TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Board Meeting Agenda

The William P. Hobby Jr. Bldg., Tower III, Room 102
333 Guadalupe Street
Austin, Texas
Monday & Tuesday, January 24-25, 2011
9:00 a.m.

1. Preliminary Matters

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

2. Presentation of Retirement Certificate of Recognition for Lucy Sweeney *(Information)* — Alfred Vidaurri

3. Approval of the October 25, 2010, Board Meeting Minutes *(Action)* — Alfred Vidaurri

4. Legal counsel briefing regarding pending litigation — Ted Ross
(Information)

- **A.** TSPE v. TBAE and Cathy L. Hendricks in her official capacity as Executive Director
- **B.** Richardson, Rogers and Winton v. TBAE

The Board may meet in closed session to confer with legal counsel regarding pending litigation and offers of settlement pursuant to TEX. GOV'T CODE ANN. §551.071(1)

5. Executive Director Report *(Information)* — Cathy Hendricks

- **A.** Budget
  Reserve Fund Balance Policy
  Budget Analysis through December 31, 2010
- **B.** Enforcement
- **C.** Registration

6. Report on Conferences and Meetings *(Information)* — Cathy Hendricks

- **A. NCARB MBE Conference, New Orleans, LA** *(November 4-6, 2010)*
- **B. NCIDQ Annual Council of Delegates Meeting & NCIDQ Virtual Annual Webinar** – (November 11-13, 2010)
- **C. Design Futures Council – Leadership Summit on Design Innovation & Technology**, La Jolla, CA *(January 12-14, 2010)*

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7. General Counsel Report *(Action)* — Scott Gibson

Proposed Rules for Adoption

A. Rules §1.21, §3.21, §5.31 to eliminate "grandfather" provisions in order to apply the same prerequisites for registration to each applicant regardless of when the applicant began his or her education or experience.

B. Rules §5.31 and §5.202 to allow candidates to complete an interior design experience program administered by the National Council for Interior Design Qualification (NCIDQ) for registration.

C. Rules §1.5, §1.191, §1.192 to modify the architectural intern development program (IDP) to conform to national standards and to increase the number of hours necessary to successfully complete the program.

D. Rule §7.5 to implement modifications to Robert's Rules of Order as used in Board meetings.

8. Enforcement Cases *(Action)* — Michael Shirk

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

A. Non-Registrants:
Anyanwu, Don (#044-10E)
Guerra, Hector and Guerra, Protasio (#245-08N; #246-08N)
Farias, Jose (#045-10N)

B. Registrants:
Dillard, Robert (#010-10A)
Porter, Marley E. (#176-08N)

C. Continuing Education:
Dean, Michael (#016-11A)
Holmes, William (#043-11A)
McIntyre, Michael (#154-10L)
Meehl, Gordon (#042-11A)

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

9. Request from Texas Floodplain Management Association for ruling on architects' authority to issue a FEMA Elevation Certificate *(Action)* — Scott Gibson

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10.	**TBAE and TBPE Mediation Services Update by the Center for Public Policy Dispute Resolution (CPPDR) at the University of Texas at Austin** *(Information)*	Alfred Vidaurri
11.	**Approval of Resolution Honoring:** *(Action)* Lew Vassberg James S. Walker Rosemary Gammon	Alfred Vidaurri
12.	**Chair's Closing Remarks**	Alfred Vidaurri
13.	**Adjournment**	Alfred Vidaurri

NOTE:
- Items may not necessarily be considered in the order they appear on the agenda.
- Executive session for advice of counsel may be called regarding any agenda item under the Open Meetings Act, Government Code Chapter 551.
- Action may be taken on any agenda item.
- An electronic version of the Board meeting notebook can be accessed from our website at *http://www.tbae.state.tx.us/*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services (such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille), are required to contact Glenda Best at (512) 305-8548 at least five (5) work days prior to the meeting so that appropriate arrangements can be made.

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

FREQUENTLY USED ACRONYMS

AIA	American Institute of Architects
ASID	American Society of Interior Designers
ASLA	American Society of Landscape Architects
ARE	Architect Registration Examination
BOAT	Building Officials Association of Texas
CACB	Canadian Architectural Certification Board
CLARB	Council of Landscape Architectural Registration Boards
IDCEC	Interior Design Continuing Education Council
IDEC	Interior Design Educators Council
IIDA	International Interior Design Association
JAC	Joint Advisory Committee
	Sub-JAC – Task Force of Joint Advisory Committee
LARE	Landscape Architect Registration Examination
NAAB	National Architectural Accreditation Board
NCARB	National Council of Architectural Registration Boards
NCIDQ	National Council for Interior Design Qualification
TAID	Texas Association for Interior Design
TASB	Texas Association of School Boards
TBPE	Texas Board of Professional Engineers
TSA	Texas Society of Architects
TSPE	Texas Society of Professional Engineers

TEXAS Board of Architectural Examiners

Architects · Interior Designers · Landscape Architects

Certificate of Appreciation

Presented to

Lucy Sweeney

For your service to the Board and to the State of Texas
January 29, 1997 to November 30, 2010

The years you devoted to the Texas Board of Architectural Examiners represent an invaluable public service to the people of the State of Texas. The Board and Staff recognize, appreciate, and will dearly miss your valuable contributions.

Presented this 24th day of January, 2011.

_____
Alfred Viduarri Jr., AIA, NCARB, AICP
Chair

_____
Cathy L. Hendricks, RID/ASID/IIDA
Executive Director

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of October 25-26, 2010 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street
Tower I, Conference Room 225
Austin, TX 78701
9:00 a.m. until completion of business

1. Preliminary Matters

Call to Order
Chair Alfred Vidaurri called the meeting of the Texas Board of Architectural Examiners to order at 9:02 a.m.

Roll Call
Secretary/Treasurer, James S. Walker II, called the roll. A quorum was present.

Present

Alfred Vidaurri, Jr.	Chair
Lew Vassberg	Vice-Chair
James S. Walker II	Secretary/Treasurer
Charles H. (Chuck) Anastos	Member
Rosemary A. Gammon	Member
Bert Mijares, Jr.	Member
Brandon Pinson	Member

Late

Chase Bearden	Member
Diane Steinbrueck	Member

TBAE Staff Present

Cathy L. Hendricks	Executive Director
Scott Gibson	General Counsel
Glenda Best	Executive Assistant
Jennifer Barrett	Accounting Staff
Ginger Barnett	Investigation Staff
Jackie Blackmore	Registration Staff
Christine Brister	Staff Services & Human Resources Officer
Steve Franz	Investigator
Glenn Garry	Communications Manager
Mary Helmcamp	Director of Registration
Julio Martinez	Network Specialist
Michael Shirk	Managing Litigator
Jack Stamps	Managing Investigator

Recognition of Guests
Guests were as follows: Marilyn Roberts, TAID, Michael Chad Davis, Texas Landscape Architect and Texas Chapter of American Society of Landscape Architects, Yvonne Castillo, General Counsel for Texas Society of Architects, Paul Bielamowicz, Texas Society of Architects and Government Affairs Steering Committee, Bill T. Wilson, II, AIA, and Ed Robertson, Governor's Office.

Chair's Opening Remarks
The Chair thanked everyone including Board members and the audience for attending the Board meeting. He stated that he felt it was an extreme honor and great responsibility to serve as a Board member. He opined that it was also important to remember the legacy of those who served on the Board in the past. He stated that one of the wonderful things about serving as a Board member was the variety and diversity of the people he had met, one of whom is former public Board member Kyle Garner. The Chair said he had to share the sad news that Mr. Garner had passed away at the young age of 42 years. Mr. Garner served on the Board from 2003 through 2009. He was also a standing member of the Rules Committee. He received an undergraduate degree from Stanford University and a Master's degree from Stephen F. Austin. The Chair related that Mr. Garner suffered a massive brain hemorrhage during his senior year in high school which put him in a coma for more than 50 days. After he emerged from the coma Mr. Garner had to relearn how to speak, how to walk, how to drive and how to do basic functions. He related all these challenges in a book he wrote titled "Whatever It Takes." The Chair stated he had read the book and it is truly an awe-inspiring story. In spite of all that had happened to him and the challenges he faced, Mr. Garner maintained a positive outlook. He had a humor and a way about him that was very enjoyable. He was tremendously gifted man. It was sad to hear of his passing at such a young age. This Board benefited from Mr. Garner's service on the Board.

Public Comment
The Chair recognized three people who registered for public comment.

Michael Chad Davis, registered Texas Landscape Architect and on behalf of the Texas Chapter of the American Society of Landscape Architects. He addressed the Board to let them know that the Society had some concerns about the proposed rules requiring a disclaimer be affixed to renderings and the proposed rules requiring registrants to file information about civil litigation with the Board. The Texas Chapter of ASLA is opposed to both rules.

Yvonne Castillo, General Counsel for the Texas Society of Architects asked if she could make public comment when the rules were presented. However, she said that the Society was opposed to the rules regarding the affixation of a disclaimer to renderings and the liability reporting rules. Without objection, the Board allowed her to defer public comment until the proposed rules were put before the Board.

Paul Bielamowicz, representing the Texas Society of Architects and Government Affairs Steering Committee of the Society, stated that he and the Committee were opposed to the rendering rule and the civil liability reporting rule.

2. Consideration of Minutes for August 20, 2010 Board Meeting
A MOTION WAS MADE AND SECONDED (Anastos/Gammon) TO APPROVE THE AUGUST 20, 2010 BOARD MEETING MINUTES. Mr. Anastos suggested a change be made to page

7, line 3, on the word “will” to “may.” AN AMENDED MOTION WAS MADE AND SECONDED (Anastos/Gammon) TO APPROVE THE AUGUST 20, 2010 BOARD MEETING MINUTES AS AMENDED. THE MOTION PASSED UNANIMOUSLY.

Board member Chase Bearden arrived at 9:15 a.m.

4. General Counsel Report

Proposed Rules for Adoption

The General Counsel directed the members of the Board to a summary of the first set of rules. He stated that the rules had been reported by the Rules Committee, proposed by the Board, and published in the *Texas Register*. The first set of rules involved criminal history matters. He stated that they had been published for 30 days for public comment. The agency did not receive any comments on these rules.

The proposed rules implement legislation passed during the last legislative session. There were three primary changes. The first set of rules provided for the creation of a process for a person who has a criminal history record and is contemplating licensure by the Board to obtain a preliminary evaluation of his/her prospects of becoming licensed. The rules include a process for reconsideration; appeal; and a final determination.

The next set of rules implements a new procedure for provisional licensing. Certain candidates or certain persons who have less serious criminal sanctions in their past or who have criminal sanctions that occurred five years prior to the date of the application, could become provisionally licensed for six months.

The third set of rules relates to deferred adjudication of offenses committed by candidates and licensees. New legislation went into effect which prohibits state agencies from considering deferred adjudication as a conviction except under certain circumstances. The Board may take action upon a person who received a deferred adjudication if the person may pose a threat to the public or if registration would create an opportunity for a person to engage in the same type of illegal activity.

A MOTION WAS MADE (Anastos/Vassberg) AND SECONDED TO ADOPT NEW RULES 1.26/3.26/5.36; 1.27/3.27/5.37; TO AMEND RULES 1.149/3.149/5.162; AND TO ADOPT NEW RULES 1.153/3.153/5.162. THE MOTION PASSED UNANIMOUSLY.

Board member Diane Steinbrueck arrived at 9:28 a.m.

The General Counsel directed the Board members to the next set of proposed rules for adoption regarding renderings. The proposed amendments are to rules 1.5, 3.5, and 5.5 to define the term “rendering”. Another set of proposed amendments to rules 1.103, 3.103, 5.113 to require a disclaimer to be affixed to renderings as defined to give notice that they are not intended for construction, permit or regulatory approval. The proposed rules were published in the *Texas Register* for public comment and the agency received only one written comment from Yvonne Castillo of TSA.

The Chair asked if there was additional public comment that would weigh in on consideration for these rules. He stated that he would like to ask Ms. Castillo to appear before the Board.

Yvonne Castillo appeared on behalf of the Texas Society of Architects. She stated that she would like to reiterate what she put in the letter previously submitted to the Board. The concern is two-fold. From a technical standpoint, the way the language was written "a rendering is an illustration that is created for the purpose of demonstrating the appearance of what the design is going to look like after it has been constructed." The definition further stated that "a rendering is by definition not intended for regulatory approval, permitting or construction and generally lacks the detail to be used for those purposes." It also stated that an architect is not required to affix his name, date of issuance, or statement of intent to a rendering issued solely for advertising, marketing, or presentation to a client for purposes other than the client's use in making design-related decisions. She said that it is circular in the way it was written and from a technical standpoint she thought it was not very logical. In addition, she said that the bigger issue for the architectural profession was the belief that the public hired architects because they had special education, experience and skills to illustrate for their clients what the proposed design was going to look like after it was constructed. She said that was the purpose for sitting down with an architect and paying the money because presumably the owner does not have that expertise. Thus, everything an architect does is, by this definition, a rendering. She stated the passage of this rule would open up a Pandora's Box for questions on renderings. TSA's position is that the agency was putting the profession in the position of over-regulating in a manner which did not protect the public.

Paul Bielamowicz also appeared on behalf of the Texas Society of Architects. He agreed with Ms. Castillo. He said that the definition of a rendering is that which is not to be used for regulatory approval, permitting or construction. Therefore, it would be senseless to affix a disclaimer that said that "it was not to be used for those purposes when by definition it could not be used." He stated that he was not in opposition to the first half of the definition, but was in opposition to the rest of the definition. Furthermore, it would help to protect the public; it would only cause problems for the architects.

Board member Jimmy Walker directed the Chair to an email from former TBAE Chair, Steve Ellinger who also opposed the proposed rendering rule.

Mr. Bill Wilson also appeared on behalf of the Texas Society of Architects. He stated that he had attended many committee meetings for the Government Affairs Steering Committee at TSA and had heard many objections to this proposed rule. He said that he understood that enforcement is becoming more difficult for the Board because of the nature of the profession and its rapid changes due to technology. Furthermore, he opined that the roles that architects play in projects are different and often not clear. Under BIM processes, projects are developed collaboratively with clients and contractors. The architect no longer has control and therefore cannot be held accountable for architectural plans. It's nice to have very precise rules to enforce them. However, technology is changing and project delivery is changing and architects issuing drawings are becoming obsolete. The practitioner is not always able to control this information as technology continues to progress and information continues to be shared with clients. Rules regarding the development of plans developed in this process may be difficult to enforce.

The Chair recognized Chad Davis with the Texas Chapter of ASLA. He stated that ASLA had numerous shared concerns with TSA, but he did not want to reiterate those concerns.

A MOTION WAS MADE AND SECONDED (Anastos/Walker) TO DISAPPROVE THE ADOPTION OF PROPOSED RULES 1.5/3.5/5.5 AND 1.103/3.103/ 5.113.

Board member Diane Steinbrueck questioned the Board on keeping the definition portion of the Rendering Rule and voting on it and striking the remainder of the rule regarding the phrase "not for regulatory approval, permitting or construction."

A MOTION WAS MADE AND SECONDED (Steinbrueck/Vassberg) TO DIVIDE THE QUESTION INTO TWO MOTIONS IN OPPOSITION TO THE ADOPTION OF THE PROPOSED RULES 1.5/3.5/5.5 AND PROPOSED RULES 1.103/3.103/5.113. THE MOTION PASSED UANIMOUSLY.

The Chair called the vote ON THE MOTION (Anastos/Walker) TO DECLINE TO ADOPT THE PROPOSED AMENDMENTS TO RULES 1.103/3.103/5.113. THE MOTION PASSED UNANIMOUSLY.

The Chair directed the Board to the definition of "rendering" as an amendment to rules 1.5, 3.5 and 5.5. Ms. Steinbrueck asked if she could modify what she had previously proposed. She stated that there was another piece of the definition that she would like to see removed so that the definition would read as follows:

> "Rendering – A drawing, illustration, or other artwork created for the purpose of demonstrating the anticipated appearance of a proposed design. A rendering is distinct from a construction document in that it is not intended for regulatory approval, permitting or construction and generally lacks the detail to be used for those purposes."

Mr. Anastos noted that this definition leaves out renderings prepared during the course of the project. The Chair recognized Mr. Davis for comment. Mr. Davis approached the Board and asked if there was a precedent for having a definition of a term that is used nowhere in the rules? The General Counsel stated that it would be a new precedent by defining a term that does not appear in the rules. Mr. Stamps, the Managing Investigator questioned this action and stated that it could be a problem for enforcement. Ms. Gammon wanted to know how they would put this into effect without confusing the public. The General Counsel stated that TBAE could put it into the newsletter in order to educate the public. Mr. Mijares stated that he did not think that the definition of "rendering" was necessary if there were no rules which use that term. There is no reason for it and it would cause confusion and it is just not necessary. Mr. Pinson called the question.

The Chair recognized the General Counsel to clarify the procedural posture of the motion before the Board. The General Counsel stated the motion is to decline the adoption of the amendments to rules 1.5, 3.5, and 5.5 defining renderings. Initially, the motion was to decline all the rules on renderings but the Board divided that motion and is now considering a motion to decline the adoption of the definition of the term "rendering". The General Counsel stated Mr. Pinson has called the question. A motion to call the question

is a motion to end debate and immediately put the matter before the Board to a vote. It takes two-thirds vote to suspend debate. The motion does not require a second. The Chair put the motion to call the question, ending debate, before the Board for vote. THE MOTION TO CALL THE QUESTION AND END DEBATE PASSED BY A VOTE OF SIX TO TWO. (Walker and Steinbrueck opposed.) ON THE MOTION (ANASTOS/WALKER) TO DECLINE TO ADOPT THE PROPOSED AMENDMENTS TO RULES 1.5/3.5/5.5, THE MOTION PASSED BY A VOTE OF SIX TO TWO. (Walker and Steinbrueck voting as opposed).

Mr. Walker requested clarification regarding the previous two votes on proposed rules. Number one – the Board declined to require renderings to be stamped with a disclaimer. Second, the Board voted to refrain from defining the term "rendering". The Chair confirmed his statements.

The Board recessed at 10:40 a.m. The Chair called the meeting to order at 10:45 a.m.

The Chair directed the Board to item 4C of the Rules Committee regarding the proposed rule on reporting of lawsuits to the Board. The General Counsel gave the Board the background for the proposed rule. He stated that in 2008, the Board received public comment from an architect stating that the Board was not receiving notice of lawsuits involving architects and there were some bad practices without notice to the agency. The person who appeared before the Board requested consideration of a rule for our licensees to report lawsuits. He stated that other states have this process in place. At that time, the Board delegated consideration of the proposal to the Rules Committee.

The Rules Committee considered the proposal and made a recommendation to the Board. The Board recommitted the matter to the Rules Committee. Since the Board's last meeting, the Rules Committee met twice and heard from the public and crafted rules 1.159, 3.159 and 5.154 which required a defendant architect, landscape architect, or interior designer to report final judgments, settlements or awards in civil actions, arbitration, and administrative actions which are in an amount of $50,000 or more to the Board within 30 days such action is made.

The Chair recognized Yvonne Castillo, on behalf of Texas Society of Architects, who spoke in opposition to the rule. She stated that TSA wrote a letter on May 3, 2010 regarding their concerns with one draft of the rule. She asserted the rule would violate the 5th Amendment of the United States Constitution by requiring an architect to incriminate himself/herself. She stated that TSA provided staff with a Supreme Court case known as the *Ruffalo* case. It was a case against an attorney which found that the attorney was disciplined in a hearing without adequate notice. TBAE Staff provided three cases to counter that case. Those cases only stood for the proposition that this agency has regulatory powers over the registrants. Furthermore, she stated that the rule would be impossible to enforce. Those who would report have already been sanctioned by the court system. The bad actors would not report to TBAE. Most litigation is a contractual issue/design defect which typically results in no deaths or injuries. This rule also requires reporting of a settlement reached in litigation because of business reasons and not because of the merits of the case. She stated other Texas state agencies have similar rules but those agencies regulate health professionals in Texas and they were not

required to report unless the civil suit involved a death or more than one or two lawsuits had been filed against the licensee. Most of the rules and the laws from other states are structured so that the insurer is required to file and not the insured licensee. Usually in a lawsuit the plaintiff sues everyone connected with a project and then the subcontractors and others who do not have insurance are dropped, leaving the design professional as the sole defendant in the lawsuit. She said that it can take a decade for a case to go to trial and the tracking of the litigation would be too cumbersome for the agency. She cited a recent case involving a local architect who was sued when a balcony collapsed on a house he had designed. The contractor was at fault but there were several issues involving the duty owed to various classes of users of buildings including those who have no contractual relationship with the architect. She indicated these cases have lots of issues in the gray area which are legally complex and beyond the ability of agency staff to comprehend. She stated that there was a practicing architect in the audience that wanted to speak to the matter.

The Chair recognized Mr. Bill Wilson, on behalf of WKMC Architects in Corpus Christi, Texas. Mr. Wilson had a prepared statement in opposition to the rule. He contrasted the work of architects to that of Bill Gates, founder of Microsoft. Unlike Mr. Gates' computer programs which can be tested several times and prototypes issued with after-market patches, most buildings are built only once. The architect designs it and it is constructed by builders the architect does not know or select. The client expects the building to be perfect the first time it is built and holds the architect responsible for errors of contractors the client selected. Almost all lawsuits arise from unmet expectations and almost no lawsuits end with a clear determination of the fault of one party or the other.

Mr. Wilson stated the rule will create unintended consequences. He stated his firm was sued by a client over the design of a retail store over the selection of serpentine display cases which were substandard and outsourced by a supplier selected by the client, not his firm. It took 6½ years before the lawsuit was resolved. The client did not contract with the firm for construction management but called upon the firm frequently throughout construction without paying for the firm's time. The certificate of merit filed by the plaintiff was drafted by the plaintiff's lawyer and signed by an architect for $250. Mr. Wilson stated that had his firm been required to file that case with TBAE it would have hurt his firm's business. Having an active case against the firm would dissuade clients.

