

MINUTES

**BOARD OF ARCHITECTURE AND INTERIOR DESIGN
Crowne Plaza Oceanfront North Palm Beach
3200 North Ocean Drive
Singer Island, FL 33404
561.842.6171**

February 4, 2004

Committee Meetings

February 4, 2004

9:00 a.m.

Mr. Bullock called the meeting to order at 9:05 a.m.

Board Members Present:

Miguel Rodriguez
Rick Gonzalez
Neil Hall
Stephen Schreiber
Mary Jane Grigsby
Joyce Shore
Kenneth Horstmyer
Garrick Gustafson
Roymi Membiela

Others Present:

Terri Estes, Government Analyst
Juanita Chastain, Executive Director
Mary Ellen Clark, Board Counsel
Jerry Hicks, Board Consultant
Trent Manausa, Board Consultant
Michael Wirtz, NCIDQ delegate and Probable Cause Panel Member
Steve Hefner
Ann Wingate
Les Smith, Investigator
David Minacci, Prosecuting Attorney
Gail Griffin
Nancy Bredemeyer
Rita Scholz
Jose Lozano
William Kobrynich
Lorraine Bragg

Kelly Vincente
Marilyn Wilson
Giuliana Carhugmara
Natalia Vanegas
Zanaida Young
Shelley Siegel
Aida Boa-Garciga
Patricia O'Neil
Larry Maxwell

ARCHITECTURE COMMITTEE

Chair – Stephen Schreiber

Call to Order

Mr. Schreiber called the architecture committee to order at 9:12 a.m.

Discussion

Architects using the AIA designation behind their name

Mr. Schreiber commented that the history was that architects that are registered in other states but not in Florida are using the AIA designation. He commented that by using the AIA behind their name in Florida is misleading to the public that the individual is licensed in Florida. Mr. Bullock commented that a person could falsify that they were an architect by using that designation when their AIA registration has expired. To be a member of AIA you must be a licensed architect somewhere.

Mr. Manausa commented that an example would be when an individual is licensed in Oregon and they come to Florida and use AIA after their name. It is misleading that he is licensed in Florida. He commented that he did not believe they would be able to solve that problem. He commented that the issue was when an associate, which is not licensed, does not use the correct associate designation.

After discussion, the board determined that it was an issue but it was not in their jurisdiction to prevent the usage of the term AIA. They determined that they prosecute when it is used in a misleading or deceptive way on an individual basis.

Chapter 481 revisions – Trent Manausa

Mr. Manausa gave a synopsis as to why the statute rewrite came about. He commented that they were difficult to understand regarding licensure and registration. He commented that he was trying to group sections together regarding all the information for architecture or interior design. He commented that he added a few definitions from the NCARB model law. He commented that the only major change was the requirement for construction administration.

Ms. Clark asked who was going to sponsor the changes and if it would be presented this legislative session. Mr. Manausa replied that AIA was sponsoring but when Mr. Shalley left it was handed over to Mr. Huey. He commented that they still needed to integrate the interior

design portions. He commented that the department offered to prepare the final rewrite with the history notes and other requirements.

Ms. Clark commented that this was the first opportunity to review this draft and suggested that the board hold a workshop regarding this item. Mr. Rodriguez commented that this was an item that AIA was still supporting and they were working on the timeframe. He commented that the individual board members should review, make comments to the board office for preparation for the next board agenda teleconference. He commented that the volume of comments would dictate the timeframe regarding presentation to the legislative session.

Ms. Del Bianco commented that comments should be sent to Mr. Manausa and Ms. Crobsy for integration and then brought back to the board for additional review. Ms. Grigsby commented that it was not their place to make law but to regulate it. Ms. Clark commented that it was not inappropriate to discuss and other professions have a workshop day to address legislative matters.

Ms. Del Bianco asked how they would define the difference between architects practicing interior design. Mr. Manausa commented that they would address when they integrated the interior design information.

Mr. Rodriguez commented that they needed to add enabling language to provide more opportunity to allow the board to exercise its judgement by rule to avoid difficulties with JAPC. He commented that administrative law should enable the regulation of the profession not prescribe it. He commented that he would be looking at it to give the board the latitude.

Ms. Del Bianco commented that she did not see information regarding electronic signing and sealing. Mr. Manausa commented that he needed assistance with that language.

Mr. Maxwell with AIA Florida Legislative Affairs, commented that he spoke with Mr. Huey and he did not feel this item would make it before session this year.

Mr. Schreiber commented that he noticed the change of the IDP completion requirement from what they currently have in place. The board discussed Florida's requirement and what the NCARB model law has in place. He commented that they should specify the IDP requirements by rule instead of statute.

Mr. Rodriguez commented that the model law is sometimes 6 to 9 months old and the IDP issue has become a hot topic lately. He commented that either they believe in the NCARB IDP or not.

Mr. Schreiber commented that the foreign degree issue might need to be addressed in the statute. He commented that restricting the evaluation to certain entities then it is restrictive. Mr. Rodriguez commented that if they restrict foreigners to NCARB certification for licensure then they may run into an issue with the broadly experience architects.

Mr. Schreiber commented that he would like to move passed looking behind a blue cover from NCARB. Mr. Manausa commented that they look behind the blue cover because Florida requires the 5-year degree. Mr. Rodriguez commented that the broadly experience architect is subjected to an extensive evaluation and they could accept the blue cover because the do not issue them to individuals without some means of education.

Mr. Schreiber asked what would be required to make the statutory change to allow not looking behind the blue cover. Mr. Rodriguez commented that it would require omitting the degree requirement from the NCARB endorsement statute and replacing it with an NCARB certificate. Mr. Manausa commented that they would be opening the door for all of the architects in Georgia to be licensed with a 4-year degree. Mr. Rodriguez commented that goes back to trusting the NCARB certificate.

Ms. Del Bianco commented that would be going backwards. Mr. Bullock agreed. Mr. Schreiber and Mr. Rodriguez would like to see a method that would allow for BEA.

The board discussed that the comments should be addressed to Mr. Manausa, Ms. Crosby, and the board staff.

NCARB Reciprocity Impediments Task Force letters

Mr. Rodriguez commented that the letters where regularly perceived impediments that NCARB would like Florida to remove. He commented that the board should reply and let them know that we were aware of the issues.

James Rappoport letter and issues – David Minacci

Mr. Minacci commented that the board requested he pull statutes from other states for the board's review and it was for informational purposes. Mr. Gonzalez commented that he had noticed a trend by client's particularly governmental clients that want to own drawings and specifications. Mr. Rodriguez commented that he had concerns with the electronic files and thought this was helpful for Rules development.

Ms. Siegel asked the architects on the board what was the common practice regarding copyright law and the transfer of ownership. Mr. Rodriguez replied that the agreement with the client determines that issue. He commented that the federal copyright law requires that a copyright statement be on them. Ms. Siegel asked if they transfer the ownership would that null and void the copyright. Mr. Rodriguez replied that in essence they sold the copyright.

ArchVoices – NAAB IDP – Sharon Del Bianco

Mr. Schreiber commented that NAAB has been requested to include doctoral degrees. He commented that NAAB determined in November to allow a doctorate degree based on a 7-year program. He provided background regarding the decision.

Prototype Building – Miguel Rodriguez

Mr. Rodriguez commented that he felt there was a need to create a rule to assist and clarify this issue. Mr. Gonzalez commented that he had a concern with what was being called

prototype buildings. Mr. Bullock asked how they addressed the site issues and if an architect was hired to perform. Mr. Hall replied in the positive.

For the Board's Information

Regional Director's Report to NCARB

Mr. Rodriguez commented that Marcette Fisher and Jane Frederick have announced running for the Chair. He commented that both were capable. Mr. Rodriguez was the single candidate for Vice-Chair and the Secretary position was a single candidate. He commented that Mr. Ellinger, Mr. Travis, and Mr. Huberman was running for Regional Director. Ms. Del Bianco supported Mr. Ellinger.

New Business

No new business.

Old Business

No old business.

Adjourn

The meeting adjourned at 10:30 a.m.

The board recessed at 10:30 a.m.

The board reconvened at 10:50 a.m.

INTERIOR DESIGN COMMITTEE

Chair – Joyce Shore

Call to Order

Ms. Shore called the meeting to order at 10:55 a.m.

Discussion

Chapter 481 revisions - IDAF

Ms. Crosby commented that they mirrored the architecture statutes for interior designers i.e. construction administration. Mr. Hall commented that construction administration was owner driven and could be costly. Mr. Manausa commented that the interior designers might need to change the wording to relate more to interior design.

IDCEC Meeting, San Diego – Mary Jane Grigsby

Ms. Grigsby reported the highlights from the meeting. She commented that there were discussions on the presenters manuals and copyright laws, proprietary issues, review forms, develop structure training methods for reviewers, and categorize basic and advance courses. She commented that she was charged with reviewing the manual and separate health, safety, and welfare.

Ms. Grigsby commented that the next meeting was scheduled for April 23-25, 2004 in Seattle, Washington.

NCIDQ Meeting, San Diego – Michael Wirtz

Mr. Wirtz reported the highlights from the meeting. He commented that they developed the priorities for 2004. He commented those priorities were to improve quality, increase public awareness for interior design licensure, develop a certification program, provide services to non-regulated jurisdictions, improve the interior design program, and provide more services to non-member boards. He commented that there were some changes announced that effect boards and students. He commented that the maintenance fee to track continuing education for annual certificate/letter holders would be waived for any council or committee members. He commented that the IDEP participants were not required to hold a job prior to taking the NDICQ examination. He commented that NCIDQ would extend the IDEP incentive plan for free registration until January 1, 2008.

Mr. Wirtz commented that as of January 1, 2009 candidates would be required to have a minimum education of 3-years plus 3-years of experience. He commented that NCIDQ would change the eligibility requirements for the examination by restricting the experience portion time worked under a registered interior design or architect with no independent practice time would be excepted after January 1, 2008.

Mr. Wirtz commented that he voted for Kentucky and New Jersey. He reviewed the new elected officers.

Mr. Wirtz commented that there was much discussion regarding the FIDER changes. He commented that FIDER indicated that they would be revamping their requirements again in 2007. He commented that they discussed the lack of interior design programs on HGTV. He commented that there was a lack of understanding the difference between an interior designer and decorator.

Mr. Wirtz commented that NCIDQ's web site was up and running. He provided information regarding the fees. He commented that they were working to redefine the definition of interior design.

Mr. Wirtz commented that NCIDQ would be meeting in Washington, DC November 12-14, 2004.

