



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

# LICENSING NEWS

ARCHITECTURE • INTERIOR DESIGN • LANDSCAPE ARCHITECTURE

NOVEMBER 2013

## CHAIRMAN'S COLUMN

HOPEFULLY YOU HAVE FOUND A MOMENT of time this year to stay aware of some of the changes that the Texas Board of Architectural Examiners (TBAE) has been working on. These changes were the result of our most recent legislative session earlier this year. The agency once again has focused on taking the new laws and putting the necessary elements in place to facilitate those changes by the end of this year.

The new laws will affect various TBAE stakeholders in different ways, so I strongly encourage you to take note, and make sure that you fully understand the changes ahead. The agency is prepared to assist you in better understanding the various changes as crafted by our lawmakers in Austin.

One thing I feel safe in saying is that almost nobody is delighted by the new fingerprinting requirement, discussed more fully in this newsletter. Several of you have expressed to me personally your displeasure with this new requirement. TBAE staff reports to me that the phone lines and email servers have been kept lively, and I can understand why. Although none of us really care for the cost, inconvenience or intrusion of fingerprinting, it has become standard in recent years for most occupational or professional licensing. These days, and in some cases for the past several years, fingerprints are required of doctors, pharmacists, professional engineers, teachers, nurses, and many others in the positions of "trusted professional advisors."

While it is easy to see the downsides of the fingerprinting requirement, in fairness I'd like to point out one very clear benefit. The benefit is, quite simply, this: The new fingerprinting requirement will, very definitely, uncover some number of design professionals who deserve and will receive a very thorough investigation and possible enforcement action. For instance, each year there is a small handful of registrants convicted of very serious crimes (like bribery of public officials to secure favorable consideration for a public project) in the state of Texas. Under the pre-fingerprint

criminal history process, TBAE eventually found out about those registrants and acted accordingly—as soon as it could.

What you may not know is that, should the same conviction happen in Vermont, Missouri, Oregon, or any other state outside Texas, without the fingerprint check, TBAE would never know about it. A bribery offense not in Texas is a bribery offense with no impact on the registrant's Texas license—until January 1, 2014, that is. In addition, TBAE currently runs the limited "in-state" criminal background check annually upon each registrant's renewal. A registrant may have been convicted, even imprisoned, for months before the annual check would reveal the conviction to the agency.

Once the fingerprinting program is set in motion in January, a serious offense anywhere in the United States will be known and actionable immediately. This will help TBAE protect the health, safety, and welfare of the citizens of Texas, as TBAE is charged to do. And unless you are arrested and convicted, TBAE will never receive or review any criminal history data on you ever again. It is arguably a seamless and thorough way to ensure that Texas is not granting felons opportunities to victimize someone who may otherwise have been your client. The bottom line is that at a cost of a one-time expense and inconvenience, there will be less intrusion on your privacy and a finer filter on who can become registered—and remain registered—in Texas.

While I too feel the inconvenience and cost to comply with this new law, I have come to better understand the positive that will come from this change. I am sure that I will see some of you as I stand in line for my fingerprinting appointment as well.



Alfred Vidaurri, Jr.  
AIA, AICP  
Chairman

# Jumping hurdles, racing ahead

*All the adversity I've had in my life, all my troubles and obstacles, have strengthened me... You may not realize it when it happens, but a kick in the teeth may be the best thing in the world for you.*

—Walt Disney

Nobody is immune to challenges, whether at home or at the office. It seems, however, that some years present more obstacles than others.

And this year, obstacles there surely are, not just for the agency but for its registrants as well. Changes recommended by the Sunset Advisory Commission and later enacted into law have put the agency's finances in a truly difficult spot. Some Texas RIDs are newly required to pass the NCIDQ examination in order to maintain their licenses after September of 2017. And all Active-status TBAE registrants are now required to submit fingerprints for the purpose of a national criminal history check.

It's enough to make some want to throw their hands up and walk away, and I can empathize with that frustration. But I'm just not wired to despair, and I'm not wired to sit idly by and let TBAE registrants despair either! With that, TBAE has been busy doing all it can to best serve the public and our registrants.

