TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of April 5, 2012
Engineer Application Review Committee Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower II, Conference Room 350-L
Austin, TX 78701
9:00 a.m. until completion of business

1. Call to Order
Chair Chuck Anastos called the meeting of the Review Committee to order at
9:00 a.m.

2. Roll Call
The Chair called the roll. A quorum was present.

Present
Charles H. (Chuck) Anastos Chair
Bert Mijares, Jr. Member
Debra Dockery Member

TBAE Staff Present
Cathy L. Hendricks Executive Director
Scott Gibson General Counsel
Glenda Best Executive Administrative Manager
Katherine Crain Legal Assistant
Michael Shirk Managing Litigator
Steve Franz Investigator

Attendees
Lance Kinney, P.E. (Executive Director, TBPE); David Howell, P.E. (Director of
Licensing, TBPE); James Perry (Executive Vice President, Texas Society of
Architects); David Lancaster, Hon. AIA (Senior Advocate, Texas Society of
Architects – arrived at 9:10 a.m.); Kathy Grant (Lobbyist for Texas Society of
Architects); Justin Hudman (Legislative Coordinator, State Representative Todd
Hunter); Raymond W. Stone, P.E., Paula Stone, Jose M. Gil, P.E., Royce
Krueger, P.E., Terry Krueger, Ronald E. Nelson, P.E., Johnny Tabor, P.E., and
Tommy Tabor, P.E.

3. Public Comment
None.

4. Minutes – Approval of minutes of the February 3, 2012 meeting of the HB 2284
TBAE Review Committee
A MOTION WAS MADE AND SECONDED (Dockery/Mijares) TO APPROVE THE
MINUTES OF THE FEBRUARY 3, 2011 MEETING. THE MOTION PASSED
UNANIMOUSLY.
6. REQUEST FOR CONSIDERATION OF SUBSTITUTED PROJECTS FILED AFTER DEADLINE

A. 067-12E – Raymond Stone, P.E. (Filed a non-qualifying project; requested substitute project consideration)

Mr. Stone made a presentation to the Board regarding his application. He filed his application in late November or early December 2011. He stated agency staff told him his application included three qualifying projects and that his application would be considered by the committee at its next meeting. In March, after the filing deadline, agency staff informed him one of the projects was below the size threshold for a commercial building and therefore did not qualify for the application process. He submitted another project for consideration, but staff rejected that project because it was submitted after the filing deadline had passed.

The committee members discussed the distinction between a commercial building and an educational facility under building codes. The general counsel noted that under the statutes, which set the qualifying standards for application purposes, an educational facility must be owned by a political subdivision of the state. The project in question is a privately-owned training facility which is 19,700 square feet and its intended use was to provide training services for a fee. The design plans depict a commercial build that is below the statutory threshold of 20,000 square feet.

The chair inquired about representations made to Mr. Stone regarding the submission of his application to the committee. The agency investigator stated that he informed Mr. Stone that he was recommending his application for the consideration of the committee. Agency staff’s initial determination of the projects was that they all were over the statutory thresholds and qualified for committee consideration.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO TAKE UP AND CONSIDER RAYMOND STONE’S ORIGINAL APPLICATION WITHOUT THE SUBSTITUTED PROJECT AT A COMMITTEE MEETING TO BE HELD MAY 17, 2012. THE MOTION PASSED UNANIMOUSLY.

B. 081-12E – John Scales (Filed one project that did not qualify; requested substitute project consideration)

Mr. Scales made a presentation to the Board regarding his application. He stated that he submitted his application with all three projects on or about December 23, 2011, prior to the deadline of January 1, 2012. One set of plans was for the design of a credit union that was roughly 6,200 square feet which is below the 20,000 square-feet threshold. The agency sent Mr. Scales notice after the January 1st deadline that the project did not qualify under the statute. Mr. Scales requested that he be allowed to submit another project to the committee for its review as a substitute for the credit union project. Staff informed Mr. Scales the deadline for filing projects had passed.

