

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Board Meeting Agenda

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

333 Guadalupe Street

Austin, Texas

Wednesday, November 8, 2017

9:00 a.m. – Conclusion

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

Debra Dockery
Jennifer Walker
Debra Dockery

2. **Approval of August 16, 2017 Board Meeting Minutes (Action)** Debra Dockery

3. **Consideration of Proposal for Decision in SOAH Docket No. 459-17-3036, Matthew Waters Oualline, Jr. (TBAE Case No. 115-16A)** Lance Brenton

4. **Executive Director Report (Information)** Julie Hildebrand
 - A. Summary of Executive Accomplishments (Information)
 - B. Operating Budget/Scholarship Fund: Presentation on 4th Quarter 2017 Expenditures/Revenues
 - C. Report on Conferences and Meetings (Information)
 - I. 2017 CLARB Annual Meeting – Sep 14-16
 - II. 2017 LRGV-AIA BCC Conference – Sep 28-30
 - III. NCARB Experience Committee Meeting #1 – Oct 6-7
 - IV. 2017 CIDQ Council of Delegates Meeting – Nov 10-11
 - D. Report on Upcoming Conferences and Meetings (Information)
 - I. TxA Conference – Nov 9-11
 - II. NCARB Experience Committee Meeting #2 – Dec 1-2
 - III. NCARB AIA Students' Forum, Austin – Jan 1

5. **Trend Analysis Presentation on Agency Performance and Operations (Information)** Julie Hildebrand

6. **General Counsel Report (Action)** Lance Brenton
 - A. **Proposed Rules for Adoption relating to Registration as Registered Interior Designer by Examination – Implementation of Senate Bill 1932, 85th Regular Session (2017)**
 - I. Amendment of Rule 5.5 relating to Definitions
 - II. Amendment of Rule 5.31 relating to Registration by Examination
 - III. Amendment of Rule 5.32 relating to Registration by Reciprocal Transfer

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9:00 a.m. – Conclusion

- IV. Amendment of Rule 5.33 relating to Application Process
- V. Amendment of Rule 5.35 relating to Pending Applications
- VI. Amendment of Rule 5.36 relating to Preliminary Evaluation of Criminal History
- VII. Amendment of Rule 5.37 relating to Provisional Licensure
- VIII. Amendment of Rule 5.51 relating to Requirements
- IX. Amendment of Rule 5.52 relating to Examination Administration and Scoring
- X. Amendment of Rule 5.53 relating to Scheduling of Examinations
- XI. Repeal of Rule 5.54 relating to Transfer of Passing Scores
- XII. Amendment of Rule 5.55 relating to Special Accommodations
- XIII. Repeal of Rule 5.201 relating to Description of Approved Education for Registration by Examination
- XIV. Repeal of Rule 5.202 relating to Description of Approved Experience for Registration by Examination
- XV. Repeal of Rule 5.203 relating to Other Experience and Education

B. Review of Informal Settlement Conference Procedures (*Action*)

C. Review of New Board Member Training Manual (*Information*)

7. Enforcement Cases (*Action*)

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

A. Registrant/Non-Registrant Cases:

Ahearne, Patrick M. (#341-17A)

Chu, Pui-Lam (#224-17A)

Grauke, Olie Chadwick (#215-17N)

Greico, Tom (#024-17N)

B. CE Cases:

Banwo, Olamide A. (#255-17A)

Fleming, Christine (#292-17I)

Hines, Mary-Katherine (#377-17A)

Liles, Scott C. (#376-17A)

Plattner, Donald E. (#297-17A)

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

**8. Board's Review of the Council for Interior Design Qualification (CIDQ)
Bylaws** (*Action*)

Debra Dockery

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Board Meeting Agenda

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

333 Guadalupe Street

Austin, Texas

Wednesday, November 8, 2017

9:00 a.m. – Conclusion

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| 9. Board Acceptance of NCARB’s Tri-National Mutual Recognition Agreement for International Practice (known as “the Agreement”) (Action) | Debra Dockery |
| 10. Upcoming Board Meeting (Information)
February 1, 2018
May 22, 2018
August 21, 2018
November 15, 2018 | Debra Dockery |
| 11. Chair’s Closing Remarks | Debra Dockery |
| 12. Adjournment | Debra Dockery |
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NOTE:

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

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

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

FREQUENTLY USED ACRONYMS

ACSA	Association of Collegiate Schools of Architecture
ADA	Americans with Disabilities Act
AIA	American Institute of Architects
AREFAF	Architect Registration Examination Financial Assistance Fund (Scholarship)
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
CIDA	Council for Interior Design Accreditation (Formerly FIDER)
CLARB	Council of Landscape Architectural Registration Boards
GAA	General Appropriations Act
GRF	General Revenue Fund
IDCEC	Interior Design Continuing Education Council
IDEC	Interior Design Educators Council
IDP	Intern Development Program
IIDA	International Interior Design Association
LARE	Landscape Architect Registration Examination
MBA	Member Board Administrator (within NCARB)
NAAB	National Architectural Accreditation Board
NCARB	National Council of Architectural Registration Boards
CIDQ	Council for Interior Design Examination
OAG	Office of the Attorney General
SOAH	State Office of Administrative Hearings
SORM	State Office of Risk Management
TAID	Texas Association for Interior Design
TAS	Texas Accessibility Standards
TASB	Texas Association of School Boards
TBPE	Texas Board of Professional Engineers
TxA	Texas Society of Architects
TSPE	Texas Society of Professional Engineers

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of August 16, 2017 Board Meeting
 William P. Hobby Jr. Building, 333 Guadalupe Street
 Tower III, Room 102
 Austin, TX 78701
 11:00 a.m. until completion of business

AGENDA ITEMS

DESCRIPTIONS

1A. Call to Order

Ms. Dockery called the meeting to order at 11:00 a.m.

1B. Roll Call

Ms. Walker called the roll.

Present Board Members

Debra Dockery	Chair, Architect FAIA
Michael (Chad) Davis	Vice-Chair, Landscape Architect
Jennifer Walker	Architect, Secretary/Treasurer
Charles (Chuck) Anastos	Architect
Chase Bearden	Public Member
Sonya Odell	Registered Interior Designer

1C. Excused and unexcused absences

Paula Ann Miller	Public Member
Robert (Bob) Wetmore	Architect

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE EXCUSED ABSENCE OF PAULA ANN MILLER AND ROBERT (BOB) WETMORE. THE MOTION PASSED UNANIMOUSLY.

1D. Determination of a Quorum

A quorum was present.

1E. Recognition of Guests

Ms. Dockery acknowledged the following guests and members of TBAE staff: Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Kenneth Liles, Finance Manager; Glenn Garry, Communications Manager, Mike Alvarado, Registration Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Glenda Best, Operations Manager; Christine Brister, HR Program Specialist; Katherine Crain, Legal Assistant; Julio Martinez, Systems Analyst; Donna Vining, Texas Association for Interior Design.

1F. Chair’s Opening Remarks

Ms. Dockery welcomed the audience and thanked them for coming to the meeting. She stated that each year she has attended the NCARB Annual Meeting they have had some really interesting keynote speakers which are usually educational and inspirational. This year the keynote speakers were very much on topic for what the regulatory agencies in the U.S. currently face today. The two keynote speakers were Malcolm Sparrow and David C. King. Mr. Sparrow is a Professor of the Practice of Public Management at Harvard’s John F. Kennedy School of Government and the Faculty Chair

of the school's executive program "Strategic Management of Regulatory and Enforcement Agencies." Mr. King is a Senior Lecturer in Public Policy at Harvard's John F. Kennedy School of Government and directs a program for the senior executives of sustainable government. Ms. Dockery stated that Professor Sparrow shared some thoughts that really resonated with her. He presented a graphic in which one side of the picture is a circle labeled "illegal" and the other side is one labeled "harmful." The outer edges of illegal are nitpicky, overreach, capricious and the outer edges of harmful are grabbing turf. But where the two circles of illegal and harmful intersect is the place where regulators should be focusing their attention. One thing that made an impression on her is that regulators should be framing their message on what is harmful and not just illegal. On the other hand, Professor Sparrow noted that if harm cannot be identified, the regulatory agency should reconsider whether it is time to retire that regulation. Ms. Dockery encouraged the Board to consider the Board's activities and message with this perspective in mind.

1G. Public Comments

None.

2. Approval of June 8, 2017 Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE JUNE 8, 2017 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. Executive Director's Report

Ms. Hildebrand provided the Board with the Executive Director's report as follows:

A. Summary of Executive Accomplishments

Ms. Hildebrand presented and discussed the summaries of executive, registration, and enforcement accomplishments as described on pages 14-16 of the Board materials. Ms. Hildebrand also discussed the upcoming audit by the State Auditor's office.

Mr. Dockery asked Ms. Hildebrand whether the conference that she attended on building codes was useful. Ms. Hildebrand stated that she did the course online and it was taught by a landscape architect. She stated that it was very helpful to learn more about the structure of the code, and how the thresholds differ with the Architects' Practice Act.

Mr. Davis noted that the agency had recently been audited, and shared his concerns about the expenses of redundant work. Ms. Hildebrand stated that the agency had recently gone through a post-payment audit by the Comptroller's office, which looks at expenditures. This audit will look at expenditures and revenues, as well as other issues, such as performance measures and enforcement cases.

Mr. Anastos expressed his concerns about the \$50,000 cost of the audit, as well as the amount of staff time that would be consumed. Mr. Davis shared this concern, as well as Ms. Dockery, who noted that this cost could

be enough to accelerate the need to increase fees by a year earlier than what would otherwise be necessary.

B. Operating Budget/Scholarship Fund: Presentation on 3rd Quarter 2017 Expenditures/Revenues

Ms. Hildebrand directed the Board to pages 17 and 18 for updates on the FY2017 operating budget and FY2017 Scholarship Fund. She stated that these figures are updated through July 31, 2017. At the next Board meeting she will be presenting the full budget.

C. Discussion of Office Rental/SWCAP

Ms. Hildebrand directed the Board to page 19 of the notebook regarding the allocation of SWCAP and office rental. The SWCAP payment includes reimbursement of costs for support the agency receives from other agencies, including accounting and payroll. The agencies that provide these services report to the Governor's office directly, and then the total amount of these costs are allocated to agencies for payment under SWCAP. She said that TBAE pays SWCAP and rent together as one payment. She stated that the amount attributed to rent and SWCAP fluctuates considerably, but that the overall amount of the two is relatively stable. In the future, these items will be reported together as one line-item on the budget.

D. Report on Conferences and Meetings

Ms. Hildebrand presented information on conferences and meetings as follows:

I. NCARB Annual Business Meeting – June 22-24

She and Chase Bearden attended the annual NCARB Meeting and the members were pleased that a public member from our board attended the conference. The board members asked Mr. Bearden to become a member of the Credentials Committee, which he accepted. Ms. Hildebrand congratulated Mr. Bearden on this appointment. She added that the meeting was relatively quiet as there were no contested elections or resolutions.

II. NCARB Licensing Advisors Summit – Jul 27-29

Mike Alvarado and Jackie Blackmore attended the Licensing Advisors Summit in Chicago this summer. Ms. Hildebrand stated that this meeting is a good opportunity for board representatives and school representatives to get together.

III. METROCON17 – Aug 10-11

Ms. Hildebrand stated that METROCON was last week and Glenn Garry did a great presentation for the Board. In addition, Sonya Odell and Donna Vining made presentations at the conference. Board staff members Jessica Ramirez and Jackie Blackmore also attended the conference.

E. Report on upcoming conferences and meetings

Ms. Hildebrand presented information on upcoming conferences and meetings as follows:

- I. **2017 CLARB Annual Meeting – Sep 14-16** Ms. Hildebrand stated that Chad Davis and she will be attending the CLARB Annual Meeting in September.
- II. **2017 LRGV-AIA BCC Conference – Sep 28-30** Ms. Hildebrand stated that Jack Stamps will be attending the Lower Rio Grande Valley Conference and he will have a booth representing the agency. Additionally, he will make a presentation at the conference.
- III. **TxA Conference – November 9-11** Ms. Hildebrand stated that the TxA Conference will be held in Austin on November 9-11 and Jack Stamps will be making two presentations and Glenn Garry will be making one presentation. Additionally, most of the registration staff will attend.
- IV. **2017 CIDQ Council of Delegates Meeting – Nov 10-11** Ms. Hildebrand stated that she will be attending the CIDQ Meeting this year and will therefore be unable to attend the new licensee ceremony at the TxA Conference.
- 4. **Approval of the Fiscal Year 2018 Budget** Ms. Hildebrand presented information regarding the proposed operating budget for FY2018, as described on page 20 of the Board materials. She stated that the first draft was presented at the last Board meeting and at a Budget Committee meeting. However, a few items have changed since that meeting. For instance, the professional fees and services were increased from \$25,000 to \$75,000 due to the upcoming audit. In turn, the projected draw on the reserve balance has been increased by \$50,000 to \$140,000. Also, the projected budget for IT upgrades has been increased from \$40,000 to \$45,000 because of issues with the server room. To address this increase, other budget items have been decreased, including printing, postage, and microfilming.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE THE PROPOSED BUDGET FOR FY2018. THE MOTION PASSED UNANIMOUSLY.

The Board took a break at 12:07 p.m. and reconvened at 12:33 p.m.
- 5. **General Counsel Report** Mr. Brenton provided the General Counsel’s report to the Board, as follows:
 - A. **Draft Rules for Proposal relating to Registration as Registered Interior Designer by Examination – Implementation of Senate Bill 1932, 85th Regular Session (2017)** Mr. Brenton presented information on the draft rules for proposal as described on pages 21 through pages 24 of the Board materials. Mr. Brenton noted that the Rules Committee had addressed this issue at the morning meeting, and had recommended that the Board propose the draft rules, with changes to draft rule 5.33. The recommendation is as follows:

Rule 5.33(c) at line 19, line 19 is amended to read: “an application for (insert “TBAE”) registration by examination must include.” Additionally, on page 33, line 22: strike “acceptance” and insert “approval.”

Therefore, any discussion on Rule 5.33(c) or motion to adopt this particular rule would be made with those changes included.

Mr. Brenton continued his discussion by providing a summary of each draft rule change.

Amendments to Rules 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55, and Repeal of Rules 5.54, 5.201, 5.202, and 5.203 Relating to Eligibility Requirements for Registration as an Interior Designer

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE DRAFT AMENDMENTS TO 22 TEX. ADMIN. CODE §§ 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, AND 5.55 AND REPEAL OF §§ 5.54, 5.201, 5.202, AND 5.203 FOR PUBLICATION AND PROPOSAL IN THE TEXAS REGISTER, WITH AUTHORITY FOR THE GENERAL COUNSEL TO MAKE EDITORIAL CHANGES AS NECESSARY TO CLARIFY RULE AND BOARD INTENT AND TO COMPLY WITH THE FORMATTING REQUIREMENTS OF THE TEXAS REGISTER. (CORRECTION NOTED ON 5.33). THE MOTION PASSED UNANIMOUSLY.

B. Discussion of Agency Informal Conference Procedures

Mr. Brenton stated that this will be a discussion and opportunity for the Board to provide staff with guidance to determine which procedures to use in conducting Informal Conferences in the future. Mr. Brenton provided information to the Board as summarized on page 47 of the Board materials.

Ms. Dockery opened up the topic for discussion among the Board members.

Ms. Odell stated that she thought it was very important to have someone with expertise at informal conferences along with staff. She stated that it is good to have that expertise provided by Board members, because Board members come from a unique perspective of protecting the health and safety of the public, and not the professions. She also noted the cost savings to the agency by having a Board member present as opposed to a paid expert, provided that the Board member feels competent in the particular subject area.

