

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Board Meeting Agenda

The William P. Hobby Jr. Bldg., Tower III, Room 102

333 Guadalupe Street

Austin, Texas

Wednesday, August 17, 2016

9:00 a.m. – Conclusion

1. Preliminary Matters

- A. Call to order
- B. Roll call
- C. Excused and unexcused absences
- D. Determination of a quorum
- E. Recognition of guests
- F. Chair's opening remarks
- G. Public Comments

Debra Dockery
Paula Ann Miller
Debra Dockery

2. Approval of the May 26, 2016 Board Meeting Minutes (*Action*)

Debra Dockery

3. Executive Director Report

Julie Hildebrand

- A. Summary of Executive Accomplishments (*Information*)
- B. Fiscal Year 2016 3rd Quarter Operating Budget (*Information*)
- C. Board Approval of the Fiscal Year 2017 Operating Budget (*Action*)
- D. Legislative Committee Update (*Information*)
- E. Agency Goal and Objectives (*Information*)

Report on Conferences and Meetings (*Information*)

- A. NCARB 2016 Annual Meeting – *Jun 15-18*
- B. Executive Leadership Program for Regulators & Driving Results for Regulatory Effectiveness – *Jul 25-28*
- C. BOAT Annual Conference – *Aug 3-5*
- D. NCARB 2016 Licensing Advisors Summit – *Aug 5-6*
- E. METROCON16 – *Aug 11-12*

Report on Upcoming Conferences and Meetings (*Information*)

- A. CLARB Annual Meeting – *Sep 22-24*
- B. 2016 LRGV-AIA BBC Conference – *Sep 29-Oct 1*
- C. NCARB Member Board Chairs and Member Board Executives Summit *Oct 28-29*
- D. TxA Conference – *Nov 3-5*
- E. 2016 Annual CIDQ Council of Delegates Meeting – *Nov 11-12*

4. General Counsel Report

Lance Brenton

Proposed Amendments for Adoption (*Action*)

- A. Amendments to rules 1.165, 3.165, 5.175, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242, relating to administrative penalties, warnings, and other sanctions

Draft Rules for Proposal (*Action*)

- B. Amendments to Rule 7.10, relating to approval of surcharge to fund the Architect Registration Examination Financial Assistance Fund and changes to online payment fees charged by texas.gov
- C. Amendments to Rules 5.31 and 5.51, relating to qualification for interior design registration by architects who pass the Architect Registration Examination

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5. **Approval of Rule Review for Chapters 1 and 3 of the Board's Rules** Lance Brenton
(Action)
- A. Revise Rules 1.5 and 3.5 relating to definitions of "actual signature," "authorship" (repeal), "Architectural Barriers Act," and "E-mail Directory" (repeal).
 - B. Revise Rule 1.5 relating to definition of "EPH" and "Architect's Registration Law."
 - C. Revise Rule 3.5 relating to definition of "Landscape Architect's Registration Law."
 - D. Repeal Rules 1.24 and 3.24 relating to Fees.
 - E. Revise Rule 1.148 to replace obsolete reference to "Section 10 of the Act."
 - F. Propose for readoption all other rules in 22 Tex. Admin. Code Chapters 1 and 3
6. **Approval of New Policy GC-006** (Action) Lance Brenton
Relating to Conflicts of Interest and Recusal of Board Members
7. **Consideration for Proposal for Decision – SOAH Case** Lance Brenton
SOAH Docket No. 459-16-3577
TBAE vs. Courturier, Dominic (#144-14N)
8. **Enforcement Cases** (Action) Lance Brenton
Review and possibly adopt Executive Director's recommendation in the following enforcement cases:
- A. **Registrant Cases**
Haness, Richard O. (#115-14A)
Lambeth, William H. (#037-15A)
Olp, Gary Gene (#016-16A)
 - B. **CE Cases**
Cassler, David Edward (#070-16L)
Fegale, Kristen Weeks (#083-16I)
Hargrave, Jay David (#084-16A)
Hart, Mark W. (#082-16A)
Miller, David C. (#089-16A)
Mrdja, Dushan (#074-16A)
Rachut, Susanna (#088-16I)
Russell, Christopher A. (#090-16L)
Sigler, Stephen Michael (#068-16L)
Yeung, Lei (#077-16A)

The Board may meet in closed session pursuant to TEX. GOV'T CODE ANN. §551.071(1) to confer with legal counsel

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9. **NCARB Request for Signatories to the new Mutual Recognition Arrangement with Australia and New Zealand** Debra Dockery

10. **Executive Director Evaluation** (*Action*) Sonya Odell
- A. Report on findings based upon performance evaluation
 - B. Consider and possibly act upon any proposed personnel action that may be proposed by the Board

The Board may meet in closed session pursuant to TEX. GOV'T CODE ANN. §551.074 to confer on personnel matters

11. **Approval of the Proposed 2017 Board Meeting Dates** (*Action*) Debra Dockery
- Thursday, February 16, 2017
 - Thursday, June 8, 2017
 - Thursday, August 17, 2017
 - Wednesday, November 8, 2017 (*TxA Conference Nov 9-11 in Austin*)

12. **Approval of Resolution Honoring C. W. Clark, PE, Director, Compliance & Enforcement, Texas Board of Professional Engineers** (*Action*) Debra Dockery

13. **Upcoming Board Meeting** (*Information*) Debra Dockery
- Wednesday, November 16, 2016 – Full Board

14. **Chair's Closing Remarks** Debra Dockery

15. **Adjournment** Debra Dockery

NOTE:

- ◆ *Items may not necessarily be considered in the order they appear on the agenda*
- ◆ *Executive session for advice of counsel may be called regarding any agenda item under the Open Meetings Act, Government Code §551*
- ◆ *Action may be taken on any agenda item*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services are required to call (512) 305-8548 at least five (5) work days prior to the meeting so that appropriate arrangements can be made

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of May 26, 2016 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

AGENDA ITEMS

DESCRIPTIONS

1A.

Call to Order

Ms. Dockery called the meeting to order at 9:05 a.m.

1B.

Roll Call

Ms. Miller called the roll.

Present Board Members

Debra Dockery

Chair

Sonya Odell

Vice-Chair, Registered Interior Designer

Paula Ann Miller

Secretary-Treasurer, Public Member

Charles (Chuck) Anastos

Architect

Chase Bearden

Public Member – arrived @ 9:20 a.m.

Michael (Chad) Davis

Landscape Architect

Jennifer Walker

Architect

Robert (Bob) Wetmore

Architect

Anthony Giuliani

Public Member

1C.

**Excused and Unexcused
absences**

None.

1D.

**Determination of a
Quorum**

A quorum was present.

1E.

Recognition of Guests

Ms. Dockery acknowledged the following members of the guests and TBAE Staff: David Lancaster, Senior Advocate for Texas Society of Architects – arrived at 9:06 a.m.; Donna Vining, Executive Director for Texas Association for Interior Design, Glenn Garry, Communications Manager; Glenda Best, Operations Manager; Christine Brister, HR Program Specialist; Kenneth Liles, Finance Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Mike Alvarado, Registration Manager; Katherine Crain, Legal Assistant, and Julio Martinez, Network Specialist – arrived at 11:40 a.m.

1F.

**Chair's Opening
Remarks**

Ms. Dockery welcomed the new public member, Anthony Giuliani and gave a brief presentation of his biographical information. Ms. Dockery presented TBAE pins to the new members of the Board. She stated that the Board has a full agenda and will need to focus on the business at hand to effectively and efficiently complete all of the agenda items.

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|---|--|
| 1G. Public Comments | None. |
| 2. Approval of February 25, 2016 Board Meeting Minutes | A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO APPROVE THE FEBRUARY 25, 2016 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY. |
| 3. Executive Director's Report | Ms. Hildebrand gave her report to the Board and stated that she provides monthly email updates to the Board so the following items are just highlights that had been completed since the last Board meeting: |
| A. Summary of Executive Accomplishments | <ol style="list-style-type: none"> 1. Conducted Environmental Scan; prepared the Strategic Planning Workshop and prepared the first draft of the Strategic Plan for approval by the full Board; 2. Completed Customer Service Survey and analyzed results; 3. Prepared and submitted the Quarterly SDSI Report. <p>Ms. Hildebrand congratulated Christine Brister on receiving her certification as an HR Professional from the Society of Human Resource Professionals. Her work and additional knowledge will help our agency ensure that we are compliant.</p> |
| B. Operating Budget/Scholarship: Presentation on 2nd quarter 2016 expenditures/revenues | <p>Ms. Hildebrand gave a brief overview of the budget for the first half of the year. She stated that revenues were at 66%; however, she anticipated an increase of revenue for the next three (3) months. She discussed payroll related costs, staff and board travel and the scholarship fund. Furthermore, she stated that the overview of the budget would be done during the budget workshop scheduled for later in the day.</p> |
| C. Report on Conferences and Meetings | <p>Ms. Hildebrand provided a report on the following conferences and meetings:</p> <ol style="list-style-type: none"> I. NCARB Member MBE Workshop/Regional Summit– <i>March 10-12</i>; II. 2016 Texas ASLA Annual Conference – <i>April 28-29</i> <p>Mr. Garry and Ms. Hildebrand attended and gave a presentation at the ASLA Conference.</p> |
| D. Report on Upcoming Conferences and Meetings | <p>Ms. Hildebrand provided a report on the following upcoming conferences and meetings:</p> <ol style="list-style-type: none"> I. NCARB Annual Business Meeting– <i>June 16-18</i> II. Executive Leadership Program for Regulators – <i>July 25-28</i> III. Building Officials Association of Texas – <i>August 2-5</i> IV. METROCON 16 Expo and Conference – <i>August 11-12</i> <p>Ms. Hildebrand gave an overview of the upcoming changes at NCARB and explained that the IDP program will become the AXP program (also known as the "Architectural Experience Program") this summer. She provided additional details regarding other changes at NCARB. Also, stated that she</p> |

will be serving on their Procedures and Documents Committee which will be advantageous to this Board because it will allow this Board to view the resolutions in advance. Any changes to the resolutions are reviewed by the Procedures and Documents Committee.

She gave a summary of the registration trends. Second, she presented the 2016 budget and discussed specific items of the budget. She presented the Scholarship fund and stated that the agency started the year at \$99,000 and are now at \$78,000.

Additionally, she gave a brief presentation of conferences and meetings that she, staff and other Board members have attended since the last Board meeting. She also gave details on upcoming meetings and the staff that would be attending these meetings.

Ms. Dockery gave kudos to Jack Stamps for his presentation on outreach to the building officials at the NCARB Regional Meeting in Savannah. She thought the presentation was very good and well received.

4.
Approval of the 2017-2021 Strategic Plan

Ms. Hildebrand directed the Board to page 19 and explained that the format is completely different than what it was in the past and the items listed as 1-5 are the guidance that the agency received from the Governor's office. Instead of describing the goals, they requested that this information be provided in a table format and that it be succinct. The new Strategic Plan is less about theories of the goals and more about what the agency is going to do in the future. She presented the Board with the new version of the Mission and requested their input. Mr. Davis stated that she did a great job on rewriting the Mission. Ms. Hildebrand proceeded to go over the full Strategic Plan with the Board and explained the differences between this Strategic Plan and the previous plan. The Board had multiple questions for the Executive Director. Ms. Dockery suggested that the item relating to ethics under External and Internal Trends be clarified to relate specifically to continuing education. Mr. Anastos requested that licensing goal number two be revised to clarify the purpose to protect the public health and safety. Further discussion recommended that item number three for enforcement goals be amended to indicate the Board's pursuit of compliance against registrants and non-registrants. Additionally, the Board recommended that, for purposes of responding to the governor's request for feedback on redundancies and impediments, the issues regarding the \$510,000 payment to general revenue and the threshold issue should be referred to the legislative committee with authority to change the strategic plan prior to submission.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE 2017-2021 STRATEGIC PLAN AS SUBMITTED.

Mr. Davis added a friendly amendment to include the provisions and redundancies and impediments to address the trends of financial impacts of statutory changes. Ms. Dockery requested that he clarify his request as to whether it was just a request or an amendment to the motion. Mr. Davis stated that it was a friendly amendment. Mr. Anastos seconded the friendly amendment. After further discussion, Mr. Davis withdrew his friendly amendment and Mr. Anastos retracted his original motion.

A MOTION WAS MADE AND SECONDED (Anastos/Miller) TO APPROVE THE 2017-2021 STRATEGIC PLANS WITH THOSE ITEMS AGREED UPON AND ADDED TODAY AND WITH A SUBSEQUENT ITEM OR ITEMS ADDED AFTER OUR STAFF REVIEW AND LEGISLATIVE COMMITTEE MEETING BETWEEN NOW AND JUNE 15TH. THE MOTION PASSED UNANIMOUSLY.

The Board took a break at 10:13 a.m. and reconvened at 10:33 a.m.

**5.
Executive Director
Performance Evaluation
Process**

Ms. Dockery stated that it was time for the Board to do a performance evaluation on Julie Hildebrand's first year as Executive Director. The committee members for the Executive Director's Performance Evaluation Process were Chase Bearden, Paula Ann Miller and Sonya Odell as Chair.

Ms. Odell gave a presentation of the Committee's work to the Board and informed them that the evaluation form would be provided to the Board members by Mr. Brenton by June 1st, with the responses due back to Mr. Brenton by June 30th. The Board will discuss the matter in closed session at the August meeting.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO APPROVE THE PROCESS DESCRIBED BY THE CHAIR OF THE EXECUTIVE DIRECTOR'S PERFORMANCE EVALUATION COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

**6.
General Counsel Report**

Mr. Brenton directed the Board to page 24 gave the following report on the proposed amendments for adoption, draft amendments for proposal and discussion of issues relating to recusal of Board members.

**6A.
Proposed Amendments
for Adoption**

I. Regarding eligibility for architectural registration by reciprocity, relating to educational requirements. Rule 1.22.

Mr. Brenton presented information on the proposed rule as described on page 24 of the Board materials, including the comments on the proposed rule, and Staff's recommendation to withdraw the previous rulemaking action, and to propose the alternative rule on page 26.

A MOTION WAS MADE TO WITHDRAW (Davis/Walker) THE PREVIOUSLY PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §1.22, AND MOVE TO APPROVE THE ALTERNATE DRAFT AMENDMENTS TO 22 TEX. ADMIN. CODE

§1.22 FOR PUBLICATION IN THE TEXAS REGISTER, WITH AUTHORITY FOR THE GENERAL COUNSEL TO MAKE EDITORIAL CHANGES AS NECESSARY TO CLARIFY THE RULE AND BOARD INTENT AND TO COMPLY WITH THE FORMATTING REQUIREMENTS OF THE TEXAS REGISTER. THE MOTION PASSED UNANIMOUSLY.

II. Regarding eligibility for architectural registration by examination relating to NCARB's overhaul of the intern development program. Rules 1.5, 1.191, and 1.192.

Mr. Brenton presented information on the proposed rule as described on page 39 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO ADOPT THE PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §§1.5, 1.191 AND 1.192 FOR PUBLICATION IN THE TEXAS REGISTER, WITH AUTHORITY FOR THE GENERAL COUNSEL TO MAKE EDITORIAL CHANGES AS NECESSARY TO CLARIFY RULE AND BOARD INTENT AND TO COMPLY WITH THE FORMATTING REQUIREMENTS OF THE TEXAS REGISTER. THE MOTION PASSED UNANIMOUSLY.

**6B.
Draft Amendments for
Proposal**

Regarding administrative penalties, warnings, and other sanctions. Rules 1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242.

Mr. Brenton presented information on the proposed rule as described on page 48 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE THE PROPOSED DRAFT AMENDMENTS TO 22 TEX. ADMIN. CODE §1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242, FOR PUBLICATION IN THE TEXAS REGISTER, WITH AUTHORITY FOR THE GENERAL COUNSEL TO MAKE EDITORIAL CHANGES AS NECESSARY TO CLARIFY RULE AND BOARD INTENT AND TO COMPLY WITH THE FORMATTING REQUIREMENTS OF THE TEXAS REGISTER. THE MOTION PASSED UNANIMOUSLY.

**C.
Discussion Item**

Discussion of Issues Relating to Recusal of Board Members

Mr. Brenton provided the Board with a copy of Section 572.058 of the Government Code, relating to recusals, and explained the details of the statute. After a lengthy discussion amongst the Board members and the General Counsel, the Board requested that the General Counsel draft a policy for the agency on recusals.

**7.
Enforcement Cases
A. Registrant/Non-
Registrant Case**

Review and possibly adopt Executive Director's recommendation in the following enforcement cases:

Cosco, Renee Love (#046-16I)

Mr. Brenton presented a summary of this matter as described on page 94 of the Board materials.

A MOTION WAS MADE AND SECONDED (Odell/Anastos) TO ACCEPT STAFF'S RECOMMENDATION OF A \$500 ADMINISTRATIVE PENALTY. THE MOTION PASSED UNANIMOUSLY.

Goleski, Michael Paul (#005-16N)

Mr. Brenton presented a summary of this matter as described on page 95 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION OF A \$2,000 ADMINISTRATIVE PENALTY. THE MOTION PASSED UNANIMOUSLY.

Gustin, Wesley (#104-15A)

Mr. Brenton presented a summary of this matter as described on page 96 of the Board materials.

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$10,000 ADMINISTRATIVE PENALTY. THE MOTION PASSED UNANIMOUSLY.

Haness, Richard O. (115-15A)

Mr. Brenton presented a summary of this matter as described on page 98 of the Board materials.

The Board discussed the case and declined to adopt Staff's recommendation. Rather, the Board directed staff to include the additional stipulation of mandatory attendance at the TDLR Accessibility Academy in addition to the \$6,000 administrative penalty.

Mr. Brenton said he would contact the Respondent regarding the additional stipulation and present the matter at the next Board meeting.

A MOTION WAS MADE AND SECONDED (Bearden/Anastos) TO ACCEPT STAFF'S RECOMMENDATION OF A \$6,000 ADMINISTRATIVE PENALTY. AFTER A DISCUSSION BY THE BOARD, MR. BEARDEN AND MR. ANASTOS WITHDREW THEIR MOTION.

Nnadozie, Emmanuel Ogbonna (#130-14A)

Mr. Brenton presented a summary of this matter as described on page 100 of the Board materials.

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF \$2,000 ADMINISTRATIVE PENALTY. THE MOTION PASSED UNANIMOUSLY.

Sanchez, Paul Anthony (#105-13I)

Mr. Brenton presented a summary of this matter as described on page 101 of the Board materials.

Ms. Dockery recused herself from voting on the case. Ms. Odell became acting chair and presented the matter to the Board members for a vote.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ACCEPT STAFF'S RECOMMENDATION OF \$15,000 ADMINISTRATIVE PENALTY. THE MOTION PASSED UNANIMOUSLY.

B. CE Cases

Mr. Brenton stated that the Board would hear the next 11 cases and vote on them together as follows:

Asakura, Keiji (#051-16L)

Denny, Lindsey Jacqueline (#026-16I)

Elkins, Leslie Keith (#041-16I)

Field, William Scott (#093-14A)

Gonzalez, Robert Alexander (#067-16A)

Greenwood, Thomas A. (#061-16I)

Jones, Robert Todd (#027-16L)

Lee, John W. (#062-16A)

McFadin, Charlotte Celia (#050-16I)

Ng, Leng-Wa (#042-16A)

Ruggiero, Peter Michael (#052-16A)

Ms. Dockery took over the Chair from Ms. Odell. Mr. Giuliani recused himself from voting on the case involving Robert Alexander Gonzalez.

A MOTION WAS MADE AND SECONDED (Anastos/Walker) TO ADOPT STAFF'S RECOMMENDATION AND PENALTIES TO APPROVE ALL OF THE CASES LISTED ON THE AGENDA UNDER CE CASES WITH THE EXCEPTION OF THE CASE INVOLVING ROBERT ALEXANDER GONZALEZ. THE MOTION PASSED UNANIMOUSLY.

The Board heard the case involving Robert Alexander Gonzalez.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ADOPT STAFF'S RECOMMENDATION AND PENALTY ON THE CASE INVOLVING ROBERT ALEXANDER GONZALEZ. THE MOTION PASSED UNANIMOUSLY.

A. Voluntary Surrender

Loessberg, Antoinette (#003-16I)

Mr. Brenton explained to the Board that Respondent was on delinquent status and had a continuing education case pending against her. The Respondent requested to surrender her interior design registration in lieu of discipline. Ms. Dockery recused herself from voting on this case. Ms. Odell took over as Chair.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO ACCEPT THE VOLUNTARY SURRENDER OF ANTOINETTE LOESSBERG. THE MOTION PASSED UNANIMOUSLY.

The Board broke for lunch at 12:15 and reconvened at 1:01 p.m.

**8.
Review on NCARB
Resolutions and
Delegation of Voting
Authority to be Acted
Upon at the NCARB
2016 Annual Meeting**

The Chair stated that the Board would vote on the following resolutions for NCARB. She stated that the Rules Committee reviewed all of the resolutions and were in favor of all of them.

A MOTION WAS MADE AND SECONDED (Anastos/Wetmore) TO DELEGATE THE AUTHORITY TO ALLOW THE CHAIR TO VOTE ON BEHALF OF THE BOARD FOR THE FOLLOWING NCARB RESOLUTIONS. THE MOTION PASSED UNANIMOUSLY.

**8A.
Resolution 2016-01**

Mutual Recognition Arrangement with Australia and New Zealand
A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO APPROVE NCARB RESOLUTION 2016-01. THE MOTION PASSED UNANIMOUSLY.

**8B.
Resolution of 2016-02**

Certification Guidelines Amendment – Revision of the Alternatives to the Education Requirements for Certification
David Lancaster stated that the Texas Society of Architects was not in favor of this resolution. The Board discussed the resolution at length.
A MOTION WAS MADE AND SECONDED (Davis/Odell) TO APPROVE NCARB RESOLUTION 2016-02. THE MOTION PASSED UNANIMOUSLY.

**8C.
Resolution of 2016-03**

Certification Guidelines Amendment – Exam Equivalency for ARE 5.0
A MOTION WAS MADE AND SECONDED (Davis/Odell) TO APPROVE NCARB RESOLUTION 2016-03. THE MOTION PASSED UNANIMOUSLY.

**8D.
Resolution of 2016-04**

Certification Guidelines Amendment – Five-Year Rolling Clock and Rolling Clock Extension Policy Updates
A MOTION WAS MADE AND SECONDED (Odell/Davis) TO APPROVE NCARB RESOLUTION 2016-04. THE MOTION PASSED UNANIMOUSLY.

**8E.
Resolution 2016-05**

NCARB Legislative Guidelines and Model Law/Model Regulations
Amendment – Access to the ARE for Students Enrolled in an Integrated Path to Architectural Licensure Option
David Lancaster stated that the Texas Society of Architects was uneasy about changing Texas model law to accommodate this resolution.

A MOTION WAS MADE AND SECONDED (Anastos/Miller) TO APPROVE NCARB RESOLUTION 2016-05. THE MOTION PASSED UNANIMOUSLY.

**8F.
Resolution 2016-06**

NCARB Legislative Guidelines and Model Law/Model Regulations
Amendment – Addition of Architect Emeritus Status
A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE NCARB RESOLUTION 2016-06. THE MOTION PASSED UNANIMOUSLY.

**8G.
Resolution 2016-07**

NCARB Legislative Guidelines and Model Law/Model Regulations
Amendment – Reference to Military Trained Applicants
A MOTION WAS MADE AND SECONDED (Wetmore/Bearden) TO APPROVE NCARB RESOLUTION 2016-07. THE MOTION PASSED UNANIMOUSLY.

**8H.
Resolution 2016-08
8I.
Resolution 2016-09**

NCARB Legislative Guidelines and Model Law/Model Regulations and Certification Guidelines Amendment – Updating the Name of the Intern Development Program
NCARB Bylaws Amendment – Updating Name of Internship Committee

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE NCARB RESOLUTION 2016-08 AND NCARB RESOLUTION 2016-09. THE MOTION PASSED UNANIMOUSLY.

**8J.
Resolution 2016-10**

Certification Guidelines Amendment – Approval of Changes to Program Requirements for the Intern Development Program
It was noted that the Rules Committee supported this resolution, but NCARB did not support it.
A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO APPROVE NCARB RESOLUTION 2016-10. THE MOTION PASSED UNANIMOUSLY.

**9.
Budget Development
for FY17 and Discussion
of Internal Budget
Policies**

Ms. Hildebrand directed the Board to page 198 of the notebooks and presented the Staff's first draft of the budget. She explained that previously the Board would hear the presentation at the August meeting and the final vote would be taken at that time. However, there are a number of budget issues over the next few years so she thought it would be prudent to have the Board review the information at this meeting in order to get their input. She stated that the budget process will include development of next year's budget plus a long-range planning forecast for an additional six (6) years for a total seven-year outlook. This year's budget development will include planning for FY17 through FY23.

This year the Senate Finance Committee has requested that all state agencies review and scrutinize each and every expenditure within the agency using a zero-based budget approach. In this approach, every line item must be scrutinized, rather than just the changes from the previous year. Staff will present a base/current budget an enhanced budget along with the performance results of each version of the budget.

The primary issues discussed regarding the budget were trends in registration numbers and the effect on revenues for the agency; raising registration fees; travel related costs; salaries and the need to hire another investigator; the policy regarding the reserve fund; and the prospect of raising fees for the scholarship fund.

A MOTION WAS MADE AND SECONDED (Miller/Anastos) REGARDING THE POLICY ON THE RESERVE FUND SHOULD BE MOVED FROM 6 MONTHS TO 8 MONTHS. THE MOTION PASSED UNANIMOUSLY.

A MOTION WAS MADE AND SECONDED (Miller/Anastos) TO HIRE ANOTHER INVESTIGATOR. THE MOTION PASSED UNANIMOUSLY.

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO APPROVE THE POLICY ON THE RESERVE FUND AS SUBMITTED ON THE UTILIZATION ON THE FUND BALANCE AND HAVE THAT AS AN ONGOING REVIEW. THE MOTION PASSED UNANIMOUSLY.

A MOTION WAS MADE AND SECONDED (Anastos/Wetmore) TO DIRECT STAFF TO ADD \$3.00 TO ALL ARCHITECTS FEES AS SOON AS IT CAN BE INITIATED. THE MOTION PASSED UNANIMOUSLY.

**10.
Upcoming Board
Meeting**

Wednesday, August 17, 2016 – Full Board
There was discussion amongst the Board members to have a ½ day Rules Committee meeting in addition to a full board meeting.

**11.
Chair's Closing Remarks**

Ms. Dockery thanked everyone for their input at the meeting.

**12.
Adjournment**

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ADJOURN THE MEETING AT 2:50 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

DEBRA J. DOCKERY, AIA
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Summary of Executive Accomplishments
August 17, 2016

Executive

- Finalized and submitted Strategic Plan and Customer Service Survey.
- Prepared and submitted the Quarterly SDSI Report.
- The newsletter was completed and published. I received several complements on the issue and my column was reprinted in the Building Officials Association of Texas' newsletter. Tony's CE column received good reviews too.
- Please see my monthly Executive Director Updates for more details.

NCARB

- Several board members and I attended the NCARB Annual Board Business Meeting. A summary of the adopted resolutions is attached.
- NCARB by the Numbers for 2015 shows an all-time high for licensure candidates, indicating a strong licensure pool for architects. The report can be found on NCARB's website at <http://www.ncarb.org/About-NCARB/NCARB-by-the-Numbers.aspx>
- The ARE 5.0 will launch November 1, 2016. Additional information can be found on NCARB's website at <http://www.ncarb.org/ARE/ARE5.aspx>



The Public Safety System



Guest article by: Julie Hildebrand, Executive Director, Texas Board of Architectural Examiners

Next year, Texas Board of Architectural Examiners will turn 80 years old. Starting in 1937, Texas has ensured state level oversight of the design professions, with the stated goal of protecting the public. From around the same time, various building codes have existed and evolved across the nation, ultimately becoming consolidated and compiled into what is now the International Building Code. Cities across Texas long have employed building officials to apply those codes to projects within the municipality. And more recently, the state adopted its Texas Accessibility Standards and requires review by another professional seeking to enhance public safety: the Registered Accessibility Specialist (RAS).

The safety of the built environment in Texas requires a coordinated effort. A system, if you will. And what I described above is just that: a system designed to protect the health, safety, and welfare of those who live, work, and play in the built environment of Texas.

You know what building officials do, of course: they make sure a project meets code before, during, and after construction. But there are a few ways in which a building official's duties become woven into our own here at Texas Board of Architectural Examiners (TBAE). The most common way a building official is spurred to interact with us is this: the building official is reviewing some plans, and part of the routine is to verify that the sealing design professional is in fact registered. Our job, in registering design professionals, is to indicate that the registrant has demonstrated knowledge and experience in the profession—another aspect of how we serve within the system. When a search of our database fails to confirm the sealing architect's registration, the building official calls our investigations division and we take it from there. Some sharp-eyed building officials also notice when submitted plans raise suspicion of, for instance, plan-stamping—and call us to take a look. By simply placing that phone call, the local building official has strengthened the connection between the state and local parts of the public safety system.

Similarly, state agencies work closely together by sharing information freely. Most likely, you know that a Texas RAS is registered not by TBAE, but by the Texas Department of Licensing and Regulation (TDLR). The Architectural Barriers program at TDLR is tasked with ensuring that regulations are met, including the requirement that plans are submitted for accessibility review within 20 days.

Interestingly, TDLR itself doesn't have an enforcement mechanism for that regulation; enforcement of the 20day rule rests here at TBAE instead. So by maintaining close and frequent communication between the two agencies, TBAE can smoothly take late submittal cases from our colleagues and manage them without missing a beat. Alternatively, a RAS can work directly with our board, by reporting instances where the RAS sees a violation of architectural practice regulations and reports to us. The bond is strong between these parts of the system, too.

With just these few examples, the built environment's public safety "system" already starts to become clear. Jurisdiction is clearly defined; we make sure someone is qualified to practice generally in the state, a RAS makes sure the accessibility aspect of state regulations are followed, and local officials ensure adherence to local rules. Collaboration and communication are key, and are part of the system's culture. For my part, I commit that this agency will continue finding ways to enhance our relationship with all the components of the system. By continuous improvement, the built environment of Texas can only become a safer, more enjoyable place for everyone.

How Building Officials can spot a TBAE violation, and what to do about it

There are a few things in particular that Texas Building Officials and plans examiners might keep an eye out for. Here are the two most common violation types we see, how to spot them, and how to report them:

1. Plans sealed and submitted by someone who isn't registered by TBAE, or who is not on Active status. How to spot it: Bookmark TBAE's Find a Design Professional (<http://goo.gl/GQvb72>) and simply enter in the name or registration number of the design professional. If the design professional is listed as other than Active status or if the name and registration number don't match, something is amiss and should be checked out.
2. Plans are submitted but not prepared and sealed by an architect and as such are rejected. They are returned by the contractor but are now sealed by an architect. This is most likely plan-stamping, and the two sets of plans need to be forensically inspected. This is a service we offer. We can review both printed and electronic versions of plan sets. If it is determined an architect has sealed plans that were not prepared under his supervision and control, we will take administrative action.

Should you uncover any of these types of issues, all you need to do is call us at 512-305-9000 and ask for the Investigations division. Our friendly staff are on standby and ready to talk it over. In fact, if you have any questions regarding our rules or statutes, such as whether an architect is required on a project, just call.

[Building Officials vs Golfers? ▶](#)



Summary of Registration Department Accomplishments

| | Sept | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June |
|--------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Examination Applications Received | 54 | 40 | 63 | 50 | 92 | 79 | 73 | 49 | 93 | 83 |
| Reciprocal Applications Received | 39 | 42 | 39 | 29 | 48 | 41 | 42 | 37 | 60 | 37 |
| Total Applications Received | 93 | 82 | 102 | 79 | 140 | 120 | 115 | 86 | 153 | 120 |
| | | | | | | | | | | |
| Exam Scores Received/Entered | 373 | 368 | 318 | 367 | 365 | 391 | 347 | 448 | 457 | 519 |
| | | | | | | | | | | |
| Examination Registrations Issued | 45 | 40 | 37 | 36 | 43 | 49 | 51 | 30 | 25 | 64 |
| Reciprocal Registrations Issued | 36 | 34 | 43 | 35 | 39 | 32 | 42 | 36 | 43 | 49 |
| Total Registrations Issued | 81 | 74 | 80 | 71 | 82 | 81 | 93 | 66 | 68 | 113 |
| | | | | | | | | | | |
| Active Architects | 11,681 | 11,701 | 11,747 | 11,759 | 11,797 | 11,820 | 11,849 | 11,870 | 11,888 | 11,921 |
| Active Reg. Interior Designers | 3,760 | 3,733 | 3,719 | 3,701 | 3,686 | 3,661 | 3,647 | 3,635 | 3,616 | 3,624 |
| Active Landscape Architects | 1,464 | 1,465 | 1,468 | 1,470 | 1,465 | 1,472 | 1,481 | 1,479 | 1,481 | 1,497 |
| Total Active Registrants | 16,905 | 16,899 | 16,934 | 16,930 | 16,948 | 16,953 | 16,977 | 16,984 | 16,985 | 17,042 |
| | | | | | | | | | | |
| CE Audits Conducted | 122 | 121 | 119 | 119 | 115 | 108 | 110 | 120 | 118 | 115 |
| CE Audits Referred for Investigation | 5 | 8 | 7 | 0 | 5 | 11 | 4 | 8 | 4 | 4 |
| | | | | | | | | | | |
| Approved Scholarship Applications | 0 | 0 | 0 | 2 | 7 | 1 | 3 | 4 | 8 | 3 |
| | | | | | | | | | | |
| Certificates of Standing | 15 | 9 | 12 | 10 | 6 | 9 | 8 | 14 | 11 | 11 |

- All new registrants were registered within one day of all documentation being received and the fee being deposited.
- Mike Alvarado has taken on his new role as Manager of the Registration Division and has hired a new employee, Steven Ramirez to fill his vacant position.

Summary of Enforcement Accomplishments

| | Sept | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June |
|--|------|-----|-----|-----|-----|-----|-----|-----|-----|------|
| Cases Received and Opened | 21 | 15 | 11 | 5 | 8 | 13 | 7 | 8 | 7 | 6 |
| | | | | | | | | | | |
| Cases Closed by Investigations | 11 | 13 | 6 | 2 | 1 | 2 | 9 | 2 | 4 | 5 |
| Cases Referred to Legal | 10 | 7 | 7 | 5 | 6 | 3 | 3 | 11 | 10 | 1 |
| | | | | | | | | | | |
| Average Number of Days to Investigate | 77 | 68 | 73 | 71 | 87 | 93 | 82 | 84 | 82 | 75 |
| | | | | | | | | | | |
| Cases Referred for Criminal Prosecution | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | | | | | | | | | |
| Notices of Violation by Legal | 11 | 5 | 18 | 5 | 8 | 4 | 8 | 6 | 4 | 8 |
| | | | | | | | | | | |
| Voluntary Surrenders by Legal | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| | | | | | | | | | | |
| Disciplinary Action Entered by the Board | 0 | 19 | 0 | 0 | 0 | 20 | 0 | 0 | 17 | 0 |
| | | | | | | | | | | |
| Warnings from Executive Director | 9 | 6 | 6 | 1 | 0 | 2 | 4 | 0 | 4 | 0 |
| | | | | | | | | | | |
| Complaints Filed at SOAH | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 |

- Lance attended the Federation of Associations of Regulatory Boards Regulatory Law Conference.
- Lance attended the Government Law and Liability Conference presented by the Attorney General's Office.
- Substantial revisions were made to the Board Member Training Manual.
- Lance attended the Austin Bar Association Administrative Law Division's presentation on SOAH Proceedings.

