

MINUTES

**Board of Architecture and Interior Design
Boca Raton Resort & Club
501 East Camino Real
Boca Raton, Florida 33432
561.447.3000**

**July 28, 2015
9:00 a.m.**

General Business

Call to Order

Mr. Rodriguez, Chair, called the meeting to order at 9:26 a.m. and a quorum was established.

Board Members Present:
Miguel Rodriguez, Chair
Jonathan Toppe, Vice-Chair
John Ehrig
Hector Fernandez
Aida Bao-Garciga
Kenan Fishburne
James Blanz
Dylan Rivers

Board Members Absent:
Francisco Costoya, excused
Ivette O'Doski, excused
Emory Johnson, excused

Others Present:
Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Thomas Campbell, Executive Director
Terri McEwen, Government Analyst
Trent Manausa
John J. Crum
Luckner Exantus
Jeff Peters
Brain Phipps
Curtis Hunter

Other Interested Parties

Court Reporter: Nick Bruens, Official Reporting Services, LLC, 524 S. Andrews Avenue, Suite 302N, Ft. Lauderdale, Florida 33301. Telephone (954) 467-8214.

Disciplinary Cases

Mr. Minacci requested that the following cases be handled on consent because the settlement stipulation mirrored the Probable Cause Panel's recommendation.

DBPR vs. Joseph M. Marcial

Case Number 2014-014938

PCP: Hall, Shore, Toppe, and Rivers

Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.

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

DBPR vs. Maura K. Rossi

Case Number 2014-022092

PCP: Hall, Shore, Costoya, and Rivers

Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel.

Motion: Mr. Ehrig moved that the board approve the settlement stipulation as presented.

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

DBPR vs. John E. Tindell

Case Number 2014-013495

PCP: Hall, Shore, Costoya, and Rivers

Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel.

Motion: Ms. Fishburne moved that the board approve the settlement stipulation as presented.

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

DBPR vs. General Design Services, LLC and Peter Evenson

Case Number 2014-048490

PCP: Hall, Shore, Costoya, and Rivers

Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.
Second: Mr. Blanz seconded the motion and it passed unanimously.

DBPR vs. Eduardo M. Grimaux and Isola Construction Development, LLC
Case Number 2014-044674

PCP: Hall, Shore, Rodriguez, and Rivers

Mr. Toppe, Vice-Chair, conducted the hearing. Mr. Rodriguez and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.
Second: Mr. Ehrig seconded the motion and it passed unanimously.

DBPR vs. Martin R. Litman

Case Number 2015-004981

PCP: Hall, Shore, Rodriguez, and Rivers

Mr. Toppe, Vice-Chair, conducted the hearing. Mr. Rodriguez and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel.

Motion: Mr. Ehrig moved that the board approve the settlement stipulation as presented.
Second: Mr. Blanz seconded the motion and it passed unanimously.

DBPR vs. Tui Pranich and Tui Lifestyle, LLC

Case Number 2013-036472

PCP: Hall, Shore, Toppe, and Rivers

Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.
Second: Ms. Fishburne seconded the motion and it passed unanimously.

DBPR vs. Mario A. Suarez and MAS Design and Planning, Inc.

Case Number 2015-000696

PCP: Hall, Shore, Costoya, and Rivers

Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.
Second: Mr. Blanz seconded the motion and it passed unanimously.

DBPR vs. Dynamic Designs by Howard
Case Number 2014-051338

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

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

DBPR vs. Barbara Van Voast
Case Number 2008-037745

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Toppe, Vice-Chair, conducted the hearing. Mr. Rodriguez was recused from the review of the case based on his participation on the Probable Cause Panel.

Motion: Ms. Bao-Garciga moved that the board approve the voluntary
relinquishment as presented.

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

DBPR vs. George Yabu, Glenn A. Pushelburg, and Yabu Pushelburg, Inc.
Case Numbers 2013-051329 and 2013-051327

PCP: Hall, Shore, Toppe, and Rivers

The respondent was not present but was represented by Curtis Hunter. Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel. The case was before the board based on a three count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, practicing commercial interior design without a license per Section 481. 223 (1) (b), Florida Statutes, and practicing architecture through a business entity without a certificate of authorization per Section 481.219 (2), Florida Statutes.

The Probable Cause Panel recommended a \$15,000.00 fine plus \$1,320.00 costs. The settlement stipulation reflects a \$7,500.00 fine plus costs. The fine was reduced because this was a first time offense and they agreed to comply. The board reviewed the Department's disciplinary guidelines per violation and after discussion the following motions were made.

