

# LICENSING NEWS



## Chairman's Column

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Gordon E. Landreth, AIA

*It is with pleasure that I welcome Robert "Kyle" Garner of Amarillo to the Texas Board of Architectural Examiners. Mr. Garner was appointed by Governor Rick Perry in April of 2004 to fill the public member position of former board member D. Virginia Roberts. Mr. Garner is a counselor and a member of the American Counseling Association. He works with United Way in Amarillo and the Texas Rehabilitation Commission, and is a Young Life leader. He is the author of the book Whatever It Takes, a personal narrative of his remarkable survival and journey back from a devastating brain hemorrhage at the age of eighteen. Mr. Garner holds a BA degree in Psychology from Stanford*

*University and a master's degree from Stephen F. Austin University. His singular knowledge and experiences will add another dimension to TBAE, which has among its responsibilities helping ensure accessibility and encouraging barrier free design.*

*TBAE continued its dialogue with the Texas Board of Professional Engineers (TBPE) in meetings held in Austin on May 21 and August 6 of this year. The TBAE/TBPE Joint Advisory Committee (JAC) meeting included, for the first time, participation by the non-board public members mandated by the legislature. On behalf of TBAE, I am pleased to welcome our public committee member, Dan Hart, AIA, PE, of Midland, who was selected from a group of exceptional applicants. Mr. Hart is a Corporate Associate of Parkhill, Smith, and Cooper, Inc. in Odessa. He holds a Bachelor of Architecture degree and a Bachelor of Science in Civil Engineering, both from Texas Tech University. We are most fortunate to be able to bring Mr. Hart's significant expertise into the important discussions with the Engineers' Board. Diane Steinbrueck, ASLA, Nolen Willis, AIA, and I represent TBAE on the JAC. The next meeting of the JAC will be held at the William P. Hobby state office building in Austin on November 17, 2004. The public is welcome.*

*I, along with board members Alan Lauck, our interior designer member, Steve Ellinger, AIA, and Executive Director Cathy Hendricks, ASID/IIDA, recently attended the annual NCARB meeting in Portland, Oregon. Highlights of the meeting included the election of Mr. Ellinger to serve as director at the national level of NCARB and discussions about an exciting strategic plan for the future of architectural licensing, an effort that has been under study for over ten years.*

*Finally, as the new Chair of TBAE I would encourage all of our registrants—architects, interior designers, and landscape architects—to maintain a high quality of professionalism in their work. Thus we can better serve the citizens of our great state.*

### What's Inside:

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# Amendments and New Rules

At its meeting in May 2004, the Board adopted new rules and amendments to existing rules. The following is a brief summary of some of the more significant rule changes. The full text of the rules is published on TBAE's Web site, [www.tbae.state.tx.us](http://www.tbae.state.tx.us), or may be obtained by calling the TBAE office.

**CONSTRUCTION OBSERVATION — NEW RULE 1.217** requires construction observation of certain projects to be conducted by an architect or a person under the supervision and control of an architect. The rule applies only to projects for which the architectural plans and specifications must, by law, be prepared by an architect or one working under the supervision and control of an architect. The rule defines the term “construction observation” as the administration of construction described and documented in architectural plans and specifications, including:

- ★ Reviewing shop drawings, samples, and other submittals from contractors and consultants;
- ★ Preparing or reviewing each change to an architectural plan or specification;
- ★ Visiting the construction site at appropriate intervals to become familiar with the construction, keep the client informed, make reasonable efforts to identify defects and deficiencies, and generally determine whether the construction is in accordance with architectural plans and specifications; and
- ★ Informing the client in writing of any substantial deviation from the architectural plans and specifications that may prevent the building from being occupied or used as intended.

The rule does not require the same person who prepared the architectural plans and specifications to observe the construction of the project. While the rule does not directly require project owners to retain an architect to engage in construction observation, a person who is not an architect or under the supervision and control of an architect may be subject to sanction by TBAE for conducting construction observation which must be conducted by an architect.

**EXEMPTIONS FROM ARCHITECTURAL REGISTRATION LAW — RULE 1.211** which interprets TEX. OCC. CODE ANN. §1051.606 was amended. Section 1051.606 exempts persons who do not represent themselves as architects from the requirements of Chapter 1051 when preparing the architectural plans and specifications of certain projects. Among the projects listed in the statute are:

- ★ Multifamily dwellings not exceeding a height of two stories and not exceeding sixteen units per building;
- ★ Commercial buildings that do not exceed a height of two stories or 20,000 square feet; and
- ★ A warehouse that has limited public access.

The amendment to the rule defines terms used in the statute as follows:

- ★ Multifamily dwelling: a building containing more than two separate units intended to be used for human habitation where the units are separated only by walls or partitions, not open space;
- ★ Commercial building: an enclosed structure used primarily for the purchase, sale, or exchange of commodities or services;
- ★ Warehouse that has limited public access: a building used primarily for the storage of equipment, merchandise, or commodities and accessed only by employees, delivery personnel, and specifically authorized people who occupy the building only on a limited basis.

**ARCHITECTURAL DESIGN OF INSTITUTIONAL RESIDENTIAL FACILITIES — RULE 1.214** which implements TEX. OCC. CODE ANN. §1051.703(1) was amended. The statute requires the architectural plans and specifications for the construction or modification of an institutional residential facility to be prepared by an architect. As amended, the rule defines the statutory term “institutional residential facility” as a “building intended for occupancy on a 24-hour basis by persons who are receiving custodial care from the proprietor or operator of the building.”

**LANDSCAPE ARCHITECTS’ AND INTERIOR DESIGNERS’ SEALS — RULES 3.102(B) AND 5.112(B)** were amended to revise the image of the seal to be used by landscape architects and interior designers. The seals are

available on TBAE's Web site for all three professions.

**AFFIXATION OF SEALS AND SIGNATURES — RULES 1.102(C), 3.102(C), AND 5.112(C)** were amended to explicitly allow architects, landscape architects, and interior designers to affix their seal, signature, and the date of signature to documents electronically or by any other means, so long as the seal, signature, and date affixed to the document will produce a clearly visible and legible image on any copy or reproduction of the document.

**COMPLAINT PROCESS — PURSUANT TO LAWS PASSED BY THE 78TH LEGISLATURE, NEW RULES 1.174, 3.174, AND 5.184** were adopted which specify the procedure the agency shall follow in processing complaints. The process requires a preliminary evaluation to be conducted within 30 days of receipt of the complaint. After the preliminary evaluation period, the complaint shall either be dismissed or investigated. After investigation, the agency may dismiss the complaint, issue a warning letter under certain circumstances, or proceed to settlement or resolution of the case through the adjudicative process.

**ADMINISTRATIVE PENALTY SCHEDULE — NEW RULES 1.177, 3.177, AND 5.187** establish guidelines for determining the amount of administrative penalty TBAE may impose after concluding that an administrative penalty is the appropriate sanction. Under the guidelines, TBAE shall assess the following to determine whether a violation is minor, moderate, or major:

- ★ The seriousness of the misconduct, including the culpability of the respondent, the threat posed to the public health and safety, and efforts by the respondent to correct the ground for sanction;

- ★ Economic damage caused by the misconduct; and

- ★ The respondent's sanction history.

The rule specifies the following sanctions for each respective category of violation:

- ★ Minor violations – an administrative penalty of \$350;
- ★ Moderate violations – an administrative penalty of not less than \$351 and not more than \$1,200; and
- ★ Major violations – an administrative penalty of not less than \$1,201 and not more than \$5,000.

**REFUSAL TO RENEW REGISTRATION — PURSUANT TO LEGISLATION PASSED BY THE 78TH LEGISLATURE, RULES 1.232, 3.232, AND 5.242** were amended to allow TBAE to refuse to renew the registration of any registrant who has committed a violation for which revocation would be an appropriate sanction.

**PUBLICATION OF DISCIPLINARY ACTION BY TBAE — RULES 1.167, 3.167, AND 5.177** were amended to implement a statutory requirement imposed by the 78th Legislature. The amendments require TBAE to publish the name of any person who is the subject of disciplinary action by TBAE and allow TBAE to publish a summary of the facts giving rise to the disciplinary action and a description of the action taken. Previously, TBAE did not publish the disciplinary action of an informal reprimand. By statute, all disciplinary actions, including informal reprimands, must now be published.

