Licensing News



ARCHITECTURE

INTERIOR DESIGN

LANDSCAPE ARCHITECTURE

DECEMBER 2022

The what, the how, and the why of TBAE

Debra Dockery, FAIA

Chair

CHAIR'S COLUMN

Every now and then, the Executive Director or a staff member of the Texas Board of Architectural Examiners (TBAE) will share a story that reminds me of something I tend to forget: Some registrants seem not to have a firm grasp of what TBAE is, it's purpose, and what it can (and can't) do. Sometimes, there is confusion between what the professional societies do (advocacy) and what the State Board can do (regulation). An occasional reminder can't hurt, and that is what I'll touch on in this column.

With that, here is a fairly consequential portion of the state law that governs how this Board can–and cannot–enforce its laws and regulations.

Sec. 1051.701. REGISTRATION REQUIRED. (a) A person may not engage in the practice of architecture, or offer or attempt to engage in the practice of architecture, as defined in Section 1051.001(7)(A), (B), or (C) unless the person is registered as an architect under this chapter.

The Texas Legislature says here that one way we enforce our law is by requiring registration of anyone practicing architecture in Texas (bearing in mind some exceptions, of course). By law, this Board is instructed to be in the business of requiring registration of individuals undertaking certain types of activity, including, as stated elsewhere in Texas statute, activities by landscape architects and registered interior designers.

Essentially, the State Legislature, through state law, lays out the limits and requirements of what a state agency can or must do. The enabling statute basically says (a) you exist as a state Board, (b) this is what you are required to do, and (c) this is the limit of what you are allowed to do.

And now here's a helpful and somewhat rare statement not of what provision of law this board will enforce, or how the board will enforce it, but why.

Sec. 1051.0015. PURPOSE OF REGISTRATION REQUIREMENT.
The purpose of Section 1051.701(a) is to:
(1) safeguard life, health, property, and the public welfare; and
(2) protect the public against the irresponsible practice of architecture.

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Compliance with the PSPA

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INSIGHT FROM THE EXECUTIVE DIRECTOR

Julie Hildebrand Executive Director

Who we are

In her column above, TBAE Chair Debra Dockery talked about the what, the how, and the why of TBAE. I'd like to take some time here to talk about the *wh*o of TBAE.

By number of employees, Texas state agencies range in size from three staff up to more than 32,000. TBAE is tied for the 13th-smallest of the 112 Texas state agencies, with 18 employees as of April of this year (though we've hired two more since then). One thing our small staff size means is that when you call us, you don't have to fight through a "Press 1 for this, press 2 for that" menu. You get a live person answering your call and directing you to the subject matter expert for the topic you're calling about.

Those subject matter experts are an experienced bunch. Of the 18 of us, 11 have been with TBAE for at least ten years. Three of us have been with the agency for two decades or more. When you call for an answer

Registration Department

registration@tbae.texas.gov customerservice@tbae.texas.gov ce@tbae.texas.gov renewals@tbae.texas.gov

- How to become registered
- Help getting logged in to your online account
- Questions about Continuing Education
- Architect candidates interested in the ARE Grant

Communications Department

communications@tbae.texas.gov

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- Requests for a TBAE staff presentation (to students, to registrants, to candidates for registration, etc.)
- Suggestions for Web site or newsletter content

or a clarification on some TBAE matter, I feel that you're in good hands with the person responding. I hope you do, too.

The agency is divided into functional departments, like most any organization. Here is a brief description of those departments, with a short list of topics handled by each department and other information you may find useful when you have a particular question for us. I'll discuss these departments (or small groups of departments) in order of likelihood you'll one day need to contact them for help, clarification, or answers.

As an aside, I would note that our Web site (recently redesigned—read on for more about that) is chock full of useful information, likely including the information you're looking for. Web site content is laid out intuitively much along the lines of the departmental structure you'll see below, so that is always a great first place to look. But when that fails or you simply prefer a human touch, you always have that option.

