

# 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.

	<b>RID by ARE</b>	<b>Reg. No</b>	<b>Initial Reg Date</b>		<b>Arch No.</b>	<b>Arch Initial Reg Date</b>
1	<b>Clayton Parnell Little</b>	11535	12/18/2014		15170	9/8/1995
2	<b>Chris Noack</b>	11550	1/23/2015		15390	3/21/1996
3	<b>Daniel Jay Roe</b>	11561	2/19/2015		12976	9/12/1989
4	<b>Curtis Richard Fish</b>	11590	7/2/2015		24926	6/29/2015
5	<b>John Griswold Webb III</b>	11629	11/4/2015		14811	9/8/1994
6	<b>Thomas R. Bartholomew</b>	11631	11/20/2015		5124	2/1/1974
7	<b>Tiffany Robinson Long</b>	11645	1/9/2016		21526	7/24/2009
8	<b>Morgan Michelle Williams</b>	11646	1/11/2016		23444	11/28/2012
9	<b>Ulrich Christian Dangel</b>	11671	3/9/2016		24632	1/28/2015
10	<b>James L. Faulkner</b>	11673	3/15/2016		13549	5/7/1991
11	<b>John Allyn Montgomery</b>	11684	5/10/2016		11692	9/9/1999
12	<b>Jonathan Strain</b>	11709	6/29/2016		22625	6/16/2011

## Adoption of Proposed Rules Relating to Agency Review of

### 22 Tex. Admin. Code Chapters 1 and 3

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#### 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

At the August Board Meeting, staff presented the review of Chapters 1 and 3 of the Board's rules. Pursuant to this review, Staff recommended, and the Board agreed, to propose amendments or repeals of the following rules:

##### *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 proposed 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

All other rules in Chapter 1 and 3 were reviewed and readopted at the August Board meeting. The proposed amendments, which are attached to this summary, were published in the Texas Register on September 23, 2016 (41 TexReg 7387). No comments were received.

**Staff’s Recommendation**

Move to approve the proposed amendments to 22 Tex. Admin. Code §§ 1.5, 3.5, 1.24, 3.24, and 1.148 for final adoption.

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 (TGSLC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.

(7072) TGSLC--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.

(1924) 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.

(613) Texas Guaranteed Student Loan Corporation (TGSLC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.

(624) TGSLC--Texas Guaranteed Student Loan Corporation.

(635) 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.~~

## Review of Agency's Rules

### 22 Tex. Admin. Code Chapters 5 and 7

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#### 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 of 2012.

#### Rule Review

On September 9, 2016, Staff published a notice of intent to review Chapters 5 and 7 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 5 and 7, and identified the following rules that require updating to better align with current laws, rules, or agency practice:

#### *Chapter 5*

- Rule 5.5 – 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.
  - Define “Architectural Barriers Act”
    - The rules for the other two professions define this term, which is used without definition in Chapter 5.
  - Repeal definition for “Authorship”
    - The terms “authorship” or “author” do not appear in the Board’s rules.
  - Revise definition for “Consultant”
    - The definition refers to “interior designer” instead of “registered interior designer,” which is the regulated term, and the term that is used elsewhere in the Board’s rules.
  - Repeal definition for “E-mail Directory”
    - This term does not appear in the Board’s rules for any profession
  - Revise definition for “Interior Designers’ Registration Law”
    - The current definition references Article 249e, Vernon’s Texas Civil Statutes, which was repealed in 2001
  - Revise definition for “Registrant”
    - The term is defined as “interior designer.” “Registered interior designer” is the appropriate definition for the term.
- Rule 5.34 – Fees
  - This rule has become obsolete and should be repealed. The rule states 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 7*

- No recommended changes.

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 5 and 7 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 §§ 5.5 and 5.34 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 5 and 7, as authorized under Texas Government Code §2001.039(c).

RULE §5.5 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 Interior Designers' Registration Law.

~~[(2) Actual Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.]~~

(~~2~~[3]) Administrative Procedure Act (APA)--Texas Government Code §§2001.001 et seq.

(~~3~~[4]) APA--Administrative Procedure Act.

(~~4~~[5]) Applicant--An individual who has submitted an application for registration or reinstatement but has not yet completed the registration or reinstatement process.

(5) Architectural Barriers Act--Texas Government Code, Chapter 469.

(6) Architectural Interior Construction--A building project that involves only the inside elements of a building and, in order to be completed, necessitates the "practice of architecture" as that term is defined in 22 Texas Administrative Code §1.5.

~~[(7) Authorship--The state of having personally created something.]~~

(~~7~~[8]) 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.

(~~8~~[9]) Board--Texas Board of Architectural Examiners.

(~~9~~[10]) Cancel, Cancellation, or Cancelled--The termination of a Texas Interior Design registration certificate by operation of law two years after it expires without renewal by the certificate-holder.

(~~10~~[11]) Candidate--An Applicant approved by the Board to take the Interior Design registration examination.

(~~11~~[12]) CEPH--Continuing Education Program Hour(s).

(~~12~~[13]) Chair--The member of the Board who serves as the Board's presiding officer.

(~~13~~[14]) CIDA--The Council for Interior Design Accreditation.

(~~14~~[15]) 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.

(~~15~~[16]) Consultant--An individual retained by a Registered Interior Designer who prepares or assists in the preparation of technical design documents issued by the Registered Interior Designer for use in connection with the Registered Interior Designer's Construction Documents.

(16[17]) 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 hearings.

(17[18]) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity meeting the Board's continuing education requirements.

(18[19]) Council for Interior Design Accreditation (CIDA)--An agency that sets standards for postsecondary Interior Design education and evaluates college and university Interior Design programs.

(19[20]) Delinquent--A registration status signifying that a Registered Interior Designer:

(A) has failed to remit the applicable renewal fee to the Board; and

(B) is no longer authorized to use the title "registered interior designer" in Texas.

(20[21]) 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 Interior Design services; and~~

~~—(B) posted on the Internet under circumstances where the Interior Designers included in the list have control over the information included in the list.]~~

(21[23]) Emeritus Interior Designer (or Interior Designer Emeritus)--An honorary title that may be used by a Registered Interior Designer who has retired from the practice of Interior Design in Texas pursuant to §1053.156 of the Texas Occupations Code.

(22[24]) 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.

(23[25]) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed Interior Design project from a technical Interior Design standpoint.

(24[26]) Good Standing--

(A) a registration status signifying that a Registered Interior Designer 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 Interior Design registration board that would provide a ground for the denial of the application for Interior Design registration in Texas.

(25[27]) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.

(26[28]) Inactive--A registration status signifying that a Registered Interior Designer may not practice Interior Design in the State of Texas.

(27[29]) Interior Design--The identification, research, or development of creative solutions to problems relating to the function or quality of the interior environment; the performance of services relating to interior spaces, including programming, design analysis, space planning of non-load-bearing interior construction, and application of aesthetic principles, by using specialized knowledge of interior construction, building codes, equipment, materials, or furnishings; or the preparation of Interior Design plans, specifications, or related documents about the design of non-load-bearing interior spaces.

(28[30]) Interior Designers' Registration Law--~~[Article 249e, Vernon's Texas Civil Statutes, and ]~~Chapter 1053, Texas Occupations Code.

(29[31]) Interior Design Intern--An individual participating in an internship to complete the experiential requirements for Interior Design registration by examination in Texas.

(30[32]) Licensed--Registered.

(31[33]) Member Board--An Interior Design registration board that is part of NCIDQ.

(32[34]) National Council for Interior Design Qualification (NCIDQ)--A nonprofit organization of state and provincial interior design regulatory agencies and national organizations whose membership is made up in total or in part of interior designers.

(33[35]) NCIDQ--National Council for Interior Design Qualification.

(34[36]) Nonregistrant--An individual who is not a Registered Interior Designer.

(35[37]) Principal--A Registered Interior Designer who is responsible, either alone or with other Registered Interior Designers, for an organization's practice of Interior Design.

(36[38]) Registered Interior Designer--An individual who holds a valid Texas Interior Design registration granted by the Board.

(37[39]) Registrant--Registered Interior Designer.

(38[40]) Regulatory Approval--The approval of Construction Documents by a Governmental Entity after a review of the Interior Design content of the Construction Documents as a prerequisite to construction or occupation of a building or facility.

[39(41)] Reinstatement--The procedure through which a Surrendered or revoked Texas Interior Design registration certificate is restored.

(40[42]) Renewal--The procedure through which a Registered Interior Designer pays a periodic fee so that his or her registration certificate will continue to be effective.

(41[43]) 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 Interior Designers applying the applicable Interior Design standard of care.

(42[44]) Revocation or Revoked--The termination of a Texas Interior Design registration certificate by the Board.

(43[45]) Rules and Regulations of the Board--22 Texas Administrative Code §§5.1 et seq.

(44[46]) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.



(45[47]) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the minutes from each Board meeting and maintaining the record of Board members' attendance at Board meetings.

(46) Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.

(47[48]) SOAH--State Office of Administrative Hearings.

(48[49]) Sole Practitioner--A Registered Interior Designer who is the only design professional to offer or render interior design services on behalf of a business entity.

(49[50]) 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.

(50[51]) Supervision and Control--The amount of oversight by a Registered Interior Designer overseeing the work of another whereby:

(A) the Registered Interior Designer and the individual performing the work can document frequent and detailed communication with one another and the Registered Interior Designer has both control over and detailed professional knowledge of the work; or

(B) the Registered Interior Designer is in Responsible Charge of the work and the individual performing the work is employed by the Registered Interior Designer or by the Registered Interior Designer's employer.

(51[52]) Supplemental Document--A document that modifies or adds to the technical Interior Design content of an existing Construction Document.

(52[53]) Surrender--The act of relinquishing a Texas Interior Design registration certificate along with all privileges associated with the certificate.

(53[54]) 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.

(54[55]) Table of Equivalentents for Education and Experience in Interior Design--22 Texas Administrative Code §§5.201 et. seq. (§§5.201 - 5.203 of this chapter).

(55[56]) TBAE--Texas Board of Architectural Examiners.

(56[57]) TDLR--Texas Department of Licensing and Regulation.

(57[58]) Texas Department of Licensing and Regulations (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.

(58[59]) Texas Guaranteed Student Loan Corporation (TGSLC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.

(59[60]) TGSLC--Texas Guaranteed Student Loan Corporation.

(~~60~~[61]) 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 §5.34 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.]~~

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

## Case Law Update

### Twist Architecture & Design, Inc. v. Oregon Board of Architect Examiners

276 Ore. App. 557 (2016)

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#### *Factual Summary*

This case was an appeal of a disciplinary action taken by the Oregon Board of Architectural Examiners against a non-registrant firm and two associates. The firm, Twist Architecture & Design, and one associate were registered in the State of Washington, and neither associate nor the firm were registered in Oregon. Through the firm, the non-registrants provided feasibility and planning services for three separate pieces of land in Oregon. They provided the owners with schemes that portrayed aerial views of the properties, with boundaries, basic placement of buildings and parking spots, and square footage and dimensions of proposed buildings. Each project include multiple schemes with different options for the size and location of buildings and parking areas. These schemes were used to determine if construction was feasible given the layout, access to roads, and ratio of parking to buildings. The owner used the schemes to show to prospective tenants who would need to prelease commercial spaces in order to fund the development projects. The schemes were not construction documents, and would not have been sufficient to obtain permits.

The Board took action on the following grounds that were reversed by the Oregon Court of Appeals:

- (1) The preparation of three feasibility studies constituted the unregistered practice of architecture;
- (2) By including the firm's logo, which read "Twist Architecture & Design," on the feasibility studies, the Respondents engaged in a title violation; and
- (3) By including the statement "Licensed in the State of Oregon (Pending)" on their respective biographies on the firm's website, the respondents engaged in a title violation.

#### *Practice of Architecture*

The Board had found that feasibility studies constituted the practice of architecture, which was defined in the statute as "the planning, designing or supervising of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings." However, under the court's interpretation of the statute, "the practice of architecture necessitates the planning or preparing of work *for use in actual construction*, rather than planning for a building in the abstract." Because the Respondent's activities were undertaken in mere contemplation of the feasibility of construction, and did not advance any plan to erect, enlarge, or alter a particular building, the Court found that the Respondents did not practice architecture.

#### *Title Violations*

Additionally, the Board had found that, by attaching the firm logo (which indicated "Architecture and Design") to the feasibility studies, the firm (and each individual) had indicated that it was practicing architecture in Oregon. The court, while agreeing with the board that the use of the logo indicated that Twist was an architectural firm, disagreed that such a use was sufficient to constitute a violation of the law. Noting that the statute is limited to proscribing representations relating to the practice of architecture only in the State of Oregon, the Court noted that Twist's logo was an accurate reflection of the two functions it provided as a lawfully registered architectural firm in the State of Washington. The Court found that the

Board erred in its legal conclusion that Twist was practicing architecture in the State of Oregon, as opposed to performing non-architectural design work in Oregon.

Likewise, the court disagreed with the board's conclusion that the Respondents had violated the statute and rule by including the phrase "Licensed in the State of Oregon (Pending)" on their website biographies. The court held that the claim of pending Oregon licensure did not indicate, or tend to indicate, that Respondents were Oregon architects or practicing architecture in Oregon.

While the court reversed the Board on the preceding three grounds, it did agree that the Respondents were subject to discipline for publishing photographs on the firm's website which depicted previous Oregon projects one of the associates had designed while working for a previous employer. The court found that, because the pictures were captioned with the phrase "architectural design," the firm had indicated that it was involved in the practice of architecture on Oregon projects.

### *Summary*

The Oregon statutes and rules that were the subject of this disciplinary action are largely similar Texas law. For example, the definition of the practice of architecture in Texas includes the following provision: "establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings, or environs *intended to be constructed* or altered." It is likely that a similar analysis would prevail in Texas regarding the feasibility and planning services described in this case. As for the title violation, this case illustrates the potential difficulties in a case where the Respondent is an architect in another jurisdiction.

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

TWIST ARCHITECTURE & DESIGN, INC.;  
David Hansen; and Kirk Callison,  
*Petitioners,*

*v.*

OREGON BOARD OF ARCHITECT EXAMINERS,  
*Respondent.*

Board of Architect Examiners  
10035; A152929

Argued and submitted November 4, 2014.

J. Kevin Shuba argued the cause for petitioners Twist Architecture & Design, Inc., and Kirk Callison. With him on the opening brief was Garrett Hemann Robertson P.C. On the reply brief was J. Kevin Shuba. David Hansen joined the reply brief *pro se*.

David Hansen filed the brief *pro se*.

Matthew J. Lysne, Assistant Attorney General, argued the cause for respondent. With him on the brief were Ellen F. Rosenblum, Attorney General, and Anna M. Joyce, Solicitor General.

Before Sercombe, Presiding Judge, and Hadlock, Chief Judge, and Tookey, Judge.

SERCOMBE, P. J.

Reversed and remanded.

**SERCOMBE, P. J.**

Twist Architecture & Design, Inc. (Twist), and its principals, Kirk Callison and David Hansen, seek judicial review of a final order of the Oregon Board of Architect Examiners (board) imposing a \$10,000 civil penalty against each for the unlawful practice of architecture under ORS 671.020(1) and (4), and OAR 806-010-0037(7).<sup>1</sup> Following a contested case hearing before an administrative law judge (ALJ), the board determined that petitioners had violated that statute and rule. The board found violations as a result of (1) Twist’s preparation of three feasibility studies in Oregon, (2) its use of its logo on those studies and on invoices for the work, (3) advertising Oregon projects on Twist’s website, and (4) inclusion of the statement “Licensed in the State of Oregon (Pending)” on Callison’s and Hansen’s biography pages on Twist’s website.

On review, petitioners contend that the board erred in modifying the ALJ’s findings of historical fact, determining that petitioners’ conduct violated Oregon law, and assessing civil penalties. As explained below, we conclude that (1) the board erred in determining that petitioners

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<sup>1</sup> ORS 671.020 provides, in part:

“(1) In order to safeguard health, safety and welfare and to eliminate unnecessary loss and waste in this state, a person may not engage in the practice of architecture or assume or use the title of ‘Architect’ or any title, sign, cards or device indicating, or tending to indicate, that the person is practicing architecture or is an architect or represent in any manner that the person is an architect, without first qualifying before the State Board of Architect Examiners and obtaining a certificate of registration as provided by ORS 671.010 to 671.220.

“\* \* \* \* \*

“(4) A person may not practice or attempt to practice the profession of architecture, or assume the title of ‘Architect,’ ‘Consulting Architect’ or ‘Foreign Architect,’ or use in connection with the business of the person any words, letters or figures indicating the title of ‘Architect,’ ‘Consulting Architect’ or ‘Foreign Architect’ without first complying with ORS 671.010 to 671.220.”

OAR 806-010-0037(7) provides:

“Except as provided in this rule, no title, sign, cards, or device may be used to indicate or tend to indicate that the person or firm or business using the title is practicing architecture or is an architect, or represents in any manner that the person or firm or business is an architect or architectural practice.”

engaged in the unlicensed practice of architecture because Twist's preparation of the feasibility studies did not constitute the "practice of architecture," (2) the board's determination that Twist violated the statute and rule for using its logo on those studies lacks substantial reason, and (3) the board's determination that Callison and Hansen violated the statute and rule for using the phrase "Licensed in the State of Oregon (Pending)" on their website biographies lacks substantial reason. However, we conclude that the board did not err when it modified the ALJ's findings of fact, or in determining that Twist violated the law by advertising Oregon architectural projects on its website. Accordingly, we reverse and remand.

Except as otherwise noted, we state the facts from the undisputed historical findings of the board. Twist is an architecture and design firm that was formed in 2008 by its two principals, Callison and Hansen, and registered as a professional corporation in the State of Washington. During the relevant time period, Callison was licensed to practice architecture only in Washington; Hansen was not licensed in any state.

In October 2008, Twist entered into an agreement with Gramor Development (Gramor) to perform "concept master planning design services" for three projects in Oregon: the 172nd Project, the Progress Ridge II Project, and the Sherwood Project. For each of the projects, Twist prepared feasibility studies consisting of "schemes" that portrayed aerial views of possible development on the properties drawn to scale. The schemes depicted the properties' boundaries and surrounding streets, and the basic placement of buildings, parking spots, and trees. Some of the schemes included the dimensions and square footage of the proposed buildings. For each project, Twist provided multiple schemes with different options for the size and location of the buildings and parking areas. Each drawing contained Twist's logo, which contained the words "architecture" and "design."<sup>2</sup>

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<sup>2</sup> A representative scheme is attached as an appendix to this opinion. That scheme includes calculations of the total square feet of the buildings, floors of the buildings, and parking areas that are displayed.



Gramor used the feasibility studies to determine if construction was feasible, given, among other things, the layout of the properties, access to existing roads, and the ratio of parking spots to buildings. Gramor also used the schemes as promotional materials to market the properties to prospective tenants, who would need to prelease commercial spaces in order to fund the development projects. The schemes prepared by Twist were not construction drawings, and would not have been sufficient to obtain building permits.

