

MINUTES

Board of Architecture and Interior Design

Hyatt Regency Tampa
Two Tampa City Centre
211 North Tampa Street
Tampa, Florida 33602
813.225.1234

October 13, 2011
9:00 a.m.

General Business

Call to Order

Mr. Ehrig, Chair, called the meeting to order at 9:11 a.m. A quorum was established and an invocation performed.

Roll Call – Identify excused absences

Board Members Present:

Wendell Hall
Joyce Shore
John Ehrig
Emory Johnson
Aida Bao-Garciga

Board Members Absent:

Warren Emo, excused
Wanda Gozdz, excused

Other Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Anthony Spivey, Executive Director
Terri McEwen, Government Analyst
Ron Fair
Lowell Kuvin
Gal Levy
Kathy Hillegas, NCARB
Michael Armstrong

Court Reporter: Argus Team, Argus Bay Park Reporting & Legal, 4010 West State Street, Tampa, FL. 33609, Telephone 813.490.0003

Disciplinary Cases

Settlement Stipulation

Unlicensed

DBPR vs. AEC Services, Inc. and Ron Fair

Case Number 2010-034294

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Fair was present and represented by counsel. The case was before the board based on the respondent entering a contract to offer architecture services when not licensed. The services were offered through a corporation without a certificate of authorization. Probable Cause was found to issue a three count administrative complaint for practicing architecture without a license, using the title architect without a license, and offering the architectural services without a certificate of authorization.

The panel recommended a \$10,500 fine plus costs. The settlement stipulation reflects a \$1,000 fine plus costs. The fine was reduced based on the respondent agreed to comply, he removed all references to architecture on his advertisements, and has already paid the stipulated amount which is being held in trust.

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

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

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

Unlicensed

DBPR vs. Lee Projects, LLC and Gal Levy

Case Number 2010-033023

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Levy was present and represented by counsel Lowell Kuvin. The case was before the board based on respondents web page offering architectural services through a business without a license. A three count administrative complaint was filed for practicing architecture without a license, using the title architect without a license, and offering the architectural services without a certificate of authorization. The administrative complaint was hand served and the respondent failed to respond.

The case was initially presented to the board in May 2011. A final order was entered imposing a \$15,000 fine plus costs. The respondent appealed the final order because the board meeting notice was not received. A consent order by the District Court of Appeals relinquished jurisdiction back to the board. The order waived rights to dispute the facts.

Motion: Mr. Hall moved that the board vacate the final order entered on June 9, 2011.

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

Motion: Mr. Hall moved that the board adopt the findings of fact set forth in the administrative complaint.

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

Mr. Kuvin presented that Mr. Levy was a permit expeditor not an architect. Mr. Levy's wife created the web site that reflected the link to a licensed architect. Mr. Kuvin requested that the board consider imposing \$500 per violation based on Mr. Levy's limited income. He advised that the web site was no longer active.

Motion: Mr. Hall moved that the board adopt the conclusions of law set forth in the administrative complaint.

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

Motion: Mr. Hall moved that the board impose a \$1,500 fine plus costs paid in 12 equal payments.

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

Settlement Stipulation

Licensed

DBPR vs. Design Team Associates, Inc.

Case Number 2010-042510

PCP: Rodriguez, Wirtz, and Hall

Carol Green was present and sworn in by the court reporter. Mr. Hall was recused from the review of this case based on his participation with the Probable Cause Panel. The case was before the board based on the licensed interior designer entering a contract to perform general contracting services. A one count administrative complaint was filed for practicing beyond the scope of the license.

The respondent appeared before the panel and explained the issues surrounding the project and local discipline imposed upon the respondent. The panel recommended a reprimand and the settlement stipulation reflected the same.

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

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

Settlement Stipulations

Licensed

DBPR vs. Contract Design Group, Inc. and Lynne M. Hawthorne
Case Number 2010-059795

PCP: Rodriguez, Wirtz, and Hall

Ms. Hawthorne was present and sworn in by the court reporter. Mr. Hall was recused from the review of this case based on his participation with the Probable Cause Panel. The case was before the board based on the licensed interior designer entering into a contract to perform general contracting services. A one count administrative complaint was filed for practicing beyond the scope of the license.

The respondent appeared before the panel and explained the issues surrounding the project. The panel recommended a reprimand and the settlement stipulation reflected the same.

