



Edmund G. Brown Jr.
GOVERNOR

CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

NOTICE OF MEETING

REGULATORY AND ENFORCEMENT COMMITTEE

May 11, 2011

10:00 a.m. to 2:00 p.m.

Department of Consumer Affairs

Stanislaus Room

1625 North Market Blvd.

Sacramento, CA 95834

The California Architects Board (CAB) will hold a Regulatory and Enforcement Committee (REC) meeting as noted above. A quorum of Board members may be present during all or portions of the meeting, and if so, such members will only observe the REC meeting. Agenda items may not be addressed in the order noted below. The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Hattie Johnson at (916) 575-7203, emailing Hattie.Johnson@dca.ca.gov, or sending a written request to the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your requests at least five business days before the meeting will help to ensure availability of the requested accommodation.

The notice and agenda for this meeting and other meetings of the California Architects Board can be found on the Board's Web site: cab.ca.gov. For further information regarding this agenda or accommodations, please contact Hattie Johnson at (916) 575-7203.

AGENDA

- A. Welcome and Introductions
- B. Enforcement Program Update
- C. Review and Approve April 26, 2010 REC Summary Report
- D. Discuss and Possible Action on Strategic Plan Objective to Develop a Strategy for Working with the League of California Cities and the California Chapter American Planning Association to Inform Them of Architects Practice Act Requirements
- E. Discuss and Possible Action on Strategic Plan Objective to Determine the Appropriateness of "Gag" Clauses in Civil Settlement Agreements

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- F. Discuss and Possible Action on Strategic Plan Objective to Review and Make Recommendation Regarding Department of Consumer Affairs' (DCA) Proposals (Senate Bill 1111)
- G. Discuss and Possible Action on Strategic Plan Objective to Utilize DCA Recommended Enforcement Performance Measures as Appropriate
- H. Discuss and Possible Action on Strategic Plan Objective to Review, Update, and Publish Consumer's Guide to Hiring an Architect
- I. Discuss and Possible Action on Strategic Plan Objective to Monitor Fingerprint Requirement for Licensees to Determine its Potential Application to CAB

Agenda A

WELCOME AND INTRODUCTIONS

Sheran Voigt, Chair of the Board's Regulatory and Enforcement Committee, will open the meeting with introductions and remarks.

Agenda B

ENFORCEMENT PROGRAM UPDATE

Attached is the Enforcement Program Update. The report provides a synopsis of Board and Enforcement Unit activities and projects of interest to the Regulatory and Enforcement Committee.

Also included in this item is an overview of Citations Issued and Final through April 29, 2011.

ENFORCEMENT PROGRAM UPDATE

April 2010 through March 2011

Architect Consultants

One of the architect consultants contract expired on January 30, 2011. Staff prepared a draft Request for Proposal (RFP) for the consultant services for three fiscal years (2011-2014) that was sent to the Department of Consumer Affairs' (DCA) Contract Unit for processing on October 27, 2010. The RFP was released on December 7, 2010 and advertised on the Internet under the State Contracts Register. The deadline to submit proposals was December 30, 2010. The proposals received in response to the RFP were evaluated (first phase of the evaluation) on January 3, 2011. The second phase of the evaluation (interview) was held on January 7, 2011. Based on the results of the evaluation/interview scoring, the contract was awarded to Barry Williams.

Building Official Contact Program:

Between April 2010 and March 2011, the consultants responded to a total of 97 telephone and/or email contacts from building officials. Personal contacts were made at the California Building Official's Annual Meeting in Costa Mesa. Architect Consultants Bob Carter and Barry Williams attended this meeting November 16-18, 2010. They spoke with many building officials about Board topics and the issues facing building officials.

Education/Information Program:

The architect consultants are the primary sources for responses to technical and/or practice related questions from the public and licensees. Between April 2010 and March 2011, there were a total of 562 telephone and/or email contacts requesting information, advice and/or direction. Licensees requesting clarification of business name requirements or advice on business organization accounted for 141 of the contacts, and other inquiries focused on written contract requirements, stamp and signature requirements, out-of-state licensees looking to do business in California, and clarification regarding the scope of practice relative to engineering disciplines.

On January 27, 2011, Mr. Carter and Examination/Licensing Analyst Tim Rodda represented the Board at the American Institute of Architects, Central Valley's annual kick-off meeting for associate, emerging professional and student members. There were approximately 24 people present that included presentations by Umber Kazmi, Director of Funkaar Studios and Haley Gipe, American Institute of Architects, California Council IDP Coordinator, Northern California.

On February 2, 2011, Mr. Carter was the guest speaker at the Napa-Solano International Code Council Chapter February dinner meeting in Fairfield. There were 24 chapter members present including representatives from the city and county of Napa, the cities of Benicia, Vallejo, and Suisun City and various related industry representatives. The presentation included a brief update on the Board's activities and general issues related to stamping and signing, and unlicensed practice. Most of the time was spent in questions and answers in order to address their specific needs.

Board Meetings

Since April 2010, the Board has met on June 16, 2010 in Sacramento, September 15, 2010 in Riverside, December 15-16, 2010 in San Diego, and March 17, 2011 at California State Polytechnic University, Pomona. Meetings for the remainder of this year are tentatively scheduled for June 16, 2011 at the University of Southern California, September 15, 2011 in Sacramento, and December 7-8 in San Diego. The December meeting will include a strategic planning session to update the Board's Strategic Plan for 2012.

Board Members Pasqual Gutierrez, Sheran Voigt, and Hraztan Zeitlian were reappointed by the Governor on January 2, 2011. Their terms will expire on June 30, 2014. On February 23, 2011, Fermin Villegas was appointed to the Board by the Senate Rules Committee. His term expires on June 30, 2014. The Board currently has one vacancy.

BreEZe Project (formerly I-Licensing Project)

The BreEZe project is the DCA computer program that provides the DCA organizations an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and management capabilities. BreEZe will replace the existing Consumer Affairs System, Applicant Tracking System, and other systems with an integrated, modifiable, off-the-shelf system for use by the DCA organizations. It will also enable candidates and licensees to pay fees by credit card through Web sites. No definitive launch date has been set.

The Project Team released the final RFP in early February. Since then they have received final proposals and are currently in negotiations to secure a feasible contract.

Budget

On January 3, 2011, Governor Edmund G. Brown, Jr. was sworn into office and on January 10, 2011, he presented his fiscal year (FY) 2011-12 budget to the Legislature for review in anticipation of addressing a projected \$28 billion budget deficit over the next 18 months. On January 31, 2011, he presented the "State of the State" address to the Legislature and informed them that it will take a bipartisan effort and assistance from the public through a vote for an extension of specific taxes in order to deal with the current budget deficit. The Assembly Budget Subcommittee #4 approved the Board's budget and on February 7, 2011, the Senate Budget Subcommittee #4 also approved the Board's budget.

On February 18, 2011, Governor Brown directed all State agencies and departments to cease ordering outreach giveaway materials in addition to last month's directive to reduce the number of issued cell phones and vehicles to state employees in order to reduce State government costs.

The Governor and State Legislators remained at an impasse in March as to how to solve the 28 billion deficit the State faces for FY 2011/12. The Governor addressed approximately \$12 billion in spending cuts; however, there is still a \$15 billion deficit to be dealt with by either additional budget cuts or by having a public vote to extend the current sales tax and vehicle license fees.

On April 26, 2012, Governor issued Executive Order B-06-11, prohibiting discretionary in-state and out-of-state travel, unless it is mission critical. Mission critical means travel that is directly related to:

- Enforcement responsibilities
- Auditing
- Revenue collection
- A function required by statute, contract, or executive directive
- Job-required training necessary to maintain licensure or similar standards required for hold a position

All in-state travel must be approved by Agency Secretaries or Department Directors. All out-of-state travel must be approved by the Governor’s Office.

Enforcement Program Statistics

<u>Statistics</u>	<u>Current Month</u> March 2011	<u>Prior Month</u> February 2011	<u>Prior Year</u> March 2010
Total Cases Received and Opened*:	33	13	23
Complaints to Outside Expert:	0	0	0
Complaints to DOI:	0	1	0
Complaints Pending DOI:	2	2	2
Complaints Pending AG:	12	12	8
Complaints Pending DA:	3	3	2
Total Cases Closed*:	31	31	43
Total Cases Pending*:	144	142	187
Settlement Cases (§5588) Opened:	9	2	5
Settlement Cases (§5588) Pending:	29	30	35
Settlement Cases (§5588) Closed:	11	10	9
Citations Final:	4	2	2

*Total Cases categories include both complaint and settlement cases

Newsletter

The Board’s Spring 2010 newsletter was the first to utilize the services of DCA’s Office of Publications, Design, and Editing instead of contracting with an outside vendor. This office assisted in the writing and design layout of the newsletter. This was also the first newsletter sent out through an electronic means to individuals on the Board’s subscriber list from its Web site.

The Board mailed postcards in April 2010 to all interested parties including all current and delinquent (within five years) licensees and candidates notifying them that the newsletter is now available on the Board’s Web site and could be sent directly to them via email if they joined the Board’s subscriber list.

The Winter 2011 Newsletter was posted on the Board’s Web site on January 6, 2011. Board staff is currently developing the next newsletter that is expected to be published in May 2011.

Outreach

On September 20, 2010, Doug McCauley, Vickie Mayer, and Justin Sotelo met with representatives from *The American Institute of Architects, California Council (AIACC) and Academy for Emerging Professionals* to share information regarding future program changes and to discuss having regular meetings to address intern matters. Also discussed was a proposed 2011 California Architects Licensure Conference which ultimately became the 2001 Architectural Summit. Because it was determined the summit would be a recurring event, the initial 2001 summit will serve as a strategic planning session. Representatives from various stakeholder groups (accredited schools of architecture, community colleges, regulatory agencies, practitioners, student leadership, etc.) will be invited to come together and identify issues and metrics for change.