Mr. Wilson also opined that it is inherently flawed to draw parallels between architects and doctors. The nature of medical malpractice suits are well-known and understood. Doctors do not have contract disputes. Doctors do not compete for work and do not assume financial risks in order to get projects. The Chair recognized Ms. Gammon who stated she works in the health care field and stated many of the comments made in the presentations regarding the health care professions are inaccurate. She also observed that some of the professions which require the reporting of lawsuits, such as social workers, are not a part of the medical profession.

The Chair recognized Paul Bielamowicz who also appeared on behalf of the Texas Society of Architects. He stated his firm is Paige Sutherland Paige which was sued six years ago due to issues arising from soil heave at a project the firm designed. He stated he was a senior associate in an Austin office. The firm had been sued and they wanted to go to trial because they felt they were not negligent. The firm's insurance company

insisted that they settle the case prior to trial. In addition, the terms of the settlement were confidential. He stated that the draft rule would affect the decision to settle and would remove the ability to negotiate the confidentiality of the terms of settlement.

The Chair recognized Chad Davis, on behalf of the Texas Chapter of the American Society of Landscape Architects. Mr. Davis expressed concerns about the rule in general, in particular the $50,000 threshold. He believes that the threshold creates a position by the Board that the health, safety and welfare of the public are not relevant when injury or damage does not exceed $50,000. If the Board adopts a threshold, it should be indexed over time so that the threshold does not change as the value of $50,000 changes over time. Mr. Davis also stated that settling a case is a business decision not a decision of right and wrong and should not be reported to the Board as required by the rule. The staff might change over time and a later staff might open cases on each lawsuit. It could be a procedural nightmare. He also noted that the rule still requires the certificate of merit be filed with the Board, as was required in an earlier draft of the rule considered by the Rules Committee. Mr. Davis was opposed to that document being filed with the Board because it is unnecessary if the Board is receiving notice anyway. Mr. Davis also expressed concerns about the rules requirement as applied to principals of firms that are sued and noted that he works for a multi-disciplinary firm where there are 24 principals from several design professions. Mr. Davis stated that the rule might require the reporting of liability for engineering. He also inquired about the rule's application to licensees who are public employees.

Mr. Pinson stated that the language for the rule needed revisions. He suggested that it be revised to state that a report should be defined as a certified copy of the Complaint filed in a civil action or instrument which initiated arbitration or an administrative action.

A MOTION WAS MADE AND SECONDED (Steinbrueck/Anastos) NOT TO PUBLISH THE PROPOSED RULE FOR PUBLIC COMMENT.

Mr. Pinson requested that Staff comment on this rule. He also suggested that the rule be published for public comment in order to find out what comments the Board might receive and make revisions accordingly.

The Managing Investigator and Managing Litigator addressed the Board on the rule and the background for the proposal of the rule. The Managing Investigator stated he disagreed with the comments that the agency is unable to understand lawsuits. He also stated that he disagreed with comments that the individuals the rule is meant to address would not report. He noted that there are bad actors who currently report criminal conduct under the agency's rules and who face sanction for failing to do so. He noted that the rule does not require agency staff to go through a detailed analysis of every complex issue in a lawsuit. All we need do is review the complaint to ascertain probable cause that a violation of the laws of TBAE occurred. If there is no such probable cause we do not open the case. Agency staff is well aware of the case TSA alluded to regarding the balcony collapse because it was in the newspaper and the agency has not opened an investigation against the defendant architect.

The Chair recognized the Managing Litigator to address the Board. He noted that based upon his experience as a litigator, he understands settlement agreements and

confidentiality agreements. He observed that much of the testimony seems to imply staff does not understand the reasons and motives for parties in litigation to reach a settlement. Under a settlement, the defendant essentially buys the non-filing of the lawsuit but that does not mean the lawsuit lacks merit or that the defendant's conduct did not violate the laws enforced by the Board. To determine if a violation of the laws enforced by TBAE occurred, the agency must receive notice of the settlement. The testimony today has been that absolutely meritless cases are settled for hundreds of thousands of dollars which is not very credible testimony. Testimony has also been made today which would indicate that all lawsuits lack merits and arise from unrealistic expectations of consumers. Furthermore, there is testimony that cites a 1960's-era Supreme Court decision in stating that the rule would result in an unconstitutional denial of due process. The case had nothing to do with the 5th Amendment. That case had to do with due process as applied in one disciplinary case involving an attorney. The case had to do with procedural defects in a hearing, not a rule. This agency has a process to screen cases, conduct an investigation to determine if the facts establish probable cause of a violation, a hearing before an administrative judge at SOAH, another hearing before the Board and finally the right of appeal to the district court. Respondents receive abundant notice and due process and this rule does not change any of that.

The Managing Litigator agreed with the comment that the $50,000 threshold is too high where public health, safety and welfare is at stake. He opined it would be a better rule if the threshold went down to a dollar. The agency should have the opportunity to address violations of its laws regardless of the amount of damages that might result from them. Much of the testimony today has been hypothetical and merely argues that there is too much gray area in lawsuits for staff to understand. This rule came about because someone let us know there are serious violations at issue in these cases which are going unreported. The rule is merely intended for the agency to hear about those serious violations so they can be investigated and, if warranted, brought to the Board for reasoned consideration. At least consider posting it for public comment.

The Chair said he understood the intent of the rule but he had serious concerns about it. He indicated he has heard from a lot of practitioners and has received a lot of calls. Larger firms which are perceived as having deep pockets are frequently sued without merit. The Chair also expressed concern about the impact the rule would have on large and small firms during difficult economic times and the future make-up of the Board and staff.

Mr. Pinson stated everyone seems to agree the intent of the rule has merit. He opposed to stopping consideration of the rule without receiving public comment. Ms. Gammon agreed with Mr. Pinson and observed that in the medical community many lawsuits are filed. She noted anyone can sue for anything. She observed that if a lawsuit is frivolous and the basis for the lawsuit is reported, it will be apparent that those lawsuits lack merit. Ms. Gammon also stated that the Board should not act in a manner which might create the impression that it is acting to protect the professions over protecting the public. Mr. Bearden agreed with Mr. Pinson and Ms. Gammon that the rule should be published for public comment.

Ms. Steinbrueck stated that she would not object to amending the motion to send the rules back to the Rules Committee for further consideration and refinement.

More discussion ensued among the Board members regarding the $50,000 threshold in the rule. The Chair recognized Ms. Castillo who clarified for the Board members that she was not the one who defined the threshold amount of reporting the litigation. She was asked in a Rules Committee meeting what threshold would be appropriate and she estimated $50,000 but made clear she would have to request further information from TSA.

CHUCK ANASTOS CALLED THE QUESTION. THE MOTION TO CALL THE QUESTION PASSED UNANIMOUSLY.

THE CHAIR CALLED FOR THE VOTE. THE CHAIR CLARIFIED THE MOTION BEFORE THE BOARD. THE MOTION IS TO NOT MOVE THE PROPOSED RULE FORWARD FOR PUBLIC COMMENT (Steinbrueck/Anastos). A MOTION TO NOT MOVE IT FORWARD PASSED UNANIMOUSLY.

A MOTION WAS MADE AND SECONDED (Pinson/Vassberg) TO RECOMMIT THE SUBSTANCE OF THE RULE TO THE RULES COMMITTEE TO BE REPORTED BACK TO THE BOARD FOR CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

The Board recessed at 12:20 p.m. for lunch.

The Chair called the meeting back to order at 1:20 p.m.

The Chair directed the Board to the proposed amendment of rules 1.21, 3.21 and 5.31 to eliminate the grandfathering provision in order to apply the same prerequisite to each applicant regardless of when the applicant began his or her education or experience. Board member Jimmy Walker questioned the General Counsel on why these amendments were being proposed. The General Counsel reported that grandfathering is for the transition of a new law from pre-existing unregulated practices. Grandfathering is intended to prevent the disruption of the livelihood of pre-existing practitioners. The professions regulated by the Board have been subject to regulation for years and grandfathering is no longer necessary. One of the rules includes several grandfathering classes which has grown complex and difficult to administer. The General Counsel stated that the agency received one public comment on the proposed amendments from an architect who opposed them.

A MOTION WAS MADE AND SECONDED (Pinson/Anastos) TO PROPOSE THE AMENDMENTS TO RULES 1.21, 3.21 AND 5.31 TO ELIMINATE THE GRANDFATHERING PROVISIONS AND OFFER THOSE AMENDMENTS FOR PUBLIC COMMENT. THE MOTION PASSED UNANIMOUSLY.

3. Budget

The Chair explained to the audience and Board members that the agency had been working with an interim budget which was passed on August 20, 2010. He stated that the Executive Director was directed to return to the Board meeting in October with a revised budget for 2011. The Executive Director presented the actual revenues and expenditures

for 2009 and 2010, the interim budget for 2011, and the proposed budget for 2011. The Executive Director discussed the budget line by line with the Board members.

The Board discussed the budgeted amount for travel to the national committee meetings at the national associations of regulatory boards for the three professions, namely NCARB, CLARB and NCIDQ. The Chair stated that he would prefer that all architects who serve on the Board attend the national committee meetings especially those who are interested in leadership roles. Mr. Mijares agreed with the Chair and stated the Board should budget to send at least three members of the Board to CLARB and NCIDQ. Ms. Vassberg stated there should be some amount in the budget for staff to occasionally go to these meetings. Mr. Bearden questioned where the money would come from to attend these meetings. The Executive Director discussed further reductions in the budget for staff training that she had made to accommodate some of these requests. Mr. Mijares said that he believed there were three red flags regarding the proposed budget. He pointed out that office supplies, office rental and equipment, and conference registration fees should be constant and not have such big swings. The Executive Director directed the Board to note 4 on the document as an explanation for the swings in the numbers – IT peripherals have been put on hold, for three years the agency received a $50,000 break on office rental over the past few years which is expiring, budgets for staff training used to be reported as conference fees but are broken out in the proposed budget for fiscal year 2011. Further discussion was had regarding costs for printing and reproduction of the newsletter and wall certificates.

A MOTION WAS MADE AND SECONDED (Anastos/Gammon) TO APPROVE THE BUDGET AS SUBMITTED.

Mr. Pinson expressed the desire to pass a balanced budget during these difficult economic times. He stated it appears to be a lean budget and that the Board should consider additional means of revenue to recapture costs which are not currently covered. Ms. Vassberg asked the Executive Director if the numbers of registrants were up or down from last year. The Executive Director stated that there are 140 more registrants than last year. She stated that the number of in-state architects was up but the numbers for the other two professions were down. The Executive Director explained to the Board that there were currently 17,321 active registrants.

AN AMENDMENT WAS MADE (Pinson/Anastos) AND SECONDED TO HAVE A SIX MONTH OPERATING RESERVE IN THE BUDGET.

The General Counsel asked for clarification regarding the reserve, primarily the restrictions on the use of the reserve. The Chair stated the reserve fund should be used only in cases of an extreme catastrophic event when there is no revenue coming into the agency and use of the fund is necessary to maintain operations. The Chair called for the vote. THE MOTION PASSED WITH EIGHT BOARD MEMBERS IN FAVOR AND ONE AGAINST. Board member Jimmy Walker stated that the only way for him to object to the absence of funding for a deputy executive director was to vote against the Budget.

The Board recessed at 3:05 p.m. The Chair called the meeting to order at 3:24 p.m.

8. Report on Conferences and Meetings

A. 2010 CLARB Annual Meeting & 40th Anniversary

The Chair began the presentation regarding the CLARB Annual Meeting and 40th Anniversary which was held in Baltimore, Maryland. The attendees were the Chair, the Executive Director and the Secretary/Treasurer. The Board stated that there were really good sessions and one in particular he expounded on was the presentation on the definition of "welfare." The Chair stated that there was a lot of in-depth research that was put forth on that issue and there could be a whitepaper resulting from the discussion. The other major initiative was the presentation on the site initiative that is equivalent of a LEED type sustainable program for sites. The three supporting organizations that came together for the program were ASLA, Lady Bird Johnson Wildflower Center and the U.S. Botanical Association.

B. 2010 LRGV-AIA Building Communities Conference

The Executive Director reported that she and the Managing Investigator attended the conference. She said that they had about 90 people in their audience. This conference meets every September. She stated they covered a lot of topics and questions were raised about a lot of other matters and it went very well.

C. 7th Annual Biennial Pre-Session Legislative Conferences

The Chair directed the Board to the back of the Board notebook which contained the Agenda. The Chair stated that he and the Executive Director and General Counsel attended this meeting. He commented on the fact that the common denominator was the Texas budget and the deficit of $20 billion to $21 billion. Also, the issue of redistricting was on the table and the Sunset review of 20 major agencies in Texas was discussed, i.e., Department of Insurance, the Water Development Board, Department of Information Resources etc.

D. TSA 71st Annual Conference

The Chair stated that Mr. Anastos, Mr. Mijares and Mr. Walker attended this conference. Mr. Mijares stated that he thought the conference that was held in Houston the year before was better than the one that was held in San Antonio this year. Mr. Walker agreed with Mr. Mijares about the content of the programs. In addition, Mr. Walker congratulated the TBAE Staff on their presentation at the conference and the questions that their presentation generated. Mr. Anastos complimented the presentation made by TBAE Managing Litigator, Michael Shirk. Mr. Mijares complimented the program presented by the former mayor of Austin, Will Wynn. The Chair stated that there were parts of it that he thought were interesting, including the art of delivery in that the presentation of the idea is almost as important as the idea itself.

Ms. Steinbrueck noted that this would be a good place on the agenda for updates on the meetings of the Joint Advisory Committee and suggested that all members of the Board should receive a copy of the minutes of those meetings as well as minutes of the executive committee meetings.

9. Upcoming Board Meetings

The Chair then directed the Board members to the upcoming meeting dates. Mr. Anastos had objections to Monday and Tuesday meetings. Mr. Pinson agreed with Mr. Anastos on meeting dates and requested that they meet on Thursdays and Fridays. In addition, Mr. Pinson suggested that they have a two day meeting in August because of the budget. The Executive Director stated that she planned on getting a draft budget in June to the Board members, but she agreed that she thought it was a good idea to have a two-day meeting in August. The Chair confirmed that August would be a two-day commitment for the Board members. Mr. Mijares suggested that the dates be changed for the January and October meetings to be the 20th and 21st rather than the 24th and 25th.

7. Election of the TBAE Board Vice-Chair and Secretary/Treasurer

The Chair directed the Board members to the election of officers. A MOTION WAS MADE AND SECONDED (Mijares/Vassberg) TO NOMINATE CHUCK ANASTOS AS VICE-CHAIR. THE MOTION PASSED UNANIMOUSLY.

The Board took a moment to thank Ms. Vassberg for serving as Vice-Chair and noted she did a wonderful job.

The Chair stated that the current Secretary-Treasurer is Jimmy Walker. He directed the Board to elect the Secretary-Treasurer. A MOTION WAS MADE AND SECONDED (Gammon/Steinbrueck) TO NOMINATE CHASE BEARDEN AS SECRETARY-TREASURER. THE MOTION PASSED UNANIMOUSLY. The Chair thanked Mr. Walker for his years of service as Secretary-Treasurer.

6. Legal counsel briefing on recent developments regarding litigation

The Board went into closed session with Assistant Attorney General Ted Ross, at 4:10 p.m. and reconvened at 5:12 p.m.

The Board recessed for the first day at 5:13 p.m. until the following morning at 9:00 a.m.

1. Preliminary Matters (Day Two of TBAE Board Meeting -- October 26, 2010)

Call to Order
The Chair reconvened the meeting of the Texas Board of Architectural Examiners to order at 9:00 a.m.

Roll Call
Secretary/Treasurer, James S. Walker II, called the roll. A quorum was present.

Recognition of Guests
Guests were as follows: Marilyn Roberts, TAID, Michael Chad Davis, Texas Landscape Architect and American Society of Landscape Architects, Yvonne Castillo, General Counsel for Texas Society of Architects, Ed Robertson, Governor's Office, Phoebe Vidaurri, Steve Ellinger, Faculty at Abilene Christian University, Mallory Espinoza, Interior Design Student attending Abilene Christian University, Samantha Howes, Interior Design Student attending Abilene Christian University, Jessica Lane, Interior Design Student

attending Abilene Christian University, English Minter, Interior Design Student attending Abilene Christian University, Alex Potess, Interior Design Student attending Abilene Christian University, Taylor Tucker, Interior Design Student attending Abilene Christian University, and Ashley Wheeler, Interior Design Student attending Abilene Christian University.

Chair's Opening Remarks
The Chair requested that the Board members introduce themselves to the audience by stating what they do as a profession, how long they have served on the Board, and where they live. The Board members did so.

4. General Counsel Report

Report of the Rules Committee
B. Amend Rules 5.31 and 5.202 to recognize an interior design experience program administered by the National Council for Interior Design Qualification.
The General Counsel described the amendments to the Board and audience. He stated that the Rules Committee approved the amendments for the Board's consideration. These amendments are before the Board for proposal to be published in the *Texas Register*. The rules would allow interior design candidates to fulfill experience requirements administered by TBAE or fulfill the interior design experience program administered by NCIDQ. The Chair directed questions to the General Counsel for clarification of the amendments. The Executive Director gave further explanations to the audience on the amendments.

Marilyn Roberts representing Texas Association for Interior Design approached the Board and requested a change to allow candidates to begin the experience program before graduation. The Director of Registration gave additional background information related to the amendments and stated that in order to be consistent with the other professional programs, she suggested a change to the language. Without objection both changes were made to the proposed rule.

A MOTION WAS MADE AND SECONDED (Anastos/Gammon) TO PROPOSE THE AMENDMENTS TO RULES 5.31 AND 5.202 AND PUBLISH THEM FOR PUBLIC COMMENT IN THE *TEXAS REGISTER*. The Chair called for the vote. THE MOTION PASSED UNANIMOUSLY.

D. Amend Rules 1.5 and 1.191, and 1.192 to modify the architectural intern development program to conform to national standards and to increase the number of hours necessary to successfully complete the program. The General Counsel directed the Board to a summary of the proposed rule amendments as reported by the Rules Committee and gave background on the amended rule proposals. He explained that this brings TBAE's rules in conformity with the national standards. NCARB changed the standards for supervision and control to utilize email and telephone for supervision. Mr. Anastos questioned the need for the rule amendment. The General Counsel stated that Texas does not have an obligation to adopt these amendments, but it would most likely have a negative impact upon our candidates if Texas does not come into conformity with NCARB's rules and regulations. The Board discussed the amendments at length.

A MOTION WAS MADE AND SECONDED (Mijares/Walker) TO PROPOSE THE AMENDMENTS TO RULES 1.5, 1.91, AND 1.92. THE MOTION PASSED UNANIMOUSLY WITH ONE VOTE IN ABSTENTION (Vassberg).

The Board recessed at 10:10 a.m. The Chair called the meeting to order at 10:28 a.m.

The Chair directed the Board members to the last rule amendment for consideration which is to amend rule 7.5 to implement modifications to the Robert's Rules of Order as used in Board meetings. The General Counsel gave the background on the proposed rule amendment. He explained that there were three components to this amendment. The first component was to have agency personnel bring a matter before the Board without a motion and second. The second component was that members of the Board could ask personnel questions regarding factual and technical questions. The third component was the Chair could recognize someone out in the audience in order to request information from them on the matter.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO PROPOSE THE AMENDMENT TO RULE 7.5. THE MOTION PASSED UANIMOUSLY. (Mr. Walker was absent from the vote.)

5. Enforcement Cases

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

The Chair recognized TBAE Managing Litigator Michael Shirk to present the enforcement cases. Mr. Shirk directed the Board members to the enforcement cases which involved proposed Agreed Orders and/or Settlements with the Respondents:

Armando Jaime Garza (#220-09A)

Respondent failed to produce documentation to prove compliance with the continuing education requirements, his credits may be denied pursuant to Rule 1.69(2). However, he eventually did produce substantiation of compliance, and, therefore, a penalty of $450.00 is warranted.

Respondent failed to answer at least five letters from agency staff within thirty (30) days, Respondent engaged in multiple violations of Board rule 1.171. The Board determined that an approved administrative penalty for each failure is $250.00 for a total of $1,250.00. The Executive Director recommended an administrative penalty of $1,700.00. A MOTION WAS MADE AND SECONDED (Pinson/Anastos) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 220-09A INVOLVING ARMANDO JAIME GARZA. THE MOTION PASSED UNANIMOUSLY.

Michael Brian Kennedy (#151-10A)

By indicating on his online renewal materials 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 $700.00.

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 $500.00.
By failing to timely respond to the Board within thirty (30) days on two occasions, Respondent violated Board Rule 1.171. The standard administrative penalty assessed for this violation is $250.00. The Executive Director recommended an administrative penalty of $1,450.00. A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 151-10A INVOLVING MICHAEL BRIAN KENNEDY. THE MOTION PASSED UNANIMOUSLY.

Wesley Wong (#165-10A)
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 $500.00.
By failing to timely respond to the Board within thirty (30) days on two occasions, Respondent violated Board Rule 1.171. The standard administrative penalty assessed for two violations of this nature is $500.00. The Executive Director recommended an administrative penalty of $1,000.00. The Chair recused himself from voting. A MOTION WAS MADE AND SECONDED (Mijares/Pinson) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 165-10A INVOLVING WESLEY WONG. THE MOTION PASSED UNANIMOUSLY.

