

MINUTES

**Board of Architecture and Interior Design
Hilton Naples
5111 Tamiami Trail North
Naples, Florida 34103
(239) 659-3150**

July 26, 2017

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

Call to Order

Mr. Toppe, Chair, called the meeting to order at 9:03 a.m. and a quorum was established.

Board Members Present:

John Ehrig
Miguel "Mike" Rodriguez
Jonathan Toppe, Chair
Hector Fernandez
Francisco "Frank" Costoya
Aida Bao-Garciga, Vice-Chair
Holly Dennis
Ivette O'Doski
Dylan Rivers

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Krista B. Woodard, Executive Director
Terri McEwen, Government Analyst
Trent Manausa
Sharon Del Bianco
Sonia Longchamp
Tyler Patak
Lorraine Bragg
Aida Lora
Brad Schiffer
Vicki Long, AIA Florida
David Roberts, Nortelus Roberts Group

Court Reporter: Andrea J. Steanick, Martina Reporting Services, 2069 First Street, Suite 201, Ft. Myers, Florida 33901. Telephone (239) 334-6545

Disciplinary Cases

DBPR vs. Matthew Barry Jarmel and Jarmel/Kizel Architect & Engineers, Inc.
Case Number 2017-021330

Mr. Jarmel was not present but was represented by Jed Berman. The case was before the board based on Mr. Jarmel signing and sealing documents with a null and void license. He waived probable cause and entered a settlement stipulation reflecting a \$5,000 fine plus \$1,162.50 costs. Mr. Minacci requested that the board approve the settlement stipulation as presented.

After review and discussion the following motion was made.

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

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

Application Review - Matthew Barry Jarmel

The board reviewed the application and the following motion was made.

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

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

Motion for Final Order Waiving Formal Hearing

Licensed

DPBR vs. Jeffrey Hindman

Case Numbers 2015-053456

PCP: Hall, Smith, and Toppe

PCP recommendation: Revocation plus \$555.00 costs

Mr. Hindman 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 hand served March 28, 2017 at the respondent's last known address. The respondent failed to respond to the administrative complaint.

The Probable Cause Panel recommended that the board revoke the license. After review and 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.

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

Motion: Mr. Fernandez 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. Fernandez moved that the board revoke the license and impose \$555.00 in costs.

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

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.

Licensed

DBPR vs. Yesli Marjorie Saravia *

Case Number 2016-007825

PCP: Hall, Smith, and Toppe

Settlement Stipulation: \$1,000.00 fine plus \$450.00 costs, 40 hours of continuing education, and suspension until compliance.

Ms. Saravia 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 satisfy a statutory obligation.

The Probable Cause Panel recommended a \$1,000 fine plus \$450.00 costs, 40 hours of continuing education, and suspension until compliance. The settlement stipulation reflects the Probable Cause Panel's recommendation.

After review and discussion the following motion was made.

Motion: Mr. Rodriguez moved that the board accept the settlement stipulation as presented.

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

Unlicensed

DBPR vs. Mariela Martin-Fernandez and Remodel by Design, LLC

Case Numbers 2014-042066

PCP: Hall, Shore, Costoya, and Rivers

The respondent is requesting that the case be dismissed since there has been no action on the case in two years. The board differed the discussion on this case until later in the meeting.

Application Review

Jordan Behar – Licensure by Examination

The application was before the board based on prior unlicensed disciplinary action by the board. Mr. Behar was not present but provided a letter of explanation regarding the circumstances and resolution of the disciplinary case. After board review and discussion the following motion was made.

Motion: Mr. Rodriguez moved that the board approve Mr. Behar's licensure application.

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

Christopher Duckett – NCARB Endorsement

The application was before the board based on an affirmative answer to a background question regarding a settlement agreement with the state of Nevada. After board review and discussion the following motion was made.

Motion: Mr. Rivers moved that the board approve Mr. Duckett's licensure application.

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

Review and Approval of Meeting Minutes

May 11, 2017 – Probable Cause Panel, Daytona Beach, Florida

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

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

May 12, 2017 – General Business, Daytona Beach, Florida

Motion: Mr. Fernandez moved that the board approve the minutes with a correction made to the motion for Steven Lawler to reflect, \$750.00 fine plus \$1012.50 costs within 30 days and 34 hours of continuing education within 150 days of the final order.

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

June 6, 2017 – Telephone Conference Call

Motion: Mr. Rodriguez moved that the board approve the minutes as presented.
Second: Mr. Fernandez seconded the motion and it passed unanimously.

Ratification Lists

Licensure

Architect Licensed by Examination, Architect Licensed by NCARB Examination, Architect Licensed by State Endorsement, Architect Licensed by Direct Endorsement, Architect Licensed by Initial from Null & Void (Hardship), Architecture Business Licensed by Corporation, Fictitious Name, Partnership, Limited Liability, and Name Change, Interior Designer License by Endorsement, Interior Designer License by AR/ID Dual Licensure, Interior Designer License by Initial from Null & Void (Hardship), Interior Design Business Licensed by Corporation, Limited Liability Corporation, and Name Change.

Motion: Mr. Rodriguez moved that the board approve the licensure ratification list as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Continuing Education

Courses approved for the Department of Education (Educational Facilities), Florida Educational Facilities Planners Association, Florida Green Building Coalition, JC Code & Construction Consultants, Inc., Karen Rauch Carter, and Miami-Dade County of Regulation & Economic Resources.

Motion: Mr. Fernandez moved that the board approve the continuing education list as presented.
Second: Mr. Ehrig seconded the motion and it passed unanimously.

Antitrust Update

Edward Tellechea – Office of Attorney General

Mr. Tellechea reported that nothing was happening at the Federal level. He reported that no additional cases have been filed for Antitrust violations from the Federal level. However, there have been private actions brought against professional licensing boards. Mr. Tellechea provided a brief synopsis and outcome for those cases.

Mr. Tellechea reported the states have been trying to address the indemnification insurance through Legislation. However, he was not aware of any that were successful. He reported that there was some active government over-sight Bills that passed in other states.

Mr. Tellechea reported that last Legislative Session a Bill was proposed in Florida, however, the language changed and there was no companion Bill filed. Currently, there is no proposed Bill for indemnification insurance or active supervision for the upcoming Legislative Session.

Mr. Tellechea reported that there have been no causes of action against any professional licensing board; however, this board, cosmetology, and engineers are unique due to unlicensed activity oversight. Mr. Tellechea offered that the Office of Attorney General will review the agenda materials and provide direction on how to proceed.

Mr. Tellechea offered that the board should avoid any ambiguous unlicensed activity cases and focus on clear unlicensed practice. He offered that the board educate individuals through issuing cease and desist orders initially instead of punitive damages. If there is an egregious case with clear public harm then the board could pursue through statutory disciplinary process.

Mr. Tellechea reported that the Attorney General's Office will continue to review the board's rule through their Antitrust Unit. Florida's Antitrust Unit pursues cases against entities that violates Florida's Sherman Antitrust Act and works closely with the Federal Trade Commission (FTC) and vice-versa. They work closely together to avoid future cases similar to the North Carolina Dentistry case.

Mr. Tellechea reported that the Department of Business and Professional Regulation will provide legal representation for the board members provided the board members are taking action within their statutory authority and within their counsel's advice. The board has legal representation but not indemnification insurance.

The board discussed purchasing indemnification insurance through the state budget. However, the board does not have the spending authority from the Legislature. There have been discussions that the state cannot purchase indemnification insurance for a state agency for intentional acts. Risk Management will not cover intentional acts by any state agency.

After discussion the board made the following motion.

Motion: Mr. Ehrig moved that the board move forward with reviewing and taking action on unlicensed activity cases.

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

Rules Report and Discussions

Rules Report

Ms. Clark reviewed the changes to the rule making process effective July 1, 2017. Rule 61G1-12.007, Florida Administrative Code, addresses notice of non-compliance and minor violations.

Implementation of Section 120.695(2)(c)3 and Minor Violations
Due to the implementation changes the board must re-review Rules 61G1-17.001(11) and 17.002(13), Florida Administrative Code.

Change proposed based upon HB 741, effective July 1, 2017.

61G1-17.001 Professional Fees and Penalties for Architects.

The following fees and penalties are hereby adopted by the Board:

(1) – (10) No change.

(11) In addition to the regular biennial renewal fee, the fee to renew either an active or inactive status license after the deadline for renewal (and the license has become delinquent) shall be \$25.00 ~~\$125.00~~.

(12) - (13) No change.

Rulemaking Authority 455.217(2), 455.2281, 481.207 FS. Law Implemented 455.217(2), 455.2281, 455.271, 481.207, 481.209, 481.219 FS. History—New 12-23-79, Amended 12-19-82, 5-18-83, 6-12-84, 7-30-85, Formerly 21B-17.01, Amended 9-23-86, 5-16-87, 12-6-87, 4-17-89, 12-24-89, 3-14-91, Formerly 21B-17.001, Amended 9-27-93, 8-21-94, 11-21-94, 4-22-97, 3-15-99, 9-7-04, 10-23-06, 9-24-12, _____.

Changes Based upon HB 741, effective July 1, 2017

61G1-17.002 Professional Fees and Penalties for Interior Designers.

(1) - (12) No change.

(13) There will be a \$25.00 ~~\$125.00~~ delinquency fee.

(14) - (16) No change.

Rulemaking Authority 455.213(2), 455.219(3), 455.2281, 481.207, 481.229(5)(b) FS. Law Implemented 455.219(3), 455.2281, 455.271(6), 481.207, 481.219 FS. History—New 12-21-88, Amended 5-10-89, 7-2-89, 12-24-89, 12-3-90, 2-28-91, 5-31-92, 11-11-92, Formerly 21B-17.002, Amended 9-27-93, 11-15-93, 11-21-94, 1-31-96, 10-20-96, 1-10-99, 3-15-99, 9-7-04, 11-9-06, 8-26-12, _____.

Motion: Mr. Rivers moved that Rules 61G1-17.001(11) and 17.002(13), Florida Administrative Code would not constitute a minor violation.

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

Certification of Minor Violations

No discussion.

Review of the Annual Regulatory Plan 2016-2017

Ms. Clark reported that the 2017-2018 Annual Regulatory Plan was due by September 29, 2017. The board reviewed the 2016-2017 Annual Regulatory Plan and after discussion the following motion was made.

Motion: Mr. Ehrig moved that the board include all rules from the 2016-2017 Annual Regulatory Plan with the exception of Rules 61G1-13.001 and 14.001, F.A.C. in the 2017-2018 Annual Regulatory Plan.

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

Disciplinary Case

Settlement Stipulation
Unlicensed

DBPR vs. Mariela Martin-Fernandez and Remodel by Design, LLC
Case Number 2014-042066
PCP: Hall, Shore, Costoya, and Rivers
The board chose not to revisit the discussion on this case.

Reports

Board Chair – Jonathan Toppe

NCARB Annual Meeting Update

Mr. Toppe reported that he, Mr. Rodriguez, Mr. Ehrig, and Ms. Woodard attended the NCARB Annual Meeting in Boston, Massachusetts. He reported that NCARB was working to expedite licensure through changes in the internship and examination process, the 5.0 examination is currently being offered, and Florida is fourth largest architect licensure state. The board requested that the department fund two members and board counsel to attend the NCARB Annual Meeting in addition to what NCARB funds. NCARB's intent with funding board members and executives was to expand board member participation not to maintain or narrow attendance.

Motion: Mr. Ehrig moved that the department approve the board's travel budget and to obtain spending authority to send every licensed architect and other board members as needed including counsel to the NCARB Annual Meetings in addition to NCARB's funding.

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

Executive Director's Report – Krista Woodard

Financial Statements ending March 31, 2017

Operating Account

Unlicensed Activity Account

Ms. Woodard reported that the board is in good financial position.

AIA Florida – Vicki Long, Micky Jacob, and Kim Headland

Ms. Long reported on the upcoming Florida AIA Annual Conference, the 4th Annual People's Choice Awards, their Public Relations efforts, and their Hand's Across the Waters efforts.

Mr. Jacobs commented and thanked the board for addressing unlicensed activity cases and issues for the interest of the health, safety, and welfare of the public. He thanked Mr. Ehrig and Mr. Rodriguez for their leadership with NCARB.

Mr. Jacobs reported that they are working with NCARB to resolve the issue with the change of the title for architectural interns. He reported that AIA National Government Advocacy and Legal Section are monitoring the Antitrust issue.

IDAF – Lorainne Bragg

Ms. Bragg reported that IDAF was strengthened this year with support of ASID and IIDA. She reported that students are graduating and are extremely interested in licensure. The interior design program at Florida International University (FIU) is ranked 3rd in the Nation. They are performing outreach to licensed individuals that are not affiliated with an association to inform them about advocacy regarding the profession.

Aida Bao-Garciga was given a “Life Time Achievement Award” from the International Interior Design Association.

ASID – Sonia Longchamp and Dave Roberts

Ms. Longchamp reported that Florida South Chapter ASID, nominated Mr. Minacci and Mr. Ron Book for “Honorary Medalist’s Awards” to the ASID Headquarters in Washington, DC. They both received the awards.

Mr. Roberts reported that Legislative Session will begin in January 2018 and the Committee Meetings begin in September 2017. He reported that they expect a deregulation bill from the House and Senate this upcoming Legislative Session.

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 – Licensed

Fines Chart – Unlicensed

Billable Hours – April 2017

Billable Hours – May 2017

Billable Hours – June 2017

Results of the May 2017 Board Meeting

Speaking Engagements

Mr. Minacci provided the board a copy of the 2016-2017 Annual Report. He reported that he was a speaker at the NCARB Annual Meeting.

Future Board Meetings

Location: Coral Gables
Biltmore Hotel, 1200 Anastasia Avenue, Coral Gables, Florida 33134
Toll free (877) 576-0793 or direct (305) 445-1926
October 19, 2017 – Probable Cause Panel
October 20, 2017 – General Business

Telephone Conference Call was scheduled for September 19, 2017 at 2:00 p.m.

The following meeting dates were set for 2018.

January 24, 2018 – Probable Cause Panel
January 25-26, 2018 – General Business
Location: TBD

April 11, 2018 – Probable Cause Panel
April 12-13, 2018 – General Business
Location: TBD

July 16, 2018 – Probable Cause Panel
July 17-18, 2018 – General Business
Location: Sawgrass Marriott Ponte Vedra, 1000 PGA Tour Blvd, Ponte Vedra,
Florida 32082

New Business

Mr. Toppe requested that the board recommended that Ms. Clark be able to attend the Federation of Associations of Regulatory Boards (FARB) Regulatory Law Seminar, October 5-8, 2017 in Savannah, GA.

Motion: Ms. O'Doski moved that the board Chair request that the Attorney General's Office authorize Ms. Clark's attendance at the FARB Seminar.

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

Mr. Ehrig reported that Florida International University (FIU) was approved for NCARB's Integrated Path to Architecture Licensing (IPAL).

Old Business

No old business.

Adjourn

Motion: Mr. Ehrig moved that the meeting adjourn.

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

The meeting adjourned at 11:56 a.m.