

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

September 12, 2013

Burbank, CA

A. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

Board President Sheran Voigt called the meeting to order at 9:33 a.m. and Board Vice President Hraztan Zeitlian called roll in the Secretary's absence.

Board Members Present

Sheran Voigt, President
Hraztan Zeitlian, Vice President
Jon Alan Baker
Chris Christophersen
Sylvia Kwan
Matt McGuinness

Board Members Absent

Pasqual Gutierrez, Secretary
Jeffrey Heller
Fermin Villegas

Guests Present

Ric Abramson, Member – Board of Directors, The American Institute of Architects,
California Council (AIACC)
Mark Christian, Director of Legislative Affairs, AIACC
David Consaca, Center for Public Interest Law, University of San Diego
Corrine Fishman, Department of Consumer Affairs (DCA), Board & Bureau Relations
Norman Millar, Dean, Woodbury School of Architecture
Katherine Spitz, Landscape Architects Technical Committee (LATC)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Marcus Reinhardt, Program Manager, Examination/Licensing Unit
Trish Rodriguez, Program Manager, LATC
Mel Knox, Administration Analyst
Don Chang, Assistant Chief Counsel, DCA
Bob Carter, Architect Consultant

Six members of the Board present constitute a quorum. There being six present at the time of roll, a quorum was established.

B. PRESIDENT'S REMARKS

Ms. Voigt welcomed the newest architect member of the Board, Sylvia Kwan, and asked the Executive Officer (EO), Doug McCauley, to administer the Oath of Office. Following the oath, Ms. Voigt announced that Ms. Kwan is member Michael Merino's successor, and invited Ms. Kwan to speak briefly about herself. Ms. Kwan informed that her architect husband, Denis Henmi, was previously a two-term member of the Board, and then proceeded to outline her key professional and personal life experiences and accomplishments as a practicing architect. Ms. Voigt also announced that Norman Millar, Dean of Woodbury School of Architecture is scheduled to brief the Board on the program later during the meeting.

C. PUBLIC COMMENT SESSION

There were no comments from the public.

D. APPROVE THE JUNE 13, 2013 BOARD MEETING MINUTES

Ms. Voigt invited comments concerning the June 13, 2013 Board Meeting Minutes.

- **Chris Christophersen moved to approve the June 13, 2013 Board Meeting Minutes.**

Matt McGuinness seconded the motion.

The motion passed 6-0.

E. EXECUTIVE OFFICER'S REPORT

Mr. McCauley announced that the Board's next meeting will be held in December, likely at the University of California (UC), Santa Barbara, which will include a strategic planning session. He said the planning session will be important as the Board enters its Sunset Review year, and will be facilitated by representatives from DCA's SOLID Planning Solutions.

Mr. McCauley reported that the first phase of BreZE, the new business management system that the DCA has been developing for more than two years, will be rolled-out at five o'clock this evening. He informed that the Board chose to participate in the third phase with the intent of giving BreZE developers time before the Board goes on-line with it in 2014.

Mr. McCauley informed the Board that, in the fourth quarter of 2013, the Professional Qualifications Committee, the Communications Committee, and the Executive Committee will meet to discuss and consider possible action on various issues relative to the Board's current strategic planning objectives.

Mr. McCauley announced that Hattie Johnson, the Board's Enforcement Officer, has retired. He also stated that Leosha Eves is Ms. Johnson's successor.

Mr. McCauley spoke briefly about the process for Sunset Review and its evolution; he mentioned that the process has been reconfigured and now contains questions on new issues.

He said the Board has a strong history of being collaborative and making good decisions, which contributes to strong Sunset Review reports.

Mr. McCauley informed that the DCA selected Heidi Lincer-Hill, Ph.D., as Chief of the Office of Professional Examination Services (OPES). He reminded the Board that, Ms. Lincer-Hill, an examination expert from the Contractors State License Board (CSLB), assisted the Board in conducting due diligence on the California Supplemental Examination (CSE) by reviewing the processes and methodology for the most recent form of the CSE. As such, she has developed knowledge and a keen interest in the CSE from the work she has already performed. Ms. Voigt expressed her view that Ms. Lincer-Hill is familiar with the Board's examination concerns.

Mr. McCauley reminded the Board that the terms of its two architect consultant contracts are staggered to expire six months apart and, after the recent approval of Bob Carter's contract, staff is now initiating the Request for Proposal (RFP) process for the other contract.

Mr. McCauley said the deadline to submit the RFP is October 16, 2013.

Mr. McCauley again conveyed his appreciation of the Board's enforcement program, particularly with the trends related to the unit's pending case load numbers. He recalled that its pending case load was over 300 cases at one point; currently, he reported, pending case load is reduced to 75. Mr. McCauley also noted the case-aging benefits associated with the dramatic reduction in case load, and recognized a recently approved regulation which delegates authority to the EO to approve stipulated settlements for revocations or surrenders of license as a useful tool to expedite and help case-aging outcomes.

Mr. McCauley updated the Board on the status of four bills that were discussed at previous Board meetings. Mr. McCauley provided a status update on Senate Bill (SB) 308 and outlined the Board's issues surrounding the California Council for Interior Design Certification (CCIDC). He stated that the Board does not need to take action to refine its position on SB 308, as the Board's support for the extension of the sunset date, contract requirement, and open meeting provisions have already been communicated to the author of the legislation. Ms. Kwan asked about health, safety and welfare (HSW) issues as it pertains to interior designers, to which Mr. McCauley replied that CCIDC did have a desire to expand and modify the current definition of interior designer (CID). It was suggested to CCIDC that it needs to show CIDs' competence in new areas by demonstrating what is covered in their examination via its test plan and occupational analysis (OA). Ultimately, agreement could not be reached on the new definition and it was not included in the bill because sunset bills must have consensus.

Mr. McCauley reminded the Board that the provisions of Assembly Bill (AB) 186 have the potential to force the Board to waive the CSE. He also reminded the Board of its position that if the CSE is important to protect the public HSW, it is *always* important to protect the public HSW. Mr. McCauley then stated that AB 186 is now a two-year bill and will not be heard again until next year. He also noted that the Board for Professional Engineers, Land Surveyors, and Geologists received an exemption from the bill's provisions that the Board is currently seeking. Mark Christian, with AIACC, addressed the Board and pledged that his organization will work closely with Board staff to seek the amendment that would ensure the

bill will not affect the Board's role in protecting the public. Ms. Voigt thanked Mr. Christian for his offer of help.

Mr. McCauley reminded the Board of its 'support if amended' position on AB 630 and of its concerns identified at the June Board meeting. He informed that AIACC opted not to accept the first recommended amendment (to require a licensed design professional be utilized to protect the public from misuse of an architect's work product) for concerns it would create new law. Mr. McCauley said that AIACC agreed to accept the second recommended amendment (to require any consent to utilize instruments of service will not be unreasonably withheld), and is now reflected in AB 630; however, he noted that a provision was augmented to allow instruments of service to be withheld for cause - if there is a lack of payment or failure to adhere to the contract requirements. Mr. McCauley indicated the Board is neutral (has no position) on AB 630 since the bill was only amended to partially address only one of two concerns identified by the Board.

Mr. McCauley informed that AB 834 has been revised from a bill concerning Energy Commission citations to one concerning private postsecondary education, and is no longer of interest to the Board.

Jon Baker asked for clarification regarding the Board's position on AB 630, to which Mr. McCauley explained that the Board's concerns were not fully addressed and, the Board cannot be in a position of 'support if amended' when it goes to Governor Brown; normal legislative protocol is a neutral position in this situation.

- **Jon Baker moved to support AB 630 as amended.**

Hraztan Zeitlian seconded the motion.