**DISCIPLINARY ACTION AGAINST APPLICANTS — RULES 1.151, 3.151, AND 5.160** were amended to list prerequisites for an applicant to become registered after being denied registration for providing false

information to TBAE, violating the laws enforced by TBAE, or violating similar laws of another jurisdiction. The applicant may obtain approval for registration if the applicant:

- ★ Demonstrates he or she has taken reasonable steps to correct the misconduct or deficiency;
- ★ Demonstrates that approval of the application is not inconsistent with TBAE's duty to protect the public; and
- ★ Pays all costs and fees incurred by TBAE as a result of any proceeding that led to the denial of the previous application.

## Disciplinary Action

The following enforcement cases were decided at the May 2004 board meeting. Each case is based on the applicable rule in effect at the time of the violation. Individual rules may change between the time a violation occurs and the case is publicized. The rules provided on TBAE's Web site ([www.tbae.state.tx.us](http://www.tbae.state.tx.us)) include the adoption date and amendment date(s) for each rule.

**Cases involving registrants:** Eduardo F. Trevino, Architect (San Antonio, TX): formal reprimand for a violation of rule 1.146(g); an administrative penalty of \$1,500 for a violation of Rule 1.146(c).

**Cases Against Non-registrants:** TBAE has ordered the following people to refrain from practicing architecture and to refrain from using a form of the title "architect" to describe themselves and/or their businesses in Texas. Administrative penalties are listed.

Luis A. Bodmer (Austin, TX)—no penalty  
David L. Montgomery (The Woodlands, TX)—\$2,000

Jeff Nottingham (Euless, TX)—\$1,000

# Some Tips to Avoid a Case Referral from Texas Department of Licensing and Regulation

The Texas Department of Licensing and Regulation (TDLR) has resumed making referrals to TBAE of the names of architects, interior designers, and landscape architects for alleged violations of the law regulating architectural barriers. Tex. Gov. Code, § 469.102(b) says:

[An architect, interior designer, landscape architect with overall responsibility for the design of a project costing \$50,000 or more in estimated construction costs] “. . . shall submit the plans and specifications not later than the fifth day after the date the person issues the plans and specifications. If plans and specifications are issued on more than one date, the person shall submit the plans and specifications not later than the fifth day after each date the plans and specifications are issued. In computing time under this subsection, a Saturday, Sunday, or legal holiday is not included.”

Many registrants ask why TDLR has made a referral about them to TBAE. The answer is because the law requires TDLR to report to the registration board the name of any design professional with overall responsibility for the design of a project who fails to submit construction documents within the designated time period.

Here are some tips to avoid a TDLR referral:

- ★ **Plan Ahead!** As the architect, interior designer, or landscape architect with overall responsibility for the design of a project costing \$50,000 or more in construction costs, you are required to submit the project registration form and plans and specifications to a Registered Accessibility Specialist within five business days of when the plans and specifications are issued. Registered Accessibility Specialists are registered by TDLR and a list of all Registered Accessibility Specialists is provided on TDLR’s Web site: [www.license.state.tx.us](http://www.license.state.tx.us).
- ★ **Fill out the Project Registration Form (PRF) carefully!** When you fill in the section of the form requiring the “date construction documents issued,” keep in mind that, for TDLR, the date issued means the date on which you “mail or deliver plans or specifications to an owner, lessee, contractor, subcontractor, or any other person acting for an

owner or lessee for the purpose of construction, or in the case of a state-funded or other public works project, for the purpose of publicly posting the project for bids, after such plans or specifications have been sealed by an architect, interior designer, landscape architect or engineer.”

[§68.1(11) Texas Administrative Code]

- ★ **Don’t list your name on the TDLR project registration form unless you have overall responsibility for the design of the project.** TDLR’s definition for “overall responsibility” is “the level of responsibility held by an architect, landscape architect, interior designer, or engineer who prepares construction documents for and coordinates the various aspects of the design of a building or facility.” [§68.1(13) Texas Administrative Code]
- ★ **Keep copies of records that will show when you issued the plans and specifications.** Such record may include a dated receipt for overnight delivery or mail and/or a transmittal letter.
- ★ **Assume responsibility!** If you delegate the responsibility of completing the PRF and issuing the plans and specifications to another person and that person fails to submit them to TDLR within 5 business days after the plans and specifications have been issued, you will be held responsible for that failure.