Personnel

On February 15, 2011, Governor Brown prohibited all State agencies and departments from filling vacant positions unless an exemption was granted by his office. The Governor's hiring freeze remains in place and hiring exemptions have been requested in order to continue the efforts in filling the Board's vacant positions.

Posting Accusations and Disciplinary Actions on Web Site

On May 21, 2010, DCA Director Brian J. Stiger sent a memorandum directing each board and bureau to post all filed accusations and adopted disciplinary decisions on their respective Web sites. Based on this directive, staff worked with DCA's Office of Information Services to post its accusations and disciplinary decisions filed since May 2010. The first accusation was posted to the Board's Web site on August 31, 2010. In addition, the Board will continue to post citation and disciplinary action summaries on the Web site.

Regulatory Changes

California Code of Regulations (CCR), section 144, Fees - The Board's projected fund condition report demonstrated that operational costs would start exceeding the total annual amount it collects in fees in FY 2011-12. This projected fund condition report took into account recently passed legislation, Senate Bill (SB) 1608 (Corbett) [Chapter 549, Statutes of 2008], which created a continuing education requirement (as a condition for license renewal) and additional workload for the Board. The Board, like all agencies, has contended with normal workload growth and increases in the cost of doing business. Therefore, unless fees are increased, the Board would not be able to continue providing required services to consumers, licensees, and candidates. Staff prepared a regulatory change package to modify the license and renewal fees to address its fund condition solvency. On November 23, 2010, the regulation was approved by Office of Administrative Law (OAL). The approved fee increases took effect on January 1, 2011.

Sunset Review

The final Sunset Review Report was submitted to the Senate Business and Professions Committee on September 30, 2010. The legislative sunset hearing for the Board was held on March 21, 2011 to address any Committee concerns. Mr. McCauley and Mr. Gutierrez, Board

President, testified for the Board. Mr. McCauley and Stephanie Landregan, Landscape Architects Technical Committee (LATC) Chairperson testified for LATC. A written response to the Committee's issues will be provided to them prior to the 30-day time limit allowed.

Strategic Plan

The Board's strategic planning session was held on December 15-16, 2010 in San Diego in conjunction with the Board's regular meeting. Daniel Iacofano of Moore Iacofano Goltsman, Inc. facilitated the session. Mr. Iacofano updated the plan based on the Board's objectives. The draft plan was approved by the Board at its March 16, 2011 meeting.

CITATIONS ISSUED AND FINAL

April 17, 2010 through April 29, 2011

Edgar Bazan
(Sacramento)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$2,000 civil penalty to Edgar Bazan, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out As Architect). The action alleged that Bazan executed an agreement offering to provide “Architectural/Structural” design services for a new two-story single-family residence located in Sacramento, California. The agreement also identified Bazan as an “Architect.” The citation became final on March 21, 2011.

Ryan Blackman
(Los Angeles)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$2,500 civil penalty to Ryan Blackman, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Blackman advertised/offered “Architectural” services for residential/commercial remodels and additions on the Web site, www.losangeles.craigslist.org. Blackman’s offering of “Architectural” services on the Internet is a device that indicates to the public that he is an architect or qualified to engage in the practice of architecture. In a previous complaint in 2007, Blackman had a similar advertisement on Craigslist and was advised that as an unlicensed individual, he was prohibited from practicing architecture in this state or from using any term confusingly similar to the word architect, or from advertising or putting out any sign or card or other device which might indicate to the public that he is an architect or that he is qualified to engage in the practice of architecture. The citation became final on April 27, 2010.

Cynthia S. Blair
(San Diego)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count administrative citation that included a \$1,500 civil penalty to Cynthia S. Blair, architect license number C-13199, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5536.1(b) (Signature and Stamp on

Plans and Documents; Unauthorized Practice). The action alleged that while Blair's license was expired, she affixed her architect's stamp to plans. Blair's stamp was also non-compliant since it contained only the word "California" and did not provide a renewal date of the license. Blair paid the civil penalty satisfying the citation. The citation became final on June 1, 2010.

David Choi
(Alhambra)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architects

The Board issued a two-count administrative citation that included a \$1,000 civil penalty to David Choi, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out As Architect). The action alleged that Choi executed a written agreement offering to provide design services for a 54-58 unit condominium located in Temple City, California. Since the project did not satisfy the criteria for an exempt project type as defined in BPC section 5537, it was a non-exempt project type and required a licensed design professional for the preparation of plans, drawings, or specifications. The citation became final on July 30, 2010.

David Neal Colombo
(Santa Rosa)

BPC section 5584 – Willful Misconduct

The Board issued a one-count administrative citation that included a \$1,000 civil penalty to David Neal Colombo, architect license number C-20167, for an alleged violation of BPC section 5584 (Willful Misconduct). The action alleged that Colombo failed to meet the professional standard of care by not obtaining design review and building permit approvals in a timely manner. The citation became final on March 14, 2011.

Michael Gerald Dhanens
(Bakersfield)

BPC section 5584 – (Willful Misconduct)

The Board issued a one-count administrative citation that included a \$1,000 civil penalty to Michael Gerald Dhanens, architect license number C-18790, for an alleged violation of BPC section 5584 (Willful Misconduct). The action alleged that Dhanens entered into a contract to provide architectural and engineering services on his client's project located in Taft, California. An engineering company entered into an agreement with Dhanens to provide geotechnical investigation services (Geotechnical Report) to Dhanens on his client's project. Dhanens was paid by his client for the Geotechnical Report; however, Dhanens did not pay the engineering company for their services and did not contact them to resolve the non-payment of fees owed. Dhanens's failure to compensate his consultant in

this matter was deemed to be willful misconduct. The citation became final on June 3, 2010.

Neal J. Frandsen
(Sacramento)

BPC section 5536.22(a) – Written Contract

The Board issued a one-count administrative citation that included a \$500 civil penalty to Neal J. Frandsen, architect license number C-12244, for an alleged violation of BPC 5536.22(a) (Written Contract). The action alleged that Frandsen failed to execute a written contract with his client for a storefront design on a proposed building in Sacramento, California. The citation became final on April 12, 2010.

Jonathan Jang
(San Carlos)

BPC sections 5536(a) & (b) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count administrative citation that included a \$2,000 civil penalty to Jonathan Jang, architect license number C-14335, for alleged violations of BPC sections 5536(a) and (b) (Practice Without License or Holding Self Out As Architect). The action alleged that on or about November 2, 2005, while Jang’s license was expired, he affixed his stamp, which included the legend “State of California” and the words “Licensed Architect,” a license number, an invalid expiration date and his name, to plans. Between the period of January 2006 and March 2008, he also provided invoices to a client which stated “Billing for architectural services...” Jang’s license expired on March 31, 2005 and was not renewed until July 23, 2008. The citation became final on November 19, 2010.

Jeffrey Jonsson
(Mission Viejo)

BPC section 5536.22(a) – Written Contract
BPC section 5584 – Willful Misconduct

The Board issued a two-count administrative citation that included a \$1,500 civil penalty to Jeffrey Jonsson, architect license number C-27314, for alleged violations of BPC sections 5536.22(a) (Written Contract) and 5584 (Willful Misconduct). The action alleged that Jonsson entered into two written contracts to provide professional architectural services to remodel a residence located in San Juan Capistrano and Garden Grove, California. The contracts did not contain a description of the procedure that Jonsson and the clients would use to accommodate additional services and a description of the procedure to be used by either party to terminate the contract. Jonsson’s Garden Grove contract required him to prepare construction drawings and specifications for the approval of governmental authorities having jurisdiction over their project. Jonsson committed in the contract to provide these services “...in an expeditious manner...” On or about February 14, 2007, the City of Garden Grove Plan Checker received an initial set of construction documents for plan check. On or about

February 28, 2007, Jonsson received the initial comments from the Plan Checker listing plan corrections. On or about April 9, 2007, Jonsson submitted a revised set of construction documents for plan check. On or about April 12, 2007, Jonsson again received comments from the Plan Checker listing plan corrections. On or about May 2, 2007, Jonsson re-submitted a revised set of construction documents for plan check. On or about May 7, 2007, Jonsson again received comments from the Plan Checker listing plan corrections. On or about June 22, 2007, Jonsson submitted pre-final documents to the Plan Checker, who completed his review on June 28, 2007. On July 9, 2007, the Plan Checker, after making corrections to the drawings on behalf of Jonsson, submitted the final version of the documents to the City of Garden Grove for final review. Jonsson failed to meet the professional standard of care by not preparing construction documents capable of satisfying the City of Garden Grove Plan Check requirements in an expeditious manner as provided for in the contract. The citation became final on March 16, 2011.