Mr. Bullock asked Mr. Wirtz what a 3-year degree was. Mr. Wirtz replied he could not document what a 3-year program was but believed that they could not go straight from a 2-year program to a 4-year program. He commented that it had to be done in increments. He commented that many of the 2-year degrees were being phased out. Mr. Bullock asked if it was a reworked curriculum. Mr. Wirtz replied in the positive.

The board discussed the HGTV issue regarding licensure, codes, and health safety measures.

For the Board's Information

NCIDQ Ballot regarding Kentucky and New Jersey Board of Architects

Mr. Wirtz addressed previously.

NCIDQ Completes Analysis of Interior Design Profession; Validates Content of National Certification Exam

Mr. Wirtz commented that this is performed every 5 years to review what is the practice and define the practice of interior design. He commented that the profession is changing and they have a track record, which allows them to defend the examination.

NCIDQ Exam Results

Mr. Wirtz briefly discussed.

Education of Disciplined Interior Designers

Mr. Minacci commented that Mr. Schreiber requested that this information be prepared for the purposes to determine if the prior cases were against designers that did not have a 4-year degree.

Letter and E-mail from Judy Thompson regarding Interior Design

Ms. Shore reviewed the letter. The board had a brief discussion regarding her letter.

New Business

No new business.

Old Business

No old business.

Adjourn

The meeting adjourned at 11:35 a.m.

RULES COMMITTEE/WORKSHOP

Call to Order

Mr. Bullock called the meeting to order at 11:35 a.m.

Rules Report/Rule Tracking

Ms. Clark reviewed the Rules Report and Tracking process. She commented that she had made little progress on their rules regarding the JAPC letters and apologized. She asked the board to prioritize the rules and the JAPC letters she can make progress for the next rules meeting. Ms. Clark responded to 2 of the JAPC letters, which were in reference to Rule 61G1-14.001 and 20.001. She commented that she spoke with Ms. Printy regarding her response to the JAPC's issues and those rules are now moving forward for adoption.

The board determined that the important rules were ones that dealt with responsible supervisory control and disciplinary proceedings.

Ms. Clark commented that since she was not the board's counsel at the time the rules were drafted, it would be helpful for her for them to give her an explanation for the reason for requesting particular rules.

Rule Discussion

Rule 61G1 –11 –Organization and Purpose

JAPC letter from Suzanne Printy

Proposed Language, 11.013(3)(a) Definitions

Ms. Clark commented that this rule was moving forward.

Proposed Language, 11.017 (New) Time for Compliance with Final Order

Current Language

The board determined that they would wait on this rule.

Rule 61G1-12 – Grounds for Disciplinary Proceedings

JAPC letter from Suzanne Printy

Proposed Language, 12.001 Grounds for Disciplinary Proceedings

Mr. Minacci commented that this rule would be helpful but not priority because he would file for revocation of the license and instead of it taking 30 days it would take 90 days. He commented that the rule would be nice but not a priority. Ms. Clark referred the board to the statute, which covered this concern. Ms. Clark and Mr. Minacci determined that they should amend this rule but there was a reason to amend the disciplinary guidelines.

MOTION: Mr. Rodriguez moved to withdraw the amendments to Rule 61G1-12.001.

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

PCP requested that 12.004(2)(t) be modified to remove “If firm applies for certificate or the word “if”

Current Language

No discussion.

Rule 61G1 – 24 – Continuing Education for Architects

JAPC letter from Suzanne Printy

Proposed Language, 24.001 Continuing Education for Architects

Current Language

Mr. Rodriguez commented that they could withdraw this request because the statute gives the board the authority to approve continuing education providers and courses. Mr. Manausa commented that he understood her concern was that other states must have continuing education to further the education of the architect.

Ms. Clark read the language for the board to approve for submission to JAPC, which read as follows: insertion at the end of the sentence, or by submission of proof of compliance with the continuing education requirements of another state in which the architect is licensed provided that the requirement of the other state equal or exceed the completion of 20 contact hours in the two year period (insertion) and be that the education build upon the basic knowledge of architecture. The board reviewed the language as drafted.

MOTION: Mr. Rodriguez moved to approve the amended language.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Rule 61G1 – 21 – Continuing Education/Interior Designers

JAPC letter from Suzanne Printy

Proposed Language, 21.001 Continuing Education for Interior Designers

Current Language

Ms. Clark read the language for the board to approve for submission to JAPC, which read as follows: insertion at the end of the sentence, or by submission of proof of compliance with the continuing education requirements of another state in which the interior design is licensed provided that the requirement of the other state equal or exceed the completion of 20 contact hours in the two year period (insertion) and be that the education build upon the basic knowledge of interior design. The board reviewed the language as drafted.

MOTION: Ms. Del Bianco moved to approve the language.

SECOND: Mr. Hall seconded the motion and it passed unanimously.

Rule 61G1 – 23 – Responsible Supervising Control

Letter from Mary Ellen Clark to Ms. Printy

JAPC letter from Suzanne Printy regarding Proposed Amendments to Rules 61G1-23.025, .030, .040 & .060.

Notice of Proposed Rule Making / Full Text of Proposed Rule

Draft Language, Sharon Del Bianco's draft for proposed rule

Current Language

Ms. Clark commented that the new department head, Ms. Printy's boss, has determined that there will be a more stringent review of the rules. She commented that explains why previous rules that passed are now being challenged.

Mr. Minacci commented that the response should include Chapter 481.221(5), F.S., which states that no registered interior designer shall affix his/her seal to any documents that were not prepared under his/her responsible supervisory control. He continued by stating they could expand on that by stating unless you have a full time interior designer in the that office, those documents were not prepared under that person's responsible supervisory control.

Mr. Minacci commented that Ms. Clark could site the health, safety, and welfare issue by having unlicensed individuals prepare documents without a licensed professional in the office.

The board determined that they wanted Ms. Clark to focus on this Rule prior to the next meeting.

Rule 61G1 –13 – Education and Experience Requirements

Current Language

No discussion.

Rule 61G1 - 14 – Architecture Examination

JAPC letter from Suzanne Printy

Proposed Language, 14.001 Written Examination Designated, General Requirements

Current Language

Rule 61G1 – 16 – Seals and Plans

Current Language

No discussion.

Rule 61G1 – 17 – Fees

Draft Language, 17.001 Professional Fees and Penalties for Architects

Draft Language, 17.002 Professional Fees and Penalties for Interior Designers

Draft Language, 17.001 & .002, Mary Jane Grigsby's draft for fee increase and/or duplication

Current Language

No discussion.

Rule 61G1 – 18 – Responsible Supervising Control Over Architectural Practices in the Architect's Office

Current Language

No discussion.

Rule 61G1 – 20 – Interior Design Examination and Grading System

JAPC letter from Suzanne Printy

Proposed Language, 20.001 Written Examination Designated

Current Language

No discussion.

Rule 61G1 – 22 – Interior Design Experience and Education

Current Language

No discussion.

Rule 61G1 – 25 – Responsibility Rules of Architects Providing Threshold Building Inspections

Current Language

No discussion.

Rule 61G1 – 26 – Certificate of Authorization for Architecture or Interior Design Businesses (New)

Letter from Mary Ellen Clark to Suzanne Printy

JAPC letter from Suzanne Printy regarding Proposed Rules 61G1-26.001 & .002

Notice of Proposed Rule Making / Full Text of Proposed Rule

Mr. Minacci commented that this was the same argument as Rule 61G-23. Ms. Clark commented that the work she will do on Rule 61G1-23 should cover this one as well.

Ms. Clark commented that she would have this information ready for the next board meeting.

The board recessed at 11:40 a.m.

The board reconvened at 1:30 p.m.

Discussion

Prototype Building

Mr. Rodriguez commented he reviewed the concept of what the Prototype Building ownership, permitting, site specific/adaptation information, foundations, etc. He commented that he feels they need to address this issue by rule other than successor architect. He commented that he would draft some language for the board to review. Mr. Gonzalez asked if there was any way to fight this requirement through DCA. Mr. Rodriguez replied he did not feel it would be a winning fight.

Mr. Gonzalez commented it appeared the only way to protect themselves would be at the local level. Mr. Rodriguez commented that DCA is having difficulty at the local level as well with them accepting the prototype buildings without completely re-reviewing. He commented that the owner could take plans anywhere in the state and have an approved plan for permitting.

Mr. Schreiber commented that it was similar to HUD housing. Mr. Manausa commented that they needed to define the requirement for design professional and what they must do and provide direction. The board discussed the use of the successor architect rule and modifying for the prototype building procedures.

Mr. Rodriguez commented that he wished they had named this something other than prototype building. He commented that Mr. York that reviews the prototype building plans contacted the board regarding concerns. He commented that they discussed a possible type that indicates certain plans are prototype building.

Mr. Rodriguez, Mr. Manausa, and Mr. Minacci will work on language to bring back to the board.

Continuing Education Handbook Revisions – Miguel Rodriguez and Mary Jane Grigsby

Mr. Rodriguez and Ms. Grigsby will submit for the next meeting.

Continuing Education Course renewal process i.e. every two years from date of approval

Ms. Chastain commented that this was on the meeting for the board to consider staggering the renewal of the courses. She commented that this could be updated in the handbook revisions.

Architectural and Interior Design Incidental Practice language

Ms. Del Bianco commented that if an architect was soliciting for interior design business only then they must have an interior design license. Mr. Rodriguez commented that this was in response to an architectural firm that came before the board at the last meeting that had an interior designer on staff and the question came up if they needed an interior design license. He commented that they received a fine and that triggered a discussion.

Mr. Minacci commented that they were prosecuting cases the way Ms. Del Bianco described. He commented that if an architect is performing interior design services that are incidental to their architectural work and they do not have an interior designer licensed they are not pursuing. He commented that if the architect or architectural firm is offering interior design services then they require them to have an interior design license, individuals or business.

Mr. Rodriguez commented that was contrary to the statutes and rules. Ms. Grigsby commented that an architect could not be offering interior design services only without proper licensure. Mr. Rodriguez commented that they could. Mr. Manasa commented that certain counties require that the architect have the dual license. Mr. Rodriguez commented that he could not call himself an interior designer but he could practice and offer interior design services.

Ms. Chastain asked if an individual architect contacted the board office and asked if they could offer interior design services the answer would be yes. Mr. Bullock replied that yes, as an individual, they can offer interior design services but could not call themselves an interior designer but if they offer the services through a firm then they would need a certificate of authorization. The board referred to Chapter 481.229(5)(a). The board reviewed and an architect can call themselves an interior designer.

The board discussed the need for a dual certificate of authorization. Mr. Hall commented that some municipalities require the certificate of authorization.

Architectural and Interior Design Contract Construction Administration

The board discussed previously.