Motion: Mr. Ehrig moved that the board approve the settlement stipulation
as presented.

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

DBPR vs. David B. Frank and Precision Drafting & Design, Inc.
Case Number 2014-014748

PCP: Hall, Shore, Costoya, and Rivers

The respondent was not present but was represented by Diane Perera. Mr. Rivers was recused from the review of the case based on his participation on the

Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and practicing architecture through a business entity without a certificate of authorization per Section 481.219(2), Florida Statutes. The administrative complaint was hand served on April 15, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$465.00 costs. Mr. Frank did not respond because he misunderstood that his case was handled and resolved at the time of the licensed architect's case was resolved. Ms. Perera addressed the prior violations, she requested that the board consider that the licensed architect's case was resolved, that Mr. Frank now understands the laws, and she requested leniency from the board regarding the fine and costs due to a financial hardship.

The board reviewed the Department's disciplinary guidelines per violation and after 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. Fernandez seconded the motion and it passed unanimously.

Motion: Mr. Ehrig moved that the board impose a \$500.00 fine plus \$465.00 costs due to the mitigating circumstances that Mr. Frank has taken steps to insure nonoccurrence of a similar violation, has taken steps to resolve current the matter, and it is a financial hardship.

Second: Mr. Blanz seconded the motion; the motion passed with Ms. Bao-Garciga, Ms. Fishburne, and Mr. Fernandez opposed.

DBPR vs. John J. Crum

Case Number 2014-035857

PCP: Hall, Shore, Costoya, and Rivers

Mr. Crum was present and sworn in by the court reporter. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes. The administrative complaint was hand served on April 15, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended a \$5,000.00 fine plus \$765.00 costs. The Department's guidelines recommend a \$3,000.00 fine plus costs. Mr. Crum

explained the details regarding the case, he understands the requirements of the laws and rules, he took corrective actions in a prior case and in this case.

The board reviewed the Department's disciplinary guidelines and after discussion the following motions were made.

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

Motion: Mr. Fernandez moved that the board impose a \$3,000.00 fine plus \$765.00 costs.

Second: Ms. Bao-Garciga seconded the motion

After further discussion regarding mitigating factors the question was called and the motion failed.

Motion: Mr. Ehrig moved that the board impose a \$500.00 fine plus \$765.00 costs to be paid within one year based on the mitigating circumstances that Mr. Crum has taken steps to insure nonoccurrence of a similar violation, has taken steps to resolve the matter, and it is a financial hardship.

Second: Ms. Fishburne seconded the motion, the motion passed with Ms. Bao-Garciga and Mr. Fernandez opposed.

DBPR vs. Exantus Construction, Inc. and Luckner Exantus

Case Number 2012-032305

PCP: Hall, Shore, and Costoya

Mr. Exantus was present and sworn in by the court reporter. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes and practicing architecture through a business entity without a certificate of authorization per Section 481.219(2), Florida Statutes. The respondent filed an election of rights form and did not dispute the facts.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$525.00 costs. The Department's guidelines recommend a \$3,000.00 fine plus costs. There was a previous stipulation imposing a \$1,500.00 fine plus costs that the board rejected. Mr. Exantus' prior attorney entered a stipulation agreement with the board but did not advise Mr. Exantus that he must appear before the board as part of the agreement. Mr. Exantus explained that he could not afford to appear

at the previous meeting, he understands the requirements of the laws and rules, he has an extreme financial hardship and he has taken corrective actions regarding his website.

The board reviewed the Department's disciplinary guidelines per violation and after discussion the following motions were made.

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

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

Motion: Ms. Bao-Garciga moved that the board impose the costs of \$525 to be paid in one year based on the mitigating circumstances that Mr. Exantus has taken steps to insure nonoccurrence of a similar violation, has taken steps to resolve the matter, and it is a financial hardship.

Second: Mr. Blanz seconded the motion, the motion passed with Mr. Ehrig opposed.

DBPR vs. Brian Phipps and A Phipps Design, Inc.

Case Number 2014-018496

PCP: Hall, Shore, Costoya, and Rivers

Mr. Phipps was present and sworn in by the court reporter. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes and practicing architecture through a business entity without a certificate of authorization per Section 481.219(2), Florida Statutes.

The Probable Cause Panel recommended a \$5,000.00 fine plus \$570.00 costs. The Department's guidelines recommend a \$3,000.00 fine plus costs. The settlement stipulation reflects a \$2,400.00 fine plus costs with an appearance before the board. The fine was reduced because the respondent agreed to comply and appear before the board.