Mr. Anastos stated that he is opposed to staff selecting a single Board member to participate in informal conferences. Mr. Anastos noted that the Board rules dealing with informal conferences state that the Executive Director can designate attendees, but there was no mention of the Board or Board members. This is notable because the Board or members of the Board are mentioned throughout the Board rules, but not in the informal conference rule. Mr. Anastos noted that the board training manual, which does address Board member attendance at informal conferences, has not been reviewed or approved by the Board. Mr. Anastos stated that materials need to be approved by the Board before being presented to new Board members. With respect to the two most recent informal conferences, Mr. Anastos felt that the first one was acceptable because

the Chair was involved in selecting the Board member for participation. However, with respect to the second informal conference, Mr. Anastos felt it was problematic for staff to contact a Board member directly without going through the Chair. He noted that he has been a Board member for 9 years and had never seen that happen before. Rather, in previous cases the Chair selected members for participation in informal conferences and the Board approved them. Mr. Anastos also noted that, as shown on page 62 of the Board materials, many informal conferences had been held without any Board member present. Mr. Anastos also expressed concern that if a Board member participated in an informal conference, the Board could be left without the input of the Board member when the settlement is considered at Board meeting. For landscape architects and registered interior designers, this is particularly concerning because we only have one Board member each to represent these professions, and the Board needs to be able to rely upon these Board members to answer questions. Mr. Anastos also expressed concern that participation in an informal conference could give an appearance of ex-parte communications. Mr. Anastos also expressed concern about only a single Board member participating in an informal conference, which could be fraught with problems. He noted that informal conferences could be stressful and difficult situations with pushback from Respondents and opposing counsel, and that it could be helpful to have more than one Board member present. Finally, Mr. Anastos referenced the Board's penalty matrix, which provides a guide for penalty assessment. He shared his faith in staff's ability to use the matrix to settle cases appropriately, and therefore does not see the need for a single Board member to attend informal conferences.

Ms. Dockery thanked Mr. Anastos and asked the Board if they had further comments. Ms. Odell stated that if she were the person with a case before the Board, she would want someone who could understand the profession. She noted that this could be one or more Board members. As a service to our registrants, we should allow them that opportunity so that they feel heard if nothing else. As far as who selects the Board member to participate, she would suggest that the Chair be copied on the decision, and if the Chair wants to weigh in, she can. She stated that the Board had hired a competent staff and Executive Director and in her opinion the Board needs to rely upon their employees to exercise delegated authority.

Mr. Bearden asked whether a Respondent would have already turned down the first round of settlement negotiations if an informal conference was being requested. Mr. Brenton answered in the affirmative. Mr. Bearden noted that the goal of an informal conference is to reach an agreement that can then be presented to the Board to decide whether to accept it or not. He stated that he agreed that Board member participation constitutes a service for those sitting at the table to see that the Board cares enough to consider the case and explain the position of

the agency. He was also in favor of Board members providing expertise at the informal conferences. However, he shared Mr. Anastos' concern about the possibility of losing the participation of the landscape architect or registered interior designer at the Board meeting if that Board member had participated in an informal conference, and suggested that the Board could hire an expert in these situations. He agreed with Ms. Odell regarding the possibility that the Chair should be copied on a request for Board member participation in an informal conference.

Mr. Davis stated that he had a few things to mention. He shared the concern about the loss of participation in the Board decision by an informal conference participant. He also stated that it was important to remember that the informal conference is not the final negotiation; it is an opportunity to settle the case subject to Board approval. Mr. Davis stated that he was in favor of whatever mechanisms and tools that will help to settle cases and prevent this agency from going to SOAH. He was also in favor of having the Board Chair involved in the selection of Board members to participate in informal conferences, and wanted Ms. Dockery's opinion on that.

Ms. Dockery shared her observations. For many years, she stated that the Executive Director came from a design background so there was already an understanding of the cases the Board hears. Secondly, she shared her awareness that the Board members already donate a lot of time to serving on this board, so she wants to be very careful about requesting additional time from Board members. She also wants to avoid an expectation that a Respondent can force the presence of a Board member at an informal conference. Ms. Dockery acknowledged there are cases which are significant that could be headed to SOAH which might benefit from some expertise on the front end. She stated her preference for staff to consider this issue in the future and asked how a Board member might really help to avoid a SOAH case or a mediation. Ms. Dockery stated that the Board Chair should be involved in selecting Board members for participation in informal conferences. Ms. Dockery encouraged staff to consider the Board's comments and draft guidelines to govern future informal conferences. Ms. Dockery also recommended that the board training manual be presented to current Board members.

Mr. Anastos stated that he was not trying to eliminate informal conferences, and recognized the potential value of these processes to settle cases before they get to SOAH. His concern is not Board participation in informal conferences, but staff not going through the Board Chair to get authority to contact a Board member for participation. Mr. Anastos reiterated his concern that the Board would miss out on the benefit of a Board member's participation in the approval of a settlement if the Board member was required to recuse following participation in an informal conference.

Mr. Bearden suggested that a participant in an informal conference be asked to sign an agreement that would waive any objection to a Board member participating in the approval of a settlement if the Board member had previously participated in an informal conference.

Mr. Brenton said that he had contacted the Office of the Attorney General (hereafter "OAG") to get advice on this matter. Our OAG representative recommended recusal, but also suggested that it would be acceptable for the Board member to give the reasons why they support the settlement, and to answer any questions regarding their expertise.

Ms. Odell supported this solution, and suggested it could be the best of both worlds. Mr. Anastos voiced support for Mr. Bearden's proposal that the Respondent be asked to sign a waiver which would allow the participating Board member to give input and vote on the settlement at the Board meeting. Mr. Anastos asked staff to inquire about this solution with the OAG.

The Chair asked staff to consider the Board's comments and draft a policy regarding informal conferences. Mr. Brenton provided a summation of his understanding of the Board's discussion, which indicated that some participation by Board members at informal conferences could bring value to the process, and the Chair should be involved in the selection of Board members for participation in informal conferences. Mr. Brenton stated that he would follow up with OAG for additional guidance regarding Board member participation in the approval of a settlement agreement following an informal conference. Mr. Anastos asked staff to address Ms. Odell's proposed solution, which would allow a Board member to answer questions for other Board members at the meeting, but not vote. Mr. Anastos suggested that if this was possible, it might be a good way to do it. Mr. Brenton asked whether there was consensus about multiple Board members versus a single Board member attending an informal conference. Ms. Hildebrand suggested to the Board that this determination could be left to the discretion of the Board Chair at the time the informal conference is being set up: who it should be, how many it should be, etc.

Ms. Dockery suggested that Mr. Brenton contact the OAG for further clarification and stated that the Board would look forward to addressing the matter in the future.

C. Update on Attorney General Collections in Case No. 144-14N

Mr. Brenton presented an update of a previous disciplinary action taken by the Board, as discussed on page 69 of the board materials. The case had been heard at the State Office of Administrative Hearings and the ALJ had entered a default against the Respondent for the unauthorized practice of architecture due to his failure to appear at the hearing. At the hearing, the agency requested that the ALJ award an administrative

penalty against Respondent in the amount of \$26,000, which was recommended by the ALJ and accepted by this Board. An Order of the Board was entered and sent to Respondent; however, Respondent failed to pay the administrative penalty. Therefore, the agency referred the case to the Office of the Attorney General (hereafter "OAG") for collection. The OAG took a default judgment in District Court and the judgment will be in effect for twenty (20) years. Mr. Brenton explained the procedures that are used by the OAG to collect these debts.

The Board took a break at 2:04 p.m. and reconvened at 2:20 p.m.

6. Enforcement Cases

The Board considered the following enforcement cases:

A. Registrant/Non-Registrant Cases

Freeman, Charles E. (#244-17A)

Mr. Brenton presented a summary of this matter as described on page 80 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST CHARLES E. FREEMAN (#244-17A). THE MOTION PASSED UNANIMOUSLY.

Lobb, Chuck (#166-17N)

Mr. Brenton presented a summary as described on page 81 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST CHUCK LOBB (#166-17N). THE MOTION PASSED UNANIMOUSLY.

Steinberg, Sanford P. (#209-17A)

Mr. Brenton presented a summary of this matter as described on page 82 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Odell) TO ACCEPT STAFF'S RECOMMENDATION OF A \$2,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST SANFORD P. STEINBERG (#209-17A). THE MOTION PASSED UNANIMOUSLY.

B. CE Cases

Mr. Brenton stated that the Board would hear the following cases with the exception of the case involving Peggy J. Zadina regarding continuing education violations and vote on them together.

Bailey, Amy S. (#259-17I)

Hunter, Zachry M. (#256-17L)

Krupa, Laurence (#257-17A)

McGaughy, Peggy (#291-17I)
Mink, Marcia L. (#262-17I)
O’Keefe, Oscar (#290-17A)
Palis, Douglas W. (#208-17A)
Powell, Raymond D. (#206-17A)
Qualls, Curtis L. (#293-17A)
Rios, Gabriela (#173-17I)

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE STAFF’S RECOMMENDATION AND PENALTIES FOR THE FOLLOWING CASE NUMBERS: (#259-17I), (#256-17L), (#257-17A), (#291-17I), (#262-17I), (#290-17A), (#208-17A), (206-17A), (#293-17A), AND (#173-17I). THE MOTION PASSED UNANIMOUSLY.

Ms. Odell recused herself from consideration of the following matter:

Zadina, Peggy J. (#258-17I)

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO APPROVE STAFF’S RECOMMENDATION AND PENALTY FOR THE CASE INVOLVING PEGGY J. ZADINA (#258-17I). THE MOTION PASSED UNANIMOUSLY, WITH MS. ODELL IN RECUSAL.

7. Board’s Review and Consideration of CLARB’s Revised Draft Model Law and Regulations

Ms. Hildebrand presented information regarding CLARB’s revised draft model law and regulations as summarized on page 94 of the Board materials. Ms. Hildebrand explained that the Board would make a motion to give Chad Davis authority to vote on the resolutions and give him discretion in case there are changes to the amendments.

Ms. Dockery asked Mr. Davis if he had anything to add. Mr. Davis stated that this is a model law, and that it doesn’t affect Texas unless the legislature adopts the model law.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPOINT CHAD DAVIS AS THE DELEGATE TO VOTE AT THE ANNUAL CLARB MEETING ON BEHALF OF THE TBAE BOARD. THE MOTION PASSED UNANIMOUSLY.

8. Approval of the Proposed 2018 Board Meeting Dates

Due to scheduling conflicts, Ms. Dockery proposed the following Board meeting dates for 2018: February 1, 2018, May 22, 2018, August 21, 2018 and November 15, 2018.

February 1, 2018
May 31, 2018
August 9, 2018
November 15, 2018

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO APPROVE THE MEETING DATES AS PROPOSED BY MS. DOCKERY. THE MOTION PASSED UNANIMOUSLY.

9. Executive Director Performance Evaluation

Ms. Dockery stated that she would like to move the Board into executive session to discuss personnel matters. The Board entered into executive session at 2:41 p.m.

I. Report on findings based upon performance evaluation

The Board reconvened at 3:42 p.m.

II. Consider and possibly act upon any proposed personnel action that may be proposed by the Board

Ms. Dockery stated that the Board had been very pleased with the Executive Director's performance. The strengths have been communication formats with the Board, financial planning and her participation on national boards. Ms. Dockery identified three performance goals for next year. First, an internal focus in understanding where the harm exists in matters under the regulation of the Board. Second, an external focus on the Executive Director's role in defending the regulatory role of the Board – why do we license and what is the harm? Third, a future focus to conduct stakeholder meetings or other efforts to look at how the profession and environment will be impacted by technology, and regulatory changes.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO APPROVE A THREE PERCENT (3%) RAISE FOR THE EXECUTIVE DIRECTOR BASED UPON HER PERFORMANCE EVALUATION. THE MOTION PASSED UNANIMOUSLY.

10. Upcoming Board Meeting - Wednesday, November 8, 2017

Ms. Dockery stated that the next Board meeting will be on November 8, 2017 and it will be a one day meeting.

11. Chair's Closing Remarks

The Chair thanked the Board and staff for their time.

12. Adjournment

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ADJOURN THE MEETING AT 3:50 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

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

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

Case Number: 115-16A
SOAH Docket Number: 459-17-3036
Respondent: Matthew Waters Oualline, Jr.
Location of Respondent: Emory, Texas
Date of Complaint Received: August 24, 2016
Instrument: Order of the Board

Action Recommended by Executive Director:

- The Executive Director recommends that the Board move to accept the attached Order of the Board, which incorporates the Proposal for Decision entered by ALJ Laura M. Valdez on July 26, 2017, and imposes an administrative penalty in the sum of \$950.

IN THE MATTER OF THE	§	BEFORE THE STATE OFFICE
	§	
COMPLAINT AGAINST	§	OF
	§	
MATTHEW WATERS OUALLINE, JR.	§	ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: MATTHEW WATERS OUALLINE, JR.
211 FORBIS
EMORY, TX 75440

LAURA M. VALDEZ
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TX 78701

At the regularly scheduled public meeting on November 8, 2017, the Texas Board of Architectural Examiners (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff’s recommendation that the Board adopt the PFD, and (3) Respondent’s recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ’s findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff’s recommendations, and Respondent’s presentation during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

WHEREFORE, Respondent is ORDERED to pay an administrative penalty in the amount of \$950. Not later than the 30th day after the date this ORDER becomes final Respondent shall pay the administrative penalty.

If Respondent fails to perfect an appeal or to pay the administrative penalty as required by law, Staff is directed to henceforth refer this matter to the Office of the Texas Attorney General for immediate commencement of collection and other enforcement activity.

Entered this the 8th day of November, 2017.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

JULIE HILDEBRAND
EXECUTIVE DIRECTOR FOR THE BOARD

APPROVED:

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

ATTACHMENT: PROPOSAL FOR DECISION; DOCKET No. 459-17-3036

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

July 26, 2017

Cathy L. Hendricks, RID/ASID, IIDA
Executive Director
Texas Board of Architectural Examiners
333 Guadalupe, II-350
Austin, Texas 78701

VIA INTERAGENCY


**RE: Docket No. 459-17-3036; Texas Board of Architectural Examiners vs.
Matthew Waters Oualline, Jr.**

Dear Ms. Hendricks:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,



LAURA M. VALDEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

LMV/et
Enclosure

xc: Lance Brenton, Staff Attorney, Texas Board of Architectural Examiners, 333 Guadalupe, II-350, Austin, TX 78701, – **VIA INTERAGENCY**
Katherine Crain, Legal Assistant, Texas Board of Architectural Examiners, 333 Guadalupe, II-350, Austin, TX 78701 (with 1 CD; Certified Evidentiary Record) – **VIA INTERAGENCY**
Matthew Waters Oualline Jr., 211 Forbis Road, Emory, TX 75440 – **VIA REGULAR MAIL**

SOAH DOCKET NO. 459-17-3036

TEXAS BOARD OF ARCHITECTURAL EXAMINERS, Petitioner	§ § § § § § § § § §	BEFORE THE STATE OFFICE
v.		OF
MATTHEW WATERS OUALLINE, JR., Respondent		ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Petitioner, the Staff of the Texas Board of Architectural Examiners (Staff/Board) seeks imposition of an administrative penalty of \$950 against Matthew Waters Oualline, Jr. (Respondent) for alleged violations of the Texas Architects' Practice Act and the Board's rules. The Administrative Law Judge (ALJ) concludes Mr. Oualline violated the Board's rules by failing to timely respond to a random audit of the Board, which sought copies of his Continuing Education Program Hour (CEPH) log along with supporting documentation. Further, Respondent failed to maintain, and was unable to provide, a detailed record of his CEPH activities. After considering the evidence and arguments presented, the Administrative Law Judge (ALJ) finds that Staff proved the violations as alleged and recommends that Respondent be assessed an administrative penalty in the amount of \$950.

I. PROCEDURAL HISTORY, JURISDICTION, AND NOTICE

The hearing on the merits was conducted on June 1, 2017, before ALJ Laura M. Valdez at the offices of the State Office of Administrative Hearings (SOAH), 300 West 15th Street, Austin, Texas. Staff appeared through its attorney, Lance Breton. Respondent appeared and represented himself. The hearing concluded and the record closed on the same date. Because there were no contested issues of notice or jurisdiction, those matters are addressed only in the findings of fact and conclusions of law.

Staff filed its formal charges with SOAH on March 9, 2017. Notice of the hearing on the merits was sent to Respondent on April 12, 2017. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted, as required by Texas Government Code § 2001.052.

II. APPLICABLE LAW

The Board regulates the profession of architecture.¹ In general, architects practicing in Texas are required to register with the Board and are required to comply with annual continuing education requirements. Specifically, all active architects registered with the Board must complete at least twelve CEPHs per calendar year.² All twelve CEPHs must include the study of subjects related to architecture and be pertinent to the health, safety, and welfare of the public.³ Further, all architects are required to maintain a detailed record of their CEPHs, retain proof of fulfillment of the mandatory CEPH requirements, and retain the annual record of CEPH activities for a period of five years after the end of the registration period for which credit is claimed.⁴

To assure compliance with the CEPH requirement, the Board conducts random audits of an architect's compliance.⁵ An architect is required to respond to an inquiry or produce requested documents to the Board concerning any matter under the jurisdiction of the Board within thirty days after the date the person receives the inquiry.⁶ Failure to respond within thirty

¹ Tex. Occ. Code (Code) ch. 1051.

² 22 Tex. Admin. Code § 1.69(a).

³ 22 Tex. Admin. Code § 1.69(a).

⁴ 22 Tex. Admin. Code § 1.69(g)(1).

⁵ 22 Tex. Admin. Code § 1.69(g)-(h).

⁶ 22 Tex. Admin. Code § 1.171.

days may constitute a separate violation subject to disciplinary action by the Board up to and including suspension or revocation of a registration.⁷ Specifically, Board rule 1.177⁸ states:

An architect . . . who fails, without good cause, to provide information to the Board under provision of § 1.171 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. A violation of § 1.171 of this subchapter shall be considered a minor violation if a complete response is not received within thirty days after receipt of the Board's written inquiry. An additional fifteen-day delay constitutes a moderate violation, and each fifteen-day delay thereafter shall be considered a separate major violation of these rules.⁹

Once a violation of a Board rule is found the Board is authorized to assess a penalty and/or sanction.¹⁰ In general, the Board's Administrative Penalty Schedule¹¹ and the Board's Guidelines (Guidelines)¹² govern the assessment of the appropriate sanction.¹³ Specifically, under the Administrative Penalty Schedule an architect's failure to respond to the random audit inquiry constitutes a minor violation requiring an administrative penalty of not more than \$1,000 be imposed and may include suspension or revocation.¹⁴ Under the Guidelines, an administrative penalty of \$700 is recommended for a first-time violation of the requirement to maintain a detailed record of CEPHS.¹⁵

⁷ 22 Tex. Admin. Code § 1.171.

⁸ "Board rule" refers to a section of title 22 of the Texas Administrative Code.

⁹ 22 Tex. Admin. Code § 1.177(9).

¹⁰ See 22 Tex. Admin. Code §§ 1.232(j) (Guidelines) and 1.177(1) (which sets out in the Board's Administrative Penalty Schedule).

¹¹ 22 Tex. Admin. Code § 1.177 (setting out the Board's Administrative Penalty Schedule to follow in certain disciplinary actions when assessing the appropriate sanction and/or administrative penalty).

¹² 22 Tex. Admin. Code § 1.232(j) (setting out the Board Guidelines to follow in a contested case when assessing the appropriate sanction and/or administrative penalty).

¹³ 22 Tex. Admin. Code § 1.177.

¹⁴ 22 Tex. Admin. Code §§ 1.171, 1.177(1), (2)(A).

¹⁵ 22 Tex. Admin. Code §§ 1.69(g)(1), 1.232(j).

III. DISCUSSION

A. Factual Background

Mr. Oualline is an architect who has been registered with the Board since February 1975. On May 16, 2016, the Board notified Respondent that he had been randomly selected for an audit of his continuing education/CEPH activities for the period of January 1, 2015, through December 31, 2015 (Audit Period). The Board requested that within thirty days Respondent provide to the Board his CEPH log along with supporting documentation for all activities for the Audit Period. Respondent failed to timely respond to the Board's request. On August 19, 2016, in response to the Board's audit, Respondent contacted the Board and indicated that he failed to maintain, and was unable to provide, a detailed record of his CEPH activities for the Audit Period.

B. Staff's Evidence

There are few facts in dispute. Mr. Jack Stamps, the Board's managing investigator, was the sole witness who testified on behalf of the Board. Mr. Stamps has been with the Board for fifteen years and was in charge of the investigation into Respondent's alleged violations of Board rules. In May of 2016, the Board selected Respondent for a random audit of his CEPH, for the Audit Period. On May 16, 2016, the Board sent Respondent a letter requesting he submit proof of his CEPH along with supporting documentation, for the stated Audit Period no later than June 16, 2016. The letter also informed Respondent that failure to timely respond to the letter could result in the Board's taking formal action against him. Respondent did not respond to the Board's audit within the requisite thirty days. When Respondent did respond to the Board's inquiry, on August 19, 2016, he indicated that he was very busy, and that due to a computer issue, he lost his CEPH documentation. Respondent also asserted that due to the type of work he was currently engaged in, he was receiving "continuing education every day from running these

unique projects.”¹⁶ Mr. Stamps likened Respondent’s response to “the dog ate my paperwork.” Mr. Stamps also noted that while Respondent’s August 2016 email indicated he needed additional time to respond to the audit, to date he has not provided the requisite documentation to the Board.

In explaining how other architects have responded to a Board audit, Mr. Stamps stated that because many CEPH courses are taken through the American Institute of Architects (AIA), architects often contact the AIA to obtain copies of their past CEPH course completion records. Further, in addressing Respondent’s contention that his current work fulfilled the CEPH, Mr. Stamps explained while an architect can receive up to four hours a year for time spent *preparing* for a project, including studying local codes, all architects are required to complete eight hours of structured coursework.¹⁷ Mr. Stamps concluded that Respondent violated Board rules 1.69(g)(1), (g)(2) and 1.171, by failing to present the required requested CEPH documentation and failing to timely respond to the random audit demonstrating his compliance with the CEPH requirement.

Mr. Stamps then explained the Board’s investigation and procedure once a violation was found. He testified that the Board has four violations that warrant a specific administrative penalty amount to be imposed under Board rule 1.232, instead of a range of penalty (under Board rule 1.177). Mr. Stamps testified that both of Respondent’s alleged violations are what he refers to as “specific dollar amount administrative penalties.” Generally, for failing to respond to the Board’s random audit (violation of Board rule 1.171) the Board assesses a \$250 administrative penalty; and for failing to maintain documentation (violation of Board rule 1.69(g)(1)), the Board assesses a \$700 administrative penalty. He opined that assessing a specific dollar amount administrative penalty allows for an efficient way of resolving such violations, which constitute a high percentage of violations.

¹⁶ Staff Exh. 1 at 16.

¹⁷ Respondent was not audited for compliance with CEPH for the year 2016. The Audit Period stated in the Board’s May 16, 2016 letter was from January 1, 2015 to December 31, 2015. Thus, Respondent’s CEPH compliance at the time of the 2016 request was irrelevant.

C. Mr. Oualline's Evidence

Mr. Oualline has practiced architecture for over forty-five years and has owned his own firm for over thirty years. Respondent acknowledged he received the Board's May 16, 2016 letter notifying him he had been selected for a random audit of his compliance with the Board's CEPH requirements. When he received the letter he was busy with two large projects out of state and was working fifty to sixty hours a week. He testified that he "just put it on the back burner" because he felt that the Board's letter "was more of a nuisance." Respondent responded to the audit on August 19, 2016, sixty-four days after his response to the May 16, 2016 letter was due. In his response he stated that due to a computer issue he lost his CEPH records for the relevant time period. Respondent's employer, Kirk Krueger, also emailed the Board about the random audit and indicated that Respondent's computer had lost some of his electronic files. Mr. Krueger's email indicated that he was working with Respondent to contact the "various providers of the AIA certified programs that [Respondent] attend[ed] and/or participated in."¹⁸ Respondent testified that he was in compliance with the CEPH requirements for the relevant audit time period, January 1, 2015 to December 31, 2015.

Respondent acknowledged he did not timely respond to the Board's audit and that he did not maintain the requisite copies of his CEPH. He contends he's "not guilty" of failing to fulfill the Board's requisite CEPH, because he completed his CEPH requirements for the relevant audit time period. Respondent noted that he was irked most by the fact that "none of the Staff ever asked [him] if [he] completed the continuing education." Respondent concluded that while the assessment of an administrative penalty is "insignificant," it will brand him a cheater and damage his reputation.

¹⁸ Staff Exh. 1 at 16.

IV. ANALYSIS

The only two issues in the case are whether Respondent timely responded to the Board's audit request and whether Respondent maintained, and was able to provide, a detailed record of his CEPH compliance for the time period of January 1, 2015 to December 31, 2015. There is no dispute that Respondent failed do both. Respondent instead argues that he is not guilty of failing to meet his CEPH requirement. Yet, that is not at issue here because the Board has not alleged that Respondent failed to meet the CEPH requirements for the relevant time period or for any time period.

The ALJ finds that Staff met its burden and proved Respondent failed to timely respond to a Board audit and failed to present proof that he maintained documentation of his CEPH compliance for the relevant audit time period of January 1, 2015 to December 31, 2015. Therefore, the ALJ concludes that Respondent violated 22 Texas Administrative Code (TAC) §§ 1.171 and 1.69(g)(1), and under 22 TAC §§ 1.177 and 1.232, Respondent should be assessed an administrative penalty.

Staff recommends an administrative penalty of \$250 for Respondent's failure to timely respond to the Board's audit.¹⁹ Under 22 TAC § 1.177(1), Respondent's failure to timely respond to the Board's audit constitutes a minor violation, for which an administrative penalty of no more than \$1,000 be imposed.²⁰ Further, Mr. Stamps testified that the Board typically assesses a specific dollar amount of \$250 in administrative penalty for a violation of Board

¹⁹ While Mr. Stamp testified that under Board rule 1.232 a violation of Board rule 1.171 should be assessed a specific penalty amount of \$250, a review of Board rule 1.232(j) merely states that such a violation should be assessed "Administrative Penalty" with no reference to the specific amount of administrative penalty to be assessed. Therefore, the ALJ will look to the Board's Administrative Penalty Schedule set out in Board rule 1.177, for Respondent's violation of Board rule 1.171.

²⁰ Under 22 Tex. Admin. Code § 1.77(9), an architect's failure to respond to a request for information by the Board, for more than sixty-four days, constitutes a moderate violation under 22 Tex. Admin Code § 1.177(2)(B), which allows for an administrative penalty of not more than \$3,000 be imposed. However, the Board did not allege a violation of 22 Tex. Admin. Code § 1.77(9), and therefore, the ALJ determines that there is no need to look to imposition of such a penalty under 22 Tex. Admin. Code § 1.77(9).

rule 1.171. Moreover, the nature, circumstances, extent, and gravity of Respondent's failure to timely respond to the Board audit is relatively minor. There was no evidence of the hazard or potential hazard to the health, safety or welfare of the public; nor was there evidence of economic harm resulting from the conduct. There was no evidence of Respondent's history concerning any previous ground for sanction. Although Respondent made little effort to respond promptly, he did respond to the Board's request for his CEPH records sixty-four days after the deadline. There is no evidence of any economic benefit gained by the Respondent as a result of the conduct. In considering the evidence and testimony provided, the ALJ agrees with Staff's recommendation and determines that a \$250 administrative penalty is warranted.

For Respondent's violation of Board rule 1.69(g)(1), Staff seeks a specific a dollar amount administrative penalty of \$700 under Board rule 1.232 (j). Based on the evidence presented, the ALJ agrees with Staff and recommends a \$700 administrative penalty be imposed against Respondent for his failure to provide the Board with the requisite documentation demonstrating that he maintained his CEPH documentation for January 1, 2015 to December 31, 2015. Therefore, the ALJ concludes Respondent committed violations of 22 TAC §§ 1.69(g)(1) and 1.71, and recommends Respondent be assessed an administrative penalty of \$950.

V. FINDINGS OF FACT

1. Matthew Waters Oualline, Jr., (Respondent) is an architect registered with the Texas Board of Architectural Examiners (Board) since February 11, 1975.
2. On May 16, 2016, the Board sent Respondent a letter requesting he submit proof of his Continuing Education Program Hours (CEPH), along with supporting documentation, for the Audit Period of January 1, 2015 through December 31, 2015, to the Board no later than June 16, 2016. The May 16, 2016 letter informed Respondent that failure to timely respond to the letter could result in the Board's taking formal action against him.
3. Respondent did not respond to the Board's audit within thirty days (*i.e.*, by June 16, 2016).

4. On August 19, 2016, Respondent responded to the Board's inquiry, sixty-four days after the June 16, 2016 deadline. In his response, he indicated that some of his personal electronic files, including his CEPH documentation, had been lost due to a computer issue.
5. On August 19, 2016, Respondent's employer, Mr. Kirk Krueger, emailed the Board and stated that due to a computer issue some of Respondent's personal electronic files had been lost.
6. Respondent did not provide the Board with documentation demonstrating that he maintained his CEPH documentation for the time period of January 1, 2015 to December 31, 2015, as requested.
7. On March 9, 2017, the Staff of the Board (Staff) filed its original complaint against Respondent with the State Office of Administrative Hearings (SOAH).
8. On April 12, 2017, Notice of the Hearing on the merits was sent to Respondent, which was more than ten days before the originally-scheduled hearing date. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted.
9. On June 1, 2017, the hearing on the merits was conducted, before Administrative Law Judge (ALJ) Laura M. Valdez at the offices of the SOAH, 300 West 15th Street, Austin, Texas. Staff appeared through its attorney, Lance Breton. Respondent appeared and represented himself. The hearing concluded and the record closed the same date.

VI. CONCLUSIONS OF LAW


1. The Board has jurisdiction over this matter under Texas Occupations Code (Code) §§ 1051.001-1051.801.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code ch. 2003.
3. The Board may take disciplinary action against an architect who has violated Code § 1051.752(1). 22 Texas Administrative Code (TAC) ch. 1 (regulating the practice of architecture).

4. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052.
5. Respondent violated 22 TAC § 1.171, by failing to timely respond to the Board's audit request that he submit proof of his CEPH along with supporting documentation, for the Audit Period of January 1, 2015 through December 31, 2015, no later than June 16, 2016.
6. Respondent's violation of 22 TAC § 1.171 was a minor violation under the guidelines adopted in 22 TAC § 1.177(1).
7. Under 22 TAC § 1.177(2)(A) the penalty for a minor violation is an administrative penalty of no more than \$1,000.
8. An administrative penalty of \$250 is warranted for Respondent's minor violation of 22 TAC § 1.171.
9. Respondent violated 22 TAC § 1.69(g)(1), by failing to provide the Board with the requisite documentation demonstrating that he maintained his CEPH documentation for January 1, 2015 to December 31, 2015.
10. Under 22 TAC § 1.232(j), Respondent's violation of 22 TAC § 1.69(g)(1) warrants an administrative penalty of \$700.
11. An administrative penalty should be assessed against Respondent in the amount of \$950 in accord with the Board's rules and regulations.

VII. RECOMMENDATION

Based on the above Findings of Fact and Conclusions of Law, the ALJ recommends that Respondent be assessed an administrative penalty in the amount of \$950.

SIGNED July 26, 2017.


LAURA M. VALDEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Summary of Executive Accomplishments

November 8, 2017

Executive

1. All recommendations from the Post-Payment Audit have been implemented.
2. The SAO audit is now in the Fieldwork Testing stage. The SAO staff was in our office for an entire week requesting files to review, which involves a great deal of time from relevant staff.
3. In addition to the SAO audit, we are currently undergoing a Personnel Policies and Procedures Review by the Texas Workforce Commission. This review is conducted on a biennial basis. We have provided requested documentation and will be meeting with the TWC in January.
4. I attended a meeting of the Harvey Occupational and Professional Emergency (HOPE) Workgroup, created to:
 - a. share best practices, resources, and analytics in the face of this disaster;
 - b. develop plans for how we can work together to prepare for future disasters; and,
 - c. create an inter-agency email distribution list for communicating before, during, and after disasters.
5. The FY18 Goals and Objectives have been distributed to management staff.
6. The Annual Financial Report has been completed and submitted.
7. The Record Retention Policy has been updated and submitted for recertification.
8. Staff is investing large amounts of time to the CAPPs transition for HR and payroll, including attending meetings and provided requested information and documentation. Survey responses on change readiness were also required of the staff.