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

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

Motion for Order Waiving Formal Hearing

Licensed

DBPR vs. Jaime P. Colmenares
Case Numbers 2010-012079 and 2010-036771

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Johnson requested that he be recused from the review of the case based on prior knowledge of the case. The respondent was not present or represented by counsel. The case was before the board based on failing to comply with two prior final orders for failure to complete continuing education. A two count administrative complaint was for failing to comply with a lawful order of the board. The administrative complaint was served by certified mail. At the July 2011 board meeting, Mr. Colmenares was advised to complete the requirements or relinquish his license.

Mr. Minacci reported that he provided a voluntary relinquishment form to Mr. Colmenares. Mr. Colmenares had not returned the voluntary relinquishment form or complied with the requirements but had paid a portion of the fine imposed.

Motion: Mr. Hall 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 timely respond thereto. Further, that the board adopt the findings of facts and conclusions of law set forth in the administrative complaint.

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

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

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

The board requested that Mr. Minacci obtain Mr. Colmenares' seal.

Settlement Stipulations

Licensed

DBPR vs. Jenny Carter and K2 Design Group, Inc.

Case Number 2010-009162

PCP: Rodriguez, Wirtz, and Gustafson

The respondent was not present or represented by counsel. The case was before the board based on the firm did not have a licensed qualifier for the business and continued to offer architectural services. A two count administrative complaint was filed for practicing architecture and offering architectural services without a licensed architect.

The panel recommended a reprimand, a \$3,000 fine plus costs, and two years probation. The settlement stipulation reflected the panel's recommendation.

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

Second: Ms. Shore 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 respondent was not present or represented by counsel. The settlement stipulation required Mr. Padgett to appear before the board. Mr. Minacci advised the board they could approve, reject, or continue the case review until the next meeting since Mr. Padgett was not present.

Mr. Minacci requested that the board continue the case review until the next meeting.

Motion: Mr. Hall moved that the board continue the case review until the next meeting.
Second: Ms. Shore seconded the motion and it passed unanimously.

Voluntary Relinquishment

DBPR vs. Lynwood G. Willis
Case Number 2010-059290

Mr. Willis was audited for continuing education and he did not complete the required hours. A final order was entered and he failed to comply with the order. Mr. Willis agreed to relinquish his license in lieu of discipline.

Motion: Mr. Hall moved that the board adopt the voluntary relinquishment as presented.
Second: Ms. Shore seconded the motion and it passed unanimously.

DBPR vs. David E. Beatty
Case Number 2009-019508

Mr. Beatty was audited for the Florida Building Code core course and his license was suspended until he complied with the course. He signed and sealed plans while his license was suspended. Mr. Beatty failed to provide responsible supervisory control of the plans and they were not of sufficient standards for architectural practice. A final order was entered to suspend the license and imposed fines and costs. During collection efforts Mr. Beatty agreed to voluntarily relinquish the license in lieu of discipline.

Motion: Ms. Bao-Garciga moved that the board adopt the voluntary relinquishment as presented.
Second: Mr. Johnson seconded the motion and it passed unanimously.

Review and Approval of Meeting Minutes

May 2, 2011 – Probable Cause Panel Meeting (ratify)
July 26, 2011 – Probable Cause Panel Meeting (ratify)

Motion: Mr. Johnson moved that the board ratify the Probable Cause Panel meeting minutes for May 2, 2011 and July 26, 2011.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

The board requested Mr. Minacci include the names of the panel members in the minutes.

July 7, 2011 – Telephone Conference Call

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

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

Request for Reconsideration of the Board's Notice of Intent to Deny An Application for Reinstatement of a Null and Void License

Charles Pereira, III – Interior Designer License

Mr. Pereira was present and sworn in by the court reporter. Ms. Clark commented that Mr. Pereira requested that the board reconsider their order entered August 26, 2011 denying his application for reinstatement of a void license. Mr. Johnson was recused from the review of the request based on prior knowledge of the application.

Mr. Pereira was licensed through the grandfathering title provision in 1990. He would not qualify to regain licensure if he was required to reapply. He does not have the required education. Mr. Pereira's license lapsed in 1998 for failing to provide the required 10 hours of continuing education courses relating to the building and barrier free code (BBFC) regulation or taking the BBFC examination prior to having the practice license renewed. The building and barrier free code examination is no longer available. The board does not have any approved building and barrier free code continuing education courses.

Mr. Pereira provided an explanation of his hardship regarding caring for an ill family member during the time he was required to complete the building and barrier free code course. He completed enough continuing education hours as required to maintain a current license from 1996. He did not provide continuing education from 1998 to current, he completed all of the hours in 2009 in an effort to comply.

Mr. Pereira reported returning to school to obtain the education now required would be a financial hardship.

Mr. Pereira was disciplined for practicing without a license in 2005. The board imposed a \$10,000 fine plus \$451 costs. Mr. Pereira paid that penalty in full in 2008.

Mr. Pereira provided an explanation of his extensive background in the interior design profession as well as teaching courses for the profession.

Motion: Mr. Hall moved that the board reconsider the matter.

Second: Mr. Ehrig seconded the motion.

The board discussed the fact that he did not take the required course at the time of transition and waited so many years to request the license be reissued to him.

Mr. Pereira offered to take the NCIDQ examination in order to regain his license. Ms. McEwen reported to the board that if the board approved Mr. Pereira for

examination NCIDQ would administer the exam. The board requested that Mr. Pereira provide transcripts for college credits from Miami Dade. Mr. Pereira submitted that he had 30 years of training.

The board withdrew the motion and tabled the review of the request until later in the meeting.

Request for Reinstatement of Null and Void License due to Hardship

Suzan Decker Ross – Interior Design License

Ms. Ross was present and sworn in by the court reporter. Ms. Ross' license lapsed delinquent March 1, 2007 and null and void March 1, 2009. She was licensed through the grandfathering provision and would not meet today's requirements to regain licensure.

Ms. Ross stated that her license lapsed due to a clerical issue. Ms. Ross provided proof of continuing education for the time her license was void and an explanation of her hardship. Mr. Minacci reported that Ms. Ross had an open disciplinary case for practicing on a void license. The Probable Cause Panel issued a notice of cease and desist at the meeting held yesterday, October 12, 2013. Mr. Minacci reported that she agreed to comply.

Motion: Mr. Johnson moved that the board reinstate her license based on proof that she maintained her continuing education since 2007.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Ratification List(s)

Licensure

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

Continuing Education

Motion: Ms. Shore moved that the board approve the continuing education ratification list as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

General Discussion

Review the Invitation to Negotiate (ITN) Language for the upcoming 2012 publication

Mr. Ehrig appointed Mr. Rodriguez, Ms. Shore, and himself to the ITN Review Committee. Mr. Johnson recused himself from the discussion based on his prior participation with Smith, Thompson, Shaw, and Manausa.

Draft Legislative Language

Mr. Ehrig reviewed the proposed changes for architecture examination, endorsement, and continuing education. The draft language changes for interior design was strictly house keeping.

AIA Report – Vicki Long

Ms. Long was present and reported that AIA Florida would celebrate 100 years in 2012. She reported that they requested a Governor Proclamation for an Architect Day and the month of April as Architecture month. She reported on multiple programs through out the year moving toward the Annual Conference.

Ms. Long reported on the upcoming Legislative Session and the difficulties they face. AIA Florida filed two Bills (Senate Bill 246 and 155) for the upcoming Session. She reported that they met with the Florida Building Commission presenting a formal position and requested that they adopt the International Building Code (IBC).

Ms. Long reported that they submitted 40 applications to the Governors Office to fill open positions on the board. She reported that they would revisit the proposed language presented last Session to privatize the board.

Ms. Long reported that AIA Florida did not object to proposed changes to education, endorsement, or continuing education.

The board discussed the increase of continuing education hours from 20 hours to 24 hours. Mr. Johnson voiced a concern about the economic impact to the licensees with increased hours.

Ms. Clark reviewed the proposed changes to the Legislative language to change the internship requirements to allow a candidate to test earlier and accepting the NCARB blue cover certification without further review. The language would bring Florida's language in alignment with NCARB requirements and other states.

Ms. Clark reviewed the proposed interior design language changes which were strictly clean up not substantive changes. She reported that the department no longer administers either the ARE or the NCIDQ.

Mr. Johnson commented that the accrediting body for interior design changed from the Foundation of Interior Design Education Research to the Council for Interior Design Accreditation. He commented that NCIDQ is in the process of making changes to their evaluation criteria and would like to consider that information if the statute was going to be opened in the 2012 Session.

Mr. Johnson requested that the interior designers be allowed an opportunity to review the language and discuss at a future telephone conference call. He requested that no changes be made to the interior design statutory language as of today.

Motion: Mr. Hall moved that the board approve the proposed changes as presented in the agenda for Section 481.209(1), Florida Statutes.

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

Motion: Mr. Johnson moved that the board approve the proposed changes as presented in the agenda for Section 481.211(2), Florida Statutes.

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

Motion: Mr. Hall moved that the board approve the proposed changes as presented in the agenda for Section 481.213(3)(c), Florida Statutes.

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

Mr. Ehrig commented that the board approached the department to include the proposed language changes through the department's bill.

Request for Reconsideration of the Board's Notice of Intent to Deny An Application for Reinstatement of a Null and Void License

Charles Pereira, III – Interior Designer License

Ms. McEwen reported to the board that NCIDQ would administer the examination if the board required him to take the exam regardless of whether he met NCIDQ's requirements. She reported that he would not necessarily be eligible for NCIDQ certification but they would administer the examination.

Motion: Mr. Hall moved that the board reconsider the matter, vacate the filed Notice of Intent to Deny, and conditionally reinstate his void license with the condition that he take and pass the NCIDQ exam within two years.

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

The National Council of Architectural Registration Boards (NCARB)

Mr. Armstrong and Ms. Hillegas were present to provide an update or overview on what was happening at NCARB. NCARB was reaching out to the states to foster better relationships. NCARB's future goals are as follows:

1. That all 54 states/jurisdictions accept NCARB certification.
2. That Member board, architects, and emerging professionals use a central database of credentials.

3. That NAAB, AAIS, AIA, and others will conduct a practice analysis in the Spring 2012 to provide a snapshot of what is necessary to practice architecture.
4. That internships are valued and all students would enroll in IDP when they enroll in school with AIAS which are student campus liaisons.
5. To adopt and implement continuing education that is health, safety, and welfare only.

Mr. Armstrong briefly reviewed their future strategic plan. He reported that many of the states had different requirements and they were working to accommodate the needs of all states through outreach.

Ms. Hillegas reported that NCARB was working to be a helpful resource to the member boards. Mr. Ehrig thanked Mr. Armstrong and Ms. Hillegas for attending the meeting.

The board discussed the broadly experienced architect and broadly experienced interior design programs.

Mr. Ehrig addressed concerns that Florida was not able to attend the Annual, Regional, and National NCARB meetings.

Web posting - Charles Greenwood and Greenwood Design Group, Inc.
Mr. Minacci commented that probable cause was initially found; the case was reconsidered and closed based on Judge Hinkle's ruling.

Motion: Mr. Hall moved that the board remove the posting.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Brame Architects – Emory Johnson
Mr. Johnson acknowledged the accomplishments and recognized the firm's 100 years of service to the people of Florida. The board thanked Mr. Johnson for bringing the information forward and provided it to AIA Florida for their upcoming 100 year celebration.

Reports

Chair's Report – John Ehrig
No report.

Board Counsel Report– Mary Ellen Clark
Rules Report

Ms. Clark reviewed her Rules Report and commented that no action was needed. She reported that she completed all that was necessary for Office of Fiscal Accountability and Regulatory Reform (OFARR) and was waiting for

direction from them. She reported that rule 24.002, F.A.C. was notice for development and requested direction for proposed language.

Motion: Mr. Johnson moved that Mr. Ehrig work with Ms. Clark to develop rule language for interior design continuing education hours to increase to 24 hours.

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

Motion: Mr. Johnson moved that rule 61G1-21.001, F.A.C. be noticed for rule development.

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

Motion: Mr. Johnson moved that rule 61G1-21.003, F.A.C. be noticed for rule development.

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

Executive Director's Report – Tony Spivey

Mr. Spivey reported that Ms. Kenan Fishburne was appointed to the board.

Presentations

Division of Administration and Financial Management

Financial Report ending June 30, 2011

Financial Report ending June 30, 2010

Financial Report ending June 30, 2009

Financial Report ending June 30, 2008

Financial Report ending June 30, 2007

Financial Report ending June 30, 2006

Ms. Ruth Dillard, Director of Administration and Financial Management, was present to provide an overview of the financial reports and answer questions the board may have. She requested that the board provide her information on how the Budget Office can assist the board.

Ms. Dillard reviewed the current financial statements with prior year's statements both operating and unlicensed activity accounts. She addressed the sweep process, the loan process from board to board, and how the board receives authority to spend funds. She explained how monies are comingled within the department to prevent board's being in the negative balance.

Ms. Dillard reported that the department was reviewing the current balances to identify excess funds and possibly consider a fee waiver or reduction. She reported that they work closely with the Legislative staff to project future budget needs.

Ms. Dillard commented that she was aware that the board was interested in public service announcements and she would look into the ability to fund that request.

Mr. Ehrig commented that he had a concern that the unlicensed activity fund would be swept by the Legislature this upcoming year. He requested that the funds be used for unlicensed activity public service announcements and that Ms. Dillard give direction on how to accomplish producing the public service announcements.

Mr. Ehrig commented that when he began on the board he understood that fees were loaned to other board and they would be paid back with interest. He voiced a concern that they were not able to attend national meetings when they had the funds in the operating account. The Legislature sweeps the money instead of allowing the board's to conduct public service announcements to combat unlicensed activity or attend important national meetings.

Ms. Dillard offered to research when the loan given to another board and would report back to the board at the next meeting.

Mr. Johnson asked Ms. Dillard to explain a line item that was a service charge to revenue. Ms. Dillard responded that the Florida Statute requires a service charge of eight percent on revenue collected by each profession to fund general government activities. The monies go into the general revenue fund.

Mr. Johnson asked Ms. Dillard to explain revenue bank charges. Ms. Dillard responded that the line item he was referring to was for credit card charges. She commented that the department automated the renewal process with credit cards but the department must pay a convenience fee for the use of credit cards. She commented that she would look into the bank charges to verify if any other items were within that category.

Mr. Johnson asked Ms. Dillard about the drastic change from \$195, 000 in 2007 to \$67,000 in the administration charge. Ms. Dillard responded that she would research and report back to the board.

Mr. Johnson requested that Ms. Dillard include the board chair with future revenue projections. Ms. Dillard commented that it was helpful to include the board because of trends within the professions.

Mr. Johnson requested that Ms. Dillard research the discrepancy on the statement of revenue and expenses – operating account in the amount of \$885,428 was changed to \$884,738 and the transfer was off by a few thousand dollars.

The board thanked Ms. Dillard and appreciated her thorough review of the financials.

Ms. Dillard offered to be available at the February meeting and bring her staff to the meeting.

IDAF – Douglas Feldman

Mr. Doug Brown announced that IDAF had a new web site at www.IDAF-FL.org.

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 – Licensed

Fines Chart – Unlicensed

Billable Hours July 2011

Billable Hours August 2011

Board Meeting Results July 27, 2011

Press Releases/Speaking Engagements/Other Correspondence

Mr. Minacci provided a copy of the annual report for review.

Future Board Meetings

February 9, 2012 – Probable Cause Panel Meeting

February 10, 2012 – General Business Meeting

Location: Tallahassee

May 2, 2012 – Probable Cause Panel Meeting

May 3-4, 2012 – General Business Meeting

Location: Orlando area

July 17, 2012 – Probable Cause Panel Meeting

July 18, 2012 – General Business Meeting

Location: West Palm Beach

Set the date for the October 2012 meeting on an upcoming telephone conference call.

November 17, 2011 was tentatively scheduled for a telephone conference call.

Election of Officers

Motion: Mr. Hall nominated Mr. Ehrig for Chair.

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

Motion: Ms. Shore nominated Mr. Hall for Vice-Chair.

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

New Business

There was a request from an audience member to have a telephone conference call available so others could listen to the meeting but not participate. There is an additional cost associated with a telephone Ms. Clark commented that the individual could obtain a copy of the recording of the meeting.

Mr. Ehrig presented Ms. Shore with a plaque thanking her for her service to the board and the state of Florida.

Old Business

No old business.

Review and Approval of Meeting Minutes

July 27, 2011 – Naples, Florida

August 30, 2011 – Telephone Conference Call

Motion: Mr. Johnson moved that approve the July 27, 2011 and August 30, 2011 meeting minutes as presented.

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

Adjourn

Motion: Ms. Bao-Garciga moved that the meeting be adjourned.

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

The meeting adjourned at 4:00 p.m.