



Inaccurate Representation of Qualifications, and Scope and Nature of Design Work; Making Misleading, Deceptive, or False Statements or Claims about Professional Qualifications, Experience, or Performance.

Summary

The Council found that Architect B had accurately represented his qualifications, and the scope and nature of the design work presented to an architectural review board (ARB). The Council also found that Architect B had made no misleading, deceptive, or false statements or claims about his qualifications, experience, or performance with regard to the design presented to the ARB.

All initials, names, dates, places, and gender references in this decision have been changed.

Reference

Code of Ethics and Professional Conduct, Canon IV, Obligations to the Profession

R. 4.107 Members shall accurately represent their qualifications and the scope and nature of their responsibilities in connection with work for which they are claiming credit.

Commentary: *This rule is meant to prevent Members from claiming credit for work which they did not do, misleading others, and denying other participants in a project their proper share of credit.*

R. 4.201 Members shall not make misleading, deceptive, or false statements or claims about their professional qualifications, experience, or performance.

Facts

Architect B was commissioned by a client who presented very detailed sketches that he had drawn for the interior of a house, and who had very firm ideas about exterior finishes. The sketches represented a compilation of design elements from various residences that the client had lived in or visited over a period of years. The interior sketches were detailed enough to show the light fixtures, locations of electrical outlets, ceiling fans, and furniture arrangement. The client wanted Architect B to prepare necessary construction documents, and to obtain the community's ARB approval for the plans. Architect B prepared the necessary plans, affixed his seal, and presented them to the ARB for approval. The client constructed the house following the plans prepared by Architect B.

During a drive through the development, Architect A noticed the client's house shortly before construction was completed. Architect A believed that the exterior design bore a marked resemblance to a house he had designed and built several years before about half-a-mile away. Architect A toured the interior of the house. There were striking similarities, and striking differences, between the two houses. Because of



the similarities, Architect A concluded that Architect B had copied his design and was attempting to pass it off as his own.

Discussion

Architect B and the client both denied that they had ever "stepped off" or measured in any way the house designed by Architect A. Architect B denied ever having visited the house designed by Architect A. No evidence was presented to contradict that statement. The client admitted visiting the house designed by Architect A during a five minute walk-through several months prior to consulting Architect B. However, the client was adamant that the sketches he presented to Architect B were a compilation of various design elements from houses he had lived in or visited over the years. He presented detailed plans from previous houses he had built to support his testimony. Architect B, in the belief that the design of the house was so much the result of the client's work, does not use the house in any brochures or other documents representing his work.

The Council recognized that the client had considerable talent for recognizing what design features he preferred and for making conceptual sketches of the design he wanted. It was clear that the client had been working with similar design concepts and continually refining them over the years. While clearly drawn by a lay person, the client's sketches were sophisticated in concept and eminently buildable. The Council also recognized that there were striking similarities between the client's sketches and the house designed by Architect A. For this reason, the Council did not find that Architect A's Complaint was frivolous.

No evidence was presented to show that Architect B had done anything other than what he testified--listened to a client who had very specific ideas about what he wanted and helped that client prepare construction documents so that his design could be constructed.

Conclusion

The Council concluded that Architect B did not violate R. 4.107. No evidence was presented to show that Architect B represented as his own the design of the client's house. No evidence was presented to show that Architect B claimed credit for work he did not do or misled anyone about his role in the project. No evidence was presented to show that Architect A was entitled to and was denied by Architect B a proper share of credit for the design reflected in the construction documents prepared for the client.

The Council also concluded that Architect B did not violate R. 4.201. No evidence was presented to show that Architect B had misrepresented his professional qualifications, experience, or performance to the ARB. The evidence showed that Architect B had done exactly what he was hired to do--prepare construction drawings reflecting the client's interior space plan, wrap it in an architectural envelope, and get it approved by the ARB.

L. Kirk Miller, FAIA, Chair
Melvin Brecher, FAIA
Glenn Allen Buff, FAIA
James A. Clutts, FAIA
Robert V. M. Harrison, FAIA
Norma Merrick Sklarek, FAIA

The hearing officer, Kenneth DeMay, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedures.

April 15, 1994