Officers signing contracts on behalf of a Company or Firm (PCP)

Mr. Rodriguez commented that the board determined that an officer could sign on behalf of the firm.

Florida Corporations with names requiring Florida licensed architect/Foreign Corporations with use of name i.e. goodwill (PCP)

No discussion. Remove.

IDP language clean up, IDP required prior to education or after

The board discussed previously. Mr. Schreiber commented that there was a statute that requires one year be completed after graduation.

Mentoring Program – Miguel Rodriguez to work with counsel on language

Mr. Rodriguez and Ms. Clark will work together to draft language to bring before the board. Mr. Rodriguez commented that he wanted to pole AIA to create a pool of architects to assist in the mentoring program. He reviewed the idea of the mentoring program. Ms. Del Bianco asked how the mentor would be paid. Mr. Rodriguez replied the disciplined licensee would pay it. He commented that they would have to discuss liability issues.

For the Boards Information

Continuing Education 100% Monitoring Requirement (Letter from Secretary) – Ms. Chastain provided at a previous meeting

Florida Building Code - Advanced Core Course number of hours – board voted at the October Meeting to recommend 0 as the requirement

Members of Armed Forces in good standing with administrative boards – Ms. Chastain provided language at the October meeting for counsel's review

Fee increase verbiage – Mary Jane Grigsby provided with her rules clean-up/verbiage

The board reviewed and discussed. They discussed the fee increase verbiage and the fee caps. Ms. Del Bianco commented that they needed to make them level for both professions and it would need to be taken care of in the statute rewrite.

New Business

Mr. Rodriguez commented that the Probable Cause Panel felt there needed some clarity on a furniture/office dealer that offers or provides space-planning services that are considered interior design. He commented that the board needed to further define the practice of interior design with respect to that part of the industry. Ms. Del Bianco commented that the definition of space planning needed to be further defined.

Mr. Rodriguez commented that the PCP had an unlicensed activity case where an individual had architectural design software logo on their business card. He commented that they were essential a residential contract and using the architectural design on the card could be misleading. He felt the board should further define in the future.

Ms. Del Bianco commented that they should separate out the space planning of furniture versus the space planning of interior walls. She commented that would be helpful to the architects and design build firms.

Mr. Bullock commented that he would like to see certificate of authorizations', i.e., businesses be required to have a seal or stamp reflecting the date. The board briefly discussed the concept and the current title block requirement. Mr. Maxwell commented that in the title block they could require the current qualifier in the title block.

Old Business

No old business.

Adjourn

The meeting adjourned at 2:45 p.m.

General Business Meeting

Call to Order

Mr. Bullock called the meeting to order at 3:15 p.m.

Board Members Present:

Miguel Rodriguez
Rick Gonzalez
Neil Hall
Stephen Schreiber
Mary Jane Grigsby
Joyce Shore
Kenneth Horstmyer
Garrick Gustafson
Roymi Membiela

Others Present:

Terri Estes, Government Analyst
Juanita Chastain, Executive Director
Mary Ellen Clark, Board Counsel
Jerry Hicks, Board Consultant
Trent Manausa, Board Consultant
Michael Wirtz, NCIDQ delegate and Probable Cause Panel Member
Steve Hefner
Ann Wingate
Les Smith, Investigator
David Minacci, Prosecuting Attorney
Gail Griffin
Nancy Bredemeyer
Rita Scholz
Jose Lozano
William Kobrynich
Lorraine Bragg
Kelly Vincente
Marilyn Wilson
Giuliana Carhugmara
Natalia Vanegas
Zanaida Young
Shelley Siegel
Aida Boa-Garciga
Patricia O'Neil
Larry Maxwell

Presentation - Probable Cause Panel Chair to advise board members how they deliberate to reach a recommendation and explain the PCP process

Mr. Rodriguez commented that since the panel members must recuse themselves from the board meetings when the board reviews discipline cases he would provide an overview of how they review the cases and reach the decisions that they come to. He commented that the panel receives a packet almost identical to what the board receives with the exception of duplication. He commented that the panel members receive a packet prior to the PCP meeting for review and the respondent may or may not attend. He commented that they usually do not have many appearances before the panel.

Mr. Rodriguez commented that the recommendation of the expert consultant is in the packet for review. He commented that it is not an evidentiary hearing or points of law. He commented that if a respondent appears they are allowed to provide a presentation or information regarding the violation that might be mitigating factors. He committed that the panel will ask questions and probe for additional information. He commented that if a respondent is not at the panel meeting then they review and if they have additional questions that are germane to their decision then they would ask Mr. Smith or Mr. Minacci to follow-up. He commented that the panel relies on Mr. Smith and Mr. Minacci's feedback regarding interaction with the respondents.

Mr. Rodriguez commented that they weigh the mitigating factors and the respondent's demeanor before making a decision. He commented that they vote on whether there is probable cause with counsel's recommendation. He commented that they might delete counts or add counts based on the review. He commented that once probable cause is found then they look at the disciplinary guidelines, minimum versus the maximum. He commented that the panel takes into account prior violations and determines a recommendation.

He commented that sometimes the board would see panel recommendation differ from the settlement stipulations or re-considerations. He commented that sometimes-additional information may come to light after the original determination, therefore they will reconsider the violation and/or penalty. He continued by stating the board must also realize that they are dealing with different types of violations regarding licensed cases and unlicensed cases.

Mr. Rodriguez commented that licensed cases are more likely to respond when they have disciplinary cases for fear of losing their license for failure to respond to an order. He commented that is not the case for unlicensed. He commented that some individuals leave the country, get ill, etc. He commented that the panel has advised Mr. Minacci that if he is able to get X dollars in hand is better than no dollars in hand regarding unlicensed cases.

Mr. Rodriguez commented that an unlicensed individual has no motivation to comply with the final order because they have nothing to lose. He commented that with unlicensed individuals a notice of cease and desist is issued regarding unlicensed activity cases. He commented that if they sign an affidavit and comply with the notice then no further action is taken. He commented that if they did not comply they file an administrative complaint, which is the \$5,000 maximum penalty amount as utilized in Chapter 455, F.S. He commented that pursuing that will depend on the likelihood of how Mr. Minacci feels he can collect on the order.

Mr. Rodriguez commented that they previously penalized more individuals with suspensions, revocations, etc. and now they weigh more heavily the damage and affect it would have an individual based on the violation. He commented that they weigh the infraction and determine if it truly rises to the level of suspension or revocation.

Ms. Clark commented that she supports the panel's efforts to reconsider their approach regarding penalties. She commented that it was clear that the board weighs the panel's recommendation during deliberations. She commented that she would like to request that the

board look beyond the panel's recommendation and consider their probing methods with regard to applications. She commented that they should look at the way they have been handling their approach to fines for lack of certificate of authorization versus negligence and bring the fines in line regarding the seriousness of violations.

Ms. Hall commented that he has had a concern with the fines and the board's decision to impose the maximum fine amount in most cases. Mr. Minacci commented that if the panel recommends a suspension or probation for a licensee he would not bring a stipulation before the board deleting the requirement. He commented that he might lower the fine amount but not the suspension or probation. He commented that if he believes that it should be lower than the panel's recommendation he would take the case back to the panel. He commented on the unlicensed cases that the panel recommends that \$5,000 maximum fine amount per count. He commented on those cases if he can get cash in hand for a lower amount he would and did not feel if they had a problem with him doing so.

Mr. Rodriguez commented that if the panel had a problem it would be regarding the seriousness of the cases and the ability to negotiate. Mr. Rodriguez commented that the board should consider the harm factor regarding the certificate of authorization applications and the fine chart amount they have used in the past.

Mr. Manausa commented that regardless of the panel's recommendation the respondent does not have to accept the recommendation and could go to an administrative hearing. He commented that was a factor in the deliberations at the PCP reviews.

Ms. Clark reviewed the process on how a respondent either goes for an administrative hearing or before the board. She commented that the panel makes their decision based on the fact presented. She commented that in some cases more facts are established prior to the penalty phase. She commented that the panel makes a recommendation based on the facts they have, however, it is the board that makes the final determination of the penalty.

The board discussed the statute that relates to misdemeanors and what actions are taken.

Mr. Minacci reviewed the disciplinary consent agenda and how they would handle at tomorrow's meeting.

Ratification List (handout)

Interior Design Endorsement

Items 1-7

Mr. Minacci informed the board that item 1 was on the agenda February 5, 2004 for review on a disciplinary case. He commented that he approved to have on the list pending review of the disciplinary case.

MOTION: Ms. Del Bianco moved to approve items 2-7 and pulled item 1 until February 5, 2004 meeting.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Interior Design by Examination

Item 8

Ms. Chastain added Mr. Iain Harnden.

MOTION: Ms. Del Bianco moved to approve item 8 and added Iain Harnden.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Interior Design Business

Items 9-10

MOTION: Mr. Schreiber moved to approve items 9-10.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Architecture Threshold

Item 11

MOTION: Mr. Gustafson moved to approve item 11.

SECOND: Mr. Gonzalez seconded the motion and it passed unanimously.

Architecture Applicants by Examination

Items 12-15

MOTION: Ms. Membiela moved to approve items 12-15.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Architecture by Endorsement

Items 16-29

Ms. Chastain requested to add Robert D. Smith.

MOTION: Mr. Schreiber moved to approve items 16-29 and added Robert D. Smith.

SECOND: Ms. Membiela seconded the motion and it passed unanimously.

Architecture Business

Items 30-36

MOTION: Mr. Schreiber moved to approve items 30-36.

SECOND: Ms. Membiela seconded the motion and it passed unanimously.

Discussion

Newsletter

Ms. Chastain commented that she had not received any articles for the newsletter. She requested that Mr. Bullock write an article as the Chair. The board requested that Mr. Minacci write an article regarding the certificate of authorization. Mr. Bullock commented that an article regarding what an architect signs and the responsibility of signing contracts, etc.

Unlicensed Activity Video – Roymi Membiela

Ms. Membiela commented that she had reviewed the previous PSA and made recommendations to Ms. Chastain to update the PSA. She commented that she was informed that there might be a minor budget available to revamp the message. She commented that the PSA had good information but it was too lengthy. She commented that she would like guidance from the board. She commented that she would like to highlight the work of the board to inform the professionals as well as the community.

Ms. Del Bianco commented that the previous PSA was created by board round table discussions regarding time, content, etc. She commented that they used a contractor to create the PSA. Ms. Chastain commented that the PSA was geared more towards the building department.

Ms. Chastain commented that she checked with the department and was informed that there might be approximately \$150,000 that possibly could be spent on this initiative. She commented that anything the board proposed would have to be presented, reviewed, and approved by the Secretary.