Upon its formation, Twist developed a website to advertise its services. The website contained biographical pages for Callison and Hansen, which included categories for education, professional affiliations, and representative projects. Callison's and Hansen's biography pages each stated "Licensed in the State of Oregon (Pending)." At the time the website was created, Callison intended to file a reciprocity application for licensure in Oregon. He filled out the necessary forms but, due to a downturn in the economy, never submitted the paperwork to the board. Hansen had not taken any steps to apply for licensure. Callison's biography listed the "Sherwood Town Center" project below the heading "Selected Experience." Several projects were listed below the heading "Selected Experience" on Hansen's biography, including the "Progress Ridge Town Center (under construction)," the "Sherwood Town Center," and "Lake Oswego" projects.<sup>3</sup> Beneath each of the images of the projects was the phrase "architectural design."

On May 10, 2011, the board issued to petitioners a notice of intent to impose civil penalty for the unlicensed practice of architecture pursuant to ORS 671.020(1) and (4), and OAR 806-010-0037(7). On March 6, 2012, after the board issued an amended notice of proposed action against petitioners, an ALJ conducted a contested case hearing. Callison and Hansen testified at the hearing, as did Matt Grady from Gramor, board investigator Darroll Morehouse, and architect Darwin Doss. The feasibility studies prepared

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<sup>3</sup> The Progress Ridge Town Center project referred to in Twist's website is different from the Progress Ridge II project that is the basis for the unlicensed-practice violation.

by petitioners for all three projects were admitted as exhibits at the hearing.

After the hearing, the ALJ issued a proposed order concluding that Callison and Hansen each had violated ORS 671.020(1) and (4), and OAR 806-010-0037(7), when they used the phrase “Licensed in the State of Oregon (Pending)” and referenced Oregon architectural projects in their website biographies. However, the ALJ found that Callison and Hansen did not violate the statute or rule by creating the feasibility studies for the 172nd, Progress Ridge II, and Sherwood projects. The ALJ also found that Twist did not violate the statute or rule when it used images of two projects in Oregon on its website. The ALJ proposed that a \$5,000 civil penalty be assessed against Hansen, and a letter of concern be provided to Callison. In his proposed order, the ALJ made findings of historical fact that the drawings prepared for the 172nd, Progress Ridge II, and Sherwood projects contained no “foundations, floors, walls and roof, footings, columns, posts, girders, beams, joists, rafters, or bearing partitions.”

On August 3, 2012, the board issued an amended proposed order that included supplemental and modified findings of historical fact and modified conclusions of law. The board determined by clear and convincing evidence that the ALJ’s finding that the drawings contained no walls and roofs was incorrect. The amended proposed order stated:

“The drawings contain walls, with dimensions, and the site view is of the roof of the buildings and lists square footages. Included in the drawings are drawings of buildings with shadowing and shading to differentiate the walls from the roof.”

On October 31, 2012, the board issued a final order adopting the factual findings and legal conclusions in the amended proposed order. The board determined that Twist and Hansen had violated ORS 671.020(1) and (4) for the work done on all three projects and that Callison had violated those provisions for his work on the 172nd and Sherwood projects. The board also determined that Twist violated ORS 671.020(1) and (4), and OAR 806-010-0037(7), for using the word “architecture” in its logo, which appeared

on the drawings and invoices for all three projects, and for displaying an image of a building labeled Progress Ridge Town Center and an image of the master plans from the Sherwood Town Center project on its website, describing its services on both those projects as including “architectural design.” Finally, the board determined that Hansen and Callison had violated ORS 671.020(1) and (4), and OAR 806-010-0037(7), by including the phrase “Licensed in the State of Oregon (Pending)” on their website biographies. Civil penalties were imposed against each petitioner in the amount of \$10,000.

In their first assignment of error, petitioners argue that the board erred in rejecting the ALJ’s findings of historical fact, in amending the proposed order to delete those facts, and in including contrary facts in its final order. Pursuant to ORS 183.650(3), “[a]n agency conducting a contested case hearing may modify a finding of historical fact made by the administrative law judge assigned from the Office of Administrative Hearings only if the agency determines that there is clear and convincing evidence in the record that the finding was wrong.”<sup>4</sup> On appellate review of the agency’s modification of facts in this context, we review the modified facts *de novo* and make an independent finding of the facts in dispute. ORS 183.650(4); [\*Weldon v. Bd. of Lic. Pro. Counselors and Therapists\*](#), 266 Or App 52, 63, 337 P3d 911 (2014), *rev den*, 356 Or 690 (2015).

As noted, in the proposed order, the ALJ found that the feasibility studies prepared for all three projects contained no “foundations, floors, walls and roof, footings, columns, posts, girders, beams, joists, rafters, or bearing partitions.” On review, the board rejected the finding that the schemes did not contain walls and roofs, and determined that the schemes included shadowing and shading to differentiate the walls from the roofs of the buildings.

On *de novo* review, we independently find that fact as found by the board. The schemes for all three projects depict aerial views of structures that are labeled in the diagrams as “buildings.” And, many of the schemes contain

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<sup>4</sup> The ALJ in this case was assigned from the Office of Administrative Hearings.

shadowing and shading to represent those buildings in three dimensions, showing walls and roofs. Accordingly, the board did not err in rejecting the ALJ's finding and in modifying the finding of historical fact to state that the schemes depicted buildings that contained walls and roofs.

In their second assignment of error, petitioners argue that the board erred in determining that they had engaged in the unlicensed "practice of architecture," under ORS 671.020(1) and (4), by producing the feasibility studies for Gramor.<sup>5</sup> The board determined that petitioners had engaged in the "practice of architecture," explaining:

"The practice of architecture is defined in ORS 671.010(6)<sup>[6]</sup> as: 'the planning, designing or supervising of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings.' The plain, natural and ordinary meaning of the word 'designing' in this context is 'the art of making designs or sketches.' WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (unabridged 2002) (Webster's) at 612. The plain, ordinary and natural meaning of the word 'planning' in this context is 'to devise or project the realization or achievement of \*\*\* prearrange the details of \*\*\*.' *Id.* at 1730. Planning is not dependent on the production of a design or sketch but encompasses any activities that are the devising and projecting the realization or achievement of a goal. Under ORS 671.060(6), the goal of the designing and planning must be 'of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings.' As noted by the Court of Appeals, the Board has authority over 'activities undertaken in contemplation of erecting buildings \*\*\*.' [\*Davis v. Board of Architect Examiners\*](#), 222 Or App 370, 375, 193 P3d 1019 (2008).

"Applying this definition of the practice of architecture, the Board finds that the evidence shows that there was planning and designing undertaken in contemplation of

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<sup>5</sup> Callison was not determined to be in violation for the Progress Ridge II project, so our opinion applies to him regarding only the 172nd and Sherwood projects.

<sup>6</sup> In 2013, the statute was amended and this subsection was renumbered as ORS 610.010(7), and the term "supervising" was replaced with the term "observing." Or Laws 2013, ch 196, § 1. Throughout this opinion, we refer to the version of the statute that was in effect at the time of the board's decision.

erecting buildings in each of the three projects and therefore there was the ‘practice of architecture.’”

(Footnote omitted.) The board also concluded that petitioners violated the statute for “practicing the *profession* of architecture without registration.” (Emphasis in original.) The board explained that petitioners performed the kind of “work that is performed by \*\*\* architectural professionals in Oregon” and that is “tested on the examination for licensure in Oregon.” The board noted that the work was completed on behalf of a paying client, who was billed at an hourly rate. The board considered it immaterial that the buildings were never actually built, concluding that the “practice of architecture” includes “activities undertaken in *contemplation of* erecting the buildings and is not dependent on whether the buildings are actually constructed.” (Emphasis in original.)

Petitioners argue that preparation of the feasibility studies did not violate the statutes because they did not depict “buildings” and therefore could not be considered the “practice of architecture.” Petitioners further argue that the practice of architecture involves assessing the intent of the individual preparing the work and determining whether the individual was planning for the actual erection of a building.

We closely analyzed the term “practice of architecture” in *Davis v. Board of Architect Examiners*, 222 Or App 370, 374, 193 P3d 1019 (2008), and concluded that the term “practice of architecture” was an “inexact statutory term.” We explained that, “[w]hen applying such statutory terms to specific facts, \*\*\* the task of the agency, and ultimately of the court, is to determine whether the legislature intended the compass of the words to include those facts. The determination of the meaning of the statute is one of law, ultimately for the court.” *Id.* (quoting *Springfield Education Assn. v. School Dist.*, 290 Or 217, 223, 621 P2d 547 (1980)). Thus, we review the board’s legal conclusion, including its interpretation of the term “practice of architecture,” for legal error. ORS 183.482(8)(a); *Topaz v. Board of Examiners for Engineering*, 255 Or App 138, 144, 297 P3d 498, *rev den*, 353 Or 714 (2013). We also review the board’s order for substantial reason, which requires that the board articulate a “rational connection between the facts and the

legal conclusion it draws from them.” *Ross v. Springfield School Dist. No. 19*, 294 Or 357, 370, 657 P2d 188 (1982); see also ORS 183.470(2) (requiring contested case orders to contain findings of fact that “consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the agency’s order”).

The relevant portion of ORS 671.020(1) provides that, “[i]n order to safeguard health, safety and welfare and to eliminate unnecessary loss and waste in this state, a person may not engage in the practice of architecture” without a license. Similarly, the relevant portion of ORS 671.020(4) states that “[a] person may not practice or attempt to practice the profession of architecture” without a license. The “practice of architecture” is defined as “the planning, designing or supervising of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings.” ORS 671.010(6). A “building” is defined as “any structure consisting of foundations, floors, walls and roof, having footings, columns, posts, girders, beams, joists, rafters, bearing partitions, or a combination of any number of these parts, with or without other parts or appurtenances thereto.” ORS 671.010(3).

