

Rules Committee Members

Charles "Chuck" Anastos, Chair

Chad Davis

Sonya Odell

Jennifer Walker

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Rules Committee Meeting Agenda

William P. Hobby State Office Building

333 Guadalupe Street

Tower II, Conference Room 350-L

Austin, Texas

Wednesday, February 15, 2017

12:30 PM to 1:15 PM

1. Call to Order
2. Roll Call
3. Public Comments
4. Approval of minutes of the December 1, 2016 meeting of the Rules Committee
(Action)
5. Draft Rule for Proposal - Draft Rule 7.11, relating to enhanced contract and performance monitoring
6. Discussion Item – Use of the title “architectural intern” under Board Rule 1.123
7. Adjourn

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

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of December 1, 2016 Rules Committee Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower II, Conference Room 350-L
Austin, TX 78701

AGENDA ITEMS

DESCRIPTIONS

1. Call to Order

Ms. Odell called the meeting of the Rules Committee to order at 9:03 a.m.

2. Roll Call

Ms. Odell called the roll and declared a quorum of the Committee was present.

Present Committee Members:

Michael (Chad) Davis

Sonya Odell

Jennifer Walker

TBAE Staff Present:

Julie Hildebrand, Executive Director

Lance Brenton, General Counsel

Mike Alvarado, Registration Manager

Jack Stamps, Managing Investigator

Katherine Crain, Legal Assistant

Others Present:

Debra Dockery, Architect and Chair of TBAE

David Lancaster, Texas Society of Architects

Donna Vining, Texas Association for Interior Designers

**Excused and Unexcused
absences**

Excused Absence:

Charles (Chuck) Anastos, Chair

3. Public Comment

None.

**4. Approval of minutes
of the August 16, 2016
meeting of the Rules
Committee**

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE MINUTES FROM THE AUGUST 16, 2016 RULES COMMITTEE MEETING. THE MOTION PASSED UNANIMOUSLY.

**5. Consideration of
General Counsel's
Recommendation
Regarding Rule Review
for Chapters 5 and 7 of
the Board's Rules
A. Revise Rule 5.5
relating to definitions**

Mr. Brenton presented information on the rule review and draft rules for adoption as described on page 6 of the committee materials.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO RECOMMEND APPROVAL OF DRAFT AMENDMENTS TO 22 TEX. ADMIN. CODE §§5.5 AND 5.34. THE MOTION PASSED UNANIMOUSLY.

**of "Actual Signature,"
"Architectural Barriers
Act" (add),
"Authorship" (repeal),
"Consultant," "E-mail
Directory" (repeal),
"Interior Designers'
Registration Law," and
"Registrant."**

**B. Repeal 5.34 relating
to Fees**

**C. Propose for
readoption all other
rules in 22 Tex. Admin.
Code Chapters 5 and 7**

**6. Discussion of
Constituent
Correspondence
Relating to Increasing
Requirement for
Continuing Education
Concerning Accessibility**

9. Adjourn

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO RECOMMEND READOPTION OF ALL OTHER RULES IN 22 TEXAS ADMINISTRATIVE CODE CHAPTERS 5 AND 7, AS AUTHORIZED UNDER TEXAS GOVERNMENT CODE §2001.039(c).

Mr. Brenton presented the issue outlined in a letter by David Parsons regarding the barrier free hour requirement in continuing education. Mr. Parsons stated that one hour of barrier free was inadequate. He suggested a refresher course be recommended in addition to the one hour required by the Board. The pros and cons of additional continuing education regarding the barrier free requirement were discussed at length by the Committee. The Committee did not take action on this issue.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO ADJOURN THE MEETING AT 9:28 A.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE COMMITTEE:

SONYA ODELL, FASID, RID, AAHID, Acting Chair for the Rules Committee
TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Draft New Rule 7.11 – Enhanced Contract and Performance Monitoring

Background

During the 84th session, the Texas Legislature passed SB 20, which made a number of changes to state agency contracting laws. Among these changes is a requirement in Tex. Govt. Code §2261.253 that state agencies adopt a rule which establishes a procedure to identify contracts that require enhanced contract monitoring and submit information on such contracts to the agency's governing body. Currently, the Board does not have a rule relating to contract management.

Draft Rule

The draft rule includes the following provisions:

- The rule requires the finance manager to complete a risk assessment for all contracts over \$25,000, and authorizes the finance manager to complete a risk assessment for contracts of a lesser value.
- The rule identifies a number of factors to be considered in the risk analysis performed by the finance manager.
- If the risk assessment results in a determination that enhanced contract monitoring is appropriate, the contract will be reported to the Board at the first meeting following execution of the contract. The report will include the basis for determining enhanced contract monitoring is appropriate, any serious risks or issues identified with the contract, and staff's plan for carrying out enhanced contract monitoring. Additionally, the Board will be provided status reports on the contract, as directed by the Board.

Attached for your consideration is a copy of draft rule §7.11.

Staff Recommendation

Move to approve draft rule 22 Tex. Admin. Code §7.11 for publication in the Texas register, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the Texas Register.

DRAFT RULE

§7.11 Enhanced Contract and Performance Monitoring

(a) The Board will complete a risk assessment to identify procurement contracts for goods or services from a private vendor that require enhanced contract or performance monitoring.

(b) For all contracts with a value greater than \$25,000, the finance manager will complete a risk assessment to evaluate whether enhanced contract or performance monitoring may be required. For contracts of a lesser value, the finance manager may complete a risk assessment to evaluate whether enhanced contract or performance monitoring is indicated. The risk assessment may consider the following factors:

- (1) total cost of the contract, including contract renewals;
- (2) risk of loss to the agency under the contract;
- (3) risk of fraud, waste or abuse;
- (4) scope of the goods or services provided;
- (5) availability of agency resources;
- (6) complexity of the contract;
- (7) business process impact of failure or delay;
- (8) vendor past performance; and
- (9) whether the vendor is a foreign or domestic person or entity.

(c) Contracts identified for enhanced contract and/or performance monitoring will be reported to the Board at the first regular Board meeting after the contract is executed. The report shall include:

- (1) the basis for the determination that enhanced contract or performance monitoring is appropriate;
- (2) any serious issues or risks identified with the contract, if applicable; and
- (3) the plan for carrying out the enhanced contract or performance monitoring.

(d) For any contract subject to enhanced contract or performance monitoring, the finance manager shall provide the Board with progress reports, as directed by the Board.

(e) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

Discussion of the Use of the Title “Architectural Intern”

Background

Under Board Rule 1.123, a person enrolled in the Intern Development Program (now known as the Architectural Experience Program, or AXP) is permitted to use the title “architectural intern.” This is an exception to the general rule that only registered architects and firms that employ or associate with an architect may use the terms “architect” or “architecture” to describe offered services in Texas.

Discussion

This item has been placed on the rules committee agenda by request of Chad Davis. Mr. Davis has inquired whether individuals who have completed AXP should be eligible to continue to use the term “architectural intern.”

The NCARB Legislative Guidelines, which are NCARB’s recommendations for state practice acts, include recommended language regarding the intern title, as follows:

A person currently employed under the responsible control of an architect and who maintains in good standing a National Council of Architectural Registration Boards Record may use the title “intern architect” or “architectural intern” in conjunction with his/her current employment, but may not engage in the practice of architecture except to the extent that such practice is excepted from the requirement of registration.

The Board’s rule has been in effect since 2001, without amendment. According to Jack Stamps, the Board has never received a complaint or taken disciplinary action against an individual for violating the intern title rule, though he does occasionally receive questions on the rule.

The committee is requested to consider to whom the architect intern title should apply, and whether it is necessary to engage in rulemaking to correct any deficiency.

Attachments

A copy of Rule 1.123 has been attached for your consideration.

Texas Administrative Code

TITLE 22 EXAMINING BOARDS

PART 1 TEXAS BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 1 ARCHITECTS

SUBCHAPTER G COMPLIANCE AND ENFORCEMENT

RULE §1.123 Titles

(a) Architects duly registered in Texas are authorized to use any form of the word "architect" or the word "architecture" to describe themselves and to describe services they offer and perform in Texas.

(b) A firm, partnership, corporation, or other business association may use any form of the word "architect" or the word "architecture" in its name or to describe services it offers or performs in Texas only under the following conditions:

(1) The business employs at least one Architect on a full-time basis or associates with at least one Architect pursuant to the provisions of section 1.122; and

(2) The Architect(s) employed by or associated with the business pursuant to subsection (b)(1) of this section exercise Supervision and Control over all architectural services performed by nonregistrants on behalf of the business, or in the case of services rendered pursuant to section 1.122(e), exercise, at a minimum, Responsible Charge over all such services.

(c) No entity other than those qualified in subsections (a) and (b) of this section may use any form of the word "architect" or "architecture" in its name or to describe services it offers or performs in Texas.

(d) A person enrolled in the Intern Development Program (IDP) may use the title "architectural intern."