

MINUTES

**Board of Architecture and Interior Design
Hampton Inn & Suites – Amelia Island
19 South Second Street
Fernandina Beach, FL 32034
February 23, 2006**

**General Business
9:00 a.m.**

Call to Order

Mr. Gonzalez, Chair called the meeting to order at 9:10 a.m. Ms. Chastain advised Mr. Gonzalez that Mr. Gustafson and Mr. Horstmyer were unable to attend the meeting due to illness.

Roll Call

Board Members Present:

Miguel Rodriguez
Ellis Bullock
Neil Hall
Rick Gonzalez
Stephen Schreiber
Mary Jane Grigsby
Sharon Del Bianco
Roymi Membiela
Joyce Shore

Board Members Absent:

Garrick Gustafson, excused
Kenneth Horstmyer, excused

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Juanita Chastain, Executive Director
Terri Estes, Government Analyst
Michael Wirtz
Michael Kotler
Roy Siegel
Shelley Siegel
Steven Hefner
Bill Kobrynich
Chris Johnson

Aida Bao-Garciga
Sandra Dryden
Lorraine Bragg
Michael Byrd
Janice Young
Steve Jernigan
Vicki Long
Sharon Mignardi
Kim Transtrum

Court Reporter:

Richard Ballard, Statewide Reporting Service, 233 East Bay Street, Suite 606, Jacksonville, FL 32202. Telephone 904.353.7706, 904.583.0305. E-mail courtreport@bellsouth.net

Application Review

Interior Design Certificate of Authorization

Bruce Mair Interior Design, LLC

No one was present but a copy of a citation that was issued and complied with was presented for the board to consider.

Motion: Ms. Grigsby moved to approve the certificate of authorization.

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

Motion: Ms. Del Bianco moved to reconsider the application because the application reflected an unlicensed individual as the responsible supervisor in control.

Second: Mr. Rodriguez seconded the motion.

The board discussed the responsible supervisory control issue. The board discussed the notation made in the application that the IB number would replace the ID number. The board requested that the board office contact the applicant and explain the board's concerns.

The motion failed with the board requesting staff to contact the applicant.

The Home of Fine Decorators, LLC

No one was present but a letter was presented for the board to consider. The applicant requested a continuance and waived their application processing rights. Mr. Minacci advised that there was a pending disciplinary case.

Motion: Mr. Rodriguez moved to continue the application.

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

Interior Design Endorsement

Laura Ciccone

No one was present. Ms. Grigsby commented that the applicant was for endorsement but she did not see proof of NCIDQ passage. Ms. Estes confirmed for Ms. Grigsby that she passed the NCIDQ and she verified that with NCIDQ.

Mr. Schreiber commented that he was concerned with the education review process because the reference sheet did not evidence a course by course review. The board discussed the different types of degrees awarded, including architecture, that offer interior design course curriculum. Mr. Wirtz commented that in the 1970s interior design programs were housed in the architecture or fine arts programs. Mr. Schreiber cautioned that the board should be careful because the education reviewer had particular knowledge of most of the interior design programs reviewed but was concerned when he would no longer review those programs because he wanted all of the applicants to be reviewed or evaluated equally.

Motion: Ms. Grigsby moved to approve the application as presented.

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

Mr. Johnson commented that the issue Mr. Schreiber voiced was being addressed by the Foundation of Interior Design Education Research (FIDER). He commented that a number of states requested that FIDER review and prepare an equivalency comparison chart and they have refused that request. He commented that the National Council of Interior Design Qualification (NCIDQ) has taken on that task and formed an NCIDQ Education Committee. He commented that he hoped to be able to provide additional information by the end of the year.

Architect Endorsement

Miodrag Janjic

No one was present. Ms. Estes presented the board with additional information regarding Mr. Janjic's education. She commented that he was having difficulty obtaining the information the board requested. She commented that NAAB was refusing to perform an additional evaluation of an individual when they had been granted an NCARB council record. She advised that NCARB requested an evaluation be performed because Florida's statute required that evaluation and NAAB refused the request.

Mr. Schreiber commented that was absurd because that would mean that someone with a foreign degree and an NCARB certificate could not obtain Florida licensure because Florida requires an EESA education evaluation. Mr. Rodriguez commented that NAAB stated that they only perform EESA education evaluations only with respect to NCARB certification requirements. He commented that if that statement was correct then EESA no longer performs foreign education evaluations and the board had lost an avenue for foreign applicants.

Mr. Schreiber commented that he would address the issue with the NCARB Education Evaluation Committee and the President of NAAB. He commented that there was a letter indicating that his degree was equivalent to a CACB degree.

Ms. Clark commented that Rule 61G1-13.003(7), Florida Administrative Code was not met as cleanly as the board would like but the board could use discretion with the rule language to determine that he met the education requirements.

Mr. Rodriguez commented that the rule allowed for the acceptance of a CACB degree because it was considered equivalent to the NAAB degree. He commented that the issue was Mr. Janjic's education evaluation was from the Quebec Order of Architects which was not a member of the CACB at that time. He commented that their evaluation process has been accepted by CACB as equivalent. Mr. Rodriguez commented that he agrees that the information is not as clean as what they would like but the board could use discretion.

Mr. Hall commented that the Mr. Janjic had jumped through all of the hoops the board has presented and the association that is responsible for what the board is asking refused to perform the evaluation. He commented that the board should take the responsibility and grant the license based on Mr. Janjic's efforts and the additional information provided from Quebec.

An audience member offered that there was a political issue at the time this took place and she felt his education was equivalent.

Motion: Mr. Schreiber moved to approve the application for licensure and that his education is equivalent to a CACB degree based on the letter submitted from Quebec and therefore equivalent to an NAAB degree.

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

Mr. Rodriguez commented that the board had performed due diligence to determine that the applicant was qualified for licensure. He commented that the board had evidence that his degree is CACB equivalent and therefore NAAB equivalent which would meet the rule requirement set forth in Rule 61G1-13.003(7), Florida Administrative Code.

Architect Certificate of Authorization

Goodman Design, Inc.

Goodman Design, Inc. (dual)

George Beaver and Earl Goodman were present and represented by Michael Kotler. Mr. Minacci commented that the application reflects that the firm had offered services since 1997 and there was a pending disciplinary case. He commented that he spoke with the applicant and they requested a continuance to resolve the disciplinary issue and agree to waive their application processing rights.

Mr. Kotler commented that the Goodmans were interior decorators since the 1970s in New York and 1990s in Florida. He commented that they believed that they had all of the appropriate components to operate their business. He commented that they would hire an

architect, mostly Mr. Beaver, to review and seal architectural plans as necessary. He commented that they always believed they were in compliance until a competitor filed a complaint.

Mr. Kotler commented that he and his clients took a critical look at the statutes and rules to make sure they were in compliance. He commented that they recognized that there was a need for the certificate of authorization.

Ms. Del Bianco commented that she had concerns that they do not understand the statute and rules. She commented that the Mr. Goodman's name is in the title of the corporation and he himself is not a Florida licensed architect. Mr. Kotler commented that he spoke with Mr. Minacci about that requirement just prior to the meeting and they were going to change the name of the corporation to Canthus, Incorporated to remedy the name issue.

Mr. Kotler commented that he would provide the department with the name change information for the next meeting.

Mr. Gonzalez commented that they could change the name to Goodman and Beaver Designs, Inc. He commented that as long as one of the names in the title of the firm was a licensed architect that would be acceptable to the board.

Motion: Mr. Rodriguez moved to continue the application to allow resolution of the pending disciplinary action.

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

Larry Warner Architect, Inc.

No one was present but a letter was presented to the board for consideration. The applicant requested a continuance and waived the application processing requirements. Mr. Minacci advised that there was a pending disciplinary case.

Motion: Mr. Rodriguez moved to continue the application to allow resolution of the pending disciplinary case.

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

Ratification Lists

Applicants (handout)

Interior Design Applicants by Endorsement

Items 1-10

Interior Design Businesses

Items 11-14

Architecture Applicants by Passage of Examination

Items 15-33

Architecture by Endorsement
Items 34-99

Threshold Building Inspector
Item 100

Architecture Business
Items 101-118

Architecture Business Name Change
Item 119

Motion: Mr. Rodriguez moved to approve the ratification lists as presented.
Second: Ms. Membiela seconded the motion and it passed unanimously.

Mr. Gonzalez requested that items 98 and 112 be looked into for practice prior to licensure.

Continuing Education Ratification List (handout)

Motion: Mr. Rodriguez moved to approve the list as presented.
Second: Ms. Del Bianco seconded the motion and it passed unanimously.

Interior Design Discussion

NCIDQ Bylaw Changes
NCIDQ letter regarding FIDER's name change
NCIDQ Structures in Interior Design Monograph

Mr. Wirtz commented that two board members recently realized that the NCIDQ Executive Committee had members that had not served on member boards. He commented that the Bylaw change was in draft form. He commented that the language was that a majority of the members on the NCIDQ Executive Committee be that they have served on state boards. He commented that he was in favor of the change because NCIDQ was in place to serve member boards first then examination candidates.