**Texas Board of Architectural Examiners
Fiscal Year 2016 Budget With Servers**

| | FY 2016 Approved Budget | FY 2016 Budget Actual through 5-31-16 | FY 2016 Percentage Spent |
|--|--|--|---|
| Revenues: | | | |
| Licenses & Fees | 2,601,504 | 1,900,895 | 73.07% |
| Business Registration Fees | 75,000 | 70,494 | 93.99% |
| Late Fee Payments | 120,000 | 88,203 | 73.50% |
| Other | 2,500 | 4,271 | 170.86% |
| Interest | 1,000 | 2,735 | 273.54% |
| <i>Potential Draw on Fund Balance</i> | | | |
| Total Revenues | 2,800,004 | 2,066,598 | 73.81% |
| Expenditures: | | | |
| Salaries and Wages | 1,456,300 | 1,045,340 | 71.78% |
| Payroll Related Costs | 445,904 | 361,743 | 81.13% |
| Professional Fees & Services | 36,000 | 12,670 | 35.19% |
| Travel | | | |
| Board Travel | 30,000 | 12,498 | 41.66% |
| Staff Travel | 18,000 | 13,692 | 76.07% |
| Office Supplies | 12,000 | 4,473 | 37.27% |
| Postage | 15,000 | 8,433 | 56.22% |
| Communication and Utilities | 18,800 | 9,179 | 48.82% |
| Repairs and Maintenance | 1,000 | 415 | 41.46% |
| Office Rental | 78,000 | 38,250 | 49.04% |
| Equipment Leases--Copiers | 10,000 | 5,693 | 56.93% |
| Printing | 20,000 | 7,047 | 35.23% |
| Operating Expenditures | 41,000 | 21,450 | 52.32% |
| Conference Registration Fees | 4,000 | 2,282 | 57.05% |
| Membership Dues | 20,000 | 20,425 | 102.13% |
| Staff Training | 6,000 | 2,282 | 38.03% |
| SWCAP Payment | 38,000 | 48,857 | 128.57% |
| Payment to GR | 510,000 | 382,500 | 75.00% |
| IT Upgrades With Servers | 40,000 | 23,848 | 59.62% |
| Total Expenditures | 2,800,004 | 2,021,074 | 72.18% |
| Excess/ (Deficiency) of Rev over Exp. | - | 45,523 | |

| | |
|-----------------------------|------------------|
| | |
| <i>Funding for 8 months</i> | 1,866,483 |
| <i>Excess Fund Balance</i> | 696,327 |
| Total Fund Balance | 2,562,810 |

| | | |
|---------------------------------|----|---------|
| Enforcement Penalties Collected | \$ | 101,234 |
| General Revenue Collected | \$ | 119,200 |

**Texas Board of Architectural Examiners
Fiscal Year 2016 Budget
Scholarship Fund**

| | FY 2016 Budget | FY 2016 Actual Expenditures Sept. 1, 2015--- August 31, 2016 | FY 2016 Remaining Budget |
|---|-------------------|--|-----------------------------|
| Operating Fund Beginning Fund Balance: | - | - | 68,446.18 |
| Adjusted Beginning Balance | - | - | - |
| Scholarship Fund Beginning Balance | 98,985.57 | | |
| Total Beginning Scholarship Fund Balance | 98,985.57 | 98,985.57 | 68,446.18 |
| Expenditures: | | | |
| Operating Expenditures-Scholarship Payments | | 30,539.39 | - |
| Total Expenditures | | 30,539.39 | - |
| Excess/(Deficiency) of Rev. over Exp. | 98,985.57 | 68,446.18 | - |
| Fund Balance | 98,985.57 | 68,446.18 | 68,446.18 |

Number of Scholarships Awarded

61

Frequency per Fiscal Year----September 30, January 31, and May 31

FY 2017 PROPOSED BUDGET

| | <i>Column A</i> | <i>Column B</i> | <i>Column C</i> |
|--|--|---|---|
| | FY 2016 Approved Budget | FY 2016 Budget Projected through 8-31-16 | FY 2017 Proposed Budget with investigator and staff travel |
| Revenues: | | | |
| Licenses & Fees | 2,601,504 | 2,632,516 | 2,617,560 |
| Business Registration Fees | 75,000 | 90,000 | 80,000 |
| Late Fee Payments | 120,000 | 120,000 | 120,000 |
| Other | 2,500 | 4,716 | 2,500 |
| Interest | 1,000 | 3,314 | 2,000 |
| Potential Draw on Fund Balance | | | 93,902 |
| Total Revenues | 2,800,004 | 2,850,546 | 2,915,962 |
| Expenditures: | | | |
| Salaries and Wages | 1,456,300 | 1,398,337 | 1,526,423 |
| Payroll Related Costs | 445,904 | 482,854 | 525,897 |
| Professional Fees & Services | 36,000 | 25,000 | 25,000 |
| Travel | | | |
| Board Travel | 30,000 | 30,000 | 30,000 |
| Staff Travel | 18,000 | 18,000 | 20,000 |
| Office Supplies | 12,000 | 10,000 | 10,000 |
| Postage | 15,000 | 13,000 | 13,000 |
| Communication and Utilities | 18,800 | 13,000 | 13,000 |
| Repairs and Maintenance | 1,000 | 1,000 | 1,000 |
| Office Rental | 78,000 | 51,000 | 51,000 |
| Equipment Leases--Copiers | 10,000 | 8,500 | 8,500 |
| Printing | 20,000 | 15,000 | 15,000 |
| Operating Expenditures | 41,000 | 30,000 | 30,000 |
| Registration Fees--Employee Training | | | 11,000 |
| Conference Registration Fees | 4,000 | 4,000 | |
| Membership Dues | 20,000 | 21,000 | 21,000 |
| Staff Training | 6,000 | 6,000 | |
| SWCAP Payment | 38,000 | 65,142 | 65,142 |
| Payment to GR | 510,000 | 510,000 | 510,000 |
| IT Upgrades With Servers | 40,000 | 42,000 | 40,000 |
| Total Expenditures | 2,800,004 | 2,743,832 | 2,915,962 |
| Excess/ (Deficiency) of Rev over Exp. | - | 106,714 | 0 |

| | |
|-----------------------------|------------------|
| Funding for 8 months | 1,866,483 |
| Excess Fund Balance | 696,327 |
| Total Fund Balance | 2,562,810 |

| | Revenue | Change | Expenditures | Difference | Fund Balance | |
|-------------|-------------|---------|--------------|------------|--------------|-----|
| 2009 | \$3,251,164 | | \$2,917,912 | \$333,252 | \$2,273,982 | |
| 2010 | \$2,917,458 | -10.26% | \$2,772,001 | \$145,457 | \$2,419,439 | |
| 2011 | \$2,845,731 | -2.46% | \$2,581,399 | \$264,332 | \$2,683,771 | |
| 2012 | \$2,935,416 | 3.15% | \$2,936,423 | -\$1,007 | \$2,382,963 | |
| 2013 | \$2,676,002 | -8.84% | \$2,732,507 | -\$56,505 | \$2,326,458 | |
| 2014 | \$2,692,344 | 0.61% | \$2,675,741 | \$16,603 | \$2,343,061 | |
| 2015 | \$2,782,188 | 3.34% | \$2,591,481 | \$190,707 | \$2,562,810 | |
| 2016 | \$2,850,546 | 2.46% | \$2,743,832 | \$106,714 | \$2,669,524 | 97% |
| 2017 | \$2,822,060 | -1.00% | \$2,915,961 | -\$93,901 | \$2,575,623 | 88% |
| 2018 | \$2,765,619 | -2.00% | \$3,003,440 | -\$237,821 | \$2,337,802 | 78% |
| 2019 | \$2,801,572 | 1.30% | \$3,093,543 | -\$291,971 | \$2,045,831 | 66% |
| 2020 | \$2,826,786 | 0.90% | \$3,186,349 | -\$359,563 | -\$20.44 | |

Goals and Objectives

Fiscal Year 2017

Executive Director

Goal - To provide policy advice to the Board, implement agency policies, and manage the organization in a manner that will accomplish the stated mission, goals, and objectives of the Board.

Objectives

1. To coordinate the development of proposed goals and objectives for the agency; prepare a report on the accomplishments of the agency; and direct the preparation and submission of the Board's Annual Report to be presented to the Board
2. To manage and monitor the agency's performance and operational efficiency in the licensing of architects, landscape architects and registered interior designers and in the enforcement of each respective practice act.
3. To direct the preparation of the operating budget for review and approval by the Board
4. To assist in the development and implementation of the practice act, rules, policies, procedures and guidelines to enhance the Board's ability to protect the public and to improve the efficiency and effectiveness of the agency's operations; and to review and implement legislation passed by the Texas Legislature that affects agency operations and the practice of architecture, landscape architecture and interior design.
5. To direct the collection of data and the preparation and submission of the Self-Directed Semi-Independent Reports as required by Chapter 472 of the Government Code.
6. To direct the communication of public information to the public, registrants and stakeholders via publications, news releases, staff presentations, the agency website and social media.
7. To represent agency policies and programs to local, state, and national architecture, landscape architecture, interior design and consumer organizations; act as the Board's liaison to the professional associations; represent the Board before the state legislature and executive branch; and assure coordination of agency activities with those of other state and federal agencies involved in the regulation of the practice of architecture, landscape architecture and interior design.
8. To review all federal and state statutes, regulations, policies and trends that may impact the regulation of the practice of architecture, landscape architecture and interior design and make timely recommendations to the Board for implementation of any required Board actions.
9. To coordinate and participate in the orientation of new Board Members appointed by the Governor.
10. To maintain a staff development program by encouraging staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training; conduct periodic reviews

and annual evaluations of Division Directors and Executive Division staff and to monitor evaluations of employees in all Board Divisions.

All Divisions

Goal – To assist the Executive Director, in cooperation with other Divisions, to manage the Division in a manner that will accomplish the stated mission, goals and objectives.

Objectives

1. To assist the Executive Director, in cooperation with other Divisions, to prepare and propose the operating budget for review and approval by the Board.
2. To assist the Executive Director, in cooperation with other Divisions, to review and implement legislation passed by the Texas Legislature that affects agency operations and the practice of architecture, landscape architecture and interior design.
3. To assist the Executive Director, in cooperation with other Divisions, to collect data and prepare and submit the Self-Directed Semi-Independent Report as required by Chapter 472 of the Government Code.
4. To assist the Executive Director, in cooperation with other Divisions, to communicate public information to the public, registrants and stakeholders via publications, news releases, staff presentations, the agency website and social media.
5. To provide verbal and written information in a timely manner to Board staff and customers as needed or required, to include providing technical assistance to other Divisions, agencies and legislators.
6. To destroy records in accordance with the agency's record retention plan.
7. To recommend changes to the practice acts and rules and to recommend policies and procedures that will enhance the Board's ability to protect the public or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director.
8. To update the agency Personnel Handbook and the Division's Policies and Procedures Manual as needed and submit any revisions to the Executive Director for approval.
9. To manage employees under the supervision of the Division, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.
10. To prepare monthly reports on the accomplishment of Division objectives, for incorporation into the Board's Annual Report.

Finance Division

Goal – To administer finance and purchasing operations for the agency.

Objectives

1. To prepare a proposed budget for submission to the Board and plan, organize and execute all budgetary activities.
2. To prepare and submit all required accounting and fiscal reports, statements and reconciliations in compliance with all applicable state statutes.
3. To inform management of budget deviations, problems, and events likely to affect operations; explain causes; and measure effect on the agency's mission and resources.
4. To review and recommend to the Executive Director possible uses of funds and additional sources of spendable revenue and to assess fees charged for agency services.
5. To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures.

Administration Division

Goal – To administer agency operations including human resources, risk management, business continuity and board member and agency administrative support.

Objectives

1. To provide administrative and technical assistance to the Board members and Executive Director, including preparation for Board Meetings.
2. To maintain the agency Personnel Handbook and the Division's Policies and Procedures Manual as needed.
3. To develop and maintain business continuity and crisis management strategies, plans and procedures.
4. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes.
5. To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures.
6. To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities.
7. To assist Board members and staff with processing travel arrangements and to ensure compliance with all applicable state laws and rules.
8. To ensure that the best possible customer service is provided to all customers, both internal and external.

9. To ensure proper processing and distribution of agency mail

Information Technology Division

Goal – To administer the information technology operations for the agency.

Objectives

1. To manage the information resource needs (data processing, telecommunication, and Web site) of the agency.
2. To evaluate and implement solutions for the evolving computing needs of the agency.
3. To provide a stable infrastructure for existing information technology systems.
4. To increase the efficiency and productivity of Board operations with the use of information resources.
5. To secure the agency's system against internal and external information security threats.

Licensing Division

Goal – To conduct an architect, landscape architect and interior designer registration and ongoing renewal system.

Objectives

1. To issue registrations by examination or reciprocity within an average of three working days after the date the agency receives all required documents.
2. To issue renewals to all registrants within an average of three working days of receipt of the required fee and all required documents.
3. To audit the registrants' compliance with continuing education and to initiate complaints on registrants who are not in compliance with the rules regarding mandatory continuing education for renewal, in cooperation with the Investigations and Legal Divisions.

Investigations Division

Goal – To enforce laws and rules relating to the practice of architecture, landscape architecture and interior design through investigations of complaints. To monitor the complaint process and transfer complaints involving substantive allegations to the Legal Division for review and potential prosecution.

Objectives

1. To coordinate and monitor the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants.
2. To investigate complaints within an average of 90 days according to the priorities set by the Executive Director.

3. In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants and registrants, including fingerprint-based criminal background checks. To monitor real time reported criminal history of registrants as updated daily by DPS.
4. To provide technical assistance, maintain liaison, and coordinate joint investigations of architects, landscape architects, registered interior designers, and practicing non-licensees with federal, state, and local law enforcement agencies, including regulatory or administrative agencies.
5. In cooperation with the Legal Division, to monitor compliance with all Board Orders and Agreed Settlement Orders.

Legal Division

Goal – To prosecute violations of the laws and rules related to the practice of architecture, landscape architecture, and interior design. To monitor compliance with Disciplinary Orders. To provide adjudicative information to Board customers. To provide legal services and guidance to the Board and the Board staff relating to the regulation of the practice of architecture, landscape architecture, and interior design and the administration of the agency. To coordinate the drafting of and amendments to Board rules and serve as the liaison to the Texas Register. To respond to public information requests in compliance with the Public Information Act.

Objectives

1. To coordinate and monitor the receipt, assignment, and resolution of all cases accepted by the Legal Division.
2. To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 30 days in accordance with priorities established by the Executive Director.
3. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) and file a complaint with SOAH within an average of 60 days in accordance with priorities established by the Executive Director.
4. In cooperation with the Investigations Division, to monitor compliance with all Board Orders and Agreed Settlement Orders.
5. To provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board registrants, in conjunction with the Investigations Division.
6. To coordinate the drafting of and amendments to Board rules; act as agency liaison to the *Texas Register*; coordinate and monitor all submissions to the *Texas Register*; review and monitor the *Texas Register* for activities of other agencies that would impact the agency or the practice of architecture, landscape architecture or interior design; and provide periodic notice of publications to Board Members, staff and other interested parties.

7. To respond to public information requests in accordance with the procedures set forth in the Texas Public Information Act and draft requests for Attorney General letter rulings.
8. To research legal issues and provide legal services and advice to the Board and Board staff.
9. To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records.
10. To serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with opinion requests, appeals, injunctions, or civil litigation handled by the OAG against licensees and non-licensees.

Communications

Goal – To share timely and accurate information with the public, registrants and stakeholders in order to enhance the transparency of the agency's processes.

Objectives

1. To assist with the communication of public information to the public, registrants and stakeholders via publications, news releases, staff presentations, the agency website and social media.
2. To provide information to Board Members, Staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required.
3. To publish a newsletter in order to promote voluntary compliance with the law by providing information to educate registrants about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.

Consideration of Proposed Amendments Relating to Disciplinary Issues:

Administrative Penalties, Warnings, and Reprimands

22 Tex. Admin. Code §§1.174, 1.177, 1.232, 3.174, 3.177, 3.232, 5.184, 5.187, and 5.242

Background

In August of 2015, the rules committee considered a draft amendment to Rule 1.177¹ that would have explicitly identified unauthorized use of an architectural seal as a “major” violation subject to the maximum \$5,000 administrative penalty allowable under our law. The committee was generally in favor of this change, but also expressed concern about other issues in the rule. Staff was asked to provide the committee with an alternate version of the rule that would provide more guidance on the appropriate levels of administrative penalties for other violations. Subsequently, staff identified two other issues relating to disciplinary sanctions: the issuance of warnings under Rule 1.174 and the reference to reprimands in Rule 1.232 (relating to recommended penalties in disciplinary actions). Draft amendments to these rules were prepared for Chapters 1, 3, and 5, and approved at the May 26 Board Meeting. No comments were received on the proposed rules. The draft rules are presented without change for final adoption, and are attached to this summary.

Issues Presented:

Warnings

The issuance of warnings is governed by **Rules 1.174, 3.174, and 5.184**. Copies of the proposed rules are attached. The issue with this rule is that it provides very broad authority for the issuance of warnings that gives staff little guidance in determining whether the issuance of a warning would be appropriate. Adoption of this rule would specifically identify individual violations that would be appropriate for issuance of a warning. This would allow staff to act with greater confidence and consistency in implementing the Board’s policy determinations in issuing warnings.

Administrative Penalty Schedule (Rule 1.177)

The administrative penalty schedule is contained in **Rules 1.177, 3.177, and 5.187**. These rules provide the Board and staff with guidance in determining the appropriate amount of administrative penalties in settlement and contested case matters. As currently written, the rule attempts to define a given violation as major, moderate, or minor based upon the analysis of three factors: seriousness of misconduct, economic harm, and sanction history. There are several issues with this process, including the following:

- The consideration of “seriousness of misconduct” is heavily dependent on proving the state of mind of the Respondent. The determination of negligence, gross negligence, or recklessness is subjective, and could result in battle of experts at hearing. This

¹ Here, and elsewhere in this document, the reference to the chapter 1 rule relating to architects applies equally to the companion rules in chapters 3 and 5, and draft amendments have been drafted for all three chapters.

subjectivity is not conducive to predictable and efficient determinations by staff or the Board of the appropriate penalty at settlement stage

- The tests for seriousness of misconduct are not necessarily mutually exclusive and/or collectively exhaustive
 - Possibility that one violation could qualify under two or more tests, i.e. the Respondent was both unaware conduct was prohibited (former subsection (1)(A)(i) – minor penalty) but also knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances (former subsection (1)(A)(ii) – moderate penalty).
 - Satisfies one part of the test but not another, i.e. in subsection (1)(A)(iii): threat to health and safety but not notified of alleged violation/did not refuse to take prompt remedial action
- Often, there is no economic harm, economic harm is difficult to quantify, or staff lacks evidence of economic harm. Obviously, this does not necessarily mean the violation is minor, but that is the result under the rule.
- In many cases a clear answer might not be available for “seriousness of misconduct” or “economic harm.” That would leave the determination to be made on disciplinary history. Most cases don’t have disciplinary history, which could result in an otherwise serious violation being considered a “minor” violation.

As an alternative, the proposed amendments would specifically identify certain violations of the Board’s laws and rules as minor, moderate, or major, with maximum penalties of \$1,000, \$3,000, and \$5,000, respectively. Each violation would then be considered individually on the factors contained in Board Rules 1.141(c) and 1.165(f) (and Chapter 3 and 5 equivalents) to arrive at a specific penalty amount within the recommended range. This approach has the advantage of providing staff with more objective guidance in recommending administrative penalties, while preserving the ability to consider each case individually.

Reprimands

A reprimand is an authorized disciplinary action under Tex. Occ. Code Sec. 1051.751 and is also listed as a recommended sanction in the Board’s disciplinary guidelines in **Rules 1.232, 3.232, and 5.242**. However, it appears that the Board has not issued a reprimand since 2004. Given that the issuance of reprimands is no longer within the Board’s regular practice, removal of this sanction from the disciplinary guidelines should be considered. Otherwise, there is a risk that an ALJ would recommend a reprimand as an appropriate penalty following a SOAH hearing. This would force the Board to decide whether to overrule the ALJ on sanction, which is a permissible action but one that arguably increases the likelihood of appeal in district court. The proposed rule would update the disciplinary guidelines in order to achieve consistency with current practice.

Additionally, the proposed amendments alter procedural language in subsection (d), eliminate the issuance of a cease and desist letter as a form of discipline, and include language that clarifies the Board’s authority to issue administrative penalties in combination with other sanctions.

Staff's Recommendation:

Staff recommends that the Board move to approve the proposed amendments to 22 Tex. Admin. Code §§1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242 for final adoption.

RULE §1.174 Complaint Process

(a) A person may file a complaint by submitting the following information to the Board:

(1) the name of and contact information for the complainant unless evidence regarding a possible violation was submitted anonymously;

(2) the name of the person against whom the complaint is filed;

(3) the address, telephone number, Web site, or other contact information for the person against whom the complaint is filed, if available;

(4) the date and location of the alleged violation that is the subject of the complaint;

(5) a description of each alleged violation; and

(6) the name, address, and telephone number for any known witness who can provide information regarding the alleged violation.

(b) A complaint should be submitted on the complaint form that may be obtained by accessing the form on the Board's Web site or by contacting the Board's staff. If a completed complaint form is not submitted, the Board's staff will not be able to initiate an investigation unless the Board's staff receives information sufficient to establish probable cause to believe an actionable violation might have occurred.

(c) Once a complaint has been received, the Board's enforcement staff shall:

(1) conduct a preliminary evaluation of the complaint within thirty (30) days to determine:

(A) Jurisdiction: whether the complaint provides information sufficient to establish probable cause for the Board's staff to believe an actionable violation might have occurred;

(B) Disciplinary History: whether there has been previous enforcement activity involving the person against whom the complaint has been filed; and

(C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;

(2) provide the complainant and respondent with information which will permit review of the Board's policies and procedures from the Board's web site regarding complaint investigation and resolution. If the complainant or respondent requests a copy of the policies and procedures in written format a copy shall be mailed upon request.

(3) notify the complainant and respondent of the status of the investigation at least quarterly unless providing notice would jeopardize an investigation; and

(4) maintain a complaint file that includes at least:

(A) the name of the person who filed the complaint unless the complaint was filed anonymously;

(B) the date the complaint was received by the Board's staff;

(C) a description of the subject matter of the complaint;

- (D) the name of each person contacted in relation to the complaint;
- (E) a summary of the results of the review and investigation of the complaint; and
- (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without action other than the investigation of the complaint.
- (d) After the preliminary evaluation period, the Board's staff may contact the complainant, the respondent, and any known witness concerning the complaint.
- (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred to another government agency if it appears that the other agency might have jurisdiction over the issue(s) raised in the complaint.
- (f) If the Board's staff proceeds with an investigation, the staff shall:
- (1) investigate the complaint according to the priority level assigned to the complaint;
 - (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the complaint, the staff has determined that the Board has jurisdiction over the allegations(s) described in the complaint and has decided to proceed with an investigation of the allegation(s) against the respondent; and
 - (3) gather sufficient information and evidence to determine whether there is probable cause to believe that a violation of a statutory provision or rule enforced by the Board has occurred.
- (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received as described in subsection (a) of this section.
- (h) If the information and evidence gathered during an investigation are insufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) dismiss the complaint;
 - (2) send notices to the complainant and respondent regarding the dismissal;
 - (3) if warranted, include in the respondent's notice a recommendation or warning regarding the respondent's future conduct; and
 - (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was found.
- (i) If the information and evidence gathered during an investigation are sufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) seek to resolve the matter pursuant to §§1.165, 1.166 or 1.173 of this subchapter; or
 - (2) issue a warning in accordance with Subsection (j). ~~[to the respondent if the violation is the respondent's first violation and:~~
- ~~—(A) the respondent has not received a written warning or advisory notice from the Board;~~

1 ~~—(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
2 ~~health or safety of the public; and~~

3 ~~—(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
4 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.]~~

5 (j) A warning may be issued by the Executive Director only as follows:

6 (1) the violation is the Respondent's only violation of the Board's laws and rules;

7 (2) the Respondent has not previously been subject to a Board warning or order;

8 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
9 health or safety of the public; and

10 (4) The Respondent has committed one of the following violations:

11 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
12 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

13 (B) Unauthorized use of term "architect" or "architecture";

14 (C) Failure to respond to a Board inquiry;

15 (D) Failure to provide a statement of jurisdiction;

16 (E) Use of a non-compliant seal by registrant;

17 (F) Failure to register or annually renew the registration of a business; or

18 (G) Creation of misleading impression by an architect advertising for services.

19 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
20 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

21 ~~[(j)]~~ (l) Before a proposed settlement agreement may be approved by the Board,:

22 ~~—(1) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
23 ~~location of the meeting during which the Board will consider the agreement; and~~

24 ~~—(2)] the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
25 ~~requirements have been satisfied.~~

26 ~~[(k)]~~ (m) If a complaint is dismissed, the complainant may submit to the Executive Director a written
27 request for reconsideration. The written request must explain why the complaint should not have been
28 dismissed. The Executive Director may, but is not required to, respond to the request for
29 reconsideration.

RULE §1.177 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

~~[(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:~~

~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

~~—(i) Minor—the respondent has demonstrated that he/she was unaware that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.~~

~~—(ii) Moderate—the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.~~

~~—(iii) Major—the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.~~

~~—(B) Economic harm:~~

~~—(i) Minor—there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.~~

~~—(ii) Moderate—economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

~~—(iii) Major—economic damage to property or economic injury to other persons or entities exceeded \$1,000.~~

~~—(C) Sanction history:~~

~~—(i) Minor—the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.~~

~~—(ii) Moderate—the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.~~

~~—(iii) Major—the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.]~~

(1) In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of this rule, the following classifications shall apply:

Figure: 22 TAC §1.177(1)

Minor Violations

| | <u>Citation</u> |
|--|---|
| <u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u> | <u>§1.62</u> |
| <u>Failure to respond to a Board inquiry.</u> | <u>§1.171</u> |
| <u>Failure to provide statement of jurisdiction.</u> | <u>§1.106</u> |
| <u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u> | <u>Tex. Occ. Code Sec. 1051.752(2) and §1.170</u> |
| <u>Use of a non-compliant seal by registrant.</u> | <u>§1.102</u> |
| <u>Failure to register or annually renew the registration of a business.</u> | <u>§1.124</u> |

Moderate Violations

| | <u>Citation</u> |
|--|--|
| <u>Unlawful practice by emeritus architect or practice of architecture while registration is inactive.</u> | <u>§1.67</u> <u>§1.68</u> |
| <u>Practice of architecture while registration is expired.</u> | <u>§1.82(b)</u> |
| <u>Aiding or abetting an unregistered person in violating the Board's laws and rules.</u> | <u>Tex. Occ. Code Sec. 1051.752(8)</u> |
| <u>Unauthorized use of term "architect" or "architectural."</u> | <u>Tex. Occ. Code Sec. 1051.606 and §1.123(c)</u> |
| <u>Failure to maintain a sealed document for ten years.</u> | <u>§1.103(c)</u> |
| <u>Failure to seal documents</u> | <u>§1.103</u> <u>§1.105</u> <u>§1.122(c),(e)</u> |
| <u>Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required</u> | <u>§1.103(b)</u> |
| <u>Violation of prototypical design requirements</u> | <u>§1.105</u> |
| <u>Failure to take reasonable steps to notify sealing Architect of intent to modify that architect's sealed documents and/or failure to clearly indicate extent of modifications to sealed plans</u> | <u>§1.104(d)</u> |
| <u>Failure to comply with requirements relating to preparation of only a portion of a document</u> | <u>§1.104(b)</u> |
| <u>Removal of seal after issuance of documents</u> | <u>§1.104(e)</u> |
| <u>Failure to enter into a written agreement of association when required</u> | <u>§1.122</u> |
| <u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u> | <u>§1.124(c)</u> |

Major Violations

| | Citation |
|---|--|
| <u>Submission or solicitation of a competitive bid or direct or indirect disclosure of fee information in violation of the Board's Rule implementing the Professional Services Procurement Act</u> | <u>Tex. Occ. Code Sec. 1051.203 and §1.147</u> |
| <u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u> | <u>§1.144(c)</u> |
| <u>Giving false or forged evidence to the board or a board member in obtaining or assisting another person to obtain a certificate of registration.</u> | <u>Tex. Occ. Code Sec. 1051.752(7)</u> |
| <u>Dishonest practice in the practice of architecture by the holder of a certificate of registration.</u> | <u>Tex. Occ. Code Sec. 1051.752(6) and §1.144</u> |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | <u>Tex. Occ. Code Sec. 1051.752(9)</u> |
| <u>Affixation of seal by an architect on a document not prepared by or under the supervision and control of the architect</u> | <u>§1.104(a)</u> |
| <u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u> | <u>§1.122(c) or (e)</u> |
| <u>Use of an architect's seal, or a copy or replica of an architect's seal without the architect's consent.</u> | <u>§1.104(c)</u> |
| <u>Engaging in the practice of architecture as defined by Sec. 1051.001(7)(A), (B), or (C) without a registration and not exempted by Sec. 1051.606.</u> | <u>Tex. Occ. Code Sec. 1051.701(a)</u> |
| <u>Recklessness in the practice of architecture, including recklessness in the construction or alteration of a building by an architect designing, planning, or observing the construction or alteration.</u> | <u>Tex. Occ. Code Sec. 1051.752(5) and §1.143</u> |
| <u>Failure to report a course of action taken against an Architect's advice which may have a materially adverse effect on the safe use of a completed building</u> | <u>§1.216</u> |
| <u>Gross incompetency in the practice of architecture</u> | <u>Tex. Occ. Code Section 1051.752(4) and §1.142</u> |

(2) After determining whether the violation is minor, moderate, or major, the Board shall impose an administrative penalty as follows:

(A) Minor violations—~~if the violation is minor in every category described in paragraph (1) of this section,~~ an administrative penalty of not more than \$1,0[5]00 shall be imposed.

(B) Moderate violations—~~if the violation is moderate in any category described in paragraph (1) of this section,~~ an administrative penalty of not more than \$3[2],000 shall be imposed.

(C) Major violations—~~if the violation is major in any category described in paragraph (1) of this section or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to deter similar misconduct in the future,~~ an administrative penalty of not more than \$5,000 shall be imposed.

1 (3) In determining the specific amount of an administrative penalty within the minor, moderate, or
2 major range, the Board shall consider the factors outlined in Board Rules 1.141(c) and/or 1.165(f).

3 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
4 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 1.141(c)
5 and/or 1.165(f) in determining an appropriate administrative penalty.

6 (5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's
7 laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be
8 considered at the next higher level of severity.

9 (6) Multiple Violations

10 (A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual
11 violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has
12 committed multiple violations of a single law or rule, the Respondent shall be subject to a separate
13 administrative penalty for each violation.

14 (B) Each sheet of architectural plans and specifications created or issued in violation of the Board's
15 laws and rules shall be considered a separate violation for purposes of calculating the total
16 administrative penalty under subsection (6)(A).

17 (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a
18 separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

19 (7) The administrative penalties set out in this section may be considered in addition to any other
20 disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

21 (8) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
22 section.

23 ~~[(D) Because of the threat to human health, safety and well-being which necessarily arises out of a~~
24 ~~Nonregistrant preparing and issuing architectural plans and specifications the Board possesses a~~
25 ~~compelling interest in ensuring that architectural plans and specifications are prepared and issued only~~
26 ~~by a registered architect or by a person who is working under the active and documented Supervision~~
27 ~~and Control of a registered Architect when required by law. If the evidence establishes that Architectural~~
28 ~~plans and specifications for a project that is not exempt from the Architects' Practice Act were prepared~~
29 ~~by a person who is not registered to engage in the Practice of Architecture and was not working under~~
30 ~~the active and documented Supervision and Control of an Architect the violation shall be presumed to~~
31 ~~be a major violation and each sheet of architectural plans or separate section of the specifications shall~~
32 ~~be considered a separate violation for purposes of calculating and imposing administrative penalties.~~

33 ~~—(E) Because of the threat to human health, safety and welfare which necessarily arises from~~
34 ~~Nonregistrants engaging in the Practice of Architecture the Board has a compelling interest in ensuring~~
35 ~~that only those persons who are registered to engage in the Practice of Architecture or whose work is~~
36 ~~conducted under the active and documented Supervision and Control of a registered architect engage in~~
37 ~~the Practice of Architecture. If the evidence establishes that an Architect has sealed architectural plans~~
38 ~~and separately numbered section of the specifications without having exercised active and documented~~
39 ~~Supervision and Control of the Nonregistrants's activities the Board shall presume such conduct by the~~

1 ~~sealing architect to be a major violation and each sheet of architectural plans or separate section of the~~
2 ~~specifications shall be considered a separate violation for purposes of calculating and imposing~~
3 ~~administrative penalties.~~

4 ~~—(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and~~
5 ~~enforcing the Architects' Practice Act. In fulfilling this statutory duty the Board depends upon, and~~
6 ~~expects, that Registrants and Applicants will provide complete, truthful and accurate information to the~~
7 ~~Board upon request. This prompt and accurate provision of information is essential to protecting the~~
8 ~~public's health, safety and welfare.]~~

9 (9) [(G)] An Architect, Candidate, or Applicant who fails, without good cause, to provide information to
10 the Board under provision of §1.171 of this subchapter (relating to Responding to Request for
11 Information) is presumed to be interfering with and preventing the Board from fulfilling its
12 responsibilities. ~~[For these reasons a]~~ A violation of §1.171 of this subchapter shall be considered a
13 ~~[moderate]~~ minor violation if a complete response is not received within 30 days after receipt of the
14 Board's written inquiry. ~~[Any further]~~ An additional 15 day delay constitutes a ~~[major]~~ moderate
15 violation~~[-], and [E]~~ each 15 day delay thereafter shall be considered a separate major violation of these
16 rules.