Ms. Kwan asked about the rationale behind the legislation, to which Mr. Christian explained that AB 630 is not designed to change existing law, but, instead, to state what existing law is in language that the average consumer can understand. He said the bill would provide a new tool for architects, which would educate the consumer about their rights related to using an architect's instruments of service. Mr. Baker added that AB 630's provisions would be reflected in the Architects Practice Act (Act) where the consumer could easily access this information. He explained key points of the proposed language:

- Reminds consumers that an architect must be utilized in order to use an architect's instruments of service;
- Reminds consumers that they must have a contractual relationship with the architect in order to use the plans; and
- Expresses the idea that a set of plans is not collateral that gets conveyed with transfer of title of property.

Don Chang commented that, in effect, the law establishes a prohibition against the consumer and, the problem is, that prohibition is placed in the Act. Mr. Chang questioned the appropriateness of placing the prohibition in the Act, which regulates architects. He expressed his opinion that the law belongs in a general code provision such as the Civil Code, and that there is already recourse for copyright issues.

An architect member of the public, Ric Abramson, shared with the Board his experiences and professional view that there needs to be a contractual relationship between architects and the owner/client. Mr. Abramson said the bill is pro-consumer, essential, and consistent with the Act.

Ms. Kwan asked about the possibility of having the bill's provisions reflected in the Act as well as in Civil Code; Mr. Chang said the Legislature prefers not to duplicate law and reiterated the key question of whether the bill's provisions appropriately belong in the Act or in Civil Code. Mr. Chang also informed that AB 630 would require consent through a written contract, however, the Act allows for verbal consent. Mr. McGuinness shared his view that the issue should be addressed through contract law.

Mr. Zeitlian said he believes AB 630 does everything to protect the consumer from becoming the subject of legal proceedings, and stated he does not understand the opposition. Mr. Baker said he agreed with Mr. McGuinness and had raised the issue with AIACC; he said he believes the issue should be addressed through contract and that AIA should develop model language that can improve this area in an attempt to avoid legal action against the consumer.

The motion passed 6-0.

Mr. McCauley reminded the Board of the need to be fiscally responsible and proactive rather than reactive, and revisited the possibility of voluntarily reducing the Board's budget. He identified areas (primarily CSE costs) that the Board could reasonably consider reducing, and asked the Board to consider staff's recommendation giving the EO authority to proceed with a negative Budget Change Proposal (BCP) that would reduce the Board's spending authority by \$400,000 for fiscal year (FY) 2015/16.

- **Jon Baker moved to give the EO authority to proceed with a negative BCP to reduce the Board's spending authority by \$400,000 for FY 2015/16.**

Matt McGuinness seconded the motion.

The motion passed 6-0.

Mr. Millar welcomed the Board to Woodbury and gave a presentation on its School of Architecture. He outlined the school's undergraduate and postgraduate degree programs, and reported that, currently, he has more than 600 enrolled students (this number accounts for students enrolled at the San Diego campus as well as at the main campus in Burbank).

Mr. Millar explained the forthcoming European changes to the minimum requirements for cross-border practice within the European Union (which include allowing licensure upon graduation), and stated that European nations aspire to produce architects who are able to compete and practice on the global stage. He said that this step by the Europeans has inspired a debate within the architectural community in the United States, and now schools of architecture are considering launching pilot programs that would allow students to satisfy Architect Registration Examination (ARE) requirements while in school. Mr. Millar

predicted the Board will be asked to sponsor a pilot program of a similar nature in the near future.

When asked how he encourages licensure on campus, Mr. Millar informed that he has hired an Intern Development Program (IDP) Coordinator, who is also a career officer, to help students map out their path to licensure; Mr. Millar stated he advocates for all schools to adopt this model. Mr. Millar suggested that, perhaps, it is time to challenge the status quo in comparison to other nations given that there is a 'lost generation' of architects in the United States due to national economic challenges.

F. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Marccus Reinhardt updated the Board on the latest developments from NCARB. He asked the Board to review the new Mutual Recognition Agreement (MRA) signed on June 16, 2013 between the Canadian Architectural Licensing Authorities and NCARB, and consider giving the President authority to sign the Letter of Undertaking in an endorsement of NCARB's efforts to continue its long-standing recognition of the exchange of professional credentials in support of cross-border practice with Canada.

Mr. Chang expressed concern with the MRA, primarily questioning whether the agreement would allow the Board to impose examination requirements via administration of the CSE, and whether the Board will be able to conduct appropriate background checks and require candidates to provide a Social Security Number or an Individual Taxpayer Identification Number. He advised the Board to seek clarification from NCARB before signing the MRA. Mr. Reinhardt said he contacted NCARB to enquire about their position regarding the CSE; he said NCARB indicated that the Agreement does not restrict the Board's authority to require the CSE for candidates seeking licensure to practice in California under the MRA. Mr. Reinhardt also stated that staff will contact NCARB to get further clarification on the issues raised by Mr. Chang.

Ms. Voigt suggested a motion to postpone signing the MRA until the Board's concerns are sufficiently addressed; she identified a need to have answers to three questions regarding 1) background checks, 2) the CSE, and 3) Social Security number requirements.

- **Matt McGuinness moved to postpone signing the MRA until the December Board meeting, and to direct staff to seek a letter of clarification from NCARB regarding background checks, the CSE, and Social Security number requirements pertaining to the MRA.**

Jon Baker seconded the motion.

The motion passed 6-0.

Mr. Reinhardt updated the Board on the 2012 NCARB Practice Analysis (PA) of Architecture. Ms. Voigt said she was impressed with the PA. Mr. Baker expressed concern with what practitioners have communicated in the PA concerning the distinction between knowledge and the application of knowledge. He stressed that the application of facts and knowledge is more important than simply knowing facts. Drawing from his experience as a

member of NCARB's Examination Committee, Mr. Baker expressed dissatisfaction with what appears to be a growing trend in architectural education toward teaching to the test, which limits the student's ability to grasp a holistic understanding of the service provided to consumers. He also stated that the PA validates all of the Board's concerns.

Mr. Zeitlian expressed interest in California becoming a pioneer in innovative architectural education and asked staff to agendize the potential for the Board to be a sponsor of a pilot project (of the kind mentioned by Mr. Millar during his presentation) for our next Board meeting. Mr. McCauley stated that one of the schools of architecture that has interest in conducting a pilot program may address the Board at the next meeting in December.

Mr. Reinhardt updated the Board on NCARB's changes to the ARE. He informed that a new portal within My NCARB, called My Examination, was launched in late-August 2013. He explained that this new portal would essentially link together the Prometric (NCARB's partner in managing the examination administration sites) and NCARB records for a candidate into a one-stop service. Consequently, he said, all candidates (including those previously exempt from completing the IDP) will now be required to possess and maintain an active NCARB Record in order to access the new portal and take the examination.

Mr. Reinhardt reported that, on September 3, 2013, NCARB announced the conclusion of an ARE blackout that was necessary to facilitate the transition and transfer of candidate information to its new content and candidate management consultant (Alpine Testing Solutions, Inc.).

G. CLOSED SESSION – [CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126(C)(1) AND (3)]

The Board went into closed session to take possible action on the Closed Session Minutes of the June 13, 2013 Meeting and CSE development and administration.

H. DISCUSS AND POSSIBLE ACTION ON PROCESS FOR CONDUCTING AN EXTERNAL REVIEW AND EVALUATION OF CSE DEVELOPMENT

Mr. Reinhardt outlined for the Board the process involved to, if the Board so directs, conduct an external review of current practices related to CSE development. He reported that the Board would first be required to seek the consulting services of a state entity; the Board could only seek approval from DCA to contract with a private service provider through the formal bidding process if a state entity is unable to perform the service. Mr. Reinhardt stated that the bidding process, and acquisition of services through that process, could take between six and nine months to finalize.

Ms. Voigt said the Board may have been prepared to pursue this process at the June Board meeting, but now there is uncertainty about whether the Board should at this point.

Mr. Baker expressed interest in knowing the cost to hire a third party to evaluate the Board's process to develop test items, keep the items updated, and to stay true to the Board's mission with regard to the CSE. Mr. Reinhardt estimated the cost to be \$40,000 - \$60,000 to conduct an external review. Mr. McCauley explained that, as the examination expert from the CSLB who reviewed the most recent form of the CSE at the Board's request, Ms. Lincer-Hill is keenly aware of the development and administration of the CSE. He also indicated that

Ms. Lincer-Hill, the new Chief of the OPES, will bring a new perspective to that office and will be able to report on her assessments and vision for the office. Mr. McGuinness agreed with Mr. McCauley, sharing his view that Ms. Lincer-Hill is the perfect person to address the CSE. Ms. Voigt concluded that the Board is content with its current position and stated she looks forward to hearing from Ms. Lincer-Hill at the December Board meeting.

I. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Trish Rodriguez informed the Board that, at the August 20, 2013 LATC meeting in Sacramento, OPES provided an update on LATC's OA, which is currently underway. Ms. Rodriguez reported that LATC is preparing to conduct a pilot survey to collect feedback before it is distributed to licensed landscape architects in November. She also reported that LATC completed its last examination development workshop based on the current OA in May 2013, and a new CSE was introduced in September. Ms. Rodriguez informed that the Council of Landscape Architects Registration Boards will hold its annual meeting in Minneapolis, Minnesota, and, in preparation for the meeting, LATC members voted to endorse candidates for the Board of Directors.

Ms. Rodriguez provided an update on a pending regulatory proposal to amend California Code of Regulations (CCR) section 2620.5 (Requirements for an Approved Extension Certificate Program). She stated that LATC approved the extension certificate programs for landscape architecture at UC Berkeley and UC Los Angeles, which will be effective for six years beginning January 2014. Ms. Rodriguez also informed the Board that the regulation package was disapproved by the Office of Administrative Law and LATC members voted to resubmit a new regulation package once sufficient justification is developed for each of the changes to the regulation. Ms. Voigt asked why the regulation package was not approved, to which Ms. Rodriguez replied that sufficient justification is required to approve the changes recommended by the reviewing LATC Task Force. Mr. Chang added that LATC members developed the rationale behind the recommended changes, but did not develop the appropriate language to justify the changes.

Ms. Rodriguez outlined current issues related to Business and Professions Code section 5641 (Chapter Exceptions, Exemptions) and its legal application, noting that LATC's Exceptions and Exemptions Task Force was charged with reviewing the language of the law to determine if it is sufficiently clear. Mr. Chang added that, after a series of meetings, it was determined that the language is indeed clear, but that, perhaps, providing examples of exemptions could be helpful.

Ms. Rodriguez asked the Board to consider a motion approving proposed language that would amend CCR section 2610 (Application for Examination) by changing the 70-day application filing deadline requirement for the Landscape Architect Registration Examination (LARE) to 45 days, which would allow candidates more time to apply.

- **Hraztan Zeitlian moved to approve the proposed regulation to amend CCR section 2610 from 70 days to 45, provided no adverse comments are received during the public comment period, and delegate authority to the EO to adopt the regulation and make minor technical changes to the language, if needed.**

Jon Baker seconded the motion.

The motion passed 6-0.

Given that the LATC budget is approaching a 24-month surplus, in an effort to be proactive, Ms. Rodriguez informed the Board that a negative BCP is being pursued to reduce the program's spending authority by \$200,000. In addition, Ms. Rodriguez asked the Board to consider a motion reducing LATC's license renewal fees from \$400 to \$220 for one renewal cycle.

- **Hraztan Zeitlian moved to approve the proposed regulation to amend CCR section 2649 to reduce the landscape architect renewal fee from \$400 to \$220 for one renewal cycle ending July 1, 2017, provided no adverse comments are received during the public comment period, and delegate authority to the EO to adopt the regulation and make minor technical changes to the language, if needed.**

Chris Christophersen seconded the motion.

The motion passed 6-0.

J. REVIEW OF SCHEDULE

Mr. McCauley stated that the Board received permission to hold the December Board meeting in Santa Barbara, based on the fact that NCARB's Board of Directors is meeting there as well.

K. ADJOURNMENT

The meeting adjourned at 1:25 p.m.