Mr. Scales stated that he did not see anything in the materials or instructions regarding the process which did not allow an applicant to substitute new projects for prior submissions after the deadline. The general counsel stated the statute requires engineers to apply for placement on the list by filing evidence of designing three buildings not later than January 1, 2012. The general counsel noted that the deadline for
filing was published roughly four times in application instructions, a document titled “frequently asked questions” and other documents published on the web site for the Board and the Board of Professional Engineers. Mr. Scales argued nothing prevents an applicant from supplementing or augmenting an application after the deadline and submission of plans for another project is an augmentation or supplementation of his application. He argued the committee set precedents allowing applicants to substitute projects or augment applications after the deadline. The general counsel stated that is not true. The general counsel reported the committee had requested an applicant to submit a sealed set of plans for a qualified project for which unsealed plans had been submitted. The general counsel noted the applicant in that case was submitting an identical set of plans for the same projects bearing his seal. The general counsel noted that is different from filing a different set of plans for a different project after the deadline. The general counsel argued that if applicants were permitted to substitute projects each time an application was rejected or found to be unsafe or inadequate, there would never be a final determination on any application.

The general counsel gave an explanation on the process for going forward if the committee denied Mr. Scales’ request.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO DENY THE APPLICATION OF 081-12E FILED BY JOHN SCALES FOR FAILING TO FILE EVIDENCE OF HAVING DESIGNED THREE QUALIFYING PROJECTS BY THE APPLICATION DEADLINE SPECIFIED BY STATUTE. THE MOTION PASSED UNANIMOUSLY.

Mr. Scales expressed his intention to request the Board to reconsider the decision of the committee at the next Board meeting.

The Committee took a break at 9:52 a.m. and reconvened at 10:00 o’clock a.m.

The Chair noted that he and Mr. Stone are from Corpus Christi but they do not know one another. For this reason, the Chair did not abstain from voting on the motion regard Mr. Stones’ application. The Chair returned to the agenda as follows:

5. **Excepted Engineer Permit Applications (Action)**

Review and act upon engineer applications for exemption from the Architectural Practice Act.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO APPROVE THE FOLLOWING APPLICATIONS AS A CONSENT AGENDA IN THE ABSENCE OF OBJECTION BY ANY MEMBER OF THE COMMITTEE:

A. 075-12E – James Dunn, P.E.
B. 084-12E – Dinesh Shah, P.E.
C. 086-12E – Jatin Desai, P.E.
D. 090-12E – Royce Krueger, P.E.
E. 097-12E – Jose Gil, P.E.
F. 104-12E – Kamfan, Li, P.E.
G. 110-12E – Homero Castillo, P.E.
H. 111-12E – Doris Gibbs, P.E.
The Chair asked if there was any objection to placing the listed applicants to the list of engineers exempt from the Architectural Practice Act. There was no objection. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION AND ACTION ON APPLICATION 016-12E OF DELBERT RICHARDSON, P.E.:

The committee discussed the application of Delbert Richardson, P.E. and the following projects on his application:

1. First Baptist Church Hemphill Family Life Building, Hemphill, Texas;
2. First Presbyterian Church Assembly & Fellowship Hall, Livingston, Texas; and
3. Union Road Church of Christ, Lufkin, Texas.

The committee discussed the occupancy rating of the gym in the First Baptist Church project. It was noted the gym adjoins a kitchen and includes a stage. The occupancy rating for the space should have been multi-purpose as it is foreseeable that the gym will be used for assembly and will not be occupied only by participants in sports. For a space classified as multi-purpose, the occupant load would exceed 300 requiring a sprinkler system under section 903.2.1.3. of the International Building Code. No sprinkler system appears in the plans. Ms. Dockery noted the plans also call for the walls to have carpeting and textiles are not permitted in this quantity on the walls for multi-purpose rooms. On Section 8 of page B7, the plans do not specify a one-hour rated walls and ceiling in the exit corridor. The committee also discussed the Union Road Church of Christ project which also did not include a sprinkler system which would have been required for a building with the occupancy load of the Church. The committee determined the First Presbyterian Church did not have one-hour fire rated doors and windows in the corridor and, according to the plans, did not have commercial hoods for the commercial kitchen. Mr. Mijares stated that his concern was with life safety and the plans for the multi-purpose gym in the First Baptist Church did not address some basic life-safety issues.