Enforcement Department

enforcementdepartment@tbae.texas.gov

- Scope-of-practice questions
- Use of your professional seal
- Business/firm registration questions or help
- Public Information Requests (ask for Legal Assistant)

Other Departments

- Help in the event of a payment failure error message on Web site (IT department)
- Verifying that a check has been received/cashed (Finance department)

Our new Web site: a walkthrough

If you have visited the TBAE Web site since sometime in August of this year, you likely noticed a change or two in its look and feel. That's because by popular demand stretching back many years, we unveiled a thorough renovation of the agency site—the first topto-bottom overhaul since approximately mid-2005.

Overall, the structure and navigation of the site are much the same as it was before—and the content of the site is very similar as well. But we've added some features and functionality that we hope you will find useful. Here is a list of some of the more notable changes, upgrades, and additions:

- A site search bar at the top right of every page
- A larger, more easily readable font

- Better use of white space, color, and graphics
- Responsive design that should work better on any device.

We should note a few things that haven't changed (yet). Some pages on our site, particularly ones you'll see once you have logged in to your TBAE account, will be redesigned in the future but for now remain much the same. And the login links for both individual and business registrants is still found at the top right of each page.

We hope you get a chance to look around the new place, and we hope the site's content continues to be a source of good information, valuable tools, and useful contact information for years to come.



Subcontracting and Compliance with the PSPA

As you probably know, the Professional Services Procurement Act (PSPA), or Texas Government Code Chapter 2254, prohibits governmental entities, including cities, counties, school districts, state agencies and other public bodies, from selecting providers of certain professional services on the basis of competitive bidding. This includes the three professions regulated by TBAE. Under the law prohibiting competitive bidding, Tex. Govt. Code §2254.003, a governmental entity is required to consider two factors when selecting a provider of services: demonstrated competence and qualifications to perform the services; and a fair and reasonable price.

Furthermore, with respect to the selection of an architect, engineer, or land surveyor, the PSPA requires a governmental entity to engage in a two-step process which requires the governmental entity to first select the most highly qualified provider of services, and only then negotiate or inquire about the cost of services from that provider. This process is also known as Qualifications-Based Selection (QBS). The purpose of today's article is to provide a refresher on the QBS process and address the applicability of the PSPA to subcontracts for professional services on governmental projects.

Qualifications-Based Selection of an Architect, Engineer, or Land Surveyor

The first step in the QBS process is the selection of the most highly qualified provider of services. Typically, this begins when the governmental entity issues a Request for Qualifications (RFQ), which describes the project and selection criteria and invites interested professionals to submit their qualifications. At this point in the QBS process, the governmental entity is prohibited from requesting or considering information regarding the cost of services. Furthermore, under rules adopted by the state regulatory agencies for architects, engineers, and land surveyors, the provider of services is prohibited from disclosing the cost of services or providing any information from which the cost of services can be derived. Following the end of the submission period, the governmental entity reviews all responses and selects the most highly qualified provider of services, based on demonstrated competence and qualifications.

The second step in the QBS process is to negotiate a fair and reasonable price with the most highly qualified provider of services. This is the first point at which a governmental entity may first request or consider information regarding the cost of services. If a satisfactory contract cannot be negotiated with the most highly qualified provider of services, the entity shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. This process is continued until the governmental entity has contracted with the selected professional.

Applicability of the PSPA in Subcontracting

The Office of the Attorney General has determined that the Professional Services Procurement Act applies whenever a governmental entity awards a contract that includes professional services as a component part. See Tex. Att'y Gen. Op. No. JC-0374 (2001). This includes when a private contractor subcontracts for professional services under a governmental project. For example, if an architectural firm must procure outside engineering services in order to deliver under its contract with a governmental entity, the firm is required to engage in the QBS process as outlined above.