17 ~~{3} In order to determine the appropriate amount in a penalty range described in paragraph (2) of this~~
18 ~~section, the Board shall consider the factors described in paragraph (1) of this section.~~

19 ~~—(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this~~
20 ~~section.~~

RULE §1.232 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

~~(d) [Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.]~~ If a party submits proposed findings of fact or conclusions of law, the proposal for decision shall include a ruling on each proposed finding or conclusion.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board. The oral presentation shall be confined to matters contained within the administrative record.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

(Attached Graphic: Figure 22 TAC §1.232(j))

| Figure: 22 TAC §1.232(j) | | |
|---|--|--|
| Violation | Rule or Statutory Citation Rule(s) Cited | Recommended Penalty |
| Unauthorized duplication of certificate of registration or failure to display certificate of registration as required | §1.62 | Administrative penalty or reprimand |
| Unlawful practice of architecture while registration is on emeritus status | §1.67(b) | Administrative penalty and cease and desist order |
| Practice of architecture while registration is inactive <u>or expired</u> | §1.68 <u>or</u> <u>§1.82(b)</u> | Administrative penalty and cease and desist order |
| Failure to fulfill mandatory continuing education requirements | §1.69 | Administrative penalty, or <u>suspension, or both</u> |
| Failure to timely complete required continuing education program hours | §1.69(b) | Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses |
| Falsely reporting compliance with mandatory continuing education requirements | §1.69(g) | Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses |

| | | |
|--|---|---|
| <u>Failure to maintain a detailed record of continuing education activities</u> | <u>§1.69(g)(1)</u> | <u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u> |
| Failure to use appropriate seal or signature <u>Use of non-compliant seal by registrant</u> | §1.102 §1.104(e) | Administrative penalty or reprimand |
| Failure to seal <u>or sign</u> documents | §1.103 §1.105 §1.122(c),(e) | Administrative penalty or reprimand |
| Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required | §1.103(b) | Administrative penalty or reprimand |
| Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping” | §1.104(a) and (b) §1.122(c) and or (e) | <u>Administrative penalty and either suspension or revocation</u> |
| Failure to take reasonable steps to notify sealing Architect of intent to modify that architect’s sealed documents | §1.104(d) | Administrative penalty or reprimand |
| Failure to indicate modifications or additions to a document prepared by another Architect | §1.104(b) and (d) | <u>Administrative penalty, suspension, or both</u> |
| Removal of seal after issuance of documents | §1.104(e) | Administrative penalty or reprimand |
| Failure to maintain a document for 10 years as required | §1.103(g) §1.105(b) §1.122(d) | Administrative penalty or reprimand |
| Unauthorized use of a seal or a copy or replica of a seal or unauthorized modification of a document | §1.104 (b) and (c) | Administrative penalty, reprimand, or <u>suspension, or both</u> |
| <u>Failure to comply with requirements relating to preparation of only a portion of a document</u> | <u>§1.104(b)</u> | <u>Administrative penalty, suspension, or both</u> |

| | | |
|--|---|---|
| Violation of requirements regarding prototypical design | §1.105 | Administrative penalty, reprimand, or <u>suspension, or both</u> |
| Failure to provide Statement of Jurisdiction | §1.106 | Administrative penalty or reprimand |
| Failure to enter into a written agreement of association when required | §1.122 | Administrative penalty or reprimand |
| Failure to exercise Supervision and Control over the preparation of a document as required | §1.122(c) | <u>Administrative penalty, and either suspension, or revocation, or refusal to renew registration</u> |
| Failure to exercise Responsible Charge over the preparation of a document as required | §1.122(e) | <u>Administrative penalty, and either suspension, or revocation, or refusal to renew registration</u> |
| Failure of a firm, business entity, or association to register | §1.124(a) and (b) | Administrative penalty, cease and desist order, or both |
| Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture | §1.124(c) | Administrative penalty, reprimand, or <u>suspension, or both</u> |
| Offering or rendering the Practice of Architecture by and through a firm, business entity or association that is not duly registered | §1.124 §1.146(a)(2)(B) | Administrative penalty, cease and desist order, or both |
| Gross incompetency | <u>Tex. Occ. Code §1051.752(4),</u> §1.142 | <u>Administrative penalty, and either suspension, or revocation, or refusal to renew registration</u> |
| Recklessness | <u>Tex. Occ. Code §1051.752(5)</u> §1.143 | <u>Administrative penalty, and either suspension, or revocation, or refusal to renew registration</u> |
| Dishonest practice | <u>Tex. Occ. Code §1051.752(6)§1.144(a) or (b), (c)</u> | <u>Administrative penalty, and either suspension, or revocation, or refusal to renew registration</u> |

| | | |
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| Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work | §1.144(b <u>c</u>) | <u>Administrative penalty and either suspension or revocation, and payment of restitution</u> |
| Conflict of interest | §1.145 | <u>Administrative penalty and either suspension or revocation, or refusal to renew registration</u> |
| Participating in a plan, scheme or arrangement to violate the Act or rules of the Board | §1.146(a) | Administrative penalty, suspension, <u>and/or</u> revocation, or refusal to renew registration |
| Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused architectural seal | §1.146(b), (c) | Administrative penalty or <u>reprimand</u> |
| <u>Submission or solicitation of a competitive bid or direct or indirect disclosure of fee information in violation of the Board's Rule implementing the Professional Services Procurement Act</u> | §1.147 | <u>Administrative penalty and either suspension or revocation</u> |
| Disclosure of fee information inconsistent with the Professional Services Procurement Act | §1.147 | Administrative penalty or reprimand |
| Disclosure of information with the intent to indirectly disclose fee information | §1.147 | Suspension or revocation |
| Unauthorized practice or use of title "architect" | §1.123 §1.148 | Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration |
| Criminal conviction | §1.149 | Suspension or revocation |
| Gross incompetence caused by substance abuse | §1.150 | Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety. |

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| | | <u>followed by probated suspension if appropriate</u> |
| Violation by Applicant regarding unlawful use title “architect”, unlawful practice, or criminal convictions | §1.148 §1.149 §1.151 | Reprimand, Administrative penalty, <u>suspension, revocation, denial of application, denial of reapplication for up to five years, and/ rejection, denial of right to reapply,</u> or probationary initial registration |
| Failure to submit a document as required by the Architectural Barriers Act | <u>Tex. Occ. Code §1051.752(2),</u> §1.170 | Reprimand or Administrative penalty |
| Failure to respond to a Board inquiry | §1.171 | Administrative penalty |
| <u>Giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u> | <u>Tex. Occ. Code §1051.752(7)</u> | <u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> |
| <u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u> | <u>Tex. Occ. Code §1051.752(8)</u> | <u>Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u> |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | <u>Tex. Occ. Code §1051.752(9)</u> | <u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> |
| Unregistered individual engaging in construction observation for a nonexempt building | §1.217 | Administrative penalty, reprimand, <u>denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> denial denial registration or refusal to renew, reinstate, or reactivate registration |

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| Failure to report course of action likely to have material adverse effect on safe use of building or failure to refuse to consent to the course of action | §1.216 | <u>Administrative penalty and either suspension, or revocation or refusal to renew registration</u> |
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(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent. If the Respondent has previously been subject to disciplinary action before the Board, more severe discipline may be imposed.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §1.177 of this chapter (relating to Administrative Penalty Schedule) shall be applied to determine the amount of the administrative penalty.

RULE §3.174 Complaint Process

(a) A person may file a complaint by submitting the following information to the Board:

(1) the name of and contact information for the complainant unless evidence regarding a possible violation was submitted anonymously;

(2) the name of the person against whom the complaint is filed;

(3) the address, telephone number, Web site, or other contact information for the person against whom the complaint is filed, if available;

(4) the date and location of the alleged violation that is the subject of the complaint;

(5) a description of each alleged violation; and

(6) the name, address, and telephone number for any known witness who can provide information regarding the alleged violation.

(b) A complaint should be submitted on the complaint form that may be obtained by accessing the form on the Board's Web site or by contacting the Board's staff. If a completed complaint form is not submitted, the Board's staff will not be able to initiate an investigation unless the Board's staff receives information sufficient to establish probable cause to believe an actionable violation might have occurred.

(c) Once a complaint has been received, the Board's enforcement staff shall:

(1) conduct a preliminary evaluation of the complaint within thirty (30) days to determine:

(A) Jurisdiction: whether the complaint provides information sufficient to establish probable cause for the Board's staff to believe an actionable violation might have occurred;

(B) Disciplinary History: whether there has been previous enforcement activity involving the person against whom the complaint has been filed; and

(C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;

(2) provide the complainant and respondent with information which will permit review of the Board's policies and procedures from the Board's web site regarding complaint investigation and resolution. If the complainant or respondent requests a copy of the policies and procedures in written format a copy shall be mailed upon request.

(3) notify the complainant and respondent of the status of the investigation at least quarterly unless providing notice would jeopardize an investigation; and

(4) maintain a complaint file that includes at least:

(A) the name of the person who filed the complaint unless the complaint was filed anonymously;

(B) the date the complaint was received by the Board's staff;

(C) a description of the subject matter of the complaint;

- (D) the name of each person contacted in relation to the complaint;
- (E) a summary of the results of the review and investigation of the complaint; and
- (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without action other than the investigation of the complaint.
- (d) During the preliminary evaluation period, the Board's staff may contact the complainant, the respondent, and any known witness concerning the complaint.
- (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred to another government agency if it appears that the other agency might have jurisdiction over the issue(s) raised in the complaint.
- (f) If the Board's staff proceeds with an investigation, the staff shall:
- (1) investigate the complaint according to the priority level assigned to the complaint;
 - (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the complaint, the staff has determined that the Board has jurisdiction over the allegation(s) described in the complaint and has decided to proceed with an investigation of the allegation(s) against the respondent; and
 - (3) gather sufficient information and evidence to determine whether there is probable cause to believe that a violation of a statutory provision or rule enforced by the Board has occurred.
- (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received as described in subsection (a) of this section.
- (h) If the information and evidence gathered during an investigation are insufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) dismiss the complaint;
 - (2) send notices to the complainant and respondent regarding the dismissal;
 - (3) if warranted, include in the respondent's notice a recommendation or warning regarding the respondent's future conduct; and
 - (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was found.
- (i) If the information and evidence gathered during an investigation are sufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) seek to resolve the matter pursuant to §§3.165, 3.166 or 3.173 of this subchapter; or
 - (2) issue a warning in accordance with Subsection (j).~~[to the respondent, if the violation is the respondent's first violation and:~~
- ~~—(A) the respondent has not received a written warning or advisory notice from the Board;~~

1 ~~—(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
2 ~~health or safety of the public; and~~

3 ~~—(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
4 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.]~~

5 (j) A warning may be issued by the Executive Director only as follows:

6 (1) the violation is the Respondent's only violation of the Board's laws and rules;

7 (2) the Respondent has not previously been subject to a Board warning or order;

8 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
9 health or safety of the public; and

10 (4) The Respondent has committed one of the following violations:

11 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
12 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

13 (B) Unauthorized use of term "landscape architect" or "landscape architecture";

14 (C) Failure to respond to a Board inquiry;

15 (D) Failure to provide a statement of jurisdiction;

16 (E) Use of a non-compliant seal by registrant;

17 (F) Failure to register or annually renew the registration of a business; or

18 (G) Creation of misleading impression by a landscape architect advertising for services.

19 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
20 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

21 ~~[(j)]~~ (l) Before a proposed settlement agreement may be approved by the Board,[:

22 ~~—(1) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
23 ~~location of the meeting during which the Board will consider the agreement; and~~

24 ~~—(2)] the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
25 ~~requirements have been satisfied.~~

26 ~~[(k)]~~ (m) If a complaint is dismissed, the complainant may submit to the Executive Director a written
27 request for reconsideration. The written request must explain why the complaint should not have been
28 dismissed. The Executive Director may, but is not required to, respond to the request for
29 reconsideration.

RULE §3.177 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

~~[(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:~~

~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

~~—(i) Minor—the respondent had demonstrated that he/she was unable that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.~~

~~—(ii) Moderate—the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.~~

~~—(iii) Major—the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.~~

~~—(B) Economic harm:~~

~~—(i) Minor—there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.~~

~~—(ii) Moderate—economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

~~—(iii) Major—economic damage to property or economic injury to other persons or entities exceeded \$1,000.~~

~~—(C) Sanction history:~~

~~—(i) Minor—the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.~~

~~—(ii) Moderate—the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.~~

~~—(iii) Major—the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.]~~

(1) In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of this rule, the following classifications shall apply:

- 1 Attached Graphic (Figure 22 TAC §3.177(1))

Figure: 22 TAC §3.177(1)

Minor Violations

| | |
|--|---|
| <u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u> | <u>§3.62</u> |
| <u>Failure to respond to a Board inquiry.</u> | <u>§3.171</u> |
| <u>Failure to provide statement of jurisdiction.</u> | <u>§3.106</u> |
| <u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u> | <u>Tex. Occ. Code Sec. 1052.252(8) and §3.170</u> |
| <u>Use of a non-compliant seal by registrant.</u> | <u>§3.102</u> |
| <u>Failure to register or annually renew the registration of a business.</u> | <u>§3.124</u> |

Moderate Violations

| | |
|---|--|
| <u>Unlawful practice by emeritus landscape architect or practice of landscape architecture while registration is inactive.</u> | <u>§3.67</u> <u>§3.68</u> |
| <u>Practice of landscape architecture while registration is expired.</u> | <u>§3.82(b)</u> |
| <u>Aiding or abetting an unregistered person in violating the Board's laws and rules.</u> | <u>Tex. Occ. Code Sec. 1052.252(10)</u> |
| <u>Unauthorized use of term "landscape architect" or related term</u> | <u>Tex. Occ. Code Sec. 1052.151(b) and §3.123(c)</u> |
| <u>Failure to maintain a sealed document for ten years.</u> | <u>§3.103(c)</u> |
| <u>Failure to seal documents or insert statement in lieu of seal.</u> | <u>§3.103</u> |
| <u>Violation of prototypical design requirements</u> | <u>§3.105</u> |
| <u>Failure to notify another landscape architect of modification to sealed plans and/or failure to clearly indicate extent of modifications to sealed plans</u> | <u>§3.104(d)</u> |
| <u>Failure to comply with requirements relating to preparation of only a portion of a document</u> | <u>§3.104(b)</u> |
| <u>Removal of seal after issuance of documents</u> | <u>§3.104(e)</u> |
| <u>Failure to enter into a written agreement of association when required</u> | <u>§3.122</u> |
| <u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u> | <u>§3.124(c)</u> |

Major Violations

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| <u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u> | <u>§3.144(c)</u> |
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| <u>Using fraud or deceit or giving false or forged evidence to the board or a board member in obtaining or assisting another person to obtain a certificate of registration.</u> | <u>Tex. Occ. Code Sec. 1052.252(2) or (3)</u> |
| <u>Acting dishonestly in the practice of landscape architecture.</u> | <u>Tex. Occ. Code Sec. 1052.252(9) and §3.144</u> |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | <u>Tex. Occ. Code Sec. 1052.252(4)</u> |
| <u>Use of the term "engineer," "professional engineer," or related term or otherwise creating the impression that one is authorized to practice engineering unless the person is registered under Occupations Code Chapter 1001</u> | <u>Tex. Occ. Code Sec. 1052.252(5)</u> |
| <u>Use of the term "surveyor" or related term or otherwise creating the impression that one is authorized to practice surveying unless the person is registered under Occupations Code Chapter 1071</u> | <u>Tex. Occ. Code Sec. 1052.252(6)</u> |
| <u>Affixation of seal by a landscape architect on a document not prepared by or under the supervision and control of the landscape architect</u> | <u>§3.104(a) and/or §3.122(c)&(e)</u> |
| <u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u> | <u>§3.122(c) or (e)</u> |
| <u>Use of a landscape architect's seal, or a copy or replica of a landscape architect's seal, without the landscape architect's consent.</u> | <u>§3.104(c)</u> |
| <u>Engaging in the practice of landscape architecture without a registration and not exempted by Sec. 1052.003.</u> | <u>Tex. Occ. Code Sec. 1052.151(a)</u> |
| <u>Recklessness in the practice of landscape architecture.</u> | <u>Tex. Occ. Code Sec. 1052.752(7) and §3.143</u> |
| <u>Gross incompetency in the practice of landscape architecture</u> | <u>Tex. Occ. Code Section 1052.252(7) and §3.142</u> |
| <u>Failure to report a course of action taken against the landscape architect's advice as required</u> | <u>§3.106(d)</u> |

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2 (2) After determining whether the violation is minor, moderate, or major, the Board shall impose an
3 administrative penalty as follows:

4 (A) Minor violations—~~[if the violation is minor in every category described in paragraph (1) of this~~
5 ~~section,]~~an administrative penalty of not more than ~~[\$500]~~ \$1,000 shall be imposed.

6 (B) Moderate violations—~~[if the violation is moderate in any category described in paragraph (1) of~~
7 ~~this section,]~~an administrative penalty or not more than ~~[\$2,000]~~ \$3,000 shall be imposed.

8 (C) Major violations—~~[if the violation is major in any category described in paragraph (1) of this~~
9 ~~section or if the Board determines that the facts of the case indicate a higher penalty is necessary in~~
10 ~~order to deter similar misconduct in the future,]~~an administrative penalty of not more than \$5,000 shall
11 be imposed.

12 (3) In determining the specific amount of an administrative penalty within the minor, moderate, or
13 major range, the Board shall consider the factors outlined in Board Rules 3.141(c) and/or 3.165(f).

1 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
2 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 3.141(c)
3 and/or 3.165(f) in determining an appropriate administrative penalty.

4 (5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's
5 laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be
6 considered at the next higher level of severity.

7 (6) Multiple Violations

8 (A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual
9 violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has
10 committed multiple violations of a single law or rule, the Respondent shall be subject to a separate
11 administrative penalty for each violation.

12 (B) Each sheet of plans and specifications created or issued in violation of the Board's laws and rules
13 shall be considered a separate violation for purposes of calculating the total administrative penalty
14 under subsection (6)(A).

15 (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a
16 separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

17 (7) The administrative penalties set out in this section may be considered in addition to any other
18 disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

19 (8) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
20 section.

21 ~~[(D) Because of the threat to human health, safety and well-being which necessarily arises out of a~~
22 ~~Nonregistrant preparing and issuing landscape architectural plans and specifications the Board~~
23 ~~possesses a compelling interest in ensuring that landscape architectural plans and specifications are~~
24 ~~prepared and issued only by registered landscape architect or by a person who is working under the~~
25 ~~active and documented Supervision and Control of a registered Landscape Architect when required by~~
26 ~~law. If the evidence establishes that Landscape Architectural plans and specifications for a project that is~~
27 ~~not exempt from the Landscape Architects' Practice Act were prepared by a person who is not~~
28 ~~registered to engage in the Practice of Landscape Architecture and was not working under the active~~
29 ~~and documented Supervision and Control of a Landscape Architect the violation shall be presumed to be~~
30 ~~a major violation and each sheet of architectural plans or separate section of the specifications shall be~~
31 ~~considered a separate section of the specifications shall be considered a separate violation for purposes~~
32 ~~of calculating and imposing administrative penalties.~~

33 ~~—(E) Because of the threat to human health, safety and welfare which necessarily arises from~~
34 ~~Nonregistrants engaging in the Practice of Landscape Architecture the Board has a compelling interest in~~
35 ~~ensuring that only those persons who are registered to engage in the Practice of Landscape Architecture~~
36 ~~or whose work is conducted under the active and documented Supervision and Control of a registered~~
37 ~~Landscape Architect engage in the Practice of Landscape Architecture. If the evidence establishes that a~~
38 ~~Landscape Architect has sealed landscape architectural plans and separately numbered section of the~~
39 ~~specifications without having exercised active and documented Supervision and Control of the~~

1 Nonregistrants's activities the Board shall presume such conduct by the sealing landscape architect to be
2 a major violation and each sheet of landscape architectural plans or separate section of the
3 specifications shall be considered a separate violation for purposes of calculating and imposing
4 administrative penalties.

5 ~~—(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and~~
6 ~~enforcing the Landscape Architects' Practice Act. In fulfilling this statutory duty the Board depends upon,~~
7 ~~and expects, that Registrants and Applicants will provide complete, truthful and accurate information to~~
8 ~~the Board upon request. This prompt and accurate provision of information is essential to protecting the~~
9 ~~public's health, safety and welfare.]~~

10 [(G)] (9) A Landscape Architect, Candidate, or Applicant who fails, without good cause, to provide
11 information to the Board under the provision of §3.171 of this subchapter (relating to Responding to
12 Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its
13 responsibilities. [For these reasons a] A violation of §3.171 of this subchapter shall be considered a
14 [moderate] minor violation if a complete response is not received within 30 days after receipt of the
15 Board's written inquiry. [Any further] An additional 15 day delay constitutes a [major] moderate
16 violation, and [-E] each 15 day delay thereafter shall be considered a separate major violation of these
17 rules.

18 [(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this
19 section, the Board shall consider the factors described in paragraph (1) of this section.

20 ~~—(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this~~
21 ~~section.]~~

RULE §3.232 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

~~(d) [Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.]~~ If a party submits proposed findings of fact or conclusions of law, the proposal for decision shall include a ruling on each proposed finding or conclusion.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board. The oral presentation shall be limited to matters contained in the administrative record.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

Attached Graphic (Figure: 22 TAC §3.232(j))

| Figure: 22 TAC §3.232(j) | | |
|---|---|--|
| Violation | <u>Rule or Statutory Citation</u> <u>Rule(s)</u> <u>Cited</u> | Recommended Penalty |
| Unauthorized duplication of certificate of registration or failure to display certificate of registration as required | §3.62 | Administrative penalty or reprimand |
| Unlawful practice of landscape architecture while registration is on emeritus status | §3.67(b) | Administrative penalty and cease and desist letter |
| Practice of landscape architecture while registration is inactive <u>or expired</u> | §3.68 | Administrative penalty |
| Failure to fulfill mandatory continuing education requirements | §3.69 | Administrative penalty, or suspension, <u>or both</u> |
| Failure to timely complete required continuing education program hours | §3.69(b) | Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses |
| Falsely reporting compliance with mandatory continuing education requirements | §3.69(g) | Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses |

| | | |
|---|--|---|
| <u>Failure to maintain a detailed record of continuing education activities</u> | <u>§3.69(g)(1)</u> | <u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u> |
| Failure to use appropriate seal or signature <u>Use of non-compliant seal by registrant</u> | §3.102 §3.104(e) | Administrative penalty or reprimand |
| <u>Failure to seal or sign documents</u> | §3.103 §3.105 §3.122(c), (e) | Administrative penalty or reprimand |
| <u>Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required</u> | §3.103(b) | Administrative penalty or reprimand |
| <u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”</u> | §3.104(a) and (b) §3.122(c) and (e) | Suspension <u>Administrative penalty and either suspension or revocation</u> |
| <u>Failure to take reasonable steps to notify sealing Landscape Architect or of intent to modify that Landscape Architect’s sealed documents</u> | §3.104(d) | Administrative penalty or reprimand |
| <u>Failure to indicate modifications or additions to a document prepared by another Landscape Architect</u> | §3.104(e) | Administrative penalty, suspension, or both or reprimand |
| <u>Removal of seal after issuance of documents</u> | §3.104(e) | Administrative penalty or reprimand |
| <u>Failure to maintain a document for 10 years as required</u> | §3.103(g) §3.105(b) §3.122(d) | Administrative penalty or reprimand |
| <u>Unauthorized use of a seal or a copy <u>or replica</u> of a seal or unauthorized modification of a document</u> | §3.104(b) and (c) | Administrative penalty, reprimand or suspension, or both |
| <u>Failure to comply with requirements relating to</u> | §3.104(b) | Administrative penalty, suspension, or both |

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| <u>preparation of only a portion of a document</u> | | |
| Violation of requirements regarding prototypical design | §3.105 | Administrative penalty, reprimand or suspension, or both |
| Failure to provide Statement of Jurisdiction | §3.105 <u>§3.106</u> | Administrative penalty or reprimand |
| Failure to report a course of action taken against the <u>landscape architect's</u> respondent's advice as required | §3.106(d) | Suspension <u>Administrative penalty and either suspension or revocation or refusal to renew registration</u> |
| Failure to enter into a written agreement of association when required | §3.122 | Administrative penalty or reprimand |
| Failure to exercise Supervision and Control over the preparation of a document as required | §3.122(c) | <u>Administrative penalty, and either</u> sSuspension or; revocation or refusal to renew registration |
| Failure to exercise Responsible Charge over the preparation of a document as required | §3.122(e) | <u>Administrative penalty, and either</u> sSuspension or; revocation or refusal to renew registration |
| Failure of a firm, business entity, or association to register | §3.124(a) and (b) | Administrative penalty, cease and desist letter, or both |
| Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide landscape architecture | §3.124(c) | Administrative penalty, reprimand, or suspension, or both |
| Offering or rendering Landscape Architecture by and through a firm, business entity or association that is not duly registered | §3.124 §3.146(a)(2)(B) | Administrative penalty, cease and desist letter, or both |
| Gross incompetency | <u>Tex. Occ. Code §1052.252(7)</u> §3.142 | <u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to renew registration |

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| Recklessness | <u>Tex. Occ. Code §1052.252(7)</u> §3.143 | <u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to renew registration |
| Dishonest practice | <u>Tex. Occ. Code §1052.252(9)</u> §3.144(a), <u>(b)</u> , (c) | <u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to renew registration |
| Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly-funded work | §3.144(b <u>c</u>) | <u>Administrative penalty, suspension, and/or revocation</u> , Suspension or revocation and payment of restitution |
| Conflict of interest | §3.145 | <u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to renew registration |
| Participating in a plans, scheme or arrangement to violate the Act or the rules of the Board | §3.146(a) | <u>Administrative penalty, suspension and/or revocation</u> Administrative penalty, suspension, revocation, or refusal to renew registration |
| Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused landscape architectural seal | §3.146(b), (c) | Administrative penalty or reprimand |
| Submission of a competitive bid in violation of the Professional Services Procurement Act | §3.147 | Suspension or revocation |
| Disclosure of fee information inconsistent with the Professional Services Procurement Act | §3.147 | Administrative penalty or reprimand |
| Disclosure of information with the intent to indirectly disclose fee information | §3.147 | Suspension or revocation |
| Unauthorized practice or use of title "landscape architect" | §3.123 §3.148 | <u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration |

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| Criminal conviction | §3.149 | Suspension or revocation |
| Gross incompetence caused by substance abuse | § 3.149 3.150 | Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, <u>followed by probated suspension if appropriate</u> |
| Violation by Applicant regarding unlawful <u>use of title “landscape architect”, unlawful practice, or criminal convictions</u> | §3.148 §3.149 §3.151 | Reprimand, administrative <u>Administrative</u> penalty, suspension, <u>revocation, denial of application, denial of reapplication for up to five years, and/rejection, denial of right to reapply, or probationary initial registration</u> |
| Failure to submit a document as required by the Architectural Barriers Act | <u>Tex. Occ. Code §1052.252(8)</u> §3.170 | Reprimand or Administrative penalty |
| Failure to respond to a Board inquiry | §3.171 | Administrative penalty |
| <u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u> | <u>Tex. Occ. Code §1052.252(2) or (3)</u> | <u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | <u>Tex. Occ. Code §1052.252(4)</u> | <u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> |
| <u>Use of the term “engineer,” “professional engineer,” or related term or otherwise creating the impression that one is authorized to practice engineering unless the person is registered under Occupations Code Chapter 1001</u> | <u>Tex. Occ. Code §1052.252(5)</u> | <u>Administrative Penalty</u> |
| <u>Use of the term “surveyor” or related term or otherwise creating the impression that one is authorized to practice surveying unless the person is registered under</u> | <u>Tex. Occ. Code §1052.252(6)</u> | <u>Administrative Penalty</u> |

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| <u>Occupations Code Chapter 1071</u> | | |
| <u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u> | <u>Tex. Occ. Code §1052.252(10)</u> | <u>Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u> |

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(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent. If the Respondent has previously been subject to disciplinary action before the Board, more severe discipline may be imposed.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §3.177 shall be applied to determine the amount of the administrative penalty.

RULE §5.184 Complaint Process

(a) A person may file a complaint by submitting the following information to the Board:

(1) the name of and contact information for the complainant unless evidence regarding a possible violation was submitted anonymously;

(2) the name of the person against whom the complaint is filed;

(3) the address, telephone number, Web site, or other contact information for the person against whom the complaint is filed, if available;

(4) the date and location of the alleged violation that is the subject of the complaint;

(5) a description of each alleged violation; and

(6) the name, address, and telephone number for any known witness who can provide information regarding the alleged violation.

(b) A complaint should be submitted on the complaint form that may be obtained by accessing the form on the Board's Web site or by contacting the Board's staff. If a completed complaint form is not submitted, the Board's staff will not be able to initiate an investigation unless the Board's staff receives information sufficient to establish probable cause to believe an actionable violation might have occurred.

(c) Once a complaint has been received, the Board's enforcement staff shall:

(1) conduct a preliminary evaluation of the complaint within thirty (30) days to determine:

(A) Jurisdiction: whether the complaint provides information sufficient to establish probable cause for the Board's staff to believe an actionable violation might have occurred;

(B) Disciplinary History: whether there has been previous enforcement activity involving the person against whom the complaint has been filed; and

(C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;

(2) provide the complainant and respondent with information which will permit review of the Board's policies and procedures from the Board's web site regarding complaint investigation and resolution. If the complainant or respondent requests a copy of the policies and procedures in written format a copy shall be mailed upon request;

(3) notify the complainant and respondent of the status of the investigation at least quarterly unless providing notice would jeopardize an investigation; and

(4) maintain a complaint file that includes at least:

(A) the name of the person who filed the complaint unless the complaint was filed anonymously;

(B) the date the complaint was received by the Board's staff;

(C) a description of the subject matter of the complaint;

- (D) the name of each person contacted in relation to the complaint;
- (E) a summary of the results of the review and investigation of the complaint; and
- (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without action other than the investigation of the complaint.
- (d) After the preliminary evaluation period, the Board's staff may contact the complainant, the respondent, and any known witness concerning the complaint.
- (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred to another government agency if it appears that the other agency might have jurisdiction over the issue(s) raised in the complaint.
- (f) If the Board's staff proceeds with an investigation, the staff shall:
- (1) investigate the complaint according to the priority level assigned to the complaint;
 - (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the complaint, the staff has determined that the Board has jurisdiction over the allegations(s) described in the complaint and has decided to proceed with an investigation of the allegation(s) against the respondent; and
 - (3) gather sufficient information and evidence to determine whether there is probable cause to believe that a violation of a statutory provision or rule enforced by the Board has occurred.
- (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received as described in subsection (a) of this section.
- (h) If the information and evidence gathered during an investigation are insufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) dismiss the complaint;
 - (2) send notices to the complainant and respondent regarding the dismissal;
 - (3) if warranted, include in the respondent's notice a recommendation or warning regarding the respondent's future conduct; and
 - (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was found.
- (i) If the information and evidence gathered during an investigation are sufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) seek to resolve the matter pursuant to §§5.175, 5.176 or 5.183 of this subchapter; or
 - (2) issue a warning in accordance with Subsection (j). ~~[to the respondent if the violation is the respondent's first violation and:~~
- ~~—(A) the respondent has not received a written warning or advisory notice from the Board;~~

1 ~~—(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
2 ~~health or safety of the public; and~~

3 ~~—(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
4 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.]~~

5 (j) A warning may be issued by the Executive Director only as follows:

6 (1) the violation is the Respondent's only violation of the Board's laws and rules;

7 (2) the Respondent has not previously been subject to a Board warning or order;

8 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
9 health or safety of the public; and

10 (4) The Respondent has committed one of the following violations:

11 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
12 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

13 (B) Unauthorized use of term "registered interior designer";

14 (C) Failure to respond to a Board inquiry;

15 (D) Failure to provide a statement of jurisdiction;

16 (E) Use of a non-compliant seal by registrant;

17 (F) Failure to register or annually renew the registration of a business; or

18 (G) Creation of misleading impression by a registered interior designer advertising for services.

19 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
20 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

21 ~~[(j)]~~ (l) Before a proposed settlement agreement may be approved by the Board,

22 ~~—(l) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
23 ~~location of the meeting during which the Board will consider the agreement; and~~

24 ~~—(2)] the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
25 ~~requirements have been satisfied.~~

26 ~~[(k)]~~ (m) If a complaint is dismissed, the complainant may submit to the Executive Director a written
27 request for reconsideration. The written request must explain why the complaint should not have been
28 dismissed. The Executive Director may, but is not required to, respond to the request for
29 reconsideration.

RULE §5.187 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

~~[(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:~~

~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

~~—(i) Minor—the respondent has demonstrated that he/she was unaware that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.~~

~~—(ii) Moderate—the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.~~

~~—(iii) Major—the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.~~

~~—(B) Economic harm:~~

~~—(i) Minor—there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.~~

~~—(ii) Moderate—economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

~~—(iii) Major—economic damage to property or economic injury to other persons or entities exceeded \$1,000.~~

~~—(C) Sanction history:~~

~~—(i) Minor—the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.~~

~~—(ii) Moderate—the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.~~

~~—(iii) Major—the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.]~~

(1) In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of this rule, the following classifications shall apply:

1 Attached Graphic (Figure 22 TAC §5.187(1))

Figure: 22 TAC §5.187(1)

Minor Violations

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| <u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u> | <u>§5.72</u> |
| <u>Failure to respond to a Board inquiry.</u> | <u>§5.181</u> |
| <u>Failure to provide statement of jurisdiction.</u> | <u>§5.115</u> |
| <u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u> | <u>Tex. Occ. Code Sec. 1053.252(8) and §5.180</u> |
| <u>Use of a non-compliant seal by registrant.</u> | <u>§5.112</u> |
| <u>Failure to register or annually renew the registration of a business.</u> | <u>§5.134</u> |

Moderate Violations

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| <u>Use of title “registered interior designer” while on emeritus status</u> | <u>§5.77</u> |
| <u>Practice of interior design while registration is inactive.</u> | <u>§5.78</u> |
| <u>Practice of interior design while registration is expired.</u> | <u>§5.92(b)</u> |
| <u>Aiding or abetting an unregistered person in violating the Board’s laws and rules.</u> | <u>Tex. Occ. Code Sec. 1053.252(7)</u> |
| <u>Unauthorized use of term “registered interior designer.”</u> | <u>Tex. Occ. Code Sec. 1053.101 and §5.133(c)</u> |
| <u>Failure to maintain a sealed document for ten years.</u> | <u>§5.113(c)</u> |
| <u>Failure to seal documents or insert statement in lieu of seal.</u> | <u>§5.113</u> |
| <u>Failure to notify another registered interior designer of modification to sealed plans and/or failure to clearly indicate extent of modifications to sealed plans</u> | <u>§5.114(d)</u> |
| <u>Failure to comply with requirements relating to preparation of only a portion of a document</u> | <u>§5.114(b)</u> |
| <u>Removal of seal after issuance of documents</u> | <u>§5.114(e)</u> |
| <u>Failure to enter into a written agreement of association when required</u> | <u>§5.132</u> |
| <u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u> | <u>§5.134(c)</u> |

Major Violations

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| <u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u> | <u>§5.154(c)</u> |
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| <u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u> | <u>Tex. Occ. Code Sec. 1053.252(3) or (9)</u> |
| <u>Acting dishonestly in the practice of interior design by the holder of a certificate of registration.</u> | <u>Tex. Occ. Code Sec. 1053.252(11) and §5.154</u> |
| <u>Advertising in a manner that tends to deceive or defraud the public</u> | <u>Tex. Occ. Code Sec. 1053.252(6)</u> |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | <u>Tex. Occ. Code Sec. 1053.252(10)</u> |
| <u>Affixation of seal by a registered interior designer on a document not prepared by or under the supervision and control of the registered interior designer</u> | <u>§5.114(a) and/or §5.132(c)&(e)</u> |
| <u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u> | <u>§5.132(c) or (e)</u> |
| <u>Use of a registered interior designer's seal, or a copy or replica of a registered interior designer's seal without the registered interior designer's consent.</u> | <u>§5.114(c)</u> |
| <u>Recklessness in the practice of interior design.</u> | <u>Tex. Occ. Code Sec. 1053.252(4) and §5.153</u> |
| <u>Failure to report a course of action taken against a registered interior designer's advice as required</u> | <u>§5.115(d)</u> |
| <u>Gross incompetency in the practice of interior design</u> | <u>Tex. Occ. Code Section 1053.252(4) and §5.152(c)</u> |

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2 (2) After determining whether the violation is minor, moderate, or major, the Board shall impose an
3 administrative penalty as follows:

4 (A) Minor violations—~~[if the violation is minor in every category described in paragraph (1) of this~~
5 ~~section,~~ an administrative penalty of not more than \$1,0[5]00 shall be imposed.

6 (B) Moderate violations—~~[if the violation is moderate in any category described in paragraph (1) of~~
7 ~~this section,~~ an administrative penalty of not more than \$3[2],000 shall be imposed.

8 (C) Major violations—~~[if the violation is major in any category described in paragraph (1) of this~~
9 ~~section or if the Board determines that the facts of the case indicate a higher penalty is necessary in~~
10 ~~order to deter similar misconduct in the future,~~ an administrative penalty of not more than \$5,000 shall
11 be imposed.

12 (3) In determining the specific amount of an administrative penalty within the minor, moderate, or
13 major range, the Board shall consider the factors outlined in Board Rules 5.151(c) and/or 5.175(f).

14 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
15 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 5.151(c)
16 and/or 5.175(f) in determining an appropriate administrative penalty.

(5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be considered at the next higher level of severity.

(6) Multiple Violations

(A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has committed multiple violations of a single law or rule, the Respondent shall be subject to a separate administrative penalty for each violation.

(B) Each sheet of architectural plans and specifications created or issued in violation of the Board's laws and rules shall be considered a separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

(C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

(7) The administrative penalties set out in this section may be considered in addition to any other disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

(8) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this section.