Susan J. Klein (#164-10L)
By failing to maintain a detailed record of her continuing education activities for the period of January 1, 2007 through December 31, 2007, Respondent violated Board Rule 3.69(1). The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of their continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is $500.00. The Executive Director recommended an administrative penalty of $500.00. A MOTION WAS MADE AND SECONDED (Mijares/Pinson) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 164-10L INVOLVING SUSAN J. KLEIN. THE MOTION PASSED UNANIMOUSLY.

Sophie K. Custer (#159-10I)
By failing to timely complete the required number of continuing education hours during the audit period, Respondent violated Board Rule 5.79(f). The standard administrative penalty assessed for this violation is $500.00.
By falsely reporting that she had completed the required continuing education for the period of September 1, 2008 through August 31, 2009, Respondent violated Board Rule 5.79(g). The standard administrative penalty assessed for this violation is $700.00.
By failing to reply to the Board's letters of November 17, 2009 and December 29, 2009, within 30 days, Respondent violated Board Rule 5.181. The standard administrative penalty for such a violation is $250.00. Failing to respond to two of the Board's inquiries warrants a total administrative penalty of $500.00. The Executive Director recommended a total administrative penalty of $1,700.00. A MOTION WAS MADE AND SECONDED (Vassberg/Gammon) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 159-10I INVOLVING SOPHIE K. CUSTER. THE MOTION PASSED UNANIMOUSLY.

Ronald Stewart (#071-10A)

By failing to submit the plans and specifications for accessibility review no later than the fifth day after issuance, Respondent violated §1051.752(2) of the Architects' Practice Act and Board Rule 1.1.70. The Executive Director recommended an administrative penalty of $700.00. A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 071-10A INVOLVING RONALD STEWART. THE MOTION PASSED UNANIMOUSLY.

Tien T. Nguyen (#126-09A)

By failing to submit the plans and specifications for accessibility review no later than the fifth day after issuance, Respondent violated §1051.752(2) of the Architects' Practice Act and Board Rule 1.1.70. Because this is Respondent's second violation, the infraction is deemed a "moderate" violation under Board Rule 1.177(c)(ii).

By failing to respond to two letters by the Board, Respondent violated Board Rule 1.171 which requires an architect to "answer an inquiry concerning any matter under the jurisdiction of the Board within thirty (30) days after the date the architect receives notice of the inquiry." The Board has established a standard administrative penalty of $250.00 for each failure to respond. Therefore, the combined penalty is $500.00. The Executive Director recommended a total administrative penalty of $1,700.00 and required attendance at the Texas Accessibility Academy within 90 days of the Board's approval of this recommendation. Respondent should also be directed to provide verification of successful attendance within 30 days after completion of the Accessibility Academy. A MOTION WAS MADE AND SECONDED (Mijares/Bearden) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 126-09A INVOLVING TIEN T. NGUYEN. THE MOTION PASSED UNANIMOUSLY.

Daniel P. O'Connell (#105-10A)

By preparing and issuing two sheets of architectural plans and specifications for a single family residence while his architectural registration was expired, Respondent violated § 1051.701(a) of the Architects' Practice Act. The Executive Director recommended an administrative penalty of $700.00. A MOTION WAS MADE AND SECONDED (Walker/Vassberg) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 105-10A INVOLVING DANIEL P. O'CONNELL. THE MOTION PASSED EIGHT IN FAVOR AND ONE AGAINST (Anastos voted against).

Mark Van Doren (#128-08N) (Cause No. D-1-GN-1-000253)

Respondent was subject to a previous enforcement matter in October 2001, wherein he agreed to the entry of a permanent injunction in the Travis County District Court.

By advertising in 2008, that his businesses known as APD Planning & Design, L.L.C., APD, AD&P, Architectural Design & Planning, Architex Planning & Design, Architex Planning & Design, Architex Planning & Design, L.L.C., offer or provide architectural services, Respondent violated § 1051.701(a) of the Architects' Practice Act. The Executive Director recommended that the Agreed Order be filed with the Travis County District Court reaffirming all obligations of the API dated October 2001. A MOTION WAS MADE AND SECONDED (Mijares/Walker) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION TO FILE THE AGREED ORDER WITH THE TRAVIS COUNTY DISTRICT COURT. THE MOTION PASSED UNANIMOUSLY.

The Chair directed the Board members to the segment in the back of the Board notebook entitled Enforcement Case Activity Report FY 2010. The Chair expressed his desire to include trending charts from prior years for enforcement activity for comparison for the Board.

10. Chair's Closing Remarks

The Chair reminded Board members to mindful of any changes to travel plans well in advance in order to avoid additional costs to the agency. In addition, he expressed his desire to have all Board members file their expense reports expeditiously. He stated that he would make committee changes soon since new officers have been elected.

Furthermore, he discussed the issue of changing dates for the Board meetings from Monday, Tuesday to Thursday, Friday. He stated that due to the availability of the limited rooms, the January 24-25, 2011 date will stay the same, but other dates for Board meetings for next year will be on Thursdays and Fridays. Therefore, the following dates for future Board meetings will be: June 16-17, 2011; August 18-19, 2011; and October 20-21, 2011.

The Chair thanked the audience for attending.

11. Adjournment

A MOTION WAS MADE AND SECONDED (Anastos/Pinson) TO ADJOURN THE MEETING AT 11:28 A.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

_____

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

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

333 Guadalupe, Suite 2-350 • Austin, TX 78701-3942
P.O. Box 12337 • Austin, TX 78711-2337
PH 512.305.9000 FAX 512.305.8900

Policy Title:	**Reserve of Fund Balance**
Version Number:	**1.0**
Approved By:	**Cathy L. Hendricks, RID/ASID/IIDA, Executive Director**
Effective Date:	**January 1, 2011**

Purpose

To establish a formal policy on the level of Reserved and Unreserved Fund Balance that should be maintained in the Safekeeping Trust and the State Treasury for Fund 0859. The balance of the fund will be maintained at an amount equal to six months of agency operations.

Policy

1. TBAE will consider the predictability of its revenues and the volatility of its expenditures when determining appropriate levels of Reserved Fund Balance.

2. TBAE will consider perceived exposure to significant one-time outlays; such as disasters, immediate capital needs, and state budget cuts.

3. TBAE will analyze actual revenues and monitor for potential losses which may require the use of the Unreserved/Undesignated Fund Balance to cover the approved Annual Operating Budget.

4. TBAE will analyze unexpected legislative actions and recommend actions to the Board.

5. TBAE Executive Director will develop internal procedures to monitor the Reserved Fund Balance and will report reserve fund balance to the full Board quarterly.

	FY2009 Actual	FY2010 Actual	FY2011 Budget	FY2011 Sept 1, 2010 thru Dec 31, 2010	FY2011 Budget Balance Dec 31, 2010
Beginning Fund Balance:	**1,518,884.00**	**1,635,878.00**	**1,800,618.72**	**2,077,287.81**	**2,333,151.61**
Revenues:					
Licenses & Fees	2,563,278.00	2,537,912.00	2,512,268.77	899,712.70	1,612,556.07
Enforcement Penalties	95,003.00	102,393.00	102,393.00	13,583.31	88,809.69
Penalties - Late Fee Payments	257,437.00	249,338.00	239,391.67	19,155.00	220,236.67
Other	2,716.00	2,506.00	2,000.00	672.30	1,327.70
Interest	21,828.00	15,998.00	14,000.00	6,629.92	7,370.08
Total Revenues	**2,940,262.00**	**2,908,147.00**	**2,870,053.44**	**939,753.23**	**1,930,300.21**
Expenditures:					
Salaries and Wages (24 FTE's)	1,399,675.00	1,359,193.28	1,435,004.98	430,886.08	1,004,118.90
Payroll Related costs	351,006.00	357,965.45	380,808.50	117,543.82	263,264.68
Professional fees & Services	136,945.00	52,045.60	67,290.00	4,223.21	63,066.79
Travel	41,267.00				-
Board Travel		34,799.93	40,008.11	10,136.56	29,871.55
Staff Travel		27,808.89	27,808.89		27,808.89
Office Supplies	43,969.00	48,841.76	18,434.00	5,253.78	13,180.22
Postage	25,785.00	24,055.67	25,797.40	10,624.12	15,173.28
Communication and Utilities	24,252.00	17,541.06	23,420.00	4,757.14	18,662.86
Repairs and Maintenance	4,351.00	6,847.13	5,050.00		5,050.00
Office Rental and Equipment Leases	9,715.00	27,408.40	67,675.00	20,722.69	46,952.31
Printing and Reproduction	19,087.00	14,253.11	15,676.00	4,188.74	11,487.26
Operating Expenditures	35,409.00	52,085.80	60,222.40	45,846.46	14,375.94
Conference Registration Fees	8,635.00	8,407.50	6,115.25	300.00	5,815.25
Membership Dues	19,095.00	18,400.00	20,690.00	290.00	20,400.00
Fees for Receiving Electronic Payments	104,679.00	97,482.62	98,000.00	29,116.83	68,883.17
Staff Training	8,119.00	27,243.08	12,000.00		12,000.00
SWCAP Payment	55,339.00	52,563.00	55,339.00		55,339.00
Payment to GR	510,000.00	510,000.00	510,000.00		510,000.00
Exceptional Items	25,940.00	6,464.00	0.00	0.00	-
Total Expenditures	**2,823,268.00**	**2,743,406.28**	**2,869,339.53**	**683,889.43**	**2,185,450.10**
			713.91		
Reserve - 6 months			**1,179,669.77**	**1,179,669.77**	**1,179,669.77**
Ending Fund Balance	**1,635,878.00**	**1,800,618.72**	**621,662.86**	**1,153,481.84**	**898,331.95**

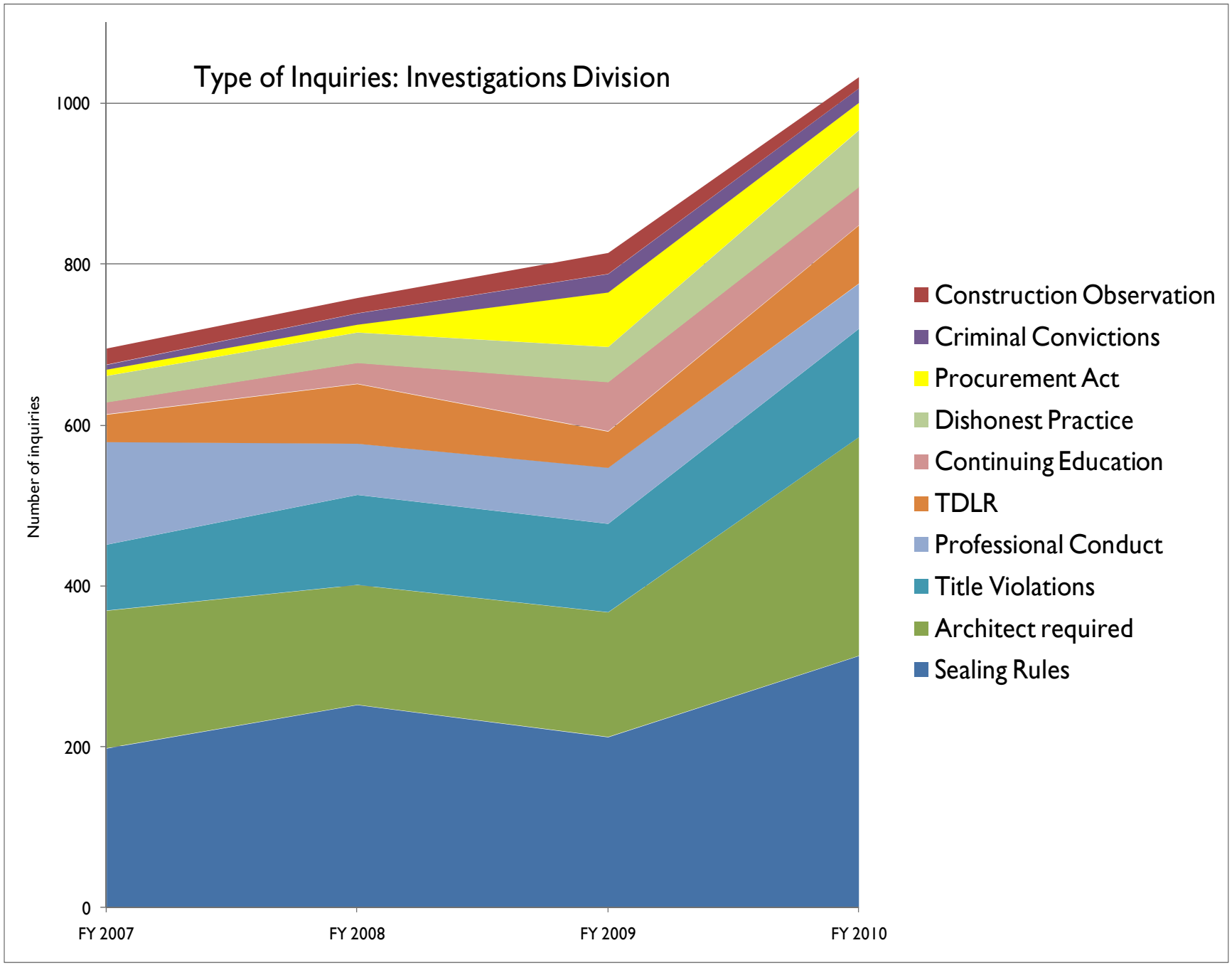

Type of Inquiries: Investigations Division
Number of inquiries
1000
800
600
400
200
0
FY 2007
FY 2008
FY 2009
FY 2010
Construction Observation
Criminal Convictions
Procurement Act
Dishonest Practice
Continuing Education
TDLR
Professional Conduct
Title Violations
Architect required
Sealing Rules

Figure 2

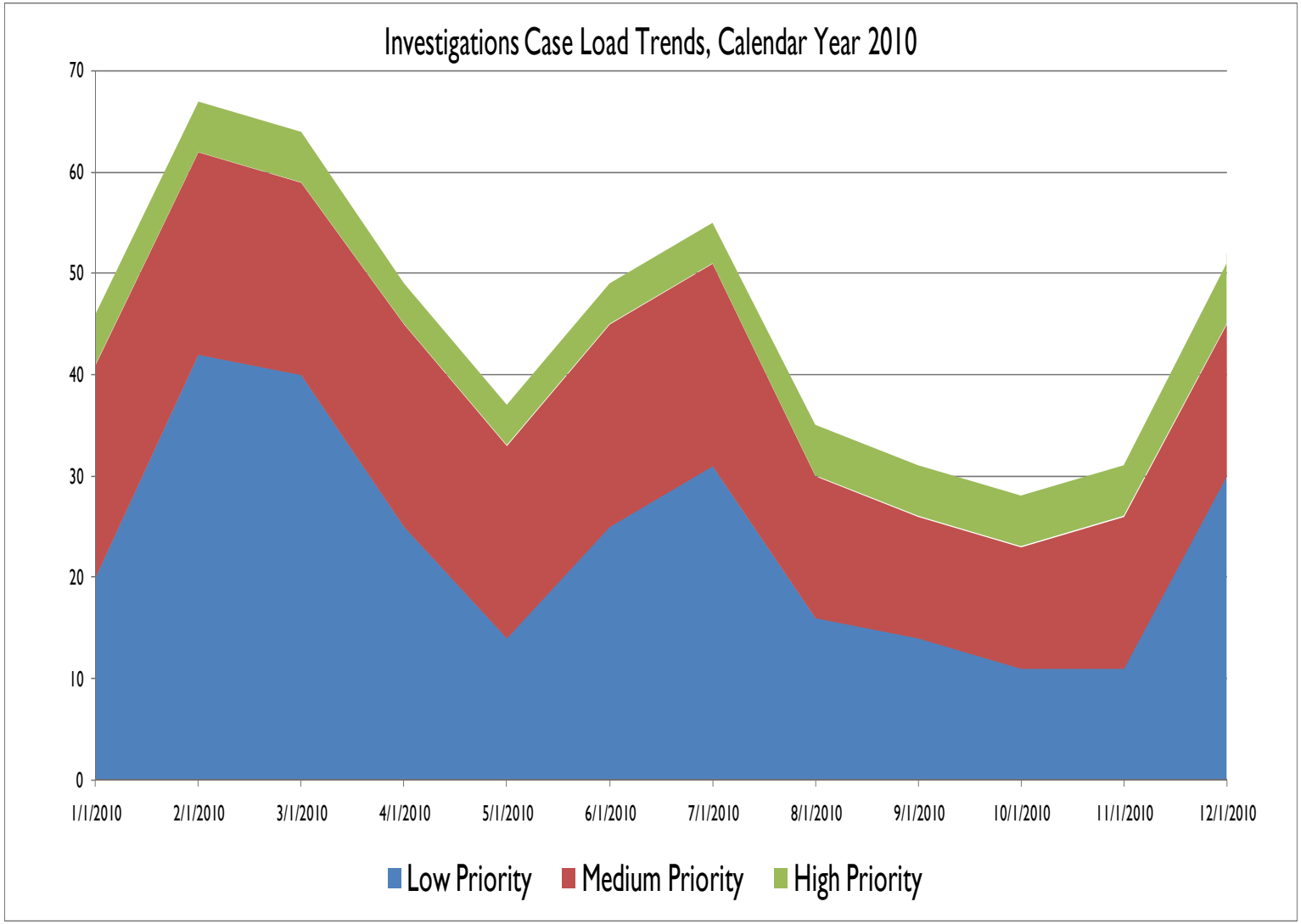
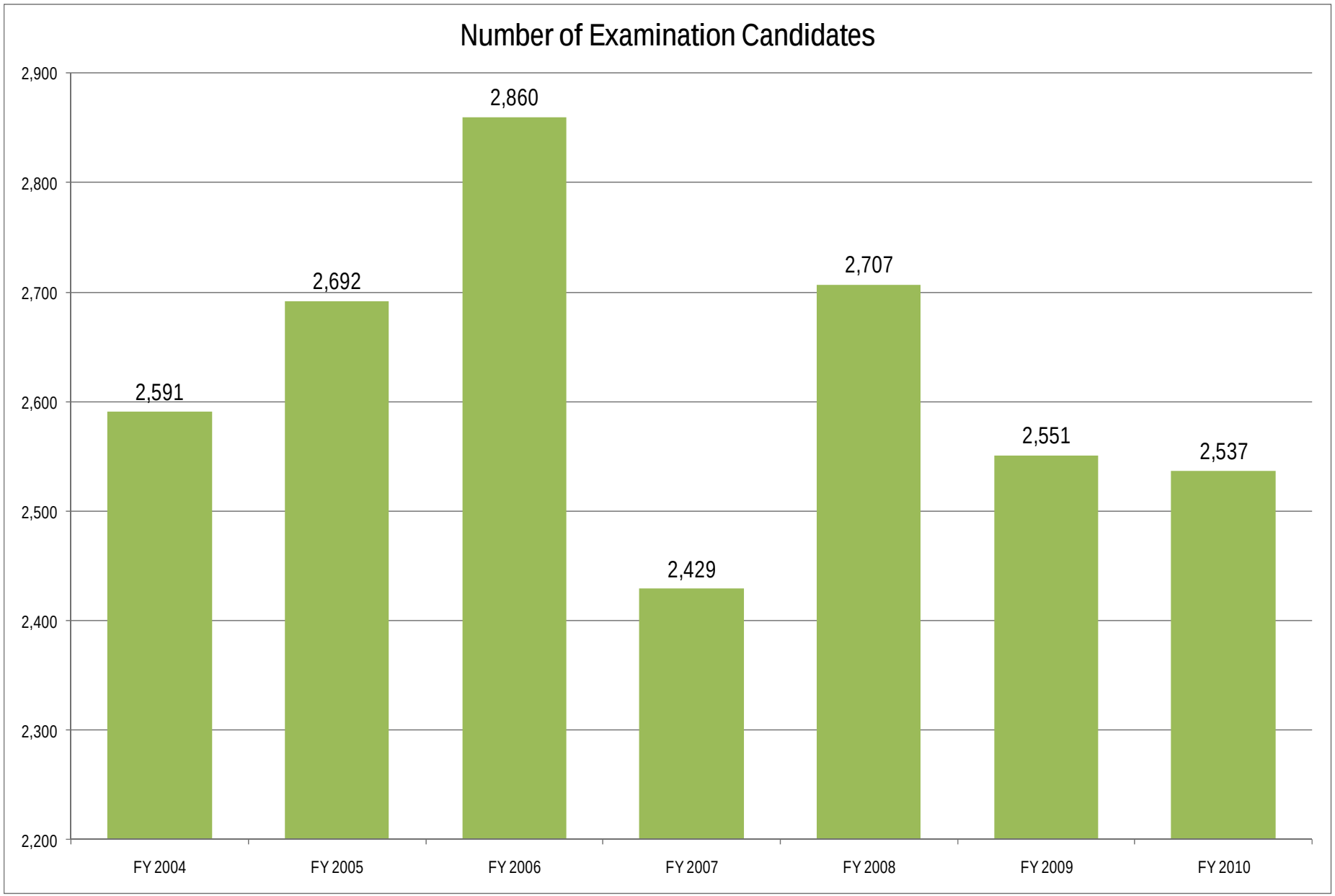

Investigations Case Load Trends, Calendar Year 2010
70
60
50
40
30
20
10
0
1/1/2010
2/1/2010
3/1/2010
4/1/2010
5/1/2010
6/1/2010
7/1/2010
8/1/2010
9/1/2010
10/1/2010
11/1/2010
12/1/2010
Low Priority
Medium Priority
High Priority

Figure 3


Number of Examination Candidates
2,900
2,800
2,700
2,600
2,500
2,400
2,300
2,200
2,591
2,692
2,860
2,429
2,707
2,551
2,537
FY 2004
FY 2005
FY 2006
FY 2007
FY 2008
FY 2009
FY 2010

