



**Interior Design Protection Council**  
*The next job we save may be yours!*

**The Collateral Effect of Interior Design Regulation on  
Real Estate Stagers**

Patti Morrow, June 1, 2009

CONTENTS

Overview	2
Definition	2
Misinformation	3
Stagers Take Action!	8
Quick Links	9

## —● Overview

Recently, we became aware of positions and statements originating from the staging profession purporting that regulation of interior designers does not affect real estate/home stagers and they should not become pro-active in protecting their freedoms.

This is not only far from true, but is a dangerous position that could potentially place real estate stagers at great risk. Practice laws in states like Florida and Alabama *have* been a detriment to real estate stagers, and if similar practice acts are allowed to be enacted, stagers will continue be impacted. Sadly, the advice which has been given to stagers recommending that they do not look into this issue lacks a clear understanding of the nuances of regulation, and rather than advancing member protection, it serves only to encourage stagers to withdraw back into complacency instead of continuing to actively engage in this important issue that has and will continue to impact staging professionals if left unchecked.

Stagers, like many interior designers, often start out in another career and evolve into the staging/design field. Interior design regulations disproportionately exclude these types of career-switchers because of the stringent requirements of education and internship inherent with these licensing schemes. These regulations would make it much more difficult for older workers to enter the occupation in the future, especially because older workers are less likely to have the time, flexibility and resources necessary to go back to school. Therefore, state-mandated education [and internship] requirements represent a particularly significant barrier to entry into the occupation for older workers making career transitions or those returning to work after raising a family.<sup>1</sup> Over time, these exclusionary laws would disproportionately exclude all would-be practitioners of any interior design services, including stagers.

To counter the apathy which could result from the previous dissemination of misinformation, this document has been crafted to correct the erroneous statements with factual, statistical and empirical evidence, and provide a general overview of the impact of such regulation on real estate stagers.

## —● Definition

While every design organization has a right to define interior design as they see it and as fits the vision for their own agenda, they do not have a right to impose their views on others in the industry, nor mandate that their definition is the national standard.

According to the American Society of Interior Designers (ASID), the definition of an interior designer is,

“The professional interior designer is qualified by education, experience and examination to enhance the function, safety and quality of interior spaces.”<sup>2</sup>

---

<sup>1</sup> David Harrington and Jaret Treber, *Designed to Exclude* (February 2009), p. 9.

<sup>2</sup> American Society of Interior Designers. (n.d.) What is an interior designer. Washington, DC.

By contrast, the definition from the Department of Commerce is:

“Plans, designs, and furnishes interior environments of residential, commercial, and industrial buildings.”<sup>3</sup>

Conspicuously absent is ASID’s “three E’s” or any inference that a minimum standard is needed to protect the health, safety and welfare of the public. ASID has mostly provided hypothetical stories of how unregulated interior designers *could* harm or bilk consumers, with little or no evidence of *actual* harm.<sup>4</sup> Twelve (12) government agencies have studied the need for interior design regulation and without exception, all recommended against any type of regulation on the basis that there it would add absolutely nothing to the protect the public beyond measures already in place, i.e., building inspectors, certificate of occupancy requirements, architects/engineers, fire marshals, construction code enforcement officials, consumer affairs actions, etc.<sup>5</sup>

While many real estate stagers may not refer to themselves specifically as “interior designers,” at least some of the scope of work that stagers perform clearly falls within the established Department of Commerce definition and their future rights and livelihoods could certainly be impacted by enactment of additional practice laws.

## Misinformation

Below, you will find a number of statements that were recently issued by a stager association as well as comments or questions which came from independent stagers on the issue of interior design regulation. Listed after each statement is the correct information.

*“To date, there are only a handful of states that have passed any restrictions on the interior design industry,”*

Currently, twenty-two (22) states have some type of state-imposed regulation in place.<sup>6</sup> Three (3) states have practice laws, which restrict the right to provide some or all of interior design services. Alabama enacted a practice law in 2001, but it was struck down and declared unconstitutional by the Alabama Supreme Court in October, 2007. The Alabama practice law was so overly broad and restrictive, that it was technically illegal to move a throw pillow.<sup>7</sup>

In addition to the three practice acts, nineteen (19) states have enacted title acts, which regulate the use of a title such as “interior designer,” “registered interior designer,” “certified interior designers,” or “licensed interior designer.”

*“It is actually a DETRIMENT for any Home Staging association to engage in this debate.”*

---

<sup>3</sup> National Academy of Sciences Committee on Occupational Classification and Analysis. (1981). Interior designer. In *Dictionary of occupational titles*. Washington, DC: U.S. Department of Commerce

<sup>4</sup> Harrington and Treber, *Designed to Exclude*, (February 2009), p. 3

<sup>5</sup> Interior Design Protection Council, Government Reports, <http://www.idpcinfo.org/Govt-Reports.html>

<sup>6</sup> Interior Design Protection Council, State Laws, <http://www.idpcinfo.org/StateLaws.html>

<sup>7</sup> Clark Neily, “Watch Out for That Pillow,” *Wall Street Journal*, (April 1, 2008).

This is a serious miscalculation that could potentially harm stagers. The Florida practice law HAS harmed stagers. Real estate stagers are among the 25 professions that have been targeted by Florida's highly restrictive practice law. These citizens, who did nothing to harm the public, were either fined or forced to sign an affidavit relinquishing specific rights relating to their design services. And much to their horror, these prosecutions remain on their record and on the internet search engines, causing them to provide lengthy explanations to clients, and losing other would-be clients who after researching and finding the disciplinary actions, decide to hire someone else.

*“Why register or license a profession? The 10th Amendment to the U.S. Constitution gives states the powers not delegated to the federal government. Under this framework, states regulate professions that impact the health, safety and welfare of the public.”*

States rightly have power to enact laws to protect the public or in some way serve the public interest. However, interior design does not meet the burden of proof, and in reality, interior design laws have been challenged in the court system, and have been found to violate citizens' Constitutional right to occupational freedom as well as First Amendment right to free commercial speech:

- Alabama – practice act overturned and declared “unconstitutional”<sup>8</sup>
- New Mexico – amended the constitutional defects in its title law rather than defend against the Institute for Justice lawsuit
- Illinois – amended the constitutional defects in its title law rather than face a potential lawsuit
- Texas – amended the constitutional defects in its title law rather than defend against the Institute for Justice lawsuit
- Connecticut – legal challenge has been filed and is pending
- Oklahoma – amended the constitutional defects in its title law rather than defend against the Institute for Justice lawsuit
- Florida – legal challenge filed May, 2009<sup>9</sup>

Interior design licensing is unnecessary, anti-competitive, and unconstitutional. The resist and repeal grassroots movement spearheaded by the Interior Design Protection Council is growing,<sup>10</sup> and everyone in the design community who is impacted, including stagers, should take part in protecting their freedoms.

*“We are not part of the interior design industry. We are part of the Real Estate industry. We do not traditionally engage in [interior design] work, we are not targets of this legislation. This legislation has nothing to do with Home Staging services and professionals in this field.”*

The issue is not what industry stagers prefer to be associated with, the issue is whether licensing of *any* particular industry will interfere or make illegal any work that stagers perform. Stagers absolutely perform at least some of the scope of work that is included in interior design legislation, such as space planning, consultations, contract administration, building or removal of nonstructural elements, application

---

<sup>8</sup> State of Alabama vs. Diane Burnett Lupo, 1050224, October 12, 2007

<sup>9</sup> Locke vs. Shore, Case 4:09-cv-00193-RH-WCS, May 26, 2009

<sup>10</sup> Patti Morow, “Insurgence of the Independents,” *Vision* magazine, (November 2008), p. 21.

of the principles and elements of interior design, etc., and therefore, they *are* targets, whether intended or not.