To manage the enormous financial impact of the latest legislative session, TBAE has overhauled several of its programs and processes, reshuffled staff responsibilities, and cut everywhere we can—all without raising renewal fees, as has been the norm for almost a decade.

While there is little the agency can do directly to help RIDs who have not passed the NCIDQ exam to do so, I can offer some inspiration. In the 1990s, an RID friend and colleague decided to take and pass the NCIDQ exam after decades of practice and with no formal test preparation. She promptly did so, passing all required sections with hardly a backward glance; her experience, her sharp mind, and her determination

pulled her through with ease. If you're on the fence about taking the test, I encourage you to remember this story.

With regard to the fingerprinting requirement, our goal has been twofold. First, we set out to explain all the facts and pertinent information fully and accurately. Our second but equally important goal is simply this: Since we can't ignore or overturn this or any other law, we will make it as simple to comply as we can. To that end, we have produced a great deal of helpful and action-oriented information about the new law and how to meet the requirement—and then move on with your life. You can find it all at [www.TBAE.state.tx.us/PRINTS](http://www.TBAE.state.tx.us/PRINTS). Incidentally, as an RID I'm subject to the fingerprinting requirement, and I've got my appointment set for late November. My birthday isn't until the spring, but I can't think of a reason to delay.

While I think maybe Walt Disney overstated things a tiny bit (a kick in the teeth is still a kick in the teeth!), I can see his point. With these challenges, both to the agency and to its registrants, we are all presented with an opportunity to become stronger. Financially, TBAE is getting sleeker, leaner, and more efficient. Those courageous RIDs gearing up to tackle the NCIDQ will remain among the ranks of a highly educated, experienced, and tested profession with standards second to none. And the new national criminal history check system will uncover some whose actions jeopardize the standards and reputation of the design professions, not to mention the health, safety and welfare of the public.

Looking on the bright side is a great thing, but managing these challenges is something different altogether. This is about improving as a result of adversity, not just weathering it.

Regards,



A handwritten signature in black ink that reads "Cathy L. Hendricks".

Cathy L. Hendricks  
RID/ASID/IIDA  
Executive Director

# Fingerprinting: How to do it, why you have to do it, and more

*By Glenn Garry, Communications Manager*

After months of planning, preparation, and organization, in October TBAE announced that the process for fingerprinting is now live and available for all Active-status registrants. There is [one process for in-state TBAE registrants](#), and a separate process for [out-of-state or overseas registrants](#), and of course the helpful information clearinghouse on all things [fingerprinting](#) will remain on the TBAE Web site for assistance and information.

Overall, the launch of the fingerprinting program has been smooth, though understandably some have called or written in to offer comments, ask questions, or reach out for some help. After the first few weeks, already nearly 2,000 registrants had submitted prints. To those registrants and the many who have since done the same, we extend our appreciation and note that you'll never have to deal with fingerprinting again—not for TBAE-related reasons, anyway.

For those who have yet to get started, some basic information may be helpful in becoming familiar with the requirement and getting ready to meet it.

First, the new law comes as a result of [HB 1717](#), passed in the spring of 2013 by the Legislature. Like any piece of legislation, once it becomes law it is the agency's responsibility to administer it, and it is our goal to do so while making it as easy to comply with as possible. To that end, staff was at pains to produce both in-state and out-of-state versions of step by step instructions containing all the details, tips, and hints revealed in the past few months of collaboration with the Department of Public Safety and the state's chosen fingerprinting vendor, MorphoTrust USA.

It's important, too, to keep in mind deadlines and timelines. The new law says that Active-status registrants—Inactive and Emeritus registrants need not submit prints until and unless they seek to become Active-status again—will need to have submitted fingerprints prior to their first renewal (whether it's on time or delinquent) on or after January 1, 2014. The same date applies to applications for initial registration by exam candidates; no renewal or application will be allowed after that date without fingerprint submission. So we urge those with renewal dates in the early months of the year, in particular, to get started. Depending on a range of factors particular to each registrant, the process can be as quick as a day or two, or as drawn out as a matter of weeks.

