

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Minutes of May 7, 2015 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street

Tower II, Conference Room 350L

Austin, TX 78701

9:00 a.m. until completion of business

1. Preliminary Matters

A. Call to Order

Chair called the meeting of the Texas Board of Architectural Examiners to order at 9:00 a.m.

B. Roll Call

Chuck Anastos called the roll

C. Excused and unexcused absences

Paula Ann Miller (Excused)

Chase Bearden (Excused)

Present

Alfred Vidaurri

Chair

Debra Dockery

Vice-Chair

Paula Ann Miller

Secretary/Treasurer

Charles H. (Chuck) Anastos

Member

Bert Mijares, Jr.

Member

Sonya Odell

Member

Michael (Chad) Davis

Member

William (Davey) Edwards

Public Member

TBAE Staff Present

Julie Hildebrand

Executive Director

Lance Brenton

General Counsel

Glenn Garry

Communications Manager

Glenda Best

Director of Operations

Christine Brister

Staff Services Officer

Mary Helmcamp

Registration Manager

Kenneth Liles

Finance Manager

Jack Stamps

Managing Investigator

Dale Dornfeld

IT Manager

Katherine Crain

Legal Assistant

Julio Martinez

Network Specialist

D. Determination of a quorum

A quorum was present.

E. Recognition of guests

The Chair recognized the following guests: DeAnn Walker from Governor Abbott's office, Dan Hart, Regional Director of AIA for the Texas Society of

Architects, David Lancaster, Senior Advocate for Texas Society of Architects and Donna Vining, Executive Director for Texas Association for Interior Design.

F. Chair's Opening Remarks

The Chair opened the meeting by stating that he was pleased that the Board hired a new Executive Director and was excited to be conducting a meeting with a new Executive Director and a new General Counsel. He also expressed his appreciation and acknowledgment for the hard work done by the departing three board members, Bert Mijares, Chase Bearden, and Alfred Vidaurri. It was noted that Chase Bearden was absent from the meeting as he was testifying at the Capitol. He said that if time allows, he may offer the three board members some time for closing comments. He concluded his comments and opened up the meeting for public comment.

G. Public Comments

Dan Hart made a presentation to the Board. He stated that he represented the Texas Society of Architects (hereafter TxA) and in 2013, they studied and wrote a report to remove unnecessary barriers for licensure. He opined that although NCARB did not agree to all the stipulations, they did move in the right direction. His main message was to thank the Board for its proactivity on the item for interns and architecture. The second part of the message was to assist the Board in the continuation of working on licensure and offered his involvement through TxA. He thanked the Chair for his proactive measures on the issue.

2. Approval of Board Meeting Minutes (Action)

January 22, 2015 -- A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE JANUARY 22, 2015 MINUTES. THE MOTION PASSED UNANIMOUSLY.

April 2, 2015 -- A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE APRIL 2, 2015 MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. Executive Director Report (Information)

A. Legislative Report

The Executive Director directed the Board to page 20 of their notebooks. She stated that the agency does not put together a written report regarding legislation, but she wanted to give them an update on some of the bills. The RID deregulation bill has been dormant from March 17th; the \$200 professional fee bill has passed the House and gone over to the Senate which was then referred to the Senate Finance. The SDSI Sunset bill has passed, but no hearing date is set yet. A resolution for an interim study on occupational licensing was referred to the House Licensing, but no hearing date is set. In addition, the newest agency to be added to SDSI would be the State Securities Board under proposed legislation.

The Executive Director gave a brief report on her accomplishments during the first 30 days of her employment at TBAE. She stated that she sent

weekly updates via email and has completed her initial orientation with Board management staff and went over forms, policies and procedures and signature authorizations. In addition, she stated that the agency had been tracking legislation and keeping Board members abreast of legislative activity. She has met all the representatives and staff at the Legislature and had a conversation with the Governor's office. Also, she met with TxA representatives and plans on getting with ASLA and NCIDQ representatives as well.

Next, she hired a General Counsel and his name is Lance Brenton. He is from Montana and graduated from UT Law School. He previously worked at the Nursing Board and the Pharmacy Board where he got a lot of experience at SOAH. He is interested in developing policies for the Board. He worked heavily on the compact between the states to allow nurses to be licensed across the states easier. She emphasized how happy she was to have hired the new General Counsel.