~~[(D) Because of the threat to human health, safety and well-being which necessarily arises from a Nonregistrant representing himself or herself to be registered as a Registered Interior Designer the Board possesses a compelling interest in ensuring that only those persons who are permitted by statute and rule to use the title "registered interior designer" do so. If the evidence establishes that a person not registered as a Registered Interior Designer has represented himself or herself as a registrant, the violation shall be classified as a major violation and each sheet of Interior Design plans or separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.~~

~~—(E) The agency is responsible for protecting the public's health, safety and welfare by interpreting and enforcing the Interior Designers' Registration Law. In fulfilling this statutory duty the Board depends upon, and expects, that Registrants, Candidates and Applicants will provide complete, truthful and accurate information to the Board upon request. This prompt and accurate provision of information is essential to protecting the public's health, safety and welfare.]~~

~~[(F)]~~ (9) A Registered Interior Designer, a Candidate, or an Applicant who fails, without good cause, to provide information to the Board under §5.181 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. [For these reasons a] A violation of §5.181 of this subchapter shall be considered a [moderate] moderate violation if a complete response is not received within 30 days after [the violation] receipt of the Board's written inquiry. [Any further] An additional 15 day delay constitutes a [major] moderate violation, [—E] and each 15 day delay thereafter shall be considered a separate major violation of these rules.

1 ~~[(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this~~
2 ~~section, the Board shall consider the factors described in paragraph (1) of this section.~~

3 ~~-(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this~~
4 ~~section.]~~

RULE §5.242 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

~~(d) [Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.]~~ If a party submits proposed findings of fact or conclusions of law, the proposal for decision shall include a ruling on each proposed finding or conclusion.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board. The oral presentation shall be confined to matters contained within the administrative record.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

Attached Graphic (Figure: 22 TAC §5.242(j))

| Figure: 22 TAC §5.242(j) | | |
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| Violation | Rule or Statutory Citation Rule(s) Cited | Recommended Penalty |
| Unauthorized duplication of certificate of registration or failure to display certificate of registration as required | §5.72 | Administrative penalty or reprimand |
| Using the title “Registered Interior Designer” while on emeritus status | §5.77(b) | Administrative penalty and cease and desist order |
| Practice of Interior Design while registration is inactive <u>or expired</u> | §5.78 <u>or §5.92(b)</u> | Administrative penalty and cease and desist order |
| Failure to fulfill mandatory continuing education requirements | §5.79 | Administrative penalty or suspension |
| Failure to timely complete required continuing education program hours | §5.79(b) | Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses |
| Falsely reporting compliance with mandatory continuing education requirements | §5.79(g) | Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses |
| <u>Failure to maintain a detailed record of continuing education activities</u> | <u>§5.79(g)(1)</u> | <u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u> |

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|---|--|--|
| Failure to use appropriate seal or signature Use of non-compliant seal by registrant | §5.112 §5.114(c) | Administrative penalty or reprimand |
| Failure to <u>sign</u> or seal documents | §5.113 §5.132(c) and (e) | Administrative penalty or reprimand |
| Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required | §5.113(b) | Administrative penalty or reprimand |
| Sealing or authorizing the sealing of a document prepared by another without Supervision and Control <u>or Responsible Charge – “plan stamping”</u> | §5.114(a) and (b) §5.132(c) and (e) | <u>Administrative penalty and either</u> S <u>suspension or revocation</u> |
| Failure to take reasonable steps to notify sealing Registered Interior Designer of intent to modify sealed documents | §5.114(d) | Administrative penalty or reprimand |
| Failure to indicate modifications to or portion of document prepared by Registered Interior Designer | §5.114(b) and (d) | Suspension, a <u>Administrative penalty, suspension, or both</u> or reprimand |
| Removal of seal after issuance of documents | §5.114(e) | Administrative penalty or reprimand |
| Failure to maintain a document for 10 years as required | §5.113(c) §5.132(d) | Administrative penalty or reprimand |
| Unauthorized use of a seal or a copy <u>or replica</u> of a seal or unauthorized modification of a document | §5.114(b) <u>and</u> (c) | Administrative penalty, reprimand or <u>suspension, or both</u> |
| Failure to comply with requirements <u>relating to preparation of only a portion of a document</u> | §5.115(b) | <u>Administrative penalty, suspension, or both</u> |
| Failure to provide Statement of Jurisdiction | §5.115(a) | Administrative penalty or reprimand |
| Failure to report a course of action taken against the <u>interior designer’s respondent’s</u> advice as required | §5.115(d) | <u>Administrative penalty and either</u> S <u>suspension, or revocation or refusal to renew registration</u> |
| Failure to enter into a written agreement of association when required | §5.132 | Administrative penalty or reprimand |

| | | |
|--|---------------------------------|---|
| Failure to exercise Supervision and Control over the preparation of a document as required | §5.132(c) | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Failure to exercise Responsible Charge over the preparation of a document as required | §5.132(e) | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Failure of a firm, business entity, or association to register | §5.134(a) and (b) | Administrative penalty or reprimand |
| Failure to timely notify the Board upon dissolution of a business entity or association or upon loss of the entity or association <u>lawful authority</u> to use the title “registered interior designer” | §5.134(c) | Administrative penalty cease and desist order, or both |
| Representing <u>an unregistered</u> firm, business entity or association which is not registered as a Registered Interior Designer firm | §5.134 | Administrative penalty, cease and desist order, or both |
| Gross incompetency | §5.152 | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Recklessness | §5.153 | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Dishonest practice | §5.154(a), (c) | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work | §5.154(b) | <u>Administrative penalty and either</u> §suspension or revocation and payment of restitution |
| Conflict of interest | §5.155 | <u>Administrative penalty and either</u> §suspension or; revocation, or refusal to renew registration |
| Participating in a plan, scheme, or arrangement to violate the Act or rules of the Board | §5.156(a) | Administrative penalty, suspension, <u>and/or</u> revocation or refusal to renew registration |
| Failure to provide information regarding an Applicant upon request; failure to report lost, stolen, or misused registered interior design seal | & §5.156(b), (c) | Administrative penalty or reprimand |

| | | |
|---|---|---|
| Unauthorized practice or use of title "registered interior designer" | §5.133 §5.157 | Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactive registration |
| Criminal conviction | §5.158 | Suspension or revocation |
| Gross incompetency caused by substance abuse | §5.159 | Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, <u>followed by probated suspension if appropriate</u> |
| Violation by Applicant regarding unlawful use of the title "registered interior designer," unlawful practice or criminal convictions | §5.157 §5.158 §5.160 | Reprimand, a Administrative penalty, suspension, <u>revocation, rejection, denial of application, denial of reapplication for up to five years, right to reapply, and/or</u> probationary initial registration |
| Failure to submit a document as required by the Architectural Barriers Act | Tex. Occ. Code <u>§1053.252(8)</u> §5.180 | Administrative penalty or reprimand |
| Failure to respond to a Board inquiry | §5.181 | Administrative penalty |
| <u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u> | Tex. Occ. Code <u>§1053.252(3) or (9)</u> | Administrative penalty, suspension, revocation, denial of application, <u>denial of reapplication for up to five years, and/or probationary initial registration</u> |
| <u>Practicing in a manner detrimental to the public health, safety, or welfare</u> | Tex. Occ. Code <u>§1053.252(5)</u> | Administrative penalty, suspension, or revocation |
| <u>Using or attempting to use as the person's own the certificate of registration of another person.</u> | Tex. Occ. Code <u>§1053.252(10)</u> | Administrative penalty, suspension, revocation, denial of application, <u>denial of reapplication for up to five years, and/or probationary initial registration</u> |
| <u>Advertising in a manner that tends to deceive or defraud the public</u> | Tex. Occ. Code <u>§1053.252(6)</u> | Administrative penalty, suspension, or revocation |
| <u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u> | Tex. Occ. Code <u>§1053.252(7)</u> | Administrative penalty equivalent to <u>that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u> |

(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent. If the Respondent has previously been subject to disciplinary action before the Board, more severe discipline may be imposed.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §5.187 of this title (relating to Administrative Penalty Schedule) shall be applied to determine the amount of the administrative penalty.

**Consideration of Draft Amendments to 22 Tex. Admin. Code §7.10 Relating to
Funding for Architect Registration Examination Financial Assistance Fund (AREFAF)
and Changes to the Fees Charged by Texas.gov**

Background

Staff is presenting two changes to Rule 7.10. First, staff has drafted changes to the fee schedule in response to the Board's directive at the May Board meeting to reinstitute a surcharge to fund the Architect Registration Examination Financial Assistance Fund (AREFAF). Additionally, it is necessary to amend the rule to reflect upcoming changes to the fees charged by Texas.gov for certain online payments.

AREFAF Fee

The AREFAF scholarship fund was created in 1999 by the 76th Texas Legislature to promote professional needs of the state, increase the number of architects, encourage economic development, and support architectural applicants. From 2000 to 2003, the fund was seeded with a surcharge of \$10 collected from architect registrants on top of their renewal fees. At its present rate, and without Board action, the AREFAF scholarship fund will be depleted by 2019 (changes in economic conditions, interest rates, demand, or eligibility requirements could affect the rate of depletion). As a statutorily mandated scholarship, allowing the fund to drop to a zero balance would be contrary to the law. Therefore, at the May Board meeting, staff was directed to draft a rule that would institute a \$3 surcharge to architect registration renewals to be deposited in the scholarship fund.

The draft amendment institutes a \$3 surcharge on renewals for residents with active and inactive architect registrations. The draft amendments do not include a surcharge for nonresidents or emeritus architect registrants. This recommendation is based on the Board's enabling legislation. Copies of the relevant statutes are attached to this summary. Section 1051.651 states that an active architecture renewal fee for a resident should be the sum of 1) a reasonable and necessary amount to cover administrative costs and 2) a reasonable and necessary amount for the administration of the examination fee scholarship program under Section 1051.653. Conversely, the statute states that the fee for non-resident active renewals shall be set in an amount determined by the board, without referencing the scholarship fee as outlined in the subsection relating to residents. For this reason, it is staff's opinion that the legislature did not intend for nonresidents to be subject to the scholarship fee.

Similarly, under 1051.355, the renewal fee for a registrant on inactive status is identified as a reasonable and necessary amount to cover the costs of administering this section and the additional amount required under Section 1051.651(b)(1)(B) for the examination fee scholarship program. Section 1051.651(b)(1)(B) is the provision that implements the scholarship fee, and since this subsection does not apply to nonresidents on active status, it is staff's opinion that the fee is not meant to apply to nonresidents on inactive status. Finally, since renewal fee for an emeritus

architect described under 1051.357 refers to “an amount reasonable and necessary to recover the costs to administer this section,” and does not refer to the scholarship fund, it is staff’s recommendation that no fee be charged to emeritus architects.

Changes to Texas.gov Fees

Board fees can be paid by check or through the web. Online payment services are provided by Texas.gov, a third-party provider under contract with the Texas Department of Information Resources. The cost of providing and maintaining these services is covered by an additional charge on payments processed through the Internet. These charges apply to payments made by credit card and through the Automated Clearing House Network (commonly referred to as “ACH”). An ACH payment makes an immediate draw upon the payer’s bank account.

Initially, up until September 1, 2015, the formula for determining the amount of the additional charge was 2.25% of the sum of the fee and 25 cents, plus 25 cents. This fee applied to credit card charges and ACH transfers. On September 1, 2015, Texas.gov amended the charge for ACH transfers to a flat fee of \$1.00 (the cost of credit cards transactions remained the same). Because the fee schedule in Rule 7.10 included separate columns calculating the cost of paying each individual fee by both ACH and credit card, the Board was required to engage in rulemaking to implement the decision by Texas.gov.

Now, Texas.gov is again changing the fee structure, decreasing the ACH flat fee from \$1 to \$0.25, and rulemaking is again required. In order to reduce the need for rulemaking if Texas.gov implements further changes to these service charges, it is staff’s recommendation that the Board eliminates specific identification of the amount of these service charges and calculations of the total charge for each fee with or without electronic payment, and instead makes reference to convenience fees set and charged by Texas.gov. This would result in a greater simplification of the Board’s rules. Staff has reviewed the practice of other occupational licensing agencies, and it appears that the general practice is to not reference specific fee amounts charged by Texas.gov for online payment.

Draft Amendments

A copy of Rule 7.10 with draft amendments is attached to this summary. The amendments delete the fee schedule columns that previously included the exact additional fee for online payments. Rather, subsection (d) is added, which states, “Applicants and registrants who submit payments online through Texas.gov will be subject to convenience fees set by the Department of Information Resources, that are in addition to the fees listed in subsection (b)¹.”

Additionally, the amendments implement a \$3 AREFAF surcharge by adding subsection (c), which reads, “As authorized under Texas Occupations Code §§ 1051.651 and 1051.355, the fee schedule in subsection (b) includes a \$3 fee to be collected from each Texas resident who renews an active or inactive registration as an architect, to fund the examination fee scholarship program

¹ Subsection (b) is the fee schedule

under Texas Occupations Code § 1051.653.” This surcharge is reflected in the fee schedule for active and inactive architect renewals for residents.

In addition to the draft amendments, you will find the following supporting documents for your consideration:

- Chart – AREFAF Fund Projections by Fiscal Year
- Statutory Provisions Related to the Scholarship Fund

Staff’s Recommendation

Move to approve the draft amendments to 22 Tex. Admin. Code §7.10 for publication and proposal in the Texas register, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the Texas Register.

RULE §7.10 General Fees

(a) FAILURE TO TIMELY PAY A REGISTRATION RENEWAL WILL RESULT IN THE AUTOMATIC CANCELLATION OF REGISTRATION BY OPERATION OF LAW.

(b) The following fees shall apply to services provided by the Board in addition to any fee established elsewhere by the rules and regulations of the Board or by Texas law. ~~Payment of fees through the Internet is an online service provided by Texas.gov, the official Web site of the State of Texas. The following additional payments for the online service are not retained by the Board:~~

~~(1) A person who uses the online service to pay fees with a credit card must pay an additional \$.25 plus 2.25% of the sum of the fee and \$.25.~~

~~(2) A person who uses online services to pay fees by utilizing the Automated Clearing House Network ("ACH" sometimes referred to as an "electronic check" or a "direct bank draft") must pay \$1.00 per transaction instead of the fee referenced in paragraph (1) of this subsection.~~

Figure: 22 TAC §7.10(b)(2)

| Description | Architects | Landscape Architects | Registered Interior Designers | Total Fee Using Credit Card Payment | Total Fee Using ACH |
|---|-------------------------------|----------------------|-------------------------------|-------------------------------------|---------------------|
| Exam Application | \$100 | \$100 | \$100 | \$102.51 | \$101 |
| Examination | *** | ** | * | - | - |
| Registration by Examination- Resident | \$155 | \$155 | \$155 | \$158.74 | \$156 |
| Registration by Examination-- Nonresident | \$180 | \$180 | \$180 | \$184.31 | \$181 |
| Reciprocal Application | \$150 | \$150 | \$150 | \$153.63 | \$151 |
| Reciprocal Registration | \$200 | \$200 | \$200 | \$204.76 | \$201 |
| Active Renewal-- Resident | \$105 <u>\$108</u> | \$105 | \$105 | \$107.62 | \$106 |
| Active Renewal-- Nonresident | \$200 | \$200 | \$200 | \$204.76 | \$201 |

| | | | | | |
|---|---------------------------------|----------|----------|---------------------|----------|
| Active Renewal 1-90 days late--Resident | \$157 <u>160</u> .50 | \$157.50 | \$157.50 | \$161.30 | \$158.50 |
| Active Renewal > than 90 days late--Resident | \$210 <u>213</u> | \$210 | \$210 | \$214.98 | \$211 |
| Active Renewal 1-90 days late--Nonresident | \$300 | \$300 | \$300 | \$307.01 | \$301 |
| Active Renewal > than 90 days late--Nonresident | \$400 | \$400 | \$400 | \$409.26 | \$401 |
| Emeritus Renewal--Resident | \$10 | \$10 | \$10 | \$10.48 | \$11 |
| Emeritus Renewal--Nonresident | \$10 | \$10 | \$10 | \$10.48 | \$11 |
| Emeritus Renewal 1-90 days late--Resident | \$15 | \$15 | \$15 | \$15.59 | \$16 |
| Emeritus Renewal > than 90 days late--Resident | \$20 | \$20 | \$20 | \$20.71 | \$21 |
| Emeritus Renewal 1-90 days late--Nonresident | \$15 | \$15 | \$15 | \$15.59 | \$16 |
| Emeritus Renewal > than 90 days late--Nonresident | \$20 | \$20 | \$20 | \$20.71 | \$21 |
| Inactive Renewal--Resident | \$25 <u>28</u> | \$25 | \$25 | \$25.82 | \$26 |

| | | | | | |
|---|----------------------|----------|----------|---------------------|----------|
| Inactive Renewal-- Nonresident | \$125 | \$125 | \$125 | \$128.07 | \$126 |
| Inactive Renewal 1- 90 days late--Resident | \$3740.50 | \$37.50 | \$37.50 | \$38.60 | \$38.50 |
| Inactive Renewal > than 90 days late--Resident | \$5053 | \$50 | \$50 | \$51.38 | \$51 |
| Inactive Renewal 1- 90 days late--Nonresident | \$187.50 | \$187.50 | \$187.50 | \$191.97 | \$188.50 |
| Inactive Renewal > than 90 days late-- Nonresident | \$250 | \$250 | \$250 | \$255.88 | \$251 |
| Reciprocal Reinstatement | \$610 | \$610 | \$610 | \$623.98 | \$611 |
| Change in Status-- Resident | \$65 | \$65 | \$65 | \$66.72 | \$66 |
| Change in Status-- Nonresident | \$95 | \$95 | \$95 | \$97.39 | \$96 |
| Reinstatement-- Resident | \$685 | \$685 | \$685 | \$700.67 | \$686 |
| Reinstatement-- Nonresident | \$775 | \$775 | \$775 | \$792.69 | \$776 |
| Certificate of Standing-- Resident | \$30 | \$30 | \$30 | \$30.93 | \$31 |
| Certificate of Standing-- Nonresident | \$40 | \$40 | \$40 | \$41.16 | \$41 |
| Replacement or Duplicate | \$40 | \$40 | \$40 | \$41.16 | \$41 |

| | | | | | |
|--|---------|---------|---------|--------------------|--------------------|
| Wall Certificate-- Resident | | | | | |
| Replacement of Duplicate Wall Certificate-- Nonresident | \$90 | \$90 | \$90 | \$92.28 | \$91 |
| Duplicate Pocket Card | \$5 | \$5 | \$5 | \$5.37 | \$6 |
| Reopen Fee for closed candidate files | \$25 | \$25 | \$25 | \$25.82 | \$26 |
| Annual Business Registration Fee**** | \$45 | \$45 | \$45 | \$46.27 | \$46 |
| Business Registration Renewal 1-90 days late**** | \$67.50 | \$67.50 | \$67.50 | \$69.27 | \$68.50 |
| Business Registration Renewal >than 90 days late**** | \$90 | \$90 | \$90 | \$92.28 | \$91 |
| Examination-- Record Maintenance | \$25 | \$25 | \$25 | \$25.82 | \$26 |
| Returned Check Fee | \$25 | \$25 | \$25 | \$25.82 | \$26 |

1 *Examination fees are set by the Board examination provider, the National Council for Interior Design
2 Qualification ("NCIDQ"). Contact the Board or the examination provider for the amount of the fee, and
3 the date and location where each section of the examination is to be given.

4 **Examination fees are set by the Board's examination provider, the Council of Landscape Architectural
5 Registration Boards ("CLARB"). Contact the Board or the examination provider for the amount of the
6 fee, and the date and location where each section of the examination is to be given.

1 ***Examination fees are set by the Board's examination provider, the National Council of Architectural
2 Registration Boards ("NCARB"). Contact the Board or the examination provider for the amount of the
3 fee, and the date and location where each section of the examination will be given.

4 ****Notwithstanding the amounts shown in each column, a multidisciplinary firm which renders or
5 offers two or more of the regulated professions of architecture, landscape architecture, and interior
6 design is required to pay only a single fee in the same manner as a firm which offers or renders services
7 within a single profession.

8
9 (c) As authorized under Texas Occupations Code §§ 1051.651 and 1051.355, the fee schedule in
10 subsection (b) includes a \$3 fee to be collected from each Texas resident who renews an active or
11 inactive registration as an architect, to fund the examination fee scholarship program under Texas
12 Occupations Code § 1051.653.

13 (d) Applicants and registrants who submit payments online through Texas.gov will be subject to
14 convenience fees set by the Department of Information Resources, that are in addition to the fees listed
15 in subsection (b).

16 ~~(e)~~ (e) The Board cannot accept cash as payment for any fee.

17 ~~(d)~~ (f) An official postmark from the U.S. Postal Service or other delivery service receipt may be
18 presented to the Board to demonstrate the timely payment of any fee.

19 ~~(e)~~(g) If a check is submitted to the Board to pay a fee and the bank upon which the check is drawn
20 refuses to pay the check due to insufficient funds, errors in routing, or bank account number, the fee
21 shall be considered unpaid and any applicable late fees or other penalties accrue. The Board shall
22 impose a processing fee for any check that is returned unpaid by the bank upon which the check is
23 drawn.

24 ~~(f)~~(h) Payment of fees for a military service member, military veteran, or military spouse.

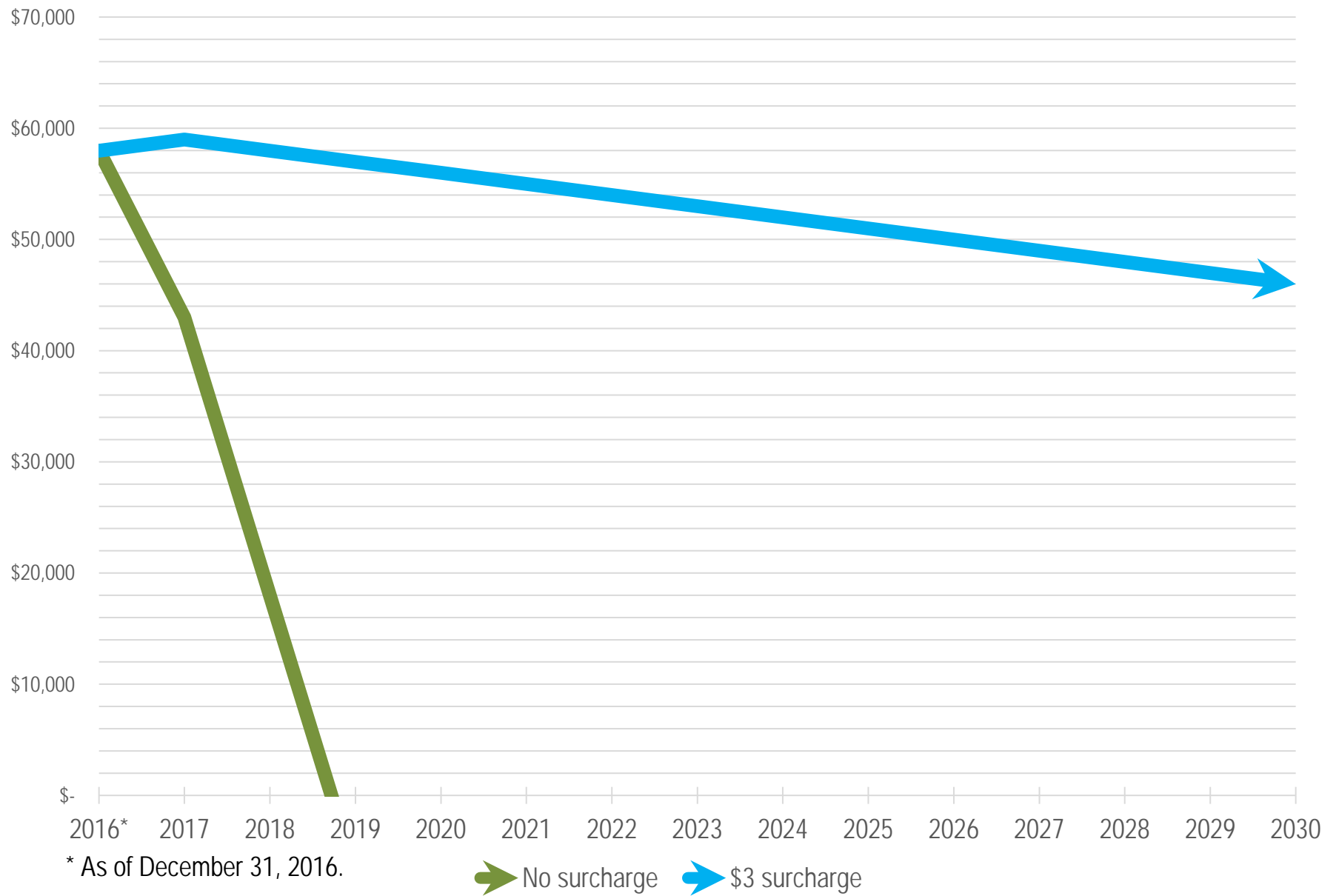
25 (1) In this subsection, the terms "military service member," "military veteran," and "military spouse"
26 shall have the meanings defined in §§1.29, 3.29, and 5.39 of the Board Rules.

27 (2) A military service member who is a registrant in Good Standing or was in Good Standing at the time
28 the Registrant entered into military service shall be exempt from the payment of any fee during any
29 period of active duty service. The exemption under this subsection shall continue through the remainder
30 of the fiscal year during which the Registrant's active duty status expires.

31 (3) A military service member or military veteran whose military service, training, or education
32 substantially meets all requirements of a license shall be exempt from payment of license application
33 and examination fees paid to the state.

34 (4) A military service member, military veteran or military spouse who holds a current license issued by
35 another jurisdiction that has licensing requirements that are substantially equivalent to the
36 requirements for registration in this state shall be exempt from payment of license application and
37 examination fees paid to the state.

AREFAF fund projections by Fiscal Year



1 **Statutory Provisions Related to the Scholarship Fund**
2
3

4 **Sec. 1051.355. INACTIVE STATUS.** (a) The board by rule
5 shall establish a procedure by which a person who is registered
6 under this subtitle may place the person's certificate of
7 registration on inactive status. The person must apply for
8 inactive status, on a form prescribed by the board, before the
9 person's certificate of registration expires.

10 (b) A person whose certificate of registration is on
11 inactive status must pay an annual renewal fee on a date and in
12 a manner prescribed by board rule. The board shall prescribe
13 the renewal fee under this subsection in an amount equal to the
14 sum of:

15 (1) the amount determined by the board as reasonable
16 and necessary to cover the costs of administering this section;
17 and

18 (2) except as provided by Subsection (e), the
19 additional amount required under Section [1051.651](#)(b)(1)(B) for
20 the examination fee scholarship program.

21 (c) A person whose certificate of registration is on
22 inactive status may not perform any activity regulated under
23 this subtitle.

24 (d) The board shall remove the person's certificate of
25 registration from inactive status if the person:

26 (1) requests in writing that the board remove the
27 person's certificate of registration from inactive status;

28 (2) pays an administrative fee; and

29 (3) complies with education or other requirements
30 established by board rule.

31 (e) The additional amount of the renewal fee described by
32 Subsection (b)(2) does not apply to a person registered under
33 Chapter [1052](#) or [1053](#).
34

1 **Sec. 1051.357. EMERITUS STATUS.** (a) The board by rule
2 shall establish a procedure by which an architect may place the
3 architect's certificate of registration on emeritus status. The
4 architect must apply for emeritus status, on a form prescribed
5 by the board, before the architect's certificate of registration
6 expires.

7 (b) An architect is eligible for emeritus status if the
8 architect:

9 (1) has been an architect for 20 years or more; and

10 (2) is 65 years of age or older.

11 (c) An architect whose certificate of registration is on
12 emeritus status:

13 (1) may engage in the practice of architecture as
14 defined by Sections [1051.001](#)(7)(D), (E), (F), (G), and (H);

15 (2) may prepare plans and specifications described by
16 Sections [1051.606](#)(a)(3) and (4);

17 (3) may use the title "Emeritus Architect" or
18 "Architect Emeritus";

19 (4) must pay a renewal fee on a date and in a manner
20 prescribed by board rule; and

21 (5) is exempt from continuing education requirements
22 under this chapter.

23 (d) The board shall change an architect's certificate of
24 registration from emeritus status to active status if the
25 architect:

26 (1) requests in writing that the board remove the
27 architect's certificate of registration from emeritus status;

28 (2) pays an administrative fee; and

29 (3) complies with education or other requirements
30 established by board rule.

31 (e) The renewal fee charged under Subsection (c) may not
32 exceed an amount reasonable and necessary to recover the costs
33 to administer this section.

1 **Sec. 1051.651. FEES.** (a) The board may set a fee for a
2 board action involving an administrative expense in an amount
3 that is reasonable and necessary to cover the cost of
4 administering this chapter, unless the amount of the fee is set
5 by this chapter or by the General Appropriations Act.

6 (b) The board shall set the required renewal fee for:

7 (1) a resident of this state in an amount that is
8 equal to the sum of:

9 (A) the amount determined by the board as
10 reasonable and necessary to cover administrative costs; and

11 (B) an amount determined annually by the board
12 as reasonable and necessary for the administration of the
13 examination fee scholarship program under Section [1051.653](#); and

14 (2) nonresidents in an amount determined by the
15 board.

16 (c) The board may accept payment of a fee by electronic
17 means. The board may charge a fee to process the payment made
18 by electronic means. The board shall set the processing fee in
19 an amount that is reasonably related to the expense incurred by
20 the board in processing the payment made by electronic means,
21 not to exceed five percent of the amount of the fee for which
22 the payment is made.

23 (d) A fee set by the board under this section may not be
24 used for the purpose of earning additional revenue for the
25 board.
26

27 **Sec. 1051.653. EXAMINATION FEE SCHOLARSHIPS.** (a) The
28 board shall administer scholarships to applicants for
29 examination under this article in a manner the board determines
30 best serves the public purpose of:

31 (1) promoting the professional needs of the state;

32 (2) increasing the number of highly trained and
33 educated architects available to serve the residents of the
34 state;

1 (3) improving the state's business environment and
2 encouraging economic development; and

3 (4) identifying, recognizing, and supporting
4 outstanding applicants who plan to pursue careers in
5 architecture.

6 (b) In determining what best serves the public purpose of
7 the scholarships as described by Subsection (a), the board shall
8 consider at least the financial need of each person who applies
9 for a scholarship under this section.

10 (c) The amount of the scholarship is the lesser of:

11 (1) \$500; or

12 (2) the amount of the required examination fee.

13 (d) Scholarships under this section are funded by the
14 amount added to each renewal fee under Section [1051.651](#)(b). The
15 board may not use more than 15 percent of the amount
16 appropriated to the board for scholarships under this section to
17 pay the costs of administering the scholarships.
18

**Consideration of Draft Rules Relating to Qualification
for Interior Design Registration Through the A.R.E.**

22 Tex. Admin. Code §§5.31 and 5.51

Current Rule/Background

Recently, Donna Vining requested that the Board revisit the provision in Rules 5.31 and 5.51 that allows applicants to qualify for interior design registration based upon passage of the ARE. The provision was originally included in the rules in response to the 2013 legislation that will eventually eliminate examination grandfathering for registered interior designers. The statute, Tex. Occ. Code 1051.351, as amended in 2013, states the following: “a person who holds a certificate of registration issued under Chapter 1053 without examination may not renew the certificate on or after September 1, 2017, unless, before September 1, 2017, the person has passed the registration examination adopted by the board under Section 1053.154 *and in effect on January 1, 2014*. This subsection expires January 1, 2019.” (Emphasis added).

This is slightly different from the first version the legislature considered, which stated that the person would be required to pass the examination adopted by the Board in effect on *September 1, 2013*. Under the rules in effect at that time, this would have been limited to the NCIDQ. There is no disagreement that, by moving the deadline to January 1, 2014, the legislature intended for the Board to engage in rulemaking to identify the ARE as an acceptable examination, and allow architects to retain RID registration without having to take the NCIDQ. The question is whether the legislature intended for the ARE to be an acceptable test only for architects who had already been registered as interior designers, or whether it would be a permanently acceptable examination for RID registration.

The bill was sent to the governor on May 20, 2013 and signed on June 14. Draft amendments were considered by the Board on June 14. Subsequently, the proposed rule was considered for adoption at the August Board meeting. According to comment provided by Ms. Vining at this meeting, the legislature’s decision to move the deadline from September to January was meant only to allow pre-existing RIDs to retain licensure based upon passing the ARE, and that the legislators did not intend for the ARE to become a permanently acceptable examination for RID registration. Some Board members at that time stated their intention to vote for adoption of the rule so that it would be in effect for the January 1, 2014 deadline, but then revisit the rule at a later date to determine whether it should be a permanent change. Ms. Vining has now requested that the rule be amended to eliminate the ARE as an acceptable examination for prospective registration as an interior designer.

Draft Amendments

The rules committee addressed this matter at the May meeting. Ms. Vining and David Lancaster were in attendance. Pursuant to the discussion of the committee, draft amendments have been prepared that would allow architects to continue to qualify for interior design registration based on

passage of the ARE until December 31, 2018. After that, the NCIDQ examination will be the only recognized examination for RID eligibility. This change would not affect the continued RID registration for architects who have already been registered based on passage of the ARE.

Attachments

Draft amendments to Rules 5.31 and 5.51 are attached to this summary. To aid in your consideration of these rules, Staff has included the following documentation for your review: excerpts from the minutes of the August 2013 Board meeting at which these rules were adopted, descriptions of the testing subjects for the NCIDQ examination and the ARE, and a roster of RIDs who have been registered through the ARE since the adoption of this rule.

Staff's Recommendation:

Staff recommends that the Board move to approve draft amendments to 22 Tex. Admin. Code §§5.31 and 5.51 for proposal and publication in the Texas register, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the Texas Register.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Minutes of August 22, 2013 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street

Tower III, Conference Room 225

Austin, TX 78701

9:00 a.m. until completion of business

1. Preliminary Matters

A. Call to Order

Chair called the meeting of the Texas Board of Architectural Examiners to order at 9:03 a.m.

B. Roll Call

Secretary/Treasurer Sonya Odell called the roll.

Present

| | |
|----------------------------|---------------------|
| Alfred Vidaurri | Chair |
| 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 |

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 |
| Christine Brister | Staff Services Officer |
| Ken Liles | Finance Manager |
| Julio Martinez | Network Specialist |
| Jack Stamps | Managing Investigator (in @ 10:30) |
| Katherine Crain | Legal Assistant |

C. Excused absences

Debra Dockery (Excused) and Paula Ann Miller (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, David Lancaster, Senior Advocate for Texas Society of Architects, James Perry, Texas Society of Architects, Nancy Fuller, Office of the Attorney General and Kelly Barnett.

F. Chair's Opening Remarks

The Presiding Chair thanked everyone including the Board and staff for joining the meeting. He explained that he had been in leadership training and had read books by Jim Collins entitled *Good and Great* and *Great by Choice*. The concept in the second book is about leadership that goes above and beyond by at least ten times the industry average based on performance. He stated that these leaders are not the most creative, ambitious or charismatic. Their leadership was based upon one principle: control vs. no-control. They have a basic understanding on difference between things they can control and things they cannot control. They focus their energy on the things they can control and do not allow their decisions to be dictated by things outside of their control. The Chair noted that consistency of action, values, goals and performance defines leadership. He noted that the Board has tough, great work ahead of it and the members of the Board have it within their control to choose how to lead.

G. Public Comments

The Chair opened the floor for public comment and recognized Donna Vining, Kelly Barnett and David Lancaster.

Donna Vining, Executive Director for Texas Association for Interior Design, began her public comment by complimenting TBAE Executive Director and agency staff for coming to their aid during the legislative session by responding promptly to the association's public information requests. Ms. Vining addressed proposed amendments to Rules 5.31 and 5.51 which were on the agenda for the meeting. Ms. Vining stated it was her understanding that amendments to the agency Sunset bill was to accomplish two things – allow grandfathered registered interior designers one additional year to pass the registration examination in order to remain registered after 2017 and allow the ARE to substitute for the NCIDQ examination only for architects who are currently grandfathered registered interior designers and not to allow subsequent applicants to use the ARE in order to become registered interior designers.