If you receive a letter from TBAE about a referral from TDLR, we encourage you to be prompt about submitting your complete response with supporting documentation. Even though you will have 30 days in which to respond to TBAE’s inquiry, we want to encourage you to respond promptly because your failure to respond within 30 days of the date that you receive notice of the inquiry could result in a separate violation subject to disciplinary action. [See Rules 1.171(architect), 5.181 (interior designer), 3.171 (landscape architect).]

Questions and answers about TDLR’s architectural barriers program are located on the internet at [www.license.state.tx.us/ab/ab.htm](http://www.license.state.tx.us/ab/ab.htm) or call (512)463-6599 or (800)803-9202 (in Texas).



## INSIGHT FROM THE EXECUTIVE DIRECTOR

Cathy L. Hendricks, ASID/IIDA

# Don't Risk Re-Examination

Have you ever allowed your driver's license to expire and received a ticket for the violation? The state is getting tough on professional licenses but instead of a ticket, you could risk losing your license and possibly retaking the national exam!

The law went into effect on September 1, 2003, and mandates automatic cancellation of an architect's, interior designer's, and landscape architect's registration that has been expired for more than one year. The interior designers whose registrations expired on December 1, 2003, will be the first group affected and will have their registrations cancelled by operation of law on December 1, 2004, if they have not renewed. As before, all late fees must be paid and all continuing education requirements must be completed before TBAE can renew a registration.

*A registration cancelled by operation of law may not be reinstated.* The status of the registration will be "cancelled non-renewable" because payment of the late fees after 365 days will not renew the registration.

If you allow your registration to be cancelled, you must reapply for a new license as if you had never received one before. This will include opening a new file with the agency, reapplying for and taking the national registration exam, having all education and experience requirements in place, and paying all fees associated with examination and application.

The good news is that you can easily avoid the pain and trouble of reapplying for your license if you keep your annual registration fee current. If you aren't sure when your renewal fee is due, you can find that information on our Web site or give us a call. Make sure we have your correct address. Renewal notices are sent out approximately six weeks before each renewal deadline, so please mark your calendar and contact us if you don't receive a form.

You can find a printable copy of the rules on our Web site at [www.tbae.state.tx.us](http://www.tbae.state.tx.us), or feel free to call our staff if you have any questions.

## Continuing Education Opportunities

Cathy L. Hendricks, ASID/IIDA, Executive Director of TBAE, will be giving presentations at several locations around Texas in September and October where she will explain changes in rules and how they will effect professional practice. Attendees will earn 1.5 Continuing Education Program Hours credit.

September 17, 2004, South Padre Island  
American Institute of Architects—regional meeting  
South Padre Island Convention Center  
Contact: Carmen Pérez García, Hon. TSA, (956)994-0939  
or [Irgvaia@swbell.net](mailto:Irgvaia@swbell.net)

September 18, 2004, Dallas, Texas  
American Society of Interior Designers - national meeting  
The World Trade Center  
Contact: Rosemarie Rene, (972)717-7566 or  
[ovrene@aol.com](mailto:ovrene@aol.com)

October 22, 2004, Houston, Texas  
Texas Society of Architects—annual meeting  
George R. Brown Convention Center  
Contact: Gayle Pickering, (512)478-7386 or  
[gpickering@texasarchitect.org](mailto:gpickering@texasarchitect.org)

## CUSTOMER SERVICE SURVEY

The results of TBAE's bi-annual customer service satisfaction survey are in and your responses are providing a great deal of useful information. This year's survey was conducted in an electronic format utilizing new technology and the agency's new list-serve of 5,000 subscribers. The survey was also mailed to approximately 700 registrants and examination candidates not captured by our list-serve. While the responses indicate a high approval rating, we also received many helpful suggestions which we will use in our efforts to improve our services. We encourage your continued feedback, so don't wait until the next survey. The results of the survey are available on TBAE's Web site, [www.tbae.state.tx.us](http://www.tbae.state.tx.us).

