

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Minutes of June 14, 2013 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street

Tower III, Conference Room 102

Austin, TX 78701

9:00 a.m. until completion of business

1. Preliminary Matters

A. Call to Order

Vice-Chair (Presiding Chair) Chase Bearden called the meeting of the Texas Board of Architectural Examiners to order at 9:02 a.m.

B. Roll Call

Secretary/Treasurer Sonya Odell called the roll.

Present

Chase Bearden	Vice-Chair
Sonya Odell	Secretary/Treasurer
Charles H. (Chuck) Anastos	Member
Bert Mijares, Jr.	Member
Michael (Chad) Davis	Member
William (Davey) Edwards	Member
Debra Dockery	Member
Paula Ann Miller	Member

TBAE Staff Present

Cathy L. Hendricks	Executive Director
Scott Gibson	General Counsel
Glenda Best	Executive Administration Manager
Glenn Garry	Communications Manager
Mary Helmcamp	Registration Manager
Jackie Blackmore	Registration Coordinator
Mike Alvarado	Reciprocal Coordinator
Ken Liles	Finance Manager
Jack Stamps	Managing Investigator
Julio Martinez	Network Specialist
Katherine Crain	Legal Assistant

C. Excused and unexcused absences

Alfred Vidaurri (Excused)

D. Determination of a quorum

A quorum was present.

E. Recognition of Guests

The Chair recognized the following guests: Donna Vining, Executive Director for Texas Association for Interior Design, Marilyn Roberts, Texas Association for Interior Design, David Lancaster, Senior Advocate for Texas Society of Architects, Mark Woodward, Architect, Laura Hardt, Registered Interior Designer, Matt Miller, Institute for Justice, and Kelly Barnett.

F. Chair's Opening Remarks

The Presiding Chair thanked everyone including Board members and staff for working so diligently on the Sunset review and on other matters. He reminded the Board members, staff and audience that the purpose of this agency was to protect the health, safety and welfare of the public.

2. Introduction of New Board Members

The Chair introduced two newly-appointed Board members and a reappointed Board member: Chuck Anastos, Chad Davis and Davey Edwards. He stated that Chuck Anastos had previously served on the Board for the last 6 years and had been reappointed by the Governor. Chad Davis will serve as the landscape architect on the Board. By way of introduction, Mr. Davis stated he grew up in Lubbock, works for Parkhill, Smith & Cooper, and is a past President of the Texas Chapter of ASLA. He has been active in ASLA and is familiar with the Board, having attended several meetings on behalf of ASLA. He said he is excited to serve on the Board. Mr. Edwards introduced himself. He said he is a land surveyor, licensed in Texas, Oklahoma and licensed as a federal surveyor. He is past President of the Professional Society of Land Surveyors. Mr. Edwards noted that he studied at the School of Architecture at the University of Texas at Arlington, received a degree in medical science from Texas A&M University and then obtained a Master's Degree in surveying. He reported he has a strong interest in architecture and looks forward to serving on the Board, working toward the health, safety and welfare of the state.

G. Public Comments

The Chair opened the floor for public comment and recognized Mr. Woodward.

Mr. Woodward distributed written material to the Board members. He stated that Texas has the highest registration fees in the world. He drew the Board's attention to the Washington state newsletter he had handed out and pointed out that Washington is suspending its licensing fee because it takes in too much money. He also drew the Board's attention to an article in the Washington newsletter regarding the architects' standard of care. He noted Washington does not enforce CEU requirements as Texas does. He stated architects who have handgun permits should be exempt from fingerprinting requirements because they have already undergone fingerprinting. His last comment was that Board members' personal emails should appear on the agency's website.

There was no other public comment in person. However, the Chair noted two letters which had been mailed to the Board's offices for the Board's consideration as public comment. Mr. James Perry of TSA to encourage the Board to initiate rule-making to implement legislation which allows the Board to consider the ARE as an alternative to the NCIDQ examination for purposes of registration as a registered interior designer. Ms. Kitty Wasemiller of Abilene Christian University wrote to the Board to register applicants as registered interior designers based solely upon successful completion of the NCIDQ examination. The Board members read the letters.

