

MINUTES
South Carolina Board of Architectural Examiners
Board Meeting/Hearings
9:30 a.m., September 14, 2010
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 204
Columbia, South Carolina

Meeting Called to Order

Brad Smith, chairman, called the meeting to order at 9:37 a.m. Other members present were Jose Caban, Tyson Nettles, Stephen Russell, Barry Jenkins, and Dennis Ward.

Staff members participating in this meeting included Jan Simpson, Administrator, and Alice DeBorde, Administrative Assistant. LLR employees attending the meeting included: Christa Bell, Litigating Attorney, Todd Bond, Investigator; Sandra Dickert, Administrative Assistant; Steve Freshley, Investigator; Dean Grigg, Hearing Advice Attorney; Tracey McCarley, Education Coordinator; and Jamie Saxon, Hearing Advice Attorney.

Ms. Simpson announced that public notice of this meeting was properly posted at the S. C. Board of Architectural Examiners office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Introduction of Board Members and All Other Persons Attending

Mr. Smith introduced the Board members.

Approval of the May 18, 2010 Meeting Minutes

MOTION

Mr. Ward made a motion the minutes of the May 18, 2010 meeting be approved as written. Mr. Jenkins seconded the motion, which carried unanimously.

Approval of Agenda

The agenda was approved as presented.

Office of General Counsel - Hearings

- a. S. Derrick Mazingo, Jr. d/b/a Mazingo & Wallace Architects, LLC (2007-6 & 2007-17) - Jamie Saxon and Dean Griggs, Hearing Advice Attorneys

The respondent signed a consent agreement which was presented to the Board by LLR attorney Christa Bell.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Executive Session

MOTION

Mr. Russell made a motion the Board enter executive session to seek legal advice on this matter. Mr. Jenkins seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Ward made a motion the Board return to public session. Mr. Russell seconded the motion which carried unanimously.

Mr. Saxon noted for the record that no official action was taken during executive session.

MOTION

Mr. Russell made a motion the Board reject the consent agreement and that a hearing in this matter be scheduled as soon as possible. Mr. Ward seconded the motion, which carried unanimously. Mr. Nettles recused himself from voting in this matter.

Application Hearing

No application hearings were held during this meeting.

Administrator's Remarks, For Information – Jan Simpson

a. Legislative Report

No legislative report was given during this meeting.

b. Financial Report

Ms. Tracey McCarley spoke to the Board regarding financial reports. She asked the Board members the information they wished to receive in future reports and how often they wished to receive the reports.

The Board referred the decision to staff. Ms. Simpson asked that revenue and expenditures for operating expenses, the education and research fund and the ten percent of the total expenditures which is transferred to the General Assembly be included in a quarterly report.

Ms. Simpson distributed a financial report currently available through the new SCEIS system.

c. Licensure Statistics Report (see attached Report)

Ms. Simpson presented the members with a licensure statistics report. She noted the agency is converting to a new licensure database which will allow applicants to apply for licensure on-line. The Board of Engineers is in the process of being converted to the new system; however, the Board of Architects has not yet been converted.

She said she has submitted a nomination form for the MBE position on the National Council of Architectural Registration Boards.

Office of Investigations and Enforcement Report –Steve Freshley

Office of General Counsel Report – Christa Bell

a. Number of Investigations

b. Number of Open Cases

Mr. Freshley stated OIE currently has two active cases; one case is 14 days old and one case is 12 days old. He noted the cases have been opened and are under investigation.

c. Number of Office of Investigations and Enforcement (OIE) Pending Cases

Mr. Freshley briefed the members regarding the August 31, 2010, IRC report.

MOTION

Mr. Russell made a motion the Board accept the IRC report. Mr. Nettles seconded the motion, which carried unanimously.

d. Number of Office of General Counsel (OGC) Pending Hearings

Ms. Bell stated there are currently four cases pending in OGC. She hopes all four cases can be scheduled for the November 16, 2010 Board meeting.

Unfinished Business

a. Section 40-3-300 – Range of Acceptable Responses to RFP's

Ms. Simpson briefed the Board regarding the history of Section 40-3-300, which prohibits architects from "entering into a contract on the basis of comparison of compensation." She further stated the statute says the architect cannot enter into a contract but does not differentiate between public works and private works. She asked for Board guidance on how architects may respond to such RFPs. Based on guidance from previous Board members, she said she has been informing architects that they may provide a range of fees or a percentage, may state fees from previous similar projects, and/or hourly salaries of employees assigned to the project but cannot give the number of hours they will work on the project.

