

MINUTES
BOARD OF ARCHITECTURE AND INTERIOR DESIGN

TELEPHONE CONFERENCE CALL
November 5, 2007
3:00 p.m. Eastern Time

Toll Free 888.808.6959 conference code 9218690

Call to Order

Ms. Grigsby, Chair, called the meeting to order at 3:05 p.m.

Roll Call – identify excused absences

Board Members Present:

Joyce Shore

Mary Jane Grigsby, Chair

Rossana Dolan

Neil Hall

Gary Gustafson

Eric Kuritzky

Wanda Gozdz, was present but unable to participate in voting due to a bad telephone connection.

Board Members Absent:

Rick Gonzalez, unexcused

Roymi Membiela, unexcused

Others Present:

Mary Ellen Clark, Board Counsel

David Minacci, Prosecuting Attorney

Juanita Chastain, Executive Director

Terri Estes, Government Analyst

Les Smith, Investigator

Dwight Chastain, Investigator

Emory Johnson

Edward Caldwell

Kevin Fox

Fred Dudley

Larry Sellers

Reiner Sanchez

Paul Fischman

Vicki Long

Application Review

Reiner Sanchez

Mr. Sanchez was present. Mr. Minacci commented that Mr. Sanchez's application was on the agenda because he had previous discipline. He advised that Mr. Sanchez has complied with the final order and has been cooperative during the disciplinary process. He requested that the board approve his application.

Motion: Mr. Gustafson moved that the board approve the application for licensure.
Second: Mr. Kuritzky seconded the motion and it passed unanimously.

Paul Fischman

Mr. Fischman was present. Ms. Chastain commented that Mr. Fischman met the requirements for licensure but he answered yes to the background questions. Mr. Fischman commented that he had a minor incident in college that has been resolved through community service.

Motion: Mr. Hall moved to approve the licensure application as presented.
Second: Mr. Kuritzky seconded the motion and it passed unanimously.

Kevin Fox

Mr. Fox was present. Ms. Chastain commented that Mr. Fox met the requirements for licensure but he answered yes to the background questions. Mr. Fox commented that he satisfied the judgment imposed and regretted the incident.

Motion: Mr. Gustafson moved to approve the licensure application as presented.
Second: Mr. Hall seconded the motion and it passed unanimously.

Edward Jerdonek

Mr. Jerdonek was present. Ms. Chastain commented that Mr. Jerdonek requested that the board continue his application and he waived his application processing rights.

Motion: Ms. Dolan moved that the board continue the application.
Second: Ms. Shore seconded the motion and it passed unanimously.

Andrea Williams

Ms. Williams was not present. Ms. Chastain commented that Mr. Butler performed an education evaluation and determined that Ms. Williams does not meet Florida's educational requirement for licensure. Mr. Butler recommended that the board deny the application.

Motion: Mr. Hall moved that the board deny the application per Chapter 481.213(1)(a) and Chapter 481.209(2), Florida Statute.
Second: Mr. Gustafson seconded the motion and it passed unanimously.

Request for Reinstatement of a void license

Edward Caldwell, Jr.

Mr. Caldwell was present. Ms. Chastain commented that Mr. Caldwell's license lapsed null and void in 2007 and he has applied for reinstatement of the license based on an unusual hardship. Mr. Kuritzky asked Mr. Caldwell how he was feeling. Mr. Caldwell replied that he still had some difficulties and was dealing with some blood clots. He commented that his condition would not

affect his ability to practice architecture. Mr. Kuritzky asked Mr. Caldwell if he had been practicing. Mr. Caldwell replied in the positive but not in Florida.

Motion: Mr. Kuritzky moved that the board reinstate Mr. Caldwell's license based on his illness and hardship.

Second: Ms. Dolan seconded the motion and it passed unanimously.

Discussion/For information

Rule 61G1-12.001, Ground for Disciplinary Proceedings, Florida Administrative Code – letter from the Joint Administrative Procedures Committee (JAPC)

Ms. Clark commented that JAPC was requesting that the board explain and justify the last sentence in Rule 61G1-12.001(3), which states “an architectural firm may not offer services to the public under a firm name which contains only the name of an individual not licensed as a professional engineer or registered architect in any state”.

Ms. Clark commented that JAPC was challenging the language in Rule 61G1-12.001(6), which states “misconduct in the practice of architecture shall include but not be limited to” listing (a)-(k). She commented that JAPC determined that the phrase “shall include but not be limited to” is unbridled discretion by the board. She commented that JAPC has suggested that the sentences or phrases should be repealed or justify the use by providing the specific statutory authority.

Ms. Clark commented that the board clearly had rule making authority; however, since the late 1990's the board must have specific statutory authority and she reviewed what that meant. She requested that the board review their statute and advise where the specific statutory authority was mentioned. She requested that the board notice the rule for further discussion at the January meeting.

Motion: Mr. Gustafson moved that the discussion be held until the January meeting.