3. Approval of the January 31, 2013, Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE JANUARY 31, 2013, BOARD MEETING MINUTES. Ms. Dockery stated she did not wish to amend the minutes but noted that the discussion on Rule 7.10, relating to the Board's fee schedule, included concerns about whether the fee schedule is clear or whether it

might be confusing to the registrants who consult the fee schedule and the minutes do not reflect that discussion. She contrasted that discussion with the amount of detail on the presentation made by a prospective vendor for processing online credit card transactions. THE MOTION PASSED WITH MR. DAVIS AND MR. EDWARDS ABSTAINING FROM THE VOTE BECAUSE THEY WERE NOT ON THE BOARD DURING THE JANUARY 31, 2013 MEETING.

The Chair stated Ms. Kelly Barnett came in the meeting late and wanted to make a public comment.

G. Public Comments (Continued)

Kelly Barnett -- Ms. Barnett introduced herself as a former registered interior designer and addressed the Board to comment on proposed rule changes to implement HB 1717. Ms. Barnett noted HB 1717 refers to passage of "the" exam. She stated she did not see anything that would allow passage of one of multiple examinations. Ms. Barnett asked if TBAE has the authority to allow registration as an interior designer by passing any examination other than the NCIDQ. The General Counsel stated the Board has the statutory authority to designate the NCIDQ or a comparable examination for registration. Ms. Barnett also requested that the agency change its website to more clearly emphasize voluntary nature of registration as an interior designer and to specify which registered interior designers were registered without examination through the grandfathering process. She also noted she had several other modifications she would like the agency to make.

4. Executive Director Report

A. Budget Review – The Executive Director outlined revenues and expenditures through the end of April compared to the budget as adopted at the start of the fiscal year. The agency has collected roughly 61 percent of projected revenues and expended almost 49% of anticipated expenditures. The Executive Director noted the \$26,190 expended on the line item "Exceptional Items: IT Upgrades in 2013" is to cover the cost of putting some of the agency's IT functions in the cloud. The Executive Director reported the agency will be contracting with the Department of Information Resources to go to the cloud in lieu of contracting with a private vendor which will lower costs and provide more robust security.

Mr. Mijares asked about when office rental is paid. Only 10 percent of that line item has been paid for the year to date so it obviously is not paid throughout the year. The Finance Manager stated the agency usually receives an invoice for rent in October to cover the just-concluded fiscal year. The agency pays the invoice and charges it back to the year when the rent charge accrued. He noted the agency paid the rent in October for Fiscal Year 2012 but charged that amount to the 2012 budget so it does not show up on budget for this year as a false surplus.

The Executive Director outlined the current balance of the scholarship fund, the number of scholarships awarded, and the cumulative amount of monies awarded as scholarships. Mr. Edwards asked about the source of revenue available for scholarships. The Executive Director stated the money was derived from a surcharge architects used to pay. The balances became so

high the Board discontinued collection of the surcharge. The General Counsel added the Board had the discretion to stop charging for the scholarships.

B. Online Registration Renewal – The Executive Director reported on the online renewal of registration for registered firms and businesses. In Fiscal Year 2011, the agency had estimated a fee for annual business registration renewal in the amount of \$20. But based upon more current and accurate data, the agency currently estimates a charge of \$45 is necessary to cover the costs of business registration. Mr. Davis asked the Executive Director to identify the costs that are to be amortized over 5 years as indicated in the document referenced by the Executive Director. The Executive Director stated it included salaries and programming costs. The Finance Manager added it included development costs independent from programming costs. Mr. Anastos asked if a multi-disciplinary firm must register and pay a separate fee for each regulated profession it offers or renders. The General Counsel answered that the rules provide that each firm pays the same fee, regardless of whether the firm is a multi-disciplinary firm. Mr. Anastos asked if a multidisciplinary firm may register and renew registration by completing a single form. The Executive Director stated she believed that is currently the way the business registration form is drafted. If not, the agency will correct the form for that purpose. In response to a question from Mr. Edwards, the Executive Director stated the estimate of 1500 registered design firms includes out-of-state firms.

Mr. Davis asked if the online business registration roster and search function could include the logo of the design firm. The Managing Investigator stated the website includes an optional link to the registrant's website. Mr. Davis stated the registrants might see greater value to registration if their listing included a logo. Mr. Anastos suggested the Board should consider whether it is appropriate for a regulatory board to include logos in its registrant rosters.