Further, other industries such as kitchen design, office furniture dealers, restaurant equipment suppliers, remodelers, etc., do not consider themselves to be “interior designers” but have joined our crusade because they recognize that at least *some* of what they do would be impacted by interior design regulation and it must not be allowed to happen. Stagers would be well-advised to get on board with our fast-growing coalition to protect their rights and livelihoods.

*“[ASID’s] target is work being done that impacts building codes – whether residential or commercial. If your work as a stager is not related to anything needing codes, you are not a target.”*

While ASID is the main proponent of legislation, they are not alone, and bills are still being pushed by their state chapters exactly the same way, as if the new policy [which under scrutiny changes very little] does not exist. Tennessee and Maryland are two recent examples. In 2009, bills came to hearing in these states that did not meet ASID’s guidelines and did not have the support of ASID national headquarters, but they were aggressively pursued nonetheless because individual components in both states did not care about adhering to ASID’s policy.

*“No law passed that restricts giving advice on decorating a house.”*

Absolutely false. The Alabama law DID restrict decorating, as described above. In addition, while some residential exemptions have appeared in recent legislation, the exemptions generally do not include homes over 5000 square feet, more than 2 stories, condos, or high-rise apartment buildings.<sup>11</sup>

*“Their [ASID’s] concern is that an unlicensed person could be putting the homeowner or commercial client and/or public at risk for danger.”*

In the 30 years that ASID has been pushing for regulation, not a shred of evidence has ever been presented which would warrant a conclusion that the unregulated practice of interior design places the public in any form of jeopardy, harm or danger.

According to the Better Business Bureau and other data, since 1907, only 52 lawsuits have been filed against interior designers in the *entire country*. And nearly every single one of those involved contract disputes, not safety issues.<sup>12</sup>

Given the absence of any harm to the public, the only fair conclusion that can be reached is that a small group of industry insiders are pushing for regulation in order to eliminate much of their competition.<sup>13</sup> The legislature should not regulate occupations for the sole purpose of providing state-sanctioned marketing advantages for some in a profession while placing the rest at an unfair competitive disadvantage. They should consider adoption of a new law only if the public health, safety of welfare compels it, which in this case, it clearly does not.

---

<sup>11</sup> Tennessee Senate Bill 2078 by Ketron, 2009; South Carolina House Bill 3945 by Brady, 2009.

<sup>12</sup> Dick M. Carpenter, II, Ph.D., *Designing Cartels*, The Institute for Justice, September 2006, p. 12.

<sup>13</sup> Patti Morrow, “Designing Freedom,” *Design Trade* magazine, (2008), 34

*“In some states, there have been interior designers that have been forced to shut their business down because they were not ASID approved and in violation of that state’s laws, it does not apply to us as we are not regulated by ASID and not part of this dispute.”*

No interior designer has ever been forced to shut down their business because they were not ASID approved. ASID does not regulate interior designers. State governments regulate interior designers where such laws have been enacted. Such statements indicate a lack of even a rudimentary understanding of interior design regulation.

*“The “space planning” aspect of the interior design industry definition relates to commercial planning and safety.”*

Absolutely false. Nowhere in the Department of Commerce definition, nor any other private definition of interior design, does it state that space planning is only applicable to commercial applications. Space planning for residences is an integral part of the scope of practice for interior designers, just as it is for real estate stagers.

And regarding the issue of commercial work, why would stagers want to allow legislation to pass that would prohibit them from doing future commercial work like small offices, condos, hotel lobbies, etc.? Stager services could be very helpful in those projects. And of course, many stagers also work as interior designers and redesigners, so they would not want to be limited to only small-to-medium residences, prohibiting them from working on high-end homes.