NCARB

1. I attended the first of two live meetings for the Experience Committee where we discussed the value of licensure; the role of education, experience and examination to determine competency; and HSW categories for continuing education.
2. The retirement for ARE 4.0 is June 30, 2018. NCARB has been working to communicate relevant information to exam candidates.

CLARB

I gave two presentations at the CLARB Annual Meeting related to communicating with legislators. Both were well received. I subsequently shared samples and other information with ASLA and other states. I was also recognized for reaching out to New Jersey, New York, Mississippi and Louisiana to discuss needed preparations for our response to Hurricane Harvey.

Summary of Registration Department Accomplishments FY17

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Examination Applications Received	100	105	64	35	81	60	43	54	53	73	43	43
Reciprocal Applications Received	31	40	35	44	35	34	46	40	49	38	40	50
Total Applications Received	131	145	99	79	116	94	89	94	102	111	83	93
Exam Scores Received/Entered	529	342	537	428	293	393	490	421	584	600	258	390
Examination Registrations Issued	26	46	41	55	38	38	57	37	40	92	58	39
Reciprocal Registrations Issued	49	35	28	42	36	24	37	38	47	39	32	32
Total Registrations Issued	75	81	69	97	74	62	94	75	87	131	90	71
Active Architects	12,040	12,079	12,095	12,118	12,132	12,151	12,208	12,254	12,303	12,374	12,403	12,433
Active Reg. Interior Designers	3,586	3,574	3,554	3,561	3,556	3,557	3,558	3,561	3,559	3,574	3,590	3,597
Active Landscape Architects	1,508	1,516	1,516	1,520	1,526	1,533	1,537	1,536	1,539	1,551	1,554	1,562
Total Active Registrants	17,134	17,169	17,165	17,199	17,214	17,241	17,303	17,351	17,401	17,499	17,547	17,592
CE Audits Conducted	119	122	123	128	119	123	117	133	120	127	128	131
CE Audits Referred for Investigation	3	5	5	8	3	5	8	4	5	9	3	6
Approved Scholarship Applications	6	3	3	4	6	1	1	5	4	3	1	8
Certificates of Standing	15	20	20	15	6	17	16	17	12	12	9	16

Summary of Registration Department Accomplishments FY18

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Examination Applications Received	41											
Reciprocal Applications Received	61											
Total Applications Received	102											
Exam Scores Received/Entered	421											
Examination Registrations Issued	40											
Reciprocal Registrations Issued	45											
Total Registrations Issued	85											
Active Architects	12,481											
Active Reg. Interior Designers	3,595											
Active Landscape Architects	1,565											
Total Active Registrants	17,641											
CE Audits Conducted	133											
CE Audits Referred for Investigation	3											
Approved Scholarship Applications	6											
Certificates of Standing	7											

Summary of Enforcement Accomplishments FY17

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Cases Received and Opened	33	8	23	29	66	5	58	15	32	51	77	12
Cases Closed by Investigations – Total	4	11	4	4	27	18	7	28	20	20	52	32
Cases Closed by Investigations – TDLR					27	18	7	27	19	19	52	30
Cases Closed by Investigations – Other					0	0	0	1*	1**	1***	0	2**
Cases Referred to Legal	5	15	13	17	15	16	8	4	6	6	11	18
Average Number of Days to Investigate	86	57	81	61	70	60	58	51	58	71	42	46
Notices of Violation by Legal	5	9	9	0	4	6	7	9	10	8	1	2
Voluntary Surrenders by Legal	0	0	0	0	0	0	2	0	0	0	0	0
Disciplinary Action Entered by the Board	0	0	17	0	0	10	0	0	0	20	0	14
Warnings from Executive Director	0	3	4	10	4	18	19	1	11	3	5	5
Complaints Filed at SOAH	2	0	0	0	0	0	1	0	0	0	0	0
Informal Settlement Conferences Held	0	1	0	0	0	0	0	1	0	0	0	0

* Voluntary Compliance – Non-registered business removed the word architect from their webpage.

** CE – Registrant furnished CE documentation after case file opened.

*** No evidence of any violation.

Summary of Enforcement Accomplishments FY18

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Cases Received and Opened	22											
Cases Closed by Investigations – Total	4											
Cases Closed by Investigations – TDLR	4											
Cases Closed by Investigations – Other	0											
Cases Referred to Legal	16											
Average Number of Days to Investigate	46											
Notices of Violation by Legal	7											
Voluntary Surrenders by Legal	0											
Disciplinary Action Entered by the Board	0											
Warnings from Executive Director	21											
Complaints Filed at SOAH	0											
Informal Settlement Conferences Held	0											

**Texas Board of Architectural Examiners
Fiscal Year 2017 Budget With Servers**

	FY 2017 Approved Budget	FY 2017 Budget through 8-31-17	FY 2017 Percentage Spent
Revenues:			
Licenses & Fees	2,617,560	2,661,700	101.69%
Business Registration Fees	80,000	109,288	136.61%
Late Fee Payments	120,000	135,508	112.92%
Other	2,500	4,269	170.75%
Interest	2,000	14,427	721.34%
Potential Draw on Fund Balance	93,902		
Total Revenues	2,915,962	2,925,191	100.32%
Expenditures:			
Salaries and Wages	1,526,423	1,507,503	98.76%
Payroll Related Costs	525,897	535,949	101.91%
Professional Fees & Services	25,000	10,752	43.01%
Travel			
Board Travel	30,000	11,261	37.54%
Staff Travel	20,000	15,645	78.22%
Office Supplies	10,000	6,132	61.32%
Postage	13,000	10,656	81.97%
Communication and Utilities	13,000	13,641	104.93%
Repairs and Maintenance	1,000	379	37.85%
SWCAP Payment with Office Rental	116,142	113,014	97.31%
Equipment Leases--Copiers	8,500	8,153	95.92%
Printing	15,000	8,902	59.35%
Operating Expenditures	30,000	25,197	83.99%
Registration Fees--Employee Training	11,000	9,843	89.48%
Membership Dues	21,000	19,950	95.00%
Payment to GR	510,000	510,000	100.00%
IT Upgrades	40,000	42,402	106.01%
Total Expenditures	2,915,962	2,849,378	97.72%
Excess/ (Deficiency) of Rev over Exp.	-	75,813	

Funding for 8 months	1,943,780
Excess Fund Balance	660,189
Total Fund Balance	2,603,969

Administrative Penalties Collected	\$	85,162
General Revenue Collected	\$	8,200

**Texas Board of Architectural Examiners
Fiscal Year 2017 Budget
Scholarship Fund**

	FY 2017 Budget	FY 2017 Actual Sept. 1, 2016-- August 31, 2017
Operating Fund Beginning Fund Balance:	-	-
Adjusted Beginning Balance	-	-
Scholarship Fund Beginning Balance	68,455.86	
Total Beginning Scholarship Fund Balance	68,455.86	68,455.86
Revenues:		
Scholarship Fees	-	15,258.10
Total Revenues	-	15,258.10
Expenditures:		
Operating Expenditures-Scholarship Payments		23,469.26
Total Expenditures		23,469.26
Excess/(Deficiency) of Rev. over Exp.	68,455.86	60,244.70
Fund Balance	68,455.86	60,244.70

Number of Scholarships Awarded

47

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



TEXAS Board of
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ANNUAL REPORT ON TRENDS: 2017



For the past few years, TBAE staff have compiled and presented annual trends and statistics to the Board during its autumn meeting. We are pleased this year to do the same, with an eye toward succinctness and ease of understanding. And as always, it is the agency's intention to provide this report not only to the Board, but to the agency's stakeholders, interested parties, and to the people who live, work, and play in the built environment of Texas.

As a result, you will find clear and simple representations of agency trends, organized

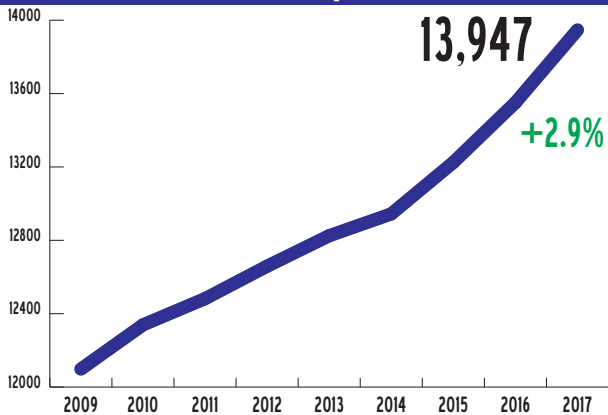
into color-coded groupings by broad topic. Content accented in blue touches on registration and licensing. Red content is about enforcement. Finally, green content regards the agency's financial and administrative operations.

The graphical representations in this report are crafted to illuminate agency trends concisely and simply. We hope you find this report enlightening and useful, and as always, we're available to answer questions.

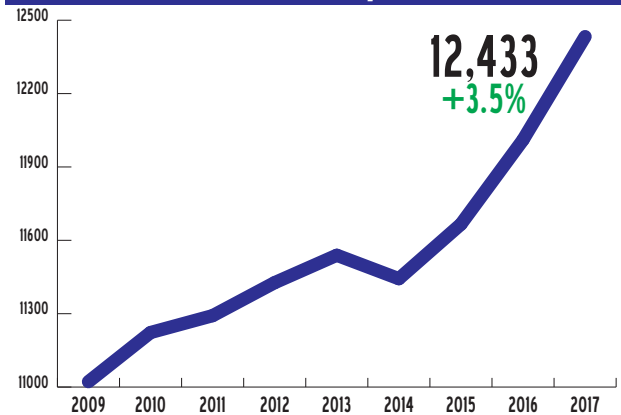
Architect registrants

- At least eight consecutive years of growth in the profession overall
- 2.9 percent overall growth is the sharpest uptick in architects during the charted timeframe

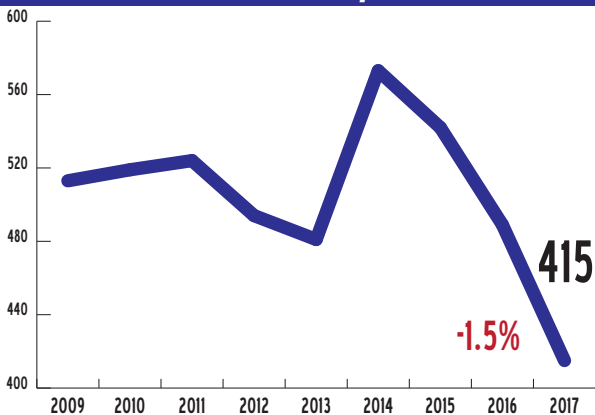
All Architects by Fiscal Year



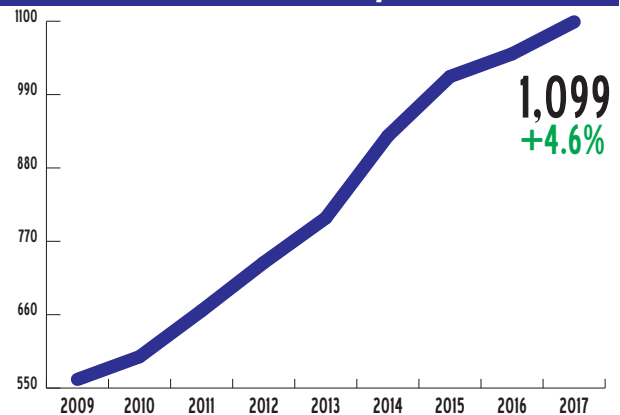
Active Architects by Fiscal Year



Inactive Architects by Fiscal Year



Emeritus Architects by Fiscal Year

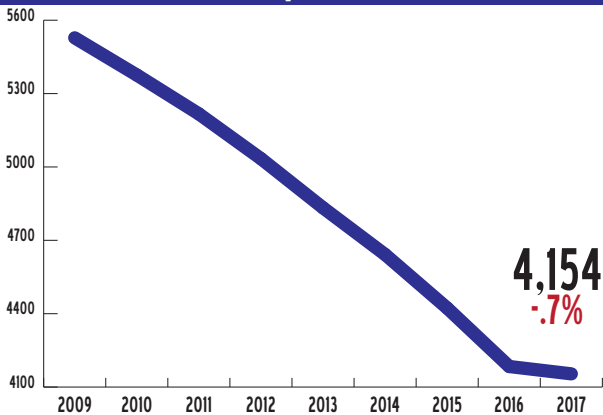


Data for the graphs above come from the agency's in-house database. These visuals are intended to provide an idea of recent trends at a glance, rather than in great detail.

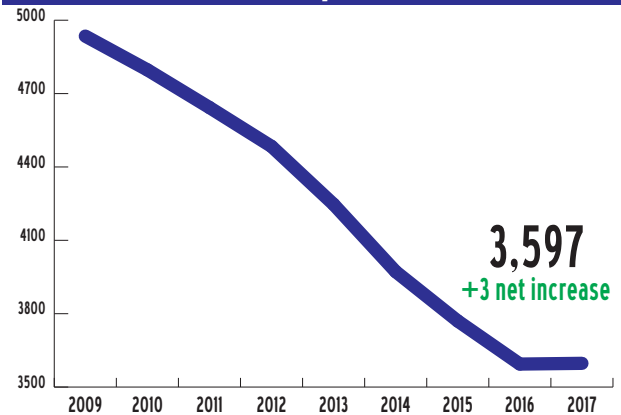
RID registrants

- The recent downward trend appears to be slowing
- Note the first net increase in Active RIDs during the charted timeframe

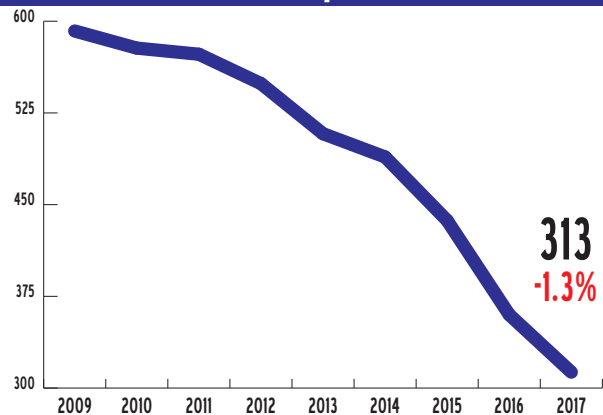
All RIDs by Fiscal Year



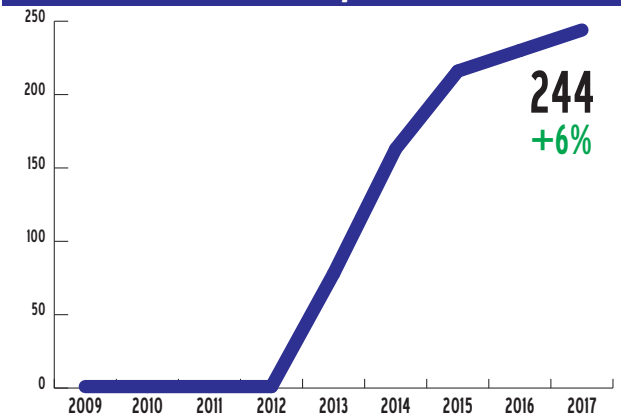
Active RIDs by Fiscal Year



Inactive RIDs by Fiscal Year



Emeritus RIDs by Fiscal Year

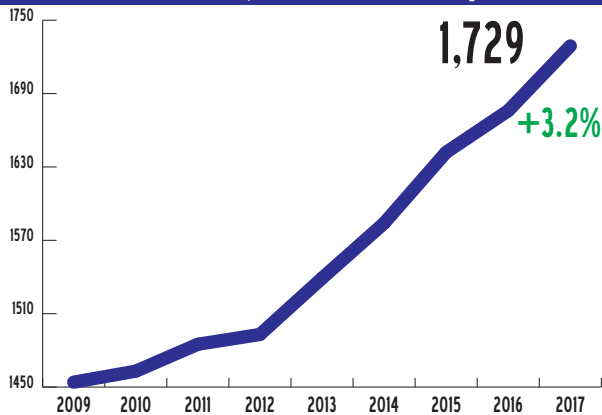


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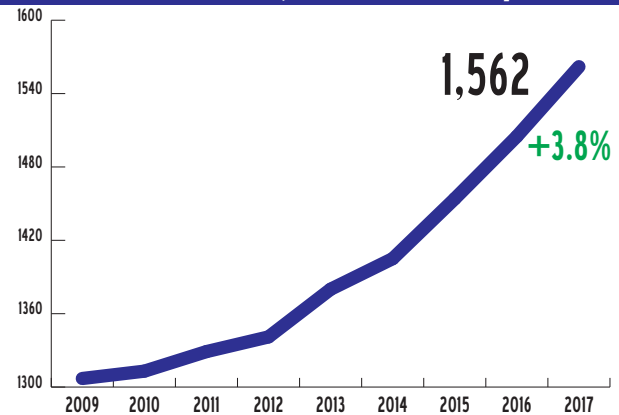
Landscape architect registrants

