



TEXAS Board of
Architectural Examiners
Architects • Interior Designers • Landscape Architects

LICENSING NEWS

ARCHITECTURE • INTERIOR DESIGN • LANDSCAPE ARCHITECTURE

FALL 2011

CHAIRMAN'S COLUMN

AS CHAIR OF THE TEXAS BOARD OF Architectural Examiners (TBAE), I am always striving for our Board and Agency to achieve measurable results utilizing collaboration and stakeholder involvement to its fullest. As an Architect and an AICP Planner, collaboration and stakeholder input are critical elements that form the basis of what I do daily at my firm.

I place a great deal of value on the art of collaboration when working towards a solution. I have also learned over my career the importance of engaging a wide group of stakeholders early in the process, rather than after making a decision that will impact those stakeholders.

I am proud to share with you in this issue of *Licensing News* some great things accomplished recently through collaboration among various stakeholders and decision-makers. I would also like to note how important it is for us as a Board to be able to collaborate with design professionals, building officials, and other stakeholders like you.

First, it is important to know that the operations of a regulatory board like ours are designed to embrace an open, transparent, and fully accountable process for all to view and have access to. The importance of this approach is that it specifically allows all stakeholders to have a voice and provide input to the Board and staff. Secondly, the more we hear from stakeholders like you, the better decisions we can make and the more efficient our operations can become. I always encourage and welcome input from all. I am a champion of Continuous Improvement, and am always looking for ways to improve.

Engaging with TBAE is simple, and there are several ways to do so. Most obviously, there is a chance to speak directly and in person to the full Board at each of its four meetings per

year. Your comments will be heard by the Board and recorded in the official minutes of the meeting. The only requirements are that you be present at the meeting, register to speak, and limit your comments to no more than five minutes when called to speak. Similarly, every rule being considered by the Board is posted publicly on the [Texas Register](#) for all to review. If something in a proposed rule draws your attention, any written comments you submit will be distributed to each Board member for his or her consideration before making a decision. I also invite you to attend the Board meeting to verbally offer your comments within the allowed five minutes of "public comments" at the start of each meeting.

Lastly, a reminder that should prove helpful any time you have a question about a new or existing rule, need clarification on a process, or even just need to retrieve a lost password for your online account: simply call us at 512-305-9000 for help. Or you can find a full list of names, direct phone numbers, and even email addresses on our [agency Web site](#), www.tbae.state.tx.us. We're a small agency of just a couple dozen employees, each of whom is highly trained in his or her area of expertise. You will be warmly greeted and routed immediately to the right person to address your question or provide the specific assistance you are seeking. Give it a try sometime, if you never have before. I always enjoy receiving comments from stakeholders on how courteous, professional, and helpful the staff was in providing assistance. Tell us what you think.

I am a firm believer that an agency such as ours works best when it's open and responsive, and the more we hear from you, the better we can be. So do not hesitate to give us a call or drop us a message if you have something to contribute, or simply need a little help. That is why we're here.

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Efficiency and Looking Out for Your Interests

The process of crafting an agency budget and securing its approval from the Board is something I have to do each year. It's never easy to crunch numbers like these, and this year proved to be even tougher than usual.

But with that said, I have some good news for all registrants. For the eighth year in a row, there will be no renewal fee increase. In fact, the last fee change happened in 2007, and was a decrease in the in-state renewal fee! We're able to accomplish this, even with rising costs and other considerations, by staying efficient, lean, and resourceful. The result—keeping your fees steady and as low as possible—is obvious, and we're proud of it.

There's also a much less obvious item that makes us proud, and I'd bet you don't even realize it. The secret is this: for each online renewal, the agency absorbs a rather significant online payment processing fee instead of passing it along to you, the registrant. With about 85 percent of registrants renewing online, those payment processing fees add up to quite a sum, and I'm pleased to announce that we'll continue absorbing those fees now and for as long as we possibly can.

