

David Minacci

From: David Minacci
Sent: Monday, February 08, 2010 3:08 PM
To: 'Janice Young'
Subject: RE: News Delivery From MMQB.com

I do not agree with the Judge's ruling and I cannot defend it. All I am doing is telling you what I think it says. Bottom line, the practice act was saved but really had the legs cut out from underneath it.

-----Original Message-----

From: Janice Young [mailto:janiceyoung@bellsouth.net]
Sent: Monday, February 08, 2010 3:05 PM
To: David Minacci
Subject: RE: News Delivery From MMQB.com

David, except for paint and paint colors and loose furnishings, all the other items have to be submitted to building officials (thus by design professionals who can sign and seal), including reflected ceiling plans and fixtures, floorcoverings, wallcoverings, etc. since they must meet code requirements for the application. So how can this be?

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-----Original Message-----

From: David Minacci [mailto:DavidM@stslaw.com]
Sent: Monday, February 08, 2010 2:19 PM
To: Janice Young; Jon Glogau
Subject: RE: News Delivery From MMQB.com

I think this summary accurately reflects Judge Hinkle's ruling. I think Judge Hinkle's decisions allows those services defined as "interior decorating" in a commercial setting.

-----Original Message-----

From: Janice Young [mailto:janiceyoung@bellsouth.net]
Sent: Monday, February 08, 2010 2:15 PM
To: 'Jon Glogau'; David Minacci
Subject: FW: News Delivery From MMQB.com

I am nuts, or is this incorrect? The judge did NOT give access to some commercial design, as this news article reports.

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-----Original Message-----

From: ceejay68@earthlink.net [mailto:ceejay68@earthlink.net]
Sent: Monday, February 08, 2010 11:45 AM
To: janiceyoung@bellsouth.net
Subject: News Delivery From MMQB.com

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Message From Cynthia Stehman...

Here is the Monday Morning Quarterback take on the ruling. "FYI"

Cynthia

Florida Interior Design Law Struck Down
Sunday February 7, 2010
In Other News

Judge rules title restriction unconstitutional, gives access to some commercial design.

On February 4th, Judge Robert Hinkle issued a ruling on the Institute for Justice's legal challenge to Florida's restrictive, anti-competitive, and unconstitutional interior design law. His decision will benefit the Florida design community in TWO very important ways:

1. TITLE. The statute barring a person who provides lawful residential interior-design services without a license from advertising [him]herself as an "interior designer" violates the First Amendment. Accordingly, it is declared that S 481.223(1)(c) and the proviso in S 481.229(6)(a) prohibiting advertising or representing oneself as an interior designer are unconstitutional. You are now permanently and legally able to use the title or to otherwise market yourself as "Interior Designer" and to use terms such as "interior design," "space planning," and any other term that accurately describes work you are lawfully performing without restraint or fear of prosecution.

2. PRACTICE. In his written decision, Judge Hinkle proclaims that the statute "is not a model of clarity." In order to save the practice act from the "substantial constitutional issues" it would otherwise raise, both Judge Hinkle and the BOAID significantly narrowed the meaning of the term "interior design" as it is normally understood (and as it had been interpreted by the Board before the legal challenge). Although it is still far from clear exactly what "interior design" under the law is as reinterpreted in the judge's legal ruling, the BOAID has been forced to substantially limit its definition of interior design and to (apparently) admit that anything that could be construed as "interior decorator services" in a commercial setting (and this would include the specification of and floor plans depicting ALL "surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes) may now be done by nonlicensees. According to the judge's ruling, the only thing that remains covered by the practice act is "an unlicensed person from providing design services to a client relating to nonstructural interior elements of a nonresidential building or structure." A key question that will have to be clarified is exactly what constitute the "nonstructural interior elements" of a building, but Judge Hinkle's ruling makes clear that it does NOT include loose furniture and probably does NOT include such things as lighting, window treatments, wallcoverings, floor coverings, and other similar items.

The fight in Florida is not over. The Institute for Justice plans to file an appeal seeking to have the entire practice act struck down; at a minimum, they will seek further clarification regarding exactly what work nonlicensees may now perform in commercial settings.

Click here to read Judge Hinkle's full decision:
http://www.idpcinfo.org/FL_Decision_2-4-10.pdf

Story URL: <http://story.mmqb.com/?201857085715058460210072>

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