Many registrants call with some version of the same question: "If I've been fingerprinted for some other reason (a concealed handgun license, work on a sensitive project, clearance for adoption, or lots of other reasons), do I still need to be fingerprinted for TBAE?" In short, the answer is, "Yes, you still need to be fingerprinted for the specific purpose of your TBAE registration." FBI rules prohibit the interagency sharing of fingerprint-based criminal history information, and there are no exceptions applicable to TBAE registrants. (Yes, we have asked. Repeatedly.)

But regardless of how you might feel about submitting prints, the law is the law—and we have no other option than to administer it. Given that, the best we can do as a state agency is to make fulfilling the requirement as easy to do as possible, and that's what my colleagues and I try to do every day.

For the latest news and updates, visit:

**[www.tbae.state.tx.us](http://www.tbae.state.tx.us)**





**Tony Whitt**  
Continuing Education Coordinator

## Continuing education: The questions keep rolling in

Most of this issue of *Licensing News* is devoted to some very big and very recent changes like the new fingerprinting requirement for Active-status licensees. But I continue to get phone calls and emails about what some people describe as the “new” continuing education rules raising the total required hours from eight to 12.

I say “new” in quotation marks, because if you’ve been keeping up with developments around TBAE (and my continuing education column!), you’ll know the requirement isn’t all that new. It became effective in April of 2012. That’s quite a while ago!

So here again are the highlights of what you need to know about the actually-not-very-new continuing education requirements:

- 12 hours total required per year, and you can still carry forward a year’s worth of CE hours to the following year
- Record your hours by calendar year (starting January, 2013), not by renewal cycle
- Up to four hours can be self-directed study
- You’ll still need one hour of sustainable design study and one hour of barrier-free study

So there you have it: Your continuing education requirement changes, distilled into four easy-to-remember bullet points. That’s not to say I won’t answer any questions you may still have, and for that reason my door is always open. Or my phone (512-305-8528) and email ([ce@tbae.state.tx.us](mailto:ce@tbae.state.tx.us)) are, anyway. Don’t hesitate to call me if you need some guidance, and I won’t hesitate to help any way I can.

**Contact Tony Whitt directly about continuing education issues!**

PHONE: **512-305-8528** • EMAIL: [ce@tbae.state.tx.us](mailto:ce@tbae.state.tx.us)

## Board welcomes fresh faces, welcomes back experienced hand

With all the excitement and newsletter-filling developments after the last legislative session, there wasn’t quite enough space to note in the last issue that in June the Board greeted two new appointees and welcomed home a TBAE Board veteran.

Chuck Anastos, AIA was reappointed to a second term on the Board as one of the four Architect Members. The Board and TBAE staff were glad to welcome back the Corpus Christi firm principal for his experience and commitment.

While the Board and staff will miss outgoing Board Members Diane Steinbrueck (Landscape Architect Member) and Brandon Pinson (Public Member) and their leadership, all welcomed two new appointees warmly. Chad Davis, ASLA of Lubbock, a familiar face to previous Board meeting attendees, will represent Landscape Architects on the Board. Mr. Davey Edwards, a land surveyor operating out of Decatur, rounds out the Board’s membership as one of the three Public Members.

Trying to find an old issue of *Licensing News*? Past issues are available at:

**[www.tbae.state.tx.us](http://www.tbae.state.tx.us)**

# State regulation on Federal projects, untangled and explained

By **Scott Gibson**, *General Counsel*

On occasion, we receive questions from registrants about procedures they are required to follow when working under contract for federal agencies. A federal client might require an architect to refrain from sealing architectural plans and specifications until after issuance and an internal approval process—obviously not in compliance with TBAE rules. A federal agency might also forbid an architect from retaining a copy of plans and specifications for a project because they are classified and having copies of plans in the possession of architects for ten years (as required by TBAE rule) would pose risks to national security. There might also be other procedures and restrictions a federal agency might impose that do not align with the laws enforced by TBAE.

So how is a Texas design professional to navigate these seemingly contradictory regulations?