Kelly Barnett, interior designer, read a statement to the Board. She noted it is TBAE's responsibility to the public to protect the health, safety and welfare. She stated the public assumes all registered interior designers listed on the agency Web site have passed the NCIDQ examination and have met current educational requirements. She stated the Web site must be changed immediately to specify which registered interior designers became registered through a grandfather provision. Furthermore, she read excerpts of a deposition of the Executive Director in a lawsuit filed against the agency by the Institute for Justice in which it was stated the agency had the ability to specify which registered interior designers became registered through a grandfather provision.

David Lancaster of Texas Society of Architects thanked the Board for the opportunity to make a public comment. He stated that he wanted to offer a reaction to Ms. Vining's comments. Entering into the Sunset process, TSA's understanding was that the Sunset Commission understood that passage of the ARE was at least equivalent to passage of the NCIDQ. Mr. Lancaster stated it was believed the original Sunset bill took this equivalency into account and excluded dual licensed architects/interior designers from the requirement that registered interior designers who had not passed the NCIDQ examination must do so in order to remain registered after 2017. However, TSA learned that the Sunset bill as originally written did not take into account the fact that architects who are also registered interior designers had passed the ARE. He said TSA raised the issue with the bill's sponsors in the Senate and House, informing them the language imposed a redundant and unnecessary examination requirement upon dual licensees who had already passed an architectural examination which is at least as rigorous as the NCIDQ. Mr. Lancaster stated TSA's representatives informed the legislators that the cleanest solution would be to allow registration beyond 2017 for registered interior designers who had passed either the ARE or the NCIDQ. According to Mr. Lancaster, TSA pointed out to the bill sponsors that this solution would be preferable in that it would have the most limited impact on interior design registration requirements. Only those architects who are currently registered as interior designers would be able to rely upon passage of the ARE to maintain interior design registration. He stated that TSA also told the sponsors an alternative would be to amend the bill to require passage of the examination specified by Board rule for interior design registration in effect on January 1, 2014 instead of September 1, 2013, as in the original bill. The amendment would give TBAE time to amend its rule to allow the ARE to count for interior design registration. Mr. Lancaster reported it was made clear to the bill sponsors that this change would allow all architects to become registered as registered interior designers upon passage of the ARE and its effect would not be limited to dual licensees as with the first option. Mr. Lancaster said the bill sponsors opted for the second version so that the Board would make the decision on whether to allow the ARE to count for interior design registration. Mr. Lancaster noted Ms. Vining's comments were to the effect that legislative intent was to limit the effect of the provision to architects who are grandfathered interior designers. He observed this is not the case.

The Chair introduced the two new board members, Chad Davis and Davey Edwards, and gave them their official TBAE pins.

Mr. Davis asked if the IRM function was currently being fulfilled by an outside contractor. The Executive Director stated she was currently carrying out that job with the assistance of the three members of the agency's IT division.

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO ADOPT THE RECOMMENDED FISCAL YEAR 2014 BUDGET. THE MOTION PASSED UNANIMOUSLY.

4. General Counsel Report

A. Proposed Rules for Adoption:

The Chair recognized the General Counsel to describe proposed amendments to Rules 5.31 and 5.51 to modify exam requirements for registration as a registered interior designer; striking obsolete language. The General Counsel stated the effect of the proposed amendments would be to recognize that an applicant may become registered as an interior designer by passing the Architectural Registration Examination. If the amendments are adopted and in effect by January 1, 2014, registered interior designers who are also architects will have met examination requirements for registration as a registered interior designer and therefore, will not be required to pass the National Council for Interior Design Qualification examination in order to maintain registration after September 1, 2017 pursuant to the Sunset Bill. He stated the Board proposed the amendments at its last meeting and they were published for public comment. He said that he received two public comments in writing favoring adoption, including comment from the Texas Society of Architects. The General Counsel noted copies of public comment are before the Board for consideration. Referring to comment made during the public comment portion of the meeting, he noted that the Texas Association of Interior Designers is opposed to the proposed amendments.

The Chair asked if anyone on the Board wished to make a motion regarding the proposed amendments so that the motion will be before the Board for discussion. A MOTION WAS MADE AND SECONDED (Anastos/Edwards) TO ADOPT AMENDMENTS TO RULES 5.31 AND 5.51 AS PROPOSED.

The Chair recognized Ms. Odell to comment on the Motion. Ms. Odell noted the Legislature rescinded grandfather status only for registered interior designers, not architects or landscape architects. The intent in the legislative amendment was to address only dual licensees – who are architects and registered interior designers – to allow them to maintain registration as interior designers and not to open up interior design registration to architects who are not grandfathered. She also noted that the legislation disenfranchises older registered interior designers who are

50 to 70 years old and are historically underutilized businesses that will lose their registrations and their businesses. She stated there will be two opportunities in the next two sessions before 2017 for the Legislature to change the examination requirement.

Mr. Anastos stated he also opposes the measure and expressed his hope the Legislature will reconsider and change it next session. Mr. Edwards suggested that the measure be tabled and referred to the Rules Committee for more extensive review.

The General Counsel noted that the Board may refer the proposed amendments to the Rules Committee. However, if the amendment is not in effect by January 1, 2014, it will not have any effect upon the examination requirement to the extent it applies to architects who are registered as interior designers. ~~The Board may reevaluate the rule at a later time to determine if allowing architectural candidates to become registered as interior designers has any adverse impact.~~ He also noted that the rules have been proposed and if they are substantially amended in a manner which substantively changes their original intent, they will have to be republished for public comment.

A MOTION WAS MADE (Anastos/Mijares) TO TABLE THE MOTION UNTIL LATER IN THE MEETING. THE MOTION PASSED UNANIMOUSLY.

The Board recessed at 10:48 a.m. and reconvened in open session at 11:08 a.m.

The Board convened in closed session at 11:09 a.m. to confer with legal counsel from the Office of the Attorney General regarding a settlement offer of pending litigation in the case *TBAE V. Powell, et al*, pursuant to Section 551.071, Texas Government Code.

The Board reconvened in an open meeting at 12:20 p.m.

The Chair announced that the Board decided to consider the mediation of the case at its next meeting, scheduled to be held on October 24, 2013. The Chair instructed staff to prepare documentation regarding the mediation conference and brief the Board at that meeting.

The Board took a break for lunch at 12:22 p.m. and reconvened at 1:00 p.m.

By unanimous consent, the Chair took the Motion to adopt proposed amendments to rules 5.31 and 5.51 from the table and the Board resumed consideration of the Motion. At the Chair's direction, the staff distributed copies of House Bill 1717, (the agency's Sunset bill) for the Board to review before

RULE §5.31 Registration by Examination

(a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall demonstrate that the Applicant has a combined total of at least six years of approved Interior Design education and experience and shall successfully complete the Interior Design registration examination or a predecessor or other examination deemed equivalent by NCIDQ as more fully described in Subchapter C of this chapter.

~~(b)~~ Alternatively, prior to December 31, 2018, an Applicant may obtain Interior Design registration by examination by successfully completing the Architectural Registration Examination or another examination deemed equivalent by NCARB after fulfilling the prerequisites of §1.21 and §1.41 of this title relating to Board approval to take the Architectural Registration Examination for architectural registration by examination. This subsection is repealed effective January 1, 2019.

~~(c)~~ For purposes of this section, an Applicant has "approved Interior Design education" if:

(1) The Applicant graduated from:

(A) a program that has been granted professional status by the Council for Interior Design Accreditation (CIDA) or the National Architectural Accreditation Board (NAAB);

(B) a program that was granted professional status by CIDA or NAAB not later than two years after the Applicant's graduation;

(C) a program that was granted candidacy status by CIDA or NAAB and became accredited by CIDA or NAAB not later than three years after the Applicant's graduation; or

(D) an Interior Design education program outside the United States where an evaluation by World Education Services or another organization acceptable to the Board has concluded that the program is substantially equivalent to a CIDA or NAAB accredited professional program;

(2) The Applicant has a doctorate, a master's degree, or a baccalaureate degree in Interior Design;

(3) The Applicant has:

(A) A baccalaureate degree in a field other than Interior Design; and

(B) An associate's degree or a two- or three-year certificate from an Interior Design program at an institution accredited by an agency recognized by the Texas Higher Education Coordinating Board; or

(4) The Applicant has:

(A) A baccalaureate degree in a field other than Interior Design; and

(B) An associate's degree or a two- or three-year certificate from a foreign Interior Design program approved or accredited by an agency acceptable to the Board.

~~(b)~~ In addition to educational requirements, an applicant for Interior Design registration by examination in Texas must also complete approved experience as more fully described in Subchapter J of this chapter (relating to Table of Equivalents for Education and Experience in Interior Design).

1 (~~ee~~) The Board shall evaluate the education and experience required by subsection (a) of this section in
2 accordance with the Table of Equivalents for Education and Experience in Interior Design.

3 (~~fe~~) For purposes of this section, the term "approved Interior Design education" does not include
4 continuing education courses.

5 (~~ge~~) An Applicant for Interior Design registration by examination who enrolls in an Interior Design
6 educational program after September 1, 2006, must graduate from a program described in subsection
7 (~~ac~~)(1) of this section.

8 (~~fh~~) In accordance with federal law, the Board must verify proof of legal status in the United States. Each
9 Applicant shall provide evidence of legal status by submitting a certified copy of a United States birth
10 certificate or other documentation that satisfies the requirements of the Federal Personal Responsibility
11 and Work Opportunity Reconciliation Act of 1996. A list of acceptable documents may be obtained by
12 contacting the Board's office.

RULE §5.51 Requirements

(a) An Applicant for Interior Design registration by examination in Texas must successfully complete all sections of the National Council for Interior Design Qualification (NCIDQ) examination or a predecessor or other examination NCIDQ deems equivalent to the NCIDQ examination. ~~Alternatively in lieu of successfully completing the NCIDQ examination, prior to December 31, 2018,~~ an applicant may obtain Interior Design registration by examination by successfully ~~complete-completing~~ all sections of the Architectural Registration Examination (ARE), or another examination NCARB deems equivalent to the ARE, after fulfilling the requirements of §1.21 and §1.41 of this title relating to Board approval to take the ARE for architectural registration by examination.

(b) The Board may approve an Applicant to take the NCIDQ examination only after the Applicant has completed the educational requirements for Interior Design registration by examination in Texas, has completed at least six (6) months of full-time experience working under the Direct Supervision of a Registered Interior Designer, and has submitted the required application materials. In jurisdictions where interior designers are not licensed, the supervision may be under a licensed architect or a Registered Interior Designer who has passed the NCIDQ examination.

(c) An Applicant may take the NCIDQ examination at any official NCIDQ testing center but must satisfy all Texas registration requirements in order to obtain Interior Design registration by examination in Texas.

(d) Each Candidate must achieve a passing score in each division of the NCIDQ examination. Scores from individual divisions may not be averaged to achieve a passing score.

(e) An examination fee may be refunded as follows:

(1) The application fee paid to the Board is not refundable or transferable.

(2) The Board, on behalf of a Candidate, may request a refund of a portion of the examination fee paid to the national examination provider for scheduling all or a portion of the registration examination. A charge for refund processing may be withheld by the national examination provider. Refunds of examination fees are subject to the following conditions:

(A) A Candidate, because of extreme hardship, must have been precluded from scheduling or taking the examination or a portion of the examination. For purposes of this subsection, extreme hardship is defined as a serious illness or accident of the Candidate or a member of the Candidate's immediate family or the death of an immediate family member. Immediate family members include the spouse, child(ren), parent(s), and sibling(s) of the Candidate. Any other extreme hardship may be considered on a case-by-case basis.

(B) A written request for a refund based on extreme hardship must be submitted not later than thirty (30) days after the date the examination or portion of the examination was scheduled or intended to be scheduled. Documentation of the extreme hardship that precluded the applicant from scheduling or taking the examination must be submitted by the Candidate as follows:

(i) Illness: verification from a physician who treated the illness.

(ii) Accident: a copy of an official accident report.

- 1 (iii) Death: a copy of a death certificate or newspaper obituary.
- 2 (C) Approval of the request and refund of the fee or portion of the fee by the national examination
- 3 provider.
- 4 (3) An examination fee may not be transferred to a subsequent examination.

NCIDQ Examination

2016 Fundamentals Exam (IDFX) Distribution of 100 Scored Questions

INTERIOR DESIGN FUNDAMENTALS EXAM (IDFX) – PAGE 1

| 2016 CONTENT AREA | DISTRIBUTION |
|---|-----------------------|
| 1. Programming and Site Analysis | 15 Items – 15% |
| For example: <ul style="list-style-type: none"> • Research methods (interviewing, surveying, case studies, benchmarking/precedent) • Analysis tools (e.g., spreadsheets, site photographs, matrices, bubble diagrams) • Project context (e.g., space use, culture, client preference) • Site context (e.g., location, views, solar orientation) • Existing conditions • Sustainable attributes (e.g., indoor air quality, energy conservation, renewable resources) | |
| 2. Human Behavior and the Designed Environment | 10 Items – 10% |
| For example: <ul style="list-style-type: none"> • Influences (environmental, social, psychological, cultural, aesthetic, global) • Human factors (e.g., ergonomics, anthropometrics, proxemics) • Sensory considerations (e.g., acoustics, lighting, visual stimuli, color theory, scent, tactile) • Universal Design • Special population considerations (e.g., Aging in Place, pediatric, special needs) | |
| 3. Building Systems and Construction | 15 Items – 15% |
| For example: <ul style="list-style-type: none"> • Building construction types (e.g., wood, steel, concrete) • Building components (e.g., doors, windows, studs) • Mechanical systems • Electrical systems • Lighting systems (e.g., zoning, sensors, daylighting) • Plumbing systems • Structural systems • Fire protection systems • Low voltage systems (e.g., data and communication, security, A/V) • Acoustical systems | |

INTERIOR DESIGN FUNDAMENTALS EXAM (IDFX) – PAGE 2

| 2016 CONTENT AREA | DISTRIBUTION |
|--|-----------------------|
| 4. Furniture, Finishes, Equipment and Lighting | 15 Items – 15% |
| <p>For example:</p> <ul style="list-style-type: none"> • Life safety (e.g., flammability, toxicity, slip resistance) • Textiles • Acoustics • Wall treatments • Floor coverings • Ceiling treatments • Window treatments • Lighting (e.g., light sources, fixtures, calculations, distribution color rendering) • Furniture and equipment (e.g., types, uses, space needs) | |
| 5. Construction Drawings and Specifications | 20 Items – 20% |
| <p>For example:</p> <ul style="list-style-type: none"> • Demolition plan • Floor plan (e.g., partitions, construction, dimensions, enlarged) • Reflected ceiling plan • Lighting plan • Power and communication plan • Furniture plan • Finish plan • Elevations, sections, and details (e.g., partition types, millwork) • Schedules • Specifications (e.g., prescriptive, performance, and proprietary) | |
| 6. Technical Drawing Conventions | 15 Items – 15% |
| <p>For example:</p> <ul style="list-style-type: none"> • Measuring conventions (e.g., scale, unit of measure, dimensioning) • Construction drawing standards (e.g., line weights, hatching, symbols) | |
| 7. Design Communication | 10 Items – 10% |
| <p>For example:</p> <ul style="list-style-type: none"> • Functional parti diagrams • Models (e.g., physical, virtual) • Rendering (e.g., 2-D, perspective) • Material and finish presentations (e.g., boards, binders, digital) • Bubble diagrams • Adjacency matrices • Charts (e.g., flow chart, Gantt chart) • Stacking/zoning diagrams • Block plans/square footage allocations • Floor plans • Mock-ups and prototypes | |

2/27/2015

NCIDQ Examination

2016 Professional Exam (IDPX) Distribution of 150 Scored Questions

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) – PAGE 1

| 2016 CONTENT AREA | DISTRIBUTION |
|---|-----------------------|
| 1. Project Coordination | 15 Items – 10% |
| For example: <ul style="list-style-type: none"> • Critical path (i.e., design milestones, sequencing) • Project team dynamics • Project budgeting/tracking during design phases • Architects • Engineers (e.g., electrical, structural, mechanical, civil) • Specialty consultants (e.g., landscape, lighting A/V, acoustical, food service, graphics/signage) • Contractors/construction managers • Real estate professionals (e.g., realtor, landlord, leasing agent, developer, property owner) | |
| 2. Codes and Standards | 27 Items – 18% |
| For example: <ul style="list-style-type: none"> • Universal/accessible design • Life safety (e.g., egress, fire separation) • Zoning and building use • Environmental regulations (e.g., indoor air quality, energy conservation, renewable resources, water conservation) • Square footage standards (e.g., code, BOMA, lease) | |
| 3. Building Systems and Integration | 24 Items – 16% |
| For example: <ul style="list-style-type: none"> • Building construction types (e.g., wood, steel, concrete) • Building components (e.g., doors, windows, wall assemblies) • Mechanical systems • Electrical systems • Lighting systems (e.g., zoning, sensors, daylighting) • Plumbing systems • Structural systems • Fire protection systems • Low voltage systems (e.g., data and communication, security, A/V) • Acoustical systems • Sequencing of work (e.g., plumbing before drywall) • Permit requirements | |

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) - PAGE 2

| 2016 CONTENT AREA | DISTRIBUTION |
|--|-----------------------|
| 4. Product and Material Coordination | 21 Items – 14% |
| <p>For example:</p> <ul style="list-style-type: none"> • Cost estimating • Product components (e.g., types, assembly, methods) • Material detail drawings (e.g., custom products) • Lead time (e.g., manufacturing time, delivery) • Installation • Life safety (e.g., flammability, toxicity, slip resistance) • Technical specifications • Maintenance documents (e.g., warranties, manuals) • Existing FF&E inventory documentation • Procurement procedures (e.g., purchase orders, prepayment requirements) | |
| 5. Contract Documents | 24 Items – 16% |
| <p>For example:</p> <ul style="list-style-type: none"> • Cover sheet (e.g., General Conditions and Notes, drawing index) • Code required plans (e.g., egress, accessibility, specialty codes) • Elevations, sections and details (e.g., partition types, millwork) • Consultant drawings (e.g., MEP, structural, security, specialty consultants) • Specification types (e.g., prescriptive, performance, and proprietary) • Specification formats (e.g., divisions) | |
| 6. Contract Administration | 27 Items – 18% |
| <p>For example:</p> <ul style="list-style-type: none"> • Project management (e.g., schedule, budget, quality control) • Forms (e.g., transmittals, change orders, bid/tender, addenda, bulletin, purchase orders) • Punch list/deficiency lists • Site visits and field reports • Project meetings/meeting management/meeting protocol and minutes • Shop drawings and submittals • Construction mock-ups • Value engineering • Project accounting (e.g., payment schedules, invoices) • Contractor pay applications • Project close-out • Post-occupancy evaluation | |

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) – PAGE 3

| 2016 CONTENT AREA | DISTRIBUTION |
|--|----------------------|
| 7. Professional and Business Practices | 12 Items – 8% |
| For example: <ul style="list-style-type: none">• Scope of practice• Proposals e.g., time and fee estimation, RFP process, project scope)• Budgeting principles and practices (project specific)• Contracts• Phases of a project• Business licenses (e.g., sales and use tax, resale certificates)• Accounting principles (office/business)• Legal considerations (e.g., liabilities and forms of business)• Insurance• Professional licensure, certification, registration• Economic factors | |

2/27/2015

NCIDQ Examination

2014 Practicum Exam Exercise Descriptions

PART A – 4 HOURS TOTAL

| EXERCISE | WEIGHT |
|---|--------|
| <u>Space Planning</u> 3 hours – ¼” [1:50] scale – 1 sheet – 2,200-2,600 sq. ft. [204.4-241.5 m ²] Design a plan solution meeting all program requirements for 15-20 spaces, including adjacencies, accessibility, egress and specified power/voice/data requirements. This exercise will be either commercial or residential. | 23% |
| <u>Lighting Design</u> 1 hour – ¼” [1:50] scale – 2 sheets – 550-850 sq. ft. [51.1-78.9 m ²] Design lighting and switching solutions for an area of work using cut sheets provided; complete a lighting schedule; and calculate energy use. This exercise will be either commercial or residential. | 11% |

PART B – 2 HOURS TOTAL

| EXERCISE | WEIGHT |
|---|--------|
| <u>Egress</u> 1 hour – 1/8” [1:100] scale – 1 sheet – 10,000-13,500 sq. ft. [929.0-1254.2 m ²] Taking an upper floor in a multi-story building with 1 existing tenant, subdivide the remaining floor area for 4 additional spaces and determine occupancy load for each; create a common egress corridor; show common path of travel from existing suite and travel distance to exit stairs; and calculate occupant load for each exit stair. This exercise will be either commercial or residential. | 18% |
| <u>Life Safety</u> 0.5 hour – 1/8” [1:100] scale – 1 sheet – 3,000-5,000 sq. ft. [278.7-464.5 m ²] Indicate specified life safety equipment in a tenant suite, elevator lobby, public restrooms [washrooms] and public corridors; complete a door/frame/hardware schedule for specified doors; and complete a partition schedule for specified partitions. This exercise will be commercial. | 18% |
| <u>Restroom [Washroom]</u> 0.5 hour – ¼” [1:50] scale – 1 sheet Draw and dimension specified plumbing fixtures and accessories in a public restroom [washroom] for men; and complete a fixture and accessory schedule indicating proper mounting heights. This exercise will be commercial. | 9% |

INTERIOR DESIGN PRACTICUM EXAM (PRAC) EXERCISE DESCRIPTIONS

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PART C – 2 HOURS TOTAL

| EXERCISE | WEIGHT |
|---|--------|
| <u>Systems Integration</u> 1 hour – 1/8” [1:100] scale – 2 sheets – 1,500-5,000 sq. ft. [139.4-464.5 m ²] Evaluate plans provided to understand and describe eight (8) identified conflicts between lighting, mechanical, electrical, plumbing and structural systems and recommend solutions to those conflicts. This exercise will be commercial. | 12% |
| <u>Millwork</u> 1 hour – 1/4” [1:50] and 3/4” [1:20] scale – 1 sheet Draw a plan view of a required millwork solution; draw elevation(s) and draw a section at an element that requires accessibility. This exercise will be either commercial or residential. | 9% |

INTERIOR DESIGN PRACTICUM EXAM (PRAC) EXERCISE DESCRIPTIONS

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NCIDQ EXAMINATION BUILDING CODE REQUIREMENTS

Code requirements listed below are for the purpose of the NCIDQ Examination only.

Your exam exercises will be graded for compliance with these code requirements. Use the following codes to develop your design solution for the **TOTAL** space as necessary to protect the health, safety, and welfare of the public.

1.0 DEFINITIONS

- 1.1 Common Path of Egress Travel – The portion of the exit access [access to an exit] that must be traversed **BEFORE** two separate and distinct paths of travel to two exits are available. Common path of egress travel shall be included within the permitted travel distance.
- 1.2 Travel Distance – The distance measured from the most remote point within a story to the entrance to an exit along the natural and unobstructed path of egress travel.

2.0 FIRE-RESISTANT RATED CONSTRUCTION

- 2.1 Demising partitions between tenant spaces **MUST** be 1-hour fire rated.
- 2.2 Partitions along a public corridor **MUST** be 1-hour fire rated.
- 2.3 Partitions that demise an Assembly Occupancy of 750 sq. ft. [70 m²] or greater **MUST** be 1-hour fire rated.
- 2.4 Door assemblies in a 1-hour fire rated partition **MUST** have a minimum fire protection rating of 20 minutes and be self-closing.
- 2.5 Storage rooms exceeding 100 sq. ft. [9.3 m²] **MUST** be 1-hour rated.
- 2.6 Glazing in fire rated partitions, doors or sidelights may not exceed 240 sq. in. [1548 cm²].

3.0 FIRE PROTECTION SYSTEM

- 3.1 There **MUST** be an audio/visual fire signal device located in each restroom, hallway, lobby, and general assembly area.
- 3.2 An audio/visual fire signal device **MUST** be visible from any location in the room or space and **MUST** be mounted between 6'-8" to 7'-6" [2 m to 2.3 m] AFF.
- 3.3 The minimum number of fire extinguishers **MUST** be calculated based on one (1) fire extinguisher per 3000 sq. ft. [280 m²].
- 3.4 Fire extinguishers **MUST** be located no more than 75' [23 m] from the furthest occupant.
- 3.5 Smoke and Heat Detector coverage **MUST** include all rooms, corridors and storage areas.

4.0 MEANS OF EGRESS

- 4.1 General Means of Egress
 - 4.1.1 The means of egress **MUST** have a ceiling height of not less than 7'-6" [2.3 m].
 - 4.1.2 Protruding objects are permitted to extend below the minimum ceiling height provided a minimum headroom of 6'-8" [2 m] shall be provided along the path of egress, including any corridor, aisle or passageway.
 - 4.1.3 Protruding objects **MUST NOT** reduce the minimum clear width of accessible routes.

- 4.1.4 **ALL** objects located on a wall between 27" [685 mm] and 80" [2115 mm] AFF **MUST NOT** protrude more than 4" [100 mm] into an egress path of travel.

4.2 Exit Signs

- 4.2.1 Exit signs with a directional indicator (illuminated) showing the direction of travel shall be placed in every location where the direction of travel to reach the nearest exit is not apparent.

4.3 Illumination

- 4.3.1 Emergency illumination shall be provided for a minimum of 1½ hours in the event of failure of normal lighting. Emergency lighting facilities shall be arranged to provide initial illumination along the path of egress.

4.4 Travel Distance

- 4.4.1 **ALL** paths of travel **MUST** be accessible (barrier-free) and provide at minimum a 60" [1500 mm] turning circle at changes of travel direction.
- 4.4.2 The path of egress travel **MUST NOT** pass through a secondary space that is subject to closure by doors or that contains storage materials or has items that project into the path of travel.
- 4.4.3 The common path of egress travel distance **MUST NOT** exceed 100'-0" [30.5 m].
- 4.4.4 The travel distance to an exit **MUST** be measured on the floor along the centerline of the natural path of travel, starting from the most remote point to the centerline of the exit.
- 4.4.5 The travel distance **MUST NOT** exceed 250'-0" [76.2 m] measured along the path of travel.

4.5 Exit Access Doors, Doorways, Door Hardware and Windows

- 4.5.1 The height of doors **MUST NOT** be less than 7'-0" [2.1 m].
- 4.5.2 **ALL** door openings shall be a **MINIMUM** of 36" [900 mm] wide with an 18" [450 mm] clear space on the pull side of the door and a 12" [300 mm] clear space on the push side of the door.
- 4.5.3 Where a pair of doors is provided, one of the doors **MUST** be not less than 36" [900 mm] wide.
- 4.5.4 Locks, if provided, **MUST NOT** require the use of a key, special knowledge, or effort for operation from the egress side.
- 4.5.5 Doors opening from occupied spaces into the path of egress travel shall not project more than 7" [180 mm] into the required width.
- 4.5.6 Exit access doorways **MUST** open in the direction of exit travel.
- 4.5.7 Exit access doorways **MUST** be placed at a distance that is equal to or greater than:
 - 4.5.7.1 When the building is **NOT** sprinklered, one-half the length of the maximum overall diagonal dimension of the area being served, measured in a straight line between exit doors or exit access doorways.
 - 4.5.7.2 When the building is sprinklered, one-third the length of the maximum overall diagonal dimension of the area being served, measured in a straight line between exit doors or exit access doorways.
- 4.5.8 Two (2) exit access doorways **MUST** be provided from any space where the Occupancy Load exceeds 49 in Occupancy Groups A (Assembly), B (Business) and M (Mercantile) or exceeds 29 in Occupancy Group S (Storage).

4.6 Corridors

- 4.6.1 The **MINIMUM** interior corridor width **MUST** be 44" [1100 mm].
- 4.6.2 Dead end corridors **MUST NOT** exceed 20'-0" [6 m] in length.

5.0 ACCESSIBILITY

- 5.1 Service (reception/transaction) counters over 8'-0" [2.4 m] in length **MUST** have an accessible height service counter, a minimum of 36" [900mm] in length.
- 5.2 **ALL** accessible (barrier-free) countertops, sinks, reception/transaction surfaces, and other horizontal work surfaces **MUST NOT** exceed 34" [865 mm] AFF with a 27"H [685 mm] clear knee space below.
- 5.3 **ALL** accessible (barrier-free) counters **MUST** have clear knee space of at least 30"W x 17"D [760 mm x 430 mm].
- 5.4 **ALL** exposed hot water pipes and drains **MUST** be insulated or otherwise protect wheelchair users from burns on the legs.
- 5.5 **ALL** accessible (barrier-free) wall-mounted controls **MUST** be located between 15" [380 mm] and 44" [1100 mm] AFF for a Forward Reach and between 9" [230 mm] and 48" [1200 mm] AFF for a Side Reach.
- 5.6 **ALL** accessible (barrier-free) lower cabinets **MUST** have a 6" D maximum x 9" H minimum [150mm x 230 mm] toe-kick.
- 5.7 **ALL** accessible (barrier-free) upper cabinets or shelves located above a work surface **MUST NOT** exceed 44" [1100 mm] AFF.
- 5.8 Restrooms [Washrooms]
 - 5.8.1 **ALL** accessible toilets **MUST** have an unobstructed 60" [1500 mm] turning circle.
 - 5.8.2 Centerline of accessible toilets **MUST** be 16"-18" [400 mm - 450 mm] from side wall or partition.
 - 5.8.3 Clearance around accessible toilets **MUST** be 60" [1500 mm] along the rear wall and 56" [1420 mm] along the side wall.
 - 5.8.4 Accessible toilets **MUST** be mounted at 17"-19" [430 mm – 480 mm] AFF to the top of the toilet seat.
 - 5.8.5 **ALL** grab bars at toilets **MUST** be 36" [900 mm] long at the rear and 42" [1060 mm] long at the side, mounted between 33" [840 mm] and 36" [900 mm] AFF.
 - 5.8.6 **ALL** accessible showers **MUST** have horizontal grab bars on three (3) sides mounted at a height between 33" [840 mm] and 36" [900 mm] AFF.
 - 5.8.7 Accessible showers **MUST** be a minimum of 30" [760 mm] x 60" [1500 mm].
 - 5.8.8 Accessible urinals **MUST** have an elongated rim at a maximum height of 17" [430 mm] AFF.
 - 5.8.9 A clear floor space of 30" [760 mm] x 48" [1200 mm] **MUST** be provided in front of accessible lavatories, urinals, showers, and bathtubs.
 - 5.8.10 Accessible mirrors **MUST** be mounted with the edge of the reflective surface no higher than 40" [1000 mm] AFF.

6.0 STRUCTURAL

- 6.1 Core drills **MUST NOT** be within 18" [450 mm] of any structural element.

7.0 ELECTRICAL

7.1 **ALL** electrical receptacles **MUST** be 18" [450 mm] AFF unless otherwise noted.

7.2 **ALL** electrical receptacles located within 36" [900 mm] of a water source **MUST** be GFI.

7.3 Clearance of 36" [900 mm] deep **MUST** be provided in front of power panels.

8.0 OCCUPANCY LOAD TABLE

| FUNCTION OF SPACE | FLOOR AREA IN SQ. FT. [m ²] PER OCCUPANT |
|--|--|
| Accessory storage areas, mechanical equipment room | 300 [28 m ²] gross |
| Assembly without fixed seats Concentrated (chairs only—not fixed) Standing space Unconcentrated (tables and chairs) | 7 [.7 m ²] net 5 [.5 m ²] net 15 [1.4 m ²] net |
| Business areas | 100 [9.3 m ²] gross |
| Education Classroom area Shops and other vocational room areas | 20 [1.9 m ²] net 50 [4.6 m ²] net |
| Exercise rooms | 50 [4.6 m ²] gross |
| Kitchens, commercial | 200 [18.6 m ²] gross |
| Mercantile Areas on other floors Basement and grade floor areas Storage, stock, shipping areas | 60 [5.6 m ²] gross 30 [2.8 m ²] gross 300 [28 m ²] gross |
| Residential | 200 [18.6 m ²] gross |

PROGRAMMING, PLANNING & PRACTICE

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills for each major content area.

1. PROGRAMMING & ANALYSIS

(27-33 percent of scored items)

- A. Assess client needs and requirements to develop a master plan and program. Document design objectives including site characteristics, spatial and functional relationships, and building systems considerations. Establish preliminary project scope, phasing, budget, and schedule.
 - 1. **Architectural Programming**
Ascertain and translate client and user needs into descriptive criteria to inform subsequent phases of design.
 - 2. **Interpreting Existing Site/Environmental Conditions and Data**
Collect and assess site characteristics and related information and data needed to inform the subsequent design.
 - 3. **Adaptive Reuse of Buildings and/or Materials**
Research and evaluate existing sites, buildings, and materials for new or associated uses.
 - 4. **Space Planning and Facility Planning/Management**
Ascertain and translate client and user needs into functional characteristics and relationships for management and facility planning of interior and exterior spaces.
 - 5. **Fixtures, Furniture, Equipment, and Finishes**
Assess and inventory client and user needs with respect to functional and spatial requirements for furniture, fixtures, and equipment.

2. ENVIRONMENTAL SOCIAL & ECONOMIC ISSUES

(17-23 percent of scored items)

- A. Obtain and review site and building surveys. Assess physical, environmental, social, and economic issues and project impact. Develop project concepts utilizing sustainable principles, alternative energy systems, and new material technologies. Apply basic design principles and historic precedent.
 - 1. **Regional Impact on Project**
Research and analyze the regional impact of built, environmental, and planned conditions as they affect or are affected by the proposed project.
 - 2. **Community-Based Awareness**
Assess pertinent planning, social, demographic, and economic issues within a local community and incorporate their impact on the proposed project.
 - 3. **Hazardous Conditions and Materials**
Assess the potential for hazardous conditions and their impact on the proposed project.
 - 4. **Design Principles**
Apply design principles and historic precedents to test, develop, and refine project design concepts.
 - 5. **Alternative Energy Systems, New Technologies, and Sustainable Design**
Assess and incorporate innovative environmental, energy-related sustainable design concepts on the program, scope and budget into the proposed project.

PROGRAMMING, PLANNING & PRACTICE

KNOWLEDGE / SKILLS

3. CODES & REGULATIONS

(11-17 percent of scored items)

- A. Identify, analyze, and incorporate building codes, specialty codes, zoning, and other regulatory requirements. Manage regulatory approval process.

1. Government and Regulatory Requirements and Permit Processes

Identify and manage the prescribed planning, zoning, and building code requirements of the proposed project design.

2. Adaptive Reuse of Buildings and/or Materials

Identify and incorporate planning, zoning, and building code requirements relative to repurposed buildings and reused materials for the proposed project.

3. Specialty Codes and Regulations including Accessibility Laws, Codes and Guidelines

Identify and incorporate relevant specialty codes into the proposed project design.

4. PROJECT & PRACTICE MANAGEMENT

(33-39 percent of scored items)

- A. Develop scope of services and project delivery method. Assess project budget and financing. Identify project team members including consultants. Document project meetings. Manage project schedule and design process. Assist with construction procurement. Manage legal issues relating to practice including fees, insurance, and professional services contracts.

1. Project Delivery & Procurement Methods

Determine the delivery and construction procurement method based on client requirements.

2. Project Budget Management

Determine fiscal requirements and apply appropriate methodology and techniques to manage project budgets.

3. Project Schedule Management

Establish and manage the professional service schedules for the project.

4. Contracts for Professional Services and Contract Negotiation

Determine, negotiate, execute, and manage the professional services agreements for the project.

6. Risk Management and Legal Issues Pertaining to Practice and Contracts

Assess and manage risk and legal issues related to the business and practice of architecture.

SITE PLANNING & DESIGN

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills directly related to each major content area

1. PRINCIPLES

(22-30 percent of scored items)

- A. Review and assess sites. Incorporate the implication of human behavior, historic precedent, and design theory in the selection of systems, materials, and methods related to site design and construction.

