 88-550, effective September 16, 1994, to the Illinois Architecture Practice Act of 1989 (225 ILCS 305/1 et seq. (West 1996)), and by Public Act 88-428, effective August 20, 1993, to the Illinois Architecture Practice Act of 1989, the Professional Engineering Act of 1989 (225 ILCS 325/1 et seq. (West 1996)) and the Structural Engineering Licensing Act of 1989 (225 ILCS 340/1 et seq. (West 1996)), limit interior designers in the practice of their profession or prohibit interior designers from hiring or contracting with architects and engi-

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neers. For the reasons hereinafter stated, it is my opinion that neither Public Act 88-650 nor Public Act 88-428 imposes any limitations upon the practice of the profession of interior design by registered interior designers, or affects an interior designer's ability to contract with architects and engineers to provide design services within their areas of expertise.

The "profession of interior design" is defined in section 3 of the Interior Design Profession Title Act (225 ILCS 310/3 (West 1996)) to include:

" * * *

* * * persons qualified by education, experience, and examination, who administer contracts for fabrication, procurement, or installation in the implementation of designs, drawings, and specifications for any interior design project and offer or furnish professional services, such as consultations, studies, drawings, and specifications in connection with the location of lighting fixtures, lamps and specifications of ceiling finishes as shown in reflected ceiling plans, space planning, furnishings, or the fabrication of non-loadbearing structural elements within and surrounding interior spaces of buildings but specifically excluding mechanical and electrical systems, except for specifications of fixtures and their location within interior spaces.

* * *

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It is necessary to review the changes made by Public Acts 88-650 and 88-428 to determine whether any of the activities included in the definition of the profession of interior design were limited thereby.

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Public Act 88-650 primarily made changes to the provisions of the Interior Design Profession Title Act. Specifically, it recognized and defined the separate discipline of residential interior design and reconciled various statutory provisions relating thereto. In addition to modifying the provisions of the Interior Design Profession Title Act, however, Public Act 88-650 also amended section 3 of the Illinois Architecture Practice Act (225 ILCS 305/3 (West 1996)), which, prior to amendment, provided, in pertinent part:

"Application of Act. Nothing in this Act shall be deemed or construed to prevent the practice of structural engineering as defined in the Structural Engineering Licensing Act of 1989, or the preparation of documents by interior designers used to prescribe work to be done inside buildings for non-loadbearing interior construction, furnishings, fixtures and equipment, or the offering or preparation of environmental analysis, feasibility studies, programming or construction management services by persons other than those licensed in accordance with this Act, the Structural Engineering Licensing Act of 1989 or the Professional Engineering Practice Act of 1989.

* * *

Nothing in this Act shall prevent a registered architect from practicing interior design services. Nothing in this Act shall be construed as requiring the services of an interior designer for the interior designing of a single family residence.

* * *

"

This Act does not apply to any of the following:

* * *

(D) Interior design for buildings which do not involve life safety or structural changes.

However, all buildings not included in the preceding paragraphs (A) through (D), including multi-family buildings previously exempt under those paragraphs but subsequently non-exempt due to a change in occupancy or use, are subject to the requirements of this Act. Interior alterations which result in life safety or structural changes of the building are subject to the requirements of this Act." (Emphasis added.) (See 225 ILCS 305/3 (West 1992).)

Public Act 88-650 amended section 3 of the Architecture Practice Act by simply deleting the emphasized phrase "by interior designers."

The primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly. (People v. Britz (1996), 174 Ill. 2d 163, 196.) Legislative intent is best evidenced by the language used in the statute. (Lucas v. Lakin (1997), 175 Ill. 2d 166, 171.) Where statutory language is clear and unambiguous, it must be given effect as written. (Barnett v. Zion Park Dist. (1996), 171 Ill. 2d 378, 389.) Moreover, if words used in a statute are omitted, a presumption arises that the General Assembly intended to change the law as it then existed. In re Marriage of Sutton (1990), 136 Ill. 2d 441, 447.

Under the language of section 3 of the Act quoted above, it is clear that the Illinois Architecture Practice Act

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does not apply to "[i]nterior design for buildings which do not involve life safety or structural changes." Further, nothing in the Act is to be construed "* * * to prevent * * * the preparation of documents used to prescribe work to be done inside buildings for non-loadbearing interior construction, furnishings, fixtures and equipment * * * by persons other than" architects, structural engineers and professional engineers. Thus, by deleting the phrase "by interior designers" from section 3 of the Act, a phrase with a certain well-settled meaning, the General Assembly did not in any way limit the functions that interior designers may perform but rather recognized the possibility that persons other than interior designers may provide the indicated services without becoming subject to the requirements of the Illinois Architecture Practice Act of 1989. Consequently, it is my opinion that the amendment of section 3 of the Illinois Architecture Practice Act of 1989 by Public Act 88-650 imposed no limitation upon interior designers in the practice of their profession.

