

MINUTES

**Board of Architecture and Interior Design
Hyatt Regency Jacksonville-Riverfront
225 East Coastline Drive
Jacksonville, Florida 32202
904.588.1234**

January 27, 2017

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

Call to Order

Mr. Toppe, Chair, called the meeting to order at 9:09 a.m. and a quorum was established.

Board Members Present:

John Ehrig
Jonathan Toppe, Chair
Miguel Rodriguez
Francisco Costoya
James Blanz
Dylan Rivers
Kenan Fishburne
Aida Bao-Garciga, Vice-Chair
Holly Dennis

Board Members Absent:

Hector Fernandez, excused
Ivette O'Doski, excused

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Krista B. Woodard, Executive Director
Terri McEwen, Government Analyst
Guillermo Lugones
James Ervin
Michael Wirtz
Trent Manausa
Orlando Castro
Vicki Long, AIA Florida

Stephen Panzarino, AIA Florida
David Roberts
Douglas Feldman
Kimberly Headland, AIA Florida
Other interested parties

Court Reporter: Lalonda Jackson, President, FPR, Precision Court Reporting, LLC, 4600 Touchton Road, Building 100, Suite 150, Jacksonville, Florida 32246. Telephone (904) 629-5310

Board approval - Krista B. Woodard as Executive Director

Motion: Mr. Rodriguez moved that the board approve Ms. Woodard as Executive Director for the Board of Architecture and Interior Design.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Disciplinary Cases

Settlement Stipulations - It is requested that those cases in which the Settlement Stipulation follows the Probable Cause Panel recommendation be placed on a consent agenda. Such cases are marked with an asterisk.

Mr. Toppe was recused from the review of the cases due to his participation on the Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing.

Licensed

DBPR vs. Raul A. Alvarez *
Case Number 2015-050254
PCP: Hall, Smith, and Toppe
Settlement Stipulation: Reprimand, \$2,500.00 fine plus costs, two years probation

DBPR vs. Tony L. Benton *
Case Number 2015-051001
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Bobby Wayne Bishop *
Case Number 2016-009245
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$250.00 fine plus costs, 9 hours of continuing education w/i 90 days

DBPR vs. Dava Bronstein *
Case Number 2016-007858
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$250.00 fine plus costs, 7 hours of continuing education w/i 90 days

DBPR vs. Jorge L. Estevanez *
Case Number 2016-007983
PCP: Hall, Smith, Toppe
Settlement Stipulation: \$500.00 fine plus costs, 21 hours of continuing education w/i 120 days

DBPR vs. Michael Gargano *
Case Number 2016-007945
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$250.00 fine plus costs, 11 hours of continuing education w/i 90 days

DBPR vs. William Charles Hezmalhalch *
Case Number 2015-047248
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Daryl L. LeBlanc *
Case Number 2016-007957
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$500.00 fine plus costs, 19 hours of continuing education w/i 120 days

DBPR vs. Pedro Perez *
Case Number 2015-047275
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Julie Anne Petersen *
Case Number 2016-020260
PCP: Hall, Smith, and Toppe
Settlement Stipulation: \$500.00 fine plus costs, 16 hours of continuing education w/i 120 days

DBPR vs. M. Herbert Staruch *
Case Number 2015-047265
PCP: Hall, Smith, and Toppe

Settlement Stipulation: \$750.00 fine plus costs, 31 hours of continuing education w/i 150 days

DBPR vs. Sam L. Vincent *

Case Number 2015-051052

PCP: Hall, Smith, and Toppe

Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Gary Watkins *

Case Number 2016-009340

PCP: Hall, Smith, and Toppe

Settlement Stipulation: \$500.00 fine plus costs, 23 hours of continuing education w/i 120 days

DBPR vs. Kevin Michael Williams *

Case Number 2016-007877

PCP: Hall, Smith, and Toppe

Settlement Stipulation: \$250.00 fine plus costs, 11.5 hours of continuing education w/i 90 days

Motion: Mr. Rodriguez moved that the board approve the settlement stipulations as presented.

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

Mr. Rivers and Mr. Ehrig were recused from the following cases due their participation on the Probable Cause Panel.

DBPR vs. Charles Hailey, II *

Case Number 2015-047247

PCP: Hall, Shore, Ehrig, and Rivers

Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Anthony Leon *

Case Number 2015-047258

PCP: Hall, Shore, Ehrig, and Rivers

Settlement Stipulation: Costs, 48 hours of continuing education, suspension until compliance

DBPR vs. Daniel J. Lickel *

Case Number 2015-047260

PCP: Hall, Shore, Ehrig, and Rivers

Settlement Stipulation: \$750.00 fine plus costs, 32 hours of continuing education w/i 150 days

DBPR vs. Marco Aurelio Orlando *

Case Number 2015-047263

PCP: Hall, Shore, Ehrig, and Rivers

Settlement Stipulation: \$1,000.00 fine plus costs, 48 hours of continuing education, suspension until compliance

Motion: Mr. Rodriguez moved that the board approve the settlement stipulations as presented.

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

Motion for Final Order Waiving Formal Hearing

Licensed

DBPR vs. Guillermo A. Lugones

Case Number 2016-020262

PCP: Hall, Smith, and Toppe

Mr. Lugones was present and sworn in by the court reporter. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a one count administrative complaint for failing to perform a statutory obligation. The administrative complaint was served by certified mail at the respondent's last known address on December 6, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended a \$1,000.00 fine plus costs, 48 hours of continuing education, and suspension until compliance.

Mr. Lugones commented that the wrong license number was on the investigative report. After review and discussion the following motion was made.

Motion: Mr. Rodriguez moved to continue the case.

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

Ms. Bao-Garciga advised that she knew Mr. Lugones but was able to be fair and impartial with the review of the case.

DBPR vs. James R. Ervin

Case Number 2015-045911

PCP: Hall, Shore, and Toppe

Mr. Ervin was present and sworn in by the court reporter. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a two count administrative complaint for signing and sealing

plans that were not sufficiently detailed and a title block violation. The administrative complaint was served by certified mail at the respondent's last known address on December 3, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended a \$5,000.00 fine plus costs, two years probation, and one year suspension.

Mr. Ervin disputed the facts of the case. After discussion, the case was referred to the Division of Administrative Hearings.

Petition for Variance of Rule 61G1-14.001, Florida Administrative Code (F.A.C.)

Orlando Castro – petition review

Mr. Castro was present and sworn in by the court reporter. Mr. Castro filed a petition for a permanent variance of Rule 61G1-14.001, Florida Administrative Code on December 23, 2016. The rule outlines the required examination for licensure.

Mr. Castro applied for licensure by the National Council of Architectural Registration Boards (NCARB) Endorsement route per Section 481.213(3) (c), Florida Statutes. Mr. Castro did not take and pass the prescribed licensure examination as required by board rule; however, he took and passed the prescribed examination through the dossier review process administered by NCARB pursuant to the Broadly Experience Foreign Architects (BEFA) certification and a Colombian architectural examination.

Mr. Castro holds a Bachelor of Architecture from the Universidad La Gran Colombia, is licensed in Colombia and the United States; the state of Georgia, where they determined his credentials, including the examination, as substantially equivalent for licensure, and he has met the rigorous review for NCARB certification.

Mr. Castro seeks a permanent variance from the requirement of Rule 61G1-14.001, F.A.C. based on the examinations he has passed, his education, his extensive experience, and his licensure in the United States and Colombia.

After reviewing Mr. Castro's credentials the board determined that he met the minimum level of competency and standards which meets the Legislative intent to protect the public's health, safety, and welfare. After board review and discussion the following motion was made.

Motion: Mr. Ehrig moved that the board grant the variance of the examination requirement outlined in Rule 61G1-14.001, F.A.C., that

Mr. Castro has met the intent of the underlying statute through the NCARB BEFA certification process and through his education and experience he met the examination requirement by other means, that requiring him to take any further examinations would be a substantial hardship as defined in Section 120.542(2), Florida Statutes.

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

Orlando Castro - application review

Motion: Mr. Ehrig moved that the board approve Mr. Castro's application for licensure.

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

Motion for Final Order Waiving Formal Hearing

Licensed

DPBR vs. E. Dean Bolaris

Case Number 2015-049072

PCP: Hall, Shore, and Toppe

Mr. Bolaris was not present or represented by counsel. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a three count administrative complaint for signing and sealing plans that were not sufficiently detailed, misconduct in the practice of architecture, and failure to perform a legal obligation. The administrative complaint was served by certified mail at the respondent's last known address. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended a \$2,000 fine plus costs and two years reporting probation. After review and discussion the following motions were made.

Motion: Mr. Ehrig moved that the board finds that the administrative complaint was properly served upon the respondent and the respondent waived the right to dispute the material facts by failure to timely respond thereto and moved that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint

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

Motion: Mr. Costoya moved that the board impose a \$2,000 fine plus costs and two years reporting probation.

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

DBPR vs. Ida Sarah Goldstein
Case Number 2015-053445
PCP: Hall, Shore, Ehrig, and Rivers

Ms. Goldstein was not present or represented by counsel. The case was before the board based on a one count administrative complaint for failing to comply with a lawful order of the board. The administrative complaint was served by certified mail at the respondent's last known address on May 31, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended that the license be revoked. After review and discussion the following motions were made.

Motion: Mr. Rodriguez moved that the board finds that the administrative complaint was properly served upon the respondent and the respondent waived the right to dispute the material facts by failure to timely respond thereto and moved that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint

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

Motion: Mr. Costoya moved that the board revoke the license.

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

DBPR vs. Innovative Interiors, Inc.
Case Number 2015-055487
PCP: Hall, Shore, and Toppe

The respondent was not present or represented by counsel. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a one count administrative complaint for failing to comply with a lawful order of the board. The administrative complaint was served by certified mail at the respondent's last known address on December 2, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended that the license be revoked. After review and discussion the following motions were made.

Motion: Mr. Costoya moved that the board finds that the administrative complaint was properly served upon the respondent and the respondent waived the right to dispute the material facts by failure to timely respond thereto and moved that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint

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

Motion: Mr. Costoya moved that the board revoke the license.
Second: Mr. Rodriguez seconded the motion and it passed unanimously.

DBPR vs. Brice J. Lambrix
Case Number 2015-053497

PCP: Hall, Shore, Ehrig, and Rivers

Mr. Lambrix was not present or represented by counsel. The case was before the board based on a one count administrative complaint for failing to comply with a lawful order of the board. The administrative complaint was served by certified mail at the respondent's last known address June 7, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended that the license be revoked. After review and discussion the following motions were made.

Motion: Mr. Rodriguez moved that the board finds that the administrative complaint was properly served upon the respondent and the respondent waived the right to dispute the material facts by failure to timely respond thereto and moved that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Motion: Mr. Rodriguez moved that the board revoke the license.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

DBPR vs. Donald P. Senatore
Case Number 2015-031077

PCP: Hall, Smith, and Toppe

Mr. Senatore was not present or represented by counsel. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a one count administrative complaint for failing to comply with a lawful order of the board. The administrative complaint was served by certified mail at the respondent's last known address on December 5, 2016. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended that the license be revoked. After discussion the following motions were made.

Motion: Mr. Costoya moved that the board finds that the administrative complaint was properly served upon the respondent and the respondent waived the right to dispute the material facts by failure to timely respond thereto and moved that the board adopts the

findings of fact and conclusions of law as set forth in the administrative complaint

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

Motion: Mr. Costoya moved that the board revoke the license.

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

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

DBPR vs. Dorothy De Saulnier

Case Number 2015-035015

PCP: Hall, Smith, and Toppe

Ms. De Saulnier was not present or represented by counsel. Mr. Toppe was recused from the review of the case due to his participation on Probable Cause Panel. Ms. Bao-Garciga, Vice-Chair, conducted the hearing. The case was before the board based on a two count administrative complaint for aiding unlicensed activity and failing to perform a statutory obligation. Ms. De Saulnier responded to the administrative complaint and did not dispute the facts.

The Probable Cause Panel recommended \$2,500 fine plus costs and two years probation. After discussion the following motions were made.

Motion: Mr. Rodriguez moved that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint.

Second: Mr. Costoya seconded the motion and it passed with Mr. Ehrig opposed.

Motion: Mr. Costoya moved that the board impose \$750.00 costs.

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

Voluntary Relinquishment

DBPR vs. Christian Crookless

Case Numbers 2005-015113 and 2005-065592

Mr. Minacci pulled this case.

DBPR vs. Peter W. Thomas

Case Number 2016-007722

Ms. Bao-Garciga, Vice-Chair, conducted the hearing.

Motion: Mr. Costoya moved that the board approve the voluntary relinquishment as presented.

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

Offer to Settle Final Order

Unlicensed

DBPR vs. Archidesign, Inc. and Humberto A. Acosta, Jr.

Case Number 2011-045532

PCP: Hall, Shore, Costoya

Mr. Costoya was recused from the review of the case due to his participation on Probable Cause Panel. The case was before the board based on a final order entered in 2014 for unlicensed activity. The Probable Cause Panel entered an order in the amount of \$10,000 fine plus costs. The respondent did not pay and the case went to Circuit Court. The respondent offered to pay \$3,000 to resolve the case.

Motion: Mr. Rodriguez moved that the board accept the settlement.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Application Review

David Arthur Adelhardt

Mr. Adelhardt requested that the application review be continued to the next available meeting.

Review and Approval of Meeting Minutes

November 17, 2016 – General Business, St. Petersburg, Florida

Motion: Mr. Rodriguez moved that the board approve the November 17, 2016 meeting minutes as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

November 18, 2016 – Probable Cause Panel, St. Petersburg, Florida

Motion: Mr. Rodriguez moved that the board approve the November 18, 2016 meeting minutes as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

November 30, 2016 – General Business, Telephone Conference Call

Motion: Mr. Rodriguez moved that the board approve the November 30, 2016 meeting minutes as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Ratification Lists

Licensure

Architecture Licensure by Examination, Architecture Licensure by NCARB Exam, Architecture Licensure by NCARB Endorsement, Architecture Licensure by State Endorsement, Architecture Licensure by Direct Endorsement, Architecture Business Licensed by Corporation, Fictitious Name, Partnership, Limited Liability Corporation, and Name Change, Interior Designer Licensed by Exam, Interior Designer Licensed by Architect Dual Endorsement, Interior Design Business Licensed by Corporation and Limited Liability Corporation, Interior Design Business Licensed by Architect Business Licensure

Motion: Mr. Rodriguez moved that the board approve the licensure ratification list as presented.

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

Continuing Education

Design Arts Seminars, Ezekiel Enterprises, LLC, and Information and Resources for Professionals, LLC

Motion: Mr. Rodriguez moved that the board approve the continuing education ratification list as presented.

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

Future Board Meetings

The board scheduled a telephone conference call to handle general business on February 20, 2017 at 2:00 p.m.

Location: Central Florida

May 10, 2017 – Probable Cause Panel Meeting

May 11-12, 2017 – General Business Meeting

Location: Naples

July 24, 2017 – Probable Cause Panel

July 25-26, 2017- General Business

Location: Palm Beach

October 19, 2016 – Probable Cause Panel

October 20, 2016 – General Business

Rules Report and Discussion

Rules Report

The board reviewed the Rules Report and the following rules were reviewed for approval.

61G1-13.001 Experience Requirements.

The requirements of Section 481.211, F.S. regarding the diversified program of architectural experience may be satisfied as follows:

(1) For applicants for initial licensure, pursuant to Section 481.209, F.S., or by endorsement, pursuant to Section 481.213(3)(a), F.S., completion of the Architectural Experience Program (AXP) formerly known as the Intern Development Program (IDP) through the National Council of Architectural Registration Boards.

(2) For applicants for licensure by endorsement, pursuant to Section 481.213(3)(b), F.S., completion of the Architectural Experience Program (AXP) formerly known as the Intern Development Program (IDP) through the National Council of Architectural Registration Boards (NCARB) or two (2) years of experience as a licensed architect in another NCARB jurisdiction.

(3) For applicants for licensure by endorsement, pursuant to Section 481.213(3)(c), F.S., who have taken and passed a professional practice examination as outlined in paragraph 4.4 (D) of the NCARB July 2013 Certification Guidelines, which is hereby incorporated by reference and available at <http://www.ncarb.org/~media/Files/PDF/Special-Paper/handbook.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref->, five (5) years of experience as a licensed architect in a NCARB or Canadian jurisdiction.

Rulemaking Authority 481.2055, 481.211, 481.213(6) FS. Law Implemented 481.211, 481.213 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-13.01, Amended 12-10-86, 1-3-93, Formerly 21B-13.001, Amended 7-14-05, 10-28-12, _____.

61G1-14.001 Examination Designated, General Requirements.

~~Applicants for licensure by examination shall take and pass the examination prepared and administered by the National Council of Architectural Registration Boards (NCARB). The prescribed licensure examinations for purposes of licensure as a registered architect under Chapter 481, part I, Florida Statutes, are as follows:~~

~~(1) Applicants for initial licensure, pursuant to Section 481.209, F.S., or by endorsement, pursuant to Section 481.213(3)(a), F.S., shall take and pass the examination prepared and administered by the National Council of Architectural Registration Boards (NCARB) or have taken and passed a predecessor exam to the examination prepared and administered by the NCARB.~~

~~(2) Applicants for licensure by endorsement, pursuant to Section 481.213(3)(b), F.S., shall have taken and passed the examination prepared and administered by the NCARB or have taken and passed a predecessor exam to the examination prepared and administered by the NCARB.~~

~~(3) Applicants for licensure by endorsement, pursuant to Section 481.213(3)(c), F.S., shall have taken and passed one of the following examinations:~~

~~(a) The examination prepared and administered by the NCARB;~~

~~(b) A predecessor exam to the examination prepared and administered by~~

the NCARB; or

(c) A Canadian licensure examination accepted by the NCARB for certification as outlined in subsections 3.4 and 4.4 of the NCARB July 2013 Certification Guidelines, which is hereby incorporated by reference and available at <http://www.ncarb.org/~media/Files/PDF/Special-Paper/handbook.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref->

Rulemaking Authority 455.217, 481.213(6) FS. Law Implemented 455.217(1)(b), (c), 481.209 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-14.01, 21B-14.001, Amended 4-22-97, 3-8-04, 7-14-05,_____.

Motion: Mr. Rodriguez moved that the board approve the draft language for Rules 61G1-13.001 and 14.001, Florida Administrative Code.

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

Motion: Mr. Ehrig moved that the proposed rules would not have an adverse impact on small business or be likely to directly or indirectly increase regulatory costs to any entity, including government, in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rules.

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

General Discussion/Information

CIDQ Bylaws

Ms. Dennis and Ms. Woodard attended the CIDQ Annual Meeting. The meeting covered topics such as Legislation, involvement of Canada in CIDQ, Computerized Practicum Exam, and the Bylaws.

NCARB MRA Australia and New Zealand Press Release

The board discussed that they were not able to sign the agreement based on the Florida's statutory licensure requirements.

NCARB Response to the American Board of Architecture "ABA"

The board reviewed and discussed the letter.

NCARB – Call for NCARB Committee Service FY18

Mr. Rodriguez is the National Chair of the Education Committee, Mr. Ehrig serves on the Ethics Task Force, and Mr. Toppe serves on the 5.0 Item Writing Committee for Practice Exam Questions. Mr. Toppe encouraged the board members to serve on NCARB Committees.

Mr. Rodriguez reported that Harry Falconer with NCARB was elevated to Fellowship.

Florida Building Code Advanced Course – designation of hours required

The board discussed the value and quality of the Florida Building Code Advanced Courses, changing the number of hours that is required, and the Legislative intent of the requirement. The board discussed the value of the requirement for newly licensed architects and out of state practitioners. After discussion the board decided to reconsider this issue at a later date.

Continuing Education Course Attendance

The board discussed the licensee's attendance or lack of and the provider's responsibility to provide completion certificates to attendees.

Delegation of Authority Chart

The board reviewed the proposed chart and based on the direction of Attorney General's Office the board added that the Executive Director should receive service of process when the board is sued.

Motion: Mr. Costoya moved that the board approved the Delegation of Authority Chart with the addition.

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

Reports

Board Chair – Jonathan Toppe

Mr. Toppe appointed Wendell Hall, Chair, Francisco Costoya, Dylan Rivers, and Susan Smith to the Probable Cause Panel. He appointed Mr. Rodriguez as an alternate for the panel.

Mr. Toppe appointed himself as the NCARB delegate and Mr. Ehrig will be alternate delegate.

Mr. Toppe appointed Ms. Fishburne as CIDQ delegate.

Executive Director's Report – Krista Woodard

Financial Statements ending September 30, 2016

Operating Account

Unlicensed Activity Account

Ms. Woodard reviewed the financial statements and reported that board is in good financial standing.

AIA Florida – Vicki Long

Ms. Long reported that they were looking at contentious 2017 Legislative Session. She reported that Jim Antis, FAIA, passed away and that Mr. Ehrig will represent the association and attend the memorial service February 4, 2017.

Mr. Panzarino, 2017 Chair for Advocacy for Florida AIA, reported that they hosted a Legislative Day which focused on Senate Bill 204 and House Bill 373 which addresses the Statute of Repose, Senate Bill 7000 which addresses to the Florida Building Code, and Consultant's Competitive Negotiation Act (CCNA). He reported that they revised their policy statement developed by the Strategic Council regarding sea level rise and the revision puts more of the burden on government officials to promote and understand sea level rise. They decided not to name a Legislator of the Year for 2016.

Ms. Headland, Florida AIA First Vice President, reported that she and Ms. Long visited their counterpart association in Cuba and they were interested in Florida's education and regulatory process. She reported that the association had a concern that the board is not actively prosecuting the unlicensed practice of architecture.

IDAF – Douglas Feldman

Mr. Feldman reported that IDAF, ASID, and IIDA would gather in February to discuss the upcoming Legislative Session. They are talking with CIDQ about the need for examination preparation classes. Florida South Chapter is having a student design competition in April.

ASID – Dave Roberts

Mr. Roberts reported that House Careers and Competition Subcommittee held a workshop on the reduction or elimination of unnecessary professions and business regulations. He reported that they were monitoring the upcoming Legislative Session for any deregulation of the interior design profession.

Prosecuting Attorney's Report – David K. Minacci

Prosecutor's Case List Licensed/Unlicensed Cases

Investigator's Case List Licensed/Unlicensed Cases

Fines Chart – Summary

Fines Chart – Unlicensed

Fines Chart – Licensed

Billable Hours – October 2016

Billable Hours – November 2016

Billable Hours – December 2016

Results of the November 2016 Board Meeting

Press Releases

Presentations and Thank You

The board reviewed the reports.

New Business

Mr. Ehrig requested the department allow an architect status on the portal reflect the title retired instead of voluntary null and void.

Mr. Ehrig commented that the statutes and rules address board member attendance and if a member does not show up for more than 50% percent of the meetings then that member should no longer be on the board.

Old Business

Antitrust Update

Mr. Toppe provided an overview of the board's actions since the Federal Trade Commission's decision on the North Carolina Dental Case. Mr. Toppe reported that he had researched the options for obtaining indemnification insurance. He spoke with the National Council of Architectural Registration Boards (NCARB) and they are working with the Federation of Associations of Regulatory Boards (FARB) as well as his own insurance broker. Mr. Toppe was able to obtain a quote for board member indemnification insurance. He provided that information to Ms. Woodard for her to share with the department. The board has cash in the operating account to pay for insurance coverage.

Mr. Toppe provided a letter from Patrick Cunningham, Deputy General Counsel, Department of Business and Professional Regulation (DBPR), which states Florida has explored various methods to shield boards from personal liability from lawsuits and DBPR contracted to provide legal representation to board members in the event of a lawsuit. The letter states that the State of Florida is undertaking full review of the purchase of insurance to protect board members from personal liability and waiting to review Legislative proposals to address the loss of sovereign immunity to determine which proposal provide a permanent fix and protection for board members.

Mr. Toppe provided an e-mail from Attorney Abraham Wickelgren, University of Texas School of Law, which states if a board is simply carrying out and enforcing the specific language in a state statute in a consistent way it has no ability to exercise discretion that its enforcement is purely ministerial and will not have any anticompetitive effect.

The board takes action on licensed cases but has ceased action on unlicensed cases. The board discussed the Federal Trade Commission's (FTC) guidance and the hurdles the board must overcome to comply with their guidance.

The American Institute of Architects (AIA) Florida encouraged the board to take action on unlicensed activity cases based on the board's statutory ability to do so to protect the public's health, safety, and welfare.

After board discussion the following motion was made.

Motion: Mr. Rodriguez moved that the board take action on unlicensed activity cases.
Second: Mr. Ehrig seconded the motion.

Ms. Clark advised that based on the FTC guidance the board can't simply follow the law to the best of their ability and in conformance with the protection of the public and not clearly be in violation of the Federal Antitrust laws.

The board reviewed Section 284.31, Florida Statutes, which the Division of Financial Services determined that the board was not covered for personal liability for Antitrust lawsuits.

After board discussion the motion failed.

The board reviewed examples from the FTC guidelines that do not require active supervision; administering disciplinary process for lawful and valid standards. The FTC considered that boards only discipline licensed professionals not unlicensed individuals. Pursuant to Chapter 481, Florida Statutes, the Board of Architecture and Interior Design is charged with the prosecution of the unlicensed practice of architecture and interior design.

Adjourn

Motion: Ms. Bao-Garciga moved that the meeting adjourn.
Second: Mr. Rivers seconded the motion and it passed unanimously.

The meeting adjourned at 2:04 p.m.