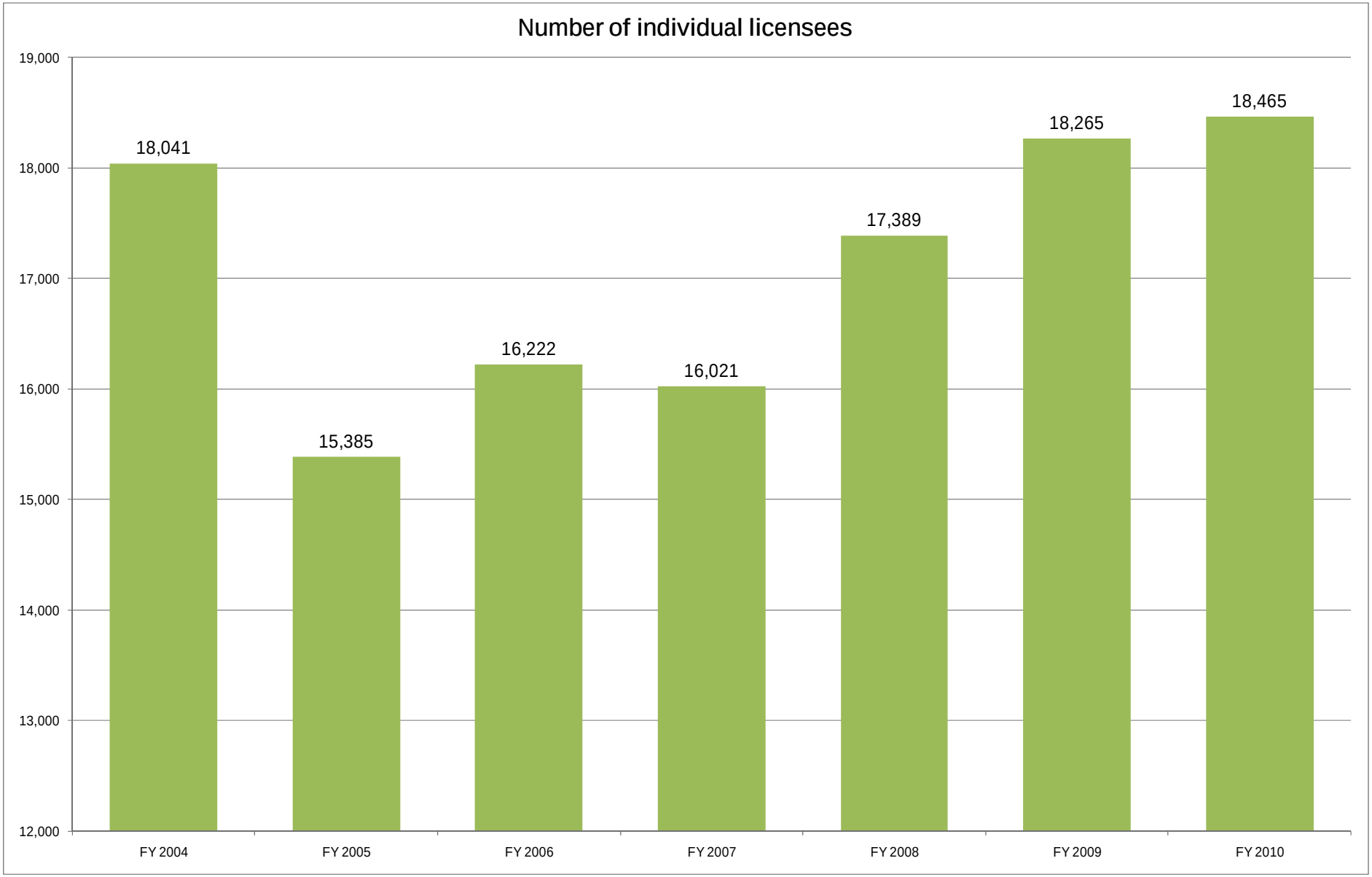

Number of individual licensees
19,000
18,000
17,000
16,000
15,000
14,000
13,000
12,000
18,041
15,385
16,222
16,021
17,389
18,265
18,465
FY 2004
FY 2005
FY 2006
FY 2007
FY 2008
FY 2009
FY 2010

Figure 5

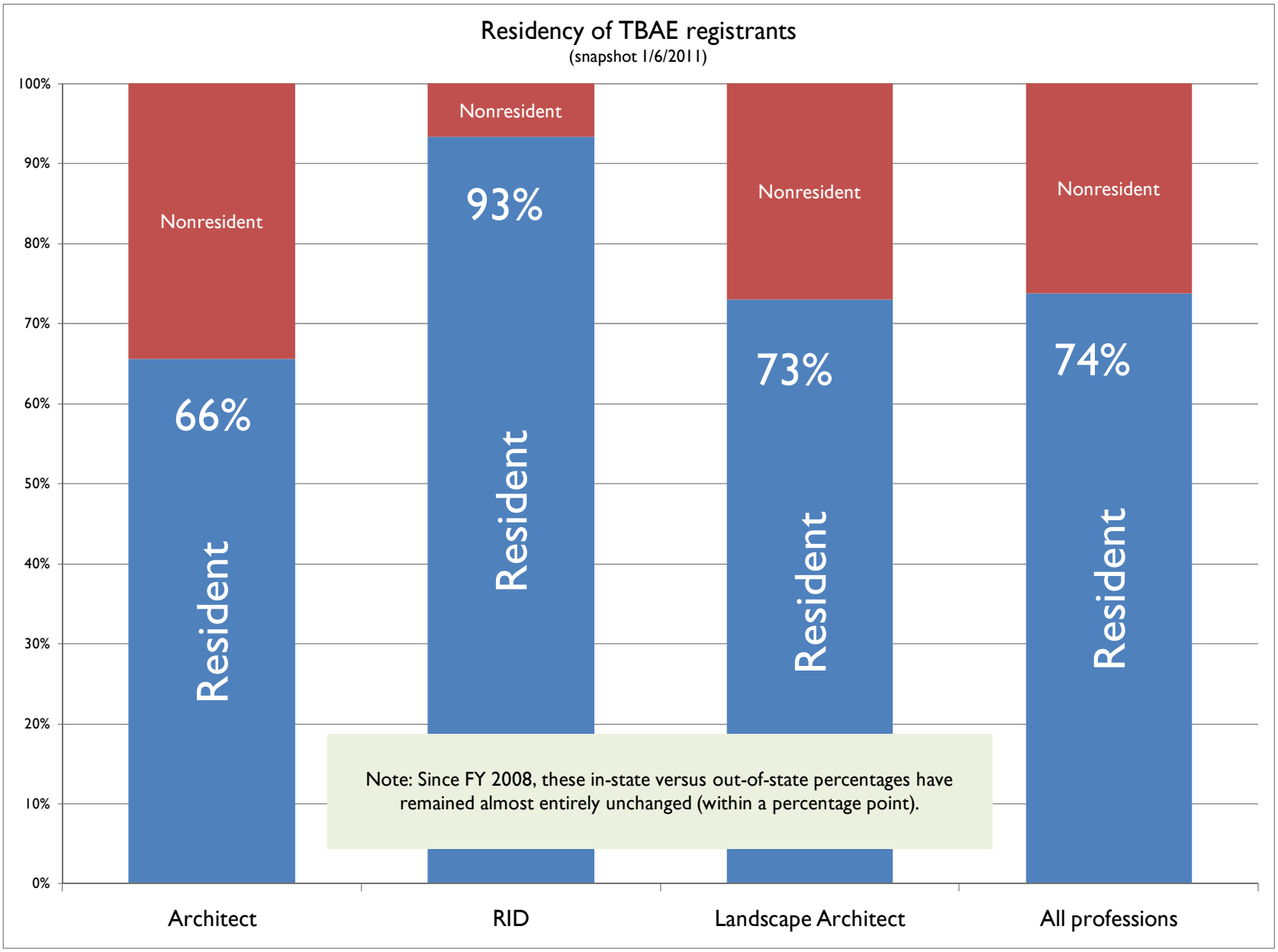

Residency of TBAE registrants
(snapshot 1/6/2011)
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Nonresident
66%
Resident
Nonresident
93%
Resident
Nonresident
73%
Resident
Nonresident
74%
Resident
Note: Since FY 2008, these in-state versus out-of-state percentages have remained almost entirely unchanged (within a percentage point).
Architect
RID
Landscape Architect
All professions

Figure 6

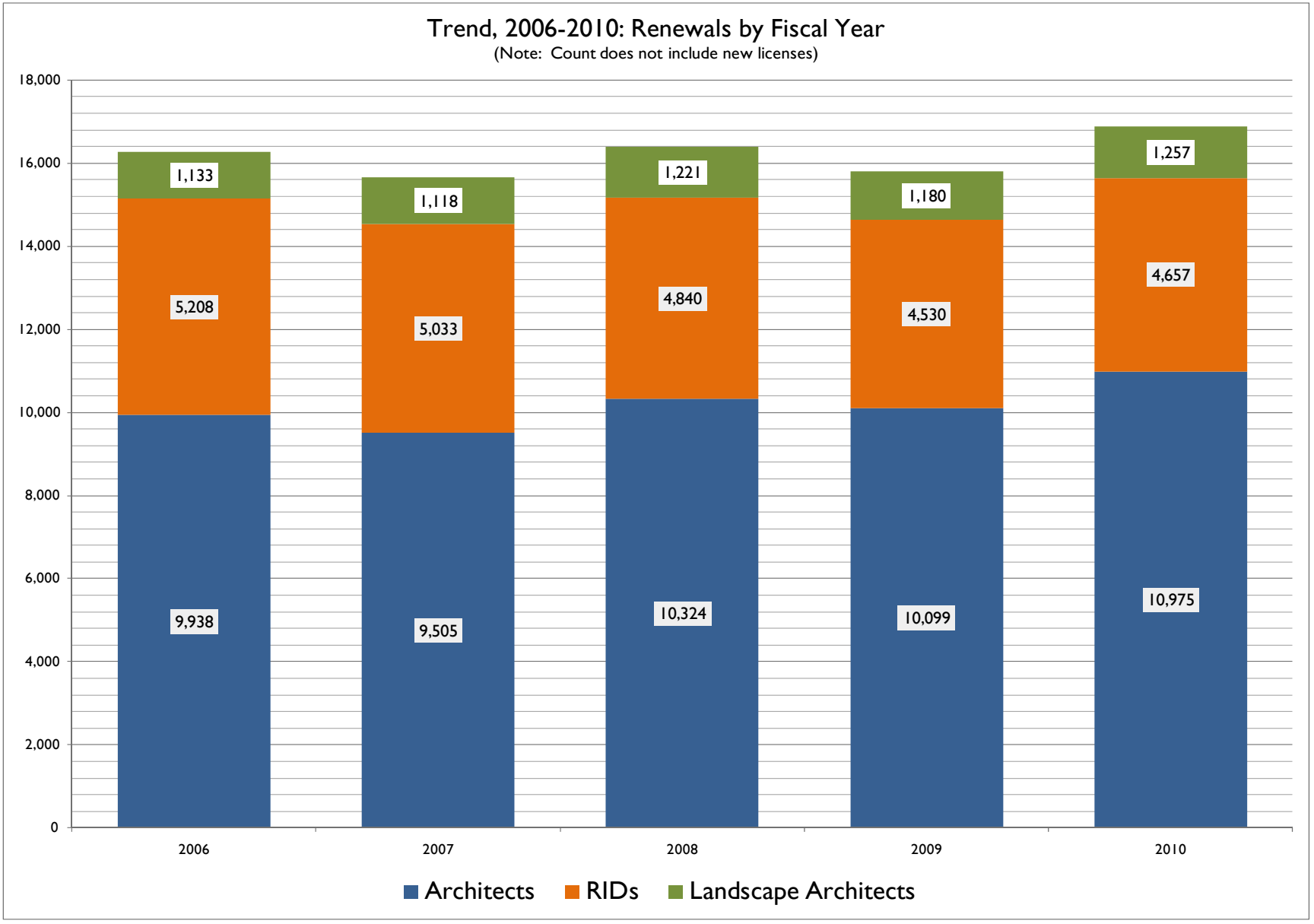

Trend, 2006-2010: Renewals by Fiscal Year
(Note: Count does not include new licenses)
18,000
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
0
1,133
5,208
9,938
1,118
5,033
9,505
1,221
4,840
10,324
1,180
4,530
10,099
1,257
4,657
10,975
2006
2007
2008
2009
2010
Architects
RIDs
Landscape Architects

Figure 7

Summary

Proposed Rule Amendments

Changes to Education and Experience Requirements
For Registration by Examination

Background

Currently, an applicant for interior design registration must obtain two years of experience working under the direct supervision of a registered interior designer or an architect. The National Council for Interior Design Qualification (NCIDQ) has created an interior design experience program which details specific activities in which an applicant for interior design registration must gain experience in order to become registered. To complete the program, an applicant must obtain 3,520 hours of experience.

The current rules relating to the educational prerequisites for interior design registration by examination list differing education and experience requirements depending upon: the date upon which the applicant's education or experience began, the amount of work experience, the number of semester hours obtained, and the date upon which the applicant applied. As a result, there is an array of different standards based upon data that may be difficult or impossible to verify.

The rules for architects and landscape architects also retain pre-existing (more lenient) standards for certain applicants, depending upon the date upon which the applicant began fulfilling education and experience requirements.

Proposed Amendments

The "grandfathering" provisions for architects, landscape architects and interior designers will be restricted to those who applied on or before August 31, 2011. The "grandfather" provisions will be repealed on September 1, 2010. *See* amendments to Sections 1.21, 3.21, and 5.31.

Certain obsolete "grandfather" provisions for certain classes of interior design applicants are repealed. Those classes either are closed or will be closed by the time the amendments to the rule take effect. *See* amendments to Section 5.31.

The amendments allow applicants to opt to complete the Interior Design Experience Program in lieu of the pre-existing experience requirements. The proposed rule differs slightly from the NCIDQ Program in that NCIDQ would award credit for observing the work of another while the rule would allow credit only for work performed by the applicant under the direct supervision of a registered interior designer or an architect.

The proposed amendments were published in the November 19, 2010 edition of the *Texas Register*. To date, the agency has received no public comment.

RULE §1.21 – Registration by Examination

(a) In order to obtain architectural registration by examination in Texas, an Applicant:

(1) shall have a professional degree from:

(A) an architectural education program accredited by the National Architectural Accreditation Board (NAAB),

(B) an architectural education program that became accredited by NAAB not later than two years after the Applicant's graduation,

(C) an architectural education program that was granted candidacy status by NAAB and became accredited by NAAB not later than three years after the Applicant's graduation, or

(D) an architectural education program outside the United States where an evaluation by NAAB or another organization acceptable to the Board has concluded that the program is substantially equivalent to an NAAB accredited professional program;

(2) shall successfully demonstrate completion of the Intern Development Program [~~Texas Board of Architectural Examiners Intern Development Training Requirement~~]; and

(3) shall successfully complete the architectural registration examination as more fully described in Subchapter C.

(b) An Applicant who applies for architectural registration by examination on or before August 31, 2011 is [~~shall~~] not [~~be~~] required to complete the Intern Development Program [~~Texas Board of Architectural Examiners Intern Development Training Requirement~~] if the Applicant successfully demonstrates that prior to January 1, 1984, he/she acquired at least eight (8) years of acceptable architectural experience or eight (8) years of a combination of acceptable education and experience. This subsection is repealed effective September 1, 2011.

(c) An Applicant who applies for architectural registration by examination on or before August 31, 2011 and who commenced his/her architectural education or experience prior to September 1, 1999, shall be subject to the rules and regulations relating to educational and experiential requirements as they existed on August 31, 1999. This subsection is repealed effective September 1, 2011.

(d) For purposes of this section, an Applicant shall be considered to have "commenced" his/her architectural education upon enrollment in an acceptable architectural education program. This subsection is repealed effective September 1, 2011.

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

RULE §3.21 – Registration by Examination

(a) In order to obtain landscape architectural registration by examination in Texas, an Applicant:

(1) shall have a professional degree from:

(A) a landscape architectural education program accredited by the Landscape Architectural Accreditation Board (LAAB),

(B) a landscape architectural education program that became accredited by LAAB not later than two years after the Applicant's graduation,

(C) a landscape architectural education program that was granted candidacy status by LAAB and became accredited by LAAB not later than three years after the Applicant's graduation, or

(D) a landscape architectural education program outside the United States where an evaluation by Education Credential Evaluators or another organization acceptable to the Board has concluded that the program is substantially equivalent to an LAAB accredited professional program;

(2) shall successfully demonstrate that he/she has gained at least two (2) years' actual experience working directly under a licensed landscape architect or other experience approved by the Board pursuant to the Texas Table of Equivalents for Experience in Landscape Architecture; and

(3) shall successfully complete the landscape architectural registration examination as more fully described in Subchapter C of this chapter.

(b) An Applicant who applies for landscape architectural registration by examination on or before August 31, 2011 and who commenced his/her landscape architectural education or experience prior to September 1, 1999, is [~~shallbe~~] subject to the rules and regulations relating to educational and experiential requirements as they existed on August 31, 1999. This subsection is repealed effective September 1, 2011

(c) For purposes of this section, an Applicant shall be considered to have "commenced" his/her landscape architectural education upon enrollment in an acceptable landscape architectural education program. This subsection is repealed effective September 1, 2011.

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

RULE §5.31 – Registration by Examination

(a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall demonstrate that the Applicant has a combined total of at least six years of approved Interior Design education and experience and shall successfully complete the Interior Design registration examination as more fully described in Subchapter C of this chapter. For purposes of this section, an Applicant has "approved Interior Design education" if:

(1) The Applicant graduated from:

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

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

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

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

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

(3) The Applicant has:

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

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

(4) The Applicant has:

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

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

[~~(5) The Applicant applied on or before August 31, 2010, and prior to that date, the Applicant successfully completed:~~]

[~~(A) At least six years of actual experience working under the direct supervision of a Registered Interior Designer or a registered architect;~~]

[~~(B) An associate's degree in Interior Design from an institution accredited by an agency recognized by the Texas Higher Education Coordinating Board; and~~]

[~~(C) Credit for the equivalent of at least 60 semester credit hours toward any baccalaureate degree; or~~]

[~~(6) The Applicant applied on or before August 31, 2010, and prior to that date, the Applicant successfully completed:~~]

[~~(A) At least four years of actual experience working under the direct supervision of a Registered Interior Designer or a registered architect;~~]

[~~(B) A CIDA accredited or FIDER accredited pre-professional assistant level program; and~~]

[~~(C) Credit for the equivalent of at least 60 semester credit hours toward any baccalaureate degree.~~]

(b) In order to obtain Interior Design registration by examination in Texas, an Applicant must also successfully complete the Interior Design Experience Program administered by the National Council for Interior Design Qualification or two years of approved experience as more fully described in Subchapter J of this chapter (relating to Table of Equivalents for Education and Experience in Interior Design).

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

(d) [~~(c)~~] For purposes of this section, the term "approved Interior Design education" does not include continuing education courses.

(e) [~~(d)~~] An Applicant for Interior Design registration by examination who enrolls in an Interior Design educational program [~~commences completion of the educational requirements for registration~~] after September 1, 2006, must graduate from a program described in subsection (a)(1) of this section [~~that has been granted professional status by CIDA or its predecessor, FIDER~~].

(f) [~~(e)~~] An Applicant who applies for Interior Design registration by examination on or before August 31, 2011 and who commenced his/her Interior Design education or experience prior to September 1, 1999, shall be subject to the rules and regulations relating to educational and experiential requirements as they existed on August 31, 1999. This subsection is repealed effective September 1, 2011.

[~~(f) For purposes of this section, an applicant shall be considered to have "commenced" his/her Interior Design education upon enrollment in an acceptable Interior Design education program.~~]

[~~(g) An Applicant who filed an application for registration without examination prior to August 31, 1994, is subject to the rules and regulations relating to educational and experiential requirements in effect at the time the application was filed. Such Applicant must complete the required six years of experience on or before September 1, 2003, in order to be eligible for registration without examination.~~]

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

RULE §5.202 – Description of Approved Experience for Registration by Examination

(a) Every Applicant [~~except an Applicant who completes the educational requirements pursuant to §5.31(a)(5) or §5.31(a)(6) of this title (relating to Registration by Examination)~~] must successfully demonstrate that he/she has gained a [~~the~~] minimum of two years of experience credit required for registration by examination or successfully complete the Interior Design Experience Program administered by the National Council for Interior Design Qualification. [~~in accordance with the following table:~~]

(b) An Applicant who opts to fulfill experience requirements by obtaining two years of experience credit must do so in accordance with the following table subject to the following terms and conditions:

Description of Experience		Credit Allowed	Maximum Credit
ID-7	Diversified experience directly related to Interior Design as an employee working under the Direct Supervision of a Registered Interior Designer or architect	Full credit	No limit
ID-8	Diversified experience directly related to Interior Design when the experience is not under the Direct Supervision of a Registered Interior Designer or architect	Half credit	1 year
ID-9	Teaching on a full-time basis in a CIDA-accredited program in Interior Design	Full credit	1 year

(1) [~~(b)~~] An Applicant must earn at least one year of experience credit under the conditions described in category ID-7.

(2) [~~(c)~~] In order to earn credit in category ID-7 or ID-8, an Applicant must:

(A) [~~(1)~~] work at least thirty-five (35) hours per week for a minimum of ten (10) consecutive weeks; or

(B) [~~(2)~~] for half credit, work between twenty (20) and thirty-four (34) hours per week for a minimum of six (6) consecutive months.

(3) [~~(d)~~] In order to earn credit in category ID-9, an Applicant must teach subjects that are directly related to the practice of interior design. An Applicant may earn one year of credit by teaching for twenty (20) semester credit hours or thirty (30) quarter credit hours.

(4) [~~(c)~~] An Applicant may not earn credit for experience gained prior to the date the Applicant completed the educational requirements for Interior Design [~~interior design~~] registration by examination in Texas unless the applicant is fulfilling the experience requirement by completion of the Interior Design Experience Program administered by the National Council of Interior Design Qualification.

(c) An Applicant who seeks to fulfill experience requirements by successfully completing the Interior Design Experience Program administered by the National Council for Interior Design Qualification must earn credit for at least 3,520 hours in accordance with the following chart subject to the following terms and conditions:

	Minimum Hours of Experience
1. Programming	**570 Total**
a. Client Requirements	135
b. Research	75
c. Space and Conditions Analysis	125
d. Client/User Interviews	45
e. Life Safety and Code Requirements	90
f. Problem Solving	100
2. Schematic Design	**445 Total**
a. Design Concept	110
b. Space Relationships	90
c. Client Meetings	15
d. Preliminary Drawings	90
e. Preliminary Budget and Cost	75
f. Color Concept	65
3. Design Development	**1240 Total**
a. Space Planning	210
b. Furniture, Fixtures, and Equipment Layout	140
c. Lighting Plans and Preliminary Specs	145
d. Electrical Plans and Preliminary Specs	75
e. Reflected Ceiling Plan	85
f. Plumbing Plans and Preliminary Specs	75
g. Detailing-Millwork, Custom Cab. and Furn.	135
h. Furnishing and Textile Selection	95
i. Materials and Finish Selection	90

j. Budgeting	95
k. Presentations-Oral, Written, Graphic	95
4. Contract Documents	**655 Total**
a. Working Drawings-Interior Construction	195
b. Working Drawings-Custom Cab. and Furn.	145
c. Spec Writing	140
d. Bidding and Contract Documents	80
e. Purchase Documents	95
5. Contract Administration	**325 Total**
a. Checking Shop Drawings	25
b. Job Observation	110
c. Installation Scheduling	30
d. Installation (*observation permitted)	40
e. Client and Contractor Meetings	45
f. Punch/Deficiency List	25
g. Site Inspection, Survey and Documentation	50
6. Professional Practice	**285 Total**
a. Office Procedures and Technology	85
b. Resource Library	55
c. Contact with Trade Reps	40
d. Contractual Agreements (*observation permitted)	105

*Denotes modifications made by the Texas Board of Architectural Examiners.

(1) An Applicant may earn credit for each hour of work actually performed by the Applicant working under the Direct Supervision of a Registered Interior Designer or an architect. An Applicant may not earn credit for observing the work of another person, except as noted in Figure 22 TAC §5.202(c), items 5.d. and 6.d.

(2) An Applicant who opts to meet the experience requirements by completing the Program must file all experience records with the National Council for Interior Design Qualification and otherwise follow the procedures established by the Council to receive credit toward registration.

Statutory Authority

Education and Experience Requirements

Sec. 1051.705. ELIGIBILITY AND APPLICATION FOR EXAMINATION.

(a) A person may apply for an examination under this chapter if the person:

(1) is a graduate of a recognized university or college of architecture approved by the board; and

(2) has satisfactory experience in architecture, in an office or offices of one or more legally practicing architects, as prescribed by board rule.

(b) The applicant must present to the board:

(1) a diploma showing that the applicant meets the education requirement established by Subsection (a)(1); and

(2) evidence acceptable to the board that the applicant meets the experience requirement established by Subsection (a)(2).

(c) The board shall set an examination fee in an amount reasonable and necessary to cover the cost of the examination.

Sec. 1052.154. ELIGIBILITY FOR EXAMINATION; APPLICATION.

(a) A person may apply for examination under this chapter if the person:

(1) is a graduate of a landscape architecture educational program recognized and approved by the board; and

(2) has satisfactory experience in landscape architecture as required by board rule.

(b) The application must be accompanied by a fee set by the board in an amount that is reasonable and necessary to defray administrative costs.

Sec. 1053.155. APPLICATION FOR ADMISSION TO EXAMINATION.

(a) An applicant for a certificate of registration must apply to the board, on a form prescribed by the board, for admission to the registration examination.

(b) An application for admission to the registration examination must be accompanied by evidence satisfactory to the board that the applicant:

(1) has **graduated from an interior design educational program** recognized and approved by the board; and

(2) has **professional experience in the field of interior design**.

(c) The board shall adopt rules establishing standards for:

(1) the recognition and approval of interior design educational programs; and

(2) the amounts and types of professional experience necessary for registration examination eligibility.

Summary

Proposed Rules

Changes to Architectural Intern Development Program

Background

Recently, the National Council of Architectural Registration Boards (NCARB) changed the standards for recording the experience gained through an internship as a prerequisite for registration as an architect. NCARB also modified the definition of the term "direct supervision" which describes the level of oversight an intern must receive while completing his or her internship. These changes went into effect in January, 2010. The December 2009 edition of the newsletter *Fast Facts* published by NCARB which describes the changes to the internship program. *See* attached. At its October 2010 meeting, the Board to proposed amendments to rules to conform to the new NCARB standards. The amendments were published in the November 19, 2010 edition of the *Texas Register*. The agency has not received public comment regarding the proposed rules.

Recommended Amendments

The proposed amendments change the internship standards as follows:

- Changes the experience requirements from 700 training units to 5,600 training hours. The actual hours to complete the internship would remain the same.
- Repeal the definition of the term "direct supervision." NCARB revised its definition of "direct supervision" to be substantively identical to the TBAE definition of "supervision and control." In lieu of defining the same standard of supervision for two terms ("direct supervision" and "supervision and control"), the term "direct supervision" is eliminated and the internship requirements are amended to read that an intern shall work under the supervision and control of an architect. (Currently the term "direct supervision" is used only in the internship requirements.)
- Makes minor revisions to the minimum number of hours per week and the minimum number of consecutive weeks an intern must work in order to receive credit for training hours.

Conforming TBAE requirements to the NCARB standards will remove potential barriers to reciprocity for Texas architects.

NCARB

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Volume 13, Issue 10

2 December 2009

Message From Director, Records Doug Morgan: Electronic Transmittals

Certificate holders have been clear that they'd like to see our delivery process expedited, and this is also aligned with our commitment to Business Process Reengineering (BPR). Beginning on 1 January 2010, NCARB will start transmitting all customer records through the electronic delivery process. We believe that this change will improve customer service to our Member Boards—and to our mutual customers who are seeking initial and reciprocal licensure with your boards.

We greatly appreciate your support as we prepare for this process change dedicated to the continuation of our BPR efforts and improved service processing times. If you have any questions, please contact Doug Morgan at 202/4542231 or dmorgan@ncarb.org.

IDP 2.0: Phase 2 Goes Into Effect 1 January 2010 Training Units to Training Hours

Effective January 1, 2010, Intern Development Program (IDP) experience will be reported in training hours instead of training units. The IDP experience requirement will go from 700 training units to 5,600 training hours. The actual number of experience hours required to complete the IDP remains the same.

One hour of acceptable work experience equals one training hour for all experience reports entered after 1 January 2010. Eight training hours equals one training unit. The lowest denomination the system will accept is .25 hours. The conversion of previously entered units to training hours will happen automatically within the eEVR.

Your jurisdictional requirements may continue to reference training units after January

1. Although the eEVR will reflect experience in training hours to Record holders, some of the "behind the scenes" systems are older and will take longer to update. During this time, NCARB will continue to send information to jurisdictions in terms of training units. This will include the experience reports and IDP summaries that are provided in Record transmittals along with the experience entry on the early eligibility reports.

The *IDP Guidelines* will be updated in January to reflect the switch to training hours.

Key Definitions

Beginning 1 January 2010, "direct supervision" will be defined as:

'Direct supervision' of interns shall occur either through personal contact or through a mix of personal contact and remote communication (e.g. email, online markups, webinars, internet) such that the IDP supervisor has control over the work of the intern and has sufficient professional knowledge of the supervised work so that the IDP supervisor can determine that the intern understands and is performing his or her work experience within the professional standard of care.

To earn training hours in workplace settings described in the *IDP Guidelines*, the intern must work under the direct supervision of an IDP supervisor. The supervisor shall verify the training activities of the intern and foster a professional relationship that is grounded in a direct professional association between the intern and the supervisor."

The requirement for an IDP supervisor to be licensed in the jurisdiction where their office is located will not change on 1 January 2010. The NCARB Board of Directors has postponed the implementation of a change in the definition of the IDP supervisor because it would cause impediments to the completion of the IDP and earning licensure in some jurisdictions. The definition of an IDP supervisor remains under review for revision at a future date.

The *IDP Guidelines* will retain the following statements:
A "registered architect" is a person registered to practice architecture in the jurisdiction in which they practice.

A person practices as a "principal" by being (a) a registered architect as defined above and (b) the person in charge of the organization's architectural practice, either alone or with other registered architects.

Supplementary Education

Beginning 1 January 2010, interns, whether or not employed, may earn minimum (core) training hours by having their mentor sign off on the Emerging Professional's Companion (EPC) activities. Exercises from the EPC will continue to be counted as supplementary education, and as of 1 January 2010 may also be approved by a mentor.

Also January 1, one AIA learning unit will equal one IDP training hour.

IDP* and *ARE eNews

The November editions of the *ARE* and *IDP eNews* are available on our web site.

November ARE eNews: ARE Scoring 101

http://www.ncarb.org/Publications/List.aspx?t=areenews

November IDP eNews: Get Ready for the Next Phase of IDP 2.0

http://www.ncarb.org/Publications/List.aspx?t=idpenews

NCARB Prize Book

The *2009 NCARB Prize Book* was mailed this week. If you would like additional copies, please contact Grace Han at ghan@ncarb.org

Fast Facts is a monthly Member benefit distributed via email to NCARB Member Board Executives that includes updates and information from the Council Board of Directors and the seven office directorates. If you have any questions and/or suggestions regarding *Fast Facts*, please contact Amanda Pica at apica@ncarb.org

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.

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

(4) APA--Administrative Procedure Act.

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

(6) Architect--An individual who holds a valid Texas architectural registration certificate granted by the Board.

(7) Architect Registration Examination (ARE)--The standardized test that a Candidate must pass in order to obtain a valid Texas architectural registration certificate.

(8) 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.

(9) Architects' Registration Law--Article 249a, Vernon's Texas Civil Statutes, and Chapter 1051, Texas Occupations Code.

(10) Architectural Barriers Act--Article 9102, Vernon's Texas Civil Statutes and Texas Government Code, Chapter 469.

(11) Architectural Intern--An individual enrolled in the Intern Development Program (IDP).

(12) ARE--Architect Registration Examination.

(13) AREFAF--Architect Registration Examination Financial Assistance Fund.

(14) Authorship--The state of having personally created something.

(15) 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.

(16) Board--Texas Board of Architectural Examiners.

(17) 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.

(18) Candidate--An Applicant approved by the Board to take the ARE.

(19) EPH--Continuing Education Program Hour(s).

(20) Chair--The member of the Board who serves as the Board's presiding officer.

(21) 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.

(22) 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.

(23) 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.

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

(25) Council Certification--Certification granted by NCARB to architects who have satisfied certain standards related to architectural education, training, and examination.

(26) 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) 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.~~]

(27) [~~(28)~~] 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.

(28) [~~(29)~~] 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.

(29) [~~(30)~~] 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.

(30) [~~(31)~~] 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.

(31) [~~(32)~~] 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.

(32) [~~(33)~~] 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.

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

(34) [~~(35)~~] IDP--The Intern Development Program as administered by NCARB.

(35) [~~(36)~~] Inactive--A registration status signifying that an Architect may not Practice Architecture in the State of Texas.

(36) [~~(37)~~] Intern Development Program (IDP)--A comprehensive internship program established, interpreted, and enforced by NCARB.

(37) [~~(38)~~] Intern Development Training Requirement--Architectural experience necessary for an Applicant to obtain architectural registration by examination in Texas.

(38) [~~(39)~~] 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.

(39) [~~(40)~~] Licensed--Registered.

(40) [~~(41)~~] Member Board--An architectural registration board that is part of the nonprofit federation of architectural registration boards known as NCARB.

(41) [~~(42)~~] NAAB--National Architectural Accrediting Board.

(42) [~~(43)~~] National Architectural Accrediting Board (NAAB)--An agency that accredits architectural degree programs in the United States.

(43) [~~(44)~~] 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.

(44) [~~(45)~~] NCARB--National Council of Architectural Registration Boards.

(45) [~~(46)~~] Nonregistrant--An individual who is not an Architect.

(46) [~~(47)~~] 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.

(47) [~~(48)~~] 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.

(48) [~~(49)~~] 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.

(49) [~~(50)~~] Principal--An architect who is responsible, either alone or with other architects, for an organization's Practice of Architecture.

(50) [~~(51)~~] 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.

(51) [~~(52)~~] 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.

(52) [~~(53)~~] Registered--Licensed.

(53) [~~(54)~~] Registrant--Architect.

(54) [~~(55)~~] 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.

(55) [~~(56)~~] Reinstatement--The procedure through which a Surrendered or revoked Texas architectural registration certificate is restored.

(56) [~~(57)~~] Renewal--The procedure through which an Architect pays a periodic fee so that the Architect's registration certificate will continue to be effective.

(57) [~~(58)~~] 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.

(58) [~~(59)~~] Revocation or Revoked--The termination of an architectural registration certificate by the Board.

(59) [~~(60)~~] Rules and Regulations of the Board--22 Texas Administrative Code §§1.1 et seq.

(60) [~~(61)~~] Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.

(61) [~~(62)~~] 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.

(62) [~~(63)~~] SOAH--State Office of Administrative Hearings.

(63) [~~(64)~~] 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.

(64) [~~(65)~~] 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.

(65) [~~(66)~~] Supplemental Document--A document that modifies or adds to the technical architectural content of an existing Construction Document.

(66) [~~(67)~~] Surrender--The act of relinquishing a Texas architectural registration certificate along with all privileges associated with the certificate.

(67) [~~(68)~~] 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.

(68) [~~(69)~~] TBAE--Texas Board of Architectural Examiners.

(69) [~~(70)~~] TDLR--Texas Department of Licensing and Regulation.

(70) [~~(71)~~] Texas Department of Licensing and Regulation (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.

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

(72) [~~(73)~~] TGSLC--Texas Guaranteed Student Loan Corporation.

(73) [~~(74)~~] 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.

RULE §1.191 – Description of Experience Required for Registration by Examination

(a) Pursuant to § [~~Section~~] 1.21 of this title (relating to Registration by Examination) [~~Subchapter B~~], an Applicant must successfully demonstrate completion of the Intern Development Training Requirement by earning credit for at least 5,600 Training Hours [~~700 Training Units~~] as described in this subchapter.

(b) An Applicant must earn credit for at least 2,800 Training Hours [~~350 Training Units~~] in the areas of design and construction documents in accordance with the following chart:

Subjects Related to Design and Construction Documents	Minimum Training Hours Required
Programming	80
Site and Environmental Analysis	80
Schematic Design	120
Engineering Systems Coordination	120
Building Cost Analysis	80
Code Research	120
Design Development	320
Construction Documents	1,080
Specifications and Materials Research	120
Documents Checking and Coordination	80
Elective Units in Design and Construction Documents	600

(c) An Applicant must earn credit for at least five hundred and sixty (560) Training Hours [~~seventy (70) Training Units~~] in the areas of construction administration in accordance with the following chart:

Subjects Related to Construction Administration	Minimum Training Hours Required
Bidding and Contract Negotiation	80
Construction Phase (office)	120
Construction Phase (observation)	120
Elective Units in Construction Administration	240

(d) An Applicant must earn credit for at least two hundred and eighty (280) Training Hours [~~thirty-five (35) Training Units~~] in the area of management in accordance with the following chart:

Subjects Related to Management	Minimum Training Hours Required
Project Management	120
Office Management	80
Elective Units in Management	80

(e) An Applicant must earn credit for at least eighty (80) Training Hours [~~ten (10) Training Units~~] in the areas of professional and community service.

(f) An Applicant must earn credit for at least 1,880 elective Training Hours [~~235 elective Training Units~~]. Credit for elective Training Hours [~~Units~~] may be earned in any of the categories described in subsections [~~Subsections~~] (a) - [~~ through~~] (e) of this section and/or in teaching, research, a post-professional degree, or other related activities.

(g) An Applicant shall receive credit for Training Hours [~~Units~~] in accordance with the following chart:

Training Setting	Maximum Training Hours Awarded
Training Setting A Training under the Supervision and Control of a registered architect when the organization's practice (1) is in the charge of a registered architect practicing as a principal and (2) encompasses the comprehensive practice of architecture	No limit Every Applicant must earn at least 1,880 Training Hours in Training Setting A.
Training Setting B Training under the Supervision and Control of a registered architect when the organization's practice *does not* encompass the comprehensive practice of architecture	3,720 Training Hours
Training Setting C Training in a firm engaged in the practice of architecture outside the U.S. when such training is under the Supervision and Control of a person practicing architecture who is not registered in a U.S. jurisdiction	1,880 Training Hours

Training Setting D Experience directly related to architecture under the Supervision and Control of a registered engineer practicing as a structural, civil, mechanical, or electrical engineer in the field of building construction or under the Supervision and Control of a registered landscape architect	1,880 Training Hours
Training Setting E Experience (other than that noted above in A through D) in activities involving the design and construction of the built environment, such as analysis of existing buildings, planning, programming, design of interior space, review of technical submissions, and engaging in building construction activities, when such experience is under the Supervision and Control of a person experienced in the activity	936 Training Hours
Training Setting F Full-time teaching or research in an NAAB-accredited professional degree program	1,960 Training Hours To earn Training Hours in Training Setting F, an Applicant must be employed as a teacher or researcher on a full-time basis.
Training Setting G Performing professional and community service when not in any of the settings described above in A through F	80 Training Hours

RULE §1.192 – Additional Criteria

(a) One Training Hour [~~Unit~~] shall equal one hour [~~eight hours~~] of acceptable experience. Training Hours may be reported in increments of not less than .25 of an hour.

(b) An Applicant may earn credit for Training Hours [~~Units~~] only after satisfactory completion of any one of the following:

(1) three (3) years in a professional program accredited by the National Architectural Accreditation Board (NAAB) or in an architectural education program outside the United States where an evaluation by NAAB or another organization acceptable to the Board has concluded that the program is substantially equivalent to an NAAB-accredited professional program;

(2) the third year of a four-year pre-professional degree program in architecture accepted for direct entry to a two-year NAAB-accredited professional master's degree program; or

(3) one (1) year in an NAAB-accredited professional master's degree program following receipt of a non-professional degree.

(c) In order to earn credit for Training Hours [~~Units~~] in any work setting other than a post-professional degree or teaching or research, an Applicant must:

(1) work at least thirty-two (32) [~~thirty-five (35)~~] hours per week for a minimum period of eight (8) consecutive weeks; or

(2) work at least fifteen (15) [~~twenty (20)~~] hours per week for a minimum period of eight (8) consecutive weeks [~~six (6) or more consecutive months~~].

(d) To earn credit for Training Hours [~~Units~~] for teaching or research, an Applicant must be employed in the teaching or research position on a full-time basis.

(e) One year in an architectural education program shall equal thirty-two (32) semester credit hours or forty-eight (48) quarter credit hours. An Applicant may not earn credit for Training Hours [~~Units~~] for experience that was counted toward the educational requirements for architectural registration by examination.

(f) Every training activity, the setting in which it took place, and the time devoted to the activity must be verified by the person who supervised the activity.

Statutory Authority

Architectural Intern Development Program

§1051.705. ELIGIBILITY AND APPLICATION FOR EXAMINATION

(a) A person may apply for an examination under this chapter if the person:

(1) is a graduate of a recognized university or college of architecture approved by the board; and

(2) **has satisfactory experience in architecture**, in an office or offices of one or more legally practicing architects, **as prescribed by board rule**.

(b) The applicant must present to the board:

(1) a diploma showing that the applicant meets the education requirement established by Subsection (a)(1); and

(2) evidence acceptable to the board that the applicant meets the experience requirement established by Subsection (a)(2).

(c) The board shall set an examination fee in an amount reasonable and necessary to cover the cost of the examination

Proposed Rule Amendment

Board Meeting Procedure – Robert's Rules

Summary

Background

At its meeting in May, the Board reviewed and considered the application of Robert's Rules of Order to its meetings. The Board directed staff to revise the rules to accommodate the Board's customs in conducting meetings. At the October meeting, the Board proposed amendments to Rule 7.5 to modify the procedures under Roberts' Rules of Order for Board meetings. The proposed rule amendment was published in the November 19, 2010 edition of the *Texas Register*. The agency has received no public comment on the rule.

Draft Rule

The draft rule makes the following adaptations to procedures under Robert's Rules:

- A matter may be put before the Board by introduction of agency personnel. Under Robert's Rules, a motion and second as stated by the Chair is necessary to put a matter before a deliberative body.
- Board members may pose questions of a factual or technical nature to agency personnel on a matter before a motion and second is made regarding the matter in question. Under Robert's Rules, a matter is not before the Board unless it has been put before the Board as a motion. Therefore any questions posed to staff on a matter prior to a motion would be out of order. Since staff members are not members of the Board, it would be out of order to pose questions to staff under Robert's Rules.
- The Board may pose questions to people who are not members of the Board on a matter. Under Roberts' Rules, a person may be invited to make a presentation to a deliberative body but may not engage in deliberations of the body. Posing questions or otherwise engaging a person who is not on the Board during deliberations would be out of order.

RULE §7.5 – Robert's Rules of Order

Unless required otherwise by law or this chapter, Robert's Rules of Order shall be used in the conduct of the Board's meetings, subject to the following adaptations to the rules:[.]