1. Site Planning

Use physical, contextual, and regulatory characteristics, in combination with programmatic requirements, to evaluate project sites.

2. Site Design and Design Principles

Use site evaluation data and programmatic requirements to develop and evaluate alternative site designs.

3. Implications of Design Decisions

Use architectural, engineering, and construction principles and procedures to evaluate site design.

4. Adaptive Reuse of Buildings and/or Materials

Apply principles for adaptive reuse of facilities and materials to site design.

5. Architectural History and Theory

Analyze and evaluate the project site with respect to its regional, local, and site-specific historical context.

2. ENVIRONMENTAL ISSUES

(24-32 percent of scored items)

- A. Interpret site and environmental conditions. Assess and apply systems, materials, and construction methods. Incorporate principles of sustainability. Assess design impact on human behavior.

1. Interpreting Existing Site/Environmental Conditions and Data

Assess site layout and proposed materials and systems with respect to environmental context.

2. Design Impact on Human Behavior

Assess site layout and proposed materials and systems with respect to human behavior, safety, and security.

3. Hazardous Conditions and Materials

Assess the site with respect to the presence of hazardous conditions and materials, and identify mitigation options.

4. Sustainable Design

Identify and apply sustainable strategies and technologies to site layout and selection of materials and systems.

5. Alternative Energy Systems and New Material Technologies

Identify and apply alternative energy systems and new material technologies to site layout and selection of materials and systems.

SITE PLANNING & DESIGN

KNOWLEDGE / SKILLS

3. CODES & REGULATIONS

(18-26 percent of scored items)

- A. Incorporate building codes, specialty codes, zoning and other regulatory requirements in site design and construction.

1. Government and Regulatory Requirements and Permit Processes

Identify and apply relevant land use, building codes, and regulations into the site design, and assist in permitting.

2. Accessibility Laws, Codes and Guidelines

Identify and apply relevant specialty codes and regulations into the site design, and assist in permitting.

4. MATERIALS & TECHNOLOGY

(16-20 percent of scored items)

- A. Analyze the implication of design decisions in the selection of systems, materials, and methods incorporated in site design and construction.

1. Construction Details and Constructability

Incorporate appropriate materials into site details, systems, and assemblies.

2. Construction Materials

Evaluate and select appropriate site products, materials, and systems based on programmatic, performance, and sustainability requirements.

3. Fixtures, Furniture, Equipment, and Finishes

Evaluate and select appropriate site fixtures, furniture, equipment, and finishes based on programmatic and performance requirements.

4. Thermal and Moisture Protection

Manage the impact of temperature, water, and climatic conditions on site design.

5. Natural and Artificial Lighting

Apply principles of natural and artificial lighting in site design.

6. Implications of Design Decisions

Use architectural, engineering, and construction principles and procedures to evaluate site materials, assemblies, and systems.

5. PROJECT & PRACTICE MANAGEMENT

(4-8 percent of scored items)

- A. Assess and administer site design, including construction sequencing, scheduling, cost, and risk management.

1. Construction Sequencing

Determine site phasing based upon prioritized programmatic requirements and anticipated construction sequencing.

2. Cost Estimating, Value Engineering, and Life-cycle Costing

Analyze site development costs relative to programmatic and budgetary requirements.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. PRINCIPLES

(27-33 percent of scored items)

- A. Incorporate the implications of human behavior, historic precedent, and design theory in the selection of systems, materials, and methods related to building design and construction.

1. Building Design

Analyze and evaluate those tasks, procedures, and methodologies influencing building design during schematic design and design development, including building systems and materials.

2. Design Principles and Design Impact on Human Behavior

Analyze and evaluate design principles that influence human behavior in the built environment.

3. Building Systems and their Integration

Analyze, evaluate, and integrate appropriate building systems considering design and engineering principles.

4. Implications of Design Decisions

Evaluate how decisions made in schematic design and design development, relating to orientation, area, materials, cost, code, sustainability, and/or phasing, impact later phases of design, construction, and building use.

5. Space Planning and Facility Planning/Management

Utilize principles of space planning and facility planning/management.

6. Fixtures, Furniture, Equipment, and Finishes

Evaluate and select fixtures, furniture, equipment, and finishes and determine the impact on building design.

7. Adaptive Reuse of Buildings and/or Materials

Evaluate constraints, issues, methodologies, programmatic concerns and cost impacts associated with adaptive reuse of buildings and materials.

8. Architectural History and Theory

Apply architectural history, precedent, and theory to building design.

2. ENVIRONMENTAL ISSUES

(6-9 percent of scored items)

- A. Consider the principles of sustainable design including adaptive re-use, thermal and moisture protection, and hazardous material mitigation.

1. Hazardous Conditions and Materials

Survey and reconcile hazardous conditions and materials relating to building and site.

2. Indoor Air Quality

Determine and assess factors that affect indoor air quality.

3. Sustainable Design

Evaluate and apply principles of sustainability relating to building materials and construction.

4. Natural and Artificial Lighting

Evaluate and apply natural and artificial lighting principles and their application to design and construction.

5. Alternative Energy Systems and New Material Technologies

Select and evaluate emerging and alternative systems and new material technologies.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

3. CODES & REGULATIONS

(10-13 percent of scored items)

- A. Incorporate building and specialty codes, zoning, and other regulatory requirements in building design and construction systems.

1. Government and Regulatory Requirements and Permit Processes

Demonstrate comprehension of building codes and planning requirements and assess their effect on building design.

2. Specialty Codes and Regulations including Accessibility Laws, Codes, and Guidelines

Demonstrate comprehension of specialty codes and guidelines, such as accessible design, seismic code, life safety, and fair housing requirements, and assess their effect on building design.

4. MATERIALS & TECHNOLOGY

(43-49 percent of scored items)

Analyze the implication of design decisions in the selection of systems, materials, and methods incorporated in building design and construction.

A. MASONRY

Identify the properties and characteristics of masonry structures and finish materials.

1. Building Systems and their Integration

Analyze characteristics of masonry systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of masonry components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of masonry details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of masonry in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of masonry systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to masonry.

7. Thermal and Moisture Protection

Assess the use of masonry components in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

B. METALS

Identify the properties and characteristics of structural and miscellaneous metals.

1. Building Systems and their Integration

Analyze characteristics of metal systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of metal components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of metal details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of metal in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of metal systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to metal.

7. Thermal and Moisture Protection

Assess the use of metal components in thermal and moisture protection.

C. WOOD

Identify the properties and characteristics of wood structures, rough carpentry, finish carpentry, and millwork assemblies.

1. Building Systems and their Integration

Analyze characteristics of wood systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of wood components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of wood details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of wood in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of wood systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to wood.

7. Thermal and Moisture Protection

Assess the use of wood components in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

D. CONCRETE

Identify the properties and characteristics of concrete structures and finishes.

1. Building Systems and their Integration

Analyze characteristics of concrete systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of concrete components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of concrete details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of concrete in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of concrete systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to concrete.

7. Thermal and Moisture Protection

Assess the use of concrete components in thermal and moisture protection.

E. OTHER

Identify the properties and characteristics of miscellaneous systems, assemblies, membranes, cladding, coatings, and finish materials (e.g., plastics, composites, glass, tensile, pneumatics, EIFS, etc.).

1. Building Systems and their Integration

Analyze the relationship of building systems and materials (other than masonry, metal, concrete, and wood) and their appropriate selection and integration into building design.

2. Implications of Design Decisions

Evaluate the selection of building components (other than masonry, metal, concrete, and wood) to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of the relationship of building systems and materials (other than masonry, metal, concrete, and wood) details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of building systems and materials (other than masonry, metal, concrete, and wood) in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of building systems and materials (other than masonry, metal, concrete, and wood) and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to building systems and materials (other than masonry, metal, concrete, and wood).

7. Thermal and Moisture Protection

Assess the use of building systems and materials (other than masonry, metal, concrete, and wood) in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

F. SPECIALTIES

Analyze and select accessories, equipment, and fittings.

1. Building Systems and their Integration

Analyze the relationship of accessories, equipment, and fittings and their appropriate selection and integration into building design.

2. Implications of Design Decisions

Evaluate the selection of accessories, equipment, and fittings to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of the relationship of accessories, equipment, and fittings in details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of accessories, equipment, and fittings in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of accessories, equipment, and fittings and their availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to accessories, equipment, and fittings.

7. Thermal and Moisture Protection

Assess the use of accessories, equipment, and fittings in thermal and moisture protection.

5. PROJECT & PRACTICE MANAGEMENT

(4-7 percent of scored items)

A. Determine the impact of construction sequencing, scheduling, cost, and risk management on selection of systems, materials, and methods.

1. Construction Sequencing

Evaluate the selection of systems, materials, and methods and their impact on construction sequencing.

2. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate comprehension of cost estimating, value engineering, and lifecycle costing methods and principles.

3. Project Schedule Management

Demonstrate comprehension and use of project scheduling, staffing projections, contracts, and project management principles.

4. Risk Management

Apply risk management principles and demonstrate methods of conflict resolution.

SCHEMATIC DESIGN

OVERVIEW

DIVISION STATEMENT

Apply knowledge and skills required for the schematic design of buildings and interior space planning.

Vignettes

INTERIOR LAYOUT

Design an interior space plan and furniture arrangement responding to program, code, and accessibility requirements.

BUILDING LAYOUT

Develop a schematic design for a two-story building addressing program, code, site, and environmental requirements.

STRUCTURAL SYSTEMS

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. GENERAL STRUCTURES

(50-54 percent of scored items)

A. Principles

Apply general structural principles to building design and construction.

1. Building Design

Analyze and investigate the structural loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate building structural systems and components.

3. Implications of Design Decisions

Evaluate the impact of structural design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to general structural design.

1. Construction Details and Constructability

Analyze the impact of structural decisions on the construction process.

2. Construction Materials

Apply knowledge of the properties of materials that affect their structural characteristics.

C. Codes & Regulations

Incorporate building codes, specialty codes, and other regulatory requirements in the design of general structural systems.

1. Government and Regulatory Requirements

Assess and apply building codes and other regulations that affect structural systems.

STRUCTURAL SYSTEMS

KNOWLEDGE / SKILLS

2. SEISMIC FORCES

(18-22 percent of scored items)

A. Principles

Apply seismic forces principles to building design and construction.

1. Building Design

Analyze and investigate seismic loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate seismic load resisting systems and components.

3. Implications of Design Decisions

Evaluate the impact of seismic load design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to seismic forces design.

1. Construction Details and Constructability

Analyze construction details and non-structural elements relative to their resistance to seismic forces.

2. Construction Materials

Consider construction materials relative to their resistance to seismic forces.

C. Codes & Regulations

Incorporate building codes, specialty codes, and other regulatory requirements related to seismic forces.

1. Government and Regulatory Requirements

Assess and apply building codes and regulations with respect to the design of structures for resistance to seismic forces.

3. WIND FORCES

(18-22 percent of scored items)

A. Principles

Apply lateral forces principles to the design and construction of buildings to resist wind forces.

1. Building Design

Analyze and investigate wind loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate wind load resisting systems and components.

3. Implications of Design Decisions

Evaluate the impact of wind load design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to wind forces.

1. Construction Details and Constructability

Analyze construction details and non-structural elements relative to their resistance to wind forces.

2. Construction Materials

Consider construction materials relative to their resistance to wind forces.

C. Codes & Regulations

Incorporate building codes and other regulatory requirements related to wind forces.

1. Government and Regulatory Requirements

Assess and apply building codes and regulations with respect to the design of structures for resistance to wind forces.

STRUCTURAL SYSTEMS

4. LATERAL FORCES

(7-9 percent of scored items)

A. Principles

Apply lateral forces principles to the design and construction of buildings.

1. Building Design

Analyze and investigate lateral loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate lateral load resisting systems and components.

3. Implications of Design Decisions

Evaluate the impact of lateral load design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to lateral forces.

1. Construction Details and Constructability

Analyze construction details and non-structural elements relative to their resistance to lateral forces.

2. Construction Materials

Consider construction materials relative to their resistance to lateral forces.

BUILDING SYSTEMS

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. CODES & REGULATIONS

(6-9 percent of scored items)

- A. Incorporate building codes, specialty codes, and other regulatory requirements in the design of mechanical, electrical, plumbing, conveying, and other specialty systems.

1. Government and Regulatory Requirements and Permit Processes

Interpret codes, protocols, and procedures of government regulations to determine their impact on building design, and construction.

2. ENVIRONMENTAL ISSUES

(9-11 percent of scored items)

- A. Apply sustainable design principles to the selection, design, and construction of building systems.

1. Building Design

Utilize sustainable and environmental principles in building design as it relates to basic engineering systems.

2. Building Systems and their Integration

Analyze and evaluate the implications of sustainable design decisions in relation to project goals.

3. Implications of Design Decisions

Evaluate and determine environmental and sustainability parameters most appropriate for building design.

4. Construction Details

Utilize sustainable and environmental design details and recognize their effect on constructability, aesthetics, and technical properties.

5. Sustainable Design

Utilize sustainable design principles in building design as it relates to basic engineering systems.

6. Alternative Energy Systems and New Technologies

Evaluate sustainable strategies to utilize alternative energy systems and evolving technologies in building design.

7. Adaptive Reuse of Buildings and/or Materials

Evaluate sustainable strategies for adaptive reuse of components, systems and/or materials in building design.

3. PLUMBING

(10-15 percent of scored items)

A. PRINCIPLES

Analyze and design plumbing systems.

1. Building Design

Apply basic engineering principles and technologies for plumbing systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of plumbing system design decisions in relation project goals, cost, schedule, and quality.

BUILDING SYSTEMS

Overview

KNOWLEDGE / SKILLS

Knowledge/
SkillsSample Multiple-
Choice QuestionsMechanical &
Electrical Plan Vignette

References

B. MATERIALS & TECHNOLOGY

Evaluate and select materials and construction details related to plumbing systems.

1. Building Systems and their Integration

Evaluate and determine plumbing system parameters most appropriate for building design.

2. Construction Details and Constructability

Utilize plumbing system details and recognize their effect on constructability, aesthetics, and technical properties.

4. HVAC

(18-23 percent of scored items)

A. PRINCIPLES

Analyze and design heating, ventilating, and air conditioning systems.

1. Building Design

Apply basic engineering principles and technologies for HVAC systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of HVAC system design decisions in relation to project goals, cost, schedule, and quality.

3. Indoor Air Quality

Analyze and evaluate the implications of HVAC system design decisions in relation to indoor air quality.

B. MATERIALS & TECHNOLOGY

Evaluate and select materials and construction details related to heating, ventilating, and air conditioning systems.

1. Building Systems and their Integration

Evaluate and determine HVAC system parameters most appropriate for building design.

2. Construction Details and Constructability

Utilize HVAC system details and recognize their effect on constructability, aesthetics, and technical properties.

3. Thermal and Moisture Protection

Analyze and evaluate the implications of thermal and moisture protection principles in relation to HVAC system design.

5. ELECTRICAL

(10-15 percent of scored items)

A. PRINCIPLES

Analyze and design electrical systems.

1. Building Design

Apply basic engineering principles and technologies for electrical systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of electrical system design decisions in relation to project goals, cost, schedule, and quality.

B. MATERIALS & TECHNOLOGY

Evaluate and select materials and construction details related to electrical systems.

1. Building Systems and their Integration

Evaluate and determine electrical system parameters most appropriate for building design.

2. Construction Details and Constructability

Evaluate and determine electrical system parameters most appropriate for building design.

BUILDING SYSTEMS

KNOWLEDGE / SKILLS

6. LIGHTING

(15-20 percent of scored items)

A. PRINCIPLES

Analyze and design natural and artificial lighting systems.

1. Building Design

Apply basic engineering principles and technologies for lighting systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of lighting system design decisions in relation to project goals, cost, schedule, and quality.

3. Natural and Artificial Lighting

Evaluate and determine design principles and theories related to sustainable strategies, daylighting, solar control, energy consumption, and artificial lighting.

B. MATERIALS & TECHNOLOGY

Evaluate and select materials and construction details related to natural and artificial lighting systems.

1. Building Systems and their Integration

Evaluate and determine lighting system parameters most appropriate for building design.

2. Construction Details and Constructability

Utilize lighting system details and recognize their effect on constructability, aesthetics, and technical properties.

3. Natural and Artificial Lighting

Utilize lighting components and details to recognize their effect on constructability, aesthetics, and technical properties.

7. SPECIALTIES

(18-23 percent of scored items)

A. ACOUSTICS

Evaluate, select, and design acoustical systems.

1. Building Design

Apply basic engineering principles and technologies for acoustic systems in building design.

2. Building Systems and their Integration

Evaluate and determine acoustic system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of acoustic system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize acoustical components and details to recognize their effect on constructability, aesthetics, and technical properties.

B. COMMUNICATIONS & SECURITY

Evaluate, select, and design communications and security systems.

1. Building Design

Apply basic engineering principles and technologies for communications and security systems in building design.

2. Building Systems and their Integration

Evaluate and determine communications and security systems parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of communication and security system design decisions in relation to project goals.

BUILDING SYSTEMS

Overview

KNOWLEDGE / SKILLS

Knowledge/
SkillsSample Multiple-
Choice QuestionsMechanical &
Electrical Plan Vignette

References

4. Construction Details and Constructability

Utilize communications and security system details and recognize their effect on constructability, aesthetics, and technical properties.

C. CONVEYING SYSTEMS

Evaluate, select, and design elevators, escalators, moving walkways, and other conveying systems.

1. Building Design

Apply basic engineering principles and technologies for conveying systems in building design.

2. Building Systems and their Integration

Evaluate and determine conveying system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of conveying system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize conveying system details and recognize their effect on constructability, aesthetics, and technical properties.

D. FIRE DETECTION AND SUPPRESSION

Evaluate, select, and design fire detection and suppression systems.

1. Building Design

Apply basic engineering principles and technologies for fire detection and suppression systems in building design.

2. Building Systems and their Integration

Evaluate and determine fire detection and suppression system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of fire detection and suppression system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize fire detection and suppression system details and recognize their effect on constructability, aesthetics, and technical properties.

CONSTRUCTION DOCUMENTS & SERVICES

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. CODES & REGULATIONS

(9-11 percent of scored items)

- A. Incorporate building codes, specialty codes, zoning, and other regulatory requirements in construction documents and services.

1. Government and Regulatory Requirements and Permit Processes

Review governmental and regulatory requirements and incorporate provisions in the construction documents for required permit submittals and to achieve code compliance.

2. Specialty Codes and Regulations including Accessibility Laws, Codes, and Guidelines

Incorporate applicable specialty codes and regulations into the construction documents.

2. ENVIRONMENTAL ISSUES

(6-9 percent of scored items)

- A. Incorporate sustainable design principles, universal design, adaptive reuse concepts, alternative energy systems, new material technologies, and hazardous material mitigation in construction documents.

1. Hazardous Conditions and Materials

Assess the presence of hazardous materials on the site and in the building during construction and recommend mitigation procedures.

2. Sustainable Design

Incorporate sustainable design principles into the construction documents.

3. CONSTRUCTION DRAWINGS & PROJECT MANUAL

(48-53 percent of scored items)

- A. Prepare and coordinate construction drawings including building systems, product selection, and constructibility. Prepare, coordinate, and review general and supplementary conditions and technical specifications.

1. Site Design

Prepare and coordinate construction documents pertaining to the site.

2. Building Design

Prepare and coordinate construction documents pertaining to the building, and review and revise documents for constructability and budget compliance.

3. Building Systems and their Integration

Coordinate building system components and resolve conflicts in construction documents.

4. Specifications

Prepare specifications and coordinate them with construction drawings.

4. PROJECT & PRACTICE MANAGEMENT

(30-35 percent of scored items)

A. COST

Prepare estimates of probable construction cost. Consider cost implications on design decisions.

CONSTRUCTION DOCUMENTS & SERVICES

Overview

KNOWLEDGE / SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Building Section
Vignette

References

1. Cost Estimating, Value Engineering, and Lifecycle Costing

Update cost estimates for the project during construction document phase; adjust construction documents to align with budget and reflect lifecycle cost goals and value engineering results.

B. SCHEDULING & COORDINATION

Prepare and manage project schedule and coordinate all contract documents including those of consultants.

1. Construction Sequencing

Advise on the sequencing of construction and monitor its impact on project delivery.

2. Project Schedule Management

Prepare and monitor a project schedule during both the construction documents phase and construction.

C. PROJECT DELIVERY

Establish project delivery method. Provide contract administration documentation and services.

1. Project Delivery Methods

Evaluate and finalize appropriate project delivery method.

2. Construction Procurement Processes

Prepare procurement documentation and manage procurement process.

3. Product and Material Substitutions

Evaluate proposed material substitutions for compliance with the construction documents.

4. Construction Records Management

Document, prepare and maintain project records during the construction phase.

5. Shop Drawing Review

Review and process shop drawings/submittals to ensure compliance with construction documents.

6. Site Observation / Construction Contract Compliance

Observe construction and perform construction administration to ensure compliance with construction documents and agreements.

7. Change Order Process

Determine and apply proper procedures for executing changes in the work.

8. Construction Conflict Resolution

Resolve conflicts between members of the project team during construction.

9. Post-Occupancy Studies

Assist in preparing a post-occupancy study and evaluate the results.

D. CONTRACTS & LEGAL ISSUES

Review and administer professional services and construction contracts. Consider issues pertaining to practice including risk management and professional and business ethics.

1. Contracts for Construction

Manage terms of professional service contracts and prepare construction contracts between owner and contractors.

2. Legal Issues Pertaining to Practice and Contracts

Apply relevant laws and regulations governing the practice of architecture.

3. Risk Management

Assess professional and general liability and apply risk management procedures related to architectural practice.

4. Professional and Business Ethics

Apply professional and business ethics to architectural practice.

| | RID by ARE | Reg. No | Initial Reg Date | | Arch No. | Arch Initial Reg Date |
|----|---------------------------------|--------------------|-----------------------------|--|---------------------|----------------------------------|
| 1 | Clayton Parnell Little | 11535 | 12/18/2014 | | 15170 | 9/8/1995 |
| 2 | Chris Noack | 11550 | 1/23/2015 | | 15390 | 3/21/1996 |
| 3 | Daniel Jay Roe | 11561 | 2/19/2015 | | 12976 | 9/12/1989 |
| 4 | Curtis Richard Fish | 11590 | 7/2/2015 | | 24926 | 6/29/2015 |
| 5 | John Griswold Webb III | 11629 | 11/4/2015 | | 14811 | 9/8/1994 |
| 6 | Thomas R. Bartholomew | 11631 | 11/20/2015 | | 5124 | 2/1/1974 |
| 7 | Tiffany Robinson Long | 11645 | 1/9/2016 | | 21526 | 7/24/2009 |
| 8 | Morgan Michelle Williams | 11646 | 1/11/2016 | | 23444 | 11/28/2012 |
| 9 | Ulrich Christian Dangel | 11671 | 3/9/2016 | | 24632 | 1/28/2015 |
| 10 | James L. Faulkner | 11673 | 3/15/2016 | | 13549 | 5/7/1991 |
| 11 | John Allyn Montgomery | 11684 | 5/10/2016 | | 11692 | 9/9/1999 |
| 12 | Jonathan Strain | 11709 | 6/29/2016 | | 22625 | 6/16/2011 |

Consideration of Review of Agency's Rules

22 Tex. Admin. Code Chapters 1 and 3

Background

Under Texas Government Code §2001.039, each state agency is required to review its rules every four years to determine whether each rule should be re-adopted, amended, or repealed. During this process, the state agency must assess whether the reasons for initially adopting the rule continue to exist. The Board most recently adopted Rule reviews in October, 2012.

Rule Review

On July 8, 2016, Staff published a notice of intent to review Chapters 1 and 3 of the agency's rules, which invited the public to submit comments or any other response or suggestions. No comments were received from the public. Staff has reviewed each rule in Chapters 1 and 3, and identified a number of rules that require updating to better align with current laws, rules, or agency practice, as explained below:

Chapters 1 and 3

- Rules 1.5 and 3.5 – Terms Defined Herein
 - Repeal definition of “actual signature” and replace with identical definition of “signature.”
 - The term “actual signature” does not appear in the Board's rules for any profession. “Signature” is the term that is used.
 - Repeal definition for “authorship”
 - The terms “authorship” or “author” do not appear in the Board's rules.
 - Revise definition for “Architectural Barriers Act”
 - The current definitions reference Article 9102, Vernon's Texas Civil Statutes, which was repealed in 2003
 - Repeal definition for “E-mail Directory”
 - This term does not appear in the Board's rules for any profession
- Rules 1.24 and 3.24 – Fees
 - These rules have become obsolete and should be repealed
 - The rules state that the Board shall establish a schedule of fees, and that such fee schedule shall be published and copies made available at the Board's office. This rule was adopted at a time, prior to 2005, when the Board did not adopt a fee schedule by rule. Under the current practice, in which the fee schedule is adopted and published under Rule 7.10, this rule is inaccurate and unnecessary.

Chapter 1 Only

- Rule 1.5
 - Correct typographical error: term “EPH” should be amended to “CEPH” (Continuing Education Program Hours)

- Revise definition for “Architect’s Registration Law”
 - The current definition references Article 249a, Vernon’s Texas Civil Statutes, which was repealed in 2001
- Rule 1.148
 - Replace an obsolete reference
 - The rule refers to “Section 10 of the Act,” which is a reference to Article 249a, which was repealed and replaced with Occupations Code Chapter 1051 in 2001. The draft amendment makes the appropriate reference to Section 1051.001.

Chapter 3 Only

- Rule 3.5
 - Revise definition for “Landscape Architect’s Registration Law”
 - The current definition references Article 249c, Vernon’s Texas Civil Statutes, which was repealed in 2001

Draft amendments to the foregoing rules have been prepared and attached for your review. Additionally, a copy of Texas Government Code §2001.039 is attached.

All other rules in Chapter 1 and 3 have been reviewed, and it is Staff’s opinion that the reasons for initial adoption of these rules continue to exist, and that such rules should be readopted.

Staff’s Recommendations

1. Move to approve the draft amendments to 22 Tex. Admin. Code §§ 1.5, 3.5, 1.24, 3.24, and 1.148 for publication and proposal in the Texas register, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the Texas Register.
2. Move to readopt all other rules in 22 Texas Administrative Code Chapters 1 and 3, as authorized under Texas Government Code §2001.039(c).

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 10. General Government (Refs & Annos)
Subtitle A. Administrative Procedure and Practice
Chapter 2001. Administrative Procedure (Refs & Annos)
Subchapter B. Rulemaking

V.T.C.A., Government Code § 2001.039

§ 2001.039. Agency Review of Existing Rules

Currentness

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

Credits

Added by Acts 1999, 76th Leg., ch. 1499, § 1.11(a), eff. Sept. 1, 1999.

Notes of Decisions (4)

V. T. C. A., Government Code § 2001.039, TX GOVT § 2001.039

Current through the end of the 2015 Regular Session of the 84th Legislature

RULE §1.5 Terms Defined Herein

The following words, terms, and acronyms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) The Act--The Architects' Registration Law.

~~(2) Actual Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.~~

~~(23)~~ Administrative Procedure Act (APA)--Texas Government Code §§2001.001 et seq.

~~(34)~~ APA--Administrative Procedure Act.

~~(45)~~ Applicant--An individual who has submitted an application for registration or reinstatement but has not yet completed the registration or reinstatement process.

~~(56)~~ Architect--An individual who holds a valid Texas architectural registration certificate granted by the Board.

~~(67)~~ Architect Registration Examination (ARE)--The standardized test that a Candidate must pass in order to obtain a valid Texas architectural registration certificate.

~~(78)~~ Architect Registration Examination Financial Assistance Fund (AREFAF)--A program administered by the Board which provides monetary awards to Candidates and newly registered Architects who meet the program's criteria.

~~(89)~~ Architects' Registration Law--~~Article 249a, Vernon's Texas Civil Statutes, and~~ Chapter 1051, Texas Occupations Code.

~~(910)~~ Architectural Barriers Act--~~Article 9102, Vernon's Texas Civil Statutes and~~ Texas Government Code, Chapter 469.

~~(101)~~ Architectural Intern--An individual enrolled in the Intern Development Program (IDP).

~~(112)~~ ARE--Architect Registration Examination.

~~(123)~~ AREFAF--Architect Registration Examination Financial Assistance Fund.

~~(14) Authorship--The state of having personally created something.~~

~~(135)~~ Barrier-Free Design--The design of a building or a facility or the design of an alteration of a building or a facility which complies with the Texas Accessibility Standards, the Americans with Disabilities Act, the Fair Housing Accessibility Guidelines, or similarly accepted standards for accessible design.

~~(146)~~ Board--Texas Board of Architectural Examiners.

~~(157)~~ Cancel, Cancellation, or Cancelled--The termination of a Texas architectural registration certificate by operation of law two years after it expires without renewal by the certificate-holder.

(168) Candidate--An Applicant approved by the Board to take the ARE.

(179) CEPH--Continuing Education Program Hour(s).

(1820) Chair--The member of the Board who serves as the Board's presiding officer.

(1921) Construction Documents--Drawings; specifications; and addenda, change orders, construction change directives, and other Supplemental Documents prepared for the purpose(s) of Regulatory Approval, permitting, or construction.

(202) Consultant--An individual retained by an Architect who prepares or assists in the preparation of technical design documents issued by the Architect for use in connection with the Architect's Construction Documents.

(213) Contested Case--A proceeding, including a licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.

(224) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity meeting the Board's continuing education requirements.

(235) Council Certification--Certification granted by NCARB to architects who have satisfied certain standards related to architectural education, training, and examination.

(246) Delinquent--A registration status signifying that an Architect:

(A) has failed to remit the applicable renewal fee to the Board; and

(B) is no longer authorized to Practice Architecture in Texas or use any of the terms restricted by the Architects' Registration Law.

~~(27) E-mail Directory--A listing of e-mail addresses:~~

~~—(A) used to advertise architectural services; and~~

~~—(B) posted on the Internet under circumstances where the Architects included in the list have control over the information included in the list.~~

(258) Emeritus Architect (or Architect Emeritus)--An honorary title that may be used by an Architect who has retired from the Practice of Architecture in Texas pursuant to Texas Occupations Code, §1051.357.

(269) Energy-Efficient Design--The design of a project and the specification of materials to minimize the consumption of energy in the use of the project. The term includes energy efficiency strategies by design as well as the incorporation of alternative energy systems.

(2730) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed architectural project from a technical architectural standpoint.

(2831) Good Standing--

(A) a registration status signifying that an Architect is not delinquent in the payment of any fees owed to the Board; or

(B) an application status signifying that an Applicant or Candidate is not delinquent in the payment of any fees owed to the Board, is not the subject of a pending TBAE enforcement proceeding, and has not been the subject of formal disciplinary action by an architectural registration board that would provide a ground for the denial of the application for architectural registration in Texas.

(~~2932~~) Governmental Entity--A Texas state agency or department; a district, authority, county, municipality, or other political subdivision of Texas; or a publicly owned Texas utility.

(~~303~~) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.

(~~314~~) IDP--The Intern Development Program as administered by NCARB.

(~~325~~) Inactive--A registration status signifying that an Architect may not Practice Architecture in the State of Texas.

(~~336~~) Intern Development Program (IDP)--A comprehensive internship program established, interpreted, and enforced by NCARB.

(~~347~~) Institutional Residential Facility--A building intended for occupancy on a 24-hour basis by persons who are receiving custodial care from the proprietors or operators of the building. Hospitals, dormitories, nursing homes and other assisted living facilities, and correctional facilities are examples of buildings that may be Institutional Residential Facilities.

(~~358~~) Licensed--Registered.

(~~369~~) Member Board--An architectural registration board that is part of the nonprofit federation of architectural registration boards known as NCARB.

(~~3740~~) NAAB--National Architectural Accrediting Board.

(~~3841~~) National Architectural Accrediting Board (NAAB)--An agency that accredits architectural degree programs in the United States.

(~~3942~~) National Council of Architectural Registration Boards (NCARB)--A nonprofit federation of architectural registration boards from fifty-five (55) states and territories of the United States.

(~~403~~) NCARB--National Council of Architectural Registration Boards.

(~~414~~) Nonregistrant--An individual who is not an Architect.

(~~425~~) Practice Architecture--Perform or do or offer or attempt to do or perform any service, work, act, or thing within the scope of the Practice of Architecture.

(~~436~~) Practicing Architecture--Performing or doing or offering or attempting to do or perform any service, work, act, or thing within the scope of the Practice of Architecture.

(~~447~~) Practice of Architecture--A service or creative work applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form,

appearance, aesthetics, and construction details for the construction, enlargement, or alteration of a building or environs intended for human use or occupancy, the proper application of which requires education, training, and experience in those matters.

(A) The term includes:

(i) establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings, or environs intended to be constructed or altered;

(ii) preparing or supervising and controlling the preparation of the architectural plans and specifications that include all integrated building systems and construction details, unless otherwise permitted under Texas Occupations Code, §1051.606(a)(4); and

(iii) observing the construction, modification, or alteration of work to evaluate conformance with architectural plans and specifications described in clause (ii) of this subparagraph for any building, group of buildings, or environs requiring an architect.

(B) The term "practice of architecture" also includes the following activities which, pursuant to Texas Occupations Code §1051.701(a), may be performed by a person who is not registered as an Architect:

(i) programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationship of functional elements;

(ii) recommending and overseeing appropriate construction project delivery systems;

(iii) consulting, investigating, and analyzing the design, form, aesthetics, materials, and construction technology used for the construction, enlargement, or alteration of a building or environs and providing expert opinion and testimony as necessary;

(iv) research to expand the knowledge base of the profession of architecture, including publishing or presenting findings in professional forums; and

(v) teaching, administering, and developing pedagogical theory in academic settings offering architectural education.

(458) Principal--An architect who is responsible, either alone or with other architects, for an organization's Practice of Architecture.

(469) Prototypical--From or of an architectural design intentionally created not only to establish the architectural parameters of a building or facility to be constructed but also to serve as a functional model on which future variations of the basic architectural design would be based for use in additional locations.

(4750) Public Entity--A state, a city, a county, a city and county, a district, a department or agency of state or local government which has official or quasi-official status, an agency established by state or local government though not a department thereof but subject to some governmental control, or any other political subdivision or public corporation.

(4851) Registered--Licensed.

(4952) Registrant--Architect.

(~~503~~) Regulatory Approval--The approval of Construction Documents by the applicable Governmental Entity after a review of the architectural content of the Construction Documents as a prerequisite to construction or occupation of a building or a facility.

(~~514~~) Reinstatement--The procedure through which a Surrendered or revoked Texas architectural registration certificate is restored.

(~~525~~) Renewal--The procedure through which an Architect pays a periodic fee so that the Architect's registration certificate will continue to be effective.

(~~536~~) Responsible Charge--That degree of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the applicable architectural standard of care.

(~~547~~) Revocation or Revoked--The termination of an architectural registration certificate by the Board.

(~~558~~) Rules and Regulations of the Board--22 Texas Administrative Code §§1.1 et seq.

(~~569~~) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.

(~~5760~~) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the minutes of each Board meeting and maintaining the record of Board members' attendance at Board meetings.

(58) Actual Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.

(~~5961~~) SOAH--State Office of Administrative Hearings.

(~~602~~) Sole Practitioner--An Architect who is the only design professional to offer or render architectural services on behalf of a business entity.

(~~613~~) State Office of Administrative Hearings (SOAH)--A Governmental Entity created to serve as an independent forum for the conduct of adjudicative hearings involving the executive branch of Texas government.

(~~624~~) Supervision and Control--The amount of oversight by an architect overseeing the work of another whereby:

(A) the architect and the individual performing the work can document frequent and detailed communication with one another and the architect has both control over and detailed professional knowledge of the work; or

(B) the architect is in Responsible Charge of the work and the individual performing the work is employed by the architect or by the architect's employer.