Discussion followed. Mr. Russell summarized that architects are restricted to submitting the range of percentage amounts and are not to distribute dollar amounts, including hourly rates or salaries to another party.

Mr. Ward suggested it is up to the design professionals to determine if they are within this guideline, knowing that if they go beyond the guideline they could be in violation. He said the Board would then look at alleged violations on a case by case basis.

Ms. Simpson stated any new interpretation regarding this matter would be published on the Board's web page and would be sent to all licensees via an e-blast.

New Business

a. CE Programs in Collaboration with Rutland Institute of Ethics

Ms. Simpson stated staff has asked Dr. Dan Wueste to suggest possible dates for three planned ethics courses to be sponsored by the Rutland Institute. Board members and AIA representative Adrienne Montare agreed that March 11-12, 2011, would not be a good time for the programs. It was determined that the program would be conducted in Greenville and Charleston on Fridays and in Columbia on a Wednesday.

Mr. Jenkins stated the Board should seek out architects who might serve on Investigative Review Committees in the future. He suggested staff might contact former board members or other individuals who may be interested in serving on the IRC should an opening occur.

Ms. Simpson stated Steve Usry and Don Golightly currently serve as IRC members and John Gilmore serves as the alternate member. The Board asked that this matter be placed on the agenda for the next meeting.

The Board recessed for lunch at 12:15 p.m. and returned to public session at 12:53 p.m.

Discussion Topics

a. Review of Board Policies

The Board reviewed its policies.

Ms. Simpson noted some of the policies have been updated as a result of changes in the statutes.

The Board added a phrase to number one of the prototypical plans policy.

The Architect must:

- 1) Have written permission of the original architect or owner of the documents to adapt the plans;

The Board discussed making changes to the policy on offering/providing free services. The Board determined that if an architect volunteers or donates services he should be doing so willingly for that purpose without the goal of gaining any future work. The Board also determined it would revise the bullet point answering the question, 'What if I do work for Habitat for Humanity for free or I am approached by a local garden club to help them with a project by donating my time?'

Regulation 11-12B.(8) was read into the record and states, 'An architect or firm possessing knowledge of a violation of these rules by another architect or firm shall report such knowledge to the Board.'

The Board determined it would need to revise the interpretation in regard to Section 40-3-290 which discusses exemptions.

b. CE Audits (Simpson)

Ms. Simpson briefed the Board regarding the continuing education audit process. She noted that there are many differences in requirements for CE compliance across the United States, and it has become an issue of growing concern and focus for licensing boards. She stated there are nine states that do not require continuing education for renewal of architects' licenses. There is discussion about states agreeing to audit only resident architects and architects from the nine states that do not require CE. Florida could be audited as a tenth state.

Ms. Simpson stated this matter was presented as information only.

c. Can Intern Architects Work for Free to Get IDP Experience?

Mr. Jenkins stated he sent an article to Ms. Simpson regarding interns working for free to obtain IDP experience. He noted federal guidelines do not allow those interns to be listed as employees which poses a problem for those interns obtaining the IDP experience.

It was noted during the discussion that federal guidelines list six criteria for unpaid interns. It was also noted that IDP will not allow an intern to submit free work hours for experience, a position supported by the AIA.

d. Open Meeting Violation (Simpson)

Ms. Simpson briefed the Board about a public entity in South Carolina that did not follow requirements to post a meeting notice and has been charged with criminal violation of the Open Meetings Act. Attorney Dantzler reminded Board members that when Board business is being discussed, the meeting must be properly posted—wherever it is being held.

e. Professional Issues to consider: Entry points for IDP, BEA acceptance

Ms. Simpson reminded Board members that “entry points” for earning credit in IDP have been changed to allow an individual who has completed high school to begin earning experience as long as the individual is working in an architectural work setting and is gaining experience in one of the work settings and the supervisor signs off on it. Ms. Simpson noted South Carolina’s statute would have to be changed to allow those individuals with no formal training to become licensed. Completion of an accredited degree is required to begin taking the ARE and to become licensed in South Carolina.

Ms. Simpson noted that South Carolina accepts for licensure NCARB Records obtained through the Broadly Experienced Architect program. However, NCARB recently eliminated interviews as part of the BEA review process. South Carolina and approximately four other states objected to the elimination of the interviews, but it has been adopted as part of revamped BEA procedures. Mr. Jenkins noted his objections to elimination of the interview. Discussion on this matter ensued.

