

STATE BOARD OF ARCHITECTURAL EXAMINERS

BOARD MEETING MINUTES

May 23, 2006

Suite 111, 110 Centerview Drive

Columbia, SC

The State Board of Architectural Examiners convened May 23, 2006, in Columbia, South Carolina. Chairman Ward called the meeting to order at 9:30 a.m. The following attended the meeting:

Dennis S. Ward	Chairman
Stokes Browning	Secretary
W. Barry Jenkins	Member
Stephen Russell	Member
Jan B. Simpson	Administrator
Todd Bond	Investigator
Alice D. Richardson	Administrative Assistant
Sharon Dantzler, Esq.	LLR Advice Counsel

Member Jose Caban notified the Administrator in advance that he would be out of the country and unable to attend the meeting.

Unexcused absence, Member Tom Johnson.

Administrator Simpson stated the **public notice** of the meeting was properly posted at the Board office and provided to organizations and news media in compliance with Section 30-4-80 of the S.C. Freedom of Information Act. A quorum was present at all times.

Rion Alvey, Administrator of Office of Investigations and Enforcement, attended the disciplinary portion of the meeting.

Minutes: Motion by Jenkins, Second by Russell: To accept the **Minutes** of the March 21, 2006, meeting. Motion carried.

Violations Report:

Motion by Stokes, Second by Russell: To accept the IRC recommendations on the following cases. Motion carried.

Case No. 2004-11	Dismiss
Case No. 2006-2	Cease and Desist
Case No. 2006-7	Letter of Caution

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The following cases were reviewed by the IRC and will go forward with issuance of a Formal Complaint.

Case No. 2006-1
Case No. 2006-5

Keith Marrero –Mr. Marrero previously signed a Consent Agreement that included payment of a \$1000 fine, due April 28, 2006. Mr. Marrero contacted Investigator Bond and asked for an extension or a payment plan for the fine. Investigator Bond asked Marrero to send his request in writing so that it could be presented to the Board for a decision. His request for an extension was never received; his license will be suspended under the Consent Agreement provision that calls for immediate suspension for non-compliance.

Legislation Issues: Susan Duncan, Communications and Government Affairs, joined the meeting to discuss the Legislative process. Ms. Duncan provided the following regulation timeline to the Board:

- ? August – Board submits “Notice of Drafting”
- ? September – State Register publishes “Notice of Drafting”
- ? October – State Register publishes draft of proposed regulation
- ? November/December – Final Regulation prefiled with General Assembly for review during next session.
- ? Final regulations are effective upon publication in the State Register.

Exam Candidates – Motion by Jenkins, Second by Russell: To approve the following persons to begin taking the Architect Registration Examination. Motion carried.

Anne Barry, Elizabeth Mirick, Charles Gunning, Nathan Schutte, Brian Sanders, Paul Ferrari, Lawrence Delaney and Thomas Lockhart

Clemson Funding: Motion by Browning, Second by Jenkins: To transfer \$25,000 to Clemson Architectural Library for FY 05/06 for support materials for the architectural profession. Gypsey Teague, Librarian, Clemson University, will be asked to submit documentation of all purchases made. Motion carried. The Board indicated a variety of materials should be considered for purchase.

IRC Members Don Golightly and Stephen Usry joined the meeting.

Alex James, Director, Office of School Facilities for the Department of Education, joined the meeting.

Ralph Foster, P.E., Plans Reviewer for the Fire Marshal’s Office, and Michael Platt, State Fire Marshal, joined the meeting to discuss guidelines for referring deficient design documents to the Board. At what point in the plans review process should they submit plans to the Investigative Review Committee for review? Mr. Foster stated the majority of the problems they see are incomplete plans and code deficiencies. Plans referred to the IRC for review should include all

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relevant information (i.e., all plans submitted, review letters, etc). If there are recurring problems with an individual, the Fire Marshal may include previous project plans as relevant documentation of an ongoing problem. Sharon Dantzler, LLR Advice Counsel, advised the Board that a project cannot be stopped because the plans are incomplete. The plans must be reviewed to keep the project going; however, the Fire Marshal's office does not have to wait until the plans have been approved to forward them to LLR's Office of Investigation and Enforcement for review.

Non-Agenda Item: Alex James, Director, Office of School Facilities for the Department of Education, informed the Board of an opportunity for Continuing Education credit for architects and engineers in November 2006. This will be a one-day seminar on the 2006-updated ICB and the IEBC sponsored by AIA/SC. James informally requested funding from the Board to help cover the costs. Chairman Ward asked James to submit a formal request with projected costs and income and a specific amount needed from the Board. This item will be carried over to the September meeting.

IRC Disciplinary Issues: Don Golightly and Steve Usry, current IRC members, attended the meeting to discuss issues routinely dealt with by the IRC. The following IRC Procedures were discussed:

- ? All complaints are investigated, results are summarized and reviewed by IRC
- ? Plans are reviewed by 2 architects (sometime an outside reviewer is used)
- ? IRC meetings include 2 architects, attorney, investigator(s) and Board Administrator
- ? IRC makes the recommendation for Board action depending on alleged violation and prior history, if any.

The Board recessed for lunch.

Election of Officers: The following persons were unanimously elected to serve as officers of the Board, effective July 1, 2006, through June 30, 2007.

Barry Jenkins, Chair
Jose Caban, Vice-Chair
Stokes Browning, Secretary

Design Professional/AIA Workshop Funding: The Design Professionals and AIA/SC sponsored 3 continuing education activities in Greenville, Charleston and Columbia in May 2006. The AIA/SC partnered with the Design Professionals and provided administrative services and support. Motion by Jenkins, Second by Browning to provide funding in the amount of \$5000 in order to help cover the cost of these seminars. Jenkins asked that backup documentation of costs be submitted with the invoice. Motion Carried.

Education and Research Fund: Motion by Browning, Second by Russell: To continue to allocate \$10.00 per license renewal for advancement of education and research for the benefit of individuals, firms and architectural interns. Motion carried.

Ethics Workshop Update/Funding: At the November 2005 Board Meeting the Board reviewed and approved the proposal submitted by Dan Wueste, Ph.D., to hold another “Professional Ethics in Architecture” Workshop in 2006 and also agreed to financially support the workshops. The Board voted in January 2006 and approved funding in the amount of \$7800 to cover any “shortfall” of funding for the Workshop. Dr. Wueste was informed that if he sees that the “shortfall” will be greater than \$7800, he must provide a written request for additional funding. The Board reviewed the invoice submitted by Dr. Wueste for a total of \$10,884.00. Motion by Jenkins, Second by Browning: To ask for backup documentation to itemize the costs associated with the “shortfall” in order for the invoice to be paid. Once the documentation has been provided, the invoice will be approved for payment. Motion carried.

Free Services Policy Revision: Administrator Simpson submitted to the Board an updated version of the Board policy regarding Free Services. Motion by Russell, Second by Jenkins: To approve the policy as written with the exception of removing the last paragraph. Motion Carried. (See policy below)

SOUTH CAROLINA
BOARD OF ARCHITECTURAL EXAMINERS
POLICY ON OFFERING/PROVIDING FREE SERVICES

The Board of Architectural Examiners takes this opportunity to make clear its interpretation of Regulations regarding the offering of free services. This policy affects all licensed individuals and firms practicing architecture in South Carolina. It was originally adopted on May 7, 2003, as a Board Order and was published in the Board newsletter in October 2003. Follow-up questions and answers follow the policy statement.

Regulations:

Regulation 11-12-(A)(1) provides: “When conditions of compensation are submitted in a proposal for a study, pre-design, or preliminary design service, where future opportunity for additional work on the project is also available to the offerer, such conditions must be representative of the real cost of services to be performed.”

Regulation 11-12(C)(2) provides: “An architect or firm shall neither offer nor make any gift to a government official (whether elected or appointed) with the intent of influencing the official’s judgment in connection with a prospective or existing project.”

Regulation 11-12(C)(3) provides “An architect or firm shall comply with the registration laws, rules, and regulations governing the practice of architecture in this State and in any other jurisdiction.”

Regulation 11-12(D)(2) provides “An architect or firm shall neither offer nor make any gifts, other than gifts of nominal value . . . with the intent of influencing the judgment of an

existing or prospective client.”

Interpretation:

1. Under Regulations 11-12(A)(1), 11-12(C)(2), and 11-12(C)(3), neither a firm nor an architect can provide **free** services to a client, unless otherwise expressly excepted by the statutes or regulations governing the practice of architecture or other state law. The prohibition of free services includes any mechanism resulting in no cost to the client including crediting back the cost of the services against any future services or similar accounting practices.
2. For purposes of Regulation 11-12(A)(1), “real cost of services” means the fair market value of the architectural services based upon the architect’s or firm’s prevailing fee schedule.
3. For the purposes of Regulation 11-12(C)(2), an offer to perform work at less than fair market value on a project is not considered to be a gift **to** a government official since the intent of the Regulation was directed at the governmental bodies.
4. For the purposes of Regulation 11(D)(2), the Board will presume that an architect or firm who performs work or offers to perform work at less than fair market value has made a gift to a client with the intent to influence the judgment of the existing or prospective client.

Use of the word Architectural: An inquiry was received from a Texas law firm regarding the use of the word “Architectural” in the company name, Nelson Architectural Engineers, Inc. Motion by Russell, Second by Jenkins: To deny the use of the word “architectural” as it could be misleading to the public. Motion carried.

Chad McDonald: A letter from L. Randolph Waid, Ph.D. was reviewed by the Board requesting special accommodations for taking the A.R.E. per the American with Disabilities Act for Chad McDonald, a current examination candidate. Motion by Browning, Second by Russell: To refer the request to NCARB for a decision. Vote opposed by Jenkins. Motion carried.

Successor Architects Policy: Administrator Simpson asked for some direction in considering a policy on successor architects; i.e., when an architect dies, when he/she will not respond to a client, or when an architect and client want to part ways, and the client/owner needs someone else to continue the project. Administrator Simpson polled the Southern Conference and received a few responses. The Board asked Simpson to poll all jurisdictions, research the Model Law, and report back to the Board at the September Meeting.

NCARB Resolutions: The Board reviewed the proposed resolutions to be voted on at the Annual Meeting in Cincinnati, OH, in June.

NCARB Delegate Credentials: Administrator Simpson and Members Ward, Caban, and Jenkins will attend the NCARB Annual Meeting in June.

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Clemson University IDP Enrollment Update: The board accepted as information the activity report submitted by Clemson University for the spring semester.

Budget Report: The Board accepted as information the budget report for the period ending February 28, 2006.

Administrator's Report

The Administrator reported that 2006-2007 individual renewals were mailed in May and that once the renewal process is complete, the audit process will begin in August.

{end of Administrator's Report }

Continuing Education Audit Committee: Members Ward, Caban and Russell will serve on the CE Audit Committee to assist staff when needed.

Continuing Education: Administrator Simpson asked if an architect could get CE credit for teaching a seminar/course. It was unanimously agreed that architects would not be allowed any CE credit for teaching a seminar/course.

Guideline for Disciplinary Cases will be carried over to the September Meeting.

There being no further business, the Board Meeting adjourned at 5:00 p.m.

Respectfully Submitted,

Victor Stokes Browning, Secretary