(~~635~~) Supplemental Document--A document that modifies or adds to the technical architectural content of an existing Construction Document.

(~~646~~) Surrender--The act of relinquishing a Texas architectural registration certificate along with all privileges associated with the certificate.

(~~657~~) Sustainable Design--An integrative approach to the process of design which seeks to avoid depletion of energy, water, and raw material resources; prevent environmental degradation caused by facility and infrastructure developments during their implementation and over their life cycle; and create environments that are livable and promote health, safety and well-being. Sustainability is the concept of meeting present needs without compromising the ability of future generations to meet their own needs.

(~~668~~) TBAE--Texas Board of Architectural Examiners.

(~~679~~) TDLR--Texas Department of Licensing and Regulation.

(~~6870~~) Texas Department of Licensing and Regulation (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.

(~~6971~~) Texas Guaranteed Student Loan Corporation (TGS LC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.

(~~7072~~) TGS LC--Texas Guaranteed Student Loan Corporation.

(~~713~~) Vice-Chair--The member of the Board who serves as the assistant presiding officer and, in the absence of the Chair, serves as the Board's presiding officer. If necessary, the Vice-Chair succeeds the Chair until a new Chair is appointed.

REPEAL RULE §1.24 — Fees

~~The Board shall establish a schedule of fees for services provided by the Board, including fees related to application procedures. The fee schedule established by the Board shall be published, and copies shall be available from the Board's office.~~

RULE §1.148 Prevention of Unauthorized Practice

(a) An Architect shall not practice or offer to practice architecture in any governmental jurisdiction in which to do so would be in violation of a law regulating the practice of architecture in that jurisdiction.

(b) The revocation, suspension, refusal to renew, or denial of a registration to practice architecture in another jurisdiction shall be sufficient cause for the revocation, suspension, refusal to renew, or denial of a registration to practice architecture in the State of Texas.

(c) An Architect who fails to renew his/her certificate of registration prior to its annual expiration date shall not use the title "architect" and shall not "practice architecture" as defined by ~~Section 10 of the Act~~§1051.001 of the Texas Occupations Code until after the Architect's certificate of registration has been properly renewed.

RULE §3.5 Terms Defined Herein

The following words, terms, and acronyms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) The Act--The Landscape Architects' Registration Law.

~~(2) Actual Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.~~

~~(23)~~ Administrative Procedure Act (APA)--Texas Government Code §§2001.001 et seq.

~~(34)~~ APA--Administrative Procedure Act.

~~(45)~~ Applicant--An individual who has submitted an application for registration or reinstatement but has not yet completed the registration or reinstatement process.

~~(56)~~ Architectural Barriers Act--~~Article 9102, Vernon's Texas Civil Statutes and~~ Texas Government Code, Chapter 469.

~~(7) Authorship--The state of having personally created something.~~

~~(68)~~ Barrier-Free Design--The design of a facility or the design of an alteration of a facility which complies with the Texas Accessibility Standards, the Americans with Disabilities Act, the Fair Housing Accessibility Guidelines, or similarly accepted standards for accessible design.

~~(79)~~ Board--Texas Board of Architectural Examiners.

~~(810)~~ Cancel, Cancellation, or Cancelled--The termination of a Texas landscape architectural registration certificate by operation of law two years after it expires without renewal by the certificate-holder.

~~(911)~~ Candidate--An Applicant approved by the Board to take the LARE.

~~(102)~~ CEPH--Continuing Education Program Hour(s).

~~(113)~~ Chair--The member of the Board who serves as the Board's presiding officer.

~~(124)~~ CLARB--Council of Landscape Architectural Registration Boards.

~~(135)~~ Construction Documents--Drawings; specifications; and addenda, change orders, construction change directives, and other Supplemental Documents prepared for the purpose(s) of Regulatory Approval, permitting, or construction.

~~(146)~~ Consultant--An individual retained by a Landscape Architect who prepares or assists in the preparation of technical design documents issued by the Landscape Architect for use in connection with the Landscape Architect's Construction Documents.

~~(157)~~ Contested Case--A proceeding, including a licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.

(168) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity meeting the Board's continuing education requirements.

(179) Council of Landscape Architectural Registration Boards (CLARB)--An international nonprofit organization whose members are landscape architectural licensing boards of the U.S. states and Canadian provinces that license landscape architects.

(1820) Delinquent--A registration status signifying that a Landscape Architect:

(A) has failed to remit the applicable renewal fee to the Board; and

(B) is no longer authorized to practice Landscape Architecture in Texas or use any of the terms restricted by the Landscape Architects' Registration Law.

(1921) Direct Supervision--The amount of oversight by an individual overseeing the work of another whereby the supervisor and the individual being supervised work in close proximity to one another and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.

~~(22) E-mail Directory--A listing of e-mail addresses:~~

~~—(A) used to advertise landscape architectural services; and~~

~~—(B) posted on the Internet under circumstances where the Landscape Architects included in the list have control over the information included in the list.~~

(203) Emeritus Landscape Architect (or Landscape Architect Emeritus)--An honorary title that may be used by a Landscape Architect who has retired from the practice of Landscape Architecture in Texas pursuant to §1052.155 of the Texas Occupations Code.

(214) Energy-Efficient Design--The design of a project and the specification of materials to minimize the consumption of energy in the use of the project. The term includes energy efficiency strategies by design as well as the incorporation of alternative energy systems.

(225) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed landscape architectural project from a technical landscape architectural standpoint.

(236) Good Standing--

(A) a registration status signifying that a Landscape Architect is not delinquent in the payment of any fees owed to the Board; or

(B) an application status signifying that an Applicant or Candidate is not delinquent in the payment of any fees owed to the Board, is not the subject of a pending TBAE enforcement proceeding, and has not been the subject of formal disciplinary action by a landscape architectural registration board that would provide a ground for the denial of the application for landscape architectural registration in Texas.

(247) Governmental Entity--A Texas state agency or department; a district, authority, county, municipality, or other political subdivision of Texas; or a publicly owned Texas utility.

(258) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.

(269) Inactive--A registration status signifying that a Landscape Architect may not practice Landscape Architecture in the State of Texas.

(2730) LAAB--Landscape Architectural Accreditation Board.

(2831) Landscape Architect--An individual who holds a valid Texas landscape architectural registration certificate granted by the Board.

(2932) Landscape Architect Registration Examination (LARE)--The standardized test that a Candidate must pass in order to obtain a valid Texas landscape architectural registration certificate.

(303) Landscape Architects' Registration Law--~~Article 249c, Vernon's Texas Civil Statutes, and~~ Chapter 1052, Texas Occupations Code.

(314) Landscape Architectural Accreditation Board (LAAB)--An agency that accredits landscape architectural degree programs in the United States.

(325) Landscape Architectural Intern--An individual participating in an internship to complete the experiential requirements for landscape architectural registration in Texas.

(336) Landscape Architecture--The art and science of landscape analysis, landscape planning, and landscape design, including the performance of professional services such as consultation, investigation, research, the preparation of general development and detailed site design plans, the preparation of studies, the preparation of specifications, and responsible supervision related to the development of landscape areas for:

(A) the planning, preservation, enhancement, and arrangement of land forms, natural systems, features, and plantings, including ground and water forms;

(B) the planning and design of vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements;

(C) the formulation of graphic and written criteria to govern the planning and design of landscape construction development programs, including:

(i) the preparation, review, and analysis of master and site plans for landscape use and development;

(ii) the analysis of environmental, physical, and social considerations related to land use;

(iii) the preparation of drawings, construction documents, and specifications; and

(iv) construction observation;

(D) design coordination and review of technical submissions, plans, and construction documents prepared by individuals working under the direction of the Landscape Architect;

(E) the preparation of feasibility studies, statements of probable construction costs, and reports and site selection for landscape development and preservation;

(F) the integration, site analysis, and determination of the location of buildings, structures, and circulation and environmental systems;

(G) the analysis and design of:

(i) site landscape grading and drainage;

(ii) systems for landscape erosion and sediment control; and

(iii) pedestrian walkway systems;

(H) the planning and placement of uninhabitable landscape structures, plants, landscape lighting, and hard surface areas;

(I) the collaboration of Landscape Architects with other professionals in the design of roads, bridges, and structures regarding the functional, environmental, and aesthetic requirements of the areas in which they are to be placed; and

(J) field observation of landscape site construction, revegetation, and maintenance.

(347) LARE--Landscape Architect Registration Examination.

(358) Licensed--Registered.

(369) Member Board--A landscape architectural registration board that is part of CLARB.

(3740) Nonregistrant--An individual who is not a Landscape Architect.

(3841) Principal--A Landscape Architect who is responsible, either alone or with other Landscape Architects, for an organization's practice of Landscape Architecture.

(3942) Prototypical--From or of a landscape architectural design intentionally created not only to establish the landscape architectural parameters of a project but also to serve as a functional model on which future variations of the basic landscape architectural design would be based for use in additional locations.

(403) Registrant--Landscape Architect.

(414) Regulatory Approval--The approval of Construction Documents by the applicable Governmental Entity after a review of the landscape architectural content of the Construction Documents as a prerequisite to construction of a project.

(425) Reinstatement--The procedure through which a Surrendered or revoked Texas landscape architectural registration certificate is restored.

(436) Renewal--The procedure through which a Landscape Architect pays a periodic fee so that the Landscape Architect's registration certificate will continue to be effective.

(447) Responsible charge--That degree of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered landscape architects applying the applicable landscape architectural standard of care.

(458) Revocation or Revoked--The termination of a landscape architectural certificate by the Board.

(469) Rules and Regulations of the Board--22 Texas Administrative Code §§3.1 et seq.

(4750) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.

(4854) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the minutes of each Board meeting and maintaining the record of Board members' attendance at Board meetings.

(49) Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.

(502) SOAH--State Office of Administrative Hearings.

(513) Sole Practitioner--A Landscape Architect who is the only design professional to offer or render landscape architectural services on behalf of a business entity.

(524) State Office of Administrative Hearings (SOAH)--A Governmental Entity created to serve as an independent forum for the conduct of adjudicative hearings involving the executive branch of Texas government.

(535) Supervision and Control--The amount of oversight by a landscape architect overseeing the work of another whereby:

(A) the landscape architect and the individual performing the work can document frequent and detailed communication with one another and the landscape architect has both control over and detailed professional knowledge of the work; or

(B) the landscape architect is in Responsible Charge of the work and the individual performing the work is employed by the landscape architect or by the landscape architect's employer.

(546) Supplemental Document--A document that modifies or adds to the technical landscape architectural content of an existing Construction Document.

(557) Surrender--The act of relinquishing a Texas landscape architectural registration certificate along with all privileges associated with the certificate.

(568) Sustainable Design--An integrative approach to the process of design which seeks to avoid depletion of energy, water, and raw material resources; prevent environmental degradation caused by facility and infrastructure development during their implementation and over their life cycle; and create environments that are livable and promote health, safety and well-being. Sustainability is the concept of meeting present needs without compromising the ability of future generations to meet their own needs.

(579) Table of Equivalents for Experience in Landscape Architecture--22 Texas Administrative Code §§3.191 and §3.192 of this chapter.

(5860) TBAE--Texas Board of Architectural Examiners.

(5961) TDLR--Texas Department of Licensing and Regulation.

(602) Texas Department of Licensing and Regulation (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.

(6~~13~~) Texas Guaranteed Student Loan Corporation (TGS LC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.

(6~~24~~) TGS LC--Texas Guaranteed Student Loan Corporation.

(6~~35~~) Vice-Chair--The member of the Board who serves as the assistant presiding officer and, in the absence of the Chair, serves as the Board's presiding officer. If necessary, the Vice-Chair succeeds the Chair until a new Chair is appointed.

REPEAL RULE §3.24 — Fees

~~The Board shall establish a schedule of fees for services provided by the Board, including fees related to application procedures. The fee schedule established by the Board shall be published, and copies shall be available from the Board's office.~~

| | | | |
|---------------------------------|---|----------------------|--------|
| Policy Title: | Conflict of Interest and Recusal Policy | Policy Number | GC-006 |
| Originally Issued: | | Revisions: | |
| Approved By: | Julie Hildebrand, Executive Director | | |
| Responsible Department: | General Counsel | | |
| Primary Policy Custodian | General Counsel | | |

Purpose

To define the standards of conduct expected of all TBAE Board member relating to conflicts of interest and recusal.

References and related Resources or Statutory Authority

Govt. Code Sec. 572.058

Govt. Code Sec. 572.051

Scope

Members of the Texas Board of Architectural Examiners

Policy

It is the policy of the Texas Board of Architectural Examiners (Board) that all decisions of the Board are made with impartiality and fairness, consistent with the Board's mission to protect the interest of the public health, safety, and welfare and to preserve the public's trust in the Board.

Procedures

These procedures are intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to Board members.

Recusal

1. Under Government Code Sec. 572.058, a member of the Board who has a personal or private interest in a measure, proposal, or decision pending before the board may not participate in the decision of the matter. A Board member who fails to recuse him or herself from a matter in violation of Sec. 572.058 is subject to removal from the Board.
2. The determination of whether a Board member has a personal or private interest in a matter is the responsibility of the Board member in question. However, in considering whether recusal in a matter is required, the Board member must be aware that the Board's fairness and impartiality are of vital importance to its mission to protect the public health and safety. For this reason, Board members shall liberally construe the statutory requirements in favor of recusal where participation in the matter could give the public the appearance of a conflict of interest.

3. In determining whether recusal is appropriate, the following factors should be considered:
 - a. Whether the Board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, has a financial interest in the outcome of a cause, proceeding, application, petition, or any other matter pending before the Board.
 - b. Whether the Board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, has or had a business, personal, or private relationship with a person appearing before the Board, and whether participation in the matter would give the appearance of a conflict of interest.
4. If a Board member identifies any potential conflict of interest, and is unsure whether recusal is appropriate, the Board member should contact the general counsel for further consideration.
5. A Board member shall recuse him or herself if:
 - a. the Board member has publicly displayed a pre-judgment of the merits of a particular proceeding. This shall not apply to a member's general political views or general opinion on a given issue.
 - b. the Board member has engaged in ex parte communications with a party in a proceeding or was contacted by a party to a proceeding and did not immediately end the contact and refer the party to Board staff.
6. If a Board member determines that recusal is appropriate, the Board member shall announce the decision and publicly disclose the interest to the Board in an open meeting. In such cases, the Board member may not vote or participate in the decision. A recused Board member is not required to leave the meeting, provided that the Board member does not participate in the debate.
7. A Board member who is aware of a potential conflict of interest, but believes that he or she is able to act fairly, objectively, and in the public's best interest, despite the potential conflict of interest, shall, prior to participating in any official action on the matter, disclose at the Board's open meeting on the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act fairly, objectively, and consistently with the Board's mission in the matter.
8. A Board member's recusal and disclosure of interest shall be entered in the minutes of the meeting.
9. If a Board member determines that recusal is not required, but the Board disagrees, the Board shall not prohibit the Board member's participation in a pending decision by its own action, in accordance with previous guidance issued by the attorney general's office (Tex. Atty. Gen. Op. H-1319, 1978). Rather, the appropriate remedy is a petition of the attorney general for removal from office on the attorney general's own initiative or on the relation of a resident or of any other member of the Board following a Board member's violation of Government Code Sec. 572.058.

Other Conflicts of Interest

In compliance with the requirements of Texas Government Code Sec. 572.051, a Board member shall not:

1. accept or solicit any gift, favor, or service that might reasonably tend to influence the Board member in the discharge of official duties or that the Board member knows or should know is being offered with the intent to influence the Board member's official conduct;
2. accept other employment or engage in a business or professional activity that the Board member might reasonably expect would require or induce the Board member to disclose confidential information acquired by reason of the official position;
3. accept other employment or compensation that could reasonably be expected to impair the Board member's independence of judgment in the performance of the Board member's official duties;
4. make personal investments that could reasonably be expected to create a substantial conflict between the Board member's private interest and the public interest; or
5. intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Board member's official powers or performed the Board member's official duties in favor of another.

Review Cycle

Policies and procedures are reviewed at least every two years or updated as required to ensure they reflect current information and requirements. Policies and procedures are reviewed in consultation with staff, management, and agency regulatory bodies to ensure they accommodate and are reflective of the needs of our registrants, oversight agencies, and best practice guidelines.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

| | |
|------------------------------------|--|
| Case Number: | 144-14N |
| SOAH Docket Number: | 459-16-3577 |
| Respondent: | Dominic Couturier |
| Location of Respondent: | Austin, Texas |
| Date of Complaint Received: | April 30, 2014 |
| Instrument: | Opinion and Order of the Board Adopting the Proposal for Decision rendered by ALJ Kilgore |

Action Recommended by Executive Director:

- The Executive Director recommends the Board move to accept the attached Opinion and Order of the Board, which incorporates the Proposal for Decision rendered by ALJ Kilgore on June 17, 2016, and the imposes an administrative penalty in the sum of \$26,000 and Orders the Respondent to cease and desist from using any architectural title, practicing architecture, other than subject to an exemption from the Architects' Practice Act, and from associating with any business which offers or renders architectural services, or which offers architecture or holds itself out to the public as an architectural firm, unless all architecture on behalf of the firm, is rendered by a registered architect.

State Office of Administrative Hearings



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TEXAS BOARD OF
ARCHITECTURAL EXAMINERS

Lesli G. Ginn
Chief Administrative Law Judge

June 17, 2016

Cathy L. Hendricks, RID/ASID, IIDA
Executive Director
Texas Board of Architectural Examiners
333 Guadalupe, II-350
Austin, TX 78701

VIA INTERAGENCY

**RE: Docket No. 459-16-3577; Texas Board of Architectural Examiners v.
Dominic Couturier**

Dear Ms. Hendricks:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Kilgore".

Shannon Kilgore
Administrative Law Judge

SK/tt
Enclosure

xc: Lance Brenton, General Counsel, Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, TX 78701 – **VIA INTERAGENCY**
Katherine Crain, Legal Assistant, Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, TX 78701 (with 1 CD; Certified Evidentiary Record) – **VIA INTERAGENCY**
Dominic Couturier, 12501 Central Park, Austin, TX 78732 – **VIA REGULAR MAIL**
Dominic Couturier, Italia Fine Homes, 4500 Steiner Ranch Blvd, Suite 3215, Austin, TX 78732 – **VIA REGULAR MAIL**
Dominic Couturier, Italia Fine Homes, 1514 Crenshaw Way, Austin, TX 78746 – **VIA REGULAR MAIL**
Dominic Couturier, 15305 Pheasant Lane, Suite 105, Austin, TX 78734 – **VIA REGULAR MAIL**

SOAH DOCKET NO. 459-16-3577

| | | |
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| TEXAS BOARD OF ARCHITECTURAL | § | BEFORE THE STATE OFFICE |
| EXAMINERS, | § | |
| Petitioner | § | |
| | § | |
| v. | § | OF |
| | § | |
| DOMINIC COUTURIER, | § | |
| Respondent | § | ADMINISTRATIVE HEARINGS |

PROPOSAL FOR DECISION

This matter was scheduled for hearing at the request of the Texas Board of Architectural Examiners (the referring agency). Despite being sent proper notice, the Respondent did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge finds that the relief requested by the referring agency should be granted on a default basis.

FINDINGS OF FACT

1. Staff's Notice of Hearing and Formal Charges, attached to this Proposal for Decision and incorporated by reference, were mailed to the Respondent at the Respondent's address(es) of record (including an address provided by Respondent to the Board's staff) at least ten days prior to the scheduled hearing.
2. Staff's Notice of Hearing and Formal Charges contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
3. Staff's Notice of Hearing and Formal Charges contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.
4. The hearing was held and the record closed on May 10, 2016.
5. The Respondent did not appear at the scheduled hearing and was not represented at the hearing.

6. The referring agency's staff moved for a default, which was granted.
7. The factual allegations set out in Staff's Notice of Hearing and Formal Charges are deemed admitted and are incorporated by reference into this Finding of Fact.

CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
2. The referring agency has jurisdiction over this matter.
3. Proper and timely notice was provided to the Respondent in accordance with Tex. Gov't Code ch. 2001 and 1 Tex. Admin. Code ch. 155.
4. The allegations in Staff's Notice of Hearing and Formal Charges were properly deemed admitted. 1 Tex. Admin. Code § 155.501.
5. The referring agency staff has established the basis for sanction alleged in Staff's Notice of Hearing and Formal Charges, incorporated into this Conclusion of Law.
6. The referring agency is entitled to the imposition of an administrative penalty \$26,000 as requested at the hearing.

SIGNED June 17, 2016.



**SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

April 7, 2016

Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025

Filed Electronically

Re: In the Matter of Dominic Couturier
SOAH Docket No. 459-16-3577


Dear Judge:

Enclosed please find *Staff's Notice of Hearing* and *Formal Charges* in the above-referenced matter.

By copy of this letter, I am forwarding a copy of this document to Respondent.

Please feel free to contact me at 512-305-8519 if you have questions.

Sincerely,


Lance Brenton
General Counsel

Cc: Mr. Dominic Couturier
12501 Central Park
Austin, TX 78732

Mr. Dominic Couturier
Italia Fine Homes
4500 Steiner Ranch Blvd., Ste. 3215
Austin, TX 78732

Mr. Dominic Couturier
Italia Fine Homes
1514 Crenshaw Way
Austin, TX 78746

Mr. Dominic Couturier
15305 Pheasant Lane, Ste. 105
Austin, TX 78734

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

In the Matter of

DOMINIC COUTURIER

STAFF'S NOTICE OF HEARING

SOAH Docket No. 459-16-3577

Respondent: DOMINIC COUTURIER
12501 Central Park
Austin, TX 78732

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ) on May 10, 2016 beginning at 9:00 a.m., at the State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, 4th Floor, Austin, TX 78701, regarding the Formal Charges filed by the Texas Board of Architectural Examiners and attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq; Title I Part 1 Texas Administrative Code Chapter 1; Texas Occupations Code §1051.401 and §1051.451 through §1051.455; and Board Rules 1.231 and 1.232 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

You are requested to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the Staff (General Counsel), Texas Board of Architectural Examiners, 333 Guadalupe, Ste. 2-350, Austin, Texas 78701). Continuances are set by the Administrative Law Judge.

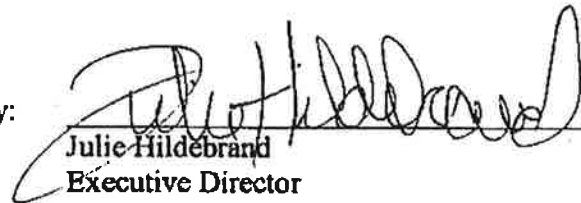
You are the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary findings against you by the Texas Board of Architectural Examiners will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this, the 7th day of April, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

By:



Julie Hildebrand
Executive Director

| | | |
|--------------------|---|------------------------|
| In the Matter of | § | BEFORE THE TEXAS |
| | § | |
| DOMINIC COUTURIER, | § | BOARD OF ARCHITECTURAL |
| | § | |
| Respondent | § | EXAMINERS |

FORMAL CHARGES

This is a disciplinary proceeding under Sections 1051.451 and 1051.455, Texas Occupations Code. Respondent, DOMINIC COUTURIER, does not hold a registration with the Texas Board of Architectural Examiners.

Written notice of the facts and conduct alleged to warrant imposition of an administrative penalty was sent to Respondent at Respondent's address of record and Respondent was given an opportunity to respond to the allegations prior to commencement of this proceeding.

CHARGE I.

On or about February 2, 2013, Respondent engaged in the unauthorized practice of architecture by preparing and issuing architectural plans and specifications with the term "Architecture" affixed to the plans thereon for the "Baweja Residence." Additionally, Respondent represented to the client that he was registered to practice architecture in Texas. Furthermore, Respondent inappropriately represented to the public that the firm was engaged in the practice of architecture or was offering architectural services, despite the fact that the firm did not employ a registered architect and had not associated with an architect to provide architectural services, as required under 22 TEX. ADMIN. CODE 1.123(b)(2).

The above action constitutes grounds for disciplinary action in accordance with Sections 1051.701(a) and (b); 1051.752(1) and 1051.801(a)(3) Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE 1.123(c).

CHARGE II.

On or about March 27, 2013, Respondent engaged in the unauthorized use of the term "architect" by referring to himself as an "architect" in an email to a client in which he gave an opinion on documents discussing impervious cover restrictions on the client's lot.

The above action constitutes grounds for disciplinary action in accordance with Sections 1051.701(a); 1051.752(1) and 1051.801(a)(3) Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE 1.123(c).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on its rules relating to disciplinary sanctions, including 22 Tex. Admin. Code §§ 1.141, 1.177, and 1.232 which can be found at www.tbae.state.tx.us.

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website: <http://www.tbae.state.tx.us/LawsAndEnforcement/StatutesAndRules>.

Filed this the 7th day of April, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

A handwritten signature in black ink, appearing to read "Lance Brenton", is written over a horizontal line.

LANCE BRENTON, General Counsel

State Bar No. 24066924

Email: lance.brenton@tbae.state.tx.us

333 Guadalupe St., Tower II, Ste. 350

Austin, TX 78701

(512) 305-8519 (telephone)

(512) 305-8900 (fax)

DOCKET NUMBER 459-16-3577

| | | |
|----------------------|---|-------------------------|
| IN THE MATTER OF THE | § | BEFORE THE STATE OFFICE |
| | § | |
| COMPLAINT AGAINST | § | OF |
| | § | |
| DOMINIC COUTURIER | § | ADMINISTRATIVE HEARINGS |

OPINION AND ORDER OF THE BOARD

TO: DOMINIC COUTURIER
12501 CENTRAL PARK
AUSTIN, TX 78732

SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TX 78701

At the regularly scheduled public meeting on August 17, 2016, the Texas Board of Architectural Examiners (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt the PFD, and (3) Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and Respondent's presentation during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

WHEREFORE, Respondent is ORDERED to pay an administrative penalty in the amount of \$26,000 and is further ORDERED to cease-and-desist from any and all activity which constitutes the offering of, or practice of, architecture. Not later than the 30th day after the date this ORDER becomes final Respondent shall pay the administrative penalty and come into compliance with the cease-and-desist ORDER.

If Respondent fails to perfect an appeal or to pay the administrative penalty as required by law, Staff is directed to henceforth refer this matter to the Office of the Texas Attorney General for immediate commencement of collection and other enforcement activity.

Entered this the 17th day of August, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

JULIE HILDEBRAND
EXECUTIVE DIRECTOR FOR THE BOARD

APPROVED:

DEBRA J. DOCKERY, AIA
CHAIR
TEXAS BOARD OF ARCHITECTURAL EXAMINERS

ATTACHMENT: PROPOSAL FOR DECISION; DOCKET No. 459-16-3577

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise, and assist the Board in addressing this uncontested case.

| | |
|------------------------------------|---|
| Case Number: | 115-14A |
| Respondent: | Richard O. Haness |
| Location of Respondent: | Dallas, Texas |
| Date of Complaint Received: | April 3, 2014 |
| Instrument: | Revised Report and Notice of Violation |

Findings:

- Richard O. Haness (hereafter “Respondent”) is a registered architect in Texas with registration number 4675.
- On April 4, 2012, Respondent issued construction documents for the renovation of an existing space for a project located at 4601 Old Shepard Place, Dallas, Texas.
- A Texas Accessibility Standards review of the plans issued by Respondent was performed by Registered Accessibility Specialist (hereafter “RAS”), Jeffery L. Kelley. On May 2, 2012. Mr. Kelley issued a report notifying the building owner of a number of unacceptable failures within the plans to comply with accessibility requirements. This report was also transmitted to Respondent.
- After being informed of the deficiencies in the plans by the owner and the RAS, Respondent failed to issue a revised set of construction documents to correct the deficiencies. Subsequently, construction commenced based on the original plans.
- On or about September 12, 2013, after the project was constructed, a Texas Accessibility Standards inspection was performed and an Inspection Report issued by RAS Michael J. Tanguay. The Inspection Report identified multiple unacceptable violations that required correction in order to comply with the Architectural Barriers Act, Texas Government Code, Chapter 469 and the 2012 Texas Accessibility Standards. Post construction repairs to the project for compliance were in excess of \$1,000.
- Subsequent to the Texas Accessibility Standards inspection, Respondent issued revised, sealed plans which were intended to correct the deficiencies noted in the report. Respondent failed to retain copies of the sealed plans as required by Board Rule 1.103(c).
- On or about April 7, 2014, the Board’s investigator contacted the Respondent about this investigation. After the Respondent provided an initial response, the investigator sent a follow-up letter to the Respondent on July 24, 2014 requesting additional information. This inquiry was re-sent to the Respondent by email on August 6, 2015 and September 15, 2015 due to a failure to respond. The Respondent failed to respond to these inquiries until September 24, 2015.

Applicable Statutory Provisions and Rules:

- By failing to make revisions to construction documents in response to a TAS plan review that indicated his design was non-compliant with accessibility standards, Respondent practiced grossly incompetent architecture as defined by 22 TEX. ADMIN. CODE §1.142(c)(2).

- By failing to make revisions to construction documents in response to a TAS plan review that indicated his design was non-compliant with accessibility standards, Respondent engaged in the reckless practice of architecture as defined by 22 TEX. ADMIN. CODE §1.143(b).
- By failing to retain a copy of sealed documents for a period of at least 10 years, Respondent violated 22 TEX. ADMIN. CODE §1.103(c).
- By failing to respond to a Board inquiry within thirty (30) days, Respondent violated 22 TEX. ADMIN. CODE §1.171.
- The Board may impose an administrative penalty upon Respondent based upon statutory criteria. TEX. OCC. CODE ANN §§1051.451 & 1051.452 (West 2012).

Action Recommended by Executive Director:

- Based upon the nature and character of Respondent's activities and his acceptance of responsibility and cooperation during the investigation of this case the Executive Director recommends, and Respondent is prepared to accept, imposition of an administrative penalty in the sum of **\$6,000 and completion of the TDLR Accessibility Academy within one (1) year of the Board's Order.**

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Respondent: William H. Lambeth
Architectural Registration No.: 2044
Location of Respondent: San Antonio, TX
Nature of Violation: Violation of 22 TEX. ADMIN. CODE §1.104(a)
Instrument: Report and Notice of Violation

Findings:

- William H. Lambeth, Jr. (hereafter “Respondent”) is registered as an architect in Texas with registration number 2044.
- On or about August 19, 2013 through September 17, 2014, Respondent signed, sealed, and dated architectural plans that had been prepared by home designer Luis Carrillo, and not under the supervision and control of the Respondent, as required. The projects in question are as follows:
 - On August 19, 2013, Respondent signed, sealed and dated six (6) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential project identified as New Residence: Danny Olivarez located at 1211 Eleanor St., Austin, TX 78721.
 - On July 4, 2014, Respondent signed, sealed and dated six (6) sheets of architectural plans which had been prepared by custom home designer, Luis Carrillo, for the design and construction of a residential project identified as New Residence: Alexis Wilson located at 4901 Alf Avenue, Austin, TX 78721.
 - On August 27, 2014, Respondent signed, sealed and dated eight (8) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential project identified as New Residence: Danny Olivarez located at 7505 Bennett, Austin, TX 78752.
 - On August 27, 2014, Respondent signed, sealed and dated twelve (12) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential project identified as New Residence: Danny Olivarez located at 7518 Carver Avenue, Austin, TX 78752.
 - On September 17, 2014, Respondent signed, sealed and dated six (6) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential duplex project identified as New Residence: Olivarez Modern Res. located at 7501 A&B Carver Avenue, Austin, TX 78752.
 - On September 17, 2014, Respondent signed, sealed and dated eleven (11) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential duplex project identified as New Residence: Olivarez Modern Res. located at 7005 A&B Providence Ave., Austin, TX 78752.
 - On September 17, 2014, Respondent signed, sealed and dated nine (9) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design

and construction of a residential duplex project identified as New Residence: Olivarez Modern Res. located at 7007 A&B Providence Avenue, Austin, TX 78752.

- On September 17, 2014, Respondent signed, sealed and dated nine (9) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential duplex project identified as New Residence: Olivarez Modern Res. located at 7211 A&B Providence Avenue, Austin, TX 78752.
- On September 17, 2014, Respondent signed, sealed and dated eleven (11) sheets of architectural plans which had been prepared by Mr. Carrillo, for the design and construction of a residential duplex project identified as New Residence: Olivarez Modern Res. located at 7211 C&D Providence Avenue, Austin, TX 78752.
- On or about April 14, 2016, in TBAE Case No. 037-15A, Respondent was issued a Report and Notice of Violation by the Board, based on findings of fact that the Respondent affixed his architectural seal to construction documents which were not prepared by Respondent or under his supervision and control.
- On May 23, 2016, the Board received a notarized statement from Respondent voluntarily surrendering his architectural registration.

Applicable Statutory Provisions and Rules:

- By affixing his architectural seal to construction documents which were not prepared by Respondent or under his supervision and control, Respondent violated Board Rule 1.104(a).

Action Recommended by Executive Director:

- The Executive Director recommends the Board accept the voluntary surrender of Respondent's registration in lieu of disciplinary action pursuant to Board Rule 1.64 and 1.66. Any subsequent reinstatement of this registration will be controlled by the law in effect at the time of the reinstatement.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise, and assist the Board in addressing this uncontested case.

| | |
|------------------------------------|---------------------------------------|
| Case Number: | 016-16A |
| Respondent: | Gary Gene Olp |
| Location of Respondent: | Dallas, TX |
| Date of Complaint Received: | September 28, 2015 |
| Instrument: | Report and Notice of Violation |

Findings:

- Gary Gene Olp (hereafter “Respondent”) is a registered architect in Texas with registration number 9783.
- On August 20, 2014, Respondent entered into a proposal with the complainant to provide design and sustainability consulting for the two-story residence located at 8810 Daytonia in Dallas, Texas, as well as a pre-existing accessory building at the rear of the property that had been used for storage.
- The Complainant submitted a check to “OLP” on August 16, 2014 for \$625 for “consultation” services.
- On August 20, 2014, Respondent issued a document describing the scope of work for the project, which included the conversion of the pre-existing storage shed into an “art studio.”
- On September 5, 2014, Respondent issued a revised proposal to the Complainant to provide sustainability design and the preparation of a simple builder’s set of construction documents for the “Studio located at 8110 Daytonia in Dallas, Texas.” The fee for design refinement and the documents was set at \$4,250 with modification charges of \$225/hour for principal and \$87.50/hour for CAD drafting.
- On September 11, 2014, Respondent issued four (4) sheets of construction documents for the studio with Respondent’s company logo in the title block. The plan sheets were not signed or sealed, nor was a statement affixed to the plans indicating that the documents were “not for regulatory approval, permitting or construction.” The plans included substantial modifications and additions to the previous structure, including the addition of a kitchen, bathroom, second-floor loft, replacement of the pre-existing gable roof with a shed roof, and addition of covered deck and second floor exterior balcony. The plans would have resulted in an increase of floor area from 512 sq. ft. to 976 sq. ft.. The plans were non-compliant with the Dallas city code, as follows:
 - The plans depicted an enlargement of a non-compliant accessory structure in violation of Sec. 51A-4.704(b)(2).
 - The plans depicted an accessory structure that was more than twice the maximum size of an individual accessory structure under Sec. 51A-209(b)(6)(E)(vii)(dd).
 - The plans depicted an accessory structure that was not compatible with the design of the main building, as required by Sec. 51A-209(b)(6)(E)(vii)(dd).
 - The plans depicted an additional dwelling unit, as defined by Sec. 51A-2.102, that was not authorized under the lot’s classification as R-7.5 defined under Sec. 51A-4.112(f)(2)(l) and the permissible use described by Sec. 51A-209(b)(6)(A).