You have also inquired whether the amendments enacted by Public Act 88-428 to the Illinois Architecture Practice Act of 1989, the Professional Engineering Act of 1989 and the Structural Engineering Act of 1989 limit interior designers in the practice of their profession or prohibit interior designers from hiring or contracting with architects or engineers. Public Act 88-428 was enacted "to streamline * * * the registration requirements of the

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Department [of Professional Regulation] and to allow * * * [architects, professional engineers and structural engineers] to do business under any of the legally recognized forms of business ownership." (See Remarks of Sen. Peterson, May 14, 1993, Senate Debate on House Bill No. 1933 (which, as Public Act 88-428 enacted the provisions in question).) In this regard, Public Act 88-428 amended the three Acts which are the focus of your inquiry, inter alia, to create the classification of "Illinois licensed design professional", to provide for registration with the Department of Professional Regulation as a "professional design firm" and to authorize licensed design professionals to conduct business in a limited liability company. You have indicated that confusion has resulted from the use of the terms "Illinois licensed design professional", "professional design firm" and "interior designers" in these statutes.

Section 21 of the Illinois Architecture Practice Act of 1989 (225 ILCS 305/21 (West 1996)) defines the phrase "Illinois licensed design professional" as follows:

" * * *

* * * 'Illinois licensed design professional' means a person who holds an active license as an architect under this Act, as a structural engineer under the Structural Engineering Licensing Act of 1989, or as a professional engineer under the Professional Engineering Practice Act of 1989. * * *

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Similar definitions were added by Public Act 88-428 to section 23 of the Professional Engineering Practice Act of 1989 (225 ILCS 325/23 (West 1996)) and section 19 of the Structural Engineering Licensing Act of 1989 (225 ILCS 340/19 (West 1996)).

Under the plain and unambiguous language of these Acts, the term "Illinois licensed design professional" includes only persons who are licensed under the Illinois Architecture Practice Act, the Structural Engineering Licensing Act or the Professional Engineering Practice Act. As noted above, interior designers are registered under the provisions of the Interior Design Profession Title Act. Therefore, the term "Illinois licensed design professional" does not include interior designers, nor were the provisions of those Acts made applicable to interior designers.

Similarly, section 21 of the Illinois Architecture Practice Act of 1989 indicates that the term "professional design firm" refers to "* * * [a]ny business not formed under the provisions of the Professional Service Corporation Act and not registered as such with the Department [of Professional Regulation], and which includes the practice of architecture * * *." Section 23 of the Professional Engineering Practice Act of 1989 and section 19 of the Structural Engineering Licensing Act of 1989 contain virtually identical language, except that those sections apply to businesses with the stated purpose of practicing professional engineering and structural engineering, respectively. The Interior Design Profession Title Act does not

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contain a corresponding provision. Therefore, interior designers do not fall within the phrase "professional design firm", and nothing in the language of these Acts indicates that the authorization to create design firms consisting of architects, professional engineers or structural engineers was intended to impact in any way upon the activities of interior designers.

You have also inquired whether the amendments made by Public Act 88-428 prohibit interior designers from hiring or contracting with architects or engineers. Section 4 of the Interior Design Profession Title Act (225 ILCS 310/4 (West 1996)) regulates the activities of interior designers and provides, in pertinent part:

" * * *

(b) Nothing in this Act shall prevent the employment, by an interior designer or residential interior designer, association, partnership, or a corporation furnishing interior design or residential interior design services for remuneration, of persons not registered as interior designers or residential interior designers to perform services in various capacities as needed, provided that the persons do not represent themselves as, or use the title of, 'interior designer', 'registered interior designer', 'residential interior designer', or 'registered residential interior designer'.

* * *

(f) Nothing in this Act shall be construed as preventing or restricting the practice, services, or activities of engineers licensed under the Professional Engineering Practice Act of 1989 or the Structural Engineering Licensing Act of 1989; architects

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licensed pursuant to the Illinois Architectural Practice Act of 1989; any interior decorator or individual offering interior decorating services including, but not limited to, the selection of surface materials, window treatments, wall coverings, furniture, accessories, paint, floor coverings, and lighting fixtures; or builders, home furnishings salespersons, and similar purveyors of goods and services related to homemaking.

(g) Nothing in this Act or any other Act shall prevent a licensed architect from practicing interior design services or from using the title 'interior designer' or 'residential interior designer'. Nothing in this Act shall be construed as requiring the services of an interior designer or residential interior designer for the interior designing of a single family residence.

* * *

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(Emphasis added.)

Under the language quoted above, it is clear that interior designers may contract with "* * * persons [who are] not registered as interior designers or residential interior designers to perform services in various capacities as needed * * *." There is no restriction on interior designers contracting with architects and engineers in the Interior Design Profession Title Act or in the Illinois Architecture Practice Act, the Professional Engineering Practice Act or the Structural Engineering Licensing Act. Consequently, in the absence of such a restriction, it is my opinion that Public Act 88-428 does not prohibit interior designers from hiring or contracting with architects and

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engineers to perform services within their respective professional expertise.

Sincerely,


JAMES E. RYAN
Attorney General