# New Registrants

Congratulations to the following individuals who passed their registration examinations between March 11 and July 16, 2004:

## ARCHITECT REGISTRATION EXAMINATION (ARE):

Aguilar, Laura Elia	Espinoza, Daniel Javier	Lerner, Michael C.	Richard, Brian Patrick
Ahrens, Jane Cronin	Fang, Hong	Loinette, Jeffrey	Ridington, John William
Bailey, George Irving	Geschke, Kai Joachim	Marek, Scott A.	Safir, David Michael
Ballard, Benjamin	Ghalib, Haia H.	Martinez, Michael A.	Scarmardo, Samuel, III
Barrera, Martin R., Jr.	Gilmore, Anzilla Rachal	Meis, David Michael	Shah, Pankaj M.
Bodewin, Daryl Davis	Gutierrez, Gerardo	Mejia, Carlos Patrick	Tibbs, Patrick Bentley
Brannon, T. Dean	Hammer, Hoyt Don	Melenciuc, Doru Mihail	Tornelli, Carlos
Brown, Monica Reyes	Henning, Charles Bruce	Meyer, Adriana	Vaughn, Daniel Brian
Burrows, James Bradley	Herring, Lisa H.	Milligan, Charles R., III	Wagner, Daren Lee
Carlton, David	Hoyler, David R.	Moon, Hyojin	Weisz, Al
Chen, Xiangli	Hruska, Rame	Murphy, Jeromy	Westerholm, Erick W.
Crist, Jason Edward	Hudson, Timothy Leo	Murphy, Lori	Whelan, Juliet O.
Daniels, Mark A.	Jaffar, Luma	Newberry, Kenneth A.	Williamson, Sean M.
Davis, David Alon	Jussila, Laurie	Ohlenbusch, Darryl	Wittingstall, Clifford W.
Day, Daniel R.	Koester, Manon Sora	Pardilla, Sharon	Zordilla, Francis Roy
Ekern, Patricia	Krejci, Joseph, IV	Peck, William Clyde	
Engel, Douglas L.	Kuo, Chun-Tien Peter	Petak, Lauren Anne	

## LANDSCAPE ARCHITECT REGISTRATION EXAMINATION (LARE):

Baalman, Beth Janel	Cowan, Susan C.	O'connor, Catherine	Woliver, Tricia Amador
Boles, David Andrew	Huang, Chung-Chih	Voss, Mark Aaron	

## NATIONAL COUNCIL FOR INTERIOR DESIGN QUALIFICATION EXAMINATION (NCIDQ):

Akins, Margaret Paige	Connelly, Noreen	Harder, Mark Stuart	Shafiei, Sharzad
Arzamendi, Regina M.	Dvorak, Amanda	Jackson, Amanda C.	Ulrick, Emily McGuffey
Baker, Regan M.	Fornero, Susan Elisabeth	Jacoby, Laura	Watts, Teri
Burggraaf, Jennifer Elizabeth	Geiger, Melissa P.	Jajodia, Shweta	Yoder, Jana Kathryn
Chasen, Heather Ann	Gruber, Leslie Anne	Katzberg, Andrea Heather	

## Gordon Landreth Appointed to Chair TBAE

In May of this year, Governor Rick Perry appointed Gordon Earl Landreth, AIA, of Corpus Christi as chairman of TBAE. Mr. Landreth has served as one of the four architect board members for TBAE since August of 2000, and as vice-chairman since May of 2002. Mr. Landreth is President of Cotten Landreth Kramer Architects & Associates, Inc. Mr. Landreth holds a Bachelor of Architecture degree from Texas A&M University, College Station. He received his architect's license in 1972. Mr. Landreth is past president of the Corpus Christi Chapter of the American Institute of Architects, and he serves on AIA's Continuing Education System Committee. His notable projects include the Gulf Coast Humane Society in Corpus Christi, the Performing Arts Center at Texas A&M University-Corpus Christi and numerous churches in South Texas. Mr. Landreth replaces Steven T. Ellinger, AIA, as chair. Mr. Ellinger's term expired in January of 2003.