A MOTION WAS MADE AND SECONDED (Dockery/Mijares) TO REJECT APPLICATION NUMBER 016-12E FILED BY DELBERT RICHARDSON, P.E. FOR FAILING TO FILE EVIDENCE OF HAVING DESIGNED THREE QUALIFYING PROJECTS WHICH ARE SAFE AND ADEQUATE. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION AND ACTION ON APPLICATION 076-12E OF JOHNNY TABOR, P.E.:

Ms. Dockery stated that she had reviewed the application of Johnny Tabor, P.E., and the following projects on his application:

1. Classroom addition to West Elementary School, West, Texas;
2. Cafeteria & Classroom addition to West Elementary School, West, Texas; and

The committee asked the applicant about fire rating of doors in corridors in the Whitney ISD project. In response to a question regarding the lack of a site plan, Mr. Tabor stated
he did not prepare the site plan so he did not include it in his application. A MOTION WAS MADE AND SECONDED (Dockery/Mijares) TO APPROVE THE ENGINEER APPLICATION #076-12E OF JOHNNY TABOR, P.E. TO BE ADDED TO THE LIST OF ENGINEERS EXEMPT FROM THE ARCHITECTURAL PRACTICE ACT. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION AND ACTION ON APPLICATION 093-12E OF RONALD NELSON, P.E.:

Ms. Dockery stated that she had reviewed the application of Ronald Nelson, P.E., and the following projects on his application:

1. Cowboy Church at McLean, McLean, Texas;
2. Highland Baptist Church, Pampa, Texas; and
3. Open Range Building, Pampa, Texas.

The committee inquired about a sprinkler system in the Cowboy Church. It does not appear in the photographs. Mr. Nelson said the project is being constructed in phases and the sprinkler system has not yet been installed. Mr. Nelson also addressed questions about the fire rating of doors in the corridors, accessibility review, the absence of his seal on construction documents, and the materials to construct the Class II-B storage cells on the second story. Based upon Mr. Nelson's explanations, the committee determined there were no serious defects and the projects were adequately and safely designed.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO APPROVE THE ENGINEER APPLICATION 093-12E OF RONALD NELSON, P.E. TO BE ADDED TO THE LIST OF ENGINEERS EXEMPT FROM THE ARCHITECTURAL PRACTICE ACT. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION AND ACTION ON APPLICATION 108-12E OF TOMMY TABOR, P.E.:

Ms. Dockery stated that she had reviewed the application of Tommy Tabor, P.E., and the following projects on his application:

1. Public Library -- West, Texas;
2. Franklin Elementary School Additional, Hillsboro, Texas; and

In response to questions from the committee, Mr. Tabor stated the doors in a one-hour fire rated corridor were rated for 20 minutes, in the Franklin Elementary project no fire dampers were required in the ducts which crossed the fire rated corridor under the SBBCI code (which he was applying under the project), existing toilet facilities were utilized in the McGregor High School project which was acceptable under the applicable code, and wood blocking was wrapped in gypsum in the McGregor High School project which was permitted at the time under the code.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO APPROVE THE ENGINEER APPLICATION 108-12E OF TOMMY TABOR, P.E. TO BE ADDED TO THE
LIST OF ENGINEERS EXEMPT FROM THE ARCHITECTURAL PRACTICE ACT. THE MOTION PASSED UNANIMOUSLY.

5. Adjournment
A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO ADJOURN THE MEETING AT 10:50 A.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Committee:

CHARLES "CHUCK" H. ANASTOS, AIA
Chair of the HB2284 TBAE Review Committee
TEXAS BOARD OF ARCHITECTURAL EXAMINERS