In construing a statute, our goal is to discern the intent of the legislature that enacted the statute. *State v. Gaines*, 346 Or 160, 171, 206 P3d 1042 (2009). In doing so, we first look to the text and context of the statute itself, along with any helpful legislative history, and finally apply general maxims of statutory construction. *Id.* at 171-72; *PGE v. Bureau of Labor and Industries*, 317 Or 606, 610-12, 859 P2d 1143 (1993). Words of common usage are to be given their natural, plain, and obvious meaning. *State v. Langley*, 314 Or 247, 255, 839 P2d 692 (1992).

ORS 671.010(6) expressly directs that the “planning, designing or supervising” be accomplished for the “erection, enlargement or alteration” of a building. In the context of a professional practice, the plain meaning of the term “planning” is “to devise or project the realization or achievement of” a particular goal. *Webster’s* at 1730. The goal of architectural practice is actual construction of

buildings. Indeed, the board's own regulation discussing the definition of architecture provides that the practice includes "all analysis, calculations, research, graphic presentation, literary expression, and advice essential to the preparation of *necessary* documents for the design *and* construction of buildings, structures and their related environment whether interior or exterior." OAR 806-010-0075 (emphases added). Based on the text and context of ORS 671.010(6), we conclude that the practice of architecture necessitates the planning or preparing of work for use in actual construction, rather than planning for a building in the abstract.

The board's interpretation of the "practice of architecture" includes *any* activity undertaken in contemplation of the erection of a building, no matter how removed that activity might be from the actual construction of the building. Such a broad reading of the statute would proscribe activities surely not contemplated by the legislature to be prohibited.

In concluding that petitioners had engaged in the unlicensed practice of architecture, the board found that petitioners had engaged in activities "undertaken in *contemplation* of erecting the buildings." (Emphasis in original.) However, the board expressly found that "[t]he purposes of the site plans were to determine the feasibility of the site for constructing and leasing buildings and for marketing the site to attract lessees who would want to prelease the buildings." Thus, the board failed to draw a nexus between the work done by petitioners and the "erection, enlargement, or alteration" of any buildings. Indeed, the record shows that no such nexus exists. Gramor employee Grady testified that the schemes prepared by petitioners were not completed for the purpose of constructing any buildings, but rather were used to determine if construction was even feasible, given, among other things, the layout of the properties, access to existing roads, and the ratio of parking spots to buildings. Gramor also used the schemes to market the properties to prospective tenants, who would need to prelease commercial spaces in order to fund the development projects. The final products, which were no more than renderings of the existing conditions of the properties with preliminary sketches

showing a basic placement of buildings and parking areas, provided no building design, *i.e.*, specifications to facilitate the construction of any particular building, nor did production of those schemes advance any plan to erect, enlarge, or alter a particular building.

The work completed by petitioners contrasts greatly with the work described in *Davis*, on which the board relies. In concluding that Davis had engaged in the unlicensed practice of architecture, we noted that the purpose of his work was clear:

“Petitioner agreed to provide ‘permit ready drawings’; \*\*\* defined in petitioner’s proposal as drawings that ‘will be sufficient to obtain local building permits.’ The contract also provides that petitioner \*\*\* will perform ‘[p]eriodic site visits and reports to Client during course of construction,’ and will provide ‘Final Working Drawings.’”

*Davis*, 222 Or App at 375. Thus, Davis agreed to prepare designs that were intended to be used during the construction of a building. Here, in contrast, the only evidence in the record was that petitioners did *not* prepare the schemes in contemplation of obtaining permits and constructing the buildings. Rather, the schemes were prepared so that Gramor could determine the feasibility of the projects and to attract prospective tenants. We conclude that the board incorrectly interpreted the meaning of the term “practice of architecture” to encompass activities not undertaken to facilitate the actual “erection, enlargement, or alteration” of any building. Thus, we reverse for legal error the board’s determination that petitioners violated ORS 671.020(1) and (4) for producing feasibility studies on the 172nd, Progress Ridge II, and Sherwood projects.

In their third, fourth, and fifth assignments of error, petitioners argue that the board erred in determining that they had violated ORS 671.020(1) and (4), and OAR 806-010-0037(7), for assuming the title of architect or advertising their services in a manner tending to indicate that they were practicing architecture in Oregon. The board found Twist in violation of the statute and rule for displaying its logotype or business name, which contained the words “architecture” and “design,” on the feasibility studies and on invoices for



the three projects, and for including photographs of two Oregon architectural projects on the company's website.<sup>7</sup> Furthermore, as to Callison and Hansen, the board determined that they violated the statute and rule by representing on Twist's website that they were "Licensed in the State of Oregon (Pending)." Again, we review the board's order for legal error and substantial reason. ORS 183.482(8)(a); *Topaz*, 255 Or App at 144; *Ross*, 294 at 370.

The relevant portion of ORS 671.020(1) provides that an unlicensed individual may not "assume or use the title of 'Architect' or any title, sign, cards or device indicating, or tending to indicate, that the person is practicing architecture or is an architect or represent in any manner that the person is an architect." The relevant portion of ORS 671.020(4) provides that an unlicensed individual may not "assume the title of 'Architect,' 'Consulting Architect' or 'Foreign Architect,' or use in connection with the business of the person any words, letters or figures indicating the title of 'Architect,' 'Consulting Architect' or 'Foreign Architect.'" Similarly, OAR 806-010-0037(7) provides, "Except as provided in this rule, no title, sign, cards, or device may be used to indicate or tend to indicate that the person or firm or business using the title is practicing architecture or is an architect, or represents in any manner that the person or firm or business is an architect or architectural practice."

Petitioners contend that the board erred in concluding that Twist had violated the statute and rule by using its logo on the feasibility studies because the board's decision was based on the erroneous conclusion that the work performed on those studies constituted the practice of architecture.<sup>8</sup> However, the record does not support petitioners'

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<sup>7</sup> The logotype typically displayed the word "Twist" in a large font with the term "Architecture•Design" in a smaller font below "Twist." Sometimes the words are capitalized. In some cases, "TWIST ARCHITECTURE & DESIGN" is displayed. In other cases, the logotype is displayed below a stylized "T" symbol.

<sup>8</sup> Petitioners do not advance an argument that the board erred in concluding that Twist had violated ORS 671.020(4) because Twist's logo did not use the precise title "Architect," "Consulting Architect," or "Foreign Architect." We therefore decline to evaluate whether use of Twist's logo violated that subsection, and instead focus on the board's conclusion that petitioners had violated ORS 671.020(1) and OAR 806-010-0037(7) for using a title indicating or tending to indicate that Twist was practicing architecture.

contention that the board relied on that conclusion in making its determination. Rather, the board concluded that use of the term “architecture” in Twist’s logo was a “title indicating or tending to indicate that the firm is practicing architecture” or is an “architectural practice.” The board did not conclude that use of the logo violated the statutes because it was utilized in the context of architectural work.

Petitioners also challenge the board’s conclusion that use of Twist’s logo, which contained the word “architecture,” indicated or tended to indicate that Twist was an architectural firm so that the logo use violated ORS 671.020(1) and OAR 860-010-0037(7). Although we agree with the board that the use of the logo indicated that Twist was an architectural firm, we disagree that such a use was sufficient to constitute a violation of the statute and rule.

ORS 671.020, the statute proscribing the unlicensed practice of architecture and the use of the title “architect” or any representation indicating the practice of architecture, relates solely to the unlicensed practice of architecture in the State of Oregon. Similarly, the rule governs only those unlicensed in Oregon; OAR 806-010-0037(1) provides that only “[t]hose individuals who have been notified by the Board that they have qualified as an Oregon architect and hold an active Oregon registration” may use the title “Architect.” In reviewing the text and context of those provisions, we conclude that, in order for the board to find a violation of the statute or rule, it must determine that an individual is representing that he is an Oregon architect, or that he is engaged in the practice of architecture in Oregon. See *Gaines*, 346 Or at 171-72; *PGE*, 317 Or at 610-12.

Here, the board determined that use of the logo indicated or tended to indicate that Twist was practicing architecture. Twist was a lawfully registered architectural firm in the State of Washington. Twist’s logo, which included the words “architecture” and “design,” was an accurate reflection of the two functions it provided. The board’s finding that Twist indicated it was practicing architecture fails to supply a rational connection to its legal conclusion that Twist was practicing architecture in the State of Oregon, as opposed to performing nonarchitectural design work in

Oregon. We therefore conclude that that part of the board's order lacks substantial reason and reverse and remand for reconsideration.

Likewise, the board's conclusion that Callison and Hansen had violated the statute and rule by including the phrase "Licensed in the State of Oregon (Pending)" on their website biographies is not supported by substantial reason. The statement that Callison and Hansen had pending Oregon licenses did not indicate, or tend to indicate, that they were Oregon architects or practicing architecture in Oregon. We are unpersuaded by the board's reasoning that the term "pending" indicated that licensure was imminent, and that the statement would indicate that Callison and Hansen, who had yet to submit applications for licensure, were practicing architecture in Oregon. The first dictionary definition of the adjective "pending" is "not yet decided : in continuance : in suspense." *Webster's* at 1669. The second dictionary definition of the adjective "pending" is "impending : imminent." *Id.* Under either definition, "pending" signifies that an objective has not yet been accomplished, regardless of how quickly it might be accomplished in the future. That is, their statement that licensure was pending was not akin to a statement that they were *presently* licensed to practice architecture in Oregon. The board's finding that Callison and Hansen stated that they were not currently licensed does not supply a rational connection to the board's legal conclusion that they were practicing architecture in Oregon. Accordingly, the board's legal conclusion that Callison and Hansen had violated the statute and rule by including that statement in their website biographies lacks substantial reason.<sup>9</sup> Therefore, we reverse and remand that part of the order for reconsideration.