Ms. Del Bianco commented that there seemed to be an issue with how long the time of service was for and she was in favor of leaving it open ended with no time.

Mr. Wirtz commented that he could make Ms. Del Bianco's request a suggestion to NCIDQ as long as he had the backing of the board. Ms. Del Bianco advised the board that NCIDQ was proposing a Bylaw change that would require that a majority of the NCIDQ Board of Directors come from past member board members. She commented that some states had an issue with the length of time that may have lapsed from when the past board members had served on the board. She commented that NCIDQ was still small so allowing past board members to participate was beneficial.

Ms. Grigsby commented that she was in favor of a time limit because some past board members are not familiar with current board issues. Mr. Wirtz commented that they were looking at experience. Mr. Rodriguez commented that NCARB required that at the time of elections the member be currently serving on the board.

Ms. Del Bianco commented that the Bylaw changes allowed past board members to be involved and the issue was how long ago they served on a board.

Mr. Rodriguez commented that NCARB moved to be on the national board you must be a member board member. Mr. Schreiber commented that they would be better served by NCARB if they did not require a current board member.

Motion: Ms. Del Bianco moved that there be no time limit.

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

Mr. Wirtz provided a copy of a questionnaire distributed by FIDER regarding their name change. He commented that FIDER changed their name to the Council for Interior Design Accreditation but they did not give up the name FIDER. He commented that they were not going to use the acronym CIDA because it was currently used by other associations. He commented that other states have voiced a concern and they may return to the name FIDER.

Ms. Del Bianco asked that the department propose legislation and remove the FIDER name from the statute.

Ms. Young advised that NCIDQ did an informal survey regarding the name change of FIDER. She commented that some jurisdictions have no problem with the name change and it impacts some seriously.

Mr. Schreiber commented that having the FIDER name in the law was a problem.

Mr. Wirtz commented that they should wait and see what NCIDQ does with their survey and their concerns. The board discussed the need to remove the name FIDER from the statute.

IDCEC Announces New Method for determining HSW

Ms. Grigsby commented that there were several jurisdictions that needed health and safety separated from welfare because of the way their laws were written.

Architecture Discussion

Attorney General Opinion issued – Texas Board

Mr. Schreiber commented that he thought the opinion issued was great. Mr. Gonzalez advised the audience that the opinion issued was for defining the differences between architects' and engineers' duties. Mr. Manausa commented that the attached summary states that they could not determine where the line was between the duties of an architect or engineer. Mr. Minacci commented that it states that an engineer can do what an

architect could do. Mr. Rodriguez commented that the opinion was in response to a request from the Board of Engineering.

The board discussed and thought this was great.

NCARB Committee Application Form for FY'07
NCARB Nominations and Election Reminder
Letter from Blake Dunn
NCARB Annual Meeting and Conference
NCARB's Visionary Strategic Plan
Southern Conference of NCARB, Region 3 Executive Summary

Mr. Bullock commented that he would encourage members to apply for NCARB Committee appointments. The board discussed that the same candidates are the only candidates running for NCARB positions.

The board discussed the length of time it takes to take and pass the ARE examination. Mr. Schreiber advised that there were some states considering whether to allow candidates to begin taking the ARE during IDP. He commented that the path to becoming an architect would be shorter.

Mr. Bullock commented that there were some states that feel the IDP should be completed prior to candidates being allowed to sit for the ARE.

Mr. Schreiber commented that NCARB performed a study on when the best time was to take the ARE because many feel it is a practice based examination. Therefore, one would believe that the longer a candidate is in practice the easier the examination would be. He commented that the study reflected that the optimal time to take and pass the examination was two years from graduation.

Mr. Hall commented that the candidates in school were in the mode of studying.

The board discussed the upcoming NCARB Cincinnati meeting.

Ms. Clark advised that the Board of Accountancy allowed her to attend a conference and the conference coordinators were pleased that she could attend. She commented that they were surprised to hear that the reason no one attended in the past was funding issues. She commented that she encouraged the board to request that funding be available for attorneys and executive directors to attend conferences.

The meeting recessed at 10:30 a.m.
The meeting reconvened at 10:48 a.m.

IDAF Report –

Mr. Hefner commented that IDAF was establishing a database of licensed interior designers. He commented that members with IDAF, ASID, and IIDA were working on a

mentoring program with the colleges and schools to inform students of the interior design licensing requirements. He commented that there was going to be an ASID show house in conjunction with the American Lung Association in West Palm Beach opening April 10th. He commented that FIU recently received FIDER accreditation.

AIA Report

Ms. Vicki Long and Mr. Steve Jernigan with AIA Florida were present.

Ms. Long advised that AIA Florida's membership was 3176 licensees. She commented that they were pursuing an additional increase in membership. She commented that AIA national, state, and local components have been involved in the "AIA 150 program". She commented that the "AIA 150 program" was the celebration or anniversary of 150 years of architecture in this country and association. She commented that their goal of the celebration was to advocate and advance livable, healthy, and beautiful communities as well as strengthening the architecture profession. She commented that at the state level they chose to pursue leadership ideals and begin recruiting volunteer members into leadership positions and identify current elected officials that are licensed architects.

Ms. Long advised that they would continue in an active role regarding hurricane preparedness and growth management. She commented that they would increase lobbying presence regarding what architects could do for the state. She commented that Florida received a national award for their "breakfast of champions" which is where an architect has breakfast with a legislator and each person is asked to bring a campaign contribution. She commented this multiplies the impact of the profession and assists the legislator or candidate. She commented that they were encouraging architects to become elected officials. She commented that they were revamping their speaker's bureau to advocate that design matters. She commented that Vivian Salaga initiated the design of a DVD regarding the fact that design matters. She commented that there would be no architects but individuals that use facilities and they would look at different sights and why certain designs are appealing.

Ms. Long commented that on the national level AIA would be working with and offering architects a three day workshop of multi level disciplines for disaster and hurricane preparedness.

Ms. Long commented that on the state level Mr. Rodriguez was chairing a task force for setting up education programs for post disaster efforts. She commented that NCARB was developing a program as well to deal with the regulatory side of the issue.

Ms. Long commented that AIA Florida would be offering a legislative day March 22 and she encouraged attendance. She advised that the AIA Florida annual meeting would be held in July 2006 at the Boca Raton Resort. She advised that they were working toward a Florida Building Code course on line and working with the national component to convert a two hour live program into an equivalent written test to be marketed to out of state licensees. Mr. Gonzalez requested that Mr. Bullock advise NCARB that Florida was working for an on line solution for out of state licensees and issues.

Ms. Long advised that there were 2400 bills submitted last year with approximately 300 approved of that 10% were vetoed by the Governor. She advised that AIA Florida was successful in getting three pieces of legislation through. She commented that they had an aggressive plan of action for this year's legislative session.

Ms. Long advised that AIA Florida had bills they were actively pursuing which included Chapter 481 language regarding construction contract administration, retired status, responsible supervisory control. She advised that they were pursuing mold remediation.

Mr. Jernigan commented that they were requesting language that would allow for the definition of a retired status for architects. He commented that they were requesting mandatory construction administration language to protect the health, safety, and welfare of the public. He commented there were approximately 22 states that currently required mandatory construction administration. He commented that they understand there may be some opposition to the mandatory construction administration language but they were working with general contractors, developers, etc. He requested and advised that they needed support from the board. Ms. Clark advised the board how they could or could not lobby legislators.

Mr. Jernigan commented that they were using the mandatory construction administration language from the NCARB model law. He commented that the difference was Florida was going to put the burden on the owners not the architect if services were not engaged for construction administration.

Ms. Del Bianco commented that she thought AIA and IDAF were going to work together on the legislative language but bring the language separately. She asked if the associations were working together to create the construction contract administration language for both professions. Ms. Long replied that the language had been conceptually discussed regarding the engineering profession. Ms. Del Bianco requested an update on the language discussions with IDAF regarding the interior design profession.

Ms. Long commented that she discussed the issue with Mr. Hefner, Mr. Gonzalez, and Ms. Grigsby separately. She commented that in January AIA Florida had a board meeting and an AIA national Governmental Affairs speaker was present. She commented that the legislative draft language was available at that time and included the mandatory construction administrative language. She commented that there was a discussion regarding the difficulty AIA Florida would face getting the language passed during an election year.

Ms. Long commented that the representative from AIA national advised that if they pursued legislative language for interior designers the Florida chapter would be in conflict with AIA policy. She advised that they could be subject to a reprimand, suspension, or even revocation of their charter. She commented that if interior designers chose to pursue mandatory construction administration in another bill or another year they would not be

opposed. She commented that they could not support the interior design language being added to their bill.

Mr. Gonzalez commented that IDAF would be required to start a separate bill to include construction administration language. Ms. Long advised that she thought the bill drafting deadline had passed.

Mr. Manausa commented that there appeared to be some language missing from the AIA Florida draft compared to the NCARB model law. Ms. Long replied that she would have to talk with the attorneys and bill drafters. Mr. Jernigan commented that some language was removed because the attorneys did not feel it would pass through legislation.

Ms. Del Bianco commented that she was disappointed with the fact that interior designers would not be included in the language because they were a joint board. Mr. Gonzalez commented that getting the language passed for architects would assist interior designers in the next session. Ms. Grigsby commented that AIA national had a policy that Ms. Long had to follow. She commented that they should be working together with AIA Florida and there should not be an issue with pursuing the language for interior designers next year. She commented that the opposition was too great to pursue the language this year.

Ms. Long reported that they put together a task force to figure out where the opposition would come from to eliminate in advance. She commented that they were now getting opposition from developers, home builder associations, etc. and they would be facing an uphill battle. She commented that insurance companies were in support of construction administration but AIA Florida had not received that support in writing. Ms. Long commented that the building officials were in support of the requirement but would not state that publicly.

Mr. Bullock asked if the banking industry had responded. Ms. Long replied in the negative.

Mr. Jernigan commented that they felt they had responsible supervisory language that JAPC would support.

Ms. Chastain commented that the "architect retired status" language would not create an actual status. She commented that a licensee would not report to the department nor would it be tracked. She commented that the language would only allow a licensee to say they were once an architect. She commented that there would not be a process in place to track if an individual contacted the department requesting a licensure status. Ms. Clark commented that if someone relinquished their license it would be gone and that individual would have to meet all of the current licensure requirements to regain licensure. She commented that since the department would not track that status the license would lapse delinquent then null and void which might be confusing to the public. She advised the board that this language would only protect the architect from a disciplinary matter it would not be a process or status of licensure like current, delinquent, active, or inactive. Mr. Schreiber commented that he was in support of having an actual status for retired in the system and tracking.

Ms. Long commented that AIA Florida was working with the AGC regarding Senate Bill 1940 which dealt mostly with the condominium industry and provided a copy of the language for the board to review. She commented that they were continuing to work on the mold assessment bill and provided a copy of the language.

Mr. Hall commented that the term “design matters” is used a lot and maybe using a different term would be more helpful to educate the public regarding the need for hiring and utilizing architects. He commented that architects volunteered to assist with the hurricane relief in Florida and the other states affected which was helpful regarding public awareness. Ms. Long commented that Mr. Manausa volunteered and assisted other states with hurricane assessments.

The board revisited the retired status discussion. Mr. Rodriguez commented that he would like to tie the retired status with inactive status requiring no continuing education until they return from retired or inactive status. He commented that may give a mechanism to track retired status architects. Mr. Minacci commented that there are some architects willing to voluntarily relinquish their license to retire the license. Mr. Manausa reminded the board that an inactive status license requires a renewal fee. Mr. Schreiber commented that tracking the retired status would still keep the architect connected to the profession through the newsletters, etc.

Rules Report and Discussion

Rule Tracking

Ms. Clark reviewed her rule tracking summary.

Rule 61G1-16.005, Electronic Signing and Sealing

Ms. Clark commented that she received a letter from JAPC advising that the web site used in the rule language was not valid and they requested verification from the board if they purposely wanted to utilize the older version of the secure hash standard than currently available. Ms. Clark advised that she and Ms. Chastain discussed the older version and that was the one the board wanted to use because that was being utilized by the Florida Department of Transportation. She advised that she would investigate the web site issue and notify JAPC that the board intentionally wanted to use the older secure hash version.

Rule 61G1-17.001(13), Professional Fees and Penalties for Architects

Ms. Clark advised that the rule was noticed for development to incorporate a fee for the applications to reinstate a void license. She commented that the department wanted to utilize a uniform application for the process and the form was still in development.

Rule 61G1-21.003 Continuing Education – Approval of Subjects and Providers

Ms. Clark advised that the rule was noticed for development in July 2005 for the purposes of updating the interior design continuing education handbook which would be reviewed during the meeting later.

Rule 61G1-23.010 Responsible Supervisory Control over Architectural Practice in the Architect's Office

Ms. Clark commented that at the November 2005 board meeting the board voted to eliminate the language that noted a difference between the practice inside or outside of an office. She commented that language was approved that would combine the language into one rule. She commented that they combined rule 61G1 -23.010 and 61G1-23.015 to respond to JAPC's concerns. She commented that JAPC responded to that language with a letter of concern. She advised that the board must respond to the letter because they are not satisfied. She commented that Ms. Printy had a concern about paragraph 23.010 sub 4 which states that the architect accepts professional responsibility for all architectural design activities of a project throughout design development etcetera. She commented that Ms. Printy was objecting sub 4 and sub 7 which was her standing objection from the beginning. She commented that she did not feel that language would pass through JAPC and requested that they withdraw the language.

Mr. Manausa advised that the language she was requesting to be withdrawn was the language that was being proposed as statutory language for the upcoming legislative session. The board supported withdrawing paragraph 7.

Ms. Clark commented that JAPC objected to proposed language in Rule 61G1-23.010 sub 5 and 6. She commented that sub 5 and 6 was language moved from Rule 61G1-23.015. She commented that sub 5 was maintaining documentation of supervision of all documents and instruments of service. She commented that JAPC wanted the board to explain the authority for the board to establish an offense for failure to maintain records. Ms. Clark advised that her response was that the board had statutory authority to define responsible supervisory control pursuant to Chapter 481.221(6), Florida Statutes. She commented that the board defined supervisory control in paragraphs 1(a) and (b). She commented that paragraph 4 was from 23.015. She requested that sub 4 should be moved and defined in 1(a). Ms. Clark suggested that the board move sub 6 in to 1(b) which defines work prepared by another person.

Mr. Rodriguez commented that he and Mr. Minacci were contacted by an AIA member with concerns of the combining of the rules and discovered there may be some unintended circumstances to the combining of the rules. He commented that the particular concern was that the responsible architect be at every meeting and submission. He commented that in the course of normal practice that was impossible. He suggested that they pull the rule and resolve it legislatively.

Mr. Manausa requested that the board revise the rule and respond to JAPC's concerns as best as they could because there were no guarantees that the language would pass through this upcoming legislative session. Mr. Minacci commented that the board could not move forward with the rule language the way it was or the way the board was proposing. Ms. Clark advised that they were addressing the unintended circumstances in current proposed sub 6 and suggested that they delete that subsection. She recommended that they combine sub 4 and 5 and move them into sub 1(a). Mr. Gonzalez commented that he

did not see an issue with sub 6. Mr. Rodriguez commented that they change the language to read “the architect or their representative”.

Ms. Clark suggested that the board move sub 4 and 5 into 1(a), move sub 6 into 1(b), delete sub 7, and answer JAPC that they have specific authority pursuant to Chapter 481.221(6), Florida Statutes.

Motion: Mr. Bullock move to approve the attorney’s recommendation.

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

Rule 61G1-24.002 Continuing Education – Approval of Subjects and Providers

Ms. Clark commented that the rule was noticed for rule development for the board to review and update the handbook.

The board recessed at noon.

The board reconvened at 1:20 p.m.

Continuing Education Task Force – Begins at 1:00 p.m. or shortly thereafter

Continuing Education handbooks

Mr. Matthias, Mr. Hefner, and Ms. Bragg were present representing the continuing education task force. The board reviewed the architecture and interior design handbooks page by page. Handbooks used for the initial review are attached as well as additional changes requested by the board.

Motion: Mr. Rodriguez moved to lower the interior design application fee for provider and course to \$25.00.

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

The board discussed where they were on the creation and implementation of the laws and rules examination.

Motion: Mr. Rodriguez moved to instruct the Bureau of Education and Testing to proceed with the development of the laws and rules examination including the questions Mr. Manausa created.

Ms. Clark commented that her recollection of the last discussion of the laws and rules examination was that a work group was to be established to work with the Bureau of Education and Testing to develop the examination.

Motion: Mr. Rodriguez moved to create a work group consisting of Mr. Manausa.

Second: Mr. Hall seconded the motion.

Mr. Manausa commented that he was told by the Bureau of Education and Testing that they would contact him and he had not heard from them. The board members’ recollection of the meeting when the item was discussed varied. Mr. Schreiber commented that he was concerned that the examination, being a pre-licensure examination, would create a barrier

for endorsement applicants. Ms. Del Bianco commented that the examination would not have to be passed but just a review and check the questions off.

Ms. Chastain commented that there were factors that needed to be considered and that the board was delayed because of those items to consider and never made a determination on how to proceed.

Motion: Mr. Rodriguez moved to substitute item 2(k) with the following; a licensee may seek individual 2 hours credit for reading and taking an examination on the laws and rules governing their respected profession with the examination developed by a committee of the board that consists of professionals from their respected profession for no fee.