Nam H. Kim
(Rancho Palos Verdes)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect
BPC section 5584 – Willful Misconduct

The Board issued a two-count administrative citation that included a \$1,500 civil penalty to Nam H. Kim, architect license number C-30825, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5584 (Willful Misconduct). The action alleged that Kim, prior to obtaining his architect license, executed a written agreement offering to provide tenant improvement plans for an existing retail space located in Torrance, California. The written agreement showed Kim's firm name as "OPUS Architecture." The written agreement's transmittal cover letter stated "Proposal For Architectural Services" and the letterhead showed Kim's firm name as "OPUS Architecture" along with the designation of services to be "Architecture + Planning + Design." The title block on the plans prepared by Kim for this project showed his firm's name as "OPUS Architecture" and the designation of services to be "Architecture + Planning + Design." In the response letter to the Board, Kim stated the written agreement he signed on March 17, 2006 with the client showed the firm name as "OPUS Architecture;" however, the copy of the written agreement Kim provided to the Board actually showed the firm name as "OPUS Design" except for the signature page which showed the firm name as "OPUS Architecture." The City of Torrance approved the above-mentioned project's construction documents for construction and issued a building permit. Kim provided the Board with a copy of the construction documents for the project and represented them to be "as permitted" since they had the City of Torrance's approval stamp; however, the copy of the allegedly "approved" plans Kim provided did not have a responsible architect's stamp and signature and showed Kim's firm name as "OPUS Design" on the title block. The Board obtained a copy of the permitted set

of construction documents for the project from the City of Torrance. That permitted set of construction documents showed an architect's stamp and signature as well as Kim's firm name as "Opus Architecture" on the title block. Kim altered/modified the firm name on the title block of the set of construction documents he provided to the Board to state "OPUS Design." The citation became final on September 30, 2010.

George Kurczyn
(Beverly Hills)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$2,000 civil penalty to George Kurczyn, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Kurczyn executed a proposal for "Architectural" design services for a residential project located in Brentwood, California. The letterhead on the proposal identified Kurczyn as a "Design Architect." In addition, Kurczyn's business card included the word "Architecture" as a service he provides. Kurczyn's proposal offering to provide "Architectural" design services, the letterhead where Kurczyn identifies himself as a "Design Architect" and the business card which included the word "Architecture" are devices, which indicate to the public that he is an architect or qualified to engage in the practice of architecture. The citation became final on September 13, 2010.

Tony Tzuping Lin
(Lynn, MA)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$1,000 civil penalty to Tony Tzuping Lin, architect license number C-31121, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that on or about September 26, 2006 and May 4, 2007, Lin executed written agreements to provide design services for a residence. The agreements stated that Lin would provide "Architectural detail plans." Lin's license was not issued until May 21, 2007.

The subject appealed the citation and an administrative hearing was held. Lin failed to appear at the hearing and the Citation was sustained. The citation became final on April 21, 2011.

Twen Ma
(Bradbury)

BPC sections 5536(a) & (b) – Practice Without License or Holding Self Out as Architect
BPC section 5536.1(c) – Unauthorized Practice

The Board issued a four-count administrative citation that included a \$4,000 civil penalty to Twen Ma, architect license number C-16815, for alleged violations of BPC sections 5536(a) and (b) (Practice Without License or Holding Self Out As Architect) and 5536.1(c) (Unauthorized Practice). The action alleged that while Ma’s license was expired, he affixed his stamp to plans for a new commercial building located in Alhambra, California. The stamp contained Ma’s name, license number, the words “Licensed Architect,” the legend “State of California,” and an invalid renewal date hand written in of December 31, 2012. The plans also included Ma’s title block which contained his firm name as “Twen Ma Architects.” Ma also affixed his stamp to plans for a 35-unit condominium located in Alhambra, California. The stamp contained Ma’s name, license number, the words “Licensed Architect,” the legend “State of California,” and an invalid renewal date hand written in of December 31, 2010. The plans also included Ma’s title block which contained his firm name as “Twen Ma Architects.” While Ma’s license was expired, he also prepared design and construction documents for the above mentioned projects. Ma’s license expired on August 31, 2009 and was not renewed until November 4, 2010. Ma paid the civil penalty, satisfying the citation. The citation became final on January 31, 2011.

Eduardo M. Martinez
(Mountain View)

BPC section 5536.22(a) – Written Contract

The Board issued a one-count administrative citation that included a \$500 civil penalty to Eduardo Manuel Martinez, architect license number C-11558, for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that Martinez failed to execute a written contract with a client for architectural design and drafting for remodeling the bedrooms, kitchen and bath of a client’s existing residence located in Palo Alto, California. The citation became final on September 13, 2010.

Bruce Cameron McVay
(Long Beach)

BPC section 5536.1(b) – Signature on Plans and Documents
BPC section 5536.22(a) – Written Contract
BPC section 5584 – Willful Misconduct

The Board issued a three-count administrative citation that included a \$2,500 civil penalty to Bruce Cameron McVay, architect license number C-11870, for alleged violations of BPC sections 5536.1(b) (Signature on Plans and Documents), 5536.22(a) (Written Contract) and 5584 (Willful Misconduct). The action alleged that McVay executed a written contract/association with an unlicensed person (Opus Architecture), whereby McVay would provide

responsible control over the instruments of service for a tenant improvement project located in Torrance, California. Construction documents were submitted for the project to the City of Torrance for a building permit. The title block on the permitted set of construction documents submitted to the City of Torrance and provided to the Board shows the unlicensed person's firm name as "Opus Architecture." McVay provided the Board with a copy of the permitted set of construction documents which is the same in every respect as the copy submitted to the City of Torrance except on McVay's set, the firm name on the title block was altered/modified to state "OPUS Design." McVay admitted that the drawings that he signed and stamped in order to obtain a permit from the City of Torrance had the "Opus Architecture" title block on them. McVay's architect stamp on the construction documents bear the legend "Registered Architect" instead of the required "Licensed Architect."

McVay made a verbal agreement for the completion of construction documents for a second story addition to a single-family residence located in Fountain Valley, California. McVay received \$1,500 for an initial payment, and received \$1,500 for the completion of documents ready for submittal to the Building Department. McVay invoiced his client for Professional Services Rendered (On Site Meeting) and for blueprints. McVay prepared and provided his client with a set of construction documents for Plan Check to the City of Fountain Valley. McVay failed to execute a written contract with the client, as required by BPC section 5536.22(a). McVay paid the civil penalty, satisfying the citation. The citation became final on April 12, 2010.

Michael Scott Mitchell
(Los Angeles)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count administrative citation that included a \$5,000 civil penalty to Michael Scott Mitchell, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The actions alleged that Mitchell provided an "AIA Document B141 Standard Form of Agreement Between Owner and Architect" for the design of a new single family residence and guest house located in Malibu, California. Mitchell also prepared plans with a title block which stated "Project Team:" and "Architect: Scott Mitchell Studio." The citation became final on April 12, 2011.

Anthony Monroe
(Bend, Oregon)

BPC sections 5536(a) & (b) – Practice Without License or Holding Self Out as Architect

The Board issued a three-count administrative citation that included a \$7,500 civil penalty to Anthony Monroe, an unlicensed individual, for alleged violations of BPC sections 5536(a) and (b) (Practice Without License or Holding Self Out as Architect). The actions alleged that Monroe prepared

plans for a residence located in Crescent City, California. The title block on the plans stated “Northwest Native Architecture.” Monroe affixed an architect’s stamp to the plans, which read “Licensed Architect,” “Anthony J. Monroe,” “C-13365,” and the legend “State of California.” His signature was written across the stamp. Board records reveal that license number C-13365 is issued to a licensed architect who denies any knowledge or ever meeting Monroe. Monroe also put out a resume with a heading entitled “Team: Staff Resume” and “Tony Monroe, Principal Architect.” Under the title “Education and Registrations” it stated “California License #C13365.” Monroe’s stamp with the legend “State of California,” and the words “Licensed Architect,” a license number, and Respondent’s name, and his resume are devices, which indicate to the public that he is an architect or qualified to engage in the practice of architecture. The citation became final on December 9, 2010.

Okey Okonkwo
(Los Angeles)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$500 civil penalty to Okey Okonkwo, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out As Architect). The action alleged that Okonkwo entered into a contract offering to provide architectural and engineering plans for a six-unit apartment project for the property located in Inglewood, California. Since the project in this case did not satisfy the criteria for an exempt project type as defined in BPC section 5537, it was a non-exempt project type and required a licensed design professional for preparation of plans, drawings, or specifications. The citation became final on April 19, 2010.

Warren Earle Pechin
(Bakersfield)

BPC sections 5536(a) & (b) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count administrative citation that included a \$2,000 civil penalty to Warren Earle Pechin, architect license number C-8366, for alleged violations of BPC sections 5536(a) and (b) (Practice Without License or Holding Self Out as Architect). The actions alleged that while Pechin’s license was expired, he presented a proposal to a client for professional services on letterhead which stated “pechin & associates architect aia inc.” He then executed a *Standard Form of Agreement Between Owner and Architect for Housing Services* to provide architectural custom residence drawings for a new residence, a home office complex, a 10-car garage/motor court, a pool cabana/pool complex, and collaboration on site landscaping for a 20 acre parcel. The agreement contained the words “Architectural” and “Architect” throughout. Pechin affixed an architect’s stamp to the plans for the above-referenced project. The stamp contained his name, license number, “Licensed Architect,” the legend “State of California,” and a false expiration

date of August 31, 2005. Pechin's architect license expired on August 31, 2001 and was not renewed until August 15, 2006. Pechin paid the civil penalty, satisfying the citation. The citation became effective on November 10, 2010.

Gary Reynolds
(Redding)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect
BPC section 5536.1(c) – Unauthorized Practice

The Board issued a one-count administrative citation that included a \$2,000 civil penalty to Gary Reynolds, an unlicensed individual, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out As Architect) and 5536.1(c) (Unauthorized Practice). The action alleged that Reynolds submitted plans to the City of Redding Planning Division for permit approval for a mixed-use project on a single lot for a property located in Redding, California. The project included a major remodel of an existing store, along with development of seven residential units; one unit attached to the store and two tri-plex buildings. Since the project in this case did not satisfy the criteria for an exempt project type as defined in BPC section 5537, it was a non-exempt project type and required a licensed design professional for preparation of plans, drawings, or specifications. The citation became final on February 10, 2011.