C. Legislative Report/Update

The Executive Director directed the Board's attention to the copy of the agency's Sunset bill (HB 1717) and an outline of the Sunset bill (HB 1685) for the SDSI program in the Board notebook. The key changes in the bills are as follows:

1. Fingerprint-based criminal background checks. Mr. Anastos asked if previously submitted fingerprints will be used in lieu of undergoing another fingerprinting. The Executive Director reported we do not know definitively but based upon responses received to date, it appears that previous checks will not suffice to fulfill the requirement. Mr. Edwards asked if out-of-state licensees will have to undergo fingerprint-based background checks. The Executive Director stated they will.
2. Registered interior designers who have not passed a registration examination must do so by September 1, 2017, or will no longer be registered.
3. Late fees will be assessed only on the portion of the fee which remains with the agency, excluding the \$200 occupational fee remitted to the General Revenue Fund.
4. Enforcement penalties are to be remitted to the General Revenue Fund.

5. Architects are required to pay the \$200 occupational fee upon initial registration.
6. Agency is required to report performance on new, specific performance measures.
7. Agency will be charged for its next Sunset review which is currently scheduled to take place in 2025.

Mr. Anastos noted that he has gotten a lot of calls about fingerprinting. He asked where the fingerprints will be kept. The Executive Director stated they will be collected by a vendor with the Texas Department of Public Safety and remain with them. The agency will never have possession of fingerprints or criminal history records. Mr. Anastos stated he also gets inquiries about who receives the fee. The Executive Director reported the fee is paid to the contractor. The agency will not receive any part of the fee. Mr. Anastos asked how the agency will know whether a person has paid the fee or undergone the fingerprint check before we register them or renew registration. The Communications Manager stated that depends upon how we get notice from the vendor. The agency is still learning how this process will work.

Mr. Mijares asked how soon these requirements will take effect. The Communications Manager stated the start date is January 1, 2014, and will apply to applications for registration and renewal of registration on or after that date.

The Board took a break at 10:13 a.m. and reconvened at 10:27 a.m.

The Board continued deliberations on the Executive Director's report. The Executive Director reported that the agency will begin using a third party vendor to process online credit charges effective September 1, 2013. Upon that date, registrants will be charged a convenience fee for online services and the agency will no longer be charged credit card fees. The credit card fees currently cost the agency roughly \$108,000 annually. The Executive Director referred the Board to a chart detailing the fiscal impact of the charge upon each category of registrant. Ms. Dockery asked if the convenience fee will be charged only to registrants who pay online. The Executive Director stated it would. Ms. Dockery also asked if registrants renewing online has produced efficiencies and savings for the agency. The Executive Director stated it has and, as a result, the agency has been able to reduce the number of agency personnel over the past two years.

Report on Conferences and Meetings

- A. CLARB Spring Meeting, Scottsdale, AZ (March 1-2, 2013)
The Executive Director stated that three agency staff from the Registration Division attended the meeting. The Executive Director referred to the staff summary in the Board members' notebooks. Staff reported upon efforts by CLARB to streamline the examination and registration process, unlicensed practice issues in other states, and accessibility issues in the practice of landscape architecture.
- B. NCARB Joint Regional Meeting, Charleston, SC (March 7-9, 2013)
The Executive Director stated that TBAE Chair, Alfred Vidaurri, was elected Chairman of Region III. Mr. Mijares commented upon the significance of the TBAE Chair becoming the Chair of Region III. The Executive Director also reported upon the CEO report and draft NCARB resolutions. Also, the

Executive Director stated NCARB is changing the location of the Spring Regional Meeting, but unsure of the new location.

5. General Counsel Report

A. Proposed Rules for Adoption

Amend Rule 1.191 relating to experience required for architectural registration by examination, repealing limit on number of hours credited for academic internships.

The General Counsel explained to the Board that the amendment eliminates restrictions on the number of academic internship hours which may count toward the experience requirements and conforms to a recent change made by NCARB. The proposed rule was published for public comment for 30 days. The agency received no public comment.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO ADOPT THE PROPOSED AMENDMENT TO RULE 1.191 REPEALING THE LIMIT ON THE NUMBER OF HOURS OF EXPERIENCE CREDITED FOR ACADEMIC INTERNSHIPS. THE MOTION PASSED UNANIMOUSLY.

B. Prospective Rule for Proposal

I. Amend Rule 7.10 relating to general fees. The amendment would increase fees for business registration, add the \$200 occupational fee for initial architectural registration, include charges for a third party convenience fee for online registration services, and modify the penalty for late registration renewal.

The General Counsel reported the amendments regarding the occupational fee for initial architectural registration and modifications to the manner in which the late fees are imposed implement legislative changes to the Board's enabling law by the Sunset bill. Ms. Dockery noted that the fee schedule is confusing in that it is unclear which fees are subject to the additional \$200 occupational fee and which are not. Mr. Edwards suggested each fee subject to the occupational fee should be cross-referenced to the footnote. After deliberation, the Board determined the fee schedule should be replaced with a separate fee schedule similar to the fee analysis in the Board notebooks which outlines each fee to be paid by each category of licensee, candidate and applicant as well as the total of the fee when added to the occupational fee and the convenience fee for online transactions.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO PROPOSE THE DRAFT AMENDMENTS TO RULE 7.10. AN AMENDMENT WAS MADE (Dockery/Davis) TO STRIKE THE CURRENT FEE SCHEDULE AND REPLACE IT WITH A FEE SCHEDULE SIMILAR TO THE FEE SCHEDULE AS REPRESENTED IN THE BOARD NOTEBOOKS. THE MOTION AS AMENDED PASSED UNANIMOUSLY.

II. Prospective draft amendments to Rules 5.31 and 5.51 to modify exam requirements for purposes of registering as a registered interior designer; and striking obsolete language.

The General Counsel reported the prospective changes are in response to an amendment made to the agency's Sunset bill. The bill (now adopted as law) requires registered interior designers who gained registration without examination to pass the registration examination in effect on January 1, 2014, in order to remain registered after September 1, 2017. The amendment would

allow for registration as a registered interior designer upon passing the ARE or the NCIDQ. As amended, the rules would allow architects to substitute passage of the ARE for the NCIDQ to become registered interior designers. The amendments would also allow architects who passed the ARE and currently are registered as interior designers to remain registered as interior designers after 2017. The General Counsel noted the Board received and reviewed a letter from TSA in support of immediate action on this matter during the "public comment" portion of the meeting.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO PROPOSE THE DRAFT AMENDMENTS TO RULES 5.31 AND 5.51 TO MODIFY EXAM REQUIREMENTS FOR PURPOSES OF REGISTERING AS A REGISTERED INTERIOR DESIGNER. THE MOTION PASSED UNANIMOUSLY.

The Board took a break at 11:35 a.m. and reconvened at 11:50 a.m.

6. Enforcement Cases

Review and possibly adopt the ED's recommendation in the following enforcement cases: The Executive Director's recommendations are to resolve the following cases in accordance with proposed settlement agreements reached with the Respondents. The Chair recognized the General Counsel to present the enforcement cases.

A. Continuing Education Cases

The General Counsel outlined the cases on the agenda. For continuing education cases, the Executive Director's proposed agreed orders include a standard penalty of \$700 for misstatements to the Board, \$500 for failing to complete required continuing education, and \$250 for failing to timely respond to an inquiry of the Board.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) THAT THE BOARD APPROVE THE EXECUTIVE DIRECTOR'S PROPOSED SETTLEMENTS IN THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Adams, Joseph H. (#122-13A)
Allen, John L. (#081-13A)
Butler, Frank A. (#119-13A)
Fischer, Susan F. (#135-13L)
Flesher, David J. (#073-13A)
Freeman, Cricket (#102-13I)
Gozali, Minarni (#107-13I)
Griffis, Jeff K. (#143-13A)
Horton, William E. (#118-13I)
Kraemer, Alisa C. (#087-13I)
Krolicki, Jeffrey R. (#131-13A)
Morgan, Adrienne (#100-13I)
Newman, Katherine E. (#129-13A)
Paul, Douglas W. (#106-13A)
Perrier, Patti H. (#111-13I)
Quinn, David R. (#146-13A)
Rainwater, Sherry (#085-12I)

Schenck, Dale H. (#123-13A)

Slaney, Scott G. (#098-13L)

Trexler, Joel (#095-13A)

Tsao, Ing-Tay (#090-13I)

West, Charles S. (#117-13A)

Whitwell, Allen (#074-13A)

Wilson, Alison B. (#144-13I)

THE MOTION PASSED UNANIMOUSLY.

The following continuing education case was heard separately because Ms. Dockery recused herself from the vote to avoid a perceived or actual conflict of interest:

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) THAT THE BOARD APPROVE THE EXECUTIVE DIRECTOR'S PROPOSED AGREED ORDER IN THE CASE INVOLVING ROBERT RUNYON IN CASE NUMBER 101-13A. THE MOTION PASSED UNANIMOUSLY 6-0. (DOCKERY ABSTAINED.)

