



**SOUTH AFRICAN COUNCIL
FOR THE
LANDSCAPE ARCHITECTURAL PROFESSION**

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DISCIPLINARY PROCEEDINGS

For Public Comment

**FOR THE
SOUTH AFRICAN COUNCIL FOR THE
LANDSCAPE ARCHITECTURAL PROFESSION
(SACLAP)**

The South African Council for the Landscape Architectural Profession has, under Section 28 (1) of the Landscape Architectural Profession Act, 2000 (Act Nr 45 of 2000) set out the improper conduct investigation and disciplinary proceedings.

Date: January 2011

- (a) The Council must refer any matter brought against a registered person to an investigating committee as contemplated in section 17 of the Act. If the Council has reasonable grounds to suspect that a registered person has committed an act which may render him or her guilty of improper conduct; or a complaint, charge or allegation of improper conduct has been brought against a registered person by any person the committee must investigate and obtain evidence. Questioning is only allowed if the registered person was informed of his or her rights. In accordance with the Code of Conduct confidentiality is highly regarded however registered persons may and must divulge information upon request to assist investigation of a complaint made to the council. The Code of Conduct provides for work and subsequent possible improper conduct by South African registered persons in another country in clause 2. If such persons are obliged to adhere to the requirements of the Code of Conduct and laws of another country in so far as it applies to their profession and proposed work and where it contradicts with that of their country of origin the other country's supersedes.
- (b) The investigating committee must, after the conclusion of the investigation, submit a report making its recommendations to the Council regarding any matter referred to it in terms of section 28.
- (c) The Council must, after considering a report of the investigating committee, make the decision to either charge a registered person with improper conduct if the Council is convinced that sufficient grounds exist for a charge against such a registered person or not. The Council must provide such registered person with a charge sheet with the prescribed information.
- i. Upon admission of guilt such registered person is considered to have been found guilty of the charge of improper conduct and a penalty may be imposed; or
 - ii. If the registered person denies the charge or fails to respond in writing as prescribed the Council must appoint a disciplinary tribunal for a hearing.
- (d) The disciplinary tribunal may subpoena any person who in the Council's opinion may have information or documentation that could serve as evidence, following the procedures in section 31(3)(b) to 31(5). The registered person should be well informed of its rights, however in accordance with the proposed framework for the Code of Conduct confidentiality is highly regarded however registered persons may and must divulge information upon request to assist a disciplinary tribunal and furthermore full co-operation is required regarding a request for information when any complaint is lodged against a registered person or prima facie breach of rules of Code of Conduct. Witnesses may be subpoenaed as prescribed in section 31. After the conclusion of the hearing the disciplinary tribunal must, within 30 days decide whether or not the registered person charged is guilty of improper conduct; if the disciplinary tribunal finds that the registered person charged is guilty of improper conduct, take cognisance of any aggravating or mitigating circumstances; inform the registered person charged and the Council of the finding; and inform the registered person of his or her right of appeal in terms of section 33. A registered person found guilty of improper conduct in terms of this section may address the disciplinary tribunal in mitigation of sentence; and call witnesses to give evidence on his or her behalf in mitigation of the sentence. In the event that the

registered person charged is found guilty of improper conduct and or it admits such, the disciplinary tribunal must either-

- i. caution or reprimand the registered person; or
 - ii. impose on him or her a fine; or
 - iii. suspend the registration of the registered person concerned for a period not exceeding one year;
or
 - iv. cancel the registration of the registered person.
- (e) The Council must give effect to the decision of the disciplinary tribunal.