Lucio Santillan
(Bellflower)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$1,500 civil penalty to Lucio Santillan, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out As Architect). The action alleged that Santillan offered to provide "Architectural" design services for a residential project located in Los Angeles, California. Santillan was paid \$1,500 to initiate the project. Santillan's agreement offering to provide "Architectural" design services is a device, which indicates to the public that he is an architect or qualified to engage in the practice of architecture. The citation became final on June 3, 2010.

Suheil Elias Shatara
(San Francisco)

BPC section 5536.22(a) – Written Contract

The Board issued a one-count administrative citation that included a \$500 civil penalty to Suheil Elias Shatara, architect license number C-24700, for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that Shatara failed to execute a written contract with a client for drawings to replace an existing deteriorated stairway in San Francisco,

Eddy Zhong Shen
(Sunnyvale)

California. Shatara paid the civil penalty, satisfying the citation. The citation became final on September 20, 2010.

BPC section 5536.22(a) – Written Contract

BPC section 5558 – File Current Address/Business Entity

The Board issued a two-count administrative citation that included a \$1,500 civil penalty to Eddy Zhong Shen, architect license number C-12717, for alleged violations of BPC sections 5536.22(a) (Written Contract) and 5558 (File Current Address/Business Entity). The action alleged that Shen failed to include in a contract the license number of the architect, a description of the procedure that the architect and the client will use to accommodate additional services, and a description of the procedure to be used by either party to terminate the contract as required by BPC section 5536.22(a)(3), (4), and (5). Shen did not file the proper and current name and address of the entity through which he provided architecture services as mandated by BPC section 5558. Shen had been previously advised that his written contract did not contain his license number, a provision for additional services, and a termination clause, as required by BPC section 5536.22(a)(3), (4) and (5). Shen was also advised that he is expected to be familiar with the provisions of the Architect Practice Act and to comply with all laws, rules, and regulations. The citation became final on July 27, 2010.

Michael Spaulding
(Phelan)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count administrative citation that included a \$2,500 civil penalty to Michael Spaulding, dba High Desert Country Store, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Spaulding put out a brochure which contained his name and stated that he provides “Architectural Design Consulting.” Spaulding’s advertisement offering to provide “Architectural Design Consulting” is a device, which indicates to the public that he is an architect or qualified to engage in the practice of architecture. The citation became final on June 9, 2010.

Final Administrative Actions
April 17, 2010 through April 29, 2011

MATTHEW ROBERT MCKISSON (Sacramento) Effective October 21, 2010, Matthew Robert McKisson's architect license number C-19423, was surrendered and he thereby loses all rights and privileges of an architect in California. The action was a result of a Stipulated Surrender of License and Order, which was adopted by the Board.

An Accusation was filed against McKisson for alleged violations of Business and Professions Code (BPC) sections 5536.22(a)(3) (Written Contract), 5584 (Negligence or Willful Misconduct), 5585 (Incompetency or Recklessness), and 5588 (Report of Settlement or Arbitration Award).

The Accusation alleged that between 1998 and 2000, McKisson contracted and provided professional services to three different school districts for six improvement projects on three existing high school and three existing elementary school sites. On four modernization projects (one elementary and three high schools), McKisson caused Heating, Ventilating and Air Conditioning units to be installed on various building rooftops including classrooms and a gymnasium without agency approvals. A safety hazard was created for occupants since the existing roof structures were inadequate to support the new equipment without added reinforcement, which was not included. On two elementary school projects, McKisson caused relocatable buildings (a classroom and a library) to be installed on concrete foundations without agency approvals. The projects did not include construction and/or modifications to provide accessible restrooms and accessible paths of travel as required by Title 24 and Americans with Disability Act standards.

On all six school projects, McKisson failed to obtain Division of the State Architect design review and approval of the final construction documents prior to commencement of construction as required by law. In addition, he failed to include his license number on all his contracts for the projects; and, failed to report to the Board the settlement agreement reached with the school district that filed a civil suit to recover their damages.

BRYAN ALBERT OSBORN (Sebastopol) Effective October 1, 2010, Bryan Albert Osborn's architect license number C-23628, was revoked; however, revocation was stayed, his license was suspended for 90 days, and he was placed on probation for six years with specific terms and conditions, including reimbursing the Board \$9,543 for its investigative and prosecution costs. The action came after a stipulated settlement was negotiated and adopted by the Board.

On or about May 21, 2002, Osborn, who was also a licensed general building contractor, entered into a written time and materials contract with the homeowner for architectural and general contracting services in connection with the remodel of the homeowner's newly-purchased residence.

An Accusation was filed against Osborn for alleged violations of BPC section 5584 (Negligence or Willful Misconduct). The Accusation alleged that he did not complete design drawings and construction documents necessary to adequately define the scope of work, clarify compliance with the Building Code, and obtain a building permit. Osborn, nevertheless commenced construction, although he knew that building permits were required by law and that the drawings had not been reviewed or approved by either the city or county building department.

Throughout the course of the contract, Osborn provided only a few freehand sketches and four sheets of conceptual drawings illustrating the proposed master bath and living room fireplace design. Sketch-design features which violated the California Building Code included: 1) proposed stairs that did not include required handrails; 2) proposed bench/guardrail that did not include the proper degree of enclosure; and, 3) extension of the westerly deck adjacent to an existing window that did not include tempered glass – a design feature implemented during construction.

Osborn did not adhere to the schedule required by the contract or keep the homeowner informed of the project's progress. He did not obtain the homeowner's written authorization for change orders and/or additional work before proceeding with such work. Osborn abandoned the project, approximately nine months after the commencement of construction. The work had only progressed as far as the installation of drywall in many areas of the house. In total, the homeowner paid Osborn approximately \$230,000 over the original design/build contract price.

On or about September 21, 2009, Osborn stipulated to the revocation of his general building contractor license in resolution of a disciplinary action brought before the Contractors State License Board, which resulted from the same facts set forth herein related to the above-referenced project.

THOMAS NAVARRE PERRY (San Diego) Effective October 27, 2010, Thomas Perry's architect license number C-24874, was revoked. The action was a result of a Default Decision, which was adopted by the Board.

An Accusation was filed against Perry for alleged violations of BPC sections 5536 (Practice Without License or Holding Self Out as Architect), 5536.1 (Signature and Stamp on Plans and Documents; Unauthorized Practice), 5536.22(a) (Written Contract), 5558 (Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements), 5578 (Violation as Ground for Discipline in General), 5583 (Fraud in Practice of Architecture), and 5584 (Negligence or Willful Misconduct), and California Code of Regulations, sections 104 (Filing of Address), 150 (Willful Misconduct), and 160(a)(b)(d) and (f) (Rules of Professional Conduct). The Accusation alleged that Perry engaged in the practice of architecture without being currently licensed; failed to include his license number, a description of the procedure that the architect and the client will use to accommodate additional services, and a description of the procedure to be used by either party to terminate the contract in his contracts; failed to maintain an accurate and current address of record with the Board; was negligent in the practice of architecture for failing to complete projects and obtaining building permits, as contracted or prepared plans that lacked specific details and directions to provide

contractors with sufficient information to prepare adequate bids; engaged in unprofessional conduct by acting incompetently; demonstrated insufficient knowledge of applicable building laws, codes, and regulations; failed to respond to the Board's requests for information and/or evidence; failed to accurately represent his qualifications and the scope of his responsibility in connection with projects or services for which he claimed credit; materially altered the scope or objective of the contracted project without first fully informing the client and obtaining the consent of the client in writing; engaged in fraud or deceit in the practice of architecture by providing the client with plans that had a fraudulent stamp which indicated approval by the city; and, obtained payment from the client as a result of that fraud or deceit.

OMAR SILLER (Tulare) Effective July 30, 2010, Omar Siller's architect license number C-12149, was revoked. The action was a result of a Default Decision, which was adopted by the Board.

An Accusation was filed against Siller for alleged violations of BPC sections 5536.22(a)(3) and (5) (Written Contract), and 5584 (Willful Misconduct) and California Code of Regulations section 160(b)(2) (Rules of Professional Conduct). The Accusation alleged that Siller was negligent in failing to provide construction drawings and only partially performed the services to be provided under a written agreement. Siller also failed to respond to the Board's repeated requests for information regarding the investigation. Siller failed to provide his license number and a description of the procedure to be used by either party to terminate the contract in a written contract for his services.

CURTIS SHUPE (Palm Desert) Effective January 13, 2007, Curtis Shupe's architect license number C-13388, was revoked; however, revocation was stayed, his license was suspended for 90 days and he was placed on probation for five years with specific terms and conditions, including restitution pursuant to an arbitration award to the clients in the amount of \$63,876.36. The action came after a stipulated settlement was negotiated and adopted by the Board.

On October 6, 2010, a Petition to Revoke Probation was filed against Shupe for failure to submit quarterly reports as mandated by the terms and conditions in the stipulated settlement. Effective April 21, 2011, Shupe's architect license number C-13388 was revoked. The action came after a Default Decision and Order was adopted by the Board.

Agenda C

REVIEW AND APPROVE APRIL 26, 2010 REC SUMMARY REPORT

The Committee is asked to review and approve the summary report of the April 26, 2010 REC meeting held in Sacramento, California.



CALIFORNIA ARCHITECTS BOARD
PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

Arnold Schwarzenegger
GOVERNOR

SUMMARY REPORT

REGULATORY & ENFORCEMENT COMMITTEE MEETING

April 26, 2010

Sacramento, California

Committee Members Present

Sheran Voigt, Vice Chair
John Canestro
Richard Conrad
Fred Cullum
Robert De Pietro
Robert George (arrived at 10:15 a.m.)
Michael Merino
Phyllis A. Newton, Esq.