It is very important for governmental entities (and contractors and subcontractors) to comply with the PSPA. Under Texas Government Code §2254.005, a contract entered into or an arrangement made in violation of the PSPA is void as against public policy. Additionally, the state regulatory agencies for architects, engineers, and land surveyors have adopted rules to prohibit registrants from providing fee information to governmental entities prior to being selected on the basis of demonstrated competence and qualifications. Registrants who violate these rules could be subject to disciplinary action by their regulatory board.

The what, the how, and the why of TBAE

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I have always felt that this snippet of the Texas Occupations Code is one of the clearest, and in terms of today's topic perhaps the most useful of all. In short, the entire purpose of this Board is to protect the public-per state law.

This is surely not to say that TBAE is alone in its efforts to protect and promote health, safety, and welfare (HSW), of course. For instance, the exams created and administered by the CIDQ for Interior Design Qualifications, by CLARB for Landscape Architect registration and by NCARB for architects are specifically focused on HSW issues. The annual meetings of the Texas Society of Architects, the Texas Chapter of the American Society of Landscape Architects, and the Texas Chapter of the Council for Interior Design host dozens of presenters—including TBAE staff—to educate registrants on a wide variety of topics from sustainability to accessibility. That's HSW, too. All the national councils and state societies promote, to an extent at least, the safety of people.

Where TBAE differs from all other organizations is that HSW is not one focus of ours. It is our only focus.

We don't provide expertise to help you land that big project or client. We don't produce home tours, or hold expos to showcase vendor products and services. We don't host monthly networking events. We can't lobby the Legislature to pass, abolish, or amend any law. All of those things can be valuable, or enjoyable, or useful, or all of the above, of course! But as a state Board, we aren't allowed to do those things. So, we don't.

Instead, we protect the public using the tools the law allows us to use. We investigate claims that a nonregistrant is advertising herself as a Landscape Architect, misleading the public and possibly exposing them to unsafe practice. We ensure that an RID candidate has met his education, experience, and examination requirements before becoming registered, and that he continues to meet the ongoing requirements of licensure. We do outreach in person, and even in newsletters like this, to help educate candidates and registrants about new laws, agency rules, or initiatives. We ensure that an Architect completes his required HSW continuing education each calendar year.

Those are some of the tools we use to protect the health, safety, and welfare of the people who live, work, and play in the built environment of Texas. And we do it because the law tells us to—and even why.

ARE Grant: \$500 in testing reimbursement for eligible ARE candidates

The Architect Registration Examination Financial Assistance Fund (AREFAF), also known as the ARE Grant, was created by the Seventy-sixth Legislature of the state of Texas.

Award

The award is a one-time reimbursement of \$500 for taking the Architect Registration Examination. ARE Grant awards are presented three times each year.

Eligibility

Applicants must meet the following criteria:

 Have resided in Texas for at least 18 months immediately preceding the date of application;

- Be a candidate in good standing or an architect who completed the ARE during the 12-month period immediately preceding the date of application;
- Have passed sections of the exam for which the combined fees total at least \$500; and
- Demonstrate that the examination fee for the ARE would pose or has posed a financial hardship for him or her.

Apply for an ARE Grant

• Download and print a scholarship application.

Please contact the Exam Coordinator at exams@tbae.texas.gov if you have any questions.

Frequently Asked Questions about the scholarship program.

CONTINUING EDUCATION

By Sharon Briceno

Continuing Education Coordinator

(Almost) everything you need to know about continuing education

Ten things to keep in mind about continuing education (CE)

- 1. Twelve hours are required each calendar year. That's January 1 to December 31.
- 2. All 12 hours must be health/safety/welfare (HSW)-related.
- 3. At least eight of those 12 hours must be structured coursework, supported by a course completion certificate or other record of attendance issued by the course provider.
- 4. Up to 4 hours may be self-directed study, such as reading Texas Accessibility Standards or technical journals.
- 5. At least one hour must be about sustainable design.
- 6. At least one hour must be about barrier-free/ accessible design.
- 7. "Carry-over" hours are allowed, up to 12 per year.
- 8. Online courses are acceptable, as long as the course provides you with a certificate of completion.
- 9. Transcripts from AIA, LACES, or IDCEC may be substituted for certificates of completion.
- Courses you submit during a CE audit must be HSW-related, so choose wisely.

About CE audits

- If you are selected for an audit, you will know because we will send you an audit notice
- Always respond to an audit notice; failure to respond to an inquiry carries with it a separate administrative penalty aside from anything CE-related

Be prepared

• It's best to keep CE documentation in a location under your personal control, rather than in your

workplace (since job changes can and do happen).

- If attending a lunch and learn that you intend to claim as structured/classroom study, remember that a certificate of completion or other verification by the course instructor is required.
- If your lunch and learn provider cannot provide verification of attendance for you, handouts given during the meeting may suffice for self-directed study.
- If you are ready to renew but realize you are short some number of CE hours, there is a simple solution. Read below how to make up missing CE hours in four easy steps.
- If you have questions, we encourage you to call 512-305-9000 or write to ce@tbae.texas.gov.

Making up missing CE hours prior to your renewal

If you are missing any number of CE hours for the previous calendar year, follow **all four of these steps** to achieve compliance:

- Do NOT renew your registration until you have completed each of the following steps. It is a great idea to navigate away from the renewal page while you do so.
- 2. Complete qualifying CE credits to cover any deficiency for the previous calendar year. If you realize you are short three hours, for instance, go ahead and make up those three hours.
- 3. IN ADDITION to covering the deficiency for the previous calendar year, complete the full 12-hour requirement for the current calendar year. Your total for the current and past calendar year now should be 24 CE hours. Be sure to keep your documentation.
- 4. Renew your registration and safely certify that you are in compliance with continuing education requirements.

DISCIPLINARY ACTIONS

The following cases were decided during TBAE Board meetings in February and June 2022. 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.

In order to ensure compliance with continuing education (CE) responsibilities, TBAE staff selects a random sample of its registrants to be audited. All continuing education enforcement cases stem from the random audit program. The most common violations include: (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 continuing education infraction is subject to a standard administrative penalty.

Registrant/Non-Registrant Cases

Brimhall, Pegy Charlet

Non-Registrant

\$4,000 San Antonio, TX

Respondent is an examination candidate but is not registered as an architect in Texas. By utilizing the terms "architect" or "architectural" in 2018 to describe services she or her business could provide, and by issuing plans on a three-story multifamily dwelling, Respondent violated Tex. Occ. Code § 1051.701(a) and 22 Tex. Admin. Code § 1.123(c). Respondent remains eligible to become registered as an architect.

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Comeaux, Stephanie

Non-Registrant

\$5,000 Houston, TX

By issuing an architectural design proposal to a potential client that included an offer to provide "architectural design" on the project, Respondent violated Tex. Occ. Code § 1051.701(a) and 22 Tex. Admin. Code § 1.123(a).

By independently preparing and issuing construction documents pursuant to an offer to provide architectural design, Respondent violated Tex. Occ. Code § 1051.701(a).

By utilizing the title "Architectural Designer" to describe herself on her LinkedIn webpage, Respondent violated 22 Tex. Admin. Code § 1.123(a).

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Home Menders, Inc. dba HM General Contractors\$10,000Non-RegistrantHouston, TX

By offering architectural services and then issuing construction documents on two projects, Respondent violated Tex. Occ. Code § 1051.701(b).

Martin, Paul E.

\$1,000 Houston, TX

By using the title "architect" and providing architectural services and sealing plans for a residential remodel at a time when his certificate of registration was not in good standing, Respondent violated Tex. Occ. Code §§ 1051.351(a) and 1051.752(1) and 22 Tex. Admin. Code §§ 1.82(b), 1.123, and 1.148(c)

McCullough, Ricardo

Non-Registrant

\$21,000 San Antonio, TX

After proper and timely notice was given to the Respondent, a hearing was held in this matter before the State Office of Administrative Hearings. The Respondent failed to appear at the hearing. As a result, the Board entered a default order which made the following findings:

On four dates, Respondent violated Tex. Occ. Code §§ 1051.701(a), 1051.701(b), 1051.801(a)(1), 1051.801(a) (3), and/or 22 Tex. Admin. Code § 1.123(c) by offering to engage in the practice of architecture and/or engaging in the unauthorized use of the term "architectural" to describe services offered by Respondent and/or Respondent's firm, in that Respondent utilized an internet advertisement, specifically a profile on the Web site Houzz, that offered services to the public, including " Architectural Design" and "Architectural Drawings."