The answer involves the intersection of three clauses of the United States Constitution, relating to federal enclaves, the Property Clause, and the Supremacy Clause. A federal enclave is realty or a facility (the constitution refers to “forts, magazines, dock-yards and other needful buildings”) over which a state has ceded, and Congress has accepted, exclusive jurisdiction. The property clause gives Congress power to dispose of, and enact, any “needful” rules and regulations over territory and property belonging to the United States. Public lands owned by the United States may not be a federal enclave (subject to Congress’ *exclusive* jurisdiction) but are still subject to Congress’ very broad discretion to adopt what it considers needful rules and regulations. A state’s laws are still enforceable on public lands (when not an enclave), but state law must give way to the extent that they conflict with federal law. This is due to the operation of the third constitutional provision—the Supremacy Clause. The Supremacy Clause, as the name suggests, makes the

Constitution and the laws of the United States the supreme law of the land notwithstanding any state constitution or law of any state. Generally, if a state law directly or implicitly conflicts with a federal law, the federal law overrides the state law.

This is how all of this relates to a TBAE registrant who wants to know if fulfilling the federal client’s procedures will cause her or him to run afoul of state laws and regulations: A registrant’s work on a federal enclave is largely outside of TBAE’s jurisdiction—like working in another state. Federal procedures and requirements on federal property, even if not a federal enclave, supersede TBAE rules and regulations so long as the federal rules and requirements implement or fulfill Congress’ intent. Cases have held that states may not enforce against unlicensed contractors who were retained by a federal agency to construct a federal facility, a state could not require contractors to follow the state building code, submit to inspections and pay permitting fees for the construction of a post office, and a municipality may not require a classified facility to file plans and obtain a permit even if the facility is operated by private contractors. Generally, if the state requirement frustrates or impedes fulfilling Congress’ intent in constructing the federal project, it must give way to conflicting federal requirements. TBAE’s sealing rules might be trumped by Congress.

For the most part, if a registrant is working on a federal project, it is safe to follow the federal requirements. But do not fall into the trap of believing you operate with impunity on federal projects. Licensing renewal, continuing education, and fingerprinting are all requirements unrelated to a federal contract, and must be fulfilled. And if a licensee’s conduct violates the federal regulations—through criminal behavior or slipshod practices—it will be tough to argue immunity from state sanction for violating a non-conflicting federal regulation.

# Disciplinary Action

The following cases were decided during TBAE Board meetings in June and August, 2013. Each case is based on the applicable rule in effect at the time of the violation, and was considered by Enforcement staff and the Board in light of its unique facts. Individual rules may have changed between the time a violation occurs and the time the case is publicized.

In order to ensure compliance with continuing education responsibilities, TBAE staff audits 10 percent of its registrants each year through a random selection process. All of the continuing education enforcement cases brought to the Board at the June and August, 2013 meetings stem from the random audit program. The cases reflect the most common violations: (1) failing to complete adequate continuing education hours during a program year, (2) failing to maintain continuing education records and verification of participation in CE activities for a period of five years, (3) falsely certifying, at the time of renewal, compliance with continuing education responsibilities, and/or (4) failing to respond to a request for information within 30 days. Each infraction is subject to a standard administrative penalty.

## June 2013 Board Meeting

### Continuing Education Cases

**Adams, Joseph H.** **\$500.00**

Houston, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

**Allen, John L.** **\$700.00**

Austin, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Butler, Frank A.** **\$700.00**

Dallas, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Fischer, Susan F.** **\$700.00**

Houston, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Flesher, David J.** **\$500.00**

Houston, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

**Freeman, Cricket** **\$700.00**

Farmers Branch, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Gozali, Minarni** **\$500.00**

Plano, Texas

- Failure to respond to a Board inquiry within 30 days

**Griffis, Jeff K.** **\$700.00**

Carlsbad, California

- Falsely reporting completion of CE responsibilities in order to renew registration

**Horton, William E.** **\$700.00**

Dallas, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Kraemer, Alisa C.** **\$700.00**

Carrollton, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Krolicki, Jeffrey R.** **\$250.00**

Austin, Texas

- Failure to respond to a Board inquiry within 30 days

**Morgan, Adrienne** **\$500.00**

Arlington, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

**Newman, Katherine E.** **\$700.00**

Dallas, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Paul, Douglas W.** **\$700.00**

Wichita Falls, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Perrier, Patti H.** **\$700.00**

Houston, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Quinn, David R.** **\$700.00**

Tomball, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

**Rainwater, Sherry** **\$500.00**

Frisco, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

**Runyon, Robert** **\$1,200.00**

Dallas, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration
- Failure to complete CE responsibilities during program year