Committee Members Excused

Larry Guidi, Chair
Larry Segrue

Board Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Hattie Johnson, Enforcement Officer
Sonja Ruffin, Enforcement Analyst
Peter Merdinger, Enforcement Analyst
Matthew Wiggins, Enforcement Technician
Bob Carter, Architect Consultant
Barry Williams, Architect Consultant
Terri Villareal, Landscape Architects Technical Committee
Enforcement Coordinator

Guest

Gil De Luna, Bureau Chief, Executive Office, Department of Consumer
Affairs

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A. Welcome and Introductions

Regulatory and Enforcement Committee (REC) Vice Chair Sheran Voigt called the meeting to order at 10:02 a.m. She noted that Chair Larry Guidi and Larry Segre were absent and excused.

Ms. Voigt welcomed the REC and staff, and requested self-introductions.

Executive Officer Doug McCauley swore Michael Merino in as a re-appointed Board member.

B. Enforcement Program Update

Hattie Johnson informed the REC that Architect Consultant Bob Carter had attended the Annual Business Meeting of the California Building Officials (CALBO), which was held in Anaheim on February 22-26, 2010. She advised that the Board had a booth at this meeting which was manned by Mr. Carter and Ms. Johnson joined him for one day.

Ms. Johnson stated that the total complaint cases pending with the Board has been significantly reduced in the past year. She noted that in March 2009, there were 263 pending cases. She added that in March 2010, that amount had been reduced to 187. She indicated that enforcement staff was striving to close cases in a timelier manner.

Ms. Johnson informed the REC that the Board's newsletter was transitioning to an electronic format. She advised that once converted, the Board will mail postcards to all interested parties to notify them that the newsletter is now available on the Board's Web site.

John Canestro asked how the Board would accommodate individuals who did not have computers or access to the Internet. Mr. McCauley responded that they would have to access a computer elsewhere, such as the library. He noted that if that is not possible, staff could print out a copy and mail it. Mr. McCauley added that in terms of efficiency and relaying information in a timelier manner, transitioning the newsletter to electronic format was the only alternative. Mr. Canestro opined that there are individuals who do not have or use a computer. Ms. Voigt indicated that this was discussed in the Communications Committee and it was determined that the largest preponderance of the public that does have Internet actually prefer to view the newsletter in this format since they can do it at their convenience. She added that this is a less costly method of distributing the newsletter and is therefore better for the Board's budget.

Mr. Merino asked if there is an actual cost savings to the Board since it was still mailing a postcard to interested people. Vickie Mayer responded that the postcard would be mailed only one time to advise that the newsletter was going electronic and would be available on the Board's Web site. She advised that after that, an email broadcast would be sent every time a new newsletter is published. Mr. McCauley added that the difference in printing a postcard versus a 12-page, full color newsletter with postage, is significant.

Phyllis Newton asked if there was a way to track how many people view the Board's online newsletter to evaluate the continued need for a newsletter. She noted that this is something the Board might want to consider in the future.

Mr. Canestro commented about the issue on the Enforcement Program Update regarding the Building Official Contact Program. He wanted to recommend to the Board that a focus group be convened to determine whether building officials could assist the Board in the enforcement process. He noted that building officials are short staffed. He felt that building officials could be of assistance to the Board's architect consultants and the enforcement staff.

Mr. Merino indicated that public agencies at the local level are reducing staff, which may result in less enforcement locally. He added that based on this, there probably will not be more citations issued.

Mr. Canestro noted that building officials should concentrate on plans from licensees and unlicensed people and not lose sight that they should contact the Board to verify a license. Mr. Carter opined that building officials have not lost sight of this based on his experience in meeting with building officials in the past few months. He stated that when the economy downturns, and there is little work for licensees, complaints made by licensees against unlicensed people increases exponentially. Mr. Carter added that building departments may be understaffed because their workload is down, which may result in them being more thorough.

Mr. Merino requested that Mr. Canestro put his concerns and suggestions regarding a focus group in writing so that it could be distributed at the next meeting.

Ms. Voigt indicated that the Department of Consumer Affairs (DCA) is mandating that its boards and bureaus expedite the processing of consumer complaints. She noted that this will be further discussed during the meeting. Mr. McCauley added that during the 2010 Strategic Planning session, the Board took into consideration that it was going through the Sunset Review process, which is an all encompassing exercise. He stated that coupled with this is the transition of the California Supplemental Examination from its current oral format to a written multiple choice format, and responding to DCA's various enforcement initiatives. He stated that given this, the Board has essentially developed a two-year Strategic Plan. He noted that this does not mean that connecting better with the building departments is not important, because it is, however, it may need to be more of the Board's mid-range plan.

Ms. Johnson noted that the REC meeting packet contained administrative citations that are final. She pointed out that many are against unlicensed individuals.

Ms. Newton asked for clarification on the BreEZe Project (formerly I-Licensing Project). Ms. Mayer responded that DCA is working on a project to consolidate its boards and bureaus computerized systems. She stated that presently, each board and bureau has its own system. She noted that this new program would allow one board/bureau to view and share information with another board/bureau. She added that DCA is attempting to solicit proposals to have a program that will have one consolidated system; however, it is difficult because each board/bureau has its own unique requirements.

Robert De Pietro asked why there were not any disciplinary actions in the REC meeting packet. Ms. Johnson stated that no disciplinary actions had been taken against a licensee in the past year, however, this year, there will be several. She added that at this time there are eight cases pending with the Office of the Attorney General (AG).

Mr. Merino asked if staff had explored options for collecting unpaid administrative fines for citations issued to unlicensed people. Ms. Johnson responded that the Board can and has sent names of unlicensed individuals who have not paid their administrative fines to the Franchise Tax Board Intercept Program, which will intercept tax returns and lottery winnings and send it to the Board for payment of the fine. She added that another option is sending the person to a collection agency. She noted that recently, the Board contracted with a collection agency, however, at this time, the Board does not have the authority to give a collection agency the individual's social security number, which is required. Mr. Merino requested that information be added that explains any collection efforts and success to this section of the REC meeting packet. Mr. McCauley added that this Board's record for collecting unpaid fines is better than other boards.

Ms. Voigt introduced Gil De Luna, Bureau Chief, Executive Office, DCA. Mr. De Luna explained that unlicensed activity appeared to be much more prevalent, especially for contractors. He noted that there have been many undercover stings to apprehend unlicensed contractors. Mr. McCauley added that the Landscape Architects Technical Committee had discussed doing undercover sting operations with the Contractors State License Board, however, after further analysis, it was determined that a significant effort may result in little productive outcome.

C. Review and Approve April 22, 2009 REC Summary Report

Ms. Voigt asked if there were any comments, corrections or questions regarding the April 22, 2009 REC Summary Report. Mr. Merino noted that he would abstain because he was not present at that meeting.

A motion was made by Robert De Pietro and seconded by John Canestro to approve the April 22, 2009 REC Summary Report. The motion passed 5-0-3 (Richard Conrad, Fred Cullum, and Michael Merino abstained).

Ms. Newton requested that in the future, the summary report be sent to REC members as soon as it is drafted, rather than wait for the next meeting. Ms. Johnson indicated that she would attempt to send it to members within two to three months following the meeting.

D. Review California Architects Board's 2010 Strategic Plan Related to the REC

Ms. Johnson informed Committee members that the Board's 2010 Strategic Planning session was held December 9-10, 2009. She reviewed the REC objectives and responded to each as follows:

Practice Standards

Objective 1. Establish a CAB liaison to participate in AIACC discussions related to IPD.

This will be discussed later in the meeting.

Objective 2. Receive periodic updates on IPD at CAB meetings.

This objective will begin later in the year

Enforcement

Objective 1. Develop and implement an enforcement improvement plan.

This has been done and will be presented to the REC members later in the meeting.

Objective 2. Utilize DCA recommended enforcement performance measures as appropriate.

Ms. Johnson stated that she is not familiar with the DCA's enforcement performance measures, however, Mr. De Luna will discuss this later in the meeting.

Objective 3. Review DCA's best practices, analyze, and adjust CAB's enforcement procedures where appropriate.

DCA is presently working on its best practices. When it is available, staff will review and utilize as appropriate.

Objective 4. Monitor DCA's enforcement legislation.

This will be discussed later in the meeting.

Objective 5. Monitor fingerprint requirement of licensees.

This issue is not in legislation this year, but would most likely be next year.

Mr. Merino asked that since the Board's Legislative Subcommittee has been eliminated, who would be responsible for monitoring this legislation. Mr. McCauley responded that legislation would be monitored by the staff, Executive Committee, and the Board.

Objective 6. Execute new architect consultant contracts (one contract effective July 2010 and one contract effective February 2011).

Staff is working on this objective.

Objective 7. Participate in the DCA enforcement academy.

This will probably be held some time next year.

Objective 8. Review the civil action judgment, settlement, and arbitration award reporting requirement under BPC sections 5588, 5588.1 and 5588.2 and determine if actions are warranted.

This target date for this objective was extended until June 2011, so that the Board could concentrate on Sunset Review.

Objective 9. Review, update, and publish Consumer's Guide to Hiring an Architect.

This target date for this objective was extended until December 2011, so that the Board could concentrate on Sunset Review.

Mr. Canestro asked if this objective could be accomplished by December 2011. Ms. Johnson indicated that if it was not, the date would be extended.

Ms. Johnson noted that in addition to the above objectives, the REC was to work with the Communications Committee to expand the consumer content on the Board's Web site. Ms. Voigt indicated that the Communications Committee had not yet met. Mr. McCauley added that there may be some overlap and there may not be a need for a joint meeting.