The board reviewed the Department's disciplinary guidelines per violation and after discussion the following motions were made.

Motion: Mr. Ehrig moved that the board approve the settlement stipulation as presented.

Second: Ms. Fishburne seconded the motion; the motion passed with Mr. Fernandez opposed.

DBPR vs. Gerard Joseph Oakley

Case Number 2013-033314

PCP: Hall, Shore, and Costoya

Mr. Oakley 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 per Section 455.227(1) (q), Florida Statutes. The administrative complaint was hand served on August 23, 2014, and the respondent has failed to respond.

The Probable Cause Panel recommended revocation of licensure and \$240.00 in costs.

The board reviewed the disciplinary guidelines and after discussion the following motions were made.

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

Motion: Mr. Rivers moved that the board impose revocation of Mr. Oakley's license.

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

Mr. Rivers was excused from the meeting at 10:37 a.m. due to his participation on the Probable Cause Panel and because he is recused from the remaining case reviews.

DBPR vs. Regui Flohr

Case Number 2014-016511

PCP: Hall, Shore, Costoya, and Rivers

Mr. Flohr was not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and practicing architecture through a business entity without a certificate of authorization per Section 481.219(2), Florida Statutes. The respondent disputed the facts, requested an informal hearing, and failed to respond to the request for admissions. The Division of Administrative Hearings entered an order on May 18, 2015, relinquishing jurisdiction to the board.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$441.00 costs. The Department's guidelines recommend a \$4,000 fine plus costs.

The board reviewed the Department's disciplinary guidelines per violation and after discussion the following motions were made.

Motion: Mr. Fernandez moved that the board finds that the administrative complaint was properly served upon the respondent; that based on the Administrative Law Judge's order that the board can conclude there are no issues of disputed material facts, and that the board adopts the findings of fact and conclusions of law as set forth in the administrative complaint.

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

Motion: Mr. Toppe moved that the board impose a \$4,000.00 fine plus \$441.00 costs.

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

DBPR vs. Jeffrey Hindman

Case Number 2014-034316

PCP: Hall, Shore, Costoya, and Rivers

Mr. Hindman was not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for failing to comply with a lawful order of the board per Section 455.227(1) (q), Florida Statutes. The administrative complaint was hand served on April 29, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended a suspension until compliance plus \$667.50 costs.

The board reviewed the disciplinary guidelines and after 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: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Motion: Mr. Ehrig moved that the board impose suspension until compliance plus \$667.50 costs.

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

DBPR vs. Victor Liberatore

Case Number 2014-006126

PCP: Hall, Shore, Costoya, and Rivers

Mr. Liberatore was not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for failing to perform a statutory obligation place upon a licensee per Section 481.2251(1) (g), Florida Statutes, and violating Section 481.2251(1) (g), Florida Statutes for affirming compliance with the continuing education requirements when he renewed his license, although he had not completed the statutory requirement . The administrative complaint was served on April 15, 2015, by certified mail and the respondent has failed to respond.

The Probable Cause Panel recommended a \$1,000.00 fine plus \$330.00 costs, 40 hours of continuing education, and suspension until compliance.

The board reviewed the disciplinary guidelines and after 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. Fernandez seconded the motion and it passed unanimously.

Motion: Mr. Fernandez moved that the board impose a \$1,000.00 fine plus \$330.00 costs, 40 hours of continuing education, suspension until compliance, and notify the Maryland Board of Architecture of this disciplinary action.

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

DBPR vs. Christopher P. Miller

Case Number 2014-030129

PCP: Hall, Shore, Toppe, and Rivers

Mr. Miller requested, in writing, that the board continue his disciplinary case to the next available meeting.

Motion: Mr. Fernandez moved that the board continue Mr. Miller's case review to the October meeting with no more continuances allowed.

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

DBPR vs. Desmond F. Perschall

Case Number 2014-009515

PCP: Hall, Shore, Costoya, and Rivers

Mr. Perschall was not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for failing to perform a statutory obligation place upon a licensee per Section 481.225(1) (j), Florida Statutes, and violating Section 481.225(1) (j), Florida Statutes for affirming compliance with the continuing education requirements when he renewed his license, although he had not completed the statutory requirement . The administrative complaint was served on April 15, 2015, by certified mail and the respondent has failed to respond.

The Probable Cause Panel recommended a \$500.00 fine plus \$645.00 costs, 18 hours of continuing education within 120 days of the filing of the final order.

The board reviewed the disciplinary guidelines and after discussion the following motions were made.

Motion: Mr. Fernandez 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. Blanz seconded the motion and it passed unanimously.

Motion: Ms. Fishburne moved that the board impose a \$500.00 fine plus \$645.00 costs, 18 hours of continuing education within 120 days of the filing of the final order.

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

DBPR vs. Timothy P. Byrnes

Case Number 2014-006828

PCP: Hall, Shore, Costoya, and Rivers

Mr. Byrnes was not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes. The administrative complaint was hand served on April 23, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended the Department's disciplinary recommendation of a \$1,500.00 fine plus \$937.50.00 costs.

The board reviewed the Department's disciplinary guidelines and after discussion the following motions were made.

Motion: Mr. Blanz 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. Ehrig seconded the motion and it passed unanimously.

Motion: Mr. Fernandez moved that the board impose a \$1,500.00 fine plus \$937.50 costs.

Second: Ms. Fishburne seconded the motion.

The board discussed Mr. Byrnes financial hardship and his letter that he would not violate the laws and rules in the future. The question was called and the motion failed.

Motion: Ms. Bao-Garciga moved that the board impose \$937.50 costs based on the mitigating factors of his financial hardship and the letter agreeing to not violate the laws and rules in future.

Second: Mr. Ehrig seconded the motion; the motion passed with Mr. Fernandez and Ms. Fishburne opposed.

DBPR vs. Mark Jenkins

Case Number 2014-002668

PCP: Hall, Shore, Toppe, and Rivers

Mr. Jenkins was not present or represented by counsel. Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and using the title architect when not the holder of a valid license per Section 481.223(1) (c), Florida Statutes. The administrative complaint was served by publication in the Jacksonville Business Journal April 17, 2015, with subsequent publications, and the respondent has failed to respond.

The Probable Cause Panel recommended a \$5,000.00 fine plus \$1,130.00 costs. The Department's guidelines recommend a \$4,000 fine plus costs.

The board reviewed the Department's disciplinary guidelines and after discussion the following motions were made.

Motion: Mr. Fernandez 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. Blanz seconded the motion and it passed unanimously.

Motion: Mr. Fernandez moved that the board impose a \$4,000.00 fine plus \$1,130.00 costs.

Second: Ms. Bao-Garciga seconded the motion; the motion passed with Ms. Fishburne opposed.

DBPR vs. John Ashley, LLC and John A. Thurman

Case Number 2013-030002

PCP: Hall, Shore, Toppe, and Rivers

The respondents were not present or represented by counsel. Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing commercial interior design without a license per Section 481.223(1)(b), Florida Statutes, and practicing commercial interior design through a business entity without a certificate of authorization per Section 481.219(3), Florida Statutes. The administrative complaint was hand served April 23, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$648.00 costs. The Department's guidelines recommend a \$4,500.00 fine plus costs.

The board reviewed the Department's disciplinary guidelines and after discussion the following motions were made.

Motion: Mr. Fernandez 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. Blanz seconded the motion and it passed unanimously.

Motion: Mr. Fernandez moved that the board impose a \$4,500.00 fine plus \$1,130.00 costs.

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

DBPR vs. Paul D. Newman and Cohesion Associates, Inc.

Case Number 2013-041821

PCP: Hall, Shore, Costoya, and Rivers

The respondents were not present or represented by counsel. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a two count

administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and practicing architecture through a business entity without a certificate of authorization per Section 481.219 (2), Florida Statutes. The administrative complaint was hand served April 13, 2015, and the respondent has failed to respond.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$930.00 costs. The Department's guidelines recommend a \$4,500.00 fine plus costs.

The board reviewed the Department's disciplinary guidelines and after discussion the following motions were made.

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

Motion: Ms. Bao-Garciga moved that the board impose a \$4,500.00 fine plus \$930.00 costs.

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

The board requested that this disciplinary action be referred to the New York Board of Architecture.

DBPR vs. Pete Alfonso, Jr.

Case Number 2013-046486

PCP: Hall, Shore, Rodriguez, and Rivers

Mr. Alfonso was not present or represented by counsel. Mr. Toppe, Vice-Chair, conducted the hearing. Mr. Rodriguez and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel. The case was before the board based on a one count administrative complaint for the licensee certifying work beyond his ability to perform per Section 481.221(4), Florida Statutes.

The Probable Cause Panel recommended a reprimand and a \$1,000.00 fine plus \$1,561.13 costs. The stipulation reflects a \$1,000.00 fine plus costs. The reprimand was removed because this was a first time offense and the respondent agreed to comply.

The board reviewed the disciplinary guidelines and after discussion the following motion was made.

Motion: Ms. Bao-Garciga moved that the board approve the settlement stipulation as presented.
Second: Mr. Ehrig seconded the motion and it passed unanimously.

DBPR vs. Lawrence Wright & Partners, LLC and Lawrence D. Wright
Case Number 2013-035929

PCP: Hall, Shore, Toppe, and Rivers

The respondents were not present or represented by counsel. Mr. Toppe and Mr. Rivers were recused from the review of the case based on their participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and practicing architecture through a business entity without a certificate of authorization per Section 481.219 (2), Florida Statutes.

The Probable Cause Panel recommended a reprimand and a \$6,000.00 fine plus \$285.00 costs. The Department's guidelines recommend a \$4,500.00 fine plus costs. The stipulation reflects a \$1,000.00 fine plus costs. The fine was reduced because this was a first time offense and the respondent agreed to comply.

The board reviewed the Department's disciplinary guidelines and after discussion the following motion was made.

Motion: Mr. Fernandez moved that the board approve the settlement stipulation as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

DBPR vs. McHarris Planning & Design and Joseph M. McHarris
Case Number 2013-021186

PCP: Hall, Shore, Costoya, and Rivers

Mr. Minacci requested that this case be continued until the next board meeting.

Motion: Mr. Ehrig moved that the board continue this case review to the October meeting with no more continuances allowed.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Rules Committee Review

Rule 61G1-23, F.A.C., Responsible Supervisory Control
The rule discussion will be held for tomorrow's agenda.

Motion: Mr. Toppe moved the rules discussion be moved to the July 29, 2015 meeting agenda.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

New Business

No new business.

Old Business

No new business.

Recess

Motion: Mr. Ehrig moved that the meeting recess.

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

The recessed at 12:13 p.m.

MINUTES

**Board of Architecture and Interior Design
Boca Raton Resort & Club
501 East Camino Real
Boca Raton, Florida
561.447.3000**

**July 29, 2015
9:00 a.m.**

General Business

Call to Order

Roll Call – Identify excused absences

Mr. Rodriguez, Chair, called the meeting to order at 9:01 a.m. and a quorum was established.

Board Members Present:

Miguel Rodriguez, Chair
Jonathan Toppe, Vice-Chair
John Ehrig
Hector Fernandez
Aida Bao-Garciga
Kenan Fishburne
James Blanz
Dylan Rivers

Board Members Absent:

Francisco Costoya, excused
Ivette O'Doski, excused
Emory Johnson, excused

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Thomas Campbell, Executive Director
Terri McEwen, Government Analyst
Trent Manausa
Jackie Drake
Lilia Gonzalez
Daniel Castro
Miguel Diaz-Perna

Mike Huey
Bruce Abugov
David Roberts
Eli Nortelus
Joe McHarris
Cynthia David
Jaime Canaves
Gerard Oakley
Other Interested Parties

Court Reporter: Nick Bruens, Official Reporting Services, LLC, 524 S. Andrews Avenue, Suite 302N, Ft. Lauderdale, Florida 33301. Telephone (954) 467-8214.

Petitions for Variance or Waiver - Rule 61G1-14.001, Florida Administrative Code, Examination Designated, General Requirements

Bruce Abugov

Mr. Abugov was present, sworn in by the court reporter and represented by Mike Huey. The petition was filed on June 1, 2015. Mr. Abugov applied for licensure by the National Council of Architectural Registration Boards (NCARB) Endorsement route per Section 481.213(3) (c), Florida Statutes. Mr. Abugov is certified by NCARB and is licensed in another state of the United States. Mr. Abugov did not take and pass the prescribed licensure examination as required by Florida Statutes; however, he took and passed a written professional examination and/or oral examination administered in the Canadian province of Alberta.

Mr. Abugov is licensed in Nevada and New Jersey where they determined his credentials, including the examination, as substantially equivalent for licensure, he has practiced as a licensed architect in Canada since 1990 with no disciplinary actions, has met the rigorous review for NCARB certification, holds a Bachelor of Applied Science in Engineering from the University of Toronto, Masters of Environmental Engineering from Western Ontario, holds a Master's Degree of Architecture from Harvard, and is licensed as an Engineer in multiple Provinces of Canada.

Mr. Huey presented that Mr. Abugov is applying to Florida for licensure based on a client's needs for a project he will be working on in Florida. Mr. Huey presented that Governor Scott's Executive Order is to remove licensure barriers and this rule is an unreasonable barrier because Mr. Abugov has met a minimum level of competency and standards which meets the Legislative intent. Mr. Huey provided additional documents for the board to consider that included the preamble and objectives of North American Free Trade Agreement (NAFTA) that facilitates licensure to and from Canada, Governor Scott's Executive Order outlining the need to remove unreasonable licensure barriers, NCARBs Mutual Recognition

Agreement that facilitates global practices with Canada, and Nevada and New Jersey's review of Mr. Abugov's examination where they determined his examination is equivalent to their examination requirements.

Motion: Mr. Toppe moved that the board approve the petition for waiver or variance of Rule 61G1-14.001, Florida Administrative Code, based on Mr. Abugov's demonstration of his registration and practice in Canada since 1989 in good standing, his passage of the examination required for licensure in Canada, and his education (1977 Bachelor of Applied Science in Engineering from the University of Toronto, 1978 Masters of Environmental Engineering from Western Ontario, 1985 Master's Degree in Architecture from Harvard) demonstrates that he is competent to practice in Florida, and grant this petition.

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

Miguel Diaz-Perna

Mr. Diaz-Perna was present and sworn in by the court reporter. The petition was filed April 23, 2015. Mr. Diaz-Perna is requesting that the board grant him licensure based on an examination taken in 1974. He passed all sections but one and he is requesting that bonus points be added to his examination score to reflect a pass for all sections of the exam. Mr. Diaz-Perna has taken multiple examinations such as the Junior Examination 1974, the Professional Examination 1977-1981, and the Architecture Registration Exam 2004 without successfully passing. After reviewing the materials the board determined that the bonus points he was requesting were not applicable to the 1974 examination but a subsequent examination and that the bonus points were added to the results at that time.

The Department's records do not reflect that Mr. Diaz-Perna has ever passed any designated examination.

Motion: Mr. Ehrig moved that the board deny the petition for waiver based on the fact that there is no evidence of Mr. Diaz-Perna passing the licensure examination.

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

Application Review

Daniel Castro – Interior Design Endorsement

Mr. Castro was present and sworn in by the court reporter. The application was before the board for review based on the consultant's recommendation to deny the application because Mr. Castro does not have a degree from an interior design program as required by Section 481.209(2), Florida Statutes and Rule 61G1-22.003, Florida Administrative Code.

Mr. Castro meets the experience and examination requirements; however, he holds an accredited Bachelor of Architecture from the University of Miami which does not satisfy the education component outlined in statute or rule.

Mr. Castro withdrew his application.

Michael Ramirez – Interior Design Endorsement

Mr. Ramirez was present, sworn in by the court reporter and represented by Jude Faccidomo. The application was before the board for review based on the consultant's recommendation to deny the application because Mr. Ramirez does not have a degree from an interior design program as required by Section 481.209(2), Florida Statutes and Rule 61G1-22.003, Florida Administrative Code.

Mr. Ramirez meets the experience and examination requirements; however, he holds a Bachelor of Design from the University of Florida which does not satisfy the education component outlined in statute or rule.

Mr. Faccidomo presented that the board has the ability to approve an architecture degree based on the board's application, frequently asked questions, and through the education rule by deeming an architecture degree equivalent to the CIDA requirements.

Mr. Faccidomo provided additional information regarding Mr. Ramirez's Masters of Architecture from the University of Puerto Rico and requested that the board's consultant evaluate the transcript and course curriculum. Mr. Faccidomo will be notified of the consultant's review and recommendation and then they will determine how they would like to proceed with Mr. Ramirez's pending application.

Motion: Mr. Ehrig moved that this application be continued until the next meeting to allow Mr. Butler the ability to review the Masters of Architecture from University of Puerto Rico.

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

DBPR vs. McHarris Planning & Design and Joseph M. McHarris

Case Number 2013-021186

PCP: Hall, Shore, Costoya, and Rivers

Mr. McHarris was present and sworn in by the court reporter. Mr. Rivers was recused from the review of the case based on his participation on the Probable Cause Panel. The case was before the board based on a two count administrative complaint for practicing architecture without a license per Section 481.223(1) (a), Florida Statutes, and using the title architect per Section 481.223(1) (c), Florida Statutes. This was a third offense.

The Probable Cause Panel recommended a \$10,000.00 fine plus \$330.00 costs. The settlement stipulation reflects a \$7,500.00 fine plus costs and an appearance before the board. The fine was reduced because the subject agreed to come into compliance and appear before the Board.

The board reviewed the disciplinary guidelines and after discussion the following motions were made.

Motion: Mr. Ehrig moved that the board approve the settlement stipulation as presented.

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

Rules Report and Discussion

Rules Report

The rules report was for the board's information purposes only.

2015 Annual Regulatory Plan (Update)

Ms. Clark advised that the Annual Regulatory Plan was due by October 1, 2015, and she would need a description of the proposed changes to complete the plan. The board designated Mr. Rodriguez to assist with the description language needed.

Report

AIA Report – Vicki Long and Andy Hayes

Ms. Long provided a Legislative update and welcomed the board to the Convention. She reported that the Governor vetoed the unlicensed activity budget request for this board. She reported that they were watching a case in Broward County regarding the statute of repose and holding of payments for services. She reported that they are working with the Engineers on continuing education courses.

Rules Report and Discussion

Rule 61G1-23, F.A.C., Responsible Supervisory Control

The board reviewed the comments for both professions. The board determined that they would readdress the comments on an upcoming telephone conference for the benefit of having Mr. Johnson in attendance since he had concerns with the statutory ability to change the interior design rules. Mr. Fernandez voiced a concern addressing global and virtual offices.

DBPR vs. Gerard Joseph Oakley

Case Number 2013-033314

PCP: Hall, Shore, and Costoya

Mr. Rodriguez asked Mr. Oakley if he would like his disciplinary case reviewed since the board took action on his case at yesterday's meeting. Mr. Oakley declined a review of his disciplinary case.

Rule 61G1-12.001(3), F.A.C., Grounds for Disciplinary Proceedings

Mr. Ehrig commented that he was concerned about the board licensing engineering firms with only engineering in the title of the name of the firm and that do include architecture in conjunction with their firm name. His concern is that the firm name is misleading to the public if the firm name does not contain architecture. The board discussed and determined that they do not have the authority to require a firm to change their name to include architect, architecture, architectural or words to that effect to obtain a certificate of authorization. The board determined that those words must be used with, displayed with or in conjunction with the firm name but not required in the firm name itself.

Rule 61G1-13.001, F.A.C., Experience Requirements

There are two changes proposed to Rule 61G1-13.001, F.A.C. The first proposed change is to add completion of NCARB IDP as an appropriate route to fulfill the experience requirement for applicants seeking licensure through state endorsement under Section 481.213(3) (b), Florida Statutes.

The second proposed change is to lower the ten years of licensed experience requirement for those state endorsement applicants who were not required to complete NCARB IDP prior to their initial licensure in another U.S. jurisdiction. Currently, according to NCARB, there are only four jurisdictions that do not require NCARB IDP prior to initial licensure. Those jurisdictions are Delaware, Maine, Wisconsin, and Puerto Rico. A copy of NCARB's website and the pre-licensure experience requirements in those jurisdictions are attached as Exhibit 1. Even though the jurisdictions do not require NCARB IDP the jurisdictions do require between 3-7 years of practical experience prior to licensure. As always, the proposed changes are suggestions that can be approved or disapproved by the Board.

61G1-13.001 Experience Requirements. – DRAFT LANGUAGE

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 Intern Development Program (IDP) through the National Council of Architectural Registration Boards (NCARB).

(2) For applicants for licensure by endorsement, pursuant to Section 481.213(3)(b), F.S., completion of the Intern Development Program (IDP) through the National Council of Architectural Registration Boards or two (2) ~~ten (10)~~ years of experience as a licensed architect in another NCARB jurisdiction.

After discussion the board made the following motion.

Motion: Mr. Ehrig moved that the board approve Rule 13.001, Experience Requirements, for rule development, approve the text as presented with the time frame of ten (10) years be changed to two (2) years.

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

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

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

Rule 61G1-21.001, F.A.C., Continuing Education for Interior Designers

- Interior Design Continuing Education Handbook Review

Rule 61G1-24.001, F.A.C., Continuing Education for Architects

- Architect Continuing Education Handbook Review

The rules and handbooks were continued to the next board meeting.

General Discussion/Information

NCARB IDP – Experience Portfolio Documentation Method (EPDM)

Member Board Comment Period

The board reviewed and discussed the information. Mr. Ehrig will prepare a response to NCARB on behalf of the board.

NCARB – Proposed Broadly Experienced Intern Program

For information only.

Article – What is an Architect – Hector Fernandez

For information only.

Exemption from architect licensure for residential work – Hector Fernandez

The board discussed the current Florida statute regarding residential exemptions and how it relates to other states. Mr. Fernandez will research further and bring his findings to the board at the next meeting.

Budget Request for Appropriation of Unlicensed Activity Funds

The request was vetoed by the Governor. The board discussed clarifying that the use of the funds would be for education, stings, or other items than just advertising.

Letter to the Florida Building Commission

The board reviewed the historical outline that Mr. Campbell provided regarding interior designers being included in the definition of design professionals within the building code. The board discussed having representatives at the Commission meetings as well as positions available to serve on the Florida Building Commission.

Mr. Roberts reported that ASID was submitting language for interior designers that would mirror the definition language for architects, engineers, and landscape architects. He reported that ASID, through Ackerman, filed a petition for a declaratory statement to the Florida Building Commission for a ruling on an interior designer's ability to sign and seal plans for submittal to the building department. The Commission will consider the declaratory statement on August 7, 2015, by the Administrative Advisory Committee then for consideration at the Florida Building Commission on August 18, 2015.

Task List

The board reviewed and discussed future dates for finalizing a task force meeting with the Florida Board of Professional Engineers.

Review and Approval of Meeting Minutes

May 6, 2015 – Probable Cause Panel Meeting, Jacksonville, Florida

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

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

May 7-8, 2015 – General Business Meeting, Jacksonville, Florida

Motion: Mr. Ehrig moved that the board approve the minutes as presented.

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

Ratification List(s)

Licensure

Pages 1792-1798 of the agenda materials

Motion: Mr. Fernandez moved that the board ratify the list as presented on pages 1792-1798 of the agenda materials.

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

Continuing Education
Page 1799 of the agenda materials

Motion: Mr. Ehrig moved that the board ratify the list as presented on page 1799 of the agenda materials.

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

Reports

Chair's Report – Miguel Rodriguez
No report.

Executive Director's Report – Thomas Campbell

Financial Statement

- Operating Account ending March 31, 2015
- Unlicensed Activity Account ending March 31, 2015

Mr. Campbell reviewed the financial reports and advised that the board was in good financial standing.

Update on Department Rules Review

Mr. Campbell reported that the Rules Review was submitted at the end of June to the Office of Fiscal Accountability and Regulatory Reform (OFARR). There has been no response from OFARR as of today's meeting.

IDAF –Cindy David

Ms. David reported that she was thankful for Mr. Campbell's historical information regarding the Florida Building Commission and the definition in the code.

ASID – Dave Roberts

Mr. Roberts provided an update on the Foreign Investment in Real Property Tax Act (FIRTPA) Reform.

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 - March 2015

Billable Hours - April 2015

Billable Hours – May 2015

Billable Hours – June 2015
Results of May 2015 Board Meeting
No discussion on the reports.

Future Board Meetings

The board scheduled a telephone conference call August 25, 2015 at 2:00 p.m. for General Business and 3:00 p.m. for Rule Chapter 23 Rules Review.

Location: Pensacola
Crowne Plaza, 200 E. Gregory Street, Pensacola, Florida
October 7, 2015 – Probable Cause Panel Meeting
October 8-9, 2015 – General Business Board Meeting

Location: TBD
February 24, 2016 – Probable Cause Panel Meeting
February 25-26, 2016 – General Business Meeting

Location: Orlando or Tampa in conjunction with Florida Board of Professional Engineers
May 11, 2016 – Probable Cause Panel Meeting
May 12-13, 2016 – General Business Meeting

Location: Palm Beach in conjunction with AIA Florida
July 18, 2016 – Probable Cause Panel Meeting
July 19-20, 2016 – General Business Meeting

Location: TBD
October 26, 2016 – Probable Cause Panel Meeting
October 27-28, 2016 – General Business

New Business

Mr. Fernandez requested that Mr. Minacci obtain documents proving a claim of financial hardship from respondents that are under investigation for the board to consider when taking action on cases. The board discussed privacy issues and allowing Mr. Minacci the discretion on how much information is needed to be obtained.

Motion: Mr. Fernandez moved that the board instruct Mr. Minacci to request, at his discretion, financial documentation for respondents that claim financial hardship.

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

Old Business

No old business.

Adjourn

Motion: Mr. Toppe moved that the meeting adjourn.

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

The meeting adjourned at 1:24 p.m.