

MINUTES
BOARD OF ARCHITECTURE AND INTERIOR DESIGN

TELEPHONE CONFERENCE CALL

March 16, 2010
2:00 p.m. Eastern Time

Toll Free 888.808.6959 conference code 4879597

Call to Order

Mr. Ehrig, Chair, called the meeting to order at 2:05 p.m.

Board Members Present:

John Ehrig, Chair
Wendell Hall, Vice-Chair
Rossana Dolan
Eric Kuritzky
Aida Bao-Garciga
Garrick Gustafson
Wanda Gozdz
Emory Johnson

Board Members Absent:

Joyce Shore, excused
Lourdes Solera, unexcused

Others Present:

Mary Ellen Clark, Board Counsel
Jon Glogau, Special Counsel
David Minacci, Prosecuting Attorney
Anthony Spivey, Executive Director
Terri Estes, Government Analyst
Janice Young, IDAF

Ms. Clark and the board members welcomed Mr. Johnson to the board. Mr. Spivey confirmed that Mr. Johnson's papers were received in order for Mr. Johnson to vote.

General Business

Locke vs. Shore

Notice of Appeal

Order Determining Plaintiffs' Entitlement to a Fee Award and Staying the Proceedings on the Amount

Opinion on the Merits

Mr. Glogau reviewed that the board was sued regarding the licensing and title provision of the statutes on various constitutional grounds. Judge Hinkle issued an order that found the licensing provision was constitutional and the title provision was unconstitutional for violation of the first amendment.

The plaintiff filed a notice of appeal on March 4, 2010 for the licensing provision. Mr. Glogau reported that the board could appeal the portion that they lost the title provision. He reported that they could respond to the plaintiffs appeal in a brief and address the title provision issues and the interpretations included in Judge Hinkle's ruling.

Mr. Glogau recommended that the board not appeal the title provision portion of the ruling because they would likely lose and the cost involved.

The board briefly discussed the title provision and the differences surrounding the interior design profession and the architecture profession.

Mr. Gustafson asked how a consumer would be able to distinguish between a residential designer and a commercial designer. Mr. Glogau replied that licensed interior designer should identify themselves as "licensed interior designers". A consumer would not know if an individual using the title "interior designer" could or could not perform commercial work. However, the individual using the title should know that they could not perform commercial work and it would be a violation of the statute unless they were licensed. The consumer would not know up front.

The board discussed the differences between the definitions of interior designer and interior decorator services in respect to the required building codes. Mr. Glogau recommended that the definitions should be clarified through the legislative process.

Mr. Glogau commented that the Judge allows the board to determine and interpret whether a violation of the statutes was committed through the board's enforcement actions. A violation would be committed based on whether the project was required to meet building code standards not whether a permit is or is not required for a project.

Ms. Young commented that on the current Interior Design Protection Council and Institute for Justice's web site states that they have filed an appeal to have the entire statute struck down and at a minimum seeks clarification as to what work non-licensed designers can perform in commercial settings. She commented that the appeal would allow Mr. Glogau to address some of the commercial practice issues raised by the board.

Mr. Glogau commented that the board could not bring an enforcement action against someone for simply using the title "interior designer" but could investigate a complaint for an individual practicing interior design without a license.

Mr. Glogau recommended that the board not appeal the ruling but respond to the plaintiff's appeal. The board discussed that they could address the title provision through the statute and the legislative process.

Motion: Mr. Hall moved that the board follow Mr. Glogau's recommendation not to appeal the ruling.

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

Mr. Hall commented that all license interior designers call themselves "licensed interior designers".

Mr. Glogau welcomed any comments and input for the upcoming brief response.

Letter from Larry Rothenberg – Google posting

This was a request that a violation be removed from the Google web site. Ms. Clark commented that at the time the individual was prosecuted it was a valid violation of the statutes. It was and remains a public record. The general policy was to post violations on the prosecutor's web site. She recommended that no purpose was served to continue posting violations on the prosecuting attorney's web site that are now considered a title violation. The violations would remain public with the department's records and anyone could obtain a copy of those records.

Ms. Clark recommended that the board make a consistent determination regarding removing cases and consider the prosecutor's time involved in removing those cases. Mr. Minacci commented that he would remove the notice to cease and desist cases based on advertising and use of the title interior design with no contract involved or actual practice of the profession. He commented that the board should take future case challenges on a case by case basis to determine if there were multiple violations or practice of the profession.

Administrative complaints are filed when multiple violations occur and more than just the use of the title and should not be removed from the prosecutor's web site.

Motion: Mr. Gustafson moved that Mr. Minacci remove the cease and desist orders that are based on advertisement violations and use of the title interior designer.

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

Mr. Minacci will respond to Mr. Rothenberg's request.

NCARB – Draft of Resolutions to be Acted Upon at the 2010 Annual Meeting and Conference

Mr. Ehrig commented that NCARB will sponsor a member board executive and two board members for the Conference June 23-26, 2010. Ms. Dolan recommended that a new board member attend if possible.

New Business

Mr. Spivey advised that the May board meeting will be relocating from Pensacola to the Orlando area.

Mr. Hall commented that engineers are using a rubber stamp instead of the metal embossed seal and would like the board to consider that option. The board discussed the item and determined that they were not in favor of the use of a rubber stamp.

Old Business

No old business.

Adjourn

Motion: Mr. Kuritzky moved to adjourn the meeting.

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

The meeting adjourned at 3:00 p.m.