E. Discuss and Possible Action on Strategic Plan Objective to Establish a CAB Liaison to Participate in American Institute of Architects, California Council Discussions Related to Integrated Project Delivery

Mr. McCauley stated that the Board president makes appointments for the Board to committees. He indicated that this is an issue the REC reviewed last year relative to Integrated Project Delivery (IPD). He noted that the National Council of Architectural Registration Boards (NCARB) had a task force that reviewed IPD and its implications for ownership, responsibility, etc., when there are multiple parties involved in components of a project. He stated that based upon this, the Board recognized there was an ongoing issue to have a connection with the profession and expressed a desire to have a liaison work directly with The American Institute of Architects, California Council (AIACC) on any initiatives going forward on IPD.

Mr. Merino asked if this was an informational issue for the REC or if someone from the REC was going to be appointed. Mr. McCauley responded that it is partially information and asked if anyone on the REC had input on which Board members would want to do this. Mr. Merino stated that IPD is a product delivery rather than an enforcement issue. He added that unless it becomes mandated that licensees have to use IPD as a project delivery method and could therefore cause an enforcement scenario, this does not appear to be an issue for the REC. He noted that it may be an issue for the Professional Qualifications Committee (PQ). Mr. McCauley agreed that this may be an issue for PQ. He stated that as IPD is further entrenched in the profession, it should be reflected as something that may go into the examination process. He noted that it was initially assigned to the REC based upon IPD's effect on responsible control of a project.

Mr. Carter indicated that at the Strategic Planning session, the dialog of the Board was that a stamp and signature is evidence of one's responsibility with the documents. He

asked how IPD affects that responsible control when there are multiple accesses to the documents by different parties. He noted that this issue may be with the REC based on defining responsible control of this process. Ms. Voigt indicated that she thought this objective meant the Board wanted REC's input on this issue. Mr. Merino volunteered to be the liaison if need be.

Mr. De Pietro noted that this can be paralleled to the structural engineering profession in that there is so much more information available to put on plans. He stated that engineers use software programs but ultimately, they must sign the plans, so they must understand the limitations and assumptions. He indicated that this issue may ultimately end up as an enforcement issue because as the process gets easier, a licensee would use it not realizing what they are using.

F. Discuss and Possible Action on Strategic Plan Objective to Monitor Department of Consumer Affairs' (DCA) Enforcement Legislation

Mr. McCauley indicated that this is part of DCA's overall enforcement improvement initiative. He noted that it is a multi-faceted strategy where one component has to do with resources and another has to do with administrative process improvement. He added that this issue relates to statutory enhancements. He stated that there were reports last summer that some of DCA's healing arts boards were not timely in adjudicating consumer complaints, noting that some were taking as long as three and one half years. He indicated that this resulted in a series of articles in the *Los Angeles Times* and ProPublica, a non-profit journalism organization, which lead to a series of reform initiatives, including legislation. Mr. McCauley advised the REC that Senate Bill (SB) 1111 (McLeod), the enforcement reform bill for healing arts boards, had failed passage. He indicated that the DCA's strategy was to initially begin with legislation for the healing arts boards. He stated that there was also an effort for non-healing arts boards and that he had participated in a working group that pulled certain sections from SB 1111 that was woven into a draft document that will be introduced next year.

Mr. Merino asked that if SB 1111 failed, how come DCA is using parts of it for the non-healing arts boards' legislation. Mr. McCauley explained that the plan was to select palatable sections from the non-healing arts boards' legislation. Ms. Newton asked why the non-healing arts boards' legislation was being vetted, when it is contingent on SB 1111. Mr. McCauley responded that he wanted the REC to review it and discuss interesting or concerning aspects.

Mr. De Luna explained that SB 1111 was designed specifically for healing arts boards. He added that there will be bills introduced next year for the non-healing arts boards, however, DCA has not found an author as of yet or whether Senator McLeod will author that bill. He indicated that there will be a mock draft that will be reviewed with each board for input. He stated that DCA recognizes that each board and bureau has its own anomalies and DCA is attempting to make the legislation consistent. He noted that SB 1111 failed because the licensees of the healing arts boards have strong lobbyists. He advised that he does not feel this would be such a problem for non-healing arts boards. He indicated that the failure of SB 1111 will not derail DCA's efforts on enforcement and it is still DCA's highest priority. He added that DCA is moving forward with BreEZe, which is a mechanism to come into the 21st century. He advised that there is a

budget change proposal on the Governor's desk that will increase DCA's boards' enforcement staff, including non-sworn investigators.

Mr. Merino commented that he was philosophically against automatic fee changes based on the California Consumer Price Index, as suggested in the Enforcement Changes for Non-Healing Arts Boards. He opined that this should be vetted through the public process.

Ms. Newton stated that she takes the Board's charge to protect the public very seriously. She indicated that as she read some of the provisions in the potential legislation, she had some due process concerns. She suggested that if the legislation returns next year, the REC could form a subcommittee to thoroughly review the proposed legislation. She noted that the AIACC may have objections to some of the proposed provisions, so possibly the subcommittee could work with AIACC. She offered to be part of the subcommittee and suggested that the proposed legislation be approved before it is introduced, possibly later this year.

A motion was made by Phyllis Newton and seconded by Michael Merino that the REC suggest to the Board that a subcommittee be appointed to work with the profession to review non-healing arts boards' proposed legislation related to enforcement. The motion passed 8-0.

Mr. McCauley added that even if DCA does not move forward with the legislation for healing arts boards and non-healing arts boards, the Board may find something in these proposals that it may feel is necessary for its mandate to protect the public health, safety, and welfare. Mr. Merino stated that if there is something staff recommends the Board undertake, the subcommittee could review it and make a recommendation to the Board.

Mr. De Luna noted that DCA is encouraging boards and bureaus to post accusations against licensees and disciplinary documents on their Web sites.

G. Review and Approve Enforcement Improvement Plan (Strategic Plan Objective #1, Enforcement Goal)

Ms. Johnson stated that based on the issues with the length of time it takes for some of DCA's healing arts boards to complete a discipline case, DCA is focused on improving its boards and bureaus' enforcement programs. She indicated that as a result, each was asked to develop an Enforcement Improvement Plan (Plan), which is intended to assist DCA's boards and bureaus in their ongoing efforts to be more effective and timely in investigating complaints. She noted that in addition, DCA developed Complaint Prioritization Guidelines (Guidelines) for DCA Agencies Regulating Business Services, Design, and Construction. She advised that these Guidelines categorize complaint types by priority level. Ms. Johnson noted that the Board had been using a similar tool for several years. She asked the REC to review the Plan and make a recommendation to the Board that it approve the Plan at its next meeting on June 16, 2010.

Ms. Johnson explained that Board staff has already begun some of the improvements listed in the Plan. She noted that other improvements are not available yet for staff to utilize, such as DCA's Best Practices and DCA's Enforcement Academy. She began to review each item in the Plan.

Ms. Newton asked what was involved in the architect consultants doing case triage and review. Ms. Johnson responded that the consultants would look at each case they are assigned to determine whether it is a case that can be reviewed quickly or if it will take a lengthy review or need additional information. She indicated that the cases that can be done quickly are done immediately and the ones that will take longer are put in the queue.

Mr. McCauley indicated that the DCA wants cases investigated and resolved in 12 – 18 months. He noted that based on the reports he has seen, Board staff is already at this level.

Mr. Merino stated that this was supposed to be a Plan. He noted that the items in the Plan are more like a list of items to accomplish. He opined that a plan implies that staff has established a goal with objectives and details the methodologies to achieve the objectives. He noted that what is in the Plan is great, but they are objectives rather than a plan.

Ms. Mayer indicated that the goal is to meet DCA's directive to have cases resolved within the 12 – 18 month average. She stated that the Plan contains measures to achieve that goal. She added that staff almost meets this average. Mr. Merino suggested that if staff wanted the REC to approve a set of methods with specific objectives, it can approve that, but the Plan is not really a plan. Mr. McCauley stated that a preamble could be added to the Plan. Mr. Carter noted that the Plan can document what staff is already doing. He added that this Board has a good reputation with the AG because cases sent to the AG have had a very thorough investigation by Board staff. He noted that there is, however, always a backlog with the Division of Investigation, the AG, and the Office of Administrative Hearings, which hinders the Board's efforts to complete cases in a timely manner. Mr. Merino suggested that these types of constraints also be included in the Plan.

Concerning the Guideline, Mr. Canestro asked if the item "when evidence will likely be destroyed or unavailable" should be under the category Urgent, rather than High. Ms. Johnson explained that this document was produced by DCA. She noted that it is not only for the Board's use but also the Contractors State License Board, the Board for Professional Engineers and Land Surveyors, Accountancy, etc. Mr. Merino asked if the Board could use this and make its own guidelines. Ms. Johnson responded that she attempted to add routine settlements and written contract violations to the Guidelines, however, DCA would not consent to this. She added that this does not mean that the Board does not consider these additional items when prioritizing complaints. Mr. De Pietro opined that the item "Exam subversion (where exam may be compromised)" should be relocated to Urgent.

A motion was made by Michael Merino and seconded by John Canestro that the strategies proposed by staff as part of an overall Enforcement Improvement Plan, with a preamble and changes discussed, be approved and presented to the Board at its June 16, 2010 meeting. The motion passed 8-0.

H. Review and Discuss Strategic Plan Objective to Utilize DCA’s Recommended Enforcement Performance Measures as Appropriate

Ms. Johnson advised the REC that currently, all of DCA’s boards and bureaus must submit monthly statistics to DCA, reporting complaints received, closed and the average length of time it took to close the complaint. She noted that the current timeframe for the disciplinary process against a health care professional’s license is in some instances as long as 36 months. DCA has a target cycle time of 12 – 18 months for the completion of an investigation and prosecution.

Ms. Johnson explained that the Enforcement Performance Measures takes the current monthly reporting to DCA to another level, requiring staff to report costs of an investigation and consumer satisfaction, in addition to the statistical data staff already reports. Ms. Johnson pointed out that the meeting packet included DCA’s draft Enforcement Performance Measures that will be required to be reported. She indicated that at this point, there is no way to capture the average cost of the entire enforcement process for each case. She noted that DCA is in the process of developing a method to do this.

Mr. Merino suggested that the Enforcement Performance Measures be included in the Enforcement Improvement Plan. Ms. Voigt indicated that she was concerned about the consumer satisfaction portion of the Enforcement Performance Measures. Mr. Merino agreed. He stated that there may be negative feedback if a consumer does not get what he/she wants from the complaint filed, but this does not mean that staff did not do what was required. Ms. Mayer noted that the survey would ask whether the consumer received an acknowledgement letter in a timely manner, was the Board responsive, etc. She indicated that the way the questions are worded in the Consumer Satisfaction Survey for the Sunset Review, if the complaint is a fee dispute and the consumer did not get their money back, the rating will not be favorable. She advised that as a result, the Board added two additional questions to assist in identifying whether the complaint involved fees.

On another note, Ms. Newton asked if anything was done for members who have left the REC, to acknowledge their service. Mr. McCauley responded that staff would acknowledge members’ contribution at a meeting if it knows they are leaving. Ms. Johnson added that staff could prepare a certificate of appreciation and a letter from the REC Chairperson.

The meeting adjourned at 12:17 p.m.

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO DEVELOP A STRATEGY FOR WORKING WITH THE LEAGUE OF CALIFORNIA CITIES AND THE CALIFORNIA CHAPTER AMERICAN PLANNING ASSOCIATION TO INFORM THEM OF ARCHITECTS PRACTICE ACT REQUIREMENTS

The California Architects Board's (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to develop a strategy for working with the League of California Cities (LCC) and the California Chapter American Planning Association (CCAPA) to inform them of Architects Practice Act requirements.

At its December 16, 2010 meeting regarding the Board's strategic plan, the Board expressed their desire to further communicate the rules and regulations contained in the Architects Practice Act and at what point does a project become "architecture" and require a licensee. The members determined this could best be accomplished by working with the LCC and the CCAPA. Board member Marilyn Lyon is the Board's liaison to the LCC.

The message should contain information such as:

- Reminder that the Board is a consumer protection agency.
- Basic consumer tips.
- The value of a license (five years of education/experience, three years of structured internship, plus a national and state examination).
-

One specific enforcement issue that might be communicated relates to unlicensed practice. The Board is aware that unlicensed individuals are hired to design projects that would require a licensee to design. The unlicensed person will provide the design through the planning department approvals; however, plans may not be able to be permitted because they are not prepared by a licensee. It is only when plans are submitted to the building department that the consumer learns a licensee is required.

The REC is asked to review the above information and make recommendations concerning the information that should be contained in the message the Board should deliver to the LCC and CCAPA. The REC is also requested to opine on a delivery method, i.e., written article, presentation, etc.

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO DETERMINE THE APPROPRIATENESS OF “GAG” CLAUSES IN CIVIL SETTLEMENT AGREEMENTS

The California Architects Board’s (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to determine the appropriateness of “gag” clauses in civil settlement agreements.

Some boards and bureaus within the Department of Consumer Affairs have had issues with their licensees writing into their settlement agreements a “gag” clause, prohibiting the settlement from being reported to the appropriate licensing agency.

Business and Professions Code (BPC) section 5588.3 says: “Notwithstanding any other provision of law, a licensee shall not be considered to have violated a confidential settlement agreement or other confidential agreement by providing a report to the Board as required by this article.”

Furthermore, Senate Bill (SB) 544 (Price) is proposed legislation directed to the DCA’s healing arts boards. There is, however, one proposed statute that would affect all of DCA’s boards and bureaus concerning “gag” orders as part of a civil settlement agreement, which states:

Section 44 is added to the Business and Professions Code, to read:

(a) A licensee of a board shall not include or permit to be included any of the following provisions in an agreement to settle a civil litigation action filed by a consumer arising from the licensee’s practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

(2) A provision that prohibits another party to the dispute from filing a complaint with the board.

(3) A provision that requires another party to the dispute to withdraw a complaint he or she has filed with the board.

(b) A provision described in subdivision (a) is void as against public policy.

(c) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

(d) If a board complies with Section 2220.7, that board shall not be subject to the requirements of this section.

The bill was scheduled to be heard by the Business, Professions and Economic Development Committee on May 2, 2011, however, it was cancelled at the request of the author.

The REC is asked to review BPC section 5588.3 and the portion of SB 544 that addresses the issue of gag orders, and determine whether these two sections would appropriately address problems possibly associated with gag orders.

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO REVIEW AND MAKE RECOMMENDATION REGARDING DEPARTMENT OF CONSUMERS AFFAIRS' (DCA) PROPOSALS (SENATE BILL 1111)

The California Architects Board's (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to review and make recommendations regarding Department of Consumer Affairs' (DCA) proposals regarding Senate Bill (SB) 1111.

SB 1111 was introduced on February 17, 2010 by Senator Negrete McLeod. This was legislation DCA pursued to improve its boards' and bureaus' enforcement processes, which included allowing authority for a board or bureau to suspend a license quicker, delegating approval of a stipulated surrender and default decision to the Executive Officer, and authorizing a board to automatically suspend a licensee who is incarcerated. This legislation failed to pass. However, DCA is encouraging boards and bureaus to review some of the provisions included in SB 1111 and determine whether they might be utilized to improve enforcement processes.

To that end, the REC is being asked to review the DCA document "SB 1111 (4/12/2010 version) Proposed Changes through Regulations." The DCA would like its boards and bureaus to determine whether regulations could be proposed based on current statutes. The attached document shows each proposal in SB 1111 (4/12/2010 version) Proposed Changes through Regulations, and each proposal is staff's comments/findings in orange.

Attachment:

1. SB 1111 (4/12/2010 version) Proposed Changes through Regulations with Staff's Comments/Findings

SB 1111 (4/12/2010 version) Proposed Changes through Regulations

Business and Professions Code (BPC):

1. **§720.2(b) - Board delegation to Executive Officer regarding stipulated settlements to revoke or surrender license:** Permit the Board to delegate to the Executive Officer the authority to adopt a “stipulated settlement” if an action to revoke a license has been filed and the licensee agrees to surrender the license, without requiring the Board to vote to adopt the settlement. **Recommend: Amend 16 CCR 1403.**
The Board would have general authority to draft a regulation under BPC section 5517 (Executive Officer Powers).
2. **§720.10 - Revocation for sexual misconduct:** Require an Administrative Law Judge (ALJ) who has issued a decision finding that a licensee engaged in any act of sexual contact with a patient or who has committed or been convicted of sexual misconduct to order revocation which may not be stayed. **Recommend: Amend regulations/disciplinary guidelines.**
There is concern that the proposed statute mandates an ALJ is required to revoke a license. However, the Board would have general authority to draft a regulation under BPC section 5577 (Conviction of Certain Crimes).
3. **§720.12 - Denial of application for registered sex offender:** Require the Board to deny a license to an applicant or revoke the license of a licensee who is registered as a sex offender. **Recommend: Amend the regulations pertaining to applicant requirements and disciplinary guidelines.**
The Board would have general authority to draft a regulation under BPC sections 5553 (Denial of License) and/or 5577 (Conviction of Certain Crimes).
4. **§712.14 - Confidentiality agreements regarding settlements:** Confidentiality agreements regarding settlements can cause delay and thwart a Board’s effort to investigate possible cases of misconduct, thereby preventing the Board from performing its most basic function – protection of the public. **Recommend: Define in regulation that participating in confidentiality agreements regarding settlements is unprofessional conduct.**
A statute concerning this is included in Senate Bill 544 (Price).
5. **§720.16(d) and (f) - Failure to provide documents and 718 (d) - Failure to comply with court order:** Require a licensee to comply with a request for medical records or a court order issued in enforcement of a subpoena for medical records. **Recommend: Define in regulation that failure to provide documents and noncompliance with a court order is unprofessional conduct.**
This is not an issue for the Board as we do not issue subpoenas for medical records.
6. **§720.32 - Psychological or medical evaluation of applicant:** Authorize the Board to order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice the licensed profession due to a physical or mental illness; authorize the Board to deny the application if the applicant refuses to comply with the order; and prohibit the Board from issuing a license until it receives evidence of the applicant’s ability to safely practice. **Recommend: Amend regulations pertaining to applicant requirements that a psychological or medical evaluation may be required.**
The Board does not have salutatory authority to draft a regulation concerning this.
7. **§726(a) & (b) - Sexual misconduct:** Currently defined in B&P Code §726. **Recommend: Define in regulation that sexual misconduct is unprofessional conduct.**
The Board does not have authority to draft a regulation concerning sexual misconduct because there is not a statute regarding sexual misconduct. In addition, the Board does not have a statute regarding unprofessional conduct.

8. **§737 - Failure to provide information or cooperate in an investigation:** Make it unprofessional conduct for a licensee to fail to furnish information in a timely manner or cooperate in a disciplinary investigation. **Recommend: Define in regulation that failure to provide information or cooperate in an investigation is unprofessional conduct.**

The Board already has a regulation regarding this issue: California Code of Regulations section 160(b)(2).

9. **§802.1 - Failure to report an arrest, conviction, etc.:** Require a licensee to report to the Board any felony indictment or charge or any felony or misdemeanor conviction. **Recommend: Define in regulation that failure to report an arrest, conviction, etc. is unprofessional conduct.**

The Board would have general authority to draft a regulation under BPC section 5584 (Willful Misconduct). However, court clerks are currently required to report criminal actions by licensees to the Board under BPC section 5590 (Malpractice Judgment in Civil or Criminal Case; Clerks Report). In addition, licensees are required to report criminal actions taken against them on their biannual architect license renewal forms.

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO UTILIZE DCA'S RECOMMENDED ENFORCEMENT PERFORMANCE MEASURES AS APPROPRIATE

The California Architects Board's (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to utilize the Department of Consumer Affairs' (DCA) recommended Enforcement Performance Measures.

The DCA began revamping its enforcement business function in 2009 to better serve California's consumers and licensees. The new enforcement model calls for performance accountability and streamlining or modifying existing business processes. The timeframe in 2009 for the disciplinary process against a health care professional's license was, in some instances, as long as 36 months. The DCA's Director set a target cycle time of an average of 12-18 months for the completion of investigation and prosecution.

The Director has proposed that DCA use the balanced scorecard method as its performance measure framework. The balanced scorecard is a strategic planning and management system that is used extensively in business and industry, government, and nonprofit organizations worldwide to align business activities to the vision and strategy of the organization, improve internal and external communications, and monitor organization performance against strategic goals.

Board staff currently provides monthly enforcement statistics to DCA. The DCA Performance Measures takes the current reporting requirement to the next level. It shows quarterly statistical data that includes: the number of complaints received; the average number of days it takes to open a complaint and assign it to an enforcement analyst; the average number of days the intake and investigation of a complaint takes; the average cycle time when a complaint is referred to discipline; the average number of days it takes to assign a probation monitor when a probation case is initiated; and, the average number of days it takes the Board to respond to a probation violation.

DCA has published on its Web site, the Performance Measures for all of its boards and bureaus for the past three quarters. Attached are the last three quarterly Performance Measures reports for the Board. The Board is always pursuing ways to reduce the time it takes to perform all functions shown on the Performance Report.

The REC is asked to review these documents and discuss appropriate ways they might be utilized.

Attachments:

1. California Architects Board's Performance Measures (July - Sept 2010)
2. California Architects Board's Performance Measures (October - December 2010)
3. California Architects Board's Performance Measures (January - March 2011)

Performance Measures

Q1 Report (July - Sept 2010)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement.

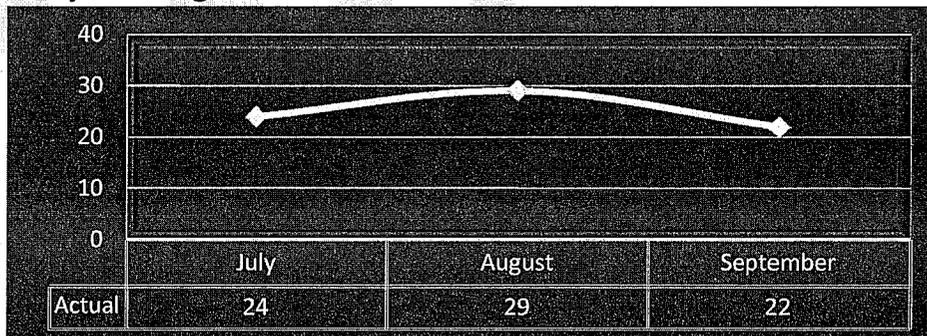
These measures will be posted publicly on a quarterly basis. In future reports, additional measures, such as consumer satisfaction and complaint efficiency, will also be added. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.*

Q1 Total: 75

Q1 Monthly Average: 25

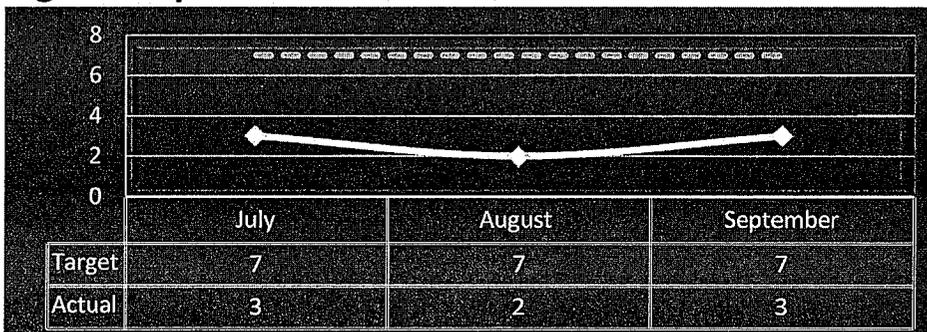


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 7 Days

Q1 Average: 3 Days



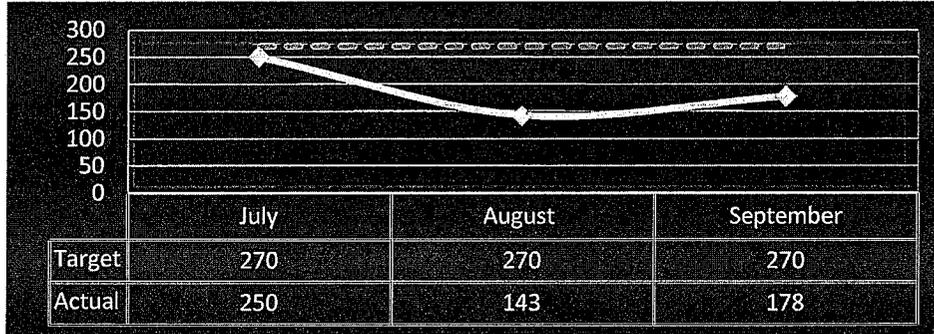
*"Complaints" in these measures include consumer complaints and internally generated complaints.

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q1 Average: 224 Days



Formal Discipline

Average cycle time from complaint receipt to closure, for cases sent to the Attorney General or other forms of formal discipline.

Target: 540 Days

Q1 Average: N/A

The Board did not send any cases to the Attorney General this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: N/A

The Board did not have any probation monitoring data to report this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q1 Average: N/A

The Board did not have any probation violation data to report this quarter.

Performance Measures

Q2 Report (October - December 2010)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

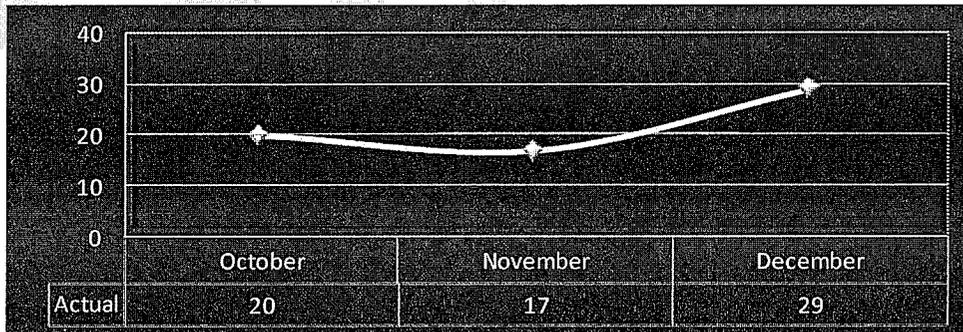
In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.

Q2 Total: 66

Q2 Monthly Average: 22

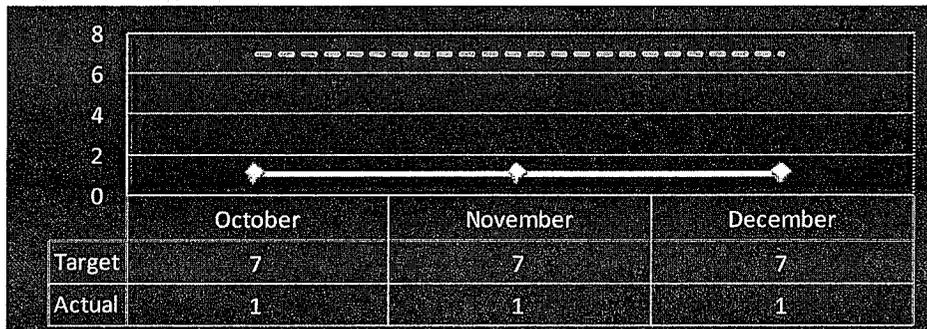


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 7 Days

Q2 Average: 1 Day

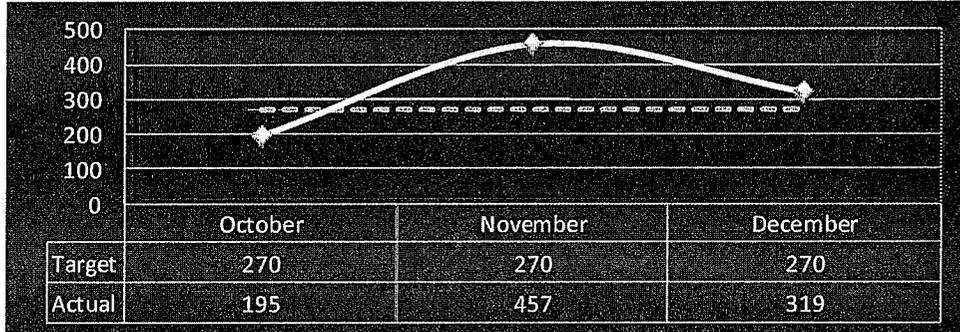


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q2 Average: 294 Days