- On September 19, 2014, based upon information that she had been given from a third party, the Complainant asked Respondent whether zoning issues might be encountered that would interfere with the construction. The Respondent was unable to provide an answer at that time. Prior the Complainant's inquiry, the Respondent had not previously counseled the Complainant that the design was non-compliant with the city code.
- The Complainant submitted a check to "GGO Architects" on September 24, 2014 for \$4,000.
- On September 28, 2014, Respondent detailed a plan to construct the studio project without a permit. Respondent stated that any penalty resulting from discovery by the building official would be insignificant.
- The Complainant submitted a check to GGO Architects on October 7, 2014 for \$283.79 with the notation "final plans" submitted on the check.
- On March 9, 2015, the Complainant contacted Respondent and again asked whether she would be subject to permitting problems based on comments received by a contractor. In an email dated March 12, Respondent acknowledged that the design could not be permitted as designed, but stated that it could be permitted if the structure was connected to the residence with a "breezeway."
- On March 10, 2015, Respondent issued four (4) sheets of construction documents for the Studio. The plan sheets were not signed or sealed nor was a statement affixed to the plans indicating that the documents were "not for regulatory approval, permitting or construction" in accordance with 22 TEX. ADMIN. CODE §1.103(b). The plans were substantially similar to the previously issued plans, and were not compliant with the city code for the same reasons. The plans did not include a connection to the residence as discussed by the Respondent on March 12.
- The Complainant submitted a final check to "GGO Architects" on June 1, 2015 for \$1,015.61.
- Subsequent to the completion of the construction documents, the Complainant took the drawings to a City Zoning Officer and a member of the City Plans Review Department. At each meeting, the Complainant was informed that the project depicted on Respondent's construction documents could not be built in the City of Dallas due to numerous violations of Chapter 51A of the Development Code.

Applicable Statutory Provisions and Rules:

- The Respondent's conduct in designing this project constituted gross incompetency, as defined under Board Rule 1.142(c)(2), in that the Respondent:
 - Failed to adhere to the zoning regulations of Chapter 51A of the City of Dallas development code by designing an accessory structure more than twice the allowable size and failing to design the studio to be compatible with the main building;
 - Provided architectural services without determining if the project as designed could be permitted, and
 - Advised the Complainant to proceed with constructing the project without obtaining a building permit.
- Furthermore, the Respondent's conduct in designing the project demonstrated a conscious disregard for compliance with city of Dallas codes that jeopardized the Complainant's financial welfare, in that the Complainant could have faced criminal penalties in the amount of \$2,000 per day and/or removal of the structure or components to allow inspections of building systems in the event of discovery by Dallas code inspectors. Such behavior constituted recklessness in the practice of architecture as defined under 22 TEX. ADMIN. CODE §1.143(b)(3).

Action Recommended by Executive Director:

- The Executive Director recommends, and Respondent is prepared to accept the imposition of an administrative penalty in the sum of **\$1,000** and restitution to the Complainant in the amount of **\$5,924.40**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 070-16L |
| Respondent: | David Edward Cassler |
| Location of Respondent: | College Station, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- David Edward Cassler (hereafter “Respondent”) is registered as a landscape architect in Texas with registration number 2816.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2014 through December 31, 2014.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his landscape architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 3.69. The Board’s standard assessment for providing false information is **\$700**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 3.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 083-16I |
| Respondent: | Kristen Weeks Fegale |
| Location of Respondent: | Dallas, Texas |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Kristen Weeks Fegale (hereafter "Respondent") is a registered interior designer in Texas with registration number 11328.
- Based upon the results of a random continuing education audit, it was determined that Respondent falsely reported continuing education compliance to the Board for the audit period of January 1, 2015 through December 31, 2015.
- Subsequently, she completed supplemental CEPH pursuant to Board Rule 5.79(g)(2).

Applicable Statutory Provisions and Rules:

- By indicating at the time of her online renewal that she was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 5.79. The Board's standard assessment for providing false information is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 084-16A |
| Respondent: | Jay David Hargrave |
| Location of Respondent: | Austin, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Jay David Hargrave (hereafter "Respondent") is registered as an architect in Texas with registration number 21590.
- On April 15, 2016, Respondent was notified by the Board that he was being audited for compliance with the continuing education requirements for the audit period of January 1, 2014 through December 31, 2014.
- On May 6, 2016, Respondent replied that he could not locate his continuing education certificates.

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of his continuing education activities for the period of January 1, 2014 through December 31, 2014, Respondent violated Board Rule 1.69. The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 082-16A |
| Respondent: | Mark William Hart |
| Location of Respondent: | Austin, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Mark William Hart (hereafter “Respondent”) is registered as an architect in Texas with registration number 20562.
- Based upon the results of a random continuing education audit, it was determined that Respondent falsely reported continuing education compliance to the Board for the audit period of January 1, 2015 through December 31, 2015.
- Subsequently, Respondent completed supplemental CEPH pursuant to Board Rule 1.69(g)(2).

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 1.69. The Board’s standard assessment for providing false information is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 089-16A |
| Respondent: | David C. Miller |
| Location of Respondent: | Katy, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- David C. Miller (hereafter "Respondent") is registered as an architect in Texas with registration number 4448.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2015 through December 31, 2015.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.
- During the course of staff's investigation regarding Respondent's continuing education credits, Respondent failed to respond to two written requests for information.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(g). The Board's standard assessment for providing false information is **\$700**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(f). The standard administrative penalty assessed for this violation is **\$500**.
- By failing to respond to two written requests for information within 30 days of staff's requests, Respondent violated Board rule 1.171 which requires that an architect answer an inquiry or produce requested documents within 30 days of a request. Each violation is subject to a standard administrative penalty of **\$250** totaling **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 074-16A |
| Respondent: | Dushan Dennis Mrdja |
| Location of Respondent: | Benton, AR |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Dushan Dennis Mrdja (hereafter “Respondent”) is registered as an architect in Texas with registration number 14365.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2014 through December 31, 2014.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 1.69. The Board’s standard assessment for providing false information is **\$700**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 088-16I |
| Respondent: | Susanna Rachut |
| Location of Respondent: | Round Rock, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Susanna Rachut (hereafter "Respondent") is registered as an interior designer in Texas with registration number 9720.
- On March 15, 2016, Respondent was notified by the Board that she was being audited for compliance with the continuing education requirements for the audit period of January 1, 2015 through December 31, 2015.
- On April 12, 2016, Respondent replied by email with information regarding her continuing education, but could not produce complete and accurate proof of her continuing education.
- Subsequently, Respondent completed supplemental CEPH pursuant to Board Rule 5.79(g)(2).

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of her continuing education activities for the period of January 1, 2015 through December 31, 2015, Respondent violated Board Rule 5.79. The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 090-16L |
| Respondent: | Christopher Alan Russell |
| Location of Respondent: | Dallas, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Christopher Alan Russell (hereafter “Respondent”) is registered as a landscape architect in Texas with registration number 1892.
- Based upon the results of a random continuing education audit, it was determined that Respondent falsely reported continuing education compliance to the Board for the audit period of January 1, 2015 through December 31, 2015.
- Subsequently, Respondent completed supplemental CEPH pursuant to Board Rule 3.69(g)(2).

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 3.69. The Board’s standard assessment for providing false information is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 068-16L |
| Respondent: | Stephen Michael Sigler |
| Location of Respondent: | Fort Collins, CO |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Stephen Michael Sigler (hereafter "Respondent") is registered as a landscape architect in Texas with registration number 2722.
- On October 15, 2015, Respondent was notified by the Board that he was being audited for compliance with the continuing education requirements for the audit period of January 1, 2014 through December 31, 2014.
- On February 5, 2016, Respondent replied by email and stated that he had some personal problems and had a laptop with the "information" on it stolen.
- During the course of this investigation, Respondent failed to respond to a Board inquiry.

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of his continuing education activities for the period of January 1, 2014 through December 31, 2014, Respondent violated Board Rule 3.69. The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is **\$700**.
- By failing to answer and produce documents to a Board inquiry within 30 days, Respondent violated Board Rule 3.171.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$950**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 077-16A |
| Respondent: | Lei Yeung |
| Location of Respondent: | Dallas, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Lei Yeung (hereafter "Respondent") is registered as an architect in Texas with registration number 19835.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2014 through December 31, 2014.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.
- During the course of staff's investigation regarding Respondent's continuing education credits, Respondent failed to respond to two written requests for information.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(g). The Board's standard assessment for providing false information is **\$700**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(f). The standard administrative penalty assessed for this violation is **\$500**.
- By failing to respond to two written requests for information within 30 days of staff's requests, Respondent violated Board rule 1.171 which requires that an architect answer an inquiry or produce requested documents within 30 days of a request. Each violation is subject to a standard administrative penalty of **\$250** totaling **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,700**.

MEMORANDUM

DATE: 28 June 2016

TO: Member Board Chairs
Member Board Executives

FROM: Kristine A. Harding, NCARB, AIA
President, NCARB

RE: Request for Signatories to the new Mutual Recognition
Arrangement with Australia and New Zealand

The ability of an architect licensed in a U.S. jurisdiction to lawfully seek and find work abroad depends on their ability to become licensed in that foreign jurisdiction. In February, 2016 a new Mutual Recognition Arrangement was signed by the leaders of the Council, the Architects Accreditation Council of Australia (AACA), and the New Zealand Registered Architects Board (NZRAB).

In late 2014, current and former chairs of NCARB's Education Committee, Internship Committee, and Examination Committee, along with additional subject-matter experts, were appointed by then-president Dale McKinney, FAIA to review the requirements for licensure in Australia and New Zealand. Through a substantial comparative analysis, this special review team found a significant correlation between the expected professional competencies for practice and the way they were established and assessed in both countries. Furthermore, the detailed comparative analysis revealed that both countries maintain a rigorous and standardized licensure process that parallels NCARB's.

The terms of this Arrangement follow the lines of our current arrangement with Canada and are strongly founded on accredited education, structured experience, and comprehensive examination; the mainstays of licensure in our U.S. jurisdictions. All three countries also provide for alternative paths to licensure for those without accredited education. Those alternatives, like ours, are appropriately rigorous and include extended periods of experience prior to initial licensure. While this arrangement includes those applicants, the focus of the Arrangement is based on the primary and most often utilized pathway.

Kristine A. Harding, NCARB, AIA
President/Chair of the Board
Huntsville, Alabama

Gregory L. Erny, NCARB, AIA
First Vice President/President-elect
Reno, Nevada

David L. Hoffman, FAIA, NCARB
Second Vice President
Wichita, Kansas

Terry L. Allers, NCARB, AIA
Treasurer
Fort Dodge, Iowa

Robert M. Calvani, NCARB, AIA
Secretary
Albuquerque, New Mexico

Dennis S. Ward, FAIA, NCARB
Past President
Florence, South Carolina

David R. Prengaman, AIA, NCARB
Director, Region 1
Providence, Rhode Island

Susan B. McClymonds, AIA, CSI, CCS, SCIP
Director, Region 2
Amsterdam, New York

Alfred Vidaurre Jr., FAIA, NCARB, AICP
Director, Region 3
Fort Worth, Texas

Stephen L. Sharp, AIA, NCARB
Director, Region 4
Springfield, Ohio

Bayliss Ward, NCARB, AIA
Director, Region 5
Bozeman, Montana

Jim Oschwald, NCARB, AIA, LEED, AP^{BD+C}
Director, Region 6
Albuquerque, New Mexico

Kingsley Johnson Glasgow
Member Board Executive Director
Little Rock, Arkansas

John E. Cardone Jr.
Public Director
Lake Charles, Louisiana

Michael J. Armstrong
Chief Executive Officer

The fundamental principles of recognition under this Arrangement are:

- Citizenship or lawful permanent residence in the home country,
- Validation of licensure in good standing from the home authority, and
- 6,000 hours (approximately three years) of post-licensure experience in the home country.

An architect who obtained their license through other foreign reciprocal registration procedures would not qualify for reciprocal registration under this Arrangement.

Implementation of the Arrangement is contingent on more than half of all NCARB Member Boards becoming formal signatories to the Arrangement by December 31, 2016. Likewise, AACA has the same timeframe to collect signed Letters from all eight of their member jurisdictions. NZRAB represents all registered architects in New Zealand and has secured ratification of the Arrangement. **Once we have collected the required number of signatories, the new arrangement will become effective January 1, 2017.**

Attached to this letter is the MRA and a Letter of Undertaking that we are respectfully asking you to sign on behalf of your Board. Please review this Letter of Undertaking with your fellow Board members and return an executed copy to Maurice Brown (mbrown@ncarb.org) by **December 31, 2016**. We will keep you informed as to the progress of Member Boards who are signing on to the Arrangement. Should you have any questions regarding the Arrangement or its impact, feel free to contact either Kathy Hillegas (khillegas@ncarb.org) or Stephen Nutt (snutt@ncarb.org).

Attachments:

- Letter of Undertaking
- MRA between NCARB and AACA and NZRAB
- Letter of Good Standing (template)
- Declaration of Professional Experience (template)
- AACA/NZARB/NCARB Statement of Credentials (template)
- Confirmation of Council Certification

Letter of Undertaking
with respect to the

MUTUAL RECOGNITION ARRANGEMENT
between the
NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS
and the
ARCHITECTS ACCREDITATION COUNCIL OF AUSTRALIA
and the
NEW ZEALAND REGISTERED ARCHITECTS BOARD

The National Council of Architectural Registration Boards (NCARB)
representing the architectural licensing boards of the 50 United States,
the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

AND

The Architects Accreditation Council of Australia (AACA)
representing the architectural licensing boards of the eight states and territories of Australia.

AND

The New Zealand Registered Architects Board (NZRAB)
representing the registered architects of New Zealand.

WHEREAS, NCARB, AACA, and NZRAB have agreed to and signed a Mutual Recognition Arrangement (Arrangement) dated 10 February 2016, ratified by the architectural licensing authorities represented by NCARB, the architectural licensing authorities represented by AACA, and the NZRAB.

NOW THEREFORE, this *Letter of Undertaking* shall be signed, without modification, by each individual licensing/registration authority wishing to participate in the Arrangement.

The undersigned licensing/registration authority, having the authority to register or license persons as Architects within its jurisdiction, wishes to become a signatory to the Arrangement by virtue of this *Letter of Undertaking*. In doing so, the licensing/registration authority agrees to and acknowledges the following:

1. The terms used in this *Letter of Undertaking* shall have the same meaning as defined in the Arrangement between NCARB, AACA, and NZRAB dated 10 February 2016.
2. The undersigned individual has the authority to sign on behalf of the licensing/registration authority.

Letter of Undertaking
MRA between NCARB, AACRA, and NZRAB

3. As a signatory to the Arrangement, the undersigned licensing/registration authority will adhere to the fundamental principles of the Arrangement and agrees to accept the *Letter of Good Standing* provided by the home licensing/registration authority and the applicant's personal *Declaration of Professional Experience* as satisfying the eligibility requirements for licensing/registration as set forth in the Arrangement.
4. The undersigned licensing/registration authority will not impose any additional education, experience, or examination requirements, or require the applicant to provide education transcripts, experience verifications, examination scores, or government identification numbers (including, but not limited to, Social Security Numbers or social insurance numbers). However, the host licensing/registration authority may impose familiarity with local laws and other local requirements that also apply to all domestic applicants seeking reciprocal licensure.
5. In keeping with the above, the undersigned licensing/registration authority agrees that it will accept for licensure/registration to practice architecture in its jurisdiction a licensed/registered architect who holds a valid and current NCARB Certificate that has been issued in accordance with the Arrangement and satisfies all conditions outlined within the Arrangement.

IN WITNESS WHEREOF, the licensing/registration authority named below has caused the duly authorized person, on its behalf, to execute and deliver this *Letter of Undertaking*.

Entered into on _____, 201__.

By: _____
Name of Licensing/Registration Authority

Name of duly authorized individual and title

Signature

Copy of Mutual Recognition Arrangement attached

MUTUAL RECOGNITION ARRANGEMENT
between the
NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS
and the
ARCHITECTS ACCREDITATION COUNCIL OF AUSTRALIA
and the
NEW ZEALAND REGISTERED ARCHITECTS BOARD
as executed

10 February 2016

The National Council of Architectural Registration Boards (NCARB)
representing the architectural licensing boards of the 50 United States,
the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

AND

The Architects Accreditation Council of Australia (AACA)
representing the architectural licensing boards of the eight states and territories of Australia.

AND

The New Zealand Registered Architects Board (NZRAB)
representing the registered architects of New Zealand.

*This **Mutual Recognition Arrangement** has been designed to recognize the professional credentials of architects licensed/registered in the U.S., Australia, and New Zealand and to support their mobility by creating the opportunity to practice beyond their borders. More specifically, the purpose of this Arrangement is to facilitate the registration of an architect licensed in a participating U.S. jurisdiction as an Australian architect or New Zealand architect; and the licensing of an Australian architect or New Zealand architect as an architect in a U.S. jurisdiction that has agreed to participate in the Arrangement.*

WHEREAS, NCARB establishes model regulations for the profession of architecture and promulgates recommended national standards for education, experience, and examination for initial licensure and continuing education standards for license renewal to the 54 Member Boards; as well as establishing the education, experience, and examination requirements for the *NCARB Certificate* in support of reciprocal licensure within the United States;

WHEREAS, AACA advocates, coordinates, and facilitates the development of national standards of competency for the profession of architecture through education, practical experience, and examination requirements for initial licensure and license renewal for all eight Australian State and Territory Registration Boards;

WHEREAS, NZRAB, as established by an act of the New Zealand Parliament, or its statutory successor, holds the statutory authority to determine the minimum education qualifications, work experience requirements, and assessment procedures for initial registration and license renewal as a registered architect in New Zealand, as well as the responsibility to register, monitor, and discipline all architects registered in New Zealand;

WHEREAS, NCARB and the AACA previously ratified Mutual Recognition Agreements in 1973, 1983, and 2006 that were never fully realized; NCARB, the AACA, and the Architects Education and Registration Board of New Zealand (AERB/NZ) ratified separate Practice in a Host Nation Agreements in 2002 that were never fully implemented; and the AERB/NZ no longer exists and has been statutorily replaced by the NZRAB; and NCARB, AACA, and the NZRAB declare all former Agreements no longer exist or are terminated;

WHEREAS, the NCARB Member Boards, the Australian State and Territory Boards, and the NZRAB are empowered by statutes to regulate the profession of architecture in their respective jurisdictions, including establishing education, experience, and examination/assessment requirements for licensure/registration and license/registration renewal;

WHEREAS, the standards, protocols, and procedures required for entry to the practice of architecture within the United States, Australia, and New Zealand have benefitted from many years of effort by NCARB, AACA, and NZRAB;

WHEREAS, NCARB and the AACA are the lead organizations recognized by their individual state and territory registration authorities and the NZRAB has the necessary statutory authority for the negotiation of mutual recognition arrangements for architects with similar foreign authorities;

WHEREAS, accepting there are differences between the systems in place in United States, Australia, and New Zealand, nonetheless there is significant and substantial equivalence between the regulatory systems for licensure/registration and recognition of the privilege and obligations of architects registered to practice in the United States, Australia, and New Zealand;

WHEREAS, NCARB, AACA, and NZRAB are recognized by the profession as mature and sophisticated facilitators of licensure to which the utmost full faith and credit should be accorded and desire to support reciprocal licensure/registration in the host country of architects who have been licensed/registered in their home country;

WHEREAS, any architect actively engaging or seeking to engage in the practice of architecture in any United States jurisdiction, Australian jurisdiction, or New Zealand must obtain the authorization to practice from the jurisdiction, must comply with all practice requirements of the jurisdiction, and is subject to all governing legislation and regulations of the jurisdiction;

NOW THEREFORE, NCARB, AACA, and NZRAB agree as follows:

1. PARTIES TO THE ARRANGEMENT

Any NCARB Member Board and any Australian State or Territory Board may become a party to the provisions of this Arrangement by submitting a signed *Letter of Undertaking* to the responsible negotiating representative. The *Letter of Undertaking* is incorporated herewith and includes the binding requirements for the implementation of this Arrangement by each individual signatory jurisdiction. The *Letters of Undertaking* shall be distributed, collected, and maintained by NCARB, AACA, and NZRAB respectively. NCARB and AACA each shall promptly notify the others in writing of all individual signatories. Each NCARB Member Board and each Australian State or Territory Board that executes a *Letter of Undertaking*, and which has not withdrawn from this Arrangement, as well as NCARB, AACA, and NZRAB once they sign this Arrangement below, shall be known as a “Party to this Arrangement.”

2. ELIGIBILITY REQUIREMENTS

1. Architects who are able to benefit from the provisions of this Arrangement must be citizens respectively of the United States, Australia, or New Zealand or have lawful permanent residency status in that country as their home country in order to seek licensure/registration in one or the other countries serving as the host country under this Arrangement.
2. Architects shall not be required to establish citizenship or permanent residency status in the host country in which they seek licensure/registration under this Arrangement.
3. Architects must be licensed/registered in a jurisdiction of their home country and must have completed at least 6,000 hours of post-licensure/registration experience practicing as a registered architect in their home country as demonstrated through the provision of proof of current and valid licensure in good standing from the jurisdictional licensing authority and a declaration signed by the applicant attesting to the experience.
4. Notwithstanding items 1, 2, and 3 above, Architects who have become licensed/registered in their home country by means of a foreign reciprocal licensing agreement/arrangement are not eligible under this Arrangement.

3. CONDITIONS

A U.S. Architect to AACA Jurisdiction

Upon application, those Australian State and Territory Boards who become a Party to this Arrangement agree to license/register as an architect in their respective jurisdiction any U.S. architect who:

1. meets the eligibility requirements listed in Section 2 of this Arrangement, and
2. holds a current *NCARB Certificate*, and
3. has been issued an *AACA Statement*, and
4. is currently licensed/registered in good standing by one or more NCARB Member Board(s) that is a Party to this Arrangement.

B U.S. Architect to NZRAB

Upon application, the NZRAB agrees to register as an architect in New Zealand any U.S. architect who:

1. meets the eligibility requirements listed in Section 2 of this Arrangement, and
2. holds a current *NCARB Certificate*, and
3. is currently licensed/registered in good standing by one or more NCARB Member Board(s) that is a Party to this Arrangement.

C Australian Architect to NCARB Jurisdiction

Upon application, NCARB shall issue an *NCARB Certificate* to any Australian Registered Architect licensed/registered in one or more AACA jurisdiction(s) meeting the eligibility requirements listed above.

Upon application, those NCARB Member Boards who become a Party to this Arrangement agree to license/register as an architect in their respective jurisdiction any Australian Registered Architect who:

1. meets the eligibility requirements listed in Section 2 of this Arrangement, and
2. holds a current *AACA Statement*, and
3. has been issued an *NCARB Certificate*, and
4. is currently licensed/registered in good standing by one or more Australian State and Territory Board(s) that is a Party to this Arrangement.

D New Zealand Architect to NCARB Jurisdiction

Upon application, NCARB shall issue an *NCARB Certificate* to any New Zealand Registered Architect licensed/registered by the NZRAB meeting the eligibility requirements listed above.

Upon application, those NCARB Member Boards who become a Party to this Arrangement agree to license/register as an architect in their respective jurisdictions any New Zealand Registered Architect who:

1. meets the eligibility requirements listed in Section 2 of this Arrangement, and
2. holds a current *NCARB Certificate*, and
3. is currently licensed/registered in good standing by the NZRAB.

4. MONITORING COMMITTEE

A Monitoring Committee is hereby established to monitor the performance of all signatories who have agreed to be bound by the terms and conditions of this Arrangement to assure the effective and efficient implementation of this Arrangement.

The Monitoring Committee shall be comprised of no more than five individuals appointed by NCARB, no more than five individuals appointed by AACA, and no more than five individuals appointed by NZRAB. The Monitoring Committee shall convene at least one meeting (by phone, video conference, or in person) in each calendar year, and more frequently if circumstances so require.

5. LIMITATIONS

Nothing in this Arrangement limits the ability of an NCARB Member Board, Australian State or Territory Board, or the NZRAB to refuse to license/register an architect or impose terms, conditions or restrictions on his/her license/registration as a result of complaints or disciplinary or criminal proceedings relating to the competency, conduct, or character of that architect where such action is considered necessary to protect the public interest.

Nothing in this Arrangement limits the ability of NCARB, AACA, NZRAB or any individual state or territory registration board to seek appropriate verification of any matter pertaining to the foregoing or the eligibility of an applicant under this Arrangement.

6. AMENDMENT

This Arrangement may only be amended with the written consent of NCARB, AACA, and NZRAB. Any such amendment will be submitted to each NCARB jurisdiction and AACA jurisdiction, who may re-affirm their respective assent to this Arrangement as so amended or may withdraw as a Party to this Arrangement.

7. NO ASSIGNMENT

No Party can assign their rights under this Arrangement without the prior written consent of NCARB, AACA, and NZRAB.

The Parties agree that a reference to an individual State or Territory Board includes a reference to any entity, board or regulator that assumes the role and responsibility to regulate an architect registered by that individual State or Territory Board under the relevant legislation, and that a restructure of an individual Board will not be deemed an assignment under this Arrangement.

8. WITHDRAWAL

Any NCARB Member Board, Australian State or Territory Board, or the NZRAB may withdraw from this Arrangement with 90-days written notice given respectively to the responsible negotiating representative. NCARB, AACA, and NZRAB shall each promptly notify the other in writing of all withdrawals.

In the event of withdrawal, all licenses/registrations and any *NCARB Certificate* granted to architects pursuant to this Arrangement shall remain valid as long as all registration and renewal obligations are maintained and all other generally applicable licensure requirements are met or unless registration is revoked for cause.

9. TERMINATION





NCARB, AACA, or NZRAB may invoke termination of this Arrangement with 90-days written notice to the other parties. This Arrangement shall also terminate if more than one-half of the respective NCARB Member Boards or any Australian State and Territory Board or the NZRAB cease to be Parties to this Arrangement.

In the event of termination, all licenses/registrations granted pursuant to this Arrangement prior to the effective termination date shall remain valid as long as all registration and renewal obligations are maintained and all other generally applicable licensure requirements are met or unless registration is revoked for cause.

10. ENTRY INTO FORCE

This Arrangement shall come into force at such time as more than one-half of all NCARB Member Boards and all Australian State and Territory Boards have become Party to this Arrangement and the NZRAB has become party to this Arrangement so long as such condition is met on or before December 31, 2016, or as mutually extended by the NCARB, AACA, or NZRAB Board of Directors.

SIGNATURES

| NCARB | | AACA | | NZRAB | |
|---|---|---|--|-------|--|
|  President Dennis Ward |  President Richard Thorp |  Chair Warwick Bell | | | |
|  CEO Mike Armstrong |  CEO Kate Doyle |  CEO Paul Jackman | | | |
|  Witness Kristine Harding |  Witness Timothy Horton |  Witness Pip Cheshire | | | |
|  Witness Dale McKinney |  Witness Nadine Roberts |  Witness Callum McKenzie | | | |
|  Witness Stephen Nutt 30 January 2016 |  Witness Mae Cruz 8 February 2016 |  Witness Christina van Bohemen 10 February 2016 | | | |

Letter of Good Standing

DATE

NAME
ADDRESS
ADDRESS
ADDRESS
ADDRESS

Dear Sir or Madam:

This is to confirm that [***NAME OF ARCHITECT***] was licensed/registered on [***MONTH / DAY / YEAR***] with the [***NAME OF LICENSING AUTHORITY***] and was not licensed by means of a foreign reciprocal licensing agreement or a Broadly Experienced Foreign Architect program.

[***NAME OF ARCHITECT***] is currently a licensee/registrant in good standing with the [***NAME OF LICENSING AUTHORITY***] and is not currently the subject of disciplinary action by this licensing authority nor has a record of unresolved disciplinary action on file with this licensing authority.

Sincerely,

NAME
Registrar

TEMPLATE TO BE COMPLETED BY APPLICANT

Declaration of Professional Experience

with respect to the

MUTUAL RECOGNITION ARRANGEMENT

between the

NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS

and the

ARCHITECTS ACCREDITATION COUNCIL OF AUSTRALIA

and the

NEW ZEALAND REGISTERED ARCHITECTS BOARD

I, [*NAME OF ARCHITECT*], declare and affirm that:

I am a citizen or hold permanent residency status in [*UNITED STATES or AUSTRALIA or NEW ZEALAND*];

I am a licensed/registered architect, and currently a licensee/registrant in good standing with the [*NAME OF LICENSING AUTHORITY*];

I was licensed on [*MONTH / DAY / YEAR*] with the [*NAME OF LICENSING AUTHORITY*] who will separately be confirming that I am in good standing with that Authority, and I did not obtain licensure in that jurisdiction by means of a foreign reciprocal licensing agreement/arrangement or a Broadly Experienced Foreign Architect program;

- ☐ I have completed a minimum of 6,000 hours of post-licensure experience as an architect engaged in the lawful practice of architecture in my home country;
- ☐ I meet all of the eligibility requirements of the Mutual Recognition Arrangement for reciprocal licensing between NCARB, AACA, and NZRAB; and
- ☐ I understand that upon licensure/registration, I must comply with all practice requirements of the host jurisdiction and will be subject to all governing legislation and regulations of the host jurisdiction.

NO I have/had a disciplinary action registered against me by a licensing authority (circle one)

YES *If yes, submit the summary findings and official action of the licensing authority, as well as any further explanation necessary with this form.*

The host licensing authority has the right to request further details with respect to all disciplinary actions.

I affirm that the above statements are accurate and true to the best of my knowledge and belief.

Name of Architect (print)

Signature

Date

AACA STATEMENT

Applicant: XXXX

Education: MArch University of NSW May 1983

Other: N/A

Architectural Practice Examination*: Passed October 1990

First Registered: NSW December 1990

Currently Registered: Victoria

See attached statement of current registration status (*provided by the relevant architect registration board. AACA would seek this from the relevant Board*)

* The AACA Architectural Practice Examination (APE) is a nationally consistent competency based assessment benchmarked against the National Standard of Competency for Architects. See <http://competencystandardforarchitects.aaca.org.au/matrix/index/print/assessment/4?assessment%5B%5D=4>.

The APE comprises three parts - completion of a logbook (3,300 hours) and Statement of Practical Experience, a written paper and an interview with architect practitioners. Candidates who have satisfactorily met the requirements of all three parts of the APE may apply for registration to the Architects Registration Board in any state or territory in Australia. See <http://competencystandardforarchitects.aaca.org.au/matrix/index/print/assessment/4?assessment%5B%5D=4>

Evaluation of Record

For application for registration/licensure in the United States of America
under the Australia United States New Zealand MRA

Applicant's name: -

New Zealand registration number: -

Academic qualification relevant to
registration: -

Qualification provider: -

Year academic qualification obtained: -

Current New Zealand registration status: -

Date first registered: -

For further information, contact the New Zealand Registered Architects Board at
info@nzrab.org.nz or 0064 4 471 1336:

Council Certification

NCARB FILE NO. «NCARB_NO» NCARB CERTIFICATE NO. «NCARB_CERT_NUM»

The National Council of Architectural Registration Boards
Certifies that

«NCARB_NAME_FIRST» «NCARB_NAME_MIDDLE» «NCARB_NAME_LAST»

has met all requirements for Council Certification
and is therefore recommended to all Registration Authorities for
REGISTRATION or LICENSE AS AN ARCHITECT.

Given under our hand and the Seal of the Council
This _____ day of _____ in the year _____.



Terry Allers, AIA, NCARB
Secretary

Article IX, Section 3 of the Bylaws provides that, "Council Certification shall be in effect for a period of one year. Renewal of the Certification shall be predicated upon the submission of an annual fee and the submission of an annual report containing such information as the Council deems appropriate."

I HEREBY CERTIFY that annual renewal fees and reports having been submitted as required by the Bylaws, the above Certification is in effect on this _____ day of _____ in the year _____.

The Texas Board of Architectural Examiners



Be It Known That
C. W. Clark, P.E.

Has distinguished himself through his dedicated and conscious service as the Director of the Compliance and Enforcement Division of the Texas Board of Professional Engineers and

Whereas, Mr. Clark has played an important role in working with the enforcement staff of this board in the investigation and resolution of enforcement cases of mutual interest;

Whereas, Mr. Clark played an invaluable part in the efforts, over a long period of time, that staff of both boards played in the successful resolution of the sometimes contentious issues regarding both the practices of Engineering and Architecture;

Whereas, because of those efforts HB2284 was passed, bringing clarity to practitioners of both professions;

Whereas, Mr. Clark has performed his job with professionalism and integrity;

Whereas, Mr. Clark has made a significant contribution to the health, safety and welfare for all citizens of our State.

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners in its Formal Meeting assembled this 17th Day of August, 2016, does publicly acknowledge its appreciation of outstanding service to the State of Texas and have voted unanimously for this

Resolution of Commendation

to C.W. Clark, P.E., and have caused a copy of this Resolution
to be included within the Minutes of this Board.

Debra Dockery, AIA
Chair

Sonya B. Odell
Vice-Chair

TBAE EVENT CALENDAR 2016

- 01 New Year's Day (Agency Closed)
07 CLARB MBE Committee Meeting
15 NCARB 2016 MBE Engagement Sessions – San Francisco, CA
18 M.L. King Day (Agency Closed)
19 Confederate Heroes Day (Skeleton Crew)

| JANUARY | | | | | | |
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| JULY | | | | | | |
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- 04 Independence Day (Agency Closed)
25 Exec Leadership Program for Regulators/Driving Results for Regulatory Effectiveness – Denver, CO (Julie)

- 04 New Board Member Orientation
13 NCARB S. Conf. Educators & Practitioners Conference New Orleans, LA
15 Presidents Day (Agency Closed)
23 Rules Committee Meeting
24 Board Workshop – Strategic Planning/Reception Dinner
25 Board Meeting – CEO NCARB Visit

| FEBRUARY | | | | | | |
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| AUGUST | | | | | | |
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- 2 BOAT Annual Conference Sugarland, TX (Aug 2-5)
5 NCARB 2016 Licensing Advisors Summit – JW Marriott, Chicago, IL
11 METROCON16 Expo & Conference Dallas, TX
17 Board Meeting – FY17 Budget/ED Annual Performance Review

- 02 Texas Ind. Day (Skeleton Crew)
10 NCARB MBE Workshop/
11-12 NCARB Regional Summit Hyatt Regency Savannah Savannah, GA
25 Good Friday (4 hrs. Skeleton Crew)

| MARCH | | | | | | |
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| SEPTEMBER | | | | | | |
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- 05 Labor Day (Agency Closed)
22 CLARB Annual Meeting Westin, Philadelphia, PA
29 2016 LRGV-AIA BBC Conference South Padre Island Convention Centre

- 21 San Jacinto Day (Skeleton Crew)
28 2016 Texas ASLA Annual Conf. Fort Worth Convention Center

| APRIL | | | | | | |
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| OCTOBER | | | | | | |
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- 28 NCARB MBC & MBE Summit Columbus, OH

- 02 Personal Financial Statement electronic filing due to The Ethics Commission NLT May 2
30 Memorial Day (Agency Closed)
25 ED Performance Review Committee Meeting
25 Rules Committee Meeting

| MAY | | | | | | |
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| NOVEMBER | | | | | | |
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- 03 TxA Conference, San Antonio, TX
11 Veterans Day (Agency Closed)
11 2016 CIOQ Council of Delegates Annual Meeting, Ft. Lauderdale, FL
16 Board Meeting
23 TBAE Holiday (Skeleton Crew – 4 hrs.)
24 Thanksgiving Day (Agency Closed)
25 Day after Thanksgiving (Agency Closed)

- 15 NCARB Annual Business Meeting Fairmont Olympic Hotel Seattle, WA

| JUNE | | | | | | |
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| DECEMBER | | | | | | |
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- Holiday Schedule**
23 TBAE Holiday (Agency Closed)
26 Day after Christmas (Agency Closed)
27 TBAE Holiday (Agency Closed)
28 TBAE Holiday (Skeleton Crew)
29 TBAE Holiday (Skeleton Crew)
30 TBAE Holiday (Skeleton Crew)

The 85th Texas Legislature convenes on January 10, 2017

July 2016