7. NCARB Proposed Changes to Intern Development Program (IDP) Duration Requirement

The Executive Director stated NCARB is seeking input on two proposed changes to the IDP program. The Executive Director explained once change would allow credit for short-term periods of employment by eliminating the requirement that employment extend for at least 8 consecutive weeks. The other change would allow credit for employment after obtaining a high school diploma and would eliminate the additional requirement that employment take place after enrollment in certain degree programs or while employed in experience setting A.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO REPORT TO NCARB THAT THE BOARD AGREES WITH THE PROPOSED CHANGES TO THE INTERN DEVELOPMENT PROGRAM. THE MOTION PASSED UNANIMOUSLY.

8. Resolutions to be Acted Upon at the NCARB's 2013 Annual Meeting

The Executive Director laid out the following resolutions for the Board to consider and give direction to its delegate on its position regarding each resolution to be voted upon at the NCARB Annual Meeting:

A. **Resolution 2013-01 – Model Law and Regulations Amendment** – Amend model laws to allow for the use of electronic seal and signatures on technical submissions.

B. **Resolution 2013-02 – Certification Guidelines Amendment** – Allows consideration of any applicant with a degree from a non-accredited program if the applicant meets NCARB Education Standards. Currently the educational evaluation is allowed only for holders of degrees from outside the United States and Canada.

C. **Resolution 2013-03 – Certification Guidelines Amendment** – Modifies terminology in the Broadly Experienced Architect Program to require certain applicants to show experience in the “practice or architecture” instead of “comprehensive practice.”

D. **Resolution 2013-04 – Certification of Guidelines** – Modification to the definition of “comprehensive practice” as used in the Certification Guidelines applied in the Broadly Experienced Foreign Architect Program.

E. **Resolution 2013-05 – Bylaws Amendment** – Restricts a Member Board Member or a Member Board Executive from serving as the public director. Allows a person who participates in the regulation of building or structure design to serve as the public director.

F. **Resolution 2013-06 – Inter-Recognition Agreement with Canada – Update and Conforming Changes to Certification Guidelines – NCARB and CALA** to propose to their respective member regulators that architects be required to complete 2000 hours of licensed practice in their home jurisdiction prior to seeking reciprocal licensure in the other jurisdiction. The agreement does not apply to architects who have been licensed by means of a Broadly Experienced Foreign Architect program of either country.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO DIRECT TBAE DELEGATES TO SUPPORT THE ADOPTION OF ALL SIX PROPOSED RESOLUTIONS. THE MOTION PASSED UNANIMOUSLY.

Mr. Davis asked if TBAE allows registration of an architect through the Broadly Experienced Architect program. The Executive Director stated the agency “looks behind the cover” to ascertain the qualifications of a reciprocal applicant who has NCARB certification. However, generally the agency recognizes NCARB certification for architects from Canada. TBAE requires successful completion of the ARE even if the reciprocal candidate has NCARB certification.

Ms. Dockery commented on the resolution regarding electronic seals on technical submissions. She noted that the use of Building Information Modeling will require revisiting sealing issues because modeling is a dynamic process of designing buildings in three dimensions. The designs continue to evolve after issuance which makes the application of the sealing rules problematic.

Ms. Dockery also complimented agency staff for the efficiency in which an intern in her office was registered. The intern received the certificate of registration from the agency within 2 weeks after passing the ARE.

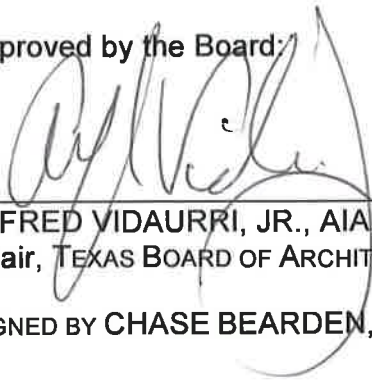
9. Chair’s Closing Remarks

The Chair stated that the Board has come to a conclusion. He thanked the members for their service.

10. Adjournment

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADJOURN THE MEETING AT 11:43 A.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:



ALFRED VIDAURRI, JR., AIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS

SIGNED BY CHASE BEARDEN, PRESIDING CHAIR