You may wonder how TBAE puts its commitment to efficiency into action. Here are a few examples. In the event that a staff member leaves his or her position with the agency, we review very carefully that position to see if it's possible to divide and redistribute its responsibilities to other staff. Sometimes it's possible to operate without refilling that position, which helps our bottom line and your renewal fee. We also look to technology at every turn, to see if a process can be automated or streamlined to free up a staff member's time for other tasks. We cross train employees to handle common customer service issues like lost passwords for a registrant's online account.

It's simple tools like those above and others that help us stay lean, and help your renewal fees stay low. These days it's trickier than ever, but with smart business practices and a lot of help from our Board members and dedicated staff, we're proud to hold the line on renewal fees yet again.



Cathy L. Hendricks, RID
Executive Director

Chairman's Column

Continued from page 1

As always, it is a great honor to serve as Chair of your agency and all of us on the Board and Staff values your input and thoughts at any time. I encourage you to attend at least one TBAE board meeting during your professional career. We would be honored by your presence.



Alfred Vidaurri, Jr.,
AIA, AICP
Chair

Trying to find an old issue of
Licensing News?

Past issues are available at:

www.tbae.state.tx.us



Tony Whitt
Continuing Education Coordinator

Audited for Continuing Education? RSVP!

The term RSVP comes from the French expression “répondez s’il vous plait,” meaning “please respond.” In my two years as Continuing Education (CE) Coordinator I have for the most part dealt with professionals who act like professionals. Most registrants respond to my audit notices, and most don’t escalate into an enforcement action. However, there are a few individuals who never respond to the audit letter until they receive official notice from our Enforcement staff that they have a pending CE violation, and I’d like to talk about how to avoid that unfortunate situation.

CE requirements are not meant to be a burden on registrants, nor are CE audits meant to cause anxiety. CE audit notices come in the form of a letter, and explain what we need and when we need it. When I don’t get a response by the first deadline, a second letter is sent giving the registrant an additional period of time to respond. If no response is received by the second deadline, then the file is forwarded to Enforcement. The painful part of forwarding many such files to Enforcement is that the registrant did actually complete his or her CE, but just failed to respond for one reason or another.

Priorities often get shifted, rescheduled, or simply overlooked; it’s a cold fact of adult life. I often spend an entire weekend taking care of

things I couldn’t get to during the week. In today’s bustle it is easy to lose sight of some of the important “goings on” in our lives. But some things just don’t fade away when ignored, and the TBAE CE audit is one of them. Most registrants send in the requested documents within 30 days, a few others come into compliance by working with me to earn a missing hour or two, and some responses slide in at the last minute. Whatever the method these responsive registrants use, they all end up with a compliance notice in their hand. However, not responding at all guarantees a CE violation—and your name in this newsletter’s Disciplinary Actions section—if not multiple violations.

The registrants I mentioned above, who don’t respond but actually have their CE, end up with one or two No Response violations, and these are people who have taken their CE in a timely manner. The penalty for not responding to the Board’s inquiries is \$250.00 per violation and most violators are sent two notices before the case is sent to Enforcement. The two ignored notices thus immediately put the registrant \$500.00 in the hole—that is, \$250 for each of the two ignored notices—before I even look at their CE documentation.

According to Miss Manners, one responds to an RSVP is because it’s rude not to. Being rude isn’t a TBAE rule violation, but failing to respond to a notice is—and a costly one.

I urge you to call me at 512-305-8528 if you have any concerns whatsoever about the agency’s CE audit process.

Contact Tony Whitt directly about continuing education issues!

PHONE: **512-305-8528** • EMAIL: ce@tbae.state.tx.us

Churches and Architects

There is no particular rule that says, specifically, that any significant design work on a house of worship (which we will call a church for brevity), requires the engagement of an architect. Perhaps that’s why such misunderstanding seems to persist on this topic.

In 2003, the Legislature made a subtle but significant change to the description of projects exempt from the requirements for an architect. The architectural plans and specifications for a *commercial* building that does not exceed two stories or 20,000 square feet are exempt and may be prepared by one who is not an architect. However, a non-commercial building is not exempt and the architecture for such a building must be prepared by an architect. A church, regardless of size,

is not a commercial building and therefore is not exempt. Thus an architect must prepare the architectural plans and specifications for a church.