Second: Mr. Kuritzky seconded the motion.

Mr. Kuritzky commented that he did not see where this pertained to any specific issue on the agenda. Mr. Gustafson asked if this pertained to applications or cases that the board had decided on in the past year. Ms. Clark commented that the letter was a matter specific to the board.

The board members discussed the issue and determined to agenda the matter as a discussion item for the January meeting.

Ms. Clark commented that there were two petitions for hearings directly related to the language in this rule. She commented that the hearings were related to a denied application and a denied petition for rule variance or waiver. She commented that both hearings which were directly related to the rule language would be reviewed at the January meeting.

Mr. Kuritzky commented that he did not think the board should rush a decision on a telephone conference call and felt that the entire board should be present to make a determination on the outcome of the rule change.

The board directed Ms. Clark to respond to JAPC that they reviewed her concerns and would discuss the matter further at the January meeting. The board did not offer any direction regarding specific statutory authority for the rule.

The board discussed the deadline for reviewing and hearing the petition. Ms. Clark commented that the specific request and petition for an evidentiary hearing when there was a dispute of material fact must be referred to the Division of Administrative Hearings (DOAH) within 15 days of receipt. She commented that it had been 15 days since she received the petition; however, the attorney requested that the referral to DOAH be deferred pending an opportunity for the board to reconsider at the January meeting. She commented that if the board did not grant the reconsideration at the January meeting, the attorney making the request could move on to DOAH. She commented that individuals are entitled to hearings especially when you notice them that the board will be reviewing the matter on a certain meeting day.

Mr. Kuritzky commented that they would be granted their hearing; however, the board may postpone the matter or deny their request for reconsideration. He commented that he did not feel the board should rush the decision. Ms. Clark commented that she appreciated the board's desire to discuss the matter thoroughly to reach the right or best decision; she cautioned them that if a formal pleading could force her to go to a hearing within 30 days to defend the rule and she would require a board member to appear as a witness.

Motion: Mr. Kuritzky moved that Ms. Clark notice Rule 61G1-12.001, Florida Administrative Code, for rule development for discussion at the January meeting.

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

NCARB call for nominations

Ms. Chastain commented that NCARB passed a resolution to include a public member and an Executive Director on the Board of Directors. She commented that this was a request for suggestions or recommendations for a public member to be submitted by November 15, 2007. She advised that she went to the NCARB Member Board Executive's meeting and Cynthia Gainey was selected to serve as the Executive Director on the Board.

Florida Building Code advanced course – Florida AIA

Ms. Chastain commented that staff needed board direction. She commented that Florida AIA submitted a seminar for Florida Building Code advanced credit which was approved by the Department of Community Affairs. She commented that Florida AIA taught the seminar and recorded the seminar and began offering the course through a DVD. She commented that it was brought to Florida AIA's attention that the DVD format must be approved. She commented that licensees were providing completion certificates for the advance course but staff could not determine what method or form the course was taken. She commented that both presentation methods were approved and wanted the board to authorize acceptance of the completion certificates.

Mr. Minacci commented it did not matter what format or when the course was taken since they were both approved.

Ms. Johnson with Florida AIA commented that the department was not accepting the Florida AIA transcript for the continuing education audit. Ms. Chastain commented that the handbook addresses the National AIA CES official transcript as being acceptable. She commented that the Bureau of Education and Testing was asking for the completion certificates if a licensee submitted the Florida AIA transcript. Ms. Johnson commented that Florida AIA was an automatic approved provider through AIA National. She commented that this was the first time that she was aware of that the board was not accepting the Florida AIA certificates.

The board directed the board staff to accept the Florida AIA transcripts.

New Business

Ms. Dolan advised that she attended an NCARB Education Committee meeting and they were working on a white paper to be presented to NAAB.

Mr. Kuritzky commented that he attended an NCARB Chairman's meeting and they focused the discussion on green "LEED" architecture and catching up with technology advances.

Ms. Chastain advised that she received an e-mail letter from Ms. Del Bianco resigning from the board.

Application Review

Mr. Jerdonek called into the meeting. The roll was called to determine that there was a quorum.

Motion: Mr. Hall moved to reconsider the application review.

Second: Mr. Kuritzky seconded the motion and it passed unanimously.

Ms. Chastain reviewed the application which was being recommended for denial based on his four year education. The board discussed the fact the NCARB performed an EESA evaluation and granted him five educational credits and determined his four year degree in architecture and his Masters of Business Administration education to be equivalent to a Bachelor of Architecture. Ms. Clark commented that the statutes and rules require that the applicant has a five year professional degree. Ms. Clark reviewed the rule that defined the requirements for un-accredited architectural programs.

Motion: Mr. Hall moved to continue to the application until the January meeting.

Second: Mr. Kuritzky seconded the motion and it passed unanimously.

Old Business

No old business.

Adjourn

The meeting adjourned at 4:00 p.m.