## Certificates of Appreciation

During the October 2003 board meeting, TBAE presented certificates to the following eight architects for their contribution of time and professional expertise in assisting TBAE staff with various enforcement cases. We appreciate the time that each of these individuals has given so generously:

Maricela Rodriguez Barr	David Rayburn Hamill
Robert H. Cox	Morton L. Levy
Michael D. Elliott	George H. Loving
John O. Greer	Bobbie Joe Wise

## Scholarship Awards

Congratulations to the recipients of the Architect Registration Examination Financial Assistance Fund (AREFAF) scholarships for the first half of 2004:

David J. Amy, Austin	Minho Kim, Plano
Brent D. Bordovsky, Fort Worth	John P. Novak, Woodlands
David Davis, Houston	Javier Roque, El Paso
Lisa Morris, Dallas	Patrick W. Ruland, Dallas
Audrey Beth Rohloff, College Station	Samar V. Sarma, Dallas
Juliet O. Whealan, Austin	Heath J. Wenrich, San Antonio
Kolawole Anifowoshe, Sachse	LaTonya Whitfield-Horhn, Prairie View
Gregory S. Cox, Bryan	
Kenneth M. Jones, Lufkin	

The scholarship is a one-time reimbursement of \$500 for taking the Architect Registration Examination. TBAE awards scholarships twice each year - December 31st and June 30th. The deadline for submitting scholarship applications is two weeks prior to each award date. To learn more about the scholarship, visit [www.tbae.state.tx.us/active/arefaf\\_intro.html](http://www.tbae.state.tx.us/active/arefaf_intro.html).

## Have You Subscribed to List-serve?

This service provides immediate email renewal reminders, announcements, updated rules, and an electronic version of this newsletter. Sign up by following the instructions on our Web site ([www.tbae.state.tx.us](http://www.tbae.state.tx.us)). All List-serve messages sent to date can be found in the List-serve archive which is also provided on our Web site.

### Change of Address

Please make sure that we have your current address so we may mail your renewal notice to you in a timely fashion. You may search your own record for current address and renewal information via our Web site, <http://www.tbae.state.tx.us>. Put any address change in writing, including your signature, and mail or fax it to (512)305-8900. We send renewal notices to registrants as a service. Please be aware that you are responsible for paying your renewal fee whether or not you receive a notice.

**TEXAS BOARD OF  
ARCHITECTURAL  
EXAMINERS**

333 Guadalupe  
Suite 2-350  
Austin, TX 78701

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It is the mission of the  
Texas Board of Architectural  
Examiners to ensure a  
safe built environment for  
Texas by regulating the  
professions of architecture,  
landscape architecture, and  
interior design.

**HOW TO CONTACT US**

Telephone: (512) 305-9000

Fax: (512) 305-8900

Web site: [www.tbae.state.tx.us](http://www.tbae.state.tx.us)

Mailing address: TBAE,  
P.O. Box 12337, Austin, TX 78711

Delivery address: TBAE,  
333 Guadalupe, Suite 2-350,  
Austin, TX 78701

## Next Board Meeting

The next board meeting is scheduled for October 11-12, 2004. It will be held in conference room 225, Tower II of the Hobby Building, 333 Guadalupe, Austin, Texas. The agenda for this meeting will be posted on TBAE's Web site on October 10, 2004.

**EXECUTIVE DIRECTOR:**

Cathy L. Hendricks, ASID/IIDA

**BOARD MEMBERS:**

Gordon E. Landreth, AIA –  
Chairman  
Architect Member  
Term: 8/7/00 – 1/31/07

Anthony Trevino, Jr. –  
Vice-Chairman  
Public Member  
Term: 05/12/98 - 01/31/05

Diane Steinbrueck, ASLA –  
Secretary/Treasurer  
Landscape Architect Member  
Term: 05/31/01 - 01/31/07

Steven T. Ellinger, AIA  
Architect Member  
Term: 01/01/97 - 01/31/03

Kyle Garner  
Public Member  
Term: 04/06/04 – 01/31/09

Alan R. Lauck  
Interior Designer Member  
Term: 05/12/99 - 01/31/05

Peter L. Pfeiffer, FAIA  
Architect Member  
Term: 11/01/03 - 01/31/09

Janet Parnell  
Public Member  
Term: 05/31/01 - 01/31/07

R. Nolen Willis, AIA  
Architect Member  
Term: 05/12/98 - 01/31/05

**Editor:**

Priscilla Pipho, Manager of  
Communications and  
Administration,  
[Priscilla.pipho@tbae.state.tx.us](mailto:Priscilla.pipho@tbae.state.tx.us)

**Editorial Assistants:**

Gail Hile, Communications  
Assistant  
Trish Prehn, Executive Assistant

**Contributors:**

Mary Helmcamp, Director of  
Registration  
Cynthia Black, Director of  
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Cynthia Hamilton, Special  
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Scott Gibson, General Counsel

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