*“Because the structure (house) has already been approved and would have to be up to code as it was constructed, we are not doing anything that would place that house, homeowner or public “at risk.”*

Exactly right! The same goes for interior designers – as stated above, they do not place the public at risk, as there are already measures in place to protect the consumer. Yet, that inconvenient truth has not stopped the interior design cartel from introducing practice acts year after year, or from attempting to expand title laws into practice laws once a foot in the door has been established.

*“Ideally they [ASID] would like all Interior Designers to be Licensed, and not just Certified or Registered. This is akin to stager Accreditation – which is higher than solely a Certification or Designation.”*

First of all, the use of the term “accreditation” is somewhat confusing, as accreditation is generally reserved to describe the authority of an *organization* which then issues credentials in the form of a “*certification*.” In other words, institutions are accredited, not people.

Second, there is no kinship between a government-imposed licensing scheme and a certification/accreditation offered through a private organization. There are many certification processes available throughout the design community, including certification for real estate stagers. The seeking of higher education or certification through private organizations is always to be commended. Seeking government-

mandated certification/licensing of interior designers restricts entry to the field and places unnecessary burdens on those already practicing and should be resisted.

*“[Stagers] are not doing design work should not be in fear of any legislation that would regulate what we do for our real estate clients or the public.”*

Beware! **Certified/Accredited** home stagers HAVE BEEN PROSECUTED AND/OR DISCIPLINED in at least two of the three states that have enacted practice laws – Florida and Louisiana.

Over 600 disciplinary actions have been brought against 25 occupations in Florida over the last five years, including real estate stagers. There are likely many that we simply are unable to identify because their case numbers included only their personal name or a company name that does not expressly indicate they are stagers.

*“We know some stagers may also engage in other parallel services including interior design.”*

We believe this is true, and is why so many Florida real estate stagers/interior designers were not able to be identified. Real estate/home staging trade associations should protect the full scope of services of its members. It’s time they joined IDPC’s crusade to protect the freedom of ALL in the design community.

*“Do not use the words “Interior Designer” to describe what you are or “Interior Design” as services you provide unless you ARE a licensed Interior Designer.”*

In nearly every state, anyone who offers interior design services MAY use the title “interior designer” if they so choose, and it is very likely that in the near future, *all* states will be free from any prohibitions on that title. It is a personal choice, and because there is much crossover between the professions of interior design and staging, some may see fit to use more than one title or a combination of titles, depending on the work they do. See information above on title laws.

*“Get away from the “D” word altogether.”*

In the past, elitist designers made “decorating” the “D-word.” It would be truly unfortunate to see a similar battle develop between the currently compatible sister professions of interior design and real estate staging, by making “designer” the D-word.

*“Do not allow yourself to be sidetracked into this issue by other groups or associations that are trying to make it into an issue for Home Stagers. [Our] association knows better and is not misleading its membership or causing unnecessary fear in the membership based on an issue that is not about Home Staging at all.*

Tell that to the stagers (including certified or accredited) who have already been prosecuted or disciplined! Forewarned is forearmed. Stagers are already impacted, whether the association above likes it or not.

“Why should stagers care about titling laws for interior designers?”

Once ensconced, such laws make for a natural point of evolution toward full occupational licensing, as evident in states with current interior design practice acts and other states with titling laws where attempts have been made to cartelize the design industry.<sup>14</sup>

Title laws are well known as the Trojan horse of interior design regulation. Once a “foot in the door” has been established through enactment of a seemingly innocuous title act, historically, they come back in a few years to try and expand it into a full blown practice act, resulting in the destruction of the businesses of many honest, hard working entrepreneurs.

As just one example, after the defeat of HB 881, their 2007 practice act legislation, the president of the New Hampshire Interior Design Coalition wrote in a letter to the membership, “Most at the meeting agreed that a practice act as our bill is written is the one to pursue. However, since NH isn’t the most agreeable state toward licensure, we may want to begin with a title act and move inconspicuously toward a practice act within a few years.”<sup>15</sup> (emphasis added) Unfortunately this kind of “under the radar” approach is a hallmark of the pro-regulation camp.