- Another example of strong year-to-year growth overall
- 18.9 percent increase in all Landscape Architects since 2009

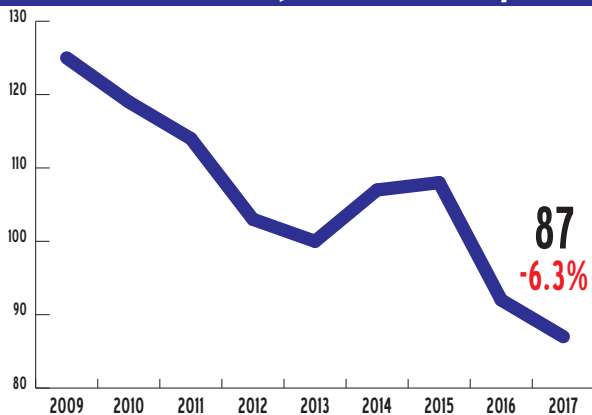
All Landscape Architects by FY



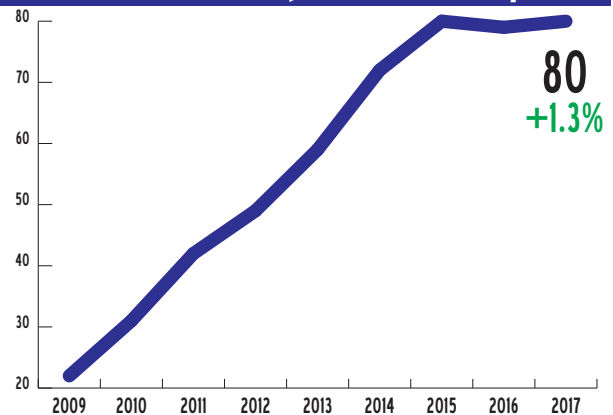
Active Landscape Architects by FY



Inactive Landscape Architects by FY



Emeritus Landscape Architects by FY

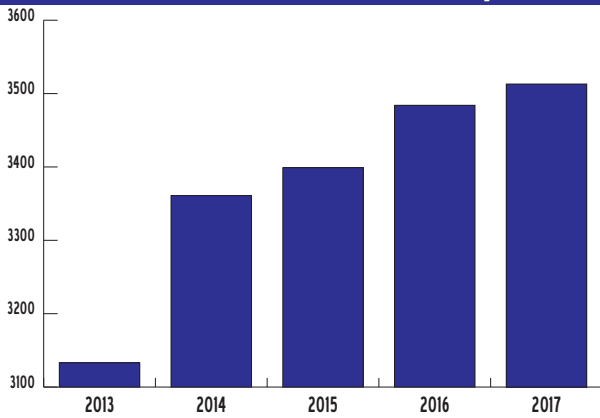


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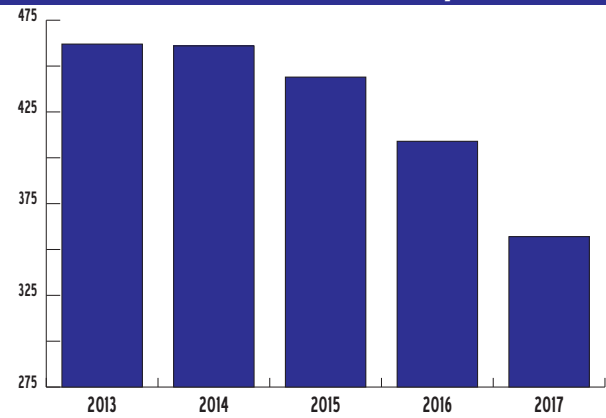
Exam Candidates

- The first drop in overall candidate numbers since 2012, though at 19 the net loss is modest

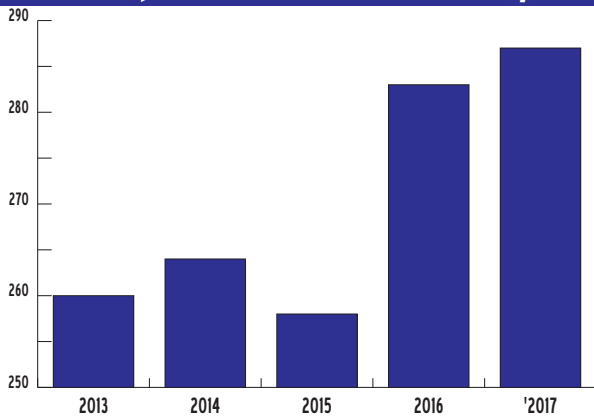
Architect exam candidates by FY



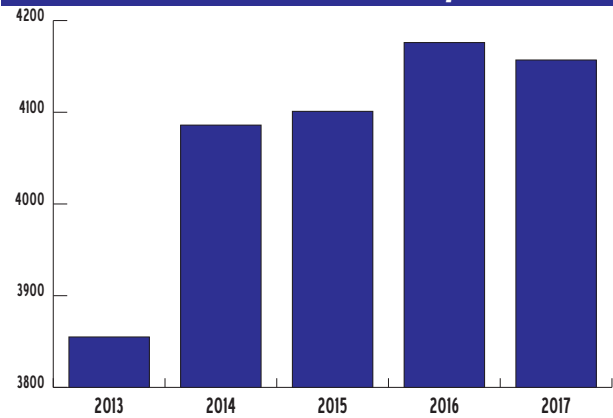
RID exam candidates by FY



Landscape Architect exam cand. by FY



All exam candidates by FY

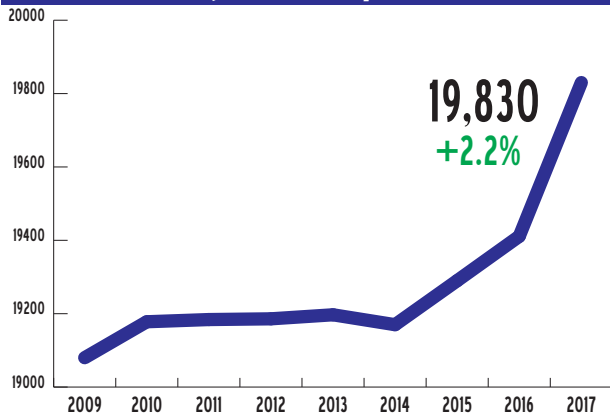


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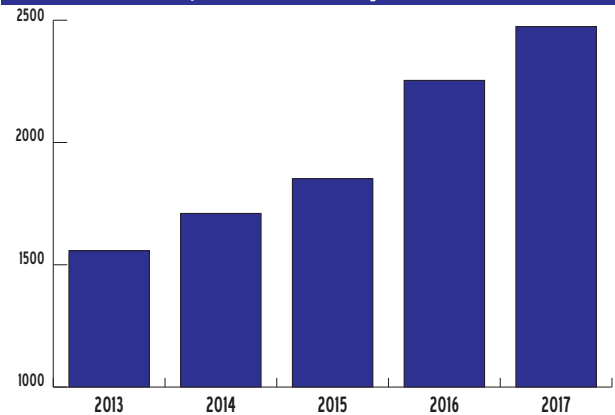
Licensing odds & ends

- Steepest increase in total registrants since at least 2009
- Continued increase in firm registrations since the process went online in 2013

Total Registrants by Fiscal Year



Firm registrations by Fiscal Year



Avg. days to issue a license by FY

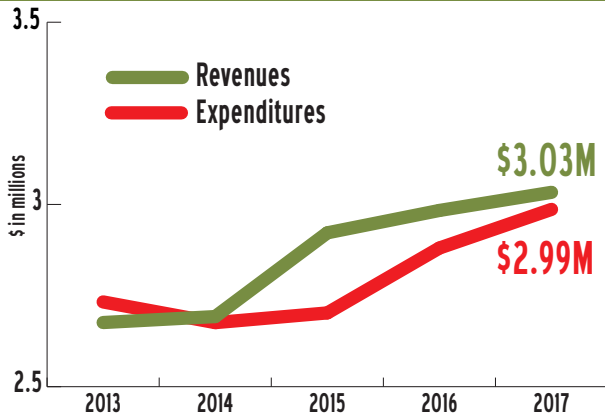


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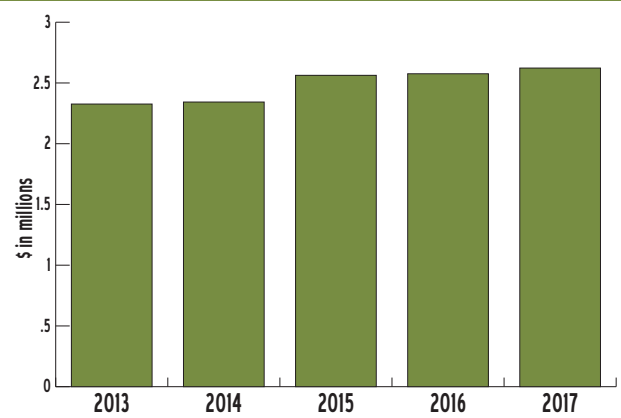
Staffing, Finance, Administration

- The gap between Revenues and Expenditures is narrowing
- Salaries increased with the addition of one FTE (Investigator)

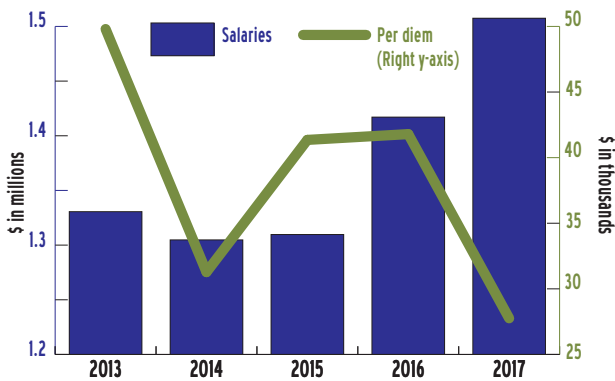
Revenues and expenditures by FY



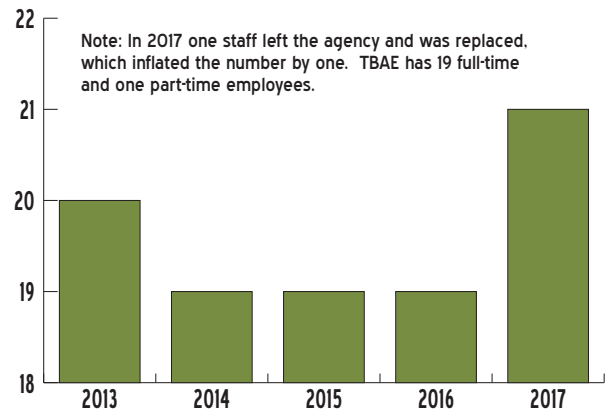
Fund balance by Fiscal Year



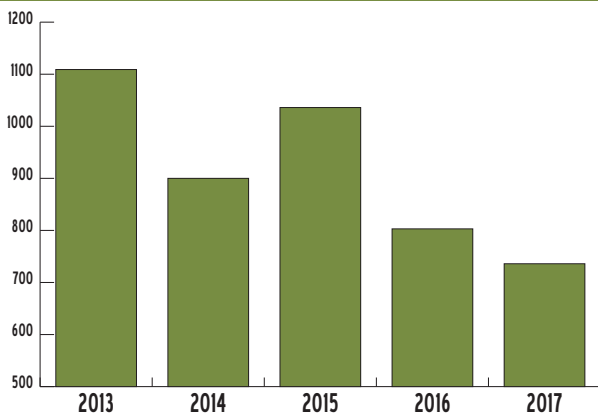
Salaries and per diem by FY



Full-time employees by FY



Communications impressions by FY

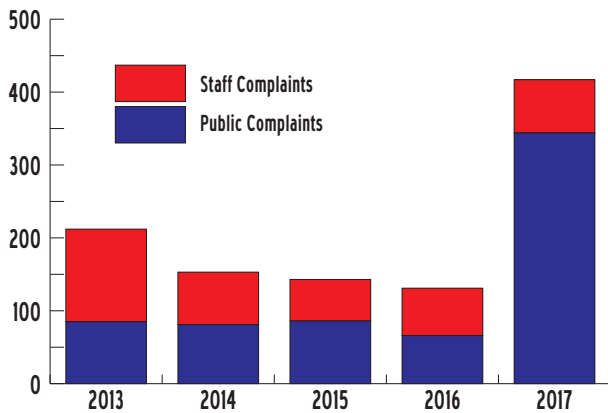


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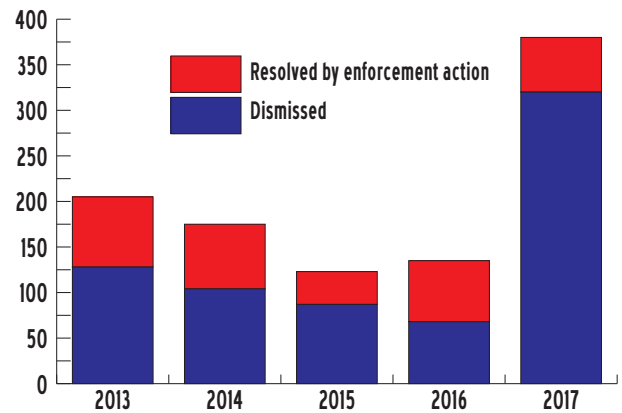
Investigations and Enforcement

- Large uptick in complaints received due to TDLR referrals; most are first offenses, resolved with a Warning Letter
- Impressive reduction in time needed to resolve cases, due to new Investigations staff and TDLR cases noted above

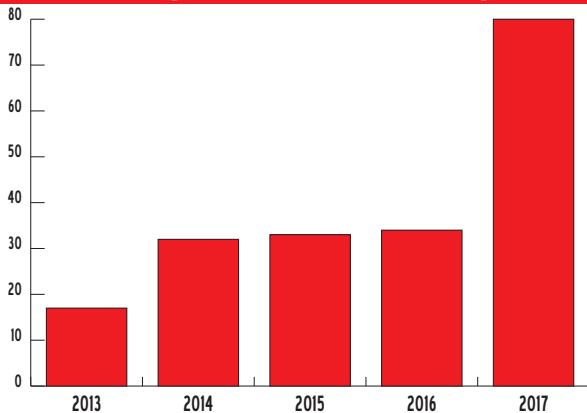
Complaints from the public/staff



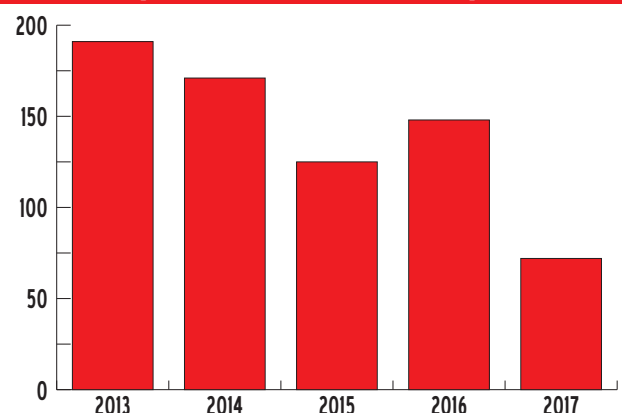
Cases Dismissed/Acted Upon



Voluntary compliance cases by FY



Days to case resolution by FY

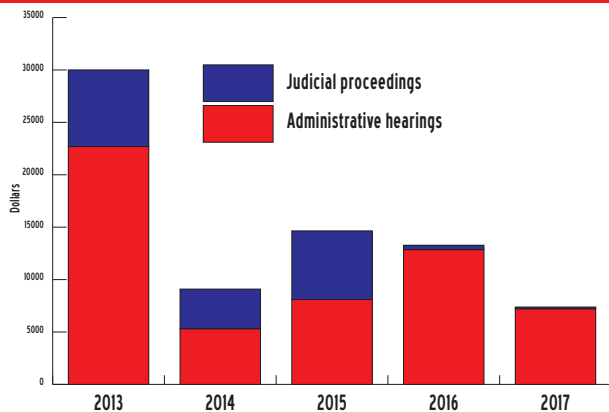


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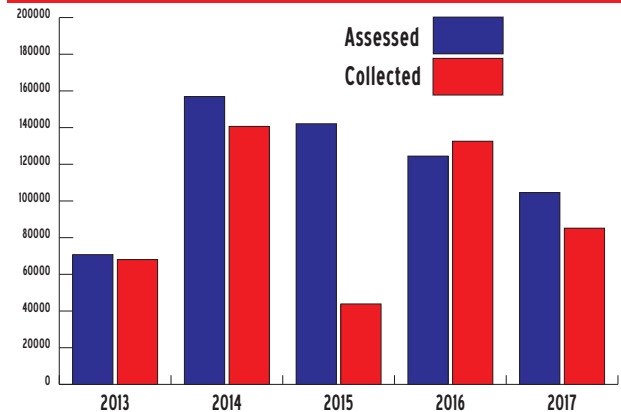
Investigations and Enforcement

- Administrative penalty assessments above \$100,000 for the seventh time in 9 years
- Beginning in FY 2014, all administrative penalties go to the State's general revenue fund

Litigation costs by Fiscal Year



Administrative penalties by FY in \$



Data for the graphs above come from the agency's in-house database. These visuals are intended to provide an idea of recent trends at a glance, rather than in great detail.



TEXAS Board of
Architectural Examiners
Architects ■ Landscape Architects ■ Registered Interior Designers

333 Guadalupe Street, Suite 2-350
Austin, Texas 78701
Tel: 512-305-9000
Fax: 512-305-8900
customerservice@tbae.state.tx.us

November 1, 2017

The Honorable Greg Abbott, Governor
The Honorable Jane Nelson, Chair, Senate Finance Committee
The Honorable John Zerwas, Chair, House Appropriations Committee
Ms. Ursula Parks, Director, Legislative Budget Board

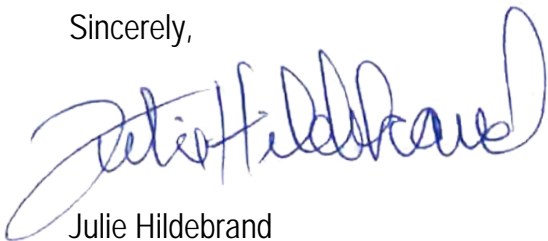
Dear Sir or Madam:

We are pleased to submit the Texas Board of Architectural Examiners' (TBAE) report as required by Section 472.104(a) and (b), Texas Government Code, as amended by HB 1685 of the 83rd Regular Session.

In preparing this year's report, the agency has made several improvements to its performance measure definitions and the queries that produce the data, all of which will be reflected in next year's strategic plan. Additionally, future quarterly reports will use precisely the same performance measure definitions and queries as those used to create this report.

Should you have any questions, please do not hesitate to call me at 512-305-9000.

Sincerely,



Julie Hildebrand
Executive Director

Enclosure

cc: Board Members, Texas Board of Architectural Examiners
Mr. Lance Kinney, P.E., Executive Director, Texas Board of Professional Engineers
Mr. Bill Treacy, Executive Director, Texas State Board of Public Accountancy

Annual Report

FISCAL YEAR 2017

Submitted pursuant to Sections 472.104(a) and (b) of the Texas Government Code.



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

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Introduction to this report

This report is produced for the Governor, the legislature, the Legislative Budget Board, our registrants and stakeholders, and the people of Texas.

Welcome

Thank you for reading the 2017 Annual Report of the Texas Board of Architectural Examiners (TBAE). It is my hope that the information presented here will give readers like you a good sense of who we are here at TBAE, what we do, and how we do it.

How to read this report

In the following pages, you will find our Annual Report, responsive to 472.104(a) and (b) of the Texas Government Code. While this report fulfills our statutory requirement to submit information to those who oversee our operations, my goal is to ensure that this information is available also to TBAE's registrants, building officials, and anyone who lives, works, and plays in the built environment of Texas.

Each of the measures can be divided into one of three broad categories: Finance and Administration, Enforcement, and Licensing. For ease of navigation and understanding, Finance and Administration measures will be denoted by green elements, Enforcement data with red, and Licensing measures with blue.

Each performance measure will be presented with its statutory reference and description, and preceded by a plain-English title.

Contact us

If you have any questions about this report or the information presented inside, don't hesitate to call us at 512-305-9000 or email customerservice@tbae.state.tx.us for more information. It is our goal to remain responsive, transparent, and fair in everything we do, so please let us know if we can help.

Julie Hildebrand
Executive Director
November 1, 2017

Finance/Admin: Staff salaries and travel expenses

Texas Government Code 472.104(b)(1). The salary for all agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees, including trend performance data for the preceding five fiscal years. [Data also include Board Member expenditures.]

	2013	2014	2015	2016	2017
Salary	\$1,330,597	\$1,304,771	\$1,309,679	\$1,417,055	\$1,507,503
Per Diem and Travel	\$49,800	\$31,275	\$41,352	\$41,793	\$27,757

Finance/Admin: Board travel and per diem expenses

Texas Government Code 472.104(b)(2). The total amount of per diem expenses and travel expenses paid for each member of the governing body of each agency, including trend performance data for the preceding five fiscal years.

	2013		2014		2015		2016		2017	
	Per Diem (\$)	Travel (\$)	Per Diem	Travel	Per Diem	Travel	Per Diem	Travel	Per Diem	Travel
Chuck Anastos Corpus Christi	150	2056	90	979	150	4268	270	3174	240	1489
Chase Bearden Austin	120	16	0	0	60	0	150	0	180	1029
Chad Davis Lubbock	60	2007	240	4515	90	5653	420	6399	540	4475
Debra Dockery San Antonio	270	3877	180	1314	150	2275	240	2042	420	1065
Davey Edwards Decatur	60	1006	180	2487	150	2998				
Anthony Giuliani El Paso							60	756	90	188
Bert Mijares El Paso	240	6230	150	2337	120	3858				
Paula Ann Miller The Woodlands	120	2214	120	776	60	1004	180	1531	120	637
Sonya Odell Dallas	330	6531	270	3554	120	4934	330	4931	300	3141
Brandon Pinson	90	1160								
Diane Steinbrueck	240	2710								
Alfred Vidaurri, Jr Aledo	210	3416	180	1760	120	5177				
Jennifer Walker Lampasas							210	485	270	662
Bob Wetmore Austin							120	36	210	13

Finance/Admin: Agency operating plan

Texas Government Code 472.104(a)(2) and (b)(3). Each agency's operating plan covering a period of two fiscal years.

2016 TBAE Strategic Plan, located at: <http://www.tbae.state.tx.us/Content/documents/TBAE/TBAEStrategicPlan2017Final.pdf>

Finance/Admin: Agency operating budget

Texas Government Code 472.104(a)(2) and (b)(4). Each agency's operating budget, including revenues and a breakdown of expenditures by program and administrative expenses, showing: (A) projected budget data for a period of two fiscal years; and (B) trend performance data for the preceding five fiscal years.

			2013	2014	2015	2016	2017	2018	2019
			ACTUAL	ACTUAL	ACTUAL	ACTUAL	ACTUAL	BUDGET	PROJECTED BUDGET
Revenues:									
	Licenses and Fees		\$ 2,670,733	\$ 2,688,472	\$ 2,916,660	\$ 2,882,588	\$ 3,014,263	\$ 3,015,830	\$ 3,015,830
	Interest		\$ 2,385	\$ 887	\$ 1,538	\$ 5,171	\$ 14,715	\$ 2,500	\$ 2,500
	Sale of Goods & Services/Miscellaneous		\$ 2,885	\$ 2,986	\$ 3,945	\$ 5,781	\$ 4,269	\$ 3,000	\$ 3,000
		Total Revenues	\$ 2,676,002	\$ 2,692,345	\$ 2,922,142	\$ 2,893,541	\$ 3,033,246	\$ 3,021,330	\$ 3,021,330
Expenditures:									
	Salaries and Wages		\$ 1,330,597	\$ 1,304,771	\$ 1,309,679	\$ 1,417,055	\$ 1,507,503	\$ 1,572,215	\$ 1,572,215
	Payroll Related Costs		\$ 369,023	\$ 399,648	\$ 414,834	\$ 493,275	\$ 528,370	\$ 548,115	\$ 548,115
	Professional Fees and Services		\$ 65,836	\$ 17,648	\$ 28,894	\$ 25,125	\$ 15,178	\$ 75,000	\$ 75,000
	Travel		\$ 49,800	\$ 31,275	\$ 41,352	\$ 41,793	\$ 27,757	\$ 45,000	\$ 45,000
	Materials and Supplies		\$ 59,560	\$ 44,687	\$ 59,203	\$ 49,359	\$ 47,624	\$ 19,000	\$ 19,000
	Communication and Utilities		\$ 8,106	\$ 14,101	\$ 13,021	\$ 13,374	\$ 14,187	\$ 14,000	\$ 14,000
	Repairs and Maintenance		\$ 991	\$ 678	\$ 1,148	\$ 1,049	\$ 2,542	\$ 1,000	\$ 1,000
	Rentals and Leases		\$ 68,648	\$ 64,166	\$ 58,209	\$ 92,856	\$ 77,070	\$ 59,500	\$ 59,500
	Printing and Reproduction		\$ 10,977	\$ 12,377	\$ 19,867	\$ 14,866	\$ 8,911	\$ 15,000	\$ 15,000
	Other Operating Expenditures		\$ 258,970	\$ 257,940	\$ 236,218	\$ 221,709	\$ 247,313	\$ 162,500	\$ 162,500
	Capital Outlay		\$ -	\$ 18,451	\$ 9,971	\$ -	\$ -	\$ -	\$ -
	Excludes GR Transfer of \$510,000	Total Expenditures	\$ 2,222,507	\$ 2,165,741	\$ 2,192,395	\$ 2,370,460	\$ 2,476,455	\$ 2,511,330	\$ 2,511,330
Program Areas:									
	Registration		\$964,836	\$963,872	\$975,734	\$1,054,983	\$1,102,156	\$1,117,677	\$1,117,677
	Enforcement		\$368,910	\$367,945	\$372,474	\$402,726	\$420,734	\$426,659	\$426,659
	Indirect Administration		\$888,762	\$833,924	\$844,187	\$912,751	\$953,565	\$966,994	\$966,994

Finance/Admin: Audit

Texas Government Code 472.104(a)(1). An audit required by Section 472.103.

The agency was last audited in 2011 by the State Auditor's Office. A copy of the audit is available upon request.

Finance/Admin: Employee counts

Texas Government Code 472.104(b)(5)(A). The number of full-time equivalent positions at the agency.

	2013	2014	2015	2016	2017
FTEs	20	19	19	19	21*

*Data sent to State Auditor's Office, but not yet published as of report date.

Enforcement: Complaints by source

Texas Government Code 472.104(a)(4) and (b)(5)(B). The number of complaints received from the public and the number of complaints initiated by agency staff.

	2013	2014	2015	2016	2017
Complaints from public	83	81	85	66	344
Staff complaints	129	72	58	65	73
TOTAL	212	153	143	131	417

Enforcement: Complaints dismissed and resolved by enforcement

Texas Government Code 472.104(a)(4) and (b)(5)(C). The number of complaints dismissed and the number of complaints resolved by enforcement action.

	2013	2014	2015	2016	2017
Complaints dismissed	130	104	86	65	320
Complaints resolved by enforcement	77	71	36	70	60
TOTAL	207	175	122	135	380

Enforcement: Actions by sanction type

Texas Government Code 472.104(a)(4) and (b)(5)(D). The number of enforcement actions by sanction type.

	2013	2014	2015	2016	2017
Revocation/Voluntary Surrender	1	0	1	1	0
Suspension	0	0	1	0	0
Admin. penalty	76	71	34	68	60
Cease/desist order	10	9	9	0	0
TOTAL	87	80	45	69	60

Enforcement: Voluntary compliance

Texas Government Code 472.104(a)(4) and (b)(5)(E). The number of enforcement cases closed through voluntary compliance.

	2013	2014	2015	2016	2017
Cases closed through voluntary compliance	17	32	33	34	80

Enforcement: Administrative penalties assessed/collected

Texas Government Code 472.104(a)(4) and (b)(5)(F). The amount of administrative penalties assessed and the rate of collection of assessed administrative penalties.

	2013	2014	2015	2016	2017
Assessed (\$)	70,750	153,300	146,300	124,450	104,600
Collected (\$)	68,265	140,650	46,264	132,564	85,162
Rate of collection	96%	92%	32%	107%	81%

Enforcement: Health/safety/welfare enforcement cases

Texas Government Code 472.104(a)(4) and (b)(5)(G). The number of enforcement cases that allege a threat to public health, safety, or welfare or a violation of professional standards of care and the disposition of those cases.

	2013	2014	2015	2016	2017
Revocation	0	0	0	1	0
Suspension	0	0	1	0	0
Admin. penalty	20	25	10	23	16
Cease/desist order	6	5	8	0	0
TOTAL	26	30	19	24	16

Enforcement: Complaint resolution time

Texas Government Code 472.104(a)(4) and (b)(5)(H). The average time to resolve a complaint.

	2013	2014	2015	2016	2017
Days to case resolution	191	171	125	148	72

Licensing: Registrant counts

Texas Government Code 472.104(a)(4) and (b)(5)(l). The number of license holders or regulated persons broken down by type of license and license status, including inactive status or retired status.

	2013	2014	2015	2016	2017
Architects					
Active	11539	11443	11666	12011	12433
Inactive	481	573	542	489	415
Emeritus/Retired	805	928	1017	1051	1099
TOTAL	12825	12944	13225	13551	13947
	2013	2014	2015	2016	2017
RIDs					
Active	4247	3972	3770	3594	3597
Inactive	508	489	437	360	313
Emeritus/Retired	78	163	216	230	244
TOTAL	4833	4642	4423	4184	4154
	2013	2014	2015	2016	2017
Landscape Arch.					
Active	1380	1405	1454	1505	1562
Inactive	100	107	108	92	87
Emeritus/Retired	59	72	80	79	80
TOTAL	1539	1584	1642	1676	1729
	2013	2014	2015	2016	2017
Firms	1557	1710	1852	2254	2474

Licensing: Fee schedule

Texas Government Code 472.104(a)(3) and (b)(5)(J). The fee charged to issue and renew each type of license, certificate, permit, or other similar authorization issued by the agency.

* Designates a fee on which Resident Active and Inactive Architects will pay an additional \$3 to fund the statutorily-required Architectural Registration Exam Financial Assistance Fund, a program to partially reimburse examination costs.

	2013	2014	2015	2016	2017
Active resident renewal (\$)	305	305	305	105	*105
* 1-90 days late	457.50	357.50	357.50	157.50	*157.50
* 91+ days late	610	410	410	210	*210
Inactive resident renewal	25	25	25	25	*25
* 1-90 days late	37.50	37.50	37.50	37.50	*37.50
* 91+ days late	50	50	50	50	*50
Emeritus resident renewal	10	10	10	10	10
* 1-90 days late	15	15	15	15	15
* 91+ days late	20	20	20	20	20
Active nonresident renewal	400	400	400	200	200
* 1-90 days late	600	500	500	300	300
* 91+ days late	800	600	600	400	400
Inactive nonresident renewal	125	125	125	125	125
* 1-90 days late	187.50	187.50	187.50	187.50	187.50
* 91+ days late	250	250	250	250	250
Emeritus nonresident renewal	10	10	10	10	10
* 1-90 days late	15	15	15	15	15
* 91+ days late	20	20	20	20	20
Initial registration, by examination, resident, Architect	155	355	355	155	155
Initial registration, by examination, resident, RID or Landscape Architect	355	355	355	155	155
Initial registration, by examination, nonresident, Architect	180	380	380	180	180
Initial registration, by examination, nonresident, RID or Landscape Architect	380	380	380	180	180
Initial registration, by reciprocity	400	400	400	200	200
Annual Business Registration/Renewal	45	45	45	45	45
* 1-90 days late renewal	67.50	67.50	67.50	67.50	67.50
* 91+ days late renewal	90	90	90	90	90

Licensing: Candidates for registration

Texas Government Code 472.104(a)(4). The number of examination candidates.

	2013	2014	2015	2016	2017
Architects	3133	3361	3399	3484	3513
RIDs	462	461	444	409	357
Landscape Architects	260	264	258	283	287
TOTAL	3855	4086	4101	4176	4157

Licensing: License issuance time

Texas Government Code 472.104(b)(5)(K). The average time to issue a license.

	2013	2014	2015	2016	2017
Average time to issue a license (days)	6	2	5	3	8

Finance/Admin: Litigation expenses

Texas Government Code 472.104(b)(5)(L). Litigation costs, broken down by administrative hearings, judicial proceedings, and outside counsel costs.

	2013	2014	2015	2016	2017
Administrative Hearings	\$22,685	\$5,293	\$8,092	\$12,851	\$7,195
Judicial Proceedings	\$7,320	\$3,799	\$6,555	\$425	\$185
Outside Counsel	\$0	\$0	\$0	\$0	\$0
Total	\$30,005	\$9,092	\$14,647	\$13,277	\$7,380

Finance/Admin: Fund balance

Texas Government Code 472.104(b)(5)(M). Reserve fund balances.

	2013	2014	2015	2016	2017
Fund Balance	\$2,326,459	\$2,343,062	\$2,562,810	\$2,575,890	\$2,622,682

Finance/Admin: Rule changes

Texas Government Code 472.104(a)(5). A summary of all new rules repealed or adopted.

Fiscal Year 2017

Amendment to 22 Tex. Admin Code §§ 1.174, 1.177, 1.232, 3.174, 3.177, 3.232, 5.184, 5.187, and 5.242, relating to violations of the Board's laws and rules relating to the practice of architecture (Chapter 1), landscape architecture (Chapter 3) and registered interior design (Chapter 5). Effective September 11, 2016 (Chapter 1) and September 14, 2016 (Chapters 3 and 5)

§§1.174, 3.174, and 5.184

- These rules govern the issuance of warnings by the Executive Director. The amendments provide greater clarity and guidance to the Executive Director in the issuance of warnings. Under the amendments, a warning may be issued only for violations that are specifically listed in subsection (j)(4) of the rules.

§§ 1.177, 3.177, and 5.187

- These rules contain the guidelines for issuing administrative penalties for violations of the Board's laws and rules. Prior to the amendments, the criteria for identifying a violation as "minor," "moderate," or "major" were very subjective, relying heavily upon mental state in order to determine the severity of the violation. This process was not conducive to a predictable determination of the appropriate administrative penalty. Under the amendments, specific violations of the Board's laws and rules have been categorized as "minor," "moderate," or "major," subject to administrative penalties in the amount of not more than \$1,000, \$3,000, or \$5,000 per violation, respectively.

§§ 1.232, 3.232, and 5.242

- These rules govern the Board's responsibilities in contested cases, and include guidelines for the imposition of sanctions other than administrative penalties. The rules were amended to eliminate a "reprimand" as an available sanction, because reprimands are not issued under current Board practices. The amendments also deleted procedural language that was duplicative to the requirements of the Administrative Procedures Act, eliminated the issuance of a cease and desist letter as a form of discipline, and clarified the Board's authority to issue administrative penalties in combination with other sanctions.

Amendment to 22 Tex. Admin Code §7.10 relating to General Fees. Effective January 1, 2017

Rule 7.10 includes the Board's fee schedule. This rulemaking action implemented two changes:

- The fee schedule was modified to implement a \$3 surcharge on resident architect registration renewals for the purpose of funding the Architect Registration Examination Financial Assistance Fund (AREFAF). The AREFAF is a scholarship fund for architect examination applicants that the Board is obligated to administer under Tex. Occ. Code §1051.653. The \$3 surcharge is expected to fund scholarships at present usage rates for the foreseeable future.
- The fee schedule was modified to administer online payment services provided by Texas.gov, a third-party provider under contract with the Texas Department of Information Resources. Previously, the fee schedule included individually calculated amounts for the surcharges for each fee paid to the Board. However, in order to more quickly respond to changes in surcharges implemented by Texas.gov, the Board amended the rule to state that "applicants and registrants who submit payments online

through Texas.gov will be subject to convenience fees set by the Department of Information Resources, that are in addition to the fees listed in subsection (b)."

Amendment to 22 Tex. Admin Code §§ 5.31 and 5.51 relating to Qualification for Interior Design Registration Through the Architect Registration Examination

Effective January 11, 2017

- Rules 5.31 and 5.51 were amended to provide a sunset date of December 31, 2018 for eligibility to become registered as a registered interior designer through passage of the Architect Registration Examination. After that date, an applicant for interior design registration by examination will be required to pass the NCIDQ examination.

Amendment to 22 Tex. Admin Code §§1.5, 3.5, and 1.148, and Repeal of §1.24 and §3.24, Resulting from Mandatory Review of Agency Rules under Texas Government Code §2001.039

Effective January 11, 2017

All terms and definitions in §1.5 and §3.5 were reviewed to determine whether definitions had continued usefulness and were up to date. The following amendments were made to §1.5 and §3.5:

- The definitions of "actual signature" were replaced with an identical definition of "signature." The term "actual signature" does not appear in the Board's rules for any profession. "Signature" is the term that is used.
- The definitions for "authorship" were repealed. The terms "authorship" or "author" are not present in the Board's rules. Therefore, a definition was unnecessary.
- The definitions for "Architectural Barriers Act" were revised to correct outdated legal citations.
- The definitions for "E-mail Directory" were repealed. This term is not present in the Board's rules for any profession. Therefore, a definition was unnecessary.
- For § 1.5, a typographical error was corrected for the defined term "EPH." The rule was amended to define the correct term, which is "CEPH" (Continuing Education Program Hour).
- The definition for "Architect's Registration Law" in §1.5 was amended to correct an outdated legal citation.
- The definition for "Landscape Architect's Registration Law" in §3.5 was amended to correct an outdated legal citation.

Rules 1.24 and 3.24 were repealed due to obsolescence. The rules formerly required the Board to establish a schedule of fees, and provide copies of the schedule at the Board's office. These rules were adopted at a time, prior to 2005, when the Board did not adopt a fee schedule by rule. Under the current practice, in which the fee schedule is adopted and published under Rule 7.10, these rules were inaccurate and unnecessary.

Rule 1.148 was amended to correct an outdated legal citation.

Amendment to 22 Tex. Admin Code §5.5 and Repeal of §5.34, Resulting from Mandatory Review of Agency Rules under Texas Government Code §2001.039

Effective March 23, 2017

All terms and definitions in §5.5 were reviewed to determine whether definitions had continued usefulness and were up to date. The following amendments were made to §5.5:

- The definition of "actual signature" was replaced with an identical definition of "signature." The term "actual signature" does not appear in the Board's rules for any profession. "Signature" is the term that is used.
- A definition was provided for the term "Architectural Barriers Act."
- The definition for "authorship" was repealed. The terms "authorship" or "author" are not present in the Board's rules. Therefore, a definition was unnecessary.

- The definition for “Consultant” was amended. Previously, the definition referred to “interior designer” rather than “registered interior designer,” which is the regulated term, and the term that is used elsewhere in the Board’s rules. Therefore, “registered interior designer” was inserted into the definition.
- The definition for “E-mail Directory” was repealed. This term is not present in the Board’s rules for any profession. Therefore, a definition was unnecessary.
- The definition for “Interior Designers’ Registration Law” was amended to correct an outdated legal citation.
- The definition for “Registrant” was amended to refer to “registered interior designer,” rather than “interior designer.”

Rule 5.34 was repealed due to obsolescence. The rule formerly required the Board to establish a schedule of fees, and provide copies of the schedule at the Board’s office. This rule was adopted at a time, prior to 2005, when the Board did not adopt a fee schedule by rule. Under the current practice, in which the fee schedule is adopted and published under Rule 7.10, this rule was inaccurate and unnecessary.

Adoption of 22 Tex. Admin. Code §7.11, Relating to Enhanced Contract and Performance Monitoring

Effective July 2, 2017

This rule was adopted to meet the obligation under Texas Government Code §2261.253 that all 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. Under the adopted rule, the following requirements were implemented:

- The finance manager is required to complete a risk assessment for all contracts over \$25,000, and is authorized 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 whether 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.

Fiscal Year 2016

Amendment of Rule 7.10, effective September 21, 2015—Rule 7.10 contains the Board’s fee schedule. The amendments implemented a mandated change in the service charges to customers who pay fees through Texas.gov, the Board’s service provider for online payments. For most transactions, this resulted in a decrease of the service charge. Additionally, the fee schedule was amended to eliminate the \$200 professional fee that was previously collected from Active-status Board registrants and placed into general revenue. This fee was repealed by House Bill 7, 84th Leg. R.S. (2015).

Amendment of Rules 1.22, 3.22, 5.32, 1.29, 3.29, 5.39, 1.69, 3.69, 5.79, and 7.10, effective March 22, 2016—These amendments implemented Senate Bills 807 and 1307, 84th Leg. R.S. (2015), relating to registration of military service members, military veterans, and military spouses.

- Rules 1.22, 3.22, and 5.32
 - Moved the provision for expedited consideration of military spouse application for registration to Rules 1.29, 3.29, and 5.39
- Rules 1.29, 3.29, and 5.39
 - Modified rule title from “Credit for Military Service” to “Registration of a Military Service Member, Military Veteran, or Military Spouse”
 - Modified definitions of “active duty,” “armed forces of the United States,” “military service member,” “military spouse,” and “military veteran” in accordance with SB 1307
 - Incorporated previously existing Chapter 55 provisions as follows:
 - Grants licensure eligibility to a military service member, veteran, or spouse if:
 - the applicant holds an active registration issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or

Rules 1.21 and 1.22, which simply require applicants to “successfully demonstrate completion of the Intern Development Program.” “Intern development program” is defined as “A comprehensive internship program established, interpreted, and enforced by NCARB.”

Adoption of Proposed Amendments to Rules 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55, and Repeal of Rules 5.54, 5.201, 5.202, and 5.203

Relating to Eligibility Requirements for Registration as an Interior Designer

Background

Recently, the legislature passed SB 1932, which amends Tex. Occ. Code 1053.155(b) and changes the educational and experience requirements to become registered as an interior designer by examination. Under the previous law, an applicant for RID registration was required to have graduated from an interior design educational program recognized and approved by the Board, and have professional experience in interior design, as established by the Board. The Board implemented this law by adopting rules under Chapter 5, Subchapters B, C, and J, which specifically identified the educational programs and professional experience that would qualify an applicant for registration by examination.

However, under SB 1932, which became effective on September 1, 2017, an applicant is required to satisfy the educational and professional experience requirements for the examination adopted by the Board under Tex. Occ. Code 1053.154. In other words, in order to qualify for registration, an applicant must meet the educational and experience requirements of CIDQ to sit for the CIDQ examination. Since CIDQ's requirements differ from the requirements that had previously been implemented by the Board, it is necessary to revise the Board's rules.

At the August 2017 meeting, the Board proposed the adoption of amendments to 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55, and the repeal of Rules 5.54, 5.201, 5.202, and 5.203, as described below. The proposed rules were published in the October 6, 2017 edition of the Texas Register (42 TexReg 5333). No comments were received on the proposed rules.

Proposed Amendments

The processes used to grant registrations are shaped by the registration requirements they implement. In light of the major change in registration requirements, Staff has reexamined all of the Board's rules relating to application, examination, and registration. The proposed rules not only implement the revised registration requirements, but also amend TBAE processes to ensure

a good fit between process and end result. Most notably, the proposed amendments include the following changes:

- The rules in Subchapter J, which outlined the Board’s eligibility requirements for education and experience, are proposed for repeal. Instead, under proposed Rule 5.31, an applicant would be required to “demonstrate that the Applicant has satisfied the education and professional experience eligibility requirements adopted by CIDQ to sit for its examination.” Reference to the CIDQ requirements, as opposed to adopting the requirements within the Board’s rules, is preferable because it would not require the Board to engage in rulemaking if CIDQ changes its requirements. Proposed rules 5.33 and 5.51 also include reference to the CIDQ requirements.
- Since the Board would no longer have educational and experience requirements that differ from CIDQ, Proposed Rule 5.33 would require CIDQ approval of an applicant’s education and experience in accordance with CIDQ’s requirements prior to filing an application with the Board. Additionally, proposed Rule 5.51 would eliminate a provision relating to Board approval to take the examination. Individuals may apply for and complete the CIDQ examination independent of the approval of any state regulatory board. Under current practices, over half of new applicants for Texas RID registration by examination have already completed the NCIDQ, and thus the Board does not “approve” these applicants prior to examination. The proposed rule would reflect this procedure.
- Many of the former rules were drafted to be identical to rules that were adopted for architects, and don’t necessarily align with the procedures at CIDQ. In order to provide further simplification of the rules, proposed rule 5.53 states that, unless otherwise noted in the rules, the administration and scoring of the NCIDQ examination shall be governed by the procedures adopted CIDQ.
- Current Board rules allow an applicant to be approved for testing prior to the completion of experience requirements (at a different time than what is allowed under CIDQ’s procedures). However, under the revised statute, an application for admission to the registration examination must be accompanied by evidence that the applicant has completed the educational and professional experience requirements of CIDQ. Therefore, it would be inappropriate for the Board to receive an application from an applicant who

has not completed CIDQ experience requirements and “approve” that applicant to take the exam early.

- For this reason, it is staff’s recommendation that Rule 5.53 be simplified to require an applicant to schedule and pass all sections of the NCIDQ within the time period required by CIDQ.
- In other words, rolling clock requirements would be governed by CIDQ policies, and early testing would be governed by CIDQ requirements (which is allowed by CIDQ for certain degrees prior to completion of all experience).
- Rule 5.54, which describes an NCARB process for transferring scores between states, and does not have applicability for the NCIDQ exam, is proposed for repeal.
- Because some individuals will have pending applications for RID registration by examination at the time the Board adopts rule amendments, it is advisable to include grandfathering provisions. Under proposed amendments to Rules 5.31 and 5.53, those individuals may qualify for registration by either:
 - Meeting the educational and professional experience requirements of CIDQ and scheduling and passing all sections of the NCIDQ exam within the time period required by CIDQ; or
 - Meeting the educational and professional experience requirements and passing all sections of the NCIDQ exam within the time period adopted by the Board and in effect at the time the application was filed.
- Various housekeeping amendments have been included:
 - Previously, the organization that offers the NCIDQ examination changed its name to CIDQ – the Council for Interior Design Qualification. The proposed rules have been updated throughout to use the term “CIDQ” to refer to the organization, and “NCIDQ” to refer to the examination.
 - Rule 5.36, which previously referred to “accredited” educational programs, should refer to “qualifying” programs, since accreditation is not required under CIDQ’s requirements.
 - Definitions have been added, amended, or repealed, as necessary.
 - Greater consistency of language between rules that address the same topic.
 - References to “applicant,” “candidate,” and “examinee” have been amended as needed.