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

Ms. Clark advised that JAPC may question a hypothetical examination and they should be able to provide an effective date along with the examination for review.

General Discussion

Appointment of ITN Committee and Timeline

ITN Published September 2002

ITN Schedule of Events from 2002 for reference

Ms. Chastain reviewed the ITN information for the board to appoint a committee and set a timeline. She advised the board that the information was for their review for suggested changes and the item would be for the next meeting. Mr. Gonzalez appointed Ms. Del Bianco, himself, and Mr. Wirtz. He appointed Mr. Rodriguez as an alternate.

Probable Cause Panel Appointments

Mr. Gonzalez appointed Mr. Bullock, Mr. Wirtz and Mr. Rodriguez to the probable cause panel. Ms. Del Bianco expressed an interest in serving on the probable cause panel.

Educators and Task Force Appointments

Mr. Gonzalez appointed Mr. Schreiber to chair the educators and task force members committee. Mr. Schreiber expressed that he would like the educators to attend the upcoming July board meeting.

NCARB delegate

Mr. Gonzalez appointed Mr. Bullock as the NCARB delegate. Mr. Bullock expressed a concern regarding the Florida Building Code advanced course requirements and advised that Georgia was going to require a special course requirement for land planning; therefore, licensees were losing the continuing education reciprocity ability between states.

NCARB IDP Liaison – Stephen Schreiber

Mr. Gonzalez appointed Mr. Schreiber as the NCARB IDP Liaison. Mr. Schreiber advised that he recently attended an IDP Coordinators meeting and they are encouraging member boards to work with schools to provide outreach regarding the IDP program. Mr. Gonzalez

requested that Mr. Schreiber share any concerns with him because he would be attending an upcoming meeting in Maryland on architectural school curriculum.

NCIDQ delegate

Mr. Gonzalez appointed Ms. Shore as the NCIDQ delegate and Ms. Del Bianco as the alternate delegate.

Future Board Meeting Dates

May 2-3, 2006 Tampa, FL

July 24-26, 2006 Boca Raton, FL

Reports

Ms. Chastain provided a copy of the February newsletter for the board's review. Mr. Bullock requested that newly licensed architects and interior designers be listed in the newsletters. He requested that the disciplinary cases listed in the newsletter contain the city of the practitioner or where the offense took place. Mr. Gonzalez requested that the next newsletter be published just prior to the July board meeting so copies could be available at the AIA convention.

Ms. Chastain provided board appointment applications at the meeting. Mr. Michael Byrd advised that AIA Florida had submitted a number of candidates to the Governor's Office.

Chair's Report – Rick Gonzalez

Mr. Gonzalez commented that there was a lot of interest on growth management, designing for communities, the environment, and hurricane preparedness. He commented that the former chairman of growth management for the state in the 1980's suggested bringing back the taxing of professional services. He commented that he would like board members to keep an eye on the issue. He commented that he would like the board to continue to support the contract administration requirement.

Mr. Gonzalez thanked Mr. Manausa for assisting the adjacent states and thought it was noble and important. He requested that something be mentioned in the next newsletter regarding Mr. Manausa's efforts.

Executive Director's Report – Juanita Chastain

Financial Report September 30, 2005

Ms. Chastain reviewed the financial report and advised that the board was financially sound.

Board Counsel's Report – Mary Ellen Clark

Ms. Clark commented that there was no pending litigation and she had no other reports.

Prosecuting Attorney's Report – David K. Minacci

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
Building Code Core Course Citation Tracking Sheet
Fines Chart
Licensed/Administrative Hours
 September 2005
 October 2005
 November 2005
 December 2005
Unlicensed Billable Hours
 September 2005
 October 2005
 November 2005
 December 2005
Results of November 28, 2005 PCP Meeting
Results of November 30, 2005 Board Meeting
Results of January 9, 2006 PCP Meeting
Third Year Report
Audit Report – Year Ending October 31, 2005
Press Releases/Speaking Engagements/Other Correspondence

Mr. Minacci commented that 1,280 citations were issued and they only had 167 pending open cases left to resolve from the Florida Building Code Core course audit. He advised that he had collected over \$1 million in fines and costs. He provided the board with a report comparing his services to the department which he briefly reviewed. Mr. Bullock asked Ms. Chastain if the department had a response to Mr. Minacci's report. Ms. Chastain replied that this was the directive of the board to privatize the services. Mr. Johnson commented that the dollar amount of the contract should not have a bearing on whether the contract or Mr. Minacci's services were successful.

Mr. Gonzalez asked Mr. Minacci how he was handling the outsourcing of architectural services. Mr. Minacci replied that he and Mr. Manusa interpret responsible supervisory control is as long as the architects meet with the client and provides the required information to the outsourced entity and that entity creates or modifies documents and the architects make the final revisions and meets with the clients then they have complied with the statute.

Ms. Clark commented that she attended a meeting and they discussed outsourcing services to China and India which could be profession wide. She commented that they discussed the book the World is Flat. She commented that the board should evolve the profession and regulation to handle the outsourcing trend.

Ms. Del Bianco requested that Mr. Minacci thank his staff, Mr. Smith and Ms. Rudd, for their hard work.

Review and Approval of Meeting Minutes

March 30-31, 2005 St. Augustine, FL

May 5, 2005 Telephone Conference Call

June 1, 2005 Telephone Conference Call

June 28, 2005 Telephone Conference Call

August 30, 2005 Telephone Conference Call

September 26, 2005 Telephone Conference Call

November 29-30, 2005 Tallahassee, FL

January 17, 2006 Telephone Conference Call

Mr. Schreiber requested that the minutes reflect an excused absence for November 29-30, 2005. Mr. Gonzalez approved.

Motion: Ms. Del Bianco moved to approve the minutes as presented.

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

The meeting recessed at 4:28 p.m.

MINUTES

**Board of Architecture and Interior Design
Department of Business and Professional Regulation
Hampton Inn & Suites – Amelia Island
19 South Second Street
Fernandina Beach, FL 32034**

**February 24, 2006
9:00 a.m.**

General Business Meeting

Call to Order

Board Members Present:

Ellis Bullock
Neil Hall
Rick Gonzalez, Chair
Stephen Schreiber
Mary Jane Grigsby
Sharon Del Bianco
Roymi Membiela
Joyce Shore

Board Members Absent:

Garrick Gustafson, excused
Kenneth Horstmyer, excused
Miguel Rodriguez, recused

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Juanita Chastain, Executive Director
Terri Estes, Board staff
Emory Johnson
Trent Manausa
Randall Marks
Eric Latine
S. Marc Thee
William Lyle
Ron Dirsmith
John Barley

Court Reporter:

Richard Ballard, Statewide Reporting Service, 233 East Bay Street, Suite 606, Jacksonville, FL 32202. Telephone 904.353.7706, 904.583.0305. E-mail courtreport@bellsouth.net

Disciplinary Cases

Mr. Minacci requested that the following cases be handled as consent agenda items since the settlement stipulations presented reflected the probable cause panel's recommendations. He requested that Michael Prifti case number 2005-019346 be removed from the consent agenda since he complied with the Florida Building Code course requirement and paid the fine.

Settlement Stipulations

Licensed

DBPR vs. James Barretta

Case Number 2005-051676

PCP: Rodriguez, Wirtz, and Bullock

DBPR vs. Beasley & Henley Interior Design

Case Number 2004-057750

PCP: Rodriguez, Wirtz, Hall and Bullock

DBPR vs. Coastal Design of Citrus County

Case Number 2005-005846

PCP: Rodriguez, Wirtz, and Bullock

DBPR vs. Karen Palmer and Calvin Design Studios

Case Numbers 2004-022813 and 2004-022805

PCP: Rodriguez, Wirtz, and Bullock

DBPR vs. Randall Marks

Case Number 2003-081766

PCP: Rodriguez, Wirtz, Hall, and Schreiber

DBPR vs. Roy D. Murphy

Case Number 2004-045405

PCP: Rodriguez, Wirtz, and Schreiber

Unlicensed

DBPR vs. Perfect Piece

Case Number 2005-003425

PCP: Rodriguez, Wirtz, Schreiber and Bullock

Voluntary Relinquishments

DBPR vs. Carlos J. Albuerne
Case Number 2005-014906

DBPR vs. Tom R. Bissell
Case Number 2005-021142

DBPR vs. Elisa Brooks
Case Number 2005-016085

DBPR vs. Steven Brown
Case Number 2005-020881

DBPR vs. Linda A. Cohn
Case Number 2005-018782

DBPR vs. Steven C. Cox
Case Number 2005-020882

DBPR vs. Dorothy Ganem
Case Number 2005-015982

DBPR vs. Sallie E. Gipson
Case Number 2005-020580

DBPR vs. John R. Hardy
Case Number 2005-018224

DBPR vs. Elalhi Ishteeaque
Case Number 2005-016100

DBPR vs. Richard M. Kramer, Jr.
Case Number 2005-020233

DBPR vs. Myron A. Powell
Case Number 2005-019501

DBPR vs. Marylynne D. Roberts
Case Number 2005-019021

DBPR vs. Stan Seiple
Case Number 2005-020805

DBPR vs. Morris Simon
Case Number 2005-019499

DBPR vs. William Wells

Case Number 2005-021394

DBPR vs. Kelly Yarbrough
Case Number 2005-018561

DBPR vs. James P. Verkaik
Case Number 2005-017644

Motion: Mr. Bullock moved to approve the settlement stipulations and voluntary relinquishments on a consent agenda as presented.