Absent any authentic, empirical evidence of the need for regulation, those practicing an occupation who wish to regulate away free-market competition are left with strategies of inconspicuous incrementalism through the use of titling laws as a first step toward licensure and the creation of a de facto cartel. If there is a genuine need for regulation of interior designers, to protect the public health, safety and welfare, prove it.<sup>16</sup>

## —● Stagers Take Action!

Real estate stagers have already endured the trauma of unknowingly violating the law in Florida and Louisiana, just by practicing their trade and trying to earn an honest living, and certainly not because they placed the public in harm’s way. If more states pass this type of legislation (as is ASID’s mission), then more stagers will likely face the same fate.

In these difficult economic times, the state government should enact no new laws which would make it more difficult for small business entrepreneurs to earn a living, unless there is compelling evidence that the public is at risk by the failure to regulate. Clearly, no such evidence exists here.

It is of utmost importance that real estate stagers participate in the democratic process when it impacts their ability to earn a living. The following organizations protect the design community and/or stagers from government-sanctioned regulations restricting their services. Please consider membership in one or both of these associations. If you belong to a staging organization that has not taken a stand to oppose interior design regulation,

---

<sup>14</sup> Dick M. Carpenter, Ph.D., *Designing Cartels*, The Institute for Justice (2006), p. 19.

<sup>15</sup> Maria Perron, “HB 881 - Follow up to Members” (March 24, 2007), p. 2.

<sup>16</sup> Dick M. Carpenter II, Ph.D., *Misinformation & Interior Design Regulation*, The Institute for Justice (July 2008), p. 9.

please forward this report to them and ask them to contact [info@idpcinfo.org](mailto:info@idpcinfo.org) to join our crusade.

1. Interior Design Protection Council. IDPC is a national, nonprofit organization whose sole mission is to protect the rights and livelihoods of *all* in the interior design community. Among other things, IDPC provides information about the efforts to create a monopoly on interior design services. IDPC helps train designers how to resist those efforts through grassroots opposition, as well as lobbies against anti-competitive legislation. [www.IDPCinfo.org](http://www.IDPCinfo.org)
2. Real Estate Staging Association. RESA a portal to the staging industry and is a source of education and business tools focusing on the needs of stagers. Members have access to up-to-date information relative to the staging industry, marketing support services and access to continuing education providers, plus a voice in their own organization. RESA is the only staging organization that has thus far taken a national position and is actively engaged in protecting the rights and livelihoods of its members. [www.realestatestagingassociation.com](http://www.realestatestagingassociation.com).

Take heed of the call to action... Protect your future rights and livelihood!

## Quick Links

For more information on interior design regulation:

<http://www.idpcinfo.org/>  
[http://www.ij.org/images/pdf\\_folder/economic\\_liberty/Interior-Design-Study.pdf](http://www.ij.org/images/pdf_folder/economic_liberty/Interior-Design-Study.pdf)  
[http://www.idpcinfo.org/Designed\\_to\\_Mislead.PDF](http://www.idpcinfo.org/Designed_to_Mislead.PDF)  
[http://www.idpcinfo.org/Insurgence\\_of\\_the\\_Independents.pdf](http://www.idpcinfo.org/Insurgence_of_the_Independents.pdf)  
[http://www.idpcinfo.org/Designing\\_Freedom.pdf](http://www.idpcinfo.org/Designing_Freedom.pdf)  
[http://www.washingtonpost.com/wpdyn/content/article/2007/03/21/AR2007032101789\\_pf.html](http://www.washingtonpost.com/wpdyn/content/article/2007/03/21/AR2007032101789_pf.html)  
<http://www.cato.org/pubs/regulation/regv31n2/v31n2-3.pdf>

Florida disciplinary actions:

[http://www.idpcinfo.org/FL\\_Disciplinary\\_Actions.pdf](http://www.idpcinfo.org/FL_Disciplinary_Actions.pdf)