

# Whatcha Gonna Do?

## The Situation

Neuly Firméd makes a presentation to the city council of a major East Coast city for the exterior design of its new civic center. During the presentation, Neuly Firméd exhibits panels showing comprehensive and successful solutions to land management challenges for other sports and civic facilities up and down the East Coast.

Although the presentation was well received by the council, Neuly Firméd was not selected for the project and received a rejection letter informing him that the council had selected another firm with a design that better suited its needs and concerns.

On the same day that Neuly Firméd made his presentation, another firm named Forma Boss also was scheduled to make a presentation to the council. When the president of Forma Boss displayed its panels, she was shocked and surprised to find a negative reaction from the council to her ideas and plans. "Oh, no," said one council member. "Not this plan again."

Forma Boss learned that a presentation made earlier in the day by another landscape architecture firm used the exact same design approach. Neuly Firméd had sketched the plans he showed to the council while employed as a part-time draftsman for Forma Boss. Forma Boss had created the plans, though, not Neuly Firméd.

As a result of Neuly Firméd's actions, Forma Boss was put in a bad position and suffered a loss of stature in the eyes of the council members. When she later pulled aside a sympathetic party on the council following her presentation, she learned the identity of the party who had presented identical plans.



VAN L. COX, FASLA

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Did Neuly Firméd have ownership or co-ownership of the plans because of his role in drafting the project? Did he have a legitimate claim to the design concept or was his claim false and misleading? Did the fact that Neuly Firméd made his presentation first to the council that day mean that his presentation took precedence over Forma Boss's plan?

Forma Boss went back to her office and consulted her staff. "What can I do to save face with the council?" she asked. What could she do to convince the members of the council that the concept was hers and did not belong to Neuly Firméd?

## Recommendation of the Ethics Committee

The Ethics Committee suggested that Forma Boss inform the city council that she was the author of the plans and also tell Neuly Firméd to stop claiming ownership for a design he did not produce.

After reviewing Forma Boss's grievance, the Ethics Committee found Neuly Firméd in violation of R1.105, R1.108, and R1.110. R1.105 states in part that "Credit shall be given to the design firm of record for the use of all project documents, plans, photographs, sketches, reports, or other work products developed

while under the management of the design firm of record."

R1.108 states, "Members shall truthfully, without exaggeration, misleading, deceptive, or false statements or claims, inform the client, employer, or public about personal qualifications, capabilities, and experience." R1.110 states "Members shall neither copy nor reproduce the copyrighted works of other landscape architects or design professionals without prior written approval of the author."

The Ethics Committee issued a letter of admonition to Neuly Firméd on the matter, along with a warning that it would deal swiftly and harshly with any future misconduct. Finally, the Ethics Committee suggested that Forma Boss check to see if the state regulations on licensing would address the infraction.

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*Editor's Note: One of the objectives of the ASLA Ethics Committee is to educate members about the ASLA Code and Guidelines for Professional Conduct. The code contains important principles relating to duties to clients and to members of the Society.*

*Readers are invited to send their comments on cases appearing in LAND to Managing Editor, 636 Eye Street, NW, Washington, DC, 20001-3736 or E-mail to [bwelsh@asla.org](mailto:bwelsh@asla.org). Members are invited to submit questions regarding ethical matters along with supporting data to Allen Hixon, FASLA, Ethics Committee Chair, c/o ASLA 636 Eye Street, NW, Washington DC 20001-3736.*