Furthermore, she has worked on the quarterly SDSI report and it was submitted to the relevant parties. Most recently, she met with NCARB representatives and got a lot of helpful information from them and how the agency works with them on licensing issues. She stated that she was planning on attending the NCARB conference scheduled for New Orleans this summer.

The Executive Director said that the newsletter went out and there was an article in it from her introducing herself to registrants and the public. She redid the organizational chart and moved the Legal Assistant under the General Counsel and made the Finance Department a direct report to the Executive Director and left Enforcement as its own division. She stated that even in her previous role, she worked closely with the Finance Director. She said that the agency has not receive any Board appointments from the Governor's office.

She stated that in the future, the packets for the Board meetings will be coming from her email rather than Staff. She plans on reviewing the Strategic plans this summer by creating a draft that focuses on what the agency needs to accomplish in the next year. Rather than having a meeting on the actual planning, she will prepare a document with questions for the Board members that will help her get with the societies to prepare a Strategic Plan.

B. 2nd Quarter 2015 Operating Budget

As far as the budget, the agency is running a surplus of \$77,000 due to the additional revenues of \$25,000. In addition, the agency did not have expenditures as high as expected due to the fact that the Executive Director was missing from the agency for a while and the agency saved money by having Glenn Garry do two jobs for the price of one. Additional travel increased due to the Board hiring a new Executive Director, but staff travel was down. Chuck Anastos suggested that the agency have a "Blue Sky" meeting prior to the next Board meeting because of some of the major financial issues that the agency will be facing in the future. The Executive

Director acknowledged that the agency will have a 2016 planning session with Board members.

C. Report on Action Items assigned at the January 22, 2015 Board Meeting: Architect Registration Examination Financial Assistance Fund (AREFAF) Scholarship Fund Overview

The Executive Director directed the Board members to pages 23 and 24 in the notebooks and stated that number 1 on the list was an update on disciplinary matters. She said that all of the Respondents have completed their continuing education so that this action item will come off the list for the next Board meeting. Item number 2 was the answer to the questions regarding the scholarship fund. She said that there was an overview of the chart of annual compensation by experience level. Chad Davis commented that he appreciated staff's consolidation of this information. Also, he suggested that the Board consider having a Rules Committee Meeting prior to the regular Board Meeting on August 24th in order to address the scholarship issue. It was decided that the Rules Committee would take place on the morning of August 25th. There was discussion amongst the Board members regarding NCARB's proposal for an additional path to licensure which would allow a student still enrolled in architectural school to begin taking the exam prior to graduation.

D. Report on Conferences and meetings

I. NCARB Member Board Executives Workshop & Regional Summit
March 12-14

Ms. Dockery reported on this workshop and stated that it was a Regional Summit for Region III held in Long Beach, California and Alfred Vidaurri led the meeting. She stated that the resolutions to be voted on in June were discussed as well as updates on additional paths to licensure. Legislative issues and rule changes occurring within the states were discussed at length. In addition, 38 states are expected to vote on IDP measures.

II. TX ASLA Conference – April 22-24

Mr. Davis reported on the Texas ASLA Conference held in Galveston, Texas on April 22-24. There were 600 people in attendance which is an increase from the prior year. He stated that TBAE had a booth at the conference and Jack Stamps and Mike Alvarado made a great presentation to roughly 100 people. He said that it was a very good conference overall and that TBAE was there to help the registrants.

4. **Proposed Rules for Adoption (Action)**

Amend Rule 1.91, relating to the Intern Development Program, to reduce the number of hours required to complete an internship by eliminating elective hours. The Executive Director stated that there are proposed rules and draft rules and directed them to the first rule for adoption. She said that it was published in the Texas Register and no comments were received by the agency. She explained that the Board had previously seen this rule when they proposed it, but essentially

the rule removes the 1860 elective hours from the Internship Development Program.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT RULE 1.191 RELATING TO THE INTERN DEVELOPMENT PROGRAM, TO REDUCE THE NUMBER OF HOURS REQUIRED TO COMPLETE AN INTERNSHIP BY ELIMINATING ELECTIVE HOURS. THE MOTION PASSED UNANIMOUSLY.

Draft Rule for proposal (Action)

- A. Amend Rule 7.10, relating to the fee schedule, to implement fee changes for certain online transactions

The Executive Director explained that this proposed rule was technically a minor change because the agency uses a third party vendor through a state agency which is outside the agency's control. Currently, anyone renewing their license incurs a credit card fee which is already in our rule. There will be a flat fee of \$1.00 for a direct withdrawal from one's bank account which will be effective September 1st.

A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO PROPOSE RULE 7.10, RELATING TO THE FEE SCHEDULE, TO IMPLEMENT FEE CHANGES FOR CERTAIN ONLINE TRANSACTIONS. THE MOTION PASSED UNANIMOUSLY.

- B. New Rule 7.95 relating to the criteria for determining which agency contracts will be subject to enhanced monitoring. The draft rule also defines the term "enhanced monitoring" for purposes of the rule. The rule excludes interagency contracts from requirements of the rule.

The Executive Director explained to the Board that this was a working draft of a proposal for contract procurement, not an actual proposed rule. She stated that the Legislature wanted agencies to look at contracts with a tendency to be abused. She said that TBAE does not have any contracts of this type, but will be drafting a rule for enhanced monitoring. Mr. Edwards inquired as to where the language came from regarding this proposed draft. The Executive Director stated that the language originated from the previous General Counsel, but the agency was going to check with the Comptroller's office regarding specific language for the rule. Also, the agency was reviewing the Texas Register to determine what other agencies had passed a similar rule. She plans on working with the Rules Committee to get this proposed at the August meeting.

The Board took a break at 10:12 a.m. and reconvened at 10:25 a.m.

5. Enforcement Cases (Action)

Review and possibly adopt ED's or Interim ED's recommendation in the following enforcement cases:

A. SOAH Case

TBAE v. Juan Giraldo, Individually and as President of Link International Design, d/b/a Interlink Consortium, Inc.; SOAH Docket No. 459-15-1174; TBAE#054-13N

The Managing Investigator presented the facts contained in the Final Order to the Board. He stated that the Respondent never showed up at the hearing. Therefore, the Administrative Law Judge (hereafter "ALJ") entered an order imposing a proposed fine of \$35,000 as well as a Cease and Desist. He said that the ALJ ordered a \$35,000 fine because the Respondent was using the title "architect" and continues to use it today. He had been the subject of a previous enforcement case regarding the same or similar circumstances back in 2006. In addition, the Assistant District Attorney for Harris County contacted the agency to notify it that Respondent was under indictment in Houston for a criminal case involving fraud. The General Counsel reminded the Managing Investigator to keep the discussion on the case to the findings of fact because the Respondent was not in attendance at the Board meeting.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE STAFF'S RECOMMENDATION FOR THE PENALTY IMPOSED IN SOAH DOCKET NUMBER 459-15-1174, TEXAS BOARD OF ARCHITECTURAL EXAMINERS VS. JUAN GIRALDO, INDIVIDUALLY AND AS PRESIDENT OF LINK INTERNATIONAL DESIGN, D/B/A INTERLINK CONSORTIUM, INC. THE MOTION PASSED UNANIMOUSLY.

Registrant/Non-Registrant Cases

I. Anthony Amenta (#045-15A)

The Managing Investigator stated that Respondent had provided architectural services on a project in Houston while his architectural registration was inactive.

He previously requested that his administrative staff change his status to active, but that request had fallen through the cracks. He self-reported the error and has violated no other statutes and is presently in good standing on active status. Staff is recommending a penalty of \$500.

A MOTION WAS MADE AND SECONDED (Edwards/Davis) TO APPROVE CASE NUMBER 045-15A INVOLVING ANTHONY AMENTA. THE MOTION PASSED UNANIMOUSLY.

II. Randy Harrison (#035-15N)

The Managing Investigator stated that Respondent is not and never has been a registered architect in Texas. He was employed by Ilcor Homes, a home building company in Texas. During the course of his investigation, the Managing Investigator contacted the Respondent and he admitted that he had taken a seal from an earlier project and placed it on the one sheet of plans. The Respondent took the original drawings to the City and the seal of James Orr was on that sheet. The Respondent did engage in the practice of architecture, but Staff is recommending a \$2,000 penalty due to mitigating circumstances. Mr. Mijares raised an objection to the amount of the penalty stating that he did not believe it was adequate for the violation. In addition, he questioned the General Counsel regarding his opinion on the case and the General Counsel stated that he had not been involved in this case

as it was settled prior to his beginning work at TBAE. Mr. Mijares suggested that the Board table the case in order to let the new General Counsel review the facts and make a presentation in August.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO TABLE CASE NUMBER 035-15N INVOLVING RANDY HARRISON AND BRING IT BACK TO THE BOARD IN AUGUST AFTER IT IS REVIEWED BY THE GENERAL COUNSEL. THE MOTION PASSED UNANIMOUSLY.

III. Dawn Moore (#088-14N)

The Managing Investigator read the case summary into the record. During the course of the investigation, the Managing Investigator contacted the architect, Steven Meyers and he stated that she altered his seal. He stated that Staff is recommending a \$40,000 penalty which Respondent has agreed to pay. Mr. Mijares suggested that the Board table this case and bring it back in August with a recommendation from the new General Counsel. Mr. Edwards suggested that the agency should open separate cases based upon the number of projects.

A MOTION WAS MADE AND SECONDED (Mijares/Dockery) TO TABLE CASE NUMBER 088-14N INVOLVING DAWN MOORE AND BRING IT BACK IN AUGUST AFTER IT IS REVIEWED BY THE GENERAL COUNSEL. THE MOTION PASSED UNANIMOUSLY.

There was discussion amongst the Managing Investigator and Board members regarding the referral of architectural cases involving criminal charges to district attorneys across the state. Mr. Stamps explained to the Board that there were two cases presently being investigated by District Attorneys – one in Travis County and one in Harris County.

Continuing Education Cases

The Chair read the four cases of continuing education and stated that the Board would be hearing them as a whole. Mr. Mijares read each case name and number into the record.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO ADOPT THE INTERIM EXECUTIVE DIRECTOR'S RECOMMENDED ADMINISTRATIVE PENALTIES IN THE PROPOSED AGREED SETTLEMENTS OF THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Phillip R. Rivers (#049-15A)

Andrew P. Sheehan (#043-15A)

Joseph J. Sorci (#043-15A)

Wesley L. Wilkerson (#057-15L)

6. Upcoming Board Meetings (Information)

Monday, August 24, 2015 – Room III-102

Thursday, October 29, 2015 – Room 111-102

7. Chair's Closing Remarks

The Chair began his remarks by saying closing remarks were made by departing Board members back at the April meeting. However, he wanted to offer the opportunity to share any other comments. Mr. Mijares stated that it was an honor to serve on this Board and he appreciated the staff's courtesies. He expressed his pleasure regarding the Board hiring a new Executive Director and wish he could be here to see how the agency progresses in the future. He said he will miss coming to Austin because he has been coming here for the last 16 years as a Board member to two different agencies. Mr. Vidaurri thanked him for his service with the Board and the previous Board.

First and foremost, the Chair expressed his appreciation for the staff during the transition period between Executive Directors. The Board was very thoughtful and specific in appointing Glenn Garry as the Interim Executive Director and I want to give a special thanks for him for his service. It was not an easy job and he did an excellent job handling this position. Much credit is deserved to Mr. Garry for his leadership and everything he did while acting as Interim Executive Director. We are very fortunate that those people are still here.

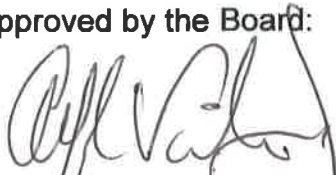
Furthermore, the Chair opined that the three most important accomplishments made while he served on this Board was the peace accord with the Engineering Board on the architectural/engineering overlap. Thanks to Mr. Hart for all of his hard work and leadership during this difficult time. Another important accomplishment was the number of licenses that he has signed as Vice Chair and Chair which total 4,872. The last, but not least, most important accomplishment was hiring the new Executive Director, Julie Hildebrand.

Mr. Anastos expressed his appreciation for the hard work done by Dan Hart and Alfred Viduarri on the architectural/engineering overlap.

8. Adjournment

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ADJOURN THE MEETING AT 11:00 o'clock a.m. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:



ALFRED VIDAURRI, JR., FAIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS