

MINUTES

Board of Architecture and Interior Design

Department of Business and Professional Regulation
Northwood Centre – Professions' Board Room
1940 North Monroe Street
Tallahassee, Florida 32399
850.717.1982

February 10, 2012
9:00 a.m.

General Business

Call to Order

Mr. Ehrig, Chair, called the meeting to order at 9:15 a.m., established a quorum and performed an invocation.

Roll Call – Identify excused absences

Board Members Present:

John Ehrig
Miguel Rodriguez
Francisco Costoya, Jr.
Jonathan Toppe
Aida Bao-Garciga
Kenan Fishburne
Emory Johnson
Wanda Gozdz

Board Member Absent:

Warren Emo, excused

Others Present:

Mary Ellen Clark, Board Counsel
Anthony Spivey, Executive Director
David Minacci, Prosecuting Attorney
Trent Manausa
Michael Wirtz
MH Allen, Investigator
Mary Alford, Government Analyst
Ken Lawson, DBPR Secretary
Tim Vaccaro, DBPR Deputy Secretary

GW Harrell, Director Division of Professions
Vicki Long, AIA Florida
Doug Brown, IIDA Florida Central
Becky Wilson, AIA Florida
Winnifred Christian, Team Lead Central Intake
Brian Duff, Processor Central Intake
Javaris Yarns, Processor Central Intake
Adrian Washington, Bureau of Education and Testing
Carolyn Carbonell, Customer Contact Center
Ruth Dillard, DBPR Division of Administration and Financial Management
Lynn Smith, DBPR Division of Administration and Financial Management
Larry Hurley, DBPR Division of Administration and Financial Management

Court Reporter: Accurate Stenotype Reporters, 2894 Remington Green Lane #A,
Tallahassee, Florida 32308-3758. Telephone 850.878.2221.

Secretary Lawson and Mr. Vaccaro addressed the board and welcomed them to Tallahassee.

Disciplinary Cases

Mr. Rodriguez was recused from review of all disciplinary cases due to his participation with the Probable Cause Panel.

Motion for Order Waiving Formal Hearing

Unlicensed

DBPR vs. Henry Almanzar

Case Numbers 2010-008875

PCP: Rodriguez, Wirtz, and Hall

The case was before the based on the respondent offering architectural services without a license. This was a second offense. A three count administrative complaint was filed for practicing architecture without a license, using the title architect without a license, and offering services through a business entity without a license.

The administrative complaint was hand served September 22, 2011. The respondent failed to respond to the administrative complaint. The panel recommended a \$15,000 fine plus costs.

Motion: Ms. Bao-Garciga moved that the board find that the administrative complaint was properly served upon the respondent and that the respondent waived the right to dispute the material facts by failure to respond thereto.

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

Motion: Ms. Bao-Garciga moved that the board adopt the findings of fact as set forth in the administrative complaint.

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

Motion: Ms. Bao-Garciga moved that the board adopt the conclusions of law as set forth in the administrative complaint.

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

Motion: Ms. Bao-Garciga moved that the board impose a \$15,000 fine plus costs.

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

DBPR vs. John Zonata and Zonata's Architectural Drafting Services

Case Numbers 2010-048738

PCP: Rodriguez, Wirtz, and Hall

Mr. Johnson was recused from review of the case due to prior knowledge of the case. The case was before the board based on the respondent offering architectural services for a residential project. This was the forth complaint and criminal charges are pending. A three count administrative complaint was filed for practicing architecture without a license, using the title architect without a license, and offering architectural services through a business entity without a license.

The administrative complaint was hand served September 24, 2011. The panel recommended a \$15,000 fine plus costs.

Motion: Ms. Bao-Garciga moved that the board find that the administrative complaint was properly served upon the respondent and that the respondent waived the right to dispute the material facts by failure to respond thereto; further that the board adopt the findings of fact and conclusions of law as set forth in the administrative complaint.

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

Motion: Ms. Bao-Garciga moved that the board impose a \$15,000 fine plus costs.

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

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

Unlicensed

DBPR vs. Terra Mar Construction, Inc. and Sharma Boboolal

Case Number 2009-049067

PCP: Rodriguez, Wirtz, and Gustafson

The case was before the board based on the respondent offering architectural services through a contract for a residential project. A three count administrative complaint was filed for practicing architecture without a license, using the title architect without a license, and offering architectural services through a business entity without a license.

The respondent disputed the facts and the case was sent to the Division of Administrative Hearings (DOAH). On November 10, 2011 the Administrative Law Judge relinquished jurisdiction back to the board based on the respondent failing to respond.

The panel recommended a \$10,500 fine plus costs.

Motion: Ms. Bao-Garciga moved that the board adopt the findings of fact and conclusions of law as set forth in the administrative complaint.

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

Motion: Ms. Bao-Garciga moved that the board impose a \$10,500 fine plus costs.

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

DBPR vs. Vergel's Construction, Inc. and Marisela Duran

Case Number 2010-010549

PCP: Rodriguez, Wirtz, and Gustafson

The case was before the board based on the respondent offering architectural services through a contract for a residential project. The respondent is a licensed general contractor. A two count administrative complaint was filed for practicing architecture without a license and offering architectural services through a business entity without a license.

The respondent disputed the facts and the case was sent to the Division of Administrative Hearings (DOAH). The Administrative Law Judge relinquished jurisdiction back to the board based on the respondent failing to respond.

The panel recommended a \$5,500 fine plus costs.

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

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

Motion: Mr. Johnson moved that the board impose a \$5,500 fine plus costs.

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

General Discussion

Locke vs. Shore – update from Jon Glogau

Mr. Glogau with the Attorney General's Office was present to provide a brief update on the Locke vs. Shore case. The case was based on three individuals challenging the validity of the interior design licensing statute. The title part of the statute was found to be unconstitutional but the licensing part of the statute was constitutional. The plaintiffs appealed the decision with the Eleventh Circuit and then the Supreme Court and the board prevailed. The licensing statute is constitutional and that was the end of the lawsuit.

The board discussed that the statute and Judge Hinkle's ruling should be read together to understand how to enforce the statutes and ruling.

Monitoring Compliance for Continuing Education – update

Central Intake staff introduced and Adrian Washington, Bureau of Education and Testing, provided an update on the continuing education monitoring.

Mr. Washington provided percentages of complied, granted additional time, deficient, and non-responsive licensees.

Disciplinary Cases

Settlement Stipulations

Mr. Minacci requested that the board consider the following cases on a consent agenda since the settlement stipulations mirrored the probable cause panel recommendations.

Unlicensed

DBPR vs. Architectural Dynamics, Inc. and Joyce Phipps
Case Number 2011-010770
PCP: Rodriguez, Wirtz, and Hall

DBPR vs. Roger B. Chewning
Case Number 2011-022101
PCP: Rodriguez, Wirtz, and Hall

DBPR vs. WG Professional Drafting Services and Wilfredo Guzman
Case Number 2010-056148
PCP: Rodriguez, Wirtz, and Hall

Motion: Ms. Gozdz moved that the board approve the disciplinary cases as presented.

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

Unlicensed

DBPR vs. Building Management Systems, Inc. and W. Doug Padgett
Case Number 2010-056540

PCP: Rodriguez, Wirtz, and Gustafson

The case was before the board based on the respondent offering architectural services through a web site for a commercial project. A two count administrative complaint was filed for practicing architecture without a license and offering architectural services through a business entity without a certificate of authorization. The panel recommended a \$10,000 fine plus costs.

The settlement stipulation reflected a \$5,000 fine plus costs. The fine was reduced based on the respondent appearing before the board today. This was the second review of the case with the respondent not appearing.

Motion: Mr. Costoya moved that the board reject the settlement stipulation.

Second: Mr. Toppe seconded the motion, it passed with Ms. Bao-Garciga opposed.

DBPR vs. Michel A. Rodriguez

Case Number 2011-009347

PCP: Rodriguez, Wirtz, and Hall

The case was before the board based on the respondent, a licensed engineer that signed and sealed documents through a business name containing architecture. A one count administrative complaint was filed for aiding and abetting the unlicensed practice of architecture. The panel recommended a \$5,000 fine plus costs.

The settlement stipulation reflected a \$1,000 fine plus costs. The fine was reduced because this was a first time offense and the respondent agreed to comply.

Motion: Mr. Toppe moved that the board adopt the settlement stipulation as presented.

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

Voluntary Relinquishment

DBPR vs. Georgeson Group, Inc.

Case Number 2011-019216

The case was before the board based on a citation that the respondent disputed. The business no longer had a valid qualifier and relinquished the license due to that fact.

Motion: Mr. Johnson moved that the board adopt the voluntarily relinquishment.

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

General Discussion

Division of Administration and Financial Management – Director, Ruth Dillard
Ms. Dillard was present and introduced Lynn Smith, Bureau Chief of Planning and Budget and Larry Hurley, Bureau Chief of Finance and Accounting.

Ms. Dillard reported that she was researching their concerns about and requests for Public Service Announcements (PSA). She reported that the department targets unlicensed activity for all professions and does not specify a particular profession. She reported that they can target more professions with a general unlicensed activity campaign. She reported that PSAs through television or radio may not get the board the best return for the expense.

Mr. Ehrig thanked Ms. Dillard for approving members to attend the upcoming NCARB Conference. He requested that members be approved to attend NCIDQ meetings as well.

Mr. Ehrig commented that a portion of fees are required for unlicensed activity funds. He commented that the board would like to utilize the money to avoid it being swept. He commented that he would like to work with Mr. Minacci to create an important message regarding unlicensed activity. He commented that the board could create a committee to create a message and Ms. Dillard could assist with locating the funds.

Ms. Dillard requested that the board compile the number of unlicensed activity complaints to target a group. She commented that then the committee could work with the communications office to craft a message.

Mr. Toppe offered to be on the committee and suggested that the targeted audience be licensed professions. He suggested reaching out to the professionals. Mr. Ehrig recommended targeting the public and used an elderly person as an example.

The board discussed readdressing PSAs at the May meeting and there would be no committee but the entire board.

The board briefly discussed revenues from 2009 forward and the prospect of a sweep this year and the years to come. Mr. Vaccaro reminded the board that even though the board financials reflects cash on hand they must have the authorized appropriation to spend that cash. The board requested that Ms. Dillard clarify if the fines and costs collected for unlicensed activity are categorized in the unlicensed activity account.

Review and Approval of Meeting Minutes

October 12, 2011 – Probable Cause Panel Meeting (ratify)

Motion: Mr. Johnson moved that the board ratify the meeting minutes as presented.

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

October 13, 2011 – General Business Meeting Tampa, Florida

Mr. Ehrig requested that line 637, be corrected from RM. Hall to Mr. Hall.

Motion: Ms. Bao-Garciga moved that the board approve the meeting minutes as corrected.

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

November 14, 2011 – Telephone Conference Call

Motion: Ms. Bao-Garciga moved that the board approve the meeting minutes as presented.

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

Ratification List(s)

Licensure

Mr. Rodriguez was recused from review and approval of the licensure ratification list.

Motion: Mr. Johnson moved that the board ratify the licensure ratification list as presented.

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

Continuing Education

Motion: Ms. Bao-Garciga moved that the board ratify the continuing education list as presented.

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

General Discussion

Invitation to Negotiate (ITN) Review Committee's report/recommendation

Mr. Spivey announced that the evaluation forms were tabulated by the Bureau of Purchasing. The rankings were as follows:

1. Smith, Thompson, Shaw, Minacci & Colon
2. Koch Parafinczuk & Wolf, P.A.
3. Gilbert and Caddy, PA

Mr. Spivey commented that the Bureau of Purchasing would publish the rankings in the Vendor Bid System with the board's approval. If there are no protests

within 72 hours the board would enter negotiations with top ranked vendor. Upon successful negotiations with the vendor the board would enter a contract.

Mr. Ehrig reported that the ITN Committee reviewed the ITN proposals and responses. He reported that the rankings were in line with the evaluations. Mr. Harrell clarified that the Bureau of Purchasing (a third party to the process) reviewed the evaluations and reported the rankings of the evaluators to the ITN Committee.

Mr. Johnson was recused from the review based on his prior connection with the vendor.

Motion: Ms. Bao-Garciga moved that the board approve the rankings, posting, and proceed with negotiations provided there were no protests.

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

Request for Reinstatement of Null and Void License due to Hardship

Adam Krantz – Architect License

Mr. Spivey presented the application. Mr. Krantz's license lapsed void March 1, 2011. He provided information regarding his hardship and proof of continuing education.

Motion: Mr. Toppe moved that the board approved the reinstatement of the void license based on the hardship presented.

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

Rules Report

February Rules Report

Ms. Clark reported that rules 61G1-11.005 and 61G1-17.003 were now affective.

The proposed language change for Rule 61G1-24.001 would increase the number of continuing education hours from 20 to 24. Mr. Ehrig explained that the change would bring Florida into alignment with NCARB's continuing education requirements as well as other states.

Motion: Mr. Costoya moved that the board approve the proposed language as presented.

Second: Mr. Toppe seconded the motion, it passed with Mr. Johnson opposed.

Mr. Johnson opposed increasing the number of continuing education hour requirements it is a burden on individuals and professional practices. Mr. Rodriguez commented that he supports the need for continuing education but

would like evidence that a mandatory number of hours of continuing education in fact improved the profession.

Mr. Manausa pointed out that the disciplinary guidelines would need to be updated as well.

Ms. Clark requested that the board determine if the increase of continuing education hours would adversely impact small business and complete a Statement of Estimated Regulatory Costs (SERC).

Mr. Rodriguez commented that he did not believe it would adversely impact small business since other states require 12 hours of continuing education and most architects are licensed in multiple states.

Ms. Clark requested that the board consider the following when determining an adverse impact:

“That there would not be an adverse impact on small business nor will the regulatory costs to any entity either government or licensees be in excess of \$200,000 in the first year or one million in five years nor will the change require ratification by the Legislature.”

Mr. Toppe commented that he owned a small business and there would be minimal impact because many continuing education opportunities are offered at little to no cost through associations.

Mr. Manausa commented that continuing education was an individual impact not a business impact. Mr. Toppe commented that would be no impact on regulatory costs. The board discussed the average cost of continuing education.

Ms. Clark suggested that the board complete a SERC in order to determine if there is an impact.

Motion: Ms. Gozdz moved that board staff prepare the SERC.

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

Architecture Continuing Education Handbook review of proposed changes
Ms. Clark requested that the board hold the changes for Rule 61G1-24.002 based on when the handbook would be complete and effective. She requested that the handbook changes be held until the next meeting.

OFFAR Rules Work Memorandum

Ms. Clark commented that the memorandum was to quantify work and identify rules that need repeal or updating. She commented that there were 15 technical changes. No board action was necessary.

OFFAR Rules Report

Ms. Clark requested that the board defer action on Rule 61G1-17.001 for additional research.

Ms. Clark requested that the board act on Rule 61G1-17.002 with the proposed language removing fees that the board no longer collects.

Motion: Mr. Johnson moved that the board notice Rule 61G1-17.002 for rule development and approve the proposed language as presented.

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

Motion: Mr. Bao-Garciga moved that the board find the proposed changes would not have an adverse economic impact on small business or result in an increase of regulatory costs to any entity including government in excess of \$200,000 within the first year of implementation nor in excess of one million dollars in five years, or require ratification by the Legislature.

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

Ms. Clark requested that the board act on Rule 61G1-21.002 which changes the word "audit" to "monitor".

Motion: Mr. Costoya moved that the board notice Rule 61G1-21.002 for rule development and approve the proposed language as presented.

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

Motion: Mr. Bao-Garciga moved that the board find the proposed changes would not have an adverse economic impact on small business or result in an increase of regulatory costs to any entity including government in excess of \$200,000 within the first year of implementation nor in excess of one million dollars in five years, or require ratification by the Legislature.

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

Ms. Clark requested that the board act on Rule 61G1-21.008 which removes the definition of delinquent application.

Motion: Ms. Gozdz moved that the board notice Rule 61G1-21.008 for rule development and approve the proposed language as presented.

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

Motion: Mr. Bao-Garciga moved that the board find the proposed changes would not have an adverse economic impact on small business or result in an increase of regulatory costs to any entity including government in excess of \$200,000 within the first year of

implementation nor in excess of one million dollars in five years, or require ratification by the Legislature.

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

Ms. Clark requested that the board act on Rule 61G1-24.003 which removes the definition of delinquent application.

Motion: Mr. Johnson moved that the board notice Rule 61G1-24.003 for rule development and approve the proposed language as presented.

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

Motion: Mr. Bao-Garciga moved that the board find the proposed changes would not have an adverse economic impact on small business or result in an increase of regulatory costs to any entity including government in excess of \$200,000 within the first year of implementation nor in excess of one million dollars in five years, or require ratification by the Legislature.

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

Rule 61G1-16.005 Proposed Rule Revision – Mr. Logan

The language was developed by a building code task force regarding electronic signing and sealing. Mr. Rodriguez commented that the current rule describes the PEDDS protocol with technical language. He commented that the language presented removes technical language and allows for a signature and seal through a secured methodology. He commented that the language is in line with current practices of professional engineers.

Motion: Mr. Rodriguez moved that the board notice the rule for development and approve the proposed language as presented.

Second: Mr. Johnson seconded the motion.

Ms. Clark requested that the board consider an oral change to sub 2, put “and;” at the end of sub c.

Mr. Rodriguez amended the motion as suggested by Ms. Clark.

The question was called, it passed with Ms. Fishburne opposed.

Mr. Rodriguez commented that the change to the rule would streamline and simplify the requirements and broaden the range of software that could be used by a licensed professional.

Motion: Mr. Rodriguez moved that the board find the proposed changes would not have an adverse economic impact on small business or result in an increase of regulatory costs to any entity including

government in excess of \$200,000 within the first year of implementation nor in excess of one million dollars in five years, or require ratification by the Legislature.

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

Discussion

Pending Legislation

The board briefly discussed House Bill 517 and Senate Bill 762 and how that would affect the Continuing Education Handbook.

Presentation - New Board Member Training

Tony Spivey, Mary Ellen Clark, and David Minacci

This item was deferred to the May meeting.

Reports

Chair's Report – John Ehrig

Mr. Ehrig commented that he offered that Florida host the NCARB Regional meeting next year. Mr. Ehrig briefly addressed statutory language to clean up current language and proposed language. He briefly discussed proposed endorsement language that would allow an individual to be licensed with an exam and 10 years of practice. He reported that the proposed language would allow for the NCARB Broadly Experience Architect (BEA) provision as well. He commented that the House Bill and Senate Bill are not the same language.

Mr. Ehrig reported that the board would meet in Gainesville and visit the school of architecture and interior design at the University of Florida.

Executive Director's Report – Tony Spivey

Financials ending December 31, 2011

Mr. Spivey reported that the board was in good financial shape. The board briefly reviewed the board financial projections. The board requested that monies be locked down to avoid being swept. Mr. Johnson requested that the department determine what allocation of funds could be used for public service announcements not including the prosecution and investigative contract.

AIA Report – Vicki Long

Ms. Long provided handouts regarding their legislative efforts. She reported that there was a 100 building competition for their upcoming annual conference. She reported that AIA Florida would not support the statutory language proposed that allowed an individual to be licensed by passing the ARE and 10 years of practice.

Ms. Long reported that the number of associate members obtaining and pursuing licensure has doubled. The board discussed lobbying and the proposed statutory language that allows licensure through experience.

The board discussed that other states allow architecture licensure through experience only. The board discussed that Florida architects would be at a disadvantage if the proposed House Bill language passed. The board discussed that the House Bill would not allow true reciprocity between states for the Broadly Experienced Architect (BEA).

Motion: Mr. Toppe moved that the board support the Senate Bill because it reflects the board's proposed language not the House Bill because it would weaken the profession.

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

Mr. Toppe amended the motion to include a letter from the board chair stating the board's position. Mr. Rodriguez commented that the BEA process equates the experience to the education. The question was called and it passed unanimously.

IDAF – Douglas Feldman

Mr. Brown was present for Mr. Feldman. He reported IIDA and ASID National were continuing to provide events throughout the state. He also reported that they were tracking the Legislative language.

Prosecuting Attorney's Report – David K. Minacci

Licensed Architecture Legal Cases

Licensed Interior Design Legal Cases

Unlicensed Architecture Legal Cases

Unlicensed Interior Design Legal Cases

Licensed/Unlicensed Investigative Cases

Fines Chart – Summary

Fines Chart – Unlicensed

Fines Chart – Licensed

Billable Hours September 2011

Billable Hours October 2011

Billable Hours November 2011

Billable Hours December 2011

Board Meeting Results October 12, 2011

Press Releases/Speaking Engagements

Interior Design Correspondence

Mr. Ehrig reported that he reviewed the bills and reports prior to paying Mr. Minacci's contract. Mr. Minacci provided information regarding collections for unlicensed cases. Mr. Rodriguez offered to provide training on the probable cause panel.

Mr. Ehrig presented Mr. Rodriguez with a plaque for his service on the probable cause panel.

Future Board Meetings

May 2, 2012 – Probable Cause Panel Meeting
May 3, 2012 – General Business Meeting
Location: Gainesville, Florida

July 17, 2012 – Probable Cause Panel Meeting
July 18, 2012 – General Business Meeting
Location: West Palm Beach, Florida

New Business

Mr. Johnson thanked Mr. Ehrig for arranging the Gainesville meeting in conjunction with the University of Florida.

Old Business

No old business.

Adjourn

The meeting adjourned at 2:50 p.m.