Regardless of any persistent misunderstanding, it’s true: any significant work on a church—again, any house of worship—requires the engagement of a registered Texas architect. For new construction, significant alteration, or redesign, an architect is always required.

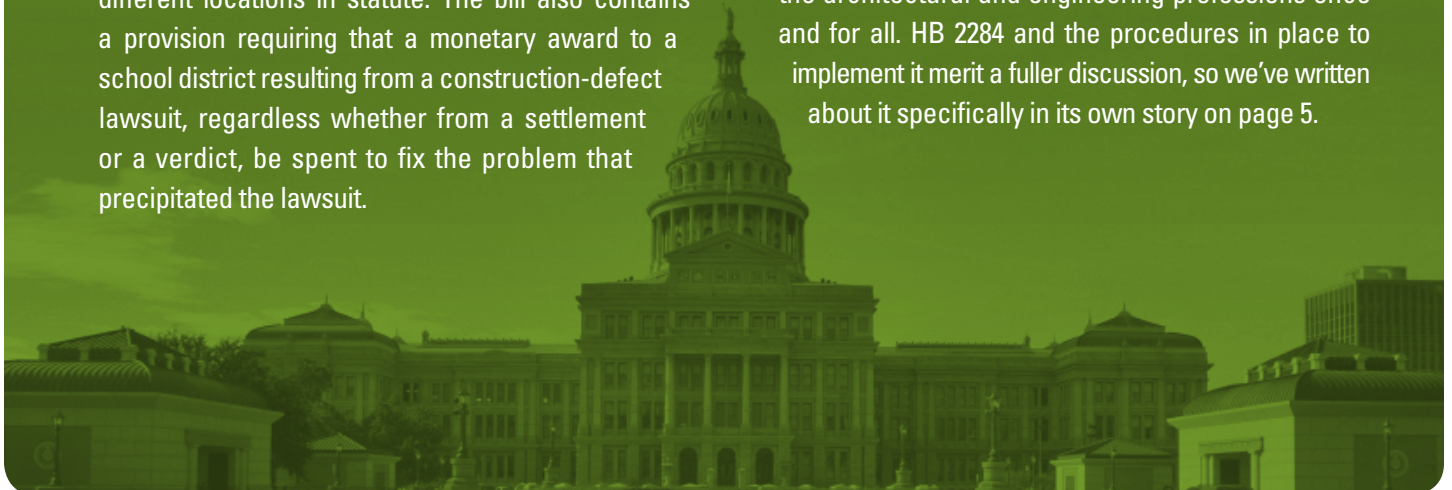
While churches are not specifically called out in statute or agency rule as needing the work of an architect, taking a stroll through the law tells the story. Or for an easier path, consult the “Architect required?” flowchart. For a church project, the path is highlighted with yellow arrows in this “cheat sheet” version of the flowchart.

Recapping the 82nd Texas Legislative Session

While a few high profile statewide issues alternated on center stage during the 2011 legislative session, there were a few items of specific interest to design professionals across Texas as well. Below you'll find a debriefing of some of those issues.

Please note that the information below is not intended to be comprehensive, nor is TBAE representing any particular position on legislative issues discussed or not discussed, passed or not passed. This discussion is for information only.

- House Bill 51, the "high-performance buildings bill," emerged from the legislative process and went into effect on September 1 of this year. This is a bill promoted by some in the design professions for several years now, and essentially it requires that schools and other public buildings be designed in adherence to higher standards of energy efficiency.
- House Bill 628 passed into law and is something of a "cleanup" bill, consolidating statutory language about Alternative Project Delivery methods into one statutory place. Until now, that language appeared in several different locations in statute. The bill also contains a provision requiring that a monetary award to a school district resulting from a construction-defect lawsuit, regardless whether from a settlement or a verdict, be spent to fix the problem that precipitated the lawsuit.
- A handful of bills sought to abolish the regulation of Registered Interior Designers, but none of those pieces of legislation were successful.
- Also, several bills filed would have reconfigured, in various ways, the regulatory agencies for several types of professionals, from TBAE registrants to engineers to land surveyors and geoscientists. Each piece of legislation sought to regroup various registered professions in different configurations under one or more revised regulatory agency. None of those bills survived.
- Senate Bill 652 revised the schedule under which various agencies, including TBAE and the Texas Board of Professional Engineers (TBPE), undergo their periodic review by the Sunset Commission of Texas. Both agencies and several others are currently being reviewed by Sunset, and legislation surely will be filed in the next legislative session in 2013.
- Perhaps the highest-profile legislation of the session, for registrants of both TBAE and TBPE, was House Bill 2284. This one bill provides a resolution to the longstanding disagreement among some members of the architectural and engineering professions once and for all. HB 2284 and the procedures in place to implement it merit a fuller discussion, so we've written about it specifically in its own story on page 5.