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

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

Licensed

DBPR vs. Ron Dirsmith
Case Number 2005-020458

PCP: Rodriguez, Wirtz, and Schreiber

Mr. Dirsmith was present and sworn in by the court reporter. Ms. Clark commented that an administrative complaint was filed on September 21, 2005 and Mr. Dirsmith timely responded but did not dispute the allegations. She advised that Mr. Dirsmith has requested a hearing pursuant to Chapter 120.57(2), Florida Statutes.

Mr. Minacci commented that the case was based on the Florida Building Code course citations. He commented that a citation was issued to Mr. Dirsmith on May 18, 2005 which he disputed but took the required course. Mr. Minacci advised that Mr. Dirsmith appeared before the probable cause panel because he did not feel he should have to pay the fine. He commented that the panel found probable cause to file an administrative complaint and recommended that he pay the \$500 fine. He commented that Mr. Dirsmith responded to the administrative complaint by requesting a hearing before the board.

Mr. Dirsmith commented that he had been licensed architect for half century in Ohio and practiced in Florida since 1989. He commented that approximately four (4) year ago he received a telephone call from the department advising that they had no records of his continuing education. He commented that the he mailed his current continuing education log. He commented that he received his renewal notices annually but it was changed to bi-annually. He commented that every time he renewed his Florida license he provided a copy of his continuing education records.

Mr. Dirsmith commented that he never received any documentation or requests from the department reflecting that he was missing any continuing education requirements. He commented that he renewed his license in 2005 and then months later he received the citation. He commented that when he received the notification from Mr. Minacci regarding the Florida Building Code course he took the course immediately.

Mr. Dirsmith commented that he was concerned about this issue or case because it would go on his permanent record and he would have to report it every time he renewed his license. He commented that it was not fair because he was never given notice of the course requirement. He commented that the fine was not the issue but the blemish on his record.

Mr. Dirsmith commented that he was made aware that there was a malfunction with the reporting of the Florida Building Code course and felt that was relevant information because he never received notice of the requirement to take the course.

Mr. Minacci commented that he understood Mr. Dirsmith's position but the board issued 1,280 Florida Building Code course citations with a majority of those numbers now having blemishes on their record. He commented that the board would have to decide if it was fair to relieve Mr. Dirsmith of the requirement when others were not. Mr. Minacci commented that the noticing issue was raised numerous times from other licensees as a defense for not taking the course but it was the licensee's responsibility to know the laws and rules within the states that they practice. He commented that the department sent out at least two (2) notices, the Department of Community Affairs sent out a notice, and the issue was in the newsletters numerous times.

Mr. Hall commented that it bothered him to see a blemish on Mr. Dirsmith's record because he had never been disciplined in fifty (50) years. He requested that the board consider Mr. Dirsmith's comments.

Ms. Del Bianco commented that licensees were noticed about this issue on numerous occasions by letters and newsletters.

Mr. Dirsmith stated that he was very diligent on taking his continuing education and read every piece of paper sent by every board. He commented that he never received a document from the department regarding this requirement because he would have taken the course.

Mr. Gonzalez asked Mr. Dirsmith if he received the department's newsletters. Mr. Dirsmith replied in the negative. Mr. Dirsmith confirmed that he received his renewal notices and the citation from Mr. Minacci.

For Ms. Membiela's edification the board reviewed the different levels of discipline. Ms. Membiela requested that the board consider Mr. Dirsmith's situation because the case would have a greater impact on his unblemished license.

Mr. Dirsmith advised that he was recently elected to National Academy of Design. He commented that a colleague typed in his name on the internet and Mr. Minacci's name was now tied to his business and personal name due to the disciplinary issue. He commented that he would have to explain this issue to his friends and family and pleaded to the board to consider dismissing the case.

Ms. Del Bianco asked Ms. Clark if the board could dismiss the disciplinary case and return to a citation. Ms. Clark replied in the negative. She commented at this point the case was public record and it would not be taken down from the internet. She commented that the board could dismiss the administrative complaint and not impose a fine, or impose the administrative complaint and not impose a fine, or impose the administrative complaint and the fine. She commented that there was no avenue to return the case to a citation or a non-public case.

Mr. Gonzalez commented that it would not be fair to the other licensees that were disciplined on the same merits.

Motion: Mr. Hall moved to dismiss the case.

Second: Ms. Membiela seconded the motion.

The question was called with 2 in favor and 5 opposed. The motion failed.

Motion: Ms. Del Bianco moved to impose the probable cause panel's recommendation of a \$500 fine plus costs.

Second: Mr. Bullock seconded the motion, it passed with Mr. Hall and Ms. Membiela opposed.

Mr. Hall left the meeting.

Unlicensed

DBPR vs. Eric Latine

Case Number 2005-027478

PCP: Rodriguez, Wirtz, and Bullock

Mr. Latine was present and sworn in by the court reporter. Mr. Bullock was recused from the proceedings.

Ms. Clark commented that an administrative complaint was filed on December 5, 2005 and Mr. Latine timely requested a hearing pursuant Chapter 120.57(2), Florida Statutes hearing.

Mr. Minacci commented that the allegations were that the respondent contracted with First Southern Development Corporation to perform architectural services for a 24 unit condominium project. He commented that Mr. Latine invoiced for the company for architectural services in the amount of \$1,375.00 which he received payment. He commented that the respondent prepared a second invoice for architectural services in the amount of \$65,000.00.

Mr. Minacci advised that probable cause was found by the panel for the filing of two (2) count administrative complaint.

Mr. Latine commented that he was not practicing architecture nor had he ever practiced architecture. He commented that he had worked in the architecture business for the past sixteen (16) years and was currently Vice-President of an architectural firm in Sarasota.

Mr. Latine commented that the person that filed the complaint was a personal family member. He commented that he was not doing what was alleged.

Ms. Clark went through the facts alleged in the administrative complaint and provided a copy to Mr. Latine to determine if he was disputing the facts in paragraphs 1-10.

Mr. Latine commented that he was disputing the facts. Ms. Clark stated that the case would have to be heard by the Division of Administrative Hearings because he was disputing the facts.

Mr. Latine commented that he did not dispute the facts.

Mr. Gonzalez asked Mr. Latine if there was a contract between him and the development company. Mr. Latine replied in the negative and that the company was owned by his ex-brother-in-law. Mr. Gonzalez commented that Mr. Latine's invoices reflect that he offers architectural design services. Mr. Latine commented that he was not aware that the word "architectural" could not be used in an invoice form. He commented that he was acting more as an owner representative and performing design work.

Mr. Latine commented that he never presented himself as an architect and his ex-brother-in-law knew that he had worked in the architectural business or practice for a long time.

Mr. Minacci commented that Chapter 481, Florida Statutes defined architecture as the rendering or offering to render services in connection with the design and construction of a structure or a group of structures which have as their principle purpose human habitation. He commented that even if Mr. Latine removed the word "architectural services" from each invoice the services described in the invoices fall within the definition for architecture.

Mr. Schreiber commented that producing the invoices indicated that he was offering architectural services.

Mr. Gonzalez asked what his duties were with the company. Mr. Latine responded that he was responsible for all client relations and staffing productions.

Motion: Mr. Schreiber moved to accept the conclusions of law as presented.

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

Motion: Mr. Schreiber moved to accept the probable cause panel's recommendation of a \$10,000 fine plus \$216 costs.

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

Hearing on the Recommended Order and Respondent's Written Exceptions to the Recommended Order

Unlicensed

DBPR vs. W.R. "Buddy" Braren, III

Case Number 2004-043609

PCP: Rodriguez, Wirtz, and Hall

Mr. Braren was present and sworn in by the court reporter. Ms. Clark commented that she was legal counsel to the board and that Mr. Rodriguez, Mr. Wirtz, and Mr. Hall were recused from the proceedings.

Ms. Clark commented that the hearing was being held pursuant to Chapter 120.569 and 120.57(1), Florida Statutes and Chapter 28-5, Florida Administrative Code. She commented that the purpose of the proceeding was to review the recommended order issued by the Administrative Law Judge. She commented that no new evidence would be admitted and the board must confine their review to the recommended order and the record.

Ms. Clark advised that the board may adopt as their recommended order as its final order or they may reject any specific finding of fact or conclusion of law. She advised that the board may not reject any finding of fact unless they determine from a review of the complete record that the factual finding was not based on competent substantial evidence or that the proceedings upon which the findings of fact were made did not comply with the essential requirements of law.