However, we affirm the board's determination that Twist violated the statute and rule for referencing two Oregon projects, the Progress Ridge Town Center, and the

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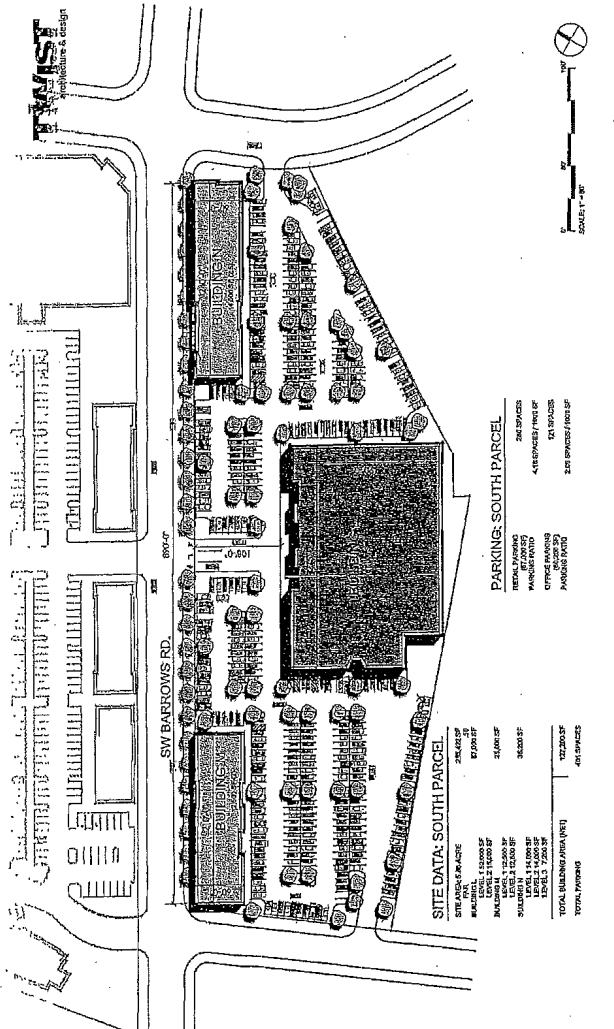
<sup>9</sup> Petitioners also challenge the board's conclusion regarding their use of the phrase "Licensed in the State of Oregon (Pending)" on the basis that ORS 671.020(1) impermissibly regulates speech in violation of Article I, section 8, of the Oregon Constitution, and the First Amendment to the United States Constitution. Because we reverse the board's determination on other grounds, we decline to review petitioner's constitutional challenges.

Sherwood Town Center, on its website. The website featured a photograph of the Progress Ridge Town Center, an Oregon project in which Hansen had been involved during his previous employment as a designer with an Oregon architectural firm. The website also featured one of the schemes from the Sherwood project that Twist performed for Gramor. Written beneath each of the images was the phrase “architectural design.” We conclude that the inclusion of the phrase “architectural design” below both projects supports the board’s determination that Twist indicated that it was involved in the practice of architecture on both Oregon projects. Petitioners concede that the phrase “architectural design” was an inaccurate description of the services provided on both projects, and note that the statements were immediately removed when brought to Twist’s attention. Thus, we agree with the board that reference to those projects on Twist’s website violated the statute and rule.

Our disposition obviates the need to address petitioners’ claim that the board abused its discretion in imposing a \$10,000 civil penalty against each petitioner.

Reversed and remanded.

APPENDIX



**GRAMBOR**  
 PROGRESS RIDGE PHASE II  
 A2  
 scheme  
 October 11, 2008

**SITE DATA - SOUTH PARCEL**

SITE AREA	236,800 SF
NET AREA	87,200 SF
BUILDING LEVEL	1,650,000 SF
MULTI-STORY LEVEL	23,000 SF
MEZANINE LEVEL	38,000 SF
UNDERGROUND LEVEL	38,000 SF
MEZANINE LEVEL	4,000,000 SF
UNDERGROUND LEVEL	1,000,000 SF
UNDERGROUND LEVEL	2,000 SF
<b>TOTAL BUILDING AREA (NET)</b>	<b>177,200 SF</b>
<b>TOTAL PARKING</b>	<b>416 SPACES</b>

**PARKING - SOUTH PARCEL**

RETAIL PARKING	204 SPACES
PARKING ENTRY	4 SPACES
CORPORATE PARKING	131 SPACES
PAVING AREA	232 SPACES (MOCKUP)

Board of Architect Examiners  
 Case No. 10-035  
 BOAE000050

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS  
SUMMARY OF PROPOSED  
ENFORCEMENT ACTION**

<b>Case Number:</b>	<b>031-17N</b>
<b>Respondent:</b>	<b>Rojelio Hernandez, Applicant for Registration</b>
<b>Location of Respondent:</b>	<b>Corpus Christi, Texas</b>
<b>Informal Conference:</b>	<b>October 18, 2016</b>
<b>Instrument:</b>	<b>Agreed Eligibility Order</b>

**Action Recommended by Executive Director:**

- The Executive Director recommends the Board move to accept the attached Agreed Eligibility Order, which is recommended following an informal conference held on October 18, 2016 in the offices of the Texas Board of Architectural Examiners. In attendance at the informal conference were the Chair of the Board, the Executive Director, the General Counsel, the Managing Investigator and the Registration Manager along with Respondent and his attorneys, Matt Ryan and Will Allensworth.

BEFORE THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS

\*\*\*\*\*

In the Matter of	§	AGREED
ROJELIO HERNANDEZ,	§	
Candidate for Registration by	§	ELIGIBILITY ORDER
Examination	§	

On this day the Texas Board of Architectural Examiners, hereinafter referred to as the Board, considered the Request for Preliminary Evaluation of Criminal History and supporting documents filed by ROJELIO HERNANDEZ, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that Petitioner may be ineligible for licensure pursuant to Section 53.021, Texas Occupations Code.

Petitioner waived notice and hearing and agreed to the entry of this Order approved by Julie Hildebrand, Executive Director, on October 18, 2016, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about June 3, 2016, Petitioner submitted a Request for Preliminary Evaluation of Criminal History requesting a determination of eligibility for registration in compliance with Section 53.102, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §1.26.
2. Petitioner waived notice, hearing, and judicial review, and consented to the entry of this Order.
3. Petitioner disclosed the following criminal history, to wit:

On or about April 7, 2006, in the Northern District Court of Texas, Lubbock Division, under Case Number 5:06-CR-003-01-C, Petitioner, pursuant to a plea agreement, entered a plea of guilty to, and was convicted of, the offense of Knowingly Making a False and Material Statement to a Government Agency and Aiding and Abetting, a felony offense committed from April 2000 to February 2004, beginning when the Petitioner was 21 years

old. This action was based on allegations that Petitioner, while working in the student aid office at Texas Tech University, falsified information contained in financial aid applications, resulting in otherwise ineligible students receiving federal Pell Grants in the amount of \$122,751. In return for his actions, Petitioner received payment from the students totaling \$72,525. As part of his plea agreement, Petitioner agreed to cooperate with the government by giving truthful and complete information and testimony concerning his participation in the offense and knowledge of criminal activities. As a result of the conviction, Petitioner was sentenced to imprisonment for a term of 30 months, and ordered to pay restitution. Petitioner was solely responsible for payment of \$26,000.00 in restitution and jointly and severally responsible for payment of \$96,751.00. In addition, Petitioner was ordered to be placed on supervised release for a period of three years following his release from imprisonment.

4. There is no evidence of any prior or subsequent criminal conduct.
5. Petitioner completed the terms of his plea agreement, imprisonment, and subsequent supervised release, along with payment of restitution to the United States Government for which he received a Certificate of Release on August 19, 2014.
6. Petitioner was employed by Gignac & Associates in Corpus Christi, Texas, at the time of this petition and had been an employee for eleven (11) years. The firm's principal, Raymond Gignac, wrote a letter of recommendation in support of Petitioner, stating, "I believe Rojelio is a great candidate to become an architect based on the work he has performed for us, and he has proven his worth to the firm through his character and personality. He has paid his debts in all possible ways, and I hope that the TBAE will note the depth of my trust and appreciation for Rojelio by considering the enormous amount of responsibility that I place in his hands."
7. On or about October 18, 2016, Petitioner attended an informal conference at the Board's offices in Austin, Texas. At this time, the Petitioner acknowledged his responsibility for the criminal conviction, and expressed regret for his actions. Petitioner emphasized his lack of additional criminal history, his age at the time the offense occurred, and the time elapsed since the conviction. Additionally, Petitioner presented evidence of steady employment with the same architectural firm since his release from imprisonment.
8. Petitioner presented no additional evidence of behavior which would indicate an inability to satisfy the duties and responsibilities of the practice of architecture.
9. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in Sections 53.022 and 53.023, Texas Occupations Code, and 22 TEX. ADMIN. CODE §1.149.
10. Based upon a consideration of these factors, the Executive Director finds that registration of Petitioner poses no direct threat to the health and safety of the public, provided Petitioner complies with the stipulations outlined in this Order.