MOTION

Mr. Jenkins made a motion the Board adopt a policy retaining the right to request an application hearing for anyone applying for licensure in South Carolina through the BEA process if the applicant was not interviewed. Mr. Russell seconded the motion, which carried with a majority vote. Mr. Ward voted nay.

f. Question Regarding the Legitimate Claim of having SC Office

Ms. Simpson stated she received an inquiry from an individual regarding minimum requirements for marketing of an “office in South Carolina.” IRC members were consulted but the individual requested an answer from the Board.

The Board stated the office must have one licensed architect in responsible charge and a physical address.

2011 Board Meeting Dates

The Board determined it would hold meetings on the following dates:

February 8, 2011 May 11, 2011 September 13, 2011 November 8, 2011

Board Member Reports

a. Report on Clemson School of Architecture (Caban)

Mr. Caban plans to resign as a Board member to allow the new Chair of the School an opportunity to be appointed as the architecture professor. Discussion ensued in regard to how long Mr. Caban could remain on the Board and when his successor could be appointed. His term expires in May 2011.

Mr. Caban stated the school’s accreditation was pushed back to the spring 2011. The NAAB review committee will visit the campus in fall 2011 for a full review.

b. Report on NCARB Board of Directors Actions (Ward)

Mr. Ward reported NCARB has issued an RFQ for a Chief Executive Officer to succeed Lenore Lucey. They hope to get 20 to 30 responses. The search committee will select one person who will meet with the NCARB Board at Regional meetings in Spring 2011. NCARB is preparing now for the regional meetings and will send candidates in contested races for NCARB office to both regional meetings at NCARB expense. He said IDP 2.0 is rolling out in stages and ARE 4.0 is doing well. NCARB’s financial status is good but expenses are being cut across the

board. Committees are holding more teleconference and web meetings. NCARB is working closely with all collaterals, but especially with AIA on continuing education issues. Member Board Executives, Member Board Chairs and Regional Chairs will meet in November 2010 in New Orleans. Brad Smith, Dennis Ward, and Jan Simpson will attend.

c. Report on Continuing Education (Jenkins)

Mr. Jenkins serves as a member of the NCARB Professional Development Committee which is making progress toward drafting a national standard in continuing education. The committee was charged with defining Health, Safety and Welfare (HSW) in the Model Law and analyzing current CE requirements of all Boards. The committee hopes to develop a common requirement standard that states might adopt and that would be in line with Model Law language. He noted the committee is hoping to have a report ready by the end of 2010.

Public Comments

Adrienne Montare, Executive Director of AIA/SC, reported the AIA Board will again work against passage of any legislation in 2011 to require schools to use “stock” school plans. Discussion ensued about the issues related to such plans.

Adjournment

MOTION

There being no further business for discussion at this time, Mr. Ward made a motion the meeting be adjourned. Mr. Jenkins seconded the motion, which carried unanimously.

The September 14, 2010 meeting of the SC Board of Architects adjourned at 2:40 p.m.

**Administrator's Report
Jan Simpson, Administrator
SC Board of Architecture
For the September 14, 2010 Board meeting**

Number of Active Credentials by Prefix Board: Board of Architectural Examiners as of 9/2/2010 Query Report: 481	
Credential Prefix	Count
AR	3808
ARA	16
ARB	197
ARC	95
ARD	29
ARF	923
subtotal	5068
6 items	

AR = Architects

ARA, ARB, ARC, ARD and ARF = Architectural Firms

Database Conversion

LLR is phasing in a new database system that will allow applicants to apply for a license online, manage their own information, check on the status of their applications, and much more. The architects are scheduled to convert to the new database in the next six months.

Outreach to Clemson Architecture Students

On August 26, I spoke to 25 Clemson students in the graduate level Professional Practice class on ethics, licensure, IDP and the Board's areas of responsibility and authority. I also visited briefly with the new Chair of the School, Kate Schwensen.

Professor Rob Silance is working with NCARB IDP staff members to arrange a visit on campus this academic year.

NCARB Board

I have submitted paperwork required to run for the Member Board Executive seat on the NCARB Board of Directors. The election will be held during the MBE meeting in November.



Sandra C. Dickert – Administrative Assistant