FOCUS: House Bill 2284

While it weighs in at fewer than 2,000 words, House Bill 2284 packs quite a punch by laying to rest a decades-long dispute among some members of the architectural and engineering communities. In resolving that dispute, HB 2284 manages to accomplish several things.

First, the bill provides a simple way to end the longstanding impasse wherein certain engineers claim to be able to legally design buildings without engaging an architect. TBAE is charged with creating and implementing a process by which certain qualified engineers may apply to be placed on a special list of engineers who are allowed to design nonexempt buildings without an architect. TBAE and TBPE have jointly issued a flowchart with some details about that process, along with a great deal of other information. (See resources at the bottom of this story.)

Only certain professional engineers may apply. For instance, applicants must have designed at least three nonexempt structures safely and adequately, and provide documentation to that effect. Applicants must also have been registered with TBPE before January 1, 2011 and be in good standing with that licensing board. Applicants must submit their forms and documentation inside a four-month window of time, starting September 1, 2011 and ending January 1, 2012. After New Year's Day, no more applications will be accepted.

Once TBAE staff determines that the basic requirements are met for an application, those materials—forms, construction documents, photographs, etc.—are forwarded to a review committee comprised of TBAE Board Members. It is their task to determine whether the projects submitted were “adequately and safely built before January 1, 2011.” The committee will vote in an open meeting, and each applicant will be invited to attend. In the event that the committee votes not to place

an applicant's name on the list, the bill provides an appeals process, the expenses for which will be shared equally by TBAE and TBPE.

The bill also provides a great deal of clarification regarding specific design activities which are architecture, which are engineering, or which can be performed by either an architect or an engineer. This detailed demarcation should provide a clear answer to several nagging questions of “overlap” for design professionals, building officials, plan examiners, and others.

Finally, the bill anticipates future questions regarding whether certain specific and as-yet unaddressed activities should fall within architecture, engineering, or both. To address those questions and make recommendations to the TBAE and TBPE Board members, HB 2284 requires the formation of a task force comprised of practitioners of each profession and Members of each board. That task force will take up specific activities not yet categorized (as architecture, engineering, or both) and make a recommendation as to where each activity should be categorized.

This agency has written extensively and in close concert with the TBPE about HB 2284 and the processes in place to implement it, and you can find that information below. Stay tuned to the TBAE Web site for more information as it becomes available.

- [Joint Statement by TBAE and TBPE](#)
- [Frequently Asked Questions](#)
- [Flowchart: How the HB 2284 Application and Review Process Works](#)
- [Information Clearinghouse for HB 2284](#)
- [Text of the Legislation \(the Enrolled version is what became law\)](#)

Disciplinary Action

The following enforcement cases were decided during TBAE Board meetings in June and August, 2011. Each case is based on the applicable rule in effect at the time of the violation, and was considered by Enforcement staff and the Board in light of its unique facts. Individual rules may have changed between the time a violation occurs and the time the case is publicized.

David Boggess

Mr. Boggess failed to submit construction documents to the Texas Department of Licensing and Regulation (TDLR) for accessibility review within 20 days of issuance as required by the Elimination of Architectural Barriers Act. Failing to submit plans to TDLR is a violation of the Architects' Practice Act as well as Board rules. An Agreed Order was entered imposing an administrative penalty of \$500.00.

James Carruthers

Mr. Carruthers failed on two separate projects to timely submit plans to the Texas Department of Licensing and Regulation for accessibility review. Because he had received a warning in 2008 for a similar failure to submit documents for accessibility review, the Board approved an Agreed Order imposing an administrative penalty of \$4,000.00 against him.

Brian Hand

Mr. Hand, a person not registered to engage in the practice of architecture, prepared architectural plans for a church. An Agreed Order was approved by the Board imposing an administrative penalty of \$1,500.00. The Board reiterated its long-standing position that a church, regardless of size, is not exempt from the Architects' Practice Act and, therefore, must have architectural plans prepared by an architect or by a person acting under the active supervision and control of an architect.

MESA Design Associates, Inc.

MESA contracted with a homeowner to provide landscape architectural services. On eight occasions, persons who were not registered as landscape architects made site visits. MESA characterized and billed the services as those of landscape architects. An Agreed Order was entered imposing an administrative penalty of \$8,000.00.

Phillip Reed

Mr. Reed failed to submit construction documents to the Texas Department of Licensing and Regulation (TDLR) for accessibility review within 20 days after issuance as required by the Elimination of Architectural Barriers Act. Failing to timely submit plans to TDLR is a violation of the Architects' Practice Act as well as Board rules. An Agreed Order was entered imposing an administrative penalty of \$500.00.

David L. Walker

Between 2001 and 2005 Mr. Walker provided services as a Registered Accessibility Specialist for approximately 230 architectural projects. In each of those projects the owners remitted funds directly to Mr. Walker, who failed to remit the monies to TDLR, as is required of Registered Accessibility Specialists, until TDLR commenced enforcement proceedings against him. The evidence established that he did not convert the monies to his personal use but, rather, kept the funds in the project files thereby failing to exercise due diligence over the funds and failure to promptly remit the monies to TDLR. An Agreed Order was entered revoking the architectural registration of Mr. Walker but this revocation was abated for 12 months during which he is able to engage in the practice of architecture. If, during this 12 month period, Mr. Walker fails to comply with the agreement he entered into with TDLR, or fails to strictly comply with the Architects' Practice Act or Board rules the 12 month revocation will be imposed.

David Scott Windle

Mr. Windle failed on two separate projects to timely submit plans to the Texas Department of Licensing and Regulation (TDLR) for accessibility review. In 2007 the Board assessed an administrative penalty of \$700.00 against him for failing to timely submit plans to TDLR. Because of this previous violation the Board approved an Agreed Order imposing an administrative penalty of \$4,000.00 for each project, resulting in a total administrative penalty of \$8,000.00.

Continuing Education Violations:

David Baum

During the course of a random audit to determine Mr. Baum's compliance with continuing education requirements he failed on two occasions to respond to written requests for information from agency staff. Board rule 1.171 requires registrants to respond to written requests for information within 30 days. Due to his two separate instances of failing to respond an Agreed Order was approved which imposed a \$500.00 administrative penalty. [It is worth noting that Board rule 1.171 now imposes up to a \$2000.00 administrative penalty for a registrant's failure to respond to a written request for information sent by agency staff.]

Douglas Engel

As the result of a random audit it was determined that Mr. Engel had failed to comply with continuing education responsibilities for program year 2009-2010. Further investigation established that he misrepresented his completion of continuing education in order to renew his architectural registration. An Agreed Order was entered imposing an administrative penalty of \$500.00 for failing to satisfy continuing education responsibilities and an additional \$700.00 penalty was imposed for falsely certifying that he was in compliance with continuing education obligations in order to renew his architectural registration.

Delores Key

As part of the random audit program Ms. Key, a Registered Interior Designer, was asked to provide her continuing education log for program year 2006-2007 in order to verify compliance. Ms. Key did not respond to the Board's written request for information in violation of Board rule 5.181 which requires all registrants to respond to Board requests for information within 30 days. Upon final receipt of her materials it was determined that she was in compliance with her continuing education responsibilities. An Agreed Order was entered imposing a \$250.00 administrative penalty for her failure to comply with rule 5.181. *It should be noted that the Board has adopted new rules which classify the failure to respond to a written inquiry as a "moderate" violation which now will result in an administrative penalty of up to \$2,000.00.*

Niann-Chyi Kuan

As the result of a random audit it was determined that Niann-Chyi Kuan had failed to maintain necessary continuing education credits for program year 2009-2010. Further investigation established that Niann-Chyi Kuan had falsely represented compliance with continuing education obligations at the time of registration renewal. An Agreed Order was entered imposing an administrative penalty of \$500.00 for failing to maintain continuing education obligations and an administrative penalty of \$750.00 was imposed for falsely certifying compliance with continuing education responsibilities in order to obtain renewal of the architectural registration.

Charles Mell Lawrence

During the course of a random audit to determine compliance with continuing education responsibilities, Mr. Lawrence was requested to provide a copy of his continuing education log. Mr. Mell failed to respond to Board correspondence within 30 days. Subsequent communications established that Mr. Lawrence was in compliance with his continuing education obligations. An Agreed order was entered imposing a \$250.00 administrative penalty upon Mr. Lawrence for his failure to respond to a Board request for information within 30 days. *It should be noted that the Board has adopted new rules which classify the failure to respond to a written inquiry as a "moderate" violation which now will result in an administrative penalty of up to \$2,000.00.*

William Laurin McCracken

During the course of a random audit of continuing education compliance for program year 2009-2010 it was determined that Mr. McCracken had failed to maintain sufficient hours and had, at the time he renewed his architectural license, falsely certified that he was in compliance with continuing education responsibilities. An Agreed Order was entered imposing an administrative penalty of \$500.00 for falsely certifying compliance with continuing education responsibilities in order to renew his architectural registration.

Perry Dale Rabke

During the course of a random audit to determine compliance with continuing education obligations for program year 2009-2010 Mr. Rabke was asked to submit his CEPH log. Mr. Rabke did not reply to this request. Subsequently, as the result of further communications Mr. Rabke submitted materials establishing his satisfaction of continuing education duties. An Agreed Order was entered imposing an administrative penalty of \$250.00 for Mr. Rabke's failure to respond to a written request for information for information within 30 days. *It should be noted that the Board has adopted new rules which classify the failure to respond to a written inquiry as a "moderate" violation which now will result in an administrative penalty of up to \$2,000.00.*

Anissa Zickler

As the results of a random audit it was determined that Ms. Zickler had failed to maintain her continuing education obligations for program year 2009-2010. It was also found that she had falsely represented completion of continuing education hours in order to renew her architectural registration. An Agreed Order was entered imposing administrative penalties of \$500.00 for failing to maintain continuing education and \$750.00 for falsely representing satisfaction of continuing education responsibilities in order to renew her architectural registration.





TEXAS Board of Architectural Examiners

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Change of Address

Please make sure that we have your current mailing and email address so we may send your renewal notice to you in a timely fashion. You may update your own record by logging in to your online account on our Web site, www.tbae.state.tx.us. You can also mail or fax 512.305.8900 the address change along with your signature. We will send renewal reminders to registrants at the e-mail address on file with TBAE, so be sure to keep your valid and unique email address updated.

Upcoming Board Meetings

- February 2, 2012
- May 17-18, 2012
- August 23-24, 2012
- October 18-19, 2012

EXECUTIVE DIRECTOR

Cathy L. Hendricks, RID

BOARD MEMBERS

Alfred Vidaurri Jr., AIA, AICP

Chair, Architect Member; Term ends 1/31/15

Chuck Anastos, AIA

Vice-Chair, Architect Member; Term ends 1/31/13

Corbett "Chase" Bearden

Secretary-Treasurer, Public Member; Term ends 1/31/15

Debra Dockery, AIA – Architect Member; Term ends 1/31/17

H.L. Bert Mijares, AIA – Architect Member; Term ends 1/31/15

Paula Ann Miller – Public Member; Term ends 1/31/17

Sonya B. Odell – Registered Interior Designer Member; Term ends 1/31/17

Brandon Pinson – Public Member; Term ends 1/31/13

Diane Steinbrueck, RLA – Landscape Architect Member; Term ends 1/31/15

The mission of the Texas Board of Architectural Examiners is to protect the public health, safety, and welfare through the regulation of the practice of the professions of architecture, landscape architecture, and interior design.

www.tbae.state.tx.us