

PRACTICE ADVISORY

RIGHT TO TITLE

BACKGROUND

The Alberta Association of Architects (AAA) receives complaints regularly about non-architects who misrepresent their credentials by calling themselves architects, in some cases leading the public to conclude that they are professionals entitled to practice architecture as defined in the *Architects Act*.

Counsel for the AAA has completed a legal analysis with respect to the **right to title**. This Advisory explains the context around this analysis and the confirmed authority of the AAA to protect the title of “architect” and by extension, the permitted use of title “architect,” “licensed interior designer” and derivatives.

The *Architects Act* specifies who can call oneself an architect or a licensed interior designer and who can practice architecture and interior design in Alberta (Appendix A). The *Architects Act* also prohibits unauthorized use of names that represent expressly or implicitly that a person is an architect, registered architect or licensed interior designer.

The titles of **architect**, **registered architect** and **licensed interior designer** are **protected** for exclusive use by authorized entities i.e. those persons who own the right to an exclusive scope of practice and use of name defined and described in the *Architects Act*.

Practice Bulletin PB-26 *When is an Architect or Licensed Interior Designer Needed on a Project?* clarifies the legal right and restrictions to title that can only be used by members of the AAA. The AAA monitors misuse of title and illegal practice by non-registrants. Whenever such activity is discovered or reported and confirmed, the AAA reserves its right to issue cease and desist letters in this regard with legislative authority where the public is deemed to be at serious risk, to seek injunctive relief if necessary.

USE OF THE TERM “ARCHITECT” WITHIN THE CONTEXT OF THE ARCHITECTS ACT

Confusion arises with persons (or businesses) that use the terms “architect,” “architecture,” “architectural,” etc., when they are not registered members of the AAA and are therefore not entitled to call themselves “architects,” registered architects” and derivative names; or to engage in the practice of architecture¹ in Alberta.

A risk to public interest and safety arises (with the public frequently unaware of these distinctions) when the unqualified person (or business) is engaged to prepare designs or drawings to be relied upon for construction of a building—tasks that are defined in the *Architects Act* as the practice of architecture.

¹ The title “licensed interior designer” and practice of “interior design” have similar meaning under the Act that relates to a protected scope of practice within the practice of architecture.

This confusion is compounded by the fact that the word architect is both a noun in general use and a protected legal term in connection with the *Architects Act*.

It is the role of the AAA to ensure that any use of the term “architect” or “registered architect” is limited to its members and that the use of the noun “architect” or its derivatives does not put the public at risk by implying a title and thus an ability to provide qualified architectural services where none exists.

It is also the responsibility of the authorities having jurisdiction to reliably enforce the legislated requirement for professional involvement and to understand who is a registered architect and who is not.

An examination of context is necessary to fully comprehend the distinction between the noun “architect” and the legal term “architect.” As such, the AAA owns both the right to enforce the proper use of title and the discretionary authority to assess and act if necessary with respect to use of the name “architect” outside of the *Architects Act*, where in its judgment as the regulator, the protection of the public may be at risk.

This context is driven by the need under the *Architects Act* to protect the public interest. It is this protection that distinguishes an architect under the *Act* from others who may enjoy the benefit of education, but not licensure. The risk to the public interest is measured by the need to meet and comply with myriad additional criteria for membership in the AAA in order to qualify for and earn the right to title and engage in the profession. Registered architects are not only educated, they are bound by technical standards, practical experience, a code of ethics and professional conduct. They are also subject to discipline by their regulator when these standards are not met. This is an important aspect of public protection within the context of a self-governing profession. These requirements, of course, do not bind those who are not registered.

1. Academic / Foreign Trainee context:

An individual who is not a registered architect but who has graduated from a recognized university program in architecture may only be referred to as having a degree or a diploma in architecture in order to not violate provisions of the *Architects Act*, e.g. Jane Doe, M.Arch. This applies to all individuals notwithstanding their possible extensive or even exemplary training and education in the field of architecture.

Other individuals, such as faculty members in accredited Canadian university programs in architecture, or foreign trained and experienced individuals, each of whom may have extensive education and / or experience in the field of architecture (including a master level professional degree or foreign diploma in architecture), but are neither members of the AAA nor registered within it are NOT entitled to call themselves “architects” until such time as their credentials are formally recognized and they successfully complete the examination process to be admitted as members of the AAA.

Derivative and generic terms such as “Graduate Architect” or “Foreign Architect” become confusing and are subject to AAA discretion—actionable whenever an individual implies (or claims) status as an architect in Alberta, regardless of context or if it is determined that the person is in fact offering architectural services.

Such individuals must also be aware of the potential for misinterpretation by a third party for work that falls within the exemption threshold for professional involvement where an architect is NOT required. Here, especially concerning personal promotion, the individual must make every effort to confirm to others that in fact he or she is not an architect in Alberta.

2. A Practice or Business context:

The use of the term “architect” in the naming of a business entity that is not an architects corporation or architects firm under the *Act* is misleading and is not acceptable. A group of non-registered architects for example, cannot call their firm “Generic Architects” without implying that their business is one of providing architectural services, which requires a registered professional as the authorized entity under the *Act*.

Further, registered architects as sole practitioners and registered firms using descriptive terms or titles for their employees must ensure that these credentials are listed accurately. It is not permissible, for example, for a registered firm to represent a non-architect or other employee who is not registered in Alberta with the title “architect,” “registered architect” or “licensed interior designer.”

Finally, the use of other post nominal designations—on their own that imply a professional credential in architecture—such as AIA, RAIC, and RIBA cannot be used to imply registration with the AAA. There are only two approved use of title designations for authorized entities under the *Act*: **Architect, AAA** and **Licensed Interior Designer, AAA**.