Ms. Membiela commented that she might be able to recycle some footage from the original tape and ways to leverage the money. She commented that they could utilize communication departments within school and pro bono. She commented that a 60 second tape would cost approximately \$50-\$60,000.

Ms. Membiela asked if they would have to issue an RFP or ITN. Ms. Chastain replied that she was not sure and would check into the procedure. The board discussed utilizing the previous PSA for numerous messages i.e. to consumers, professionals, building departments, etc. She commented that for a PSA to be published on TV it must be geared towards consumers. She commented that publications would be good for the other mediums.

MOTION: Mr. Rodriguez moved to authorize Ms. Membiela to develop and work with Ms. Chastain to present to the department.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Fine tracking – David Minacci

Mr. Minacci reviewed the fine tracking chart, which separated licensed and unlicensed fines. He reviewed for the board how he pursues unlicensed activity fines if they have not been able to collect.

Building Code Administrators meeting dates

Ms. Chastain informed the board that she attended their January meeting. She commented that their rule committee meeting dealt with the same issues this board has. She commented that they appreciated her attending the meeting.

The board reviewed the future dates.

Next Board Meeting (date and location)

Future dates were confirmed as follows:

March 11, 2004 10:00 a.m. conference call

April 27-28, 2004 Tampa

August 4-5, 2004 Ponte Vedra conjunction with AIA Florida

October 7-8, 2004 Key West

Reports

Interior Design/Architect/Rules Committee Ratification

Ms. Clark advised the Chairs of the Committees that they must give a report for the board to adopt the recommendation of the Committees.

Mr. Schreiber commented that the Architecture Committee discussed items regarding AIA designation and he would bring additional information before the board regarding that issue. He commented that they reviewed the statute revisions and comments would be forwarded to Mr. Manausa and board staff. He commented that they reviewed a letter from Mr. Rappoport. He commented that they reviewed accreditation changes and the need for a rule dealing with prototype buildings.

MOTION: Mr. Rodriguez moved to accept the Architecture Report and ratify recommendations.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Ms. Shore commented that the Interior Design Committee discussed items regarding statute revisions and comments regarding revisions would be forwarded to Ms. Crosby and board staff. She commented that they reviewed the IDCEC and NCIDQ meeting. She commented that they discussed additional information regarding NDICQ exam information and resolutions.

MOTION: Mr. Gustafson moved to accept the Interior Design Report and ratify recommendations.

SECOND: Ms. Membiela seconded the motion and it passed unanimously.

Ms. Clark commented that the Rules Committee discussed the Rule tracking and report regarding rules that had legal action i.e. noticing of approved draft language. She commented that all rules received letters of concern from JAPC with the exception of one. She commented that they discussed how to respond to the letters from JAPC. She commented that the

Committee voted to withdraw language for Rule 61G1-12.001. She commented that the Committee recommended new language for 21.001(1) and 24.001(1). She commented that the Committee recommended that provided defenses to the other JAPC letters.

MOTION: Mr. Gustafson moved to accept the Rule Report and ratify recommendations.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Chair's Report – Ellis Bullock

Mr. Bullock commented that his agenda as the new Chair would be to finalize the statutes and rules they have in motion. He commented that his other initiative would be privatization.

Mr. Bullock requested that Ms. Chastain's report until February 5, 2004.

Board Counsel's Report – Mary Ellen Clark Dwight Ellinwood's Petition for Writ of Mandamus

Ms. Clark commented that she prevailed in the defense of the board in the Ellinwood Writ of Mandamus. She commented that the case was not completely been resolved.

Ms. Clark reviewed the Sunshine Law and commented that as board members can only discuss at the board meetings board business that has been previously published to the public. She commented that if items are sent to them prior to the board meeting they could not contact each other and discuss. She commented that they could discuss matters of board business only at notice board meetings in public.

Ms. Clark requested that the board approve Ms. Chastain to sign final orders for the board.

MOTION: Ms. Del Bianco moved to authorize Ms. Chastain the ability to sign final orders for the board.

SECOND: Ms. Membiela seconded the motion and it passed unanimously.

IDAF Report – Susette Crosby

Ms. Crosby commented that they would be working with Community Colleges regarding the education standards. Portions inaudible. She commented that they would be writing a letter to local papers regarding the licensure requirements for interior designers.

Prosecuting Attorney's Report – David K. Minacci

Status Report of Cases

Licensed Architects Legal Cases

Licensed Interior Designers Legal Cases

Unlicensed Architects Legal Cases

Unlicensed Interior Designers Legal Cases

Licensed Architects Investigative Cases

Licensed Interior Designers Investigative Cases

Unlicensed Architects Investigative Cases

Unlicensed Interior Designers Investigative Cases

Pending Final Orders

Licensed/Administrative Hours

October 2003

November 2003

December 2003

Unlicensed Billable Hours

October 2003

November 2003

December 2003

Results of October, 2003 PCP Meeting

Results of October, 2003 Board Meeting

Results of December, 2003 PCP Meeting

Press Releases/Speaking Engagements/Other Correspondence

Mr. Minacci commented that the information was in the packets and if they had questions to let him know. The board commented that he was doing a great job.

For the Board's Information

Biennial Chart

Updated board members list

Total number of licensed architects and interior designers (packet)

The board reviewed.

Adjourn

MOTION: Mr. Rodriguez moved to adjourn/recess until February 5, 2004 9:00 a.m.

SECOND: Ms. Del Bianco seconded and it passed unanimously.

The meeting adjourned at 4:05 p.m.

MINUTES

**BOARD OF ARCHITECTURE AND INTERIOR DESIGN
Crowne Plaza Oceanfront North Palm Beach
3200 North Ocean Drive
Singer Island, FL 33404
561.842.6171**

**February 5, 2004
9:00 a.m.**

General Business Meeting

Call to Order

Mr. Bullock called the meeting to order at 9:05 a.m.

Board Members Present:

Miguel Rodriguez
Ellis Bullock, Chair
Rick Gonzalez, Vice-Chair
Neil Hall
Stephen Schreiber
Mary Jane Grigsby
Joyce Shore
Kenneth Horstmyer
Garrick Gustafson

Board Members Absent:

Roymi Membiela

Others Present:

Mary Ellen Clark, Board Counsel
Juanita Chastain, Executive Director
David Minacci, Prosecuting Attorney
Les Smith, Investigator
Emory Johnson
Trent Manausa
Terri Estes, Government Analyst
Dwight Ellinwood
Juan Gomez
Andrew Gold
Aurelio Rey
Edward Worrell
Jay Adams
Lee Meadows

Warren Wuertz
David Asbell
Kenneth Kite
Joseph McHarris
Alice Danis
Darrell McClain

Court Reporter:

Helen M. Daeder, Official Reporting Service, Inc. 524 S. Andrews Avenue, #102 N, Ft. Lauderdale, FL 33301-2845. Telephone 954.467.8204

Review and Approval of Minutes

October 6, 2003 Telephone Conference Call

Mr. Schreiber commented that the minutes reflect that he was absent when he attended the meeting.

MOTION: Mr. Gonzalez moved to approve the minutes as corrected.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

October 29-30, 2003 Committee and General Business

MOTION: Mr. Schreiber moved to approve the minutes as presented.

SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

November 25, 2003 Telephone Conference Call

MOTION: Mr. Rodriguez moved to approve the minutes as presented.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Petition for Evidentiary Hearing

DBPR vs. Dwight Ellinwood

Mr. Ellinwood was present, sworn in and not represented by counsel. Ms. Clark commented that this Petition for Evidentiary Hearing was filed after the board entered an amended notice of Intent to Deny on November 24, 2003. She commented that the board reviewed the reasons for denial at the October meeting and a history summary was provided in their agenda. She commented that Mr. Ellinwood timely responded to the notice of Intent to Deny and has filed a Motion for an Evidentiary Hearing.

Ms. Clark commented that Mr. Ellinwood believes he has a dispute of material facts and he is requesting a hearing before the Division of Administrative Hearings (DOAH) pursuant to Section 120.57(1), F.S. She commented that when a Petition for Evidentiary Hearing is received she reviews it to determine and if she agrees there is a dispute of material fact, the petition is referred to DOAH. She commented that if she reviews it and determines there is no

dispute of material facts then the petition is scheduled for the next available board meeting for review. She commented that she does not have authority to act on the board's behalf and deny a Petition for Evidentiary Hearing.

Ms. Clark commented that she has brought the matter before the board because she does not believe there is an issue of disputed material fact. She commented that there is an alleged dispute of conclusion of law. She commented that the matter of whether there is a dispute of conclusion of law is for the board to decide because they are the final interpreters of the law.

Ms. Clark commented that she does not believe Mr. Ellinwood has properly alleged a dispute of material facts and entitled to an Evidentiary Hearing before DOAH. She commented in his petition the board has asserted that misinterpreted the law and he is entitled to licensure. She commented that the material facts alleged in the Amended Notice of Intent to Deny are about when he graduated from school, the year, and when he obtained initial licensure. She commented that he does not dispute those facts. She commented that he is disputing the conclusions of law and the board has concluded that he is not entitled to licensure in Florida.

Ms. Clark commented that the board must act upon his Petition for Evidentiary Hearing and determine whether there is a dispute of material facts. She commented that if the board determines that there is not a dispute of material facts then the board should move to deny the Petition for Evidentiary Hearing. She commented if they deny the Petition for Evidentiary Hearing then there would be a hearing to determine whether or not he is eligible for licensure.

Mr. Ellinwood commented that he would like to read a letter to the board prepared by his attorney, Mr. Sellers. He commented that he received on November 18, 2003 the Amended Notice of Intent to Deny his application of licensure by endorsement. He commented he requested a formal hearing but was denied and was informed that he should appear for an informal hearing. He commented that he requested to be granted a formal hearing on the issue of whether the criteria for licensure in Georgia was substantially equivalent to licensure in Florida in 1986. He commented that his petition for a formal hearing the board has incorrectly limited it's inquiry to whether he could have been initially licensed in Florida in 1986. He commented that the statute says they should look at the range of criteria for licensure both initial licensure and endorsement to determine whether they are substantially equivalent.

Mr. Ellinwood commented that he has a 4-year degree from the same alma mater as many licensed architects, passed the required examination, was initially licensed in 1986, NCARB certified, currently licensed in 5 other states, and has 25 years of experience. He commented that there might be some architects licensed in 1986 with no education at all so long as they were engaged in the practice in another state for 10 years. He commented his attorney stated in his petition for a formal hearing that if the board was going to limit it's inquiry to initial licensure only then they should have a rule that says so. He commented that for all of the reasons stated, he requests that the board grant him a formal hearing to present evidence that the Georgia and Florida licensure criteria were substantially equivalent in 1986.

Mr. Ellinwood commented that he feels there is a misunderstanding of the Georgia law. He commented that he was not sure if the board has those resources available to them for review.

He commented that he recently discussed the Georgia laws that were in effect in 1986 with the current President of the Georgia Board. He commented that the President has been with the Board since 1984. He commented that he has also had discussions with James Butler, architect in Georgia, regarding this issue and he read the questions and answers that he received via e-mail.

Mr. Ellinwood commented that he was not sure why the board has ignored available resources available to them or contacted the Georgia Board to clear this matter. He commented that Georgia like Florida had a grandfathering provision at that time and he does not feel anyone at the meeting would dispute that fact. He commented that he was initially approved to sit for the exam in 1983 and licensed in 1986. He commented that Georgia passed the law in 1985 requiring a NAAB accredited degree and he was grandfathered in because he was already in the licensure and examination process. He commented that the board has taken the position that because he does not hold a NAAB degree that he is not qualified. He commented that this state and Georgia required a NAAB degree in 1986, outside the grandfather provision the requirements match.

Mr. Ellinwood commented that the board's position is that the only avenue for licensure is a NAAB approved degree for initial licensure. He commented that the board has not addressed the issue of grandfathering nor if a person had a letter of intent on file. He commented that the current law allows for the board to approve a person with an unaccredited degree from a school or college with an approved curriculum.

Mr. Ellinwood commented that he was not sure why there has been so much resistance to his application based on misinterpretations of the law and the incorrect premise that that is the way it has always been done. He commented he would request the board to heed the previous attorney's advice and grant his license.

Mr. Rodriguez asked Ms. Clark that the Petition for Evidentiary Hearing claims that the board incorrectly limited its review only to the criteria for initial licensure in both states. Ms. Clark replied that he has asserted matters of law by narrowing the analysis to the initial licensure laws from state to state. She continued by stating that in addition he claims that they incorrectly assert the criteria for licensure in 1986 in Georgia. She commented that no where does he dispute material fact. Mr. Rodriguez commented that he feels the board should have reviewed on a broader view and that was a dispute of law not fact. Ms. Clark agreed.

Mr. Rodriguez commented that the board determined that they would review and base licensure on initial licensure in each state. He commented that he concurred with her recommendation that there was not basis for granting a formal hearing for evidentiary hearing.

Ms. Clark commented that she wanted to clear the record that Mr. Ellinwood stated that they had already denied his request for an evidentiary hearing and that was not correct. She commented that she advised his counsel that she was going to recommend to the board that they deny his request.

MOTION: Mr. Rodriguez moved to deny the Petition for Evidentiary Hearing.

SECOND: Ms. Grigsby moved to second the motion and it passed unanimously.

Ms. Clark commented that since they denied his request for an evidentiary hearing he is entitled to a hearing where there are no issues of disputed material facts. She referred the board to the Amended Notice of Intent to Deny in the agenda materials. She reviewed the reasons for denial contained in the Amended Notice of Intent to Deny.

Ms. Clark commented that Mr. Ellinwood was initially licensed in Georgia in 1986 and the board reviewed the criteria for licensure in Florida in 1986 Chapter 481.209(2)(b), F.S. She reviewed the different methods of licensure. She commented that Mr. Ellinwood has argued the requirement for a NAAB degree and the statute reflected an approved graduate of a curriculum of 5-years or more including NAAB. She commented that he is not a graduate of an approved curriculum of 5-years or more. She commented that they must compare the law in Florida in 1986 to the law in Georgia in 1986 to determine if they are substantially equivalent.

Ms. Clark commented that the board is required to determine if they are substantially equivalent and the board has made that determination at previous meetings. She commented that the analysis was reflected in the Amended Notice of Intent to Deny.

Mr. Ellinwood stated that the law changed in 1985 requiring NAAB degrees be a minimum of 5-years and he was grandfathered in. Ms. Clark commented that there were 3 ways to be eligible to sit for the examination in Georgia and only 1 way in Florida, she read the statutes. Mr. Manausa commented that NAAB has approved programs that were 4 and 5 years but Florida required a 5-year program.

Mr. Rodriguez commented that he disagreed with Mr. Ellinwood that Florida had a grandfathering clause in 1986. He commented that Florida clearly required a 5-year degree and could be a NAAB approved degree. He commented that reviewing the Florida and Georgia laws he does not feel they were equivalent and that Florida's law was more stringent.

MOTION: Mr. Rodriguez moved to affirm the Notice of Intent to Deny filed on November 24, 2003.

SECOND: Mr. Gustafson seconded the motion.

Mr. Ellinwood commented that the board is stating they do not offer a grandfathering provision and what he is referring to is someone that received approval from the board years ago to begin sitting for examination. He commented that they could examine until they pass and by the time they complete the examination they would receive their license regardless of their education and the requirements today. He commented that there was a gentleman that was sitting for the examination for his 13th year for licensure in Florida and when he finally passed the examination in 1986 he received his license. He commented that this is similar to a letter of intent. He commented that the board did not establish a cut off date, which essentially allows for grandfathering.

Ms. Clark commented that even if Mr. Ellinwood's comments were correct and that a 5-year degree was required, Georgia allows for 2 other way for licensure. She commented that the fact that those other avenues existed would be sufficient for the board to find that the law was not substantially equivalent.

Mr. Hall asked if an applicant submitted an application in 1969, would that constitute initial request for examination and therefore pardon parcel time for applying for grandfathering. Ms. Clark replied that she did not understand how his question relates to the matter before them today. Mr. Hall asked Ms. Clark for a response to the question, that if he submitted his application and didn't pass his examination would she say that he initially started the process in 1969. Ms. Clark replied that they would have to refer to the specific grandfathering law to be able to give a legal opinion.

The question was called and the motion passed.

Petition for Rule Variance or Waiver

Octavio Venegas

Mr. Venegas was not present. Ms. Clark commented that Mr. Venegas has petitioned for a variance from a rule. She commented that the petition was properly filed. Mr. Rodriguez commented that it appeared that he was requesting a waiver from the Florida Building Code course requirement. Ms. Clark commented that she notified Mr. Venegas that the board does not have the authority to grant a waiver/variance for the Florida Building Code course. Mr. Rodriguez commented that Mr. Venegas is hearing impaired and he is looking for a course that is suitable for his disability.

Ms. Clark commented that his request was for a waiver/variance from Rule 61G1-24.001 and .002 in addition to the Florida Building Code course. Mr. Rodriguez commented that he could complete 20 hours by other means to meet the requirements. Ms. Clark commented that he would like to do more courses under self-directed study. She commented that the board has authority to grant.

Ms. Clark commented that Mr. Venegas is requesting that he be allowed to complete his continuing education requirements by self-directed study. Ms. Clark commented that the handbook reflects 16 hours are required by structured study and 4 hours can be self-directed study. Mr. Rodriguez commented that there are numerous courses that are available on-line that he could take. The board moved to another item on the agenda to verify the method of hours required in the continuing education handbook.

Disciplinary Cases

The following were considered on a consent agenda. Mr. Rodriguez and Mr. Hall were recused.

DBPR vs. Jorge Bouza

Case Number 2003-042298

(PCP: Rodriguez and Wirtz)

DBPR vs. Kimberly Dellastatious

Case Number 2003-074981
(PCP: Rodriguez, Wirtz, and Hall)

DBPR vs. William Niblock and Las Casitas Architecture & Planning, Inc.

Case Numbers 2003-084662 and 2003-077427
(PCP: Rodriguez, Wirtz, and Hall)

DBPR vs. Thomas V. Smith

Case Number 2003-042120
(PCP: Rodriguez, Wirtz, and Hall)

DBPR vs. Jim Weinberg and Jim Weinberg Designs

Case Numbers 2003-064193 and 2003-064195
(PCP: Rodriguez, Wirtz, and Hall)

MOTION: Ms. Grigsby moved to accept the settlement stipulations as presented on the consent agenda.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Motion for Relief from Final Order

Licensed

DBPR vs. Juan Orlando Gomez

Case Number 2001-02287(PCP: Rodriguez, Wirtz, and Manausa)

Mr. Rodriguez was recused from this proceeding. Mr. Gomez was present, sworn in and represented by counsel, Andrew Gold. Mr. Minacci commented that this case came before the board previously on a motion not involving disputed issues of material fact. He commented that the issues were not in dispute because the respondent failed to respond to a request for admissions. He commented that this was a 3-count case for aiding or assisting in unlicensed activity, not complying with a lawfully issued subpoena, and practicing without a certificate of authorization.

Mr. Minacci commented that the board issued a final order June 24, 2003 and imposed a 1-year suspension, \$3,000 fines plus costs. He commented that the order incorrectly stated that the allegations in the administrative complaint because the respondent failed to dispute the facts as opposed to failure to respond to request for admissions. He commented that the respondent appealed the final order and filed a motion for relief of final order. He commented he does not contest that the board reconsider the matter based on the error in the previous final order. As for the remaining issues, the board has considered all of the issues and the previous ruling is final.

Mr. Gold commented that the ruling was extremely harsh for the allegations against Mr. Gomez. He commented that the administrative complaint alleges that Mr. Gomez aided and abetted another gentleman in the practice of architecture. He commented that the other gentleman provided residential service and created a business card with the name Paredes

and Gomez. He commented that the allegation is that Mr. Gomez aided and abetted in creating the business card. He commented that Mr. Gomez responded to the administrative complaint and contested the facts and attached a letter indicating that he never authorized Mr. Paredes to create the firm, business cards, etc. He commented that the current record contains an affidavit from Gomez denying the facts and an affidavit from Mr. Paredes reflecting that he acted on his own.

Mr. Gold commented that Mr. Gomez filed his notice of election and requested a formal hearing. He continued to state that Mr. Minacci served a request for admissions. He commented that Mr. Minacci has asserted that Mr. Gomez failed to respond to the request for admissions. Mr. Gold stated that Mr. Gomez disputes that fact and did respond to the request for admissions by fax to Mr. Minacci and has provided a sworn affidavit to that effect. Mr. Gold commented that even if Mr. Minacci did not receive the request for admissions it was inappropriate for the board to treat that failure to respond as to Mr. Gomez admitting to the substantive allegations.