On three dates, Respondent violated Tex. Occ. Code §§ 1051.701(a), 1051.701(b), 1051.801(a)(1), 1051.801(a)(3), and/or 22 Tex. Admin. Code § 1.123(c) by offering to engage in the practice of architecture and/or engaging in the unauthorized use of the term "architectural" to describe services offered by Respondent and/or Respondent's firm, in that Respondent utilized an internet advertisement, specifically a Facebook profile, that indicated the Respondent and/or his firm was an "Architectural Designer."

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Perez, Elihu aka Alex Perez Non-Registrant

\$10,000* Houston, TX

By entering into a contract with a client to provide "design and blueprints" on a project intended for occupancy on a 24-hour basis by persons receiving custodial care from the building's proprietor, Respondent offered to engage in the practice of architecture in violation of § 1051.701.

By preparing and issuing architectural plans for a building intended for occupancy on a 24-hour basis by persons receiving custodial care from the building's proprietor, Respondent engaged in the unregistered practice of architecture under Tex. Occ. Code § 1051.701 and violated Tex. Occ. Code § 1051.703(a)(1) and 22 Tex. Admin. Code § 1.214.

*Respondent to pay \$1,000 within 30 days from the date of the Order, an additional \$1,000 by February 24, 2023, and an additional \$1,000 by February 24, 2024. The remaining \$7,000 will be deferred for a total of five years and cancelled unless Respondent violates the terms of the order or otherwise violates the laws or administrative rules enforced by the Board within that period, in which case the remaining penalty would become payable and due immediately.

Saldivar, Raul

Non-Registrant

\$31,000 San Antonio, TX

A hearing was held in this matter before the State Office of Administrative Hearings. Following the hearing, the Board entered an order which made the following findings:

Respondent offered to engage in the practice of architecture while acting on behalf of *Aedificium, LLC*, in that Respondent issued an agreement to a client that identified Aedificium, LLC as the "contractor" and "architect" for the project.

Respondent offered to engage in the practice of architecture while utilizing the business title *Aedificium Architecture - Construction*, in that Respondent issued an "Architectural Design Proposal" to a client which described his services to be provided on the project as "architectural as-builts," "preliminary architectural design services" and "architectural construction documents." By issuing a set of architectural plans and specifications for a project while utilizing the business title of *Aedificium Architecture – Construction,* Respondent engaged in the practice of architecture.

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Staiger, Steffen Carl

Architect

\$1,000 Cedar Hill, TX

By failing to seal, sign and date construction documents that were issued for regulatory approval and/or permitting. Respondent violated 22 Tex. Admin. Code §§ 1.101, 1.103, and 1.122.

Continuing Education Cases

Angell, Bradley Earl
Architect

\$1,200 Santa Cruz, CA

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Bromberg, Ariel

\$900 Aventura, FL

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Davis Richard D \$500

Davis,	Richard	ļ
Archite	ect	

Architect

Architect

\$500 Dallas, TX

By failing to timely complete continuing education obligations during the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Deeley, Paul McKnight, Jr.

Landscape Architect

\$700 Ft. Worth, TX

By failing to maintain a detailed record of continuing education activities for the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Hendricks, William Brent

ent \$300 Austin, TX

By failing to maintain a detailed record of continuing education activities for the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 3.69.

Hill. Andrea Brammer

RID

Chattanooga, TN

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 5.79.

Hindman, Janet Dean RID

\$700 Whitney, TX

\$800

By failing to maintain a detailed record of continuing education activities for the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 5.79.

Lonngren, Elizabeth Rapier

Architect

\$1,000 Lubbock, TX

By failing to timely complete continuing education obligations during the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

By failing to respond to two written requests for information within 30 days of staff's requests, Respondent violated 22 Tex. Admin. Code § 1.171 which requires that an architect answer an inquiry or produce requested documents within 30 days of a request.

Lorance. Bill W.

Architect

RID

\$1,200 Singapore

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Parker, Pamella K.

\$700 Houston, TX

Respondent falsely certified compliance with continuing education requirements in violation of 22 Tex. Admin. Code § 5.79.

Parrott, Nathan Ryan	\$500
Landscape Architect	Dallas, TX

By failing to timely complete continuing education obligations during the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 3.69.

Licensing News

Pope, Lisa Grochowski

RID

\$1,400 Farmers Branch, TX

Previously on January 22, 2015, in TBAE Case No. 133-141, the Board ordered the Respondent to pay a \$1,700 administrative penalty based on findings of fact that she failed to complete continuing education requirements, falsely certified completion of her CE responsibilities, and failed to respond to two Board inquiries.

In the current matter, Respondent falsely certified compliance with continuing education requirements in violation of 22 Tex. Admin. Code § 5.79.

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Riley, Noah

Architect

Architect

\$700

Los Angeles, CA

By failing to maintain a detailed record of his continuing education activities for the 2020 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

Ross, Seanna Marie RID

\$1.100 Pflugerville, TX

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 5.79.

..... Shokry, Ashraf S. \$700 Architect

Flower Mound. TX

Respondent falsely certified compliance with continuing education requirements in violation of 22 Tex. Admin. Code § 1.69.

...... Winslow, Stephen J. \$1,700

Plano, TX

Respondent falsely certified compliance with continuing education requirements in violation of 22 Tex. Admin. Code § 1.69.

By failing to timely complete continuing education obligations during the 2021 audit period, Respondent violated 22 Tex. Admin. Code § 1.69.

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.texas.gov. 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

- •Thursday, February 23, 2023
- •Monday, June 5, 2023
- •Thursday, August 24, 2023
- •Tuesday, November 14, 2023

Executive Director

Board Members

Debra Dockery, FAIA *Chair,* Architect Member; Term ends 1/31/23

Tim A. Bargainer, PLA, ASLA, CLARB Vice-Chair, Landscape Architect Member, Term ends 1/31/25 **Darren La Marr James**, FAIA Secretary-Treasurer, Architect Member, Term ends 1/31/25

Robert Scott "Bob" Wetmore, AIA – Architect Member; Term ends 1/31/27

Jennifer Walker, AIA - Architect Member; Term ends 1/31/27 Rosa G. Salazar, RID - Registered Interior Designer Member; Term ends 1/31/23

Joyce Smith - Public Member; Term ends 1/31/23 Fernando Trevino - Public Member; Term ends 1/31/25 Vacant - Public Member

The mission of the Texas Board of Architectural Examiners (TBAE) is to serve the State of Texas by protecting and preserving the health, safety, and welfare of the Texans who live, work, and play in the built environment through the regulation of the practice of architecture, landscape architecture, and interior design.

www.tbae.texas.gov

ATTESTATION OF SELF-DIRECTED CREDIT HOURS EARNED

TBAE newsletter, Licensing News

I certify that I read the _____ [Month/Season, Year as found on page one] issue of TBAE's *Licensing News* for one (1) hour CEPH credit on _____ [date].

This continuing education hour will count for self-directed Health/Safety/Welfare study for the calendar year in which it was earned. I understand that up to four continuing education hours of the required 12 per calendar year may be earned via self-study.

Your name

Date

Please keep this Certificate for your records, and submit it if you receive an audit letter from TBAE, along with all additional certificates for the specified calendar year.

An organization other than the Texas Board of Architectural Examiners may or may not accept this coupon for that particular organization's continuing education requirements.



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