Ms. Clark advised that the board could modify the conclusions of law and an interpretation of the rules of which it has substantive jurisdiction. She advised that when rejecting or modifying such conclusions of law or interpretation of an administrative rule the board must state with particularity the reasons for rejecting or modifying the conclusions of law or interpretation of an administrative rule and must make a finding that its substituted conclusion of law or interpretation of an administrative rule is as reasonable or more reasonable than that which was rejected or modified. She advised that the rejection or modification of the conclusions of law or interpretations of administrative rules may not form the basis for the rejection or modification of findings of facts. She advised that the board may not alter the recommended penalty without a complete review of the record and justifying the action by stating the particularity the reasons in doing so in the order and citing to the record to justify its actions.

Ms. Clark advised that the board should review and consider the entire record which consisted of the Administrative Law Judge's recommended order, Mr. Minacci's written exceptions to the recommended order, administrative complaint, Mr. Minacci's proposed recommended order, Mr. Braren's proposed recommended order, transcripts of the hearing, the transcript of Mr. Braren's deposition, the discovery, the election of rights, and the original notice of order to cease and desist. The board members were polled individually and Mr. Bullock was recused because he had not read the entire record.

Ms. Clark advised the board on how to proceed with the recommended order.

Mr. Minacci requested that the board refer to page 321 of the agenda materials which were his exceptions to the recommended order. He commented that his exceptions did not request that the board overturn any of the findings of fact in the recommended order. He commented that the Administrative Law Judge's findings of fact in and of themselves constitute a violation of Florida law even though he held differently.

Mr. Minacci commented that he was relying primarily on paragraph two (2) of the findings of fact which found that the respondent was not certified or registered to engage in the practice of architecture. He commented that paragraph four (4) of the findings of fact state that the respondent agreed to assist the church by preparing plans and paragraph five (5) states that the respondent prepared drawings consisting of eight (8) pages. He commented that the first two (2) pages were elevations, the third page was a floor plan, the fourth page concerned details, the fifth page was an electrical layout, the sixth page was the finishing floor, the seventh page were cross sections and partial left side, and the eighth page was a foundation plan. He commented that paragraph nine (9) states that the respondent received a donation of \$1,000 for his efforts.

Mr. Minacci commented that those were the findings of fact that he was relying on and his argument was that based on those facts Mr. Braren practiced architecture in Florida without a license. He requested that the board overturn the Administrative Law Judge's conclusion of law that those facts do not constitute a violation. He commented that the Administrative Law Judge found that the church was owned by a private voluntary membership and it was not a structure that would house a commercial venture.

Mr. Minacci referred the board to Chapter 481.229(1)(c), Florida Statutes and commented that he was assuming the Administrative Law Judge was basing his argument on that exception. He commented that the paragraph 1, c, states that any other type of building costing less than \$25,000, except a school, auditorium, or other building intended for public use. He commented that the less than \$25,000 exception does not apply to a building intended for public use. He commented that the Administrative Law Judge took a leap because the church was a private voluntary membership ownership and it was not a commercial building the building was not intended for public use.

Mr. Minacci advised that he argued and cited the public use definition in the Florida Building Code, the structure was defined as an assembly of occupancy, and he referenced the case DBPR vs. Lee Mabire. He commented that in the case of Lee Mabire the same argument by the respondent was made and the judge held that if the building or project in question would result in a structure open for general public to enter into then it was a public use for that structure or construction project. He commented in the present case a Florida licensed architect, Barry Wilson, testified at formal hearing that the building was intended for public use.

Mr. Braren commented that the issue was whether or not he practiced architecture. He commented that Mr. Wilson testified that it was common practice for church members to bring architects preliminary drawings. He commented that the drawings he provided were not complete and were preliminary drawings which the church was to take to the contractor, engineer, or architect. Mr. Braren commented that the complaint states that Mr. Wilson says that I said I could do the drawings because the building was under 5,000 square feet. He stated Mr. Wilson lied in his complaint because he never said that. He commented that Mr. Wilson lied about the fact that I told him I had completed five (5) other churches.

Ms. Clark advised the board that they could not consider any testimony that was contained in the record.

Motion: Ms. Del Bianco moved to accept the findings of fact as presented in the Division of Administrative Hearing's recommended order.

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

Mr. Minacci commented that the issue was the findings of facts found by the Administrative Law Judge whether the actions constitute the practice of architecture in Florida as found by the Administrative Law Judge.

Mr. Gonzalez commented that the church was a private structure but even in a private country club it was open to the public especially if it had an assembly component. Mr. Schreiber commented that the ownership had no bearing.

Paragraph 17, Division of Administrative Hearing's recommended order

Ms. Del Bianco commented that she did not see how a building consisting of 3,000-5,000 square feet could be built for less than \$25,000.

Mr. Minacci commented that the issue of the cost was irrelevant because Chapter 481.229(1)(c), Florida Statute makes an exception for schools, auditoriums, or other buildings intended for public use. He commented that the building was intended for public use. Mr. Schreiber commented that the out of pocket cost was irrelevant because building officials base the structure on value.

Motion: Mr. Schreiber moved to reject the conclusion of law stated in paragraph 17 of the Division of Administrative Hearing's recommended order, because under Chapter 481.229(1)(c), Florida Statutes makes an exception to schools, auditoriums, and other buildings intended for public use and a church was clearly intended for public use. Furthermore the out of pocket cost was irrelevant because cost would be based on the fair market value of the structure. The substituted conclusion of law would be that this is the practice of architecture because of **previous discussions (Steve or Mary Ellen, I could not understand what he said and this was the best guess, from your recollection is this close?)** and this is the more reasonable conclusion of law than the one presented by the Administrative Law Judge.

Second: Ms. Del Bianco seconded the motion and passed unanimously.

Paragraph 18, Division of Administrative Hearing's recommended order

Ms. Clark commented that the conclusion of law in paragraph 18 was who submitted the plans for building permit was not the determinative of the nature of the project in question. She commented that the unstated conclusion was that the nature of the project in question was the construction of a building intended for public use although it doesn't expressly state that. She commented that what is stated is that it doesn't matter who submitted for or sought the building or construction permit for the project.

Mr. Minacci commented that whether a commercial building permit was issued or not was irrelevant because the issue was whether the building was intended for public use. He commented that the fact that a commercial permit was issued would lead to a conclusion that the building was intended for public use.

Mr. Gonzalez asked how a building permit could be issued without the proper drawings being reviewed by an architect, engineer, etc. Mr. Minacci replied that he wrote the county that issued the permit and they responded by apologizing for the mistake.

Mr. Minacci commented that the issue was whether the building was for public use not whether the commercial building permit was issued. Mr. Gonzalez commented that the issue was not that an architect filed the complaint.

Mr. Manausa commented that he interpreted that the judge determined just because the county said it was a commercial permit didn't mean the building was for public use. He commented that he felt the judge was wrong in his assumption and that justified that the building was for public use because the county authorities said it was through the permit. Ms. Clark commented that she agreed with Mr. Manausa. She commented that the nature of the permit was commercial and that it was issued to someone other than Mr. Braren which was a reflection on the type of project.

Motion: Mr. Schreiber moved to reject the conclusion of law stated in paragraph 18, because it was not under the board's purview to consider who issues the building permit but the board could make evaluations of the practice of architecture and the fact that the local county government issued a commercial building permit supports previous statements that it was a public building. Furthermore the substituted conclusion of law is more reasonable than the one presented by the Administrative Law Judge.

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

Paragraph 19, Division of Administrative Hearing's recommended order

Mr. Minacci commented that he met the burden of proof and that Mr. Braren practiced architecture in Florida.

Motion: Mr. Schreiber moved to reject the conclusion of law in paragraph 19 because the petitioner did meet the burden of proof for previous stated reasons and the substituted conclusions of law is more reasonable than the one presented by the Administrative Law Judge.

Second: Ms. Del Bianco seconded the motion and passed unanimously.

Mr. Braren had no further comments.

Ms. Clark advised the board that they would need to proceed with the conclusions of law noted in paragraphs 12 through 16 of the Division of Administrative Hearing's recommended order.

Motion: Ms. Del Bianco moved to accept the conclusions of laws as noted in paragraphs 12 through 16 as found in the Division of Administrative Hearing's recommended order.

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

Ms. Clark advised that the recommended order contained a recommendation that the administrative complaint be dismissed with no penalty assessed. She advised that the board found that a violation occurred by rejecting certain conclusions of law and may impose a penalty in correspondence to the violation.

Mr. Minacci requested that the board impose the probable cause panel's recommendation of a \$5,000 fine plus \$949.80 costs.

Motion: Ms. Membiela moved to accept the panel's recommendation

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

Mr. Braren asked when he would go to court. Ms. Clark replied that he would receive a final order regarding the matter explaining his appellate rights.

Settlement Stipulation

Licensed

DBPR vs. Michael Abbott and Marc-Michaels Interior Design

Case Number 2004-057801

PCP: Rodriguez, Wirtz, and Schreiber

Mr. Stanley Marc Thee was present, sworn in by the court reporter and was not represented by counsel. Mr. Schreiber was recused from the proceedings.

Ms. Clark advised Mr. Thee that he was not able to represent Mr. Abbott since he was not an attorney or his qualified representative. Mr. Thee commented that he was the licensed qualifier for Marc-Michaels Interior Design. He commented that he and Mr. Abbott could not figure out why Mr. Abbott's name was on the case because he was not licensed.

Mr. Minacci commented that the administrative complaint only reflected Marc-Michael Interior Design. He commented that Michael Abbott was not a party to proceeding.

Mr. Minacci commented that the respondent was a licensed interior design firm and not licensed to practice architecture. He commented that the firm offered architectural detailing in an advertisement. He commented that the probable cause panel recommended that a three count administrative complaint be filed and \$10,000 fine plus costs be imposed.

Mr. Minacci advised that the settlement stipulation presented reflected a \$5,000 fine plus costs.

Mr. Thee addressed the board and took the complaint very seriously. He commented that he was using architectural as a verb for detailing and has since learned that was not board approved. He commented that neither of the owners received the cease and issued notice that was issued. He commented that they removed all reference to architectural from their stationery, business cards, etc. He commented that a reoccurring advertisement was missed. He commented that he took full responsibility for the oversight and did not take it lightly.

Mr. Thee commented that they were trying to do everything he knew to do to correct the issue and requested that the fine be dismissed. He commented that he understood the spirit of the board and applauded its efforts.

Ms. Grigsby commented that there were a lot of interior designers using the word "architectural" as a verb. She commented that this was a problem out in the field and the board should provide some outreach to educate the licensed individuals.

Ms. Del Bianco commented that the items the firm offered to perform as architectural detailing were all interior design in nature.

Motion: Ms. Del Bianco moved to reject the settlement stipulation as presented and offered a counter stipulation for a fine in the amount of \$2,500 fine plus costs.

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

Mr. Thee accepted the counter stipulation.

Recessed at 10:26 a.m.

Meeting back to order at 10:45 a.m.

Petition for Declaratory Statement

Barley Consulting Group, LLC

Mr. Barley was present, sworn in by the court reporter and represented by John Sefton.

Mr. Bullock requested to be recused because he did not feel he could be fair or impartial.

Ms. Clark commented that the petition for declaratory statement was regarding performing building inspections services pursuant to Chapter 468.603(6), Florida Statutes as a private

provider under Chapter 553.791(1)(g), Florida Statutes by a business whose manager or general partner is a licensed architect who supervises the building code inspection services is not required to obtain a certificate of authorization pursuant to Chapter 481, Florida Statutes.

Mr. Sefton commented that they filed the petition on behalf of Barley Consulting Group, LLC which formed for the sole purposes of performing building code inspection services pursuant to Chapter 468.603(3) and 553.791(1)(g), Florida Statutes. He commented that with the exception of the limited building code inspection services the firm does nothing under the purview of the architectural services. He commented that they are not performing architectural services since building code inspection services are limited and does not review independent architectural designs.

Mr. Sefton commented that the issue was there were a series of statutes that were confusing. He commented that Chapter 553 implies that an architecture certificate of authorization might be necessary but mandates the involvement of a licensed architect. He commented that all of the firm's services are supervised by Mr. Barley as a Florida licensed architect. He commented that services rendered are not architectural and if the board ruled that they were the firm would suffer ramifications.

Mr. Sefton commented that the City of Jacksonville has taken the position that Barley Consulting Group LLC must have a certificate of authorization and if that was the board's position then they would proceed with the application for certificate of authorization.

Mr. Sefton commented that if the board ruled that a certificate of authorization was required the disadvantage was the cost of insurance errors and omission malpractice was much higher.

Mr. Sefton requested that the board rule that a certificate of authorization was not required. He offered an alternate solution that a limited certificate of authorization for these types of services be issued if the statutes allowed.

William L. Lyle, Architect was present, sworn in by the court reporter, and represented the City of Jacksonville Building Department and was the Plans Examiner Supervisor in the Building Inspections Office.

Mr. Lyle commented that he was a licensed architect and he was familiar with the architect and engineer laws and rules as well as the Florida Building Code. He commented that the Building Commission ruled to be a private provider an individual must be a registered architect or engineer which was plans examination and building inspections. He commented that you can't provide the private provider services without being an architect or engineer. He commented that Barley Consulting Group LLC was formed to provide private services and the City feels they should have a certificate of authorization.

Ms. Clark commented the board should determine whether the petitioner made a proper request over which they have jurisdiction. She advised the board that they could determine

in the affirmative that in order to provide private inspection services businesses are required to obtain a certificate of authorization or not.

Ms. Clark commented that the petitioner recognizes that the definition of architecture includes job site inspection. She commented that the petitioner requests or mentions the option of a more limited certificate of authorization which she does not find authority for that. She advised that the statutes allow for a certificate of authorization for practicing architecture through a business.

Mr. Gonzalez asked the petitioner why they did not want to obtain a certificate of authorization. Sefton replied that that was an economic issue because other professionals that provide similar services, not architecture, would not be required to obtain malpractice insurance.

Mr. Sefton commented that Ms. Clark pointed out that inspection services could be part of the practice of architecture but standing alone it is was not. Mr. Barley commented that he is called upon to be an expert witness. He commented that the definition of architecture design and construction of buildings for human habitation and the other items are tasks allied to performing that service. He commented that in the context of the definition inspection services are not code enforcement inspections. He commented that they had to narrowly define what services they were performing for insurance purposes because the service was so new that they did not understand what was being performed. He commented that they had to sign an affidavit for the insurance company that they were not performing design and construction.

Mr. Lyle commented that the Building Commission created new rules regarding liability insurance which Mr. Barley has met. He commented that Mr. Barley had met all of the qualifications for private provider services with the exception of the certificate of authorization.

Mr. Schreiber commented that Mr. Barley's architecture license under Chapter 481, Florida Statutes allowed him to be the private provider of inspection services and felt it was logical that this firm should be licensed with a certificate of authorization. Ms. Del Bianco agreed.

Mr. Manausa commented that advertisements for these services were for an architect or engineer to respond. He commented that if the corporation is responding to the advertisements then the corporation should be licensed pursuant to the laws that the individual was licensed. Mr. Gonzalez commented that more and more building departments were opting for the private provider services.

Mr. Manausa commented that since the board was requesting legislative language for construction administration he would recommend that the board require the certificate of authorization.

Mr. Gonzalez recommended that Mr. Barley use his personal name and not offer the services through a business name.

Mr. Lyle commented that the City of Jacksonville had a half dozen or so architect and engineering firms that offer the services and they all have obtained certificate of authorizations. Mr. Gonzalez commented that there were a lot of businesses in South Florida that did not offer the private inspection services because of the cost of the insurance.

Mr. Barley commented that this was a legal definition that would play out in the courts. He commented that there was a grey area in the practice act regarding this issue. He commented that the board should amend the definition to avoid conflicting statutes.

Ms. Clark commented that the statute could only be changed by the Legislature. Mr. Gonzalez asked if Mr. Barley had brought the issue to the attention of Florida AIA. Mr. Barley replied in the positive.

Motion: Mr. Schreiber moved that an architect offering private provider inspection services pursuant to Chapter 553.791(1)(g), Florida Statutes through a corporation does require a certificate of authorization for the corporation pursuant to Chapter 481, Florida Statutes.

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

Motion for Order Waiving Formal Hearing

Licensed

DBPR vs. Lawrence M. Dixon

Case Number 2004-055332

PCP: Rodriguez and Schreiber

No one was present. Mr. Schreiber was recused. Ms. Clark commented that an administrative complaint was filed on June 7, 2005 and was properly served via certified mail on June 8, 2005 as shown in the agenda materials. She commented that there had been no response from the respondent.

Motion: Mr. Bullock moved to adopt the findings of fact and conclusions of law as found in the administrative complaint and that the respondent was properly served and waived his 21 day response for hearing rights.

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

Mr. Minacci presented the case and commented that the administrative complaint was filed due to the respondent failing to comply with a final order which required payment of \$7,642 in fines plus costs. He commented that the one (1) count administrative complaint and the probable cause panel recommended suspension of the license until compliance plus additional costs.

Motion: Mr. Bullock moved to accept the probable cause recommendation.

Second: Ms. Grigsby seconded the motion.

Mr. Gonzalez asked why the license was not being recommended for revocation instead of suspension since the case was over two (2) years old. Mr. Minacci replied that the recommendation was from the probable cause panel. Ms. Clark suggested that an indefinite suspension would be problematic and recommended that they could suspend until there was a failure to renew the license or revoke the license. Mr. Minacci commented that he would not have a problem with revoking a license due to failure to comply with a final order of the board.

Motion: Mr. Bullock moved to amend the motion and revoke the license due to the fact that the prior fine and costs were outstanding and imposed additional costs of the current investigation.

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

Unlicensed

DBPR vs. Carlos Dacosta

Case Number 2004-044148 and 2004-059435

PCP: Rodriguez, Wirtz, and Schreiber

No one was present. Mr. Schreiber was recused. Ms. Clark commented that an administrative complaint was filed June 7, 2005, personal service of the complaint failed, and service was achieved by publication October 6, 13, 20, and 27, 2005 in Miami Daily Business Review as found in the agenda materials. She commented that the respondent had failed to respond within 21 days of the publication.

Motion: Ms. Del Bianco moved that the respondent waived his hearing rights and adopt the findings of fact and conclusions of law as presented in the administrative complaint.

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

Mr. Minacci advised that the probable cause panel recommended a \$15,000 fine plus costs for the three (3) count administrative complaint.

Motion: Mr. Bullock moved to accept the probable cause panel's recommendation.

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

Mr. Gonzalez requested that a press release be published in the Miami area and refer the case to the construction board.

DBPR vs. Stacey Goldman

Case Number 2004-002097

PCP: Rodriguez, Wirtz, Bullock, and Schreiber

No one was present and a letter was presented for the board to review. Mr. Minacci commented that the letter requested a continuance.

Motion: Ms. Membiela moved to postpone the case until the next meeting.

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

DBPR vs. Christine Seoane

Case Number 2004-037290

PCP: Rodriguez, Wirtz, Schreiber and Hall

No one was present. Mr. Schreiber was recused. Ms. Clark commented that an administrative complaint was filed June 7, 2005 and personal service was achieved August 26, 2005 as presented in the agenda materials. She commented that the respondent had failed to respond within 21 days of receipt of the administrative complaint.

Motion: Ms. Del Bianco moved that the respondent waived her hearing rights and to adopt the findings of fact and conclusion of law as found in the administrative complaint.

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

Mr. Gonzalez requested that a press release be published in Lakeland and Miami.

Mr. Minacci advised that the probable cause panel recommended a \$5,000 fine plus costs.

Motion: Ms. Membiela moved to impose the probable cause panel's recommendation.

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

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

Licensed

DBPR vs. Mary Marsh Lasseter

Case Number 2005-027029

PCP: Rodriguez, Wirtz, and Schreiber

No one was present. Ms. Clark commented that an administrative complaint was filed on January 25, 2006 and Ms. Lasseter timely responded to the complaint requesting a hearing pursuant to Chapter 120.57(2), Florida Statutes in which she does not dispute the material of facts as presented in the complaint.

Mr. Minacci commented that Ms. Lasseter waived her right to object or be heard regarding the matter. He commented that the case was regarding plans that were rejected by the Sarasota Building Department and prepared by an engineer. He commented that the respondent took the plans, making no revision, and signed and sealed the drawings. He commented that the respondent placed a sticker over the engineer's title block information.

Mr. Minacci commented that the probable cause panel found to file a two (2) count administrative complaint and impose a reprimand and \$2,000 fine plus costs.

Mr. Gonzalez commended Sarasota County Building Department for their work and referring cases.

Motion: Ms. Bullock moved to accept the findings of fact and conclusions of law as found in the administrative complaint.

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

Motion: Mr. Bullock moved to accept the probable cause panel's recommendation.

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

The board requested that this case be referred to the Board of Engineers.

Unlicensed

DBPR vs. Thomas Kensler

Case Number 2005-024173

PCP: Rodriguez, Wirtz, and Schreiber

No one was present. Mr. Schreiber was recused. Ms. Clark commented that an administrative complaint was filed September 22, 2005 and Mr. Kensler timely responded to the complaint and requested a hearing pursuant to Chapter 120.57(2), Florida Statutes in which he does not dispute the material of facts alleged in the administrative complaint.

Ms. Del Bianco commented that he was licensed and fell on some hardships and allowed his license to lapse. Mr. Minacci confirmed that Mr. Kensler was an older gentleman that had some personal and financial hardships and at the time he signed and sealed the plans in question he had the credentials to be a licensed architect. Mr. Minacci commented that he encouraged Mr. Kensler to appear before the board so the board would understand the extent of the hardships he had faced. He commented that due to the hardships he hoped the board would consider reducing the recommended penalty.

Mr. Minacci commented that the probable cause panel recommended a \$10,000 fine plus costs. Mr. Manausa commented that this should not be considered as a true unlicensed activity case.

Motion: Ms. Membiela moved to impose a \$500 fine plus costs.

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

DBPR vs. Michael Philpot and ArchCadd Design

Case Number 2004-044051

PCP: Rodriguez, Wirtz, and Schreiber

No one was present but a letter was presented requesting a continuance.

Motion: Ms. Del Bianco moved to continue to the next board meeting with no other continuances allowed.

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

Mr. Minacci requested that

DBPR vs. Roberto J. Sarabia

Case Number 2004-026225

PCP: Rodriguez, Wirtz, and Schreiber

No one was present. Mr. Schreiber was recused. Ms. Clark commented that an administrative complaint was filed August 5, 2005, personal service failed, and the complaint was served via publication in the Miami Daily Business Review on November 4, 11, 18, and 25, 2005 as shown in the agenda materials.

Motion: Ms. Del Bianco moved that the respondent waived his rights to dispute the material of facts alleged in the administrative complaint and adopted the findings of fact and conclusions of law as presented in the administrative complaint.

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

Mr. Gonzalez commented that Mr. Sarabia's contract reflects an AIA affiliation. Mr. Minacci commented that there are individuals that feel they can hold themselves out as an architect because they are or were licensed in other states or countries.

Ms. Membiela requested that the press releases be published in Spanish as well.

Motion: Ms. Membiela moved to impose the probable cause panel's recommendation of a \$10,000 plus costs.

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

Settlement Stipulation

Unlicensed

DBPR vs. John W. Burt

Case Number 2005-011590

PCP: Rodriguez, Wirtz, and Bullock

No one was present. Mr. Bullock was recused. Mr. Minacci commented that the respondent entered into a contract to offer architectural services on a business card and he is licensed in Indiana but not Florida. He commented that probable cause was found to file a one count administrative complaint and the probable cause panel recommended that a \$5,000 fine plus costs.

Mr. Minacci advised that the settlement stipulation reflected a \$2,500 fine plus costs.

Motion: Ms. Membiela moved to accept the settlement stipulation as presented.

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

DBPR vs. Robert D. Carter

Case Number 2004-051378

PCP: Rodriguez, Wirtz, and Schreiber

No one was present. Mr. Schreiber was recused. Mr. Minacci commented that the respondent prepared a proposal to offer architectural services for a church project which specifically stated the architect would provide architectural construction drawings. He commented that probable cause was found to file a three count administrative complaint and the probable cause panel recommended that a \$15,000 fine plus costs be imposed.

Mr. Minacci advised that the settlement stipulation reflected a \$7,500 fine plus costs. He commented that he did not feel the board would have any future problems with the respondent or the firm.

Motion: Mr. Bullock moved to accept the settlement stipulation as presented.
Second: Ms. Membiela seconded the motion and it passed unanimously.

DBPR vs. Robert Thomas and Concise Designs
Case Number 2004-016482

PCP: Rodriguez, Wirtz, and Hall

No one was present. Mr. Minacci commented that the respondent is unlicensed and claims to hold two degrees in architecture and is taking the ARE. He commented that the respondent offered architecture and interior design services for a residential project. He commented that probable cause was found to file a two count administrative complaint and the probable cause panel recommended that a \$10,000 fine plus costs be imposed.

Mr. Minacci advised that the settlement stipulation reflected a \$5,000 fine plus costs.

Motion: Ms. Membiela moved to accept the settlement stipulation as presented.
Second: Mr. Bullock seconded the motion and it passed unanimously.

DBPR vs. James Taylor and Design West Associates
Case Numbers 2003-065572 and 2003-065576

PCP: Rodriguez, Wirtz, and Hall

No one was present. Mr. Minacci commented that the respondent contracted to provide architectural services on a commercial project, the respondent held himself out as an architect and the firm did not hold a certificate of authorization. He commented that probable cause was found to file a three count administrative complaint and the probable cause panel recommended a \$15,000 fine plus costs be imposed.

Mr. Minacci advised that the settlement stipulation reflected \$7,500 fine plus costs.

Motion: Mr. Bullock moved to accept settlement stipulation as presented.
Second: Ms. Membiela seconded the motion and it passed unanimously.

New Business

No new business.

Old Business

No old business.

Mr. Lyle commented that the engineers and architects should get together and define what they can or cannot do because engineers practice architecture a lot. Mr. Gonzalez requested that Mr. Minacci send a thank you letter to the building departments when complaints are filed. Mr. Minacci advised that they send responses and thank you letters.

Adjourn

The meeting adjourned at 11:50 a.m.