11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
12. Petitioner has been advised by the Board that any information found to be incomplete, incorrect, or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
13. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 1051.752, Texas Occupations Code.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 53.021 and 53.102, Texas Occupations Code.
2. Petitioner's criminal history reflects conduct which may constitute grounds for denial of a licensure under Sections 53.021 and 1051.752(3), Texas Occupations Code.
3. In determining whether a criminal conviction is directly related to the duties and responsibilities of an Architect, the executive director and the Board will consider the factors contained in Section 53.022 and 53.023, Texas Occupations Code and 22 TEX. ADMIN. CODE 1.149(c) and (d).
4. The Board may issue a provisional registration pursuant to Section 53.0211(c), Texas Occupations Code and 22 TEX. ADMIN. CODE 1.27.
5. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently-discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

#### ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Architectural Examiners that upon payment of any required fees, Petitioner is eligible to sit for the Architectural Registration Examination (ARE).

IT IS FURTHER AGREED that, upon payment of any required fees and upon attaining a passing grade on all sections of the ARE and completion of any other requirements for registration, Petitioner shall be issued a PROVISIONAL CERTIFICATE OF REGISTRATION to practice

architecture in the State of Texas. The provisional certificate of registration shall expire six months after the date of issuance.

IT IS FURTHER AGREED that the provisional registration period shall continue for six months from the date of issuance. PETITIONER SHALL comply in all respects with the Architects' Practice Act, Texas Occupations Code Chapter 1051, the Rules and Regulations Relating to the Practice of Architecture, 22 TEX. ADMIN. CODE Chapter 1, and this Order. The provisional certificate of registration may be revoked if Petitioner commits any offense described by Sec. 53.021, Texas Occupations Code, or violates a statute or rule enforced by the Board prior to or during the provisional registration period.

IT IS FURTHER AGREED that upon successful completion of the provisional registration period, the BOARD SHALL issue a certificate of registration to Petitioner.

IT IS FURTHER AGREED that, if Petitioner's provisional certificate of registration is revoked or if a certificate of registration is not issued to Petitioner due to a violation of this Order, Petitioner is disqualified from receiving a certificate of registration and may not apply for a certificate of registration for a period of three (3) years from the date of revocation or expiration of the certificate of provisional registration.

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**PETITIONER'S CERTIFICATION**

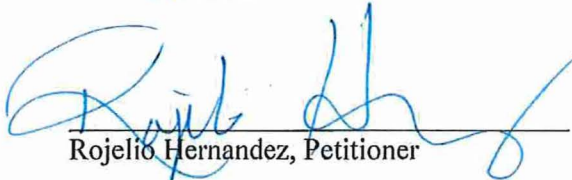
I am the Petitioner in this matter. I certify that I have fully and truthfully disclosed all of my past conduct which could constitute grounds for ineligibility for registration, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Architectural Examiners from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that I have no criminal prosecution pending in any jurisdiction.

In connection with my application and/or petition, I acknowledge that I have read and I understand Chapter 1051, Texas Occupations Code, and 22 TEX. ADMIN. CODE Chapter 1. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I agree to inform the Board of any other fact or event that could constitute a ground for denial of registration prior to accepting any registration from the Texas Board of Architectural Examiners.

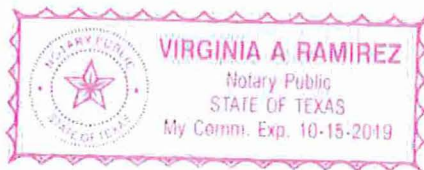
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my provisional registration or denial of a registration to practice architecture in the State of Texas, as a consequence of my noncompliance.

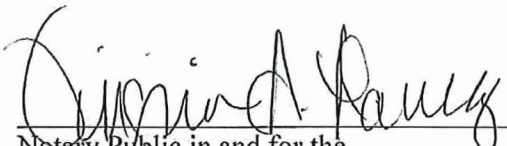
I waive notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Architectural Examiners ratify this Order.


Signed this the 16<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Rojelio Hernandez, Petitioner

Sworn to and subscribed before me this the 16 day of November, 2016.



  
\_\_\_\_\_  
Notary Public in and for the  
State of Texas

  
\_\_\_\_\_  
Matthew C. Ryan, Petitioner's Attorney  
Approved as to Form and Content

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
APR - 7 2006  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_  
Deputy

**United States District Court**  
Northern District of Texas  
Lubbock Division

UNITED STATES OF AMERICA

v.

Case Number 5:06-CR-003-01-C

ROJELIO HERNANDEZ  
Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

The defendant, ROJELIO HERNANDEZ, was represented by Mark S. Snodgrass.

The defendant pleaded guilty to count 1 of the information filed on 01/05/2006. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

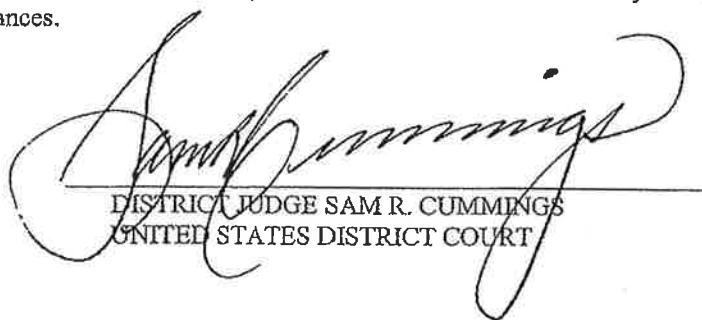
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
18 USC § 1001 and 18 USC § 2	Knowingly Making a False and Material Statement to a Government Agency and Aiding and Abetting	February 2004	1

As pronounced on 04/07/2006, the defendant is sentenced as provided in pages 1 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 1, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Signed this the 7th day of April, 2006.

  
DISTRICT JUDGE SAM R. CUMMINGS  
UNITED STATES DISTRICT COURT

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months.

It is ordered that the defendant report directly to the designated institution, at his own expense, on May 12, 2006, no later than 2:00 p.m.

The Court recommends that the defendant be placed at FCI Big Spring, Texas.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_

\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

Defendant: ROJELIO HERNANDEZ  
 Case Number: 5:06-CR-003-01-C

Judgment--Page 3 of 5

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

The defendant shall not possess a firearm, destructive device or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

### SPECIAL CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this Judgment:

1. Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall pay restitution in the amount of \$122,751.00, payable to the U.S. District Clerk, 1205 Texas Avenue, Room 209, Lubbock, TX 79401, for disbursement to:

U.S. Department of Education  
Attn: Teresa Todd  
Receivables and Cash Receipts Team  
400 Maryland Avenue Southwest, Room 4C137  
Washington, D.C. 20202  
Account No. Rojelio Hernandez  
\$96,751.00

Texas Tech University  
Attn: Becky Hyde  
Student and University Financial Services  
P.O. Box 41099  
Lubbock, TX 79409-1099  
Account No. Rojelio Hernandez  
\$26,000.00

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$500.00 per month until the restitution is paid in full. Further, it is ordered that interest on the unpaid balance is waived pursuant to 18 USC § 3612(f)(3).

The \$96,751.00 in restitution owed to the U.S. Department of Education shall be paid jointly and severally with John Andrew Moretti, Case No. 5:05-CR-079-C (01); Nathaniel Thomas Beckman, Case No. 5:05-CR-119-C (01); Justin Wayne Sitz, Case No. 5:05-CR-120-C (01); Abby Leeann Mathison, Case No. 5:05-CR-121-C (01); Bryan Lee Hudspeth, Case No. 5:05-CR-122-C (01); James Wesley Sitz, Case No. 5:05-CR-123-C (01); Vicente Garcia Martinez, Case No. 5:05-CR-124-C (01); John Christian Tsyitee, Case No. 5:06-CR-001-C (01); and Gabriela Melissa Vasquez, 5:06-CR-002-C (01), all in the United States District Court, Northern District of Texas, Lubbock Division. This restitution is also ordered to be paid jointly and severally with Jacob Edmund Lustgarten, Justin Meuse, Jessica Ann Back, Amanda Jayne Sheils, Brandon Allen Perryman, Julian Benoit Russbach, Ryan Ball, Justin Belter, Elizabeth Ginn, and Benjamin White, who are to be prosecuted in the future in the United States District Court, Northern District of Texas, Lubbock Division.

2. The defendant shall refrain from incurring new credit charges or opening additional lines of credit without approval of the U.S. Probation Officer.
3. The defendant shall provide to the U.S. Probation officer any requested financial information.
4. The defendant shall cooperate in the collection of DNA as directed by the U.S. Probation Officer, as authorized by the Justice for All Act of 2004.



**RESTITUTION**

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall pay restitution in the amount of \$122,751.00, payable to the U.S. District Clerk, 1205 Texas Avenue, Room 209, Lubbock, TX 79401, for disbursement to:

**Name of Payee ..... \$122,751.00**

U.S. Department of Education  
Attn: Teresa Todd  
Receivables and Cash Receipts Team  
400 Maryland Avenue Southwest, Room 4C137  
Washington, D.C. 20202  
Account No. Rojelio Hernandez  
\$96,751.00

Texas Tech University  
Attn: Becky Hyde  
Student and University Financial Services  
P.O. Box 41099  
Lubbock, TX 79409-1099  
Account No. Rojelio Hernandez  
\$26,000.00

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$500.00 per month until the restitution is paid in full.

The \$96,751.00 in restitution owed to the U.S. Department of Education shall be paid jointly and severally with John Andrew Moretti, Case No. 5:05-CR-079-C (01); Nathaniel Thomas Beckman, Case No. 5:05-CR-119-C (01); Justin Wayne Sitz, Case No. 5:05-CR-120-C (01); Abby Leeann Mathison, Case No. 5:05-CR-121-C (01); Bryan Lee Hudspeth, Case No. 5:05-CR-122-C (01); James Wesley Sitz, Case No. 5:05-CR-123-C (01); Vicente Garcia Martinez, Case No. 5:05-CR-124-C (01); John Christian Tsyitee, Case No. 5:06-CR-001-C (01); and Gabriela Melissa Vasquez, 5:06-CR-002-C (01), all in the United States District Court, Northern District of Texas, Lubbock Division. This restitution is also ordered to be paid jointly and severally with Jacob Edmund Lustgarten, Justin Meuse, Jessica Ann Back, Amanda Jayne Sheils, Brandon Allen Perryman, Julian Benoit Russbach, Ryan Ball, Justin Belter, Elizabeth Ginn, and Benjamin White, who are to be prosecuted in the future in the United States District Court, Northern District of Texas, Lubbock Division.