USE OF NOUN OUTSIDE THE JURISDICTIONAL CONTEXT OF THE *ARCHITECTS ACT*

In some cases, the noun “architect” is not considered misleading to the public interest. In such cases, it must be reasonable to conclude that the word “architect” in this context is NOT a claim or an implication that a registration under the *Architects Act* applies.

For example, if an individual or business uses the noun “architect” or derivative in a non-building or non-architectural context, it is less likely to lead a reasonable person to infer that the entity is providing architectural services as defined in the *Act*. The AAA takes this into consideration when assessing whether an illegal use of title “architect” or derivative has taken place.

For an individual or business that is clearly not, as defined in the *Architects Act*:

- i. planning, designing or giving advice on the design of or on the erection, construction or alteration of or addition to a building,
- ii. preparing plans, drawings, detail drawings, specifications or graphic representations for the design of or for the erection, construction or alteration of an addition to a building, or
- iii. inspecting work and assessing the performance of work under a contract for the erection, construction or alteration of or addition to a building;

...the use of descriptive names such as in the contemporary field of computer and information technology (i.e. “software architect”) that refer to the nature of hardware and software, is not considered misleading.

...the reference to providers of specialized furniture, fixtures and equipment (i.e. products, not services) for buildings such as “interior architectural coatings” is also not considered misleading.

USE OF THE NAME AND TERM “LICENSED INTERIOR DESIGNER”

The use of the noun and term “architect” in this Advisory is interchangeable with that of “licensed interior designer” under the Act relative to its defined scope of practice.

However, it must be clarified that the term “interior designer” (and its derivatives), obliquely related to that of “licensed interior designer” is widely used by non-licensed interior designers throughout the province, including the title registered interior designer, which is a restricted title granted to members of the Interior Designers of Alberta.

Its continued use while representing a challenge to licensed interior design *members of the AAA is NOT in contravention of the Architects Act*, as long as it is not used in a context that implies the person is a licensed interior designer or able to offer interior design services as defined in the *Architects Act* and its *General Regulation*.

Finally, given the common use of the words “interior designer” both inside and outside the *Architects Act*, it is important to note the nuance between a licensed interior designer and a registered interior designer or simply a designation of interior designer needs clarification, since it is not reasonable for the public to understand that which is contained in the *Architects Act* and that which is not. As such, it behooves the licensed interior designer to ensure that the distinction of a professional under the *Act* (and thus a legislated duty to protect the public interest) is clearly differentiated from other designations and duly explained to prospective clients.

USE OF NOUN OUTSIDE THE JURISDICTIONAL CONTEXT OF THE ARCHITECTS ACT

In some cases, the noun “(licensed) interior designer” is not considered misleading to the public interest. In such cases, it must be reasonable to conclude that the wording in this context is NOT a claim or an implication that a registration under the *Architects Act* applies. Similarly, as previously presented for the noun “architect” in a non-building or non-architectural context, it is less likely to lead a reasonable person to infer that the entity is providing licensed interior design services as defined in the *Act*. The AAA takes this into consideration when assessing whether an illegal use of “(licensed) interior designer” or derivative has taken place.

For an individual or business that is clearly not, as defined in the *Architects Act* General Regulation:

- i. planning, designing or giving advice on the design of or on the erection, construction or alteration of or addition to the interior of a building,
- ii. preparing plans, drawings, detail drawings, specifications or graphic representations for the design of or for the erection, construction or alteration of or addition to the interior of a building, or
- iii. reviewing work and assessing the performance of work under a contract for the erection, construction or alteration of or addition to the interior of a building; and
- iv. Engaging or coordinating architectural and engineering work within the interior of a building,

...the use of such descriptive names as “furniture designer” or “kitchen designer” is not considered misleading.

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Practice Advisories are issued by The Alberta Association of Architects as a practice resource or as general interpretations of the requirements in the Architects Act, the Regulations under the Act, and the By-laws. Advisories should be read in conjunction with the Act, Regulations and By-laws and in no way supersede these documents. Advisories are not intended to be and are not legal advice to the Members of the Association nor to the Public/Client. Members and the Public should consult their own legal, income tax or financial advisors as to the application of the Architects Act and Regulations in specific circumstances.

APPENDIX A – THE ARCHITECTS ACT

The Architects Act states:

Part 1 Scope of Practice

Exclusive scope of practice and use of name

2(1) Except as otherwise provided in this Act, no person except an authorized entity shall engage in the practice of architecture.

(2) No person except a registered architect, visiting project architect, architects corporation or architects and engineers firm shall

- (a) use any one or more of the names architect, registered architect, visiting project architect, architects corporation or architects and engineers firm, or any title, description, abbreviation, letter or symbol representing those names, alone or in combination with any other name, title, description, abbreviation, letter or symbol, that represents expressly or by implication that the person is a registered architect, visiting project architect or it is an architects corporation or architects and engineers firm,
- (b) represent or hold out, expressly or by implication, that
 - (i) the person or it is entitled to engage in the practice of architecture, or
 - (ii) the person is a registered architect, visiting project architect or it is an architects corporation or architects and engineers firm.

The protected scope of Practice of interior design is similarly described under Section 2.1(1), (2), (3), (4) and (5) and is not repeated here.

The AAA is mandated under the Architects Act to administer and ensure compliance with these and other articles. Concern for the public interest is of primary importance in the regulation of architects and licensed interior designers and in addressing use of title and illegal practice by non-registrants.