(1) Agency personnel may introduce a matter on the Board's agenda, prior to a motion and a second, in order to put the matter before the Board;

(2) A member of the Board, upon recognition by the Chair and without objection by another Board member, may ask agency personnel factual or technical questions about a matter before the Board, prior to a motion and second on the matter;

(3) Upon request by a member of the Board or upon the Chair's prerogative, the Chair may recognize someone who is not a member of the Board to provide factual or technical data germane to the matter currently before the Board, subject to strict limitations on relevance and time. Upon motion by a member of the Board or upon the Chair's prerogative, the Chair may reclaim the floor at any time from a person who is not a Board member.

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:	**TBAE: 167-07N / SOAH: 459-10-5054**
Respondent:	**Donatus I. Anyanwu and ADI Engineering, Inc.**
Location of Respondent:	**Houston, Texas**
Nature of Violation:	**Illegal Practice of Architecture and Title Violations**
Instrument:	**Report and Notice of Violation / SOAH Complaint**

This matter will be presented to the Board to accept, reject or accept with modifications a Proposal for Decision (PFD) issued by an Administrative Law Judge at the State Office of Administrative Hearings if the PFD is issued prior to the Board's meeting in late January.

At the time that the Board materials from the Legal Division were prepared the Administrative Law Judge was considering staff's Motion for Summary Disposition and staff's Motion for Issuance of a Default PFD.

It is believed that a ruling will be issued prior to the Board's January, 2011 meeting and that this case should be taken up at that time.

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:	**245-08N/246 and 245-08N**
Respondents	**Hector Guerra and Protasio Guerra**
Location of Respondent:	**Brownsville, Texas**
Date of Complaint Received:	**April, 2009**
Instrument:	**Report and Notice of Violation**

Findings:

- Hector and Protasio Guerra (Respondents) are the owners of the business "Home and Commercial Designs, LLC" in Brownsville, Texas.
- Neither they nor the business are registered to engage in the practice of architecture.
- In April, 2007 while engaged in design work upon a single family residence the business issued two sheets of architectural plans which each was titled "architectural plan."
- These plans were neither prepared by, nor under the supervision and control of, an architect.
- Upon internet advertising the Respondents described the business as "one of the premier architectural and design firms in . . . South Texas." The website also stated that one of the Respondents had obtained "the professional architect title in 2000."
- Each Respondent was identified with the title "Arq." which translates as "architect" in English; *i.e.*, Protasio Guerra, Arq.

Applicable Statutory Provisions and Rules:

- A person may not engage in the practice of architecture or offer or attempt to engage in the practice of architecture unless the person is registered as an architect. TEX. OCC. CODE ANN. § 1051.701(a) (West 2004 & Supp. 2008); Board rule 1.123 (no person or entity may use any form of the word 'architect' or 'architecture' in its name or to describe the services which it provides unless registered with the Board).
- The Board may impose an administrative penalty upon Respondents. These six violations must be classified as "moderate" violations. A moderate violation calls for imposition of a penalty of not less than **$351.00** and not more than $1,200. Board rule 1.177.

Action Recommended by Executive Director:

- The Executive Director recommends, and Respondents are prepared to accept imposition of an administrative penalty in the sum of **$6,000.00**.

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:	**045-10N**
Respondent:	**Jose Farias**
Location of Respondent:	**San Antonio**
Date of Complaint Received:	**July, 2009**
Instrument:	**Report and Notice of Violation**

Findings:

- Jose Farias (Respondent) is not, and never has been, registered to engage in the practice of architecture.
- On July 23, 2009, Respondent placed a bogus architectural seal upon four sheets of plans for the Tink-a-Taco at Wilderness Woods, San Antonio.

Applicable Statutory Provisions and Rules:

- A person may not engage in the practice of architecture, unless he or she is registered with the TBAE. TEX. OCC. CODE ANN. §§1051.701, 1051.752 , 1051.801 (West 2004 and Supp. 2008).
- The Board may impose an administrative penalty upon a nonregistrant who violates the Architects' practice Act such as Respondent. TEX. OCC. CODE ANN §1051.451, *et seq*. (West 2004 & Supp. 2008).

Action Recommended by Executive Director:

- Based upon the facts of this case the Executive Director recommends, and Respondent is prepared to accept, the imposition of a total administrative penalty in the sum of **$10,000.00.** The use of a bogus seal warrants classification of the violations as "major" violations for which an administrative penalty between **$1,251.00** and **$5,000.00**.

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:	**010-10A**
Respondent:	**Robert G. Dillard**
Location of Respondent:	**Houston, TX**
Date of Complaint Received:	**October 1, 2009**
Instrument:	**Report and Notice of Violation**

Findings:

- Robert G. Dillard (hereafter "Respondent") is a registered architect. His architectural registration number is 14303.
- On April 30, 2009, Respondent requested a change of status from active to inactive and became inactive on May 6, 2009.
- On June 5, 2009, August 21, 2009, September 7, 2009 and October 14, 2009, Respondent used his architectural seal to seal eight roof inspection reports.
- Respondent has had no prior complaints with the Board and has cooperated in this investigation. In addition, TBAE staff has determined that Respondent has no other projects and has not engaged in the practice of architecture in Texas during his inactive status.
- Respondent is currently on inactive status and recognizes that he is not allowed to practice architecture while on inactive status.

Applicable Statutory Provisions and Rules:

- A person may not engage in the practice of architecture or offer or attempt to engage in the practice of architecture unless the person is registered as an architect. TEX. OCC. CODE ANN. § 1051.701(a) (West 2004 & Supp. 2008).
- The Board may impose an administrative penalty upon Respondent.

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 **Three Hundred Fifty Dollars ($350.00)**.

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:	**176-08A**
Respondent:	**Marley E. Porter**
Location of Respondent:	**Marble Falls, Texas**
Date of Complaint Received:	**April, 2008**
Instrument:	**Report and Notice of Violation**

Findings:

- Marley E. Porter (Respondent) has been registered to engage in the practice of architecture since 1996.
- While performing design work for a single family residence in June 2006, he prepared and issued four sheets of architectural plans which were neither sealed nor labeled "Not for regulatory approval, permitting or construction" as required by Board rules 1.101 and 1.103.
- In September 2005, Respondent received a Written Warning from the Executive Director for his failure to comply with Board rule 1.103 and his "failure to seal, sign, and date drawings and specifications . . . or to clearly mark that they are incomplete and may not be used for "regulatory approval, permitting or construction."

Applicable Statutory Provisions and Rules:

- Board rules 1.101 and 1.103 require that an architect seal, sign and date construction documents or, if the architectural plans and specifications are not construction documents, to label the documents with the "architect's name and the date and clearly [mark them] to indicate that they may not be used for regulatory approval, permitting or construction."
- The Board may impose an administrative penalty upon Respondent. TEX. OCC. CODE ANN. § 1051.451.
- In recommending an administrative penalty in this case, consideration is given to the statutory criteria set forth in TEX. OCC. CODE ANN. §1051.452(b) and the regulatory guidance published at 22 TEX. ADMIN. CODE §1.165(f). Because Respondent has already received a Written Warning these violations must be classified as "moderate" violations. The penalty range for a 'moderate" violation is not less than $351.00 and not more than $1,200.00.

Action Recommended by Executive Director:

- The Executive Director recommends, and Respondent is prepared to accept, imposition of an administrative penalty in the sum of **$900.00** for five separate violations totaling an administrative penalty of **$4,500.00**.

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:	**016-11A**
Respondent:	**Michael Dean**
Location of Respondent:	**San Antonio, Texas**
Nature of Violation:	**Violation of Continuing Education Requirements**
Instrument:	**Report and Notice of Violation**

Findings:

- Michael Dean (Respondent) is registered as an architect in Texas with registration number 10375.
- Based upon the results of a random continuing education audit it was determined that Respondent had failed to complete his requisite continuing education requirements for the audit period of July 1, 2009 through June 30, 2010.
- In addition to completing 6.5 hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(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 1.69(f). The standard administrative penalty assessed for this violation is **$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **$1,200.00**.

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:	**043-11A**
Respondent:	**William Holmes**
Location of Respondent:	**Houston, Texas**
Nature of Violation:	**Violation of Continuing Education Requirements**
Instrument:	**Report and Notice of Violation**

Findings:

- William Holmes (Respondent) is registered as an architect in Texas with registration number 7934.
- Based upon the results of a random continuing education audit it was determined that Respondent had failed to complete his requisite continuing education requirements for the audit period of April 1, 2009 through March 31, 2010.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(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 1.69(f). The standard administrative penalty assessed for this violation is **$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **$1,200.00**.

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:	**154-10L**
Respondent:	**Michael R. McIntyre**
Location of Respondent:	**Carlsbad, California**
Nature of Violation:	**Violation of Continuing Education Requirements**
Instrument:	**Report and Notice of Violation**

Findings:

- Michael McIntyre (Respondent) is registered as a landscape architect in Texas with registration number 2319.
- As the result of a random continuing education audit it was determined that he had failed to complete continuing education obligations of the program year October 2008 through September 2009.
- In addition to failing to maintain requisite continuing education compliance respondent certified that he was in compliance with continuing education obligations in order to renew his landscape architect's 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 his online registration 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(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 3.69(f). The standard administrative penalty assessed for this violation is **$500.00**.
- By twice failing to respond to written requests for information within 30 days of staff's requests Respondent twice violated Board rule 3.171 which requires that a landscape architect answer an inquiry or produce requested documents within 30 days of a request. Each violation is subject to a standard administrative penalty of $250.00 for a total combined penalty of **$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:	**042-11A**
Respondent:	**Gordon Meehl**
Location of Respondent:	**Cumming, GA**
Nature of Violation:	**Violation of Continuing Education Requirements**
Instrument:	**Report and Notice of Violation**

Findings:

- Gordon Meehl (Respondent) is registered as an architect in Texas with registration number 20960.
- Based upon the results of a random continuing education audit it was determined that Respondent had failed to complete his continuing education requirements for the audit period of October 1, 2009 through September 30, 2010.

Applicable Statutory Provisions and Rules:

- 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 **$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **$500.00**.

The Texas Board of
Architectural Examiners

Be It Known That
Peggy Lewene “Lew” Vassberg

Has distinguished herself through her dedicated and conscientious service as a member of this Board from May of 2005 through January of 2011, having been appointed by Governor Rick Perry; and during her term having served as Vice-Chair; as Secretary-Treasurer; as a member of the Executive Committee; as a member of the Rules Committee; and

Whereas, Ms. Vassberg received the Texas Chapter of the American Society of Interior Designers’ Legacy of Design Award for Healthcare in 2004 for her work at the Children’s Center at Valley Baptist Medical Center in Harlingen, Texas; and

Whereas, Ms. Vassberg has enriched the profession of interior design through her years as president of Valley Designs, Inc.; and

Whereas, Ms. Vassberg has also enriched the profession of interior design through her service as founding member, Certificate Holder Number 1, Regent in Charge of Industry Partners, and Secretary/Treasurer of the American Academy of Healthcare Interior Designers; and

Whereas, Ms. Vassberg has served the public and further distinguished herself by serving as a former board member, former vice president, and member of the Texas Association for Interior Design; allied member of the American Society of Interior Designers; honorary life member of the American Heart Association; former board member of the Texas Retailers Association; and

Whereas, Ms. Vassberg serves her community by her close affiliation with such honorable civic groups as the American Heart Association of Harlingen; the Valley Zoological Society; and the Boy Scouts of America.

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners in Formal Meeting assembled this 24th Day of January, 2011, does publicly acknowledge its appreciation of outstanding board service and have voted unanimously for this

Resolution of Commendation

to Peggy Lewene “Lew” Vassberg, and have caused a copy of this Resolution
to be included within the Minutes of this Board.

SIGNED

Alfred Vidaurri, Jr., AIA, AICP	Chuck Anastos, AIA	Chase Bearden
Chair	Vice-Chair	Secretary-Treasurer

The Texas Board of
Architectural Examiners

Be It Known That
James S. Walker, II

Has distinguished himself through his dedicated and conscientious service as a member of this Board from May of 2005 through January of 2011, having been appointed by Governor Rick Perry; and during his term having served as Secretary-Treasurer; as a member of the Executive Committee; and

Whereas, Mr. Walker received a Bachelor of Architecture degree from the University of Houston and a master's degree from Texas Southern University; and

Whereas, Mr. Walker has enriched the profession of architecture through his many years as president of James S. Walker Architects; and

Whereas, Mr. Walker has served the public and further distinguished himself by serving as a member of the American Institute of Architects; the Texas Society of Architects; the National Organization of Minority Architects; and the Association of Black Consulting Engineers and Architects; and

Whereas, Mr. Walker serves his community by his close affiliation with such honorable civic groups as the Houston Citizen Chamber of Commerce; the University of Houston Alumni Organization; the Texas Southern University Alumni Organization, and chair of the advisory board of the Metropolitan Multiservice Center dedicated to serve people with disabilities.

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners in Formal Meeting assembled this 24th Day of January, 2011, does publicly acknowledge its appreciation of outstanding board service and have voted unanimously for this

Resolution of Commendation

to James S. Walker II, and have caused a copy of this Resolution
to be included within the Minutes of this Board.

SIGNED

Alfred Vidaurri, Jr., AIA, AICP	Chuck Anastos, AIA	Chase Bearden
Chair	Vice-Chair	Secretary-Treasurer

The Texas Board of
Architectural Examiners

Be It Known That
Rosemary A. Gammon

Has distinguished herself through her dedicated and conscientious service as a member of this Board from May of 2005 through January of 2011, having been appointed by Governor Rick Perry; and during her term having served as a member of the Executive Director Review Committee; and

Whereas, Ms. Gammon long has made her mark in the vibrant healthcare and medical fields, currently serving as Director of Reimbursement & Payer Policy at Xoft, Inc. and Mederi Therapeutics; and

Whereas, Ms. Gammon has enriched the State of Texas by serving honorably and well on the Texas Workers' Compensation Stakeholders Group and on the Texas Workers' Compensation Commission Medical Advisory Committee; and

Whereas, Ms. Gammon has served admirably as a member of the board of the Texas Association of Business; and previously served on the Texas Department of Insurance's Clean Claims Task Force; and

Whereas, Ms. Gammon is a graduate of Boston University and holds a designation by the Academy of Healthcare Management.

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners in Formal Meeting assembled this 24th Day of January, 2011, does publicly acknowledge its appreciation of outstanding board service and have voted unanimously for this

Resolution of Commendation

to Rosemary A. Gammon, and have caused a copy of this Resolution
to be included within the Minutes of this Board.

SIGNED

Alfred Vidaurri, Jr., AIA, AICP	Chuck Anastos, AIA	Chase Bearden
Chair	Vice-Chair	Secretary-Treasurer

Supplement:

Request from Texas Floodplain Management Association for ruling on architects' authority to issue a FEMA Elevation Certificate

Texas Floodplain Management Association

January 5, 2011

Texas Board of Architectural Examiners
333 Guadalupe Street, Suite 2-350
Austin, Texas 78711-2337

Ms. Cathy L. Hendricks, RID, ASID/IIDA, Executive Director

RE: Elevation Certificate FEMA Form 81-31, MAR 09/OMB No. 1660-0008

Dear Ms. Hendricks:

I am writing to you on behalf of the membership of the Texas Floodplain Management Association (TFMA) and over 1,200 Texas communities that are participating in the National Flood Insurance Program (NFIP). A community participating in the NFIP must require that new construction located within Special Flood Hazard Areas (within the 100-year floodplain) to be elevated at or above the Base Flood Elevation (BFE). Most communities require that the owner, developer or contractor responsible for new construction located within Special Flood Hazard Areas submit a completed FEMA Elevation Certificate as proof that the new construction is elevated as required by the community development permit. The FEMA Elevation Certificate instructions require that the Certificate must be prepared, signed and sealed "by a land surveyor, engineer or architect who is authorized by law to certify elevation information".

The land surveyor, engineer or architect must certify to the following statement – "I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available." Section A is Property Owner Information, Section B is Flood Insurance Rate Map (FIRM) Information, and Section C is Building Elevation Information (Survey Required). TFMA has been requested to provide direction to our membership, representing many Texas cities and counties, regarding who can "legally" prepare, sign and seal the FEMA Elevation Certificate. Section C of the Elevation Certificate states that a survey is required. In 2002 and again in 2004, TFMA contacted the Texas Board of Professional Land Surveying and the Texas Board of Professional Engineers and requested a determination of who has legal authority to sign, seal and certify a FEMA Elevation Certificate in Texas.

It is the purpose of TFMA to promote the common interest in flood damage mitigation, to enhance cooperation and to exchange information among the various related private organizations, individuals, local, state and federal agencies to encourage appropriate and effective approaches to managing the state's floodplains and to educate the public about floodplain management.

The Association is committed to the training and education needs of over 1,800 members and to rising the professional standards of those individuals designated the task of managing a sound comprehensive floodplain management program consistent with the criteria established by the NFIP.

In 2002 and again in 2004, the Texas Board of Professional Land Surveying and the Texas Board of Professional Engineers issued a joint ruling, copies attached, that either a Texas PE or Licensed Land Surveyor could conduct an elevation survey, prepare and certify elevations on the FEMA Elevation

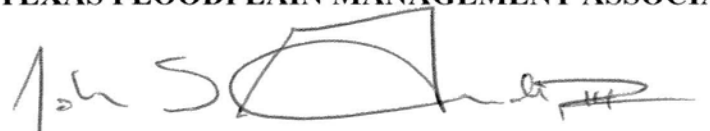
Certificate. In our oversight we did not make a similar request for a ruling from the Texas Board of Architectural Examiners or American Institute of Architects.

Recently, a Texas community received a FEMA Elevation Certificate that was prepared by an architect, licensed to practice in Texas, thereby prompting this correspondence to you. We are requesting a ruling or determination if a licensed architect in Texas can certify elevation information to meet the FEMA Elevation Certificate instructions that require that the Certificate to be prepared signed and sealed "by a land surveyor, engineer or architect who is authorized by law to certify elevation information".

TFMA will be holding their Annual Conference in Sugarland, April 11 through 14, 2011. A response prior to our conference would be greatly appreciated. If you should have any questions, or would like to discuss this matter, please feel free to contact me at (832) 613-9800 or by email at jgrounds@groundsanderson.com .

Sincerely,

TEXAS FLOODPLAIN MANAGEMENT ASSOCIATION



John S. Grounds, III, PhD, PE, CFM,
President, Texas Floodplain Management Association

cc: Mr. Michael Segner, CFM, Texas NFIP Coordinator, TWDB, Austin, Texas
Dale Hoff, CFM, FEMA Region VI, Mitigation Division

Enclosure(s) FEMA Form 81-31
Correspondence from Texas TSPE

TEXAS BOARD OF PROFESSIONAL ENGINEERS

1917 IH-35 SOUTH AUSTIN, TEXAS 78741 • (512) 440-7723 • FAX (512) 442-1414
E-mail: peboard@tbpe.state.tx.us • Website: www.tbpe.state.tx.us

April 15, 2004

Mr. John Ivey, Chairman
Association of State Floodplain Managers
Professional Development Committee
c/o Halff Associates, Inc.
4000 Fossil Creek Blvd.
Fort Worth, Texas 76137

Re: Request for Ruling
Elevation Certificate FEMA Form 81-31, January 2003/OMB No. 3067-0077

Dear Mr. Ivey:

The Texas Board of Professional Land Surveying (TBPLS) and the Texas Board of Professional Engineers originally sent a letter of response to this request on March 19, 2002 and Ms. Sandy Smith, Executive Director, TBPLS, sent that response via email on February 26, 2004, addressed to you.

That response should answer most, if not all, questions regarding this matter. The only additional item that might prove useful to your organization and members relates to an additional reference, to the paragraph of that letter of response explaining the Texas Engineering Practice Act, and that would be the following:

§ 1001.003. Practice of Engineering

(a) In this section:

> (2) "Engineering survey" includes any survey activity required to support the sound conception, planning, design, construction, maintenance, or operation of an engineered project. The term does not include the surveying of real property or other activity regulated under Chapter 1071.

The reference to Chapter 1071 is the Occupations Code, Title 6 chapter relating to the TBPLS.

The aforementioned letter of response and this additional reference should clarify any questions that your organization and members may have regarding the certification of the subject FEMA document. Please contact C.W. Clark, at 512-440-3081, if you have any further questions.

Sincerely,

Victoria J.L. Hsu, P.E.
Executive Director

cc: Ms. Sandy Smith, Executive Director, TBPLS

VJLH:cwc:jsb

FEMA

NATIONAL FLOOD INSURANCE PROGRAM

ELEVATION CERTIFICATE

AND

INSTRUCTIONS

NATIONAL FLOOD INSURANCE PROGRAM
ELEVATION CERTIFICATE

PAPERWORK REDUCTION ACT NOTICE

Public reporting burden for this data collection is estimated to average 3.75 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and submitting this form. You are not required to respond to this collection of information unless a valid OMB control number is displayed on this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street SW, Washington DC 20472, Paperwork Reduction Project (1660-0008). **NOTE: Do not send your completed form to this address.**

PURPOSE OF THE ELEVATION CERTIFICATE

The Elevation Certificate is an important administrative tool of the National Flood Insurance Program (NFIP). It is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

The Elevation Certificate is required in order to properly rate Post-FIRM buildings, which are buildings constructed after publication of the Flood Insurance Rate Map (FIRM), located in flood insurance Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. The Elevation Certificate is not required for Pre-FIRM buildings unless the building is being rated under the optional Post-FIRM flood insurance rules.

As part of the agreement for making flood insurance available in a community, the NFIP requires the community to adopt floodplain management regulations that specify minimum requirements for reducing flood losses. One such requirement is for the community to obtain the elevation of the lowest floor (including basement) of all new and substantially improved buildings, and maintain a record of such information. The Elevation Certificate provides a way for a community to document compliance with the community's floodplain management ordinance.

Use of this certificate does not provide a waiver of the flood insurance purchase requirement. Only a LOMA or LOMR-F from the Federal Emergency Management Agency (FEMA) can amend the FIRM and remove the Federal mandate for a lending institution to require the purchase of flood insurance. However, the lending institution has the option of requiring flood insurance even if a LOMA/LOMR-F has been issued by FEMA. The Elevation Certificate may be used to support a LOMA or LOMR-F request. Lowest floor and lowest adjacent grade elevations certified by a surveyor or engineer will be required if the certificate is used to support a LOMA or LOMR-F request. A LOMA or LOMR-F request must be submitted with either a completed FEMA MT-EZ or MT-1 package, whichever is appropriate.

This certificate is used only to certify building elevations. A separate certificate is required for floodproofing. Under the NFIP, non-residential buildings can be floodproofed up to or above the Base Flood Elevation (BFE). A floodproofed building is a building that has been designed and constructed to be watertight (substantially impermeable to floodwaters) below the BFE. Floodproofing of residential buildings is not permitted under the NFIP unless FEMA has granted the community an exception for residential floodproofed basements. The community must adopt standards for design and construction of floodproofed basements before FEMA will grant a basement exception. For both floodproofed non-residential buildings and residential floodproofed basements in communities that have been granted an exception by FEMA, a floodproofing certificate is required.

Additional guidance can be found in FEMA Publication 467-1, Floodplain Management Bulletin: Elevation Certificate, available on FEMA's website at http://www.fema.gov/library/viewRecord.do?id=1727.

U.S. DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
National Flood Insurance Program

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expires March 31, 2012

Important: Read the instructions on pages 1-9.

SECTION A - PROPERTY INFORMATION

For Insurance Company Use:

A1. Building Owner's Name — Policy Number

A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. — Company NAIC Number

City — State — ZIP Code

A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) _____

A5. Latitude/Longitude: Lat. _____ Long. _____ Horizontal Datum: ☐ NAD 1927 ☐ NAD 1983

A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.

A7. Building Diagram Number_____

A8. For a building with a crawlspace or enclosure(s):
- a) Square footage of crawlspace or enclosure(s) _____ sq ft
- b) No. of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade _____
- c) Total net area of flood openings in A8.b _____ sq in
- d) Engineered flood openings? ☐ Yes ☐ No

A9. For a building with an attached garage:
- a) Square footage of attached garage _____ sq ft
- b) No. of permanent flood openings in the attached garage within 1.0 foot above adjacent grade _____
- c) Total net area of flood openings in A9.b _____ sq in
- d) Engineered flood openings? ☐ Yes ☐ No

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP Community Name & Community Number	B2. County Name	B3. State

B4. Map/Panel Number	B5. Suffix	B6. FIRM Index Date	B7. FIRM Panel Effective/Revised Date	B8. Flood Zone(s)	B9. Base Flood Elevation(s) (Zone AO, use base flood depth)

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9.
☐ FIS Profile ☐ FIRM Community Determined ☐ Other (Describe) _____

B11. Indicate elevation datum used for BFE in Item B9: ☐ NGVD 1929 ☐ NAVD 1988 ☐ Other (Describe) _____

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☐ No
Designation Date_____ ☐ CBRS ☐ OPA

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction
*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO. Complete Items C2.a-h below according to the building diagram specified in Item A7. Use the same datum as the BFE.

Benchmark Utilized _____ Vertical Datum_____

Conversion/Comments _____

		Check the measurement used.	
a)	Top of bottom floor (including basement, crawlspace, or enclosure floor) _____.___	☐ feet	☐ meters (Puerto Rico only)
b)	Top of the next higher floor _____.___	☐ feet	☐ meters (Puerto Rico only)
c)	Bottom of the lowest horizontal structural member (V Zones only) _____.___	☐ feet	☐ meters (Puerto Rico only)
d)	Attached garage (top of slab) _____.___	☐ feet	☐ meters (Puerto Rico only)
e)	Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments) _____.___	☐ feet	☐ meters (Puerto Rico only)
f)	Lowest adjacent (finished) grade next to building (LAG) _____.___	☐ feet	☐ meters (Puerto Rico only)
g)	Highest adjacent (finished) grade next to building (HAG) _____.___	☐ feet	☐ meters (Puerto Rico only)
h)	Lowest adjacent grade at lowest elevation of deck or stairs, including structural support _____.___	☐ feet	☐ meters (Puerto Rico only)

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. *I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.*

☐ Check here if comments are provided on back of form. Were latitude and longitude in Section A provided by a licensed land surveyor? ☐ Yes ☐ No

Certifier's Name — License Number

Title — Company Name

Address — City — State — ZIP Code

Signature — Date — Telephone

IMPORTANT: In these spaces, copy the corresponding information from Section A.	For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.	Policy Number
City State ZIP Code	Company NAIC Number

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments

Signature Date

☐ Check here if attachments

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
a) Top of bottom floor (including basement, crawlspace, or enclosure) is _____. ____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.
b) Top of bottom floor (including basement, crawlspace, or enclosure) is _____. ____ ☐ feet ☐ meters ☐ above or ☐ below the LAG.

E2. For Building Diagrams 6-9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 8-9 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is _____. ____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E3. Attached garage (top of slab) is _____. ____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E4. Top of platform of machinery and/or equipment servicing the building is _____. ____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? ☐ Yes ☐ No ☐ Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge.*

Property Owner's or Owner's Authorized Representative's Name

Address City State ZIP Code

Signature Date Telephone

Comments

☐ Check here if attachments

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8 and G9.

G1. ☐ The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)

G2. ☐ A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.

G3. ☐ The following information (Items G4-G9) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate Of Compliance/Occupancy Issued

G7. This permit has been issued for: ☐ New Construction ☐ Substantial Improvement

G8. Elevation of as-built lowest floor (including basement) of the building _____. ____ ☐ feet ☐ meters (PR) Datum_____

G9. BFE or (in Zone AO) depth of flooding at the building site _____. ____ ☐ feet ☐ meters (PR) Datum_____

G10. Community's design flood elevation _____. ____ ☐ feet ☐ meters (PR) Datum_____

Local Official's Name Title

Community Name Telephone

Signature Date

Comments

☐ Check here if attachments

Building Photographs

See Instructions for Item A6.

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.			For Insurance Company Use: Policy Number
City	State	ZIP Code	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least two building photographs below according to the instructions for Item A6. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." If submitting more photographs than will fit on this page, use the Continuation Page on the reverse.

Building Photographs

Continuation Page

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.			For Insurance Company Use: Policy Number
City	State	ZIP Code	Company NAIC Number

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View."

INSTRUCTIONS FOR COMPLETING THE ELEVATION CERTIFICATE

The Elevation Certificate is to be completed by a land surveyor, engineer, or architect who is authorized by law to certify elevation information when elevation information is required for Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, or AR/AO. Community officials who are authorized by law or ordinance to provide floodplain management information may also complete this form. For Zones AO and A (without BFE), a community official, a property owner, or an owner's representative may provide information on this certificate, unless the elevations are intended for use in supporting a request for a LOMA or LOMR-F. Certified elevations must be included if the purpose of completing the Elevation Certificate is to obtain a LOMA or LOMR-F.

The property owner, the owner's representative, or local official who is authorized by law to administer the community floodplain ordinance can complete Section A and Section B. The partially completed form can then be given to the land surveyor, engineer, or architect to complete Section C. The land surveyor, engineer, or architect should verify the information provided by the property owner or owner's representative to ensure that this certificate is complete.

In Puerto Rico only, elevations for building information and flood hazard information may be entered in meters.

SECTION A – PROPERTY INFORMATION

Items A1-A4. This section identifies the building, its location, and its owner. Enter the name(s) of the building owner(s), the building's complete street address, and the lot and block numbers. If the building's address is different from the owner's address, enter the address of the building being certified. If the address is a rural route or a Post Office box number, enter the lot and block numbers, the tax parcel number, the legal description, or an abbreviated location description based on distance and direction from a fixed point of reference. For the purposes of this certificate, "building" means both a building and a manufactured (mobile) home.

A map may be attached to this certificate to show the location of the building on the property. A tax map, FIRM, or detailed community map is appropriate. If no map is available, provide a sketch of the property location, and the location of the building on the property. Include appropriate landmarks such as nearby roads, intersections, and bodies of water. For building use, indicate whether the building is residential, non-residential, an addition to an existing residential or non-residential building, an accessory building (e.g., garage), or other type of structure. Use the Comments area of the appropriate section if needed, or attach additional comments.

Item A5. Provide latitude and longitude coordinates for the center of the front of the building. Use either decimal degrees (e.g., 39.5043°, -110.7585°) or degrees, minutes, seconds (e.g., 39° 30' 15.5", -110° 45' 30.7") format. If decimal degrees are used, provide coordinates to at least 4 decimal places or better. When using degrees, minutes, seconds, provide seconds to at least 1 decimal place or better. The latitude and longitude coordinates must be accurate within 66 feet. When the latitude and longitude are provided by a surveyor, check the "Yes" box in Section D and indicate the method used to determine the latitude and longitude in the Comments area of Section D. If the Elevation Certificate is being certified by other than a licensed surveyor, engineer, or architect, this information is not required. Provide the type of datum used to obtain the latitude and longitude. FEMA prefers the use of NAD 1983.

Item A6. If the Elevation Certificate is being used to obtain flood insurance through the NFIP, the certifier must provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3"x3". Digital photographs are acceptable.

Item A7. Select the diagram on pages 7-9 that best represents the building. Then enter the diagram number and use the diagram to identify and determine the appropriate elevations requested in Items C2.a-h. If you are unsure of the correct diagram, select the diagram that most closely resembles the building being certified.

Item A8.a Provide the square footage of the crawlspace or enclosure(s) below the lowest elevated floor of an elevated building with or without permanent flood openings. Take the measurement from the outside of the crawlspace or enclosure(s). Examples of elevated buildings constructed with crawlspace and enclosure(s) are shown in Diagrams 6-9 on pages 8-9. Diagram 2, 4, or 9 should be used for a building constructed with a crawlspace floor that is below the exterior grade on all sides.

Items A8.b-d Enter in Item A8.b the number of permanent flood openings in the crawlspace or enclosure(s) that are no higher than 1.0 foot above the higher of the exterior or interior grade or floor immediately below the opening. (A permanent flood opening is a flood vent or other opening that allows the free passage of water automatically in both directions without human intervention.) If the interior grade elevation is used, note this in the Comments area of Section D. Estimate the total net area of all such permanent flood openings in square inches, excluding any bars, louvers, or other covers of the permanent flood openings, and enter the total in Item A8.c. If the net area cannot be reasonably estimated, provide the size of the flood openings without consideration of any covers and indicate in the Comments area the type of cover that exists in the flood openings. Indicate in Item A8.d whether the flood openings are engineered. If applicable, attach a copy of the Individual Engineered Flood Openings Certification or an Evaluation Report issued by the International Code Council Evaluation Service (ICC ES), if you have it. If the crawlspace or enclosure(s) have no permanent flood openings, or if the openings are not within 1.0 foot above adjacent grade, enter "0" (zero) in Items A8.b-c.

Item A9.a Provide the square footage of the attached garage with or without permanent flood openings. Take the measurement from the outside of the garage.

Items A9.b-d Enter in Item A9.b the number of permanent flood openings in the attached garage that are no higher than 1.0 foot above the higher of the exterior or interior grade or floor immediately below the opening. (A permanent flood opening is a flood vent or other opening that allows the free passage of water automatically in both directions without human intervention.) If the interior grade elevation is used, note this in the Comments area of Section D. This includes any openings that are in the garage door that are no higher than 1.0 foot above the adjacent grade. Estimate the total net area of all such permanent flood openings in square inches and enter the total in Item A9.c. If the net area cannot be reasonably estimated, provide the size of the flood openings without consideration of any covers and indicate in the Comments area the type of cover that exists in the flood openings. Indicate in Item A9.d whether the flood openings are engineered. If applicable, attach a copy of the Individual Engineered Flood Openings Certification or an Evaluation Report issued by the International Code Council Evaluation Service (ICC ES), if you have it. If the garage has no permanent flood openings, or if the openings are not within 1.0 foot above adjacent grade, enter "0" (zero) in Items A9.b-c.

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

Complete the Elevation Certificate on the basis of the FIRM in effect at the time of the certification.

The information for Section B is obtained by reviewing the FIRM panel that includes the building's location. Information about the current FIRM is available from the Federal Emergency Management Agency (FEMA) by calling 1-800-358-9616. If a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR-F) has been issued by FEMA, please provide the letter date and case number in the Comments area of Section D or Section G, as appropriate.

For a building in an area that has been annexed by one community but is shown on another community's FIRM, enter the community name and 6-digit number of the annexing community in Item B1, the name of the county or new county, if necessary, in Item B2, and the FIRM index date for the annexing community in Item B6. Enter information from the actual FIRM panel that shows the building location, even if it is the FIRM for the previous jurisdiction, in Items B4, B5, B7, B8, and B9.

If the map in effect at the time of the building's construction was other than the current FIRM, and you have the past map information pertaining to the building, provide the information in the Comments area of Section D.

Item B1. NFIP Community Name & Community Number. Enter the complete name of the community in which the building is located and the associated 6-digit community number. For a newly incorporated community, use the name and 6-digit number of the new community. Under the NFIP, a "community" is any State or area or political subdivision thereof, or any Indian tribe or authorized native organization, that has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction. To determine the current community number, see the NFIP *Community Status Book*, available on FEMA's web site at http://www.fema.gov/fema/csb.shtm, or call 1-800-358-9616.

Item B2. County Name. Enter the name of the county or counties in which the community is located. For an unincorporated area of a county, enter "unincorporated area." For an independent city, enter "independent city."

Item B3. State. Enter the 2-letter state abbreviation (for example, VA, TX, CA).

Items B4-B5. Map/Panel Number and Suffix. Enter the 10-character "Map Number" or "Community Panel Number" shown on the FIRM where the building or manufactured (mobile) home is located. For maps in a county-wide format, the sixth character of the "Map Number" is the letter "C" followed by a four-digit map number. For maps not in a county-wide format, enter the "Community Panel Number" shown on the FIRM.

Item B6. FIRM Index Date. Enter the effective date or the map revised date shown on the FIRM Index.

Item B7. FIRM Panel Effective/Revised Date. Enter the map effective date or the map revised date shown on the FIRM panel. This will be the latest of all dates shown on the map. The current FIRM panel effective date can be determined by calling 1-800-358-9616.

Item B8. Flood Zone(s). Enter the flood zone, or flood zones, in which the building is located. All flood zones containing the letter "A" or "V" are considered Special Flood Hazard Areas. The flood zones are A, AE, A1-A30, V, VE, V1-V30, AH, AO, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. Each flood zone is defined in the legend of the FIRM panel on which it appears.

Item B9. Base Flood Elevation(s). Using the appropriate Flood Insurance Study (FIS) Profile, Floodway Data Table, or FIRM panel, locate the property and enter the BFE (or base flood depth) of the building site. If the building is located in more than one flood zone in Item B8, list all appropriate BFEs in Item B9. BFEs are shown on a FIRM or FIS Profile for Zones A1-A30, AE, AH, V1-V30, VE, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO; flood depth numbers are shown for Zone AO. Use the AR BFE if the building is located in any of Zones AR/A, AR/AE, AR/A1-A30, AR/AH, or AR/AO. In A or V zones where BFEs are not provided on the FIRM, BFEs may be available from another source. For example, the community may have established BFEs or obtained BFE data from other sources for the building site. For subdivisions and other developments of more than 50 lots or 5 acres, establishment of BFEs is required by the community's floodplain management ordinance. If a BFE is obtained from another source, enter the BFE in Item B9. In an A Zone where BFEs are not available, complete Section E and enter N/A for Section B, Item B9. Enter the BFE to the nearest tenth of a foot (nearest tenth of a meter, in Puerto Rico).

Item B10. Indicate the source of the BFE that you entered in Item B9. If the BFE is from a source other than FIS Profile, FIRM, or community, describe the source of the BFE.

Item B11. Indicate the elevation datum to which the elevations on the applicable FIRM are referenced as shown on the map legend. The vertical datum is shown in the Map Legend and/or the Notes to Users on the FIRM.

Item B12. Indicate whether the building is located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA). (OPAs are portions of coastal barriers that are owned by Federal, State, or local governments or by certain non-profit organizations and used primarily for natural resources protection.) Federal flood insurance is prohibited in designated CBRS areas or OPAs for buildings or manufactured (mobile) homes built or substantially improved after the date of the CBRS or OPA designation. For the first CBRS designations, that date is October 1, 1983. Information about CBRS areas and OPAs may be obtained on the FEMA web site at http://www.fema.gov/business/nfip/cbrs/cbrs.shtm.

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

Complete Section C if the building is located in any of Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, or AR/AO, or if this certificate is being used to support a request for a LOMA or LOMR-F. If the building is located in Zone AO or Zone A (without BFE), complete Section E instead. To ensure that all required elevations are obtained, it may be necessary to enter the building (for instance, if the building has a basement or sunken living room, split-level construction, or machinery and equipment).

Surveyors may not be able to gain access to some crawlspaces to shoot the elevation of the crawlspace floor. If access to the crawlspace is limited or cannot be gained, follow one of these procedures.

- Use a yardstick or tape measure to measure the height from the floor of the crawlspace to the "next higher floor," and then subtract the crawlspace height from the elevation of the "next higher floor." If there is no access to the crawlspace, use the exterior grade next to the structure to measure the height of the crawlspace to the "next higher floor."
- Contact the local floodplain administrator of the community in which the building is located. The community may have documentation of the elevation of the crawlspace floor as part of the permit issued for the building.
- If the property owner has documentation or knows the height of the crawlspace floor to the next higher floor, try to verify this by looking inside the crawlspace through any openings or vents.

In all three cases, provide the elevation in the Comments area of Section D on the back of the form and a brief description of how the elevation was obtained.

Item C1. Indicate whether the elevations to be entered in this section are based on construction drawings, a building under construction, or finished construction. For either of the first two choices, a post-construction Elevation Certificate will be

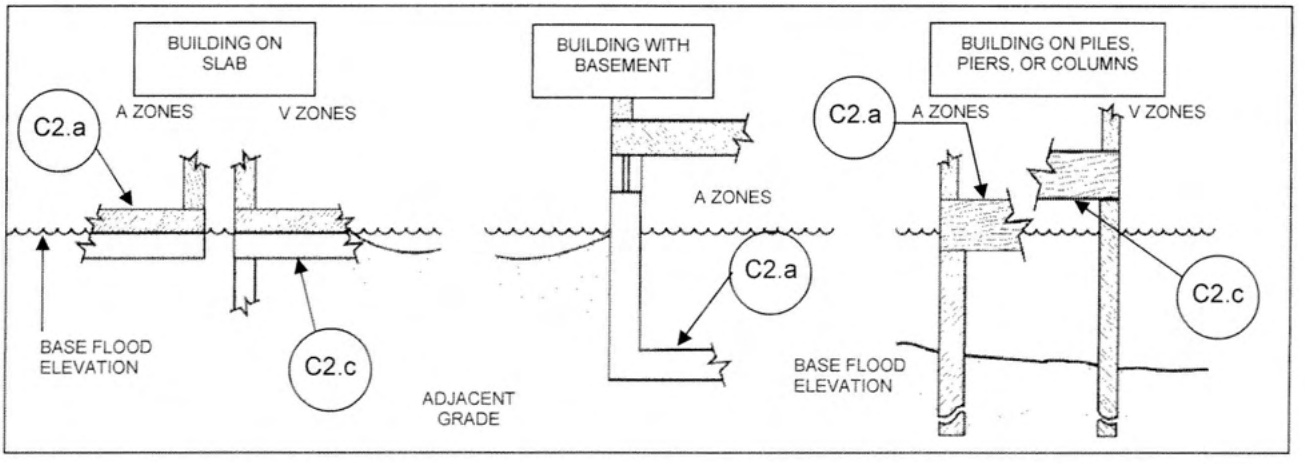
required when construction is complete. If the building is under construction, include only those elevations that can be surveyed in Items C2.a-h. Use the Comments area of Section D to provide elevations obtained from the construction plans or drawings. Select "Finished Construction" only when all machinery and/or equipment such as furnaces, hot water heaters, heat pumps, air conditioners, and elevators and their associated equipment have been installed and the grading around the building is completed.

Item C2. A field survey is required for Items C2.a-h. Most control networks will assign a unique identifier for each benchmark. For example, the National Geodetic Survey uses the Permanent Identifier (PID). For the benchmark utilized, provide the PID or other unique identifier assigned by the maintainer of the benchmark. For GPS survey, indicate the benchmark used for the base station, the Continuously Operating Reference Stations (CORS) sites used for an On-line Positioning User Service (OPUS) solution (also attach the OPUS report), or the name of the Real Time Network used.

Also provide the vertical datum for the benchmark elevation. All elevations for the certificate, including the elevations for Items C2.a-h, must use the same datum on which the BFE is based. Show the conversion from the field survey datum used if it differs from the datum used for the BFE entered in Item B9 and indicate the conversion software used. Show the datum conversion, if applicable, in this section or in the Comments area of Section D.

For property experiencing ground subsidence, the most recent reference mark elevations must be used for determining building elevations. However, when subsidence is involved, the BFE should not be adjusted. Enter elevations in Items C2.a-h to the nearest tenth of a foot (nearest tenth of a meter, in Puerto Rico).

Items C2.a-d Enter the building elevations (excluding the attached garage) indicated by the selected building diagram (Item A7) in Items C2.a-c. If there is an attached garage, enter the elevation for top of attached garage slab in Item C2.d. (Because elevation for top of attached garage slab is self-explanatory, attached garages are not illustrated in the diagrams.) If the building is located in a V zone on the FIRM, complete Item C2.c. If the flood zone cannot be determined, enter elevations for all of Items C2.a-h. For buildings in A zones, elevations a, b, d, and e should be measured at the top of the floor. For buildings in V zones, elevation c must be measured at the bottom of the lowest horizontal structural member of the floor (see drawing below). For buildings elevated on a crawlspace, Diagrams 8 and 9, enter the elevation of the top of the crawlspace floor in Item C2.a, whether or not the crawlspace has permanent flood openings (flood vents). *If any item does not apply to the building, enter "N/A" for not applicable.*



Item C2.e Enter the lowest platform elevation of at least one of the following machinery and equipment items: elevators and their associated equipment, furnaces, hot water heaters, heat pumps, and air conditioners in an attached garage or enclosure or on an open utility platform that provides utility services for the building. Note that elevations for these specific machinery and equipment items are required in order to rate the building for flood insurance. Local floodplain management officials are required to ensure that all machinery and equipment servicing the building are protected from flooding. Thus, local officials may require that elevation information for all machinery and equipment, including ductwork, be documented on the Elevation Certificate. If the machinery and/or equipment is mounted to a wall, pile, etc., enter the platform elevation of the machinery and/or equipment. Indicate machinery/equipment type and its general location, e.g., on floor inside garage or on platform affixed to exterior wall, in the Comments area of Section D or Section G, as appropriate. *If this item does not apply to the building, enter "N/A" for not applicable.*

Items C2.f-g Enter the elevation of the ground, sidewalk, or patio slab immediately next to the building. For Zone AO, use the natural grade elevation, if available. This measurement must be to the nearest tenth of a foot (nearest tenth of a meter, in Puerto Rico) if this certificate is being used to support a request for a LOMA or LOMR-F.

Item C2.h Enter the lowest grade elevation at the deck support or stairs. For Zone AO, use the natural grade elevation, if available. This measurement must be to the nearest tenth of a foot (nearest tenth of a meter, in Puerto Rico) if this certificate is being used to support a request for a LOMA or LOMR-F.

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

Complete as indicated. This section of the Elevation Certificate may be signed by only a land surveyor, engineer, or architect who is authorized by law to certify elevation information. Place your license number, your seal (as allowed by the State licensing board), your signature, and the date in the box in Section D. You are certifying that the information on this certificate represents your best efforts to interpret the data available and that you understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001. Use the Comments area of Section D, on the back of the certificate, to provide datum, elevation, openings, or other relevant information not specified on the front.

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO & ZONE A (WITHOUT BFE)

Complete Section E if the building is located in Zone AO or Zone A (without BFE). Otherwise, complete Section C instead. Explain in the Section F Comments area if the measurement provided under Items E1- E4 is based on the "natural grade."

Items E1.a and b Enter in Item E1.a the height to the nearest tenth of a foot (tenth of a meter in Puerto Rico) of the top of the bottom floor (as indicated in the applicable diagram) above or below the highest adjacent grade (HAG). Enter in Item E1.b the height to the nearest tenth of a foot (tenth of a meter in Puerto Rico) of the top of the bottom floor (as indicated in the applicable diagram) above or below the lowest adjacent grade (LAG). For buildings in Zone AO, the community's floodplain management ordinance requires the lowest floor of the building be elevated above the highest adjacent grade at least as high as the depth number on the FIRM. Buildings in Zone A (without BFE) may qualify for a lower insurance rate if an engineered BFE is developed at the site.

Item E2. For Building Diagrams 6-9 with permanent flood openings (see pages 8-9), enter the height to the nearest tenth of a foot (tenth of a meter in Puerto Rico) of the next higher floor or elevated floor (as indicated in the applicable diagram) above or below the highest adjacent grade (HAG).

Item E3. Enter the height to the nearest tenth of a foot (tenth of a meter in Puerto Rico), in relation to the highest adjacent grade next to the building, for the top of attached garage slab. (Because elevation for top of attached garage slab is self-explanatory, attached garages are not illustrated in the diagrams.) *If this item does not apply to the building, enter "N/A" for not applicable.*

Item E4. Enter the height to the nearest tenth of a foot (tenth of a meter in Puerto Rico), in relation to the highest adjacent grade next to the building, of the platform elevation that supports the machinery and/or equipment servicing the building. Indicate machinery/equipment type in the Comments area of Section F. *If this item does not apply to the building, enter "N/A" for not applicable.*

Item E5. For those communities where this base flood depth is not available, the community will need to determine whether the top of the bottom floor is elevated in accordance with the community's floodplain management ordinance.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

Complete as indicated. This section is provided for certification of measurements taken by a property owner or property owner's representative when responding to Sections A, B, and E. The address entered in this section must be the actual mailing address of the property owner or property owner's representative who provided the information on the certificate.

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

Complete as indicated. The community official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Section C may be

filled in by the local official as provided in the instructions below for Item G1. If the authorized community official completes Sections C, E, or G, complete the appropriate item(s) and sign this section.

Check **Item G1** if Section C is completed with elevation data from other documentation, including elevations obtained from the Community Rating System Elevation Software, that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. Indicate the source of the elevation data and the date obtained in the Comments area of Section G. If you are both a community official and a licensed land surveyor, engineer, or architect authorized by law to certify elevation information, and you performed the actual survey for a building in Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/A1-A30, AR/AE, AR/AH, or AR/AO, you must also complete Section D.

Check **Item G2** if information is entered in Section E by the community for a building in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.

Check **Item G3** if the information in Items G4-G10 has been completed for community floodplain management purposes to document the as-built lowest floor elevation of the building. Section C of the Elevation Certificate records the elevation of various building components but does not determine the lowest floor of the building or whether the building, as constructed, complies with the community's floodplain management ordinance. This must be done by the community. Items G4-G10 provide a way to document these determinations.

Item G4. Permit Number. Enter the permit number or other identifier to key the Elevation Certificate to the permit issued for the building.

Item G5. Date Permit Issued. Enter the date the permit was issued for the building.

Item G6. Date Certificate of Compliance/Occupancy Issued. Enter the date that the Certificate of Compliance or Occupancy or similar written official documentation of as-built lowest floor elevation was issued by the community as evidence that all work authorized by the floodplain development permit has been completed in accordance with the community's floodplain management laws or ordinances.

Item G7. New Construction or Substantial Improvement. Check the applicable box. "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the building before the start of construction of the improvement. The term includes buildings that have incurred substantial damage, regardless of the actual repair work performed.

Item G8. As-built lowest floor elevation. Enter the elevation of the lowest floor (including basement) when the construction of the building is completed and a final inspection has been made to confirm that the building is built in accordance with the permit, the approved plans, and the community's floodplain management laws or ordinances. Indicate the elevation datum used.

Item G9. BFE. Using the appropriate FIRM panel, FIS Profile, or other data source, locate the property and enter the BFE (or base flood depth) of the building site. Indicate the elevation datum used.

Item G10. Community's design flood elevation. Enter the elevation (including freeboard above the BFE) to which the community requires the lowest floor to be elevated. Indicate the elevation datum used.

Enter your name, title, and telephone number, and the name of the community. Sign and enter the date in the appropriate blanks.

BUILDING DIAGRAMS

The following diagrams illustrate various types of buildings. Compare the features of the building being certified with the features shown in the diagrams and select the diagram most applicable. Enter the diagram number in Item A7, the square footage of crawlspace or enclosure(s) and the area of flood openings in square inches in Items A8.a-c, the square footage of attached garage and the area of flood openings in square inches in Items A9.a-c, and the elevations in Items C2.a-h.

In A zones, the floor elevation is taken at the top finished surface of the floor indicated; in V zones, the floor elevation is taken at the bottom of the lowest horizontal structural member (see drawing in instructions for Section C).

DIAGRAM 1A

All slab-on-grade single- and multiple-floor buildings (other than split-level) and high-rise buildings, either detached or row type (e.g., townhouses); with or without attached garage.

Distinguishing Feature – The bottom floor is at or above ground level (grade) on at least one side.*

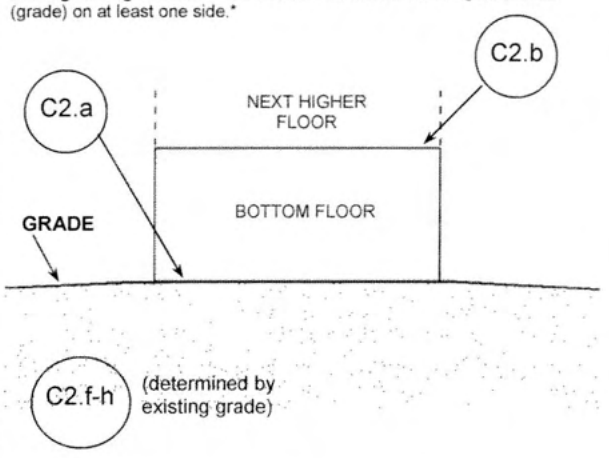


DIAGRAM 1B

All raised-slab-on-grade or slab-on-stem-wall-with-fill single- and multiple-floor buildings (other than split-level), either detached or row type (e.g., townhouses); with or without attached garage.

Distinguishing Feature – The bottom floor is at or above ground level (grade) on at least one side.*

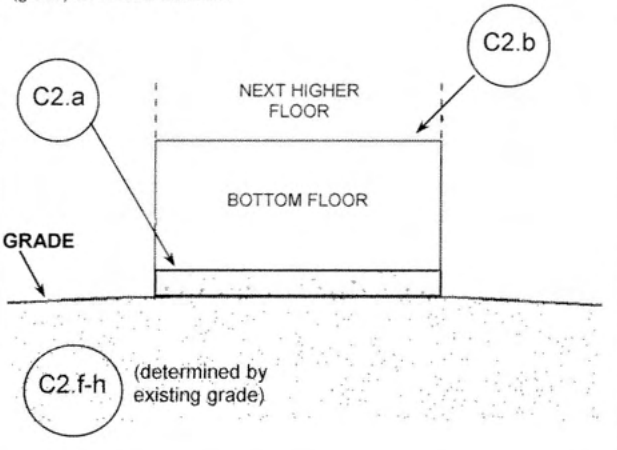
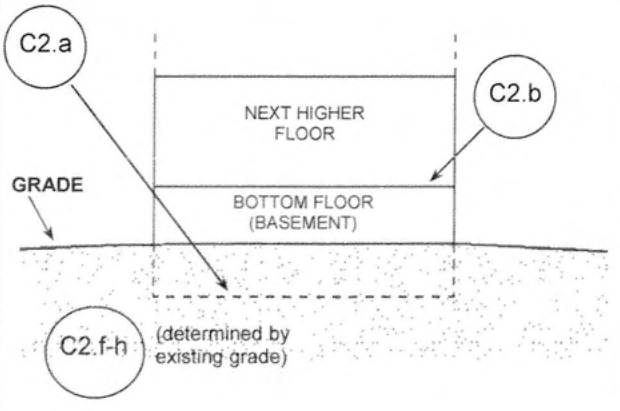


DIAGRAM 2

All single- and multiple-floor buildings with basement (other than split-level) and high-rise buildings with basement, either detached or row type (e.g., townhouses); with or without attached garage.

Distinguishing Feature – The bottom floor (basement or underground garage) is below ground level (grade) on all sides.*



* A floor that is below ground level (grade) on all sides is considered a basement even if the floor is used for living purposes, or as an office, garage, workshop, etc

DIAGRAM 3

All split-level buildings that are slab-on-grade, either detached or row type (e.g., townhouses); with or without attached garage.

Distinguishing Feature – The bottom floor (excluding garage) is at or above ground level (grade) on at least one side.*

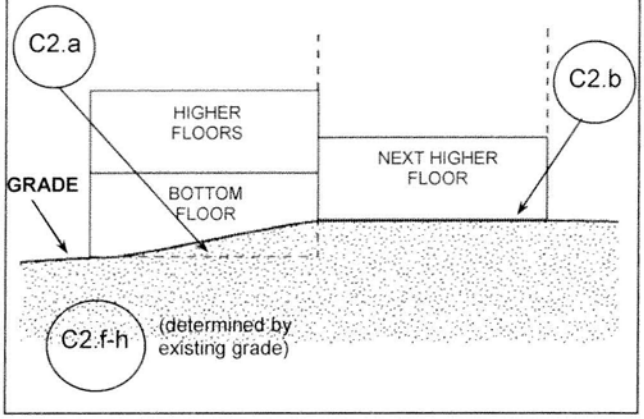


DIAGRAM 4

All split-level buildings (other than slab-on-grade), either detached or row type (e.g., townhouses); with or without attached garage.

Distinguishing Feature – The bottom floor (basement or underground garage) is below ground level (grade) on all sides.*

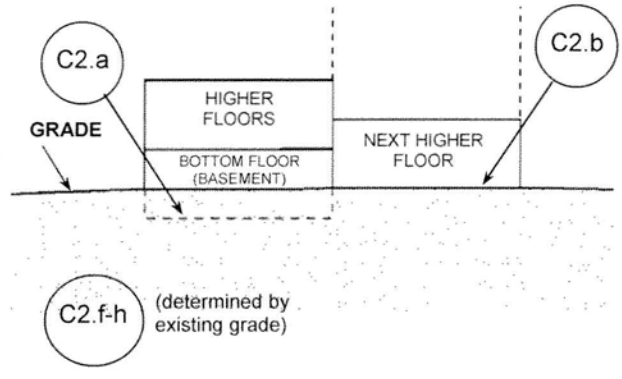


DIAGRAM 5

All buildings elevated on piers, posts, piles, columns, or parallel shear walls. No obstructions below the elevated floor.

Distinguishing Feature – For all zones, the area below the elevated floor is open, with no obstruction to flow of flood waters (open lattice work and/or insect screening is permissible).

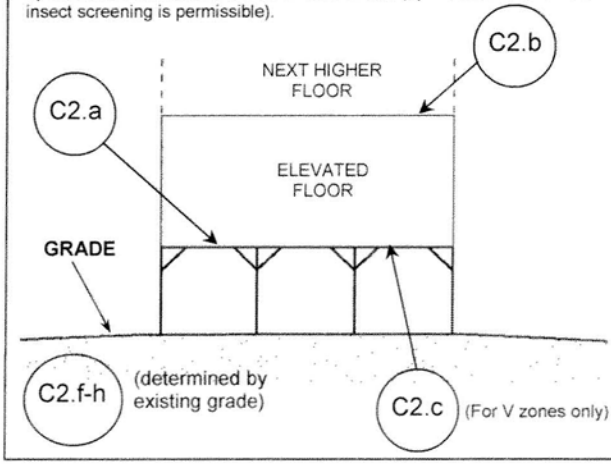
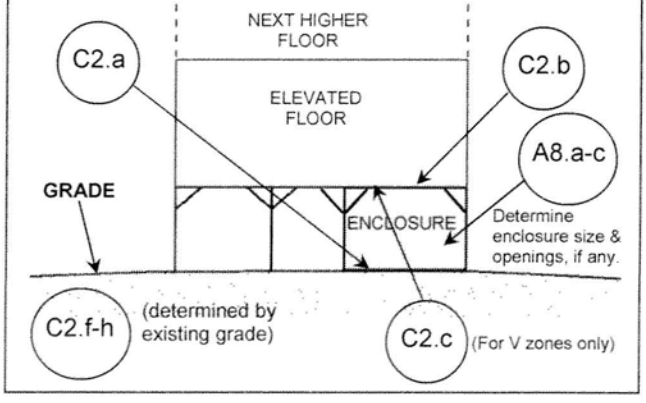


DIAGRAM 6

All buildings elevated on piers, posts, piles, columns, or parallel shear walls with full or partial enclosure below the elevated floor.

Distinguishing Feature – For all zones, the area below the elevated floor is enclosed, either partially or fully. In A Zones, the partially or fully enclosed area below the elevated floor is with or without openings** present in the walls of the enclosure. Indicate information about enclosure size and openings in Section A – Property Information.



* A floor that is below ground level (grade) on all sides is considered a basement even if the floor is used for living purposes, or as an office, garage, workshop, etc.

** An "opening" is a permanent opening that allows for the free passage of water automatically in both directions without human intervention. Under the NFIP, a minimum of two openings is required for enclosures or crawlspaces. The openings shall provide a total net area of not less than one square inch for every square foot of area enclosed, excluding any bars, louvers, or other covers of the opening. Alternatively, an Individual Engineered Flood Openings Certification or an Evaluation Report issued by the International Code Council Evaluation Service (ICC ES) must be submitted to document that the design of the openings will allow for the automatic equalization of hydrostatic flood forces on exterior walls. A window, a door, or a garage door is not considered an opening; openings may be installed in doors. Openings shall be on at least two sides of the enclosed area. If a building has more than one enclosed area, each area must have openings to allow floodwater to directly enter. The bottom of the openings must be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening. For more guidance on openings, see NFIP Technical Bulletin 1.

DIAGRAM 7

All buildings elevated on full-story foundation walls with a partially or fully enclosed area below the elevated floor. This includes walkout levels, where at least one side is at or above grade. The principal use of this building is located in the elevated floors of the building.

Distinguishing Feature – For all zones, the area below the elevated floor is enclosed, either partially or fully. In A Zones, the partially or fully enclosed area below the elevated floor is with or without openings* present in the walls of the enclosure. Indicate information about enclosure size and openings in Section A – Property Information.

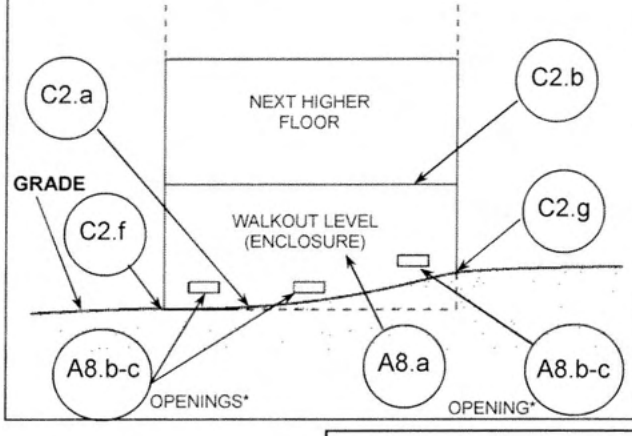


DIAGRAM 8

All buildings elevated on a crawlspace with the floor of the crawlspace at or above grade on at least one side, with or without an attached garage.

Distinguishing Feature – For all zones, the area below the first floor is enclosed by solid or partial perimeter walls. In all A zones, the crawlspace is with or without openings* present in the walls of the crawlspace. Indicate information about crawlspace size and openings in Section A – Property Information.

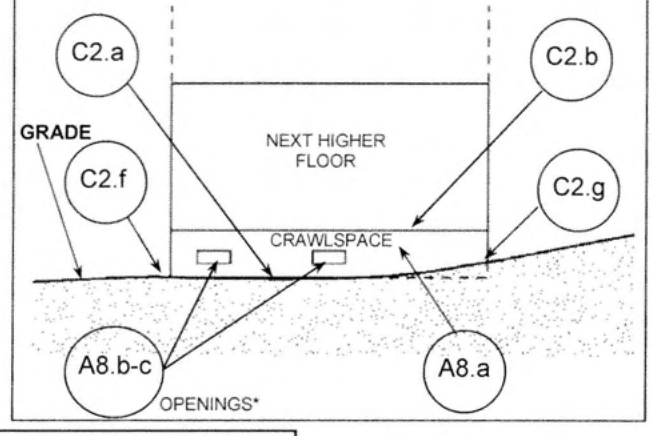
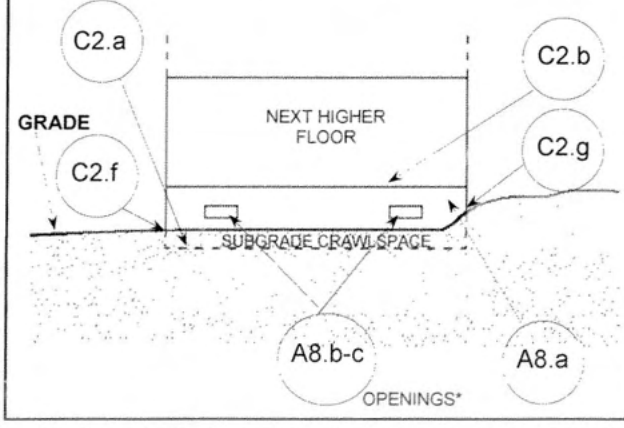


DIAGRAM 9

All buildings (other than split-level) elevated on a sub-grade crawlspace, with or without attached garage.

Distinguishing Feature – The bottom (crawlspace) floor is at or below ground level (grade) on all sides.** (If the distance from the crawlspace floor to the top of the next higher floor is more than 5 feet, or the crawlspace floor is more than 2 feet below the grade (LAG) on all sides, use Diagram 2.)



* An "opening" is a permanent opening that allows for the free passage of water automatically in both directions without human intervention. Under the NFIP, a minimum of two openings is required for enclosures or crawlspaces. The openings shall provide a total net area of not less than one square inch for every square foot of area enclosed, excluding any bars, louvers, or other covers of the opening. Alternatively, an Individual Engineered Flood Openings Certification or an Evaluation Report issued by the International Code Council Evaluation Service (ICC ES) must be submitted to document that the design of the openings will allow for the automatic equalization of hydrostatic flood forces on exterior walls. A window, a door, or a garage door is not considered an opening; openings may be installed in doors. Openings shall be on at least two sides of the enclosed area. If a building has more than one enclosed area, each area must have openings to allow floodwater to directly enter. The bottom of the openings must be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening. For more guidance on openings, see NFIP Technical Bulletin 1.

** A floor that is below ground level (grade) on all sides is considered a basement even if the floor is used for living purposes, or as an office, garage, workshop, etc.