The Court determines that the defendant does not have the ability to pay interest and therefore waives the interest requirement pursuant to 18 U.S.C. § 3612(f)(3).

HONORABLE SAM R. CUMMINGS PRESIDING  
 DEPUTY CLERK SHIRLEY HARTMAN COURT REPORTER/TAPE: MECHELLE DANIEL  
 LAW CLERK USPO W. McKim  
 INTERPRETER COURT TIME: hours 5 minutes  
 A.M. 10:15-10:20 P.M. DATE: 4-7-06

CR. No. 5:06-CR-003-C DEFT. No. 1

UNITED STATES OF AMERICA

Paulina Jacobs, AUSA

v. ROSELIO HERNANDEZ  
 Defendant's Name

Mark Snodgrass [R]  
 Counsel for Deft. Appt-(A), Retd-(R), FPD-(F)

**SENTENCING**

- ..... Sentencing held.  Objections to PSI heard.  Plea agreement accepted.  Plea agreement NOT accepted.
- ..... Change of plea hearing, deft withdraws plea of guilty.
- ..... Pre Sentencing Guidelines
- ..... New Sentencing Guidelines (NSG) offense committed on or after (11/1/87).  Departs Upward  Departs Downward
- ..... **SENTENCING TEXT:**
- ... Deft. placed on: Probation for \_\_\_\_\_ years.
- ... Deft. committed to custody of the BOP to be imprisoned for a TOTAL term of 30 months.
- ... Deft. placed on: Supervised Released for 3 years \_\_\_\_\_
- ... Restitution ordered in the amount of \$ 122,751.00 payable as set forth in the Judgment.
- ... Fine imposed in the amount of \$ \_\_\_\_\_ payable as set forth in the Judgment.
- ... Oral motion by government dismissing  Remaining Counts and/or  Original Indictment as to this defendant.
- ... Oral Order granting \_\_\_\_\_
- ... Order dismissing original Indictment/Information to be entered upon government's written motion.
- ... \$ 100.00 special assessment on Count(s) 1  
 of  Indictment  Information  Superseding Indictment  Superseding Information.
- ..... Trial set for: \_\_\_\_\_
- ..... Defts bond  set  reduced to \$ \_\_\_\_\_  Cash  Surety  10%
- ..... Deft ordered to surrender to U.S. Marshal on \_\_\_\_\_
- ..... Deft ordered to surrender to the designated institution on May 12 by 2:00 p.m.
- ..... Deft failed to appear, bench warrant to issue.
- ..... Bond  continued  revoked
- ..... Deft Advised of his right to appeal.
- ..... Deft requests Clerk to enter notice of Appeal.
- ..... Deft Custody/Detention continued.
- ..... Deft REMANDED to custody.  Court recommends incarceration at FCI Big Spring

U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS  
**FILED**  
 APR - 7 2006  
 CLERK, U.S. DISTRICT COURT  
 By \_\_\_\_\_ Deputy

OTHER PROCEEDINGS: \_\_\_\_\_

Copy to: Minute Order Book

2

DEPARTMENT OF JUSTICE  
CERTIFICATE OF RELEASE OF LIEN  
IMPOSED UNDER  
THE ANTI-TERRORISM AND EFFECTIVE  
DEATH PENALTY ACT OF 1996

UNITED STATES ATTORNEY'S OFFICE  
FOR THE NORTHERN DISTRICT OF TEXAS

I hereby certify that as to the following named debtor the requirements of 18 U. S. C. § 3613(c) have been satisfied with respect to the judgment enumerated below, together with all statutory additions; and that the lien for this judgment and statutory additions has thereby been released. The proper officer in the office where the Notice of Lien or Judgment was filed is hereby authorized to make notation on the books to show the release of said lien, insofar as the lien relates to the following imposition:

**Name of Defendant:** **Rojelio Hernandez**  
**Property:** **2006 Airline Rd, Apt #731**  
**Corpus Christi, TX 78412-4635**

**Court Imposing Judgment:** **U.S. District Court**  
**Northern District of Texas**  
**Lubbock Division**

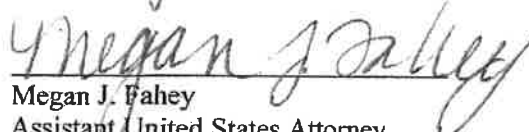
**Court Number:** **5:06-CR-003-01**

**Amount of Fine or Penalty:** **\$122,751.00**

**Place of filing:** **Nueces County, TX**  
**Instrument No.:** **2007012231**  
**Date of Filing:** **March 6, 2007**

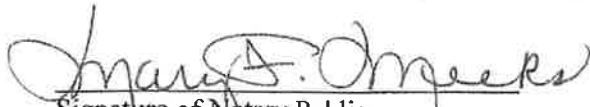
This release does not apply to any forfeiture obligations of the defendant.

WITNESS my hand at Fort Worth, Tarrant County, Texas, on August 19, 2014.

  
Megan J. Fahey  
Assistant United States Attorney  
Telephone: 817-252-5200

**State of Texas**  
**County of Tarrant**

This instrument was acknowledged before me on August 19, 2014, by Megan J. Fahey, Assistant United States Attorney for the Northern District of Texas.

  
Signature of Notary Public

Personalized Seal



✓  
Roxilio Hernandez  
625 Naples St  
CC No 78404

Page 12014032784  
Page 1  
09/25/2014 11:09PM  
Official Records of  
MEXCO COUNTY  
JAMES BARRERA  
COUNTY CLERK  
2014 09 25

This instrument contains a restriction on the sale,  
lease, or use of the described  
REAL PROPERTY because of Race, Color,  
Nationality, Sex, Handicap, Familial Status, or  
National Origin is invalid and unenforceable  
under FEDERAL LAW, 2112/22.

STATE OF TEXAS  
COUNTY OF NUECES

I hereby certify that this instrument was FILED  
in file number sequence on the date and at the  
place stamped herein by me, and was duly RECORDED  
in the Official Public Records of  
Mexico County, Texas  
James Barrera

 *James Barrera*



Raymond Gignac, AIA  
Gignac Architects  
416 Starr St.  
Corpus Christi, TX 78401  
October 3, 2016

Lance Brenton  
General Counsel  
Texas Board of Architectural Examiners  
333 Guadalupe, suite 2-350  
Austin, Texas 78701

Dear Mr. Brenton:

This letter is to recommend Rojelio Hernandez to continue his path to become a registered Architect in the State of Texas. He has worked for my company for over eleven years and has always completed his work to the best of his abilities, representing the firm well, and exceeding our clients' expectations. About three years after his initial hire, Rojelio notified me about his mistake during college. I offered to help him in any way I could, because he had been a good, loyal, and hard-working employee. At the time of his employment with our firm, he had already been assisting the prosecutors to get his legal issues resolved, and he was aware that he was very likely going to serve some time. After his release, I offered him his job back because I trusted him, and I knew he could perform the duties of an Architect. He immediately re-joined the firm and started where he left off, and has continuously been working for us ever since. It has now been over eight years since he came back, and he continually improves on his work for our firm.

Rojelio has the ability, capacity, and fitness to perform the duties and responsibilities of an Architect. Under the supervision of the architects in our firm, he has worked in all phases of the Architectural process, on numerous projects. He spent his first few years here working on procurement, schematic design, and design development of many projects. He then transitioned into working on the construction documents phase, as well as construction administration for several years. As of today, he is involved in all stages of various projects, and he often acts as the main client contact. He also works closely with contractors and all construction- and design-related questions, on a daily basis.

For several years now, Rojelio has also been assisting in the training of all of the firm's new employees. He is entrusted to ensure that any questions relating to office standards, as well as the field of Architecture, are resolved when it comes to new and existing employees.

I believe Rojelio is a great candidate to become an Architect based on the work he has performed for us, and he has proven his worth to the firm through his character and personality. He has paid his debts in all possible ways, and I hope that the TBAE will note the depth of my trust and appreciation for Rojelio by considering the enormous amount of responsibility that I place in his hands. I would like him to have the opportunity to be able to complete his testing to further his career, and would recommend him for licensure. Thank you, and please let me know if you have any questions.

Lance Brenton  
October 3, 2016  
Page 2

Sincerely,

A handwritten signature in blue ink, appearing to read 'Raymond Gignac', with a stylized flourish at the end.

Raymond Gignac, AIA  
Principal

**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: 076-15A**  
**Respondent: Randolph Courtland Barnett**  
**Location of Respondent: Irving, TX**  
**Date of Complaint Received: May 19, 2015**  
**Instrument: Revised Report and Notice of Violation**

**Findings:**

- Randolph Courtland Barnett (hereafter “Respondent”) is a registered architect in Texas with registration number 19923.
- On September 16, 2013, the Board notified Respondent that he had been randomly selected for an audit of continuing education activities for the period September 1, 2011 through August 31, 2012. Respondent was requested to provide his Continuing Education Program Hour Log (CEPH) along with supporting documentation for all activities listed for this audit period, but failed to respond to this request.
- On November 4, 2013, the Board sent a second letter advising Respondent that the Board had not received a response to the initial audit notice and that Respondent was considered non-compliant for continuing education. Respondent was again directed to provide a copy of his CEPH Log within two weeks of his receipt of the letter or, in the alternative, to complete all continuing education not later than December 16, 2013 and provide this office with documentation of completion, but failed to respond to this request.
- The evidence further establishes that in order to renew his registration online he falsely certified that he had completed his CEPH obligations when he had not completed 12 hours of continuing education as required by law.
- On August 31, 2014, Respondent’s architectural registration expired due to his failure to complete the renewal process. Subsequently, pursuant to TEX. OCC. CODE ANN. §1053.353(d), Respondent’s registration became cancelled and non-renewable on August 31, 2016.
- From February 20, 2015 through March 9, 2016, Respondent issued sealed architectural plans for the following nine (9) projects in Texas:
  - Barley & Board – Denton, TX dated February 20, 2015
  - Plum Yoga – Dallas, TX dated March 26, 2015
  - Purelex Nails & Spa – dated May 6, 2015
  - Good Union Urban Barbeque – Richardson, TX dated May 20, 2015
  - Trademark Carwash – Plano, TX dated July 9, 2015
  - Bone Daddy’s House of Smoke – Lubbock, TX dated August 26, 2015
  - Bone Daddy’s House of Smoke – Denton, TX dated September 14, 2015
  - Warrior Marshall Arts – Frisco, TX dated October 12, 2015
  - Hat Creek Burger – Lakeway, TX dated March 9, 2016
- At the time he provided architectural services for these projects, Respondent’s registration was expired and he was not authorized to provide architectural services.

- During the course of this investigation, Respondent failed to respond to two Board inquiries within 30 days.

**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**.
- By using the title "architect" and providing architectural services for nine (9) projects at a time when his certificate of registration was not in good standing, Respondent violated TEX. OCC. CODE ANN. §§1051.351(a) and 1051.701 as implemented by 22 TEX. ADMIN. CODE §1.82(b).
- By preparing and issuing sealed construction documents for the nine (9) projects identified above, Respondent violated Board Rule 1.104(c).

**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 **\$10,700**.



**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.**

<b>Case Number:</b>	<b>110-16I</b>
<b>Respondent:</b>	<b>Matthew M. Bell</b>
<b>Location of Respondent:</b>	<b>Plano, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Matthew M. Bell (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 10180.
- On June 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, 2015 through December 31, 2015.
- On August 11, 2016, Respondent responded by sending documentation to the Continuing Education Coordinator. A review of the documentation by the Continuing Education Coordinator determined that he was unable to provide certificates of completion for claimed continuing education courses.
- 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 his 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.**

<b>Case Number:</b>	<b>023-171</b>
<b>Respondent:</b>	<b>Elizabeth Ann Brannan</b>
<b>Location of Respondent:</b>	<b>Houston, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Elizabeth Ann Brannan (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 11009.
- On August 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 September 15, 2016, Respondent replied by email and stated that she could not produce her certificates of completion for her continuing education due to a computer fire.
- 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.**

<b>Case Number:</b>	<b>025-171</b>
<b>Respondent:</b>	<b>Edward Abdo Dumont</b>
<b>Location of Respondent:</b>	<b>Bellaire, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Edward Abdo Dumont (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 900.
- On August 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 September 14, 2016, Respondent replied by email and stated that he could not produce his certificates of completion for his continuing education due to a house flood.

**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:** 075-16A  
**Respondent:** Dennis Emmanuel Hyndman  
**Location of Respondent:** Encinitis, CA 92024  
**Nature of Violation:** Violation of Continuing Education Requirements  
**Instrument:** Report and Notice of Violation

**Findings:**

- Dennis Emmanuel Hyndman (hereafter “Respondent”) is registered as an architect in Texas with registration number 22136.
- 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, 2014 through December 31, 2014.
- Subsequently, he 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 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: 106-16I**  
**Respondent: Alana Colleen Jackson**  
**Location of Respondent: Dallas, TX**  
**Nature of Violation: Violation of Continuing Education Requirements**  
**Instrument: Report and Notice of Violation**

**Findings:**

- Alana Colleen Jackson (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 10336.
- Based upon the results of a random continuing education audit, it was determined that she failed to timely complete her 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, she falsely certified completion of her CE responsibilities in order to renew her interior design registration.
- During the course of staff’s investigation, Respondent failed to respond to two written requests for information.

**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 5.69(g). The Board’s standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board Rule 5.69(b). The standard administrative penalty assessed for this violation is **\$500.00**.
- By failing to respond to two written requests for information within 30 days of staff’s requests, Respondent violated Board Rule 5.171 which requires a registered interior designer answer an inquiry or produce requested documents within 30 days of a request. Each violation is subject to a standard administrative penalty of **\$250.00** totaling **\$500.00**.

**Action Recommended by Executive Director:**

- The Executive Director recommends an administrative penalty of **\$1,700.00**.

**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:** 002-171  
**Respondent:** Paul Brian Jankowski  
**Location of Respondent:** Dallas, Texas  
**Nature of Violation:** Violation of Continuing Education Requirements  
**Instrument:** Report and Notice of Violation

**Findings:**

- Paul Brian Jankowski (hereafter "Respondent") is a registered interior designer in Texas with registration number 4396.
- 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, he completed supplemental CEPH pursuant to Board Rule 5.79(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 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:** 093-16L  
**Respondent:** Barry Anthony Landry  
**Location of Respondent:** Austin, TX  
**Nature of Violation:** Violation of Continuing Education Requirements  
**Instrument:** Report and Notice of Violation

**Findings:**

- Barry Anthony Landry (hereafter “Respondent”) is registered as a landscape architect in Texas with registration number 1409.
- 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, he 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.**

<b>Case Number:</b>	<b>001-171</b>
<b>Respondent:</b>	<b>Stephen A. Mendel</b>
<b>Location of Respondent:</b>	<b>Houston, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Stephen A. Mendel (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 8149.
- On July 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 August 11, 2016, Respondent responded by sending documentation to the Continuing Education Coordinator. A review of the documentation by the Continuing Education Coordinator determined that he failed to provide certificates of completion for the continuing education courses he had registered for within the audit period.
- 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 his continuing education activities for the period of January 1, 2014 through December 31, 2014, 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  
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<b>Case Number:</b>	<b>003-17A</b>
<b>Respondent:</b>	<b>James A. Murff</b>
<b>Location of Respondent:</b>	<b>Austin, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- James A. Murff (hereafter "Respondent") is registered as an architect in Texas with registration number 17904.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete continuing education requirements for the audit period of January 1, 2015 through December 31, 2015, but completed them prior to the renewal of his architectural registration.

**Applicable Statutory Provisions and Rules:**

- By failing to timely complete the required continuing education program hours during the audit period, but before his renewal period, 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 **\$500**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS  
SUMMARY OF PROPOSED  
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<b>Case Number:</b>	<b>094-16A</b>
<b>Respondent:</b>	<b>Stephen Thomas Norman</b>
<b>Location of Respondent:</b>	<b>Dallas, Texas</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Stephen Thomas Norman (hereafter “Respondent”) is a registered architect in Texas with registration number 7110.
- 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, he 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  
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<b>Case Number:</b>	<b>022-17A</b>
<b>Respondent:</b>	<b>Christopher J. Powers</b>
<b>Location of Respondent:</b>	<b>Arlington, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Christopher J. Powers (hereafter “Respondent”) is registered as an architect in Texas with registration number 21524.
- 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, but completed them prior to the renewal of his architectural registration.
- 

**Applicable Statutory Provisions and Rules:**

- By failing to timely complete the required continuing education program hours during the audit period, 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 **\$500**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS  
SUMMARY OF PROPOSED  
ENFORCEMENT ACTION**

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<b>Case Number:</b>	<b>071-16I</b>
<b>Respondent:</b>	<b>Anthony Raffa</b>
<b>Location of Respondent:</b>	<b>Houston, Texas</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Anthony Raffa (hereafter “Respondent”) is a registered interior designer in Texas with registration number 2244.
- 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, 2014 through December 31, 2014.
- Subsequently, he completed supplemental CEPH pursuant to Board Rule 5.79(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 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**

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<b>Case Number:</b>	<b>081-16L</b>
<b>Respondent:</b>	<b>David C. Scarborough</b>
<b>Location of Respondent:</b>	<b>Tyler, TX</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- David C. Scarborough (hereafter "Respondent") is registered as a landscape architect in Texas with registration number 489.
- 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, he 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**

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<b>Case Number:</b>	<b>091-16L</b>
<b>Respondent:</b>	<b>Cory Schulz</b>
<b>Location of Respondent:</b>	<b>Plymouth, MN</b>
<b>Nature of Violation:</b>	<b>Violation of Continuing Education Requirements</b>
<b>Instrument:</b>	<b>Report and Notice of Violation</b>

**Findings:**

- Cory Schulz (hereafter "Respondent") is registered as a landscape architect in Texas with registration number 2032.
- 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, but completed them prior to the renewal of his architectural registration.

**Applicable Statutory Provisions and Rules:**

- By failing to timely complete the required continuing education program hours during the audit period, 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 **\$500**.

**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:** 105-16A  
**Respondent:** Candace K. Sheeley  
**Location of Respondent:** Effingham, KS  
**Nature of Violation:** Violation of Continuing Education Requirements  
**Instrument:** Report and Notice of Violation

**Findings:**

- Candace K. Sheeley (hereafter “Respondent”) is registered as an architect in Texas with registration number 11071.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2015 through December 31, 2015, but completed them prior to the renewal of her architectural registration.

**Applicable Statutory Provisions and Rules:**

- By failing to timely complete the required continuing education program hours during the audit period, 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 **\$500**.