Mr. Gold quoted Chapter 455.225(5), F.S. that states that a formal hearing shall be granted pursuant to Chapter 120, F.S., if there are issues of disputed material facts. He referred and reviewed for the board to a case Klein vs. DBPR and provided a copy to Mr. Minacci and Ms. Clark. Mr. Gold commented that Mr. Gomez, not represented by counsel, at the May board meeting in Ft. Lauderdale stated under oath that he had never authorized Mr. Paredes to operate. He commented that Mr. Minacci convinced the board that the fact that Mr. Gomez did not respond to the request for admissions was equivalent to admitting the facts and the board accepted his recommendation and suspended Mr. Gomez' license with a fine.

Mr. Gold commented that this was inappropriate. He referred and reviewed for the board a 3rd District Court of Appeals case, which he provided a copy to Mr. Minacci and Ms. Clark. He commented that the board issued an order that states there are no issues of disputed facts. He commented that the final order makes no reference to the request for admissions. It states that Mr. Gomez was defaulted for failing to answer the complaint. He commented that Mr. Gomez did respond to the complaint.

Mr. Gold commented that there was dispute of facts. He commented that there was a question whether Mr. Gomez responded timely to the request for admissions. He commented that Mr. Gomez swore under oath that he did respond. He commented that even if he didn't it was inappropriate for the board to find no disputed issues of fact. Mr. Gold requested that the board grant Mr. Gomez a relief from final order and allow him his day in court.

Mr. Minacci referred the board to the transcripts reflecting that Mr. Gomez never brought the issue forward that he did or did not respond to the request for admissions. He commented that the request for admissions was served to Mr. Gomez in January 6, 2003 and 5 months later there was a hearing and he never mentioned that he responded to the request to admissions. He commented that the Florida Rules of Civil Procedure 1.370, regarding the request for admissions clearly states the matter is deemed admitted unless the party to whom the request is directed serves upon the party a written answer or objection addressing the matter within 30 days. He commented that 5 months after he served the request for admissions the respondent

still had not responded. Mr. Minacci reviewed the history of the case prior to, during, and after the default and final order. He commented that it was too late to file affidavits regarding the admissions. He commented that the only issue is a clerical error in the final order that needs to be corrected by the board.

Mr. Gold addressed the Florida Rules of Civil Procedure 1.370 and Chapter 455.255(1), F.S. He addressed the fact that no where in the transcripts did anyone from the board, board counsel, or Mr. Minacci ask Mr. Gomez if he responded to the request for admissions. He commented that Mr. Minacci asserted that he could not get Mr. Gomez' attention previously he has it now. Mr. Gold again requested that the board grant Mr. Gomez his day in court and the petition for relief from final order.

Ms. Clark commented that neither attorney has presented the most recent case law. She commented that there was a case within the past year that states if the licensee does not dispute the facts within 21 days of the filing of the administrative complaint he/she is not entitled to a hearing on the issues. She commented that she would argue that Mr. Minacci did not have the authority to allow the respondent to respond late. She commented that even if he did he has demonstrated that the request for admissions was not timely responded to.

Ms. Clark commented that neither Mr. Minacci nor Mr. Gold have the current or correct case law. She commented that the board has the authority to correct the final order and they should not be concerned with the fact that Mr. Gomez appeared before them previously and that they improperly entered into a final order.

MOTION: Ms. Del Bianco moved to correct the error in the final order and deny the petition for relief from final order.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

The meeting recessed at 10:35 a.m. and reconvened at 10:50 a.m.

Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact Unlicensed

DBPR vs. Jenny Cocanougher

Case Number 2003-050487

(PCP: Rodriguez, Wirtz, and Hall)

Mr. Rodriguez and Mr. Hall were recused. Ms. Cocanougher was not present but was represented by Mr. Lee Meadows. Mr. Minacci presented that case and commented that the individual was previously licensed and that license was null and void. He commented that Ms. Cocanougher continued to practice. He commented that a 2 count administrative complaint was filed and the probable cause panel recommended \$10,000 fine plus cost. He commented that was his recommendation as well and the individual has no priors.

Mr. Meadows commented that they were not going to disagree with the 2 counts. He commented that her license was invalid for failure to renew and pay dues. He commented that the fine was extreme for no priors. He offered some information regarding the case.

Ms. Clark referred the board to the agenda and it does not reflect disputed facts.

MOTION: Mr. Schreiber moved to accept the probable cause panel's recommendation of \$10,000 fine plus costs.

SECOND: Ms. Del Bianco seconded the motion and it passed. Mr. Gustafson opposed.

Licensed

DBPR vs. James Melvin

Case Number 2003-054158

(PCP: Wirtz, Rodriguez and Hall)

Mr. Melvin requested a continuance due to medical reasons.

MOTION: Mr. Gonzalez moved to continue this case until the next board meeting subject to ability to attend.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

DBPR vs. Aurelio Rey

Case Number 2003-077351

(PCP: Rodriguez, Wirtz, and Hall)

Mr. Rey was present, sworn in, and represented by Joseph Rosenbaum. Mr. Minacci presented the case, stating that Mr. Rey forged the initials of Peter Iglesias who is the City of Coral Gables Structural Engineer. He commented that probable cause was found and a 4 count administrative complaint was filed. He commented that the probable cause panel's recommendation was a \$10,000 fine plus costs, 15 months suspension, and 3-years probation. He commented that he agrees with the panel's recommendation.

Mr. Rey commented that he was humbled, ashamed, and out of frustrated with the system that architects are put through trying to resolve an issue, he forged Mr. Iglesias' signature. He commented that he tried numerous times to meet with Mr. Iglesias and he was on a time constraint because he was leaving town. He commented that he was an active architect in the community. He commented he failed his family, god, and the profession. He requested that the board grant him leniency.

Mr. Rosenbaum commented that the City of Coral Gables arrested Mr. Rey for forgery. He commented that Mr. Rey being place in a pretrial diversion program disposed of the case in the criminal court system. He commented that this program, when finished, the state will dismiss all charges against Mr. Rey. He commented that the City approved this program that Mr. Rey was placed into. He commented that Mr. Rey entered into an agreement with the City that he shall pay investigative cost to the City for a total of \$10,000. He commented that this fee was to pay for investigative costs for them to go back 10 years and inspect Mr. Rey's prior plans. He continued by stating he could not perform new architectural projects in the City for 1 year, effect January 1, 2004. He commented that he had to resign from the Mediterranean Committee and perform community service. He commented that the City, which he committed

the act against, feels this was a fair punishment. He presented to the board letters on Mr. Rey's behalf from the homeowner that this case regarded.

Mr. Rosenbaum commented that this was not a safety issue. He commented that Mr. Rey had a momentary lapse of judgement. The panel's recommendation of suspension would not allow Mr. Rey to pay the fines imposed by the City or by the board. He requested that the board mitigate the recommendation to probation and a fine.

Mr. Minacci commented he believes the panel's recommendation is on the low side because some of the counts could go up to revocation. Ms. Clark commented that the panel's recommendation is for guidance and referred the board to the guidelines.

Mr. Minacci commented that the panel did not have the civil case outcome or meet with Mr. Rey during deliberation of this case. Mr. Gonzalez asked Mr. Rey why he did not attend the panel's meeting. Mr. Rey replied he was not asked to attend. Mr. Minacci commented that when there is a clear violation he does not ask for appearances.

The board was informed that the fine for the City of Coral Gables would not be lowered at that he was making payments of \$2,500 until the \$10,000 fine is paid. It was determined that forgery cases were rare.

Mr. Schreiber commented that his concern was mitigating the circumstances when the City was still investigating him for priors. Mr. Minacci commented that if other cases were found then the board could initiate complaints.

Mr. Rey's practice is mostly residential. Mr. Gonzalez asked Mr. Rey if he had ever forged other plans. Mr. Rey replied in the negative. Mr. Rey commented during the time of this offense he had had surgery and was under medications that were prescribed, which he felt might have effected his judgement.

Mr. Schreiber commented that he felt this rose to a level of suspension.

MOTION: Mr. Gonzalez moved to impose that the suspension by 12 months concurrent with the City of Coral Gables except for the 8 current projects listed in the final order, increase probation to 5 years, \$5,000 fine plus costs \$594 and allow 2 payments within one year (the first within 30 days and second 6 months there after).

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

DBPR vs. Edward Worrell

Case Number 2003-75333 (PCP: Rodriguez, Wirtz, and Hall)

Mr. Rodriguez and Mr. Hall were recused. Mr. Worrell was present, sworn in, and represented by Jay Adam. Mr. Minacci commented that there was a previous case against Mr. Worrell and an administrative complaint was filed May 20, 2002 alleging 1 count of negligence. He commented that on September 19, 2002 an order was entered reprimanding the respondent's

license and placing him on 2 years probation. He commented that on November 18, 2002 the respondent submitted a project list for review as required by his probationary guidelines. The probable cause panel requested 3 projects from the list and 2 of 3 were found negligent.

Mr. Minacci commented that a 2 count administrative complaint was filed based on negligence. The panel's recommendation was \$3,000 fine plus costs and revocation. He agrees with the panel's recommendation and the costs have increased to \$1,216.50. He commented that the only priors were the administrative complaint.

Mr. Adam commented that they did not want to down play the seriousness or significance of the charges. He referred the board to the materials and felt there was a difference of opinion. He commented that the first administrative complaint warranted disciplinary action. He requested that the board suspend his license as opposed to revocation. He commented that they could monitor his work prior to him reentering the profession

Mr. Worrell commented that he was a one man firm. He requested that the board not revoke his license.

The board discussed the case and the materials in the agenda.

MOTION: Mr. Schreiber moved to accept the probable cause panel's recommendation of \$3,000 fine plus costs and revocation due to the seriousness of the health, safety, and welfare issues demonstrated in the review of the projects.

SECOND: Mr. Horstmyer seconded the motion and it passed unanimously.

DBPR vs. Warren C. Wuertz and Architechnique Design, Inc.

Case Numbers 2003-070667 & 2003-070657 (PCP: Rodriguez, Wirtz, and Hall)

Mr. Rodriguez and Mr. Hall were recused. Mr. Wuertz was present. Mr. Minacci presented the case and commented that this was a 2 count administrative complaint. He commented that the panel's recommendation was \$5,000 fine plus cost, 1-year suspension, and 2 years probation. He commented that he agreed with the panel's recommendation.

Mr. Wuertz commented that he began his association with Architechnique years ago and he was asked by them to review plans and sign and seal them. He commented that he initially thought that was not ethical. He commented that it was residential and he would meet with them in their office to review the plans. He commented that he then moved and they would send the plans via mail and they would correspond via fax and phone.

Mr. Minacci commented that he has had numerous discussions with Mr. Wuertz and he did not believe that he understood the responsible supervisory control requirements. He commented that he understands them now. He commented that when the panel made it's recommendation that the practice had stopped and the projects were minor additions.

MOTION: Ms. Del Bianco moved to impose a 1 year suspension, 2 years probation, and no fine plus costs \$462 to be paid over 1 year. The mitigating circumstances being

Mr. Wuertz is retired, on social security for waiving the fine, however, plan stamping is serious offense.

SECOND: Mr. Schreiber seconded the motion.

Mr. Gonzalez suggested a reprimand, submit projects on a yearly basis for 5 years probation plus costs.

MOTION: Ms. Del Bianco moved to impose reprimand, 5 years probation, costs \$462 and include monitoring of 3 projects per year at the licensees' expense.

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

Motion for Default

DBPR vs. Jose Rodriguez

Case Number 2003-004489 (PCP: Rodriguez, Wirtz, and Hall)

Mr. Rodriguez and Mr. Hall were recused. Mr. Rodriguez was not present. Mr. Minacci presented the case and commented that the panel's recommendation was \$5,000 fine plus costs. He agreed with the panel's recommendation. Mr. Rodriguez has not responded to the administrative complaint.

Ms. Clark advised the board they must determine if Mr. Rodriguez disputed the material facts within 21 days of receipt of notice of service of the administrative complaint.

MOTION: Ms. Del Bianco moved to accept the motion for default because he did not properly elect a hearing in a timely manner.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Ms. Del Bianco asked Mr. Minacci if he had priors. Mr. Minacci verbally reviewed his priors. Ms. Clark asked Mr. Minacci if Mr. Rodriguez was licensed at the time he did not comply with the previous final order. Mr. Minacci replied in the positive.

MOTION: Ms. Del Bianco moved to impose revocation, fine \$5,000 in addition to the \$1,500 fine plus costs previously imposed based on prior discipline.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Hearing not involving disputed issues of fact

Unlicensed

DBPR vs. David Asbell and Asbell Associates

Case Numbers 2003-077737 and 2003-077749 (PCP: Rodriguez, Wirtz, and Hall)

Mr. Rodriguez and Mr. Hall were recused. Mr. Asbell was present and sworn in. Mr. Minacci asked that board members on the NCARB Broadly Experienced Architect evaluation (BEA) process be recused. Mr. Schreiber and Mr. Bullock requested to recuse themselves because they sat on the BEA for which the plans were submitted. Ms. Clark commented that the only

way they could recuse themselves is if they could not be fair and impartial. Mr. Minacci requested that they be recused.

Mr. Asbell commented that he was a licensed architect in Georgia and he had performed programming/pre-design services in Florida approximately 2 ½ years ago. He commented that in Georgia where he practiced programming and pre-design services were not required to be performed by registered architects. He commented that he studied AIA ethics and took many other courses that did not indicate to him that he needed to be a licensed architect in Florida to perform programming and pre-design. He gave a brief history of his experience and how he obtained an NCARB certificate. He commented that if he thought he was in violation of Florida law he would not have submitted the program.

Mr. Asbell commented that when Mr. Smith regarding the violation contacted him he researched the laws of Florida and realized he had made a mistake regarding the registration laws. He commented that he gathered all of the programming information. He commented that a contract was never signed regarding the proposal. He commented that he had letters of recommendation regarding his work and him personally. He commented that he was a small firm and presented his financial history. He requested that the board reduce his fine amount.

Mr. Minacci commented that probable cause was found and a 3 count administrative complaint was filed for practicing without a license. He continued that the panel recommended a \$15,000 fine plus cost. He recommended that the fine be \$7,500 plus cost based on the fact that he has spoken with Mr. Asbell on numerous occasions and he is remorseful and realizes that he violated Florida law. He commented that he did not feel that Mr. Asbell would practice in this state.

Ms. Clark commented that there was no minimum fine amount and the board could fine \$0 up to \$5,000 per count.

MOTION: Mr. Gonzalez moved to reduce the fine to \$1,000 per count to be paid over 12 months.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

DBPR vs. Theresa D'Amico and Terri D'Amico Interiors

Case Number 2003-067773

(PCP: Rodriguez, Wirtz, and Hall)

Ms. D'Amico was not present. Mr. Minacci presented the case and commented that the respondent was not licensed. He commented that the respondent was previously licensed, however, the license lapsed into a null and void status. He commented that probable cause was found on 4 counts. He commented that Ms. D'Amico disputed the facts and he does not feel there were disputed facts.

Mr. Minacci commented that the panel's recommendation was \$10,000 fine plus costs. He commented that he received a stipulation and a check in the amount of \$5,252.00 from Ms. D'Amico's attorney. He commented that the board had the option of accepting the settlement

stipulation or proceed on the motion for final order for hearing not involving disputed issues of material fact.

MOTION: Mr. Gonzalez moved to accept the settlement stipulation as presented with a \$5,000 fine plus \$252 costs.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Motion for Default

Licensed

DBPR vs. Aristides E. Arche-Unshelm

Case Number 2003-004481

(PCP: Rodriguez, Wirtz, and Hall)

Mr. Arche-Unshelm was not present. Mr. Minacci presented the file and commented that the respondent's license is null and void. He commented that the respondent entered a final order in 1997 requiring him to pay a \$500 fine within 30 days. He commented that the respondent paid \$300 of that fine. He commented that probable cause was found for failure to comply with a final order. He commented that the panel's recommendation was \$5,000 fine.

Mr. Minacci commented that he received a letter stating the respondent had been out of the country and sent certified funds in the amount of \$200 plus costs. He commented that the board could approve the settlement stipulation in the amount of \$260 or move forward with the motion for default.

MOTION: Ms. Del Bianco moved to accept the settlement stipulation \$260.

SECOND: Mr. Gustafson seconded the motion.

Mr. Horstmyer and Mr. Gonzalez opposed the motion, the motion passed.

Settlement Stipulation

Unlicensed

DBPR vs. Raul Carrasco and Carrasco Design Group

Case Numbers 2003-042253 and 2003-064346

(PCP: Rodriguez, Wirtz, and Hall)

Mr. Carrasco was not present. Mr. Minacci presented the case and commented that the respondent was previously licensed and that licensed lapsed into null and void status for failure to renew. He commented that this was a 1 count administrative complaint and the panel recommendations was \$5,000 fine plus costs. He commented that the settlement stipulation was \$1,000 fine.

MOTION: Mr. Gustafson moved to approve the settlement stipulation of \$1,000 fine.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

DBPR vs. Ernest Hedric Clay and E. Hedric Clay & Associates

Case Numbers 2003-072183 and 2003-072187

(PCP: Rodriguez, Wirtz, and Hall)

Mr. Clay was not present. Mr. Minacci presented the case and commented that a 2 count administrative complaint was filed. He commented that the panel's recommendation was \$3,00 fine plus costs. He commented that the stipulation was a \$2,500 fine, which was currently being held in trust. He commented that Mr. Clay had made application for licensure and the board approved his application at the December meeting.

MOTION: Mr. Gustafson moved to accept the stipulation as presented for \$2,500 fine.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Application review

Tomberlin Associates, Inc.

Mr. Kite was present and sworn in. He commented that the owner changed the name of the firm in Georgia in 1994 and did not do so in Florida. He commented that he purchased the company in 2001. He commented that when he noticed the name had not been changed in Florida he immediately moved forward to correct the license. Mr. Manausa commented that the application was before the board due to possible practice prior to approval of the name change.

MOTION: Mr. Rodriguez moved to approve the application with a \$100 fine due to small amount of time passed from the name change to the time of application.

SECOND: Mr. Gonzalez seconded the motion and it passed unanimously.

DBPR vs. Sheila Hawley

Case Number 2003-052693

(PCP: Rodriguez, Wirtz, and Hall)

Ms. Hawley was not present. Mr. Minacci presented the case and commented that probable cause was found for practice without an interior design license. He commented that the panel's recommendation was \$5,000 fine plus cost and the settlement stipulation was for \$1,000 fine plus cost. He recommended that the board approve the stipulation as presented.

MOTION: Mr. Gustafson moved to approve the settlement stipulation as presented.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

DBPR vs. Joseph M. McHarris

Case Number 2003-042411

(PCP: Rodriguez, Wirtz, and Hall)

Mr. McHarris was present and sworn in. Mr. Minacci presented the file and commented that probable cause was found on a 2 count administrative complaint. He commented that the panel's recommendation was \$10,000 fine plus and the stipulation was \$5,000 fine plus cost.

He commented that this was a first time offense, monies were being held in trust, and recommended approval of the stipulation as presented.

MOTION: Mr. Gonzalez moved to approve the settlement stipulation as presented.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

DBPR vs. Jeffrey C. Nichols

Case Number 2003-066511 (PCP: Rodriguez, Wirtz, and Hall)

Mr. Nichols was not present. Mr. Minacci presented the case and commented that the individual was previously licensed. He commented that the license lapsed into null and void status due to failure to renew. He commented probable cause was found on a 4 count administrative complaint.

Mr. Minacci commented that the panel's recommendation was a \$20,000 fine plus costs and the stipulation was for \$5,000 fine plus costs. He commented that Mr. Page, which was before the board and received a \$5,000 fine plus cost. He recommended that the board approve the stipulation as presented.

Mr. Rodriguez commented that he recused himself from the PCP case and this proceeding. He commented that he had personal involvement with this firm on the project that the violation occurred.

MOTION: Ms. Grigsby moved to accept the settlement stipulation as presented for \$5,000 fine plus costs.

SECOND: Mr. Gustafson seconded the motion.

Mr. Horstmyer and Mr. Gonzalez opposed, the motion passed.

Mr. Minacci commented that on the consent agenda Theresa D'Amico was on the ratification list for licensure and she was pulled to determine the disciplinary case. He commented that since she had complied and paid for the disciplinary case of \$5,000 fine plus.

MOTION: Ms. Del Bianco moved to approve Ms. D'Amico for licensure.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Petition for Rule Variance or Waiver

Octavio Venegas

Ms. Del Bianco commented that the architecture handbook requires 16 hours of structured study and 4 hours of self directed study. Ms. Clark commented that the information in the petition was correct. Mr. Schreiber commented that he was in favor of granting the petition. Mr. Rodriguez commented that structure study must follow the outline or format as opposed to self directed i.e. travel. Ms. Clark commented that he is requesting a permanent waiver of the requirement or restriction that 16 hours must be in structured study and only 4 hours in self

directed study. She commented that he was asking that all 20 hours be allowed in self-directed study.

MOTION: Mr. Rodriguez moved to deny the Petition for Rule Waiver or Variance and explain what structured and self directed study is. He continuing by stating that if Mr. Venegas still felt that he has the need for a petition then he could resubmit a petition to better explain his reasoning for requesting the petition.

SECOND: Mr. Schreiber seconded the motion.

Ms. Clark commented that she needed a clearer explanation of the denial and it must be stated on the record.

MOTION: Mr. Rodriguez moved to deny the Petition based on his request to permanently allow him to take all 20 hours of self directed study. He commented that it was not necessary in this case or warranted.

SECOND: Mr. Horstmyer seconded the motion and it passed unanimously.

MOTION: Mr. Rodriguez moved that the board office send a letter to Mr. Venegas explaining the difference between self directed and structured study as it appears in the handbook.

SECOND: Mr. Horstmyer seconded the motion and it passed unanimously.

Ms. Del Bianco commented that there are monographs, on-line courses, etc.

Application Reconsideration Alice Danis

Ms. Danis was present and sworn in. Ms. Clark commented that this application was before the board for reconsideration of her application because the application was denied in July 2003. She commented that the Mr. Butler did not have all her education information at the time of initial review. She commented that Mr. Butler determined that if he had this information during his initial review he would have recommended approval of her application. She commented that Ms. Danis was informed that her petition was being held in abeyance until the board could reconsider the matter.

MOTION: Mr. Hall moved to reconsider the application.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

MOTION: Mr. Hall moved to approve the application for examination based on the additional information received.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Ms. Clark commented that she would receive a notice rescinding her denial and granting approval for examination.

Susan Waite

Ms. Waite was not present. Ms. Del Bianco requested to be recused from this matter because she knows her personally and does not feel she could make an impartial judgement. Ms. Clark commented that this matter was before the board September 2003, which they denied based on the fact that this course did not directly enhance professional competency and did not adhere to Rule 61G1-21.002-.004. She commented that the board determined that CAD courses are considered core courses education for interior design and not continuing education. She commented that Ms. Waite did not request a hearing but requested that the board reconsider her information.

Ms. Shore gave some information regarding why the course was denied because it was very basic information. Ms Grigsby commented that her letter reflects that when she attended school CAD was not offered in 1970 or 1971 and if that was the case then it was not a core course. Ms. Shore commented that it was difficult as a reviewer to determine if each individual had this in their education because they do not know when someone attended school. Mr. Rodriguez commented that the initial denial was proper, however, given the information now in hand and in this particular case they should reconsider to see if this is an enhancement of her basic education.

MOTION: Mr. Rodriguez moved to reconsider.

SECOND: Mr. Horstmyer seconded the motion.

Ms. Del Bianco commented that the board had a huge discussion regarding AUTOCAD courses and that it might be new information for older professionals. She continued by stating that the board determined that it was now in the basic education. Mr. Gustafson opposed, the motion passed.

MOTION: Mr. Rodriguez moved to approve on individual basis this course for this person because AUTOCAD was not in the applicants core competency when she attended school.

SECOND: Mr. Horstmyer seconded the motion.

Mr. Rodriguez commented that AUTOCAD courses were determined that courses should not be approved because it is offered in basic education. Mr. Schreiber commented that he was against the motion because there are core competency that one must maintain on their own. He commented that it should count as continuing education because it is part of a core competency that she would need to stay current with the times.

Mr. Hall commented that they should not support the argument that it was not in the applicant's previous curriculum. Mr. Manasa commented that the board should review the statute, which says continuing education builds on the core competency. The board determined that basic

CAD should not be approved for continuing education. Mr. Gustafson commented that the test is so basic in the agenda and that it was not sufficient to elevate or assist in performing her duties.

Ms. Shore commented that she could utilize this for the 4 hours of optional credit. Mr. Rodriguez commented that this is a non-course.

The question was called and the motion failed.

MOTION: Mr. Rodriguez moved to uphold the prior denial.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Application Reviews

Application for Architecture Certificate of Authorization Bissell Architect, PA

No one was present from the firm. Mr. Manausa presented the file and commented that Mr. Hicks recommended approval and referred to the board for possible practice prior to licensure. He commented that there was a disciplinary case pending. Mr. Minacci commented that there was evidence that the firm had practiced prior to licensure and would recommend that a fine be levied in this review. He commented that the disciplinary case in itself should not hold them up from being approved for licensure today. Mr. Manausa commented that the firm registered with the Department of State in 1997 and they made application with the board October 2003.

MOTION: Mr. Rodriguez moved to approve the certificate of authorization with a \$4,000 fine.

SECOND: Mr. Gonzalez seconded the motion and it passed unanimously.

Application for Architecture Certificate of Authorization Business Name Change Beck Development, LLC

No one was present from the firm; however, they requested a continuance via letter to the board. Mr. Manausa commented that this application was before the board because the name "Beck" is not a licensed professional.

MOTION: Mr. Rodriguez moved to continue the application.

SECOND: Mr. Schreiber seconded the motion and it failed.

MOTION: Mr. Hall moved to deny the request the motion for continuance.

SECOND: Mr. Gonzalez seconded the motion and it failed.

MOTION: Mr. Rodriguez moved to continue the application until the next meeting.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

BMK Architects, Inc.

Mr. Darrell McClain was present and sworn in. Mr. Manausa presented the file and commented that the file was referred to the board for projects listed. He reviewed the projects listed and verified when the name change took place. Mr. McClain commented that the firm changed firm name and immediately notified the department in writing. He commented that they were sent the additional paperwork to officially change the business name with the department.

MOTION: Mr. Rodriguez moved to approve with no fine.

SECOND: Ms. Del Bianco seconded the motion and it passed unanimously.

Application for Architecture Endorsement

Ronald La Porte

Mr. La Porte was not present. Mr. Manausa presented the file and commented that this individual was originally licensed in New York in 1987 and he does not have the required accredited degree. Ms. Clark commented that the board needed to provide the statute and a reason why they would recommend denial under the endorsement statute. Ms. Clark asked Mr. Manausa if he had analyzed the laws in New York in 1987 to determine if they were substantially equivalent to the laws in Florida? Mr. Manausa replied in the negative and commented that he does not have a 5-year degree. He commented that he must have a 5-year degree if licensed after 1986. He commented that he must have been licensed prior to June 30, 1984 to receive licensure in this state.

Ms. Clark referred the board to Chapter 481.213(3), F.S. She commented that they must look at paragraph a, b, or c. She commented that the board could not make a determination since they have no law information in front of them. She commented that the board must articulate on the record why and what statute they are basing their denial. She commented that if they have not been doing that in the past then they should do it now so they are denying applications lawfully.

Mr. Schreiber commented that he was confident that the New York law did not require a 5-year degree. After much discussion on which application he applied under and what the requirements were to be licensed under all 3 methods of endorsement the following motion was submitted.

MOTION: Mr. Rodriguez moved to continue until the March meeting, ask that staff provide complete application, information on how Mr. La Porte was licensed in 1998 and provide information regarding the initial licensure requirements in New York in 1987.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

**Continuing Education for Denial
Concepts in Landscape and Outdoor Lighting Design**

Ms. Chastain presented that application and commented that the committee's notes reflect that the course subject does not relate to interior design.

MOTION: Mr. Rodriguez moved to accept the committee's recommendation of denial.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Essentials for Construction

Ms. Chastain presented the application and commented that the committee's notes reflect that the course subject does not pertain to interior design.

MOTION: Mr. Rodriguez moved to accept the committee's recommendation of denial.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Technical Components in Construction

Ms. Chastain commented that the committee's notes reflect that the course subject does not pertain to interior design.

MOTION: Mr. Rodriguez moved to accept the committee's recommendation of denial.

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

Aquifer Storage Recovery

Ms. Chastain presented the application and commented that the application was not complete and due to processing time it was sent to a reviewer.

MOTION: Mr. Hall moved to accept the committee's recommendation of denial.

SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

OSHA and the Concrete Worker

Ms. Chastain commented that the application was not complete, the requested information was not received, and due to processing time it was sent to a reviewer. She commented that the reviewer denied the application. Mr. Rodriguez commented that the reason for denial was they could not evaluate an application until the required information is submitted for review. Ms. Clark stated that they could not deny an application because it was not complete and they should not be reviewing the course or voting on it.

Mr. Bullock commented that they would move forward based on counsel's recommendation not to review.

Ms. Clark stated that staff needed to send a notice to the applicant that the application was closed until additional documents are received.

Administrative Privatization

Mr. Bullock commented that Mr. Huey was not available for this discussion and would be placed on the agenda for the next meeting.

AIA Report – Heather Tozzi

Mr. Bullock commented that Ms. Tozzi wasn't available for this discussion.

Executive Director's Report – Juanita Chastain

Ms. Chastain presented the information and commented that there is an appropriation issue with the Smith, Thompson, Shaw & Manausa contract and the department is seeking clarification from the legislation regarding this issue. She commented that the department would be providing a letter to the board members regarding this matter on the March telephone conference call.

Mr. Rodriguez commented that he agreed that the board should wait on this matter until the March telephone conference call, however, he would like to make two motions for the board to consider.

MOTION: Mr. Rodriguez moved that the board reaffirm its desire to have unlicensed activity funds be used to support and/or pay for the prosecution of unlicensed activity as allowed by Chapter 481.205(3)(d), F.S.

SECOND: Ms. Del Bianco seconded the motion and it passed unanimously.

MOTION: Mr. Rodriguez moved that the board demand that the department provide full accounting of the funds received as a result of fines and penalties for unlicensed activities for the past 2 years and provide information as to why the funds do not appear to be going into the unlicensed activity trust fund as required by Chapter 455.228(4), F.S. and Chapter 455.2281, F.S., which requires that information be provide in quarterly reports to the board.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

New Business

Mr. Rodriguez commented that the board discussed an item regarding the taking of the architecture examination and the requirement of a rolling window. He commented that he would like to apply this requirement to interior design as well. He commented that NCARB does not have a rolling window requirement but they are discussing implementing one.

MOTION: Mr. Rodriguez moved that the board advise NCARB that Florida feels the reestablishment of a rolling window for the taking of the ARE is a vital part of protecting the health, safety, and welfare of it's citizens by assuring the applicants for licensure demonstrate minimum competency based on current test materials. Realizing that NCARB is currently studying this issue and the unilateral position to a rolling window might be considered as an impediment for

licensure the board has agreed to await NCARB's final determination but urges expedition completion of that process to maintain uniformity of regulation.

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

Mr. Rodriguez commented that he is looking for the backing of the board to go to NCARB and inform them that the board is looking to them to resolve this issue. He commented that if they do not resolve the issue in the short term the board would move forward on this issue.

Old Business

No old business.

Adjourn

MOTION: Mr. Rodriguez moved to adjourn.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

The meeting adjourned at 2:33 p.m.