*Continued on next page*

## Disciplinary Action *(continued)*

### **Schenck, Dale H.** **\$700.00**

Ruidoso, New Mexico

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Slaney, Scott G.** **\$500.00**

Houston, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Trexler, Joel** **\$500.00**

Johnstown, Pennsylvania

- Failure to respond to two Board inquiries within 30 days

### **Tsao, Ing-Tay** **\$1,700.00**

Houston, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration
- Failure to complete CE responsibilities during program year
- Failure to respond to two Board inquiries within 30 days

### **West, Charles S.** **\$700.00**

Dallas, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Whitwell, Allen** **\$700.00**

McKinney, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Wilson, Alison B.** **\$500.00**

Houston, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

## August 2013 Board Meeting

### Registrant and Non-Registrant Cases

### **Jacobs, Anton** **\$6,000.00**

Burleson, Texas

During the period from April 1, 2008 through December 3, 2009, Mr. Jacobs' architectural registration was expired due to his failure to annually renew it. During the period when Mr. Jacobs was not registered to engage in the practice of architecture, he prepared and issued 19 sheets of architectural plans for a project in Irving, Texas. Section 1051.351(a) of the Architects' Practice Act prohibits a person from engaging in the practice of architecture after the expiration of his or her registration. The Board assessed an administrative penalty of \$6,000.00.

### **Mercadillo, Eduardo** **\$600.00**

Hurst, Texas

Neither Mr. Mercadillo nor his business, *Remodeling, Painting & More*, are registered to practice architecture. On his business card, Mr. Mercadillo referred to himself as an "architect." In his response to the Board's inquiry,

Mr. Mercadillo changed his business cards to eliminate the word "architect." The Board assessed an administrative penalty of \$600.00.

### Continuing Education Cases

### **Bengston, Gary** **\$700.00**

Farmers Branch, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Cash, Cynthia C.** **\$700.00**

Baton Rouge, Louisiana

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Chaloupka, Merridee** **\$500.00**

San Antonio, Texas

- Failure to complete CE responsibilities during program year

### **Davy, Siobhan** **\$950.00**

Englewood, Colorado

- Falsely reporting completion of CE responsibilities in order to renew registration
- Failure to respond to a Board inquiry within 30 days

### **Goertz, Michael** **\$500.00**

Cypress, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Hensley, R. Don** **\$500.00**

Plano, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Hickman, Keith A.** **\$700.00**

Round Rock, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Lambdin, Wayne** **\$500.00**

Colleyville, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Lambert, Charles R.** **\$500.00**

Bartonville, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Noack, Elizabeth E.** **\$700.00**

Phoenix, Arizona

- Falsely reporting completion of CE responsibilities in order to renew registration

### **Parker, Timothy K.** **\$500.00**

Austin, Texas

- Failure to maintain adequate records of CE activities for a period of 5 years

### **Phillips, L. Forrest** **\$700.00**

Frisco, Texas

- Falsely reporting completion of CE responsibilities in order to renew registration



# TEXAS Board of Architectural Examiners

Architects ▪ Interior Designers ▪ Landscape Architects

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Registrants, please encourage your interns to sign up for the TBAE list serve for important news and updates.

## Change of Address

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

## Upcoming Board Meetings

- February 13, 2014: Room III-102
- May 22, 2014: Room III-102
- August 21, 2014: Room III-102
- October 30, 2014: Room II-225

## EXECUTIVE DIRECTOR

**Cathy L. Hendricks**, RID/ASID/IIDA

## BOARD MEMBERS

**Alfred Vidaurri, Jr.**, AIA, AICP

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

**Corbett "Chase" Bearden**

*Vice-Chair, Public Member; Term ends 1/31/15*

**Sonya B. Odell**

*Secretary-Treasurer, Registered Interior Designer Member; Term ends 1/31/17*

**Chuck Anastos**, AIA – Architect Member; Term ends 1/31/19

**Chad Davis**, RLA – Landscape Architect Member; Term ends 1/31/19

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

**Davey Edwards**, PLS, GISP – Public Member; Term ends 1/31/19

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

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

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

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