- Capitalization of defined terms

Attached you will find the following supporting documents:

- Copies of all rules proposed for amendment, with underline and strikethrough formatting indicating all changes
- Relevant statutory provisions, with strikethrough and underline formatting indicating amendments to Tex. Occ. Code 1053.155 under SB 1932
- CIDQ Exam Eligibility Requirements

Staff Recommendation

Staff recommends that the Board approve proposed 22 Tex. Admin. Code §§ 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55 and repeal of §§ 5.54, 5.201, 5.202, and 5.203 for final adoption.

1 **RULE §5.5 Terms Defined Herein**

2 ~~(1) The Act--The Interior Designers' Registration Law.~~

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

4 (3) APA--Administrative Procedure Act.

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

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

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

11 (7) Barrier-Free Design--The design of a facility or the design of an alteration of a facility which complies
12 with the Texas Accessibility Standards, the Americans with Disabilities Act, the Fair Housing Accessibility
13 Guidelines, or similarly accepted standards for accessible design.

14 (8) Board--Texas Board of Architectural Examiners.

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

17 (10) Candidate--An individual who is seeking registration by examination but has not yet completed the
18 examination or application process.~~Applicant approved by the Board to take the Interior Design~~
19 ~~registration examination.~~

20 (11) CEPH--Continuing Education Program Hour(s).

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

22 ~~(13) CIDA--The Council for Interior Design Accreditation.~~

23 (13) CIDQ--The Council for Interior Design Qualification

24 (14) Construction Documents--Drawings; specifications; and addenda, change orders, construction
25 change directives, and other Supplemental Documents prepared for the purpose(s) of Regulatory
26 Approval, permitting, or construction.

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

30 (16) Contested Case--A proceeding, including a licensing proceeding, in which the legal rights, duties, or
31 privileges of a party are to be determined by a state agency after an opportunity for adjudicative
32 hearings.

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

1 ~~(18) Council for Interior Design Accreditation (CIDA)—An agency that sets standards for postsecondary~~
2 ~~Interior Design education and evaluates college and university Interior Design programs.~~

3 (18) Council for Interior Design Qualification (CIDQ)—An organization comprised of regulatory boards
4 from the United States and Canada which administers the NCIDQ examination.

5 (19) Delinquent--A registration status signifying that a Registered Interior Designer:

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

7 (B) is no longer authorized to use the title "~~R~~egistered ~~I~~nterior ~~D~~esigner" in Texas.

8 ~~(20) Direct Supervision--The amount of oversight by an individual overseeing the work of another~~
9 ~~whereby the supervisor and the individual being supervised work in close proximity to one another and~~
10 ~~the supervisor has both control over and detailed professional knowledge of the work prepared under~~
11 ~~his or her supervision.~~

12 (20~~1~~) Emeritus Interior Designer (or Interior Designer Emeritus)--An honorary title that may be used by
13 a Registered Interior Designer who has retired from the practice of Interior Design in Texas pursuant to
14 §1053.156 of the Texas Occupations Code.

15 (2~~1~~2) Energy-Efficient Design--The design of a project and the specification of materials to minimize the
16 consumption of energy in the use of the project. The term includes energy efficiency strategies by
17 design as well as the incorporation of alternative energy systems.

18 (2~~2~~3) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the
19 advisability of a proposed Interior Design project from a technical Interior Design standpoint.

20 (2~~3~~4) Good Standing--

21 (A) a registration status signifying that a Registered Interior Designer is not delinquent in the payment
22 of any fees owed to the Board; or

23 (B) an application status signifying that an Applicant or Candidate is not delinquent in the payment of
24 any fees owed to the Board, is not the subject of a pending TBAE enforcement proceeding, and has not
25 been the subject of formal disciplinary action by an Interior Design registration board that would
26 provide a ground for the denial of the application for Interior Design registration in Texas.

27 (2~~4~~5) Governmental Jurisdiction--A governmental authority such as a state, territory, or country
28 beyond the boundaries of Texas.

29 (2~~5~~6) Inactive--A registration status signifying that a Registered Interior Designer may not practice
30 Interior Design in the State of Texas.

31 (2~~6~~7) Interior Design--The identification, research, or development of creative solutions to problems
32 relating to the function or quality of the interior environment; the performance of services relating to
33 interior spaces, including programming, design analysis, space planning of non-load-bearing interior
34 construction, and application of aesthetic principles, by using specialized knowledge of interior
35 construction, building codes, equipment, materials, or furnishings; or the preparation of Interior Design
36 plans, specifications, or related documents about the design of non-load-bearing interior spaces.

- 1 (278) Interior Designers' Registration Law--Chapter 1053, Texas Occupations Code.
- 2 (289) Interior Design Intern--An individual participating in an internship to complete the experiential
3 requirements for Interior Design registration by examination in Texas.
- 4 (2930) Licensed--Registered.
- 5 (301) Member Board--An Interior Design registration board that is part of NCIDQ.
- 6 ~~(32) National Council for Interior Design Qualification (NCIDQ)–A nonprofit organization of state and~~
7 ~~provincial interior design regulatory agencies and national organizations whose membership is made up~~
8 ~~in total or in part of interior designers.~~
- 9 (313) NCIDQ--~~National~~The examination developed and administered by the Council for Interior Design
10 Qualification, which is the adopted examination for registration as a Texas Registered Interior Designer.-
- 11 (324) Nonregistrant--An individual who is not a Registered Interior Designer.
- 12 (335) Principal--A Registered Interior Designer who is responsible, either alone or with other Registered
13 Interior Designers, for an organization's practice of Interior Design.
- 14 (346) Registered Interior Designer--An individual who holds a valid Texas Interior Design registration
15 granted by the Board.
- 16 (357) Registrant--Registered Interior Designer.
- 17 (368) Regulatory Approval--The approval of Construction Documents by a Governmental Entity after a
18 review of the Interior Design content of the Construction Documents as a prerequisite to construction or
19 occupation of a building of facility.
- 20 (3739) Reinstatement--The procedure through which a Surrendered or ~~R~~evoked Texas Interior Design
21 registration certificate is restored.
- 22 (3840) Renewal--The procedure through which a Registered Interior Designer pays a periodic fee so
23 that his or her registration certificate will continue to be effective.
- 24 (3941) Responsible Charge--That degree of control over and detailed knowledge of the content of
25 technical submissions during their preparation as is ordinarily exercised by Registered Interior Designers
26 applying the applicable Interior Design standard of care.
- 27 (402) Revocation or Revoked--The termination of a Texas Interior Design registration certificate by the
28 Board.
- 29 (413) Rules and Regulations of the Board--22 Texas Administrative Code §§5.1 et seq.
- 30 (424) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.
- 31 (435) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the
32 minutes from each Board meeting and maintaining the record of Board members' attendance at Board
33 meetings.

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

3 (457) SOAH--State Office of Administrative Hearings.

4 (468) Sole Practitioner--A Registered Interior Designer who is the only design professional to offer or
5 render ~~i~~interior ~~D~~esign services on behalf of a business entity.

6 (4749) State Office of Administrative Hearings (SOAH)--A ~~g~~Governmental ~~e~~Entity created to serve as an
7 independent forum for the conduct of adjudicative hearings involving the executive branch of Texas
8 government.

9 (4850) Supervision and Control--The amount of oversight by a Registered Interior Designer overseeing
10 the work of another whereby:

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

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

17 (4951) Supplemental Document--A document that modifies or adds to the technical Interior Design
18 content of an existing Construction Document.

19 (502) Surrender--The act of relinquishing a Texas Interior Design registration certificate along with all
20 privileges associated with the certificate.

21 (513) Sustainable Design--An integrative approach to the process of design which seeks to avoid
22 depletion of energy, water, and raw material resources; prevent environmental degradation caused by
23 facility and infrastructure development during their implementation and over their life cycle; and create
24 environments that are livable and promote health, safety and well-being. Sustainability is the concept of
25 meeting present needs without compromising the ability of future generations to meet their own needs.

26 ~~(54) Table of Equivalents for Education and Experience in Interior Design--22 Texas Administrative Code~~
27 ~~§§5.201 et. seq. (§§5.201--5.203 of this chapter).~~

28 (525) TBAE--Texas Board of Architectural Examiners.

29 (536) TDLR--Texas Department of Licensing and Regulation.

30 (547) Texas Department of Licensing and Regulations (TDLR)--A Texas state agency responsible for the
31 implementation and enforcement of the Texas Architectural Barriers Act.

32 (558) Texas Guaranteed Student Loan Corporation (TGSCLC)--A public, nonprofit corporation that
33 administers the Federal Family Education Loan Program.

34 (5659) TGSCLC--Texas Guaranteed Student Loan Corporation.

1 ~~(5760)~~ Vice-Chair--The member of the Board who serves as the assistant presiding officer and, in the
 2 absence of the Chair, serves as the Board's presiding officer. If necessary, the Vice-Chair succeeds the
 3 Chair until a new Chair is appointed.

4
 5 **RULE §5.31 Registration by Examination**

6 (a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall
 7 demonstrate that the Applicant has satisfied the educational and professional experience eligibility
 8 requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the NCIDQ
 9 examination, -a combined total of at least six years of approved Interior Design education and
 10 experience-and shall successfully complete the ~~Interior Design registration~~NCIDQ examination or a
 11 predecessor or other examination deemed equivalent by ~~NCIDQ~~ as more fully described in Subchapter C
 12 of this chapter.

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

18 (c) An Applicant for Interior Design registration by examination who, as of January 1, 2018, has been
 19 approved to take the examination by the Board and has paid all application maintenance fees associated
 20 with the application, may qualify for registration by successfully completing the NCIDQ or other
 21 qualifying examination and satisfying:

22 (1) the educational and professional experience required by CIDQ to sit for its examination; or

23 (2) the educational and professional experience requirements adopted by the Board and in
 24 effect at the time the application was filed.

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

26 ~~-(1) The Applicant graduated from:~~

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

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

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

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

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

1 ~~(3) The Applicant has:~~

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

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

5 ~~(4) The Applicant has:~~

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

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

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

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

14 ~~(f) For purposes of this section, the term "approved Interior Design education" does not include~~
15 ~~continuing education courses.~~

16 ~~(g) An Applicant for Interior Design registration by examination who enrolls in an Interior Design~~
17 ~~educational program after September 1, 2006, must graduate from a program described in subsection~~
18 ~~(c)(1) of this section.~~

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

24

25 **RULE §5.32 Registration by Reciprocal Transfer**

26 (a) A person may apply for Interior Design registration by reciprocal transfer if the person holds an
27 Interior Design registration that is active and in good standing in another jurisdiction and the other
28 jurisdiction:

29 (1) has licensing or registration requirements substantially equivalent to Texas registration
30 requirements; or

31 (2) has entered into a reciprocity agreement with the Board that has been approved by the Governor of
32 Texas.

33 (b) In order to obtain Interior Design registration by reciprocal transfer, an Applicant must demonstrate
34 that the Applicant has:

1 (1) successfully completed the NCIDQ examination or a predecessor or other examination deemed
2 equivalent by the another Interior Design registration examination which the National Council for
3 Interior Design Qualification (NCIDQ) has approved as conforming to NCIDQ's examination standards or
4 as being acceptable in lieu of the NCIDQ examination; and

5 (2) acquired at least two years of acceptable Interior Design experience following registration in
6 another jurisdiction.

7 (c) An Applicant for Interior Design registration by reciprocal transfer must remit the required
8 registration fee to the Board within 60 days after the date of the tentative approval letter sent to the
9 Applicant by the Board.

10

11 **RULE §5.33 Application Process**

12 (a) An Applicant for Interior Design registration by examination or by reciprocal transfer must apply for
13 registration by submitting to the Board's office a completed registration application and all required
14 supporting documentation.

15 (b) Prior to filing an application for registration by examination, an Applicant must:

16 (1) satisfy the educational and professional experience eligibility requirements adopted by the Council
17 for Interior Design Qualification (CIDQ) to sit for the NCIDQ examination; and

18 (2) be approved by CIDQ to sit for the examination.

19 (c) An application for TBAE registration by examination must include:

20 (1) a verified statement of the Applicant's education, such as a transcript;

21 (2) a detailed summary of the Applicant's interior design work experience; and

22 (3) proof of approval by CIDQ to sit for the examination.

23 ~~(db)~~ Upon receipt of the completed application and all required supporting documentation and receipt
24 of the required application fee, the Board shall evaluate the Applicant's application materials. The Board
25 may require additional information or documentation from the Applicant.

26 ~~(ee)~~ The Board will notify each Applicant in writing regarding the approval or rejection of the Applicant's
27 application.

28 ~~(fd)~~ Pursuant to the provisions of §231.302 of the Texas Family Code, each Applicant shall submit his/her
29 social security number to the Board. The Applicant's social security number shall be considered
30 confidential as stated in §231.302(e) of the Texas Family Code.

31 ~~(ge)~~ The Board may take action against an Applicant or Candidate pursuant to §5.160 of this title
32 (relating to Effect of Enforcement Proceedings on Application).

33

34 **RULE §5.35 Pending Applications**

1 (a) A properly submitted application for registration by examination will be effective for three years
2 from the date it is received by the Board. After three years, the Board may require the Applicant or
3 Candidate to update the application or reapply.

4 (b) Each ~~Candidate approved for examination~~ Applicant must pay an annual record maintenance fee as
5 prescribed by the Board or the ~~Candidate's~~ application file will be closed. An ~~Candidate-Applicant~~ may
6 reopen an application file that was closed pursuant to this section only after payment of a fee equal to
7 the sum of the record maintenance fees for the current year and each year the file has been closed plus
8 any costs directly related to the reopening of the application file. An application file that has been closed
9 for five years or longer may not be reopened.

10

11 **RULE §5.36 Preliminary Evaluation of Criminal History**

12 (a) An Applicant, Candidate or a person enrolled or planning to enroll in a ~~an~~ qualifying accredited Interior
13 Design educational program may make a written request to the Board's executive director for a
14 preliminary criminal history evaluation letter which states the person's eligibility for registration under
15 §5.158 of this chapter (relating to Criminal Convictions).

16 (b) A person who requests a criminal history evaluation shall provide the following information:

17 (1) a statement describing the offenses for which the requestor has a criminal history;

18 (2) any court documents including, but not limited to, indictments, orders of deferred adjudication,
19 judgments, probation records, and evidence of completion of probation, if applicable;

20 (3) the names and contact information of the parole or probation department, if any, to which the
21 requestor reports; and

22 (4) the required fee for determining eligibility.

23 (c) Within 90 days after receiving a request which complies with subsection (b) of this section, the
24 executive director shall issue a criminal history evaluation letter which states:

25 (1) a determination that a ground for ineligibility based upon criminal conduct does not exist; or

26 (2) a determination that the requestor is ineligible due to criminal conduct and a specific explanation of
27 the basis for that determination, including the relationship between the conduct in question and the
28 practice of Interior Design.

29 (d) For purposes of determining eligibility for registration, a record of conviction is conclusive evidence
30 of guilt. The Board may not consider a conviction in determining eligibility for registration upon receipt
31 of proof that the conviction or an order of probation with or without adjudication of guilt has been
32 reversed or set aside.

33 (e) In the absence of evidence that was not disclosed by the requestor or reasonably available when a
34 request for a criminal history evaluation was under consideration, the executive director's criminal
35 history evaluation letter is a final determination regarding the requestor's eligibility for registration. If
36 found to be ineligible for registration, a requestor may not apply for registration until one year after the
37 date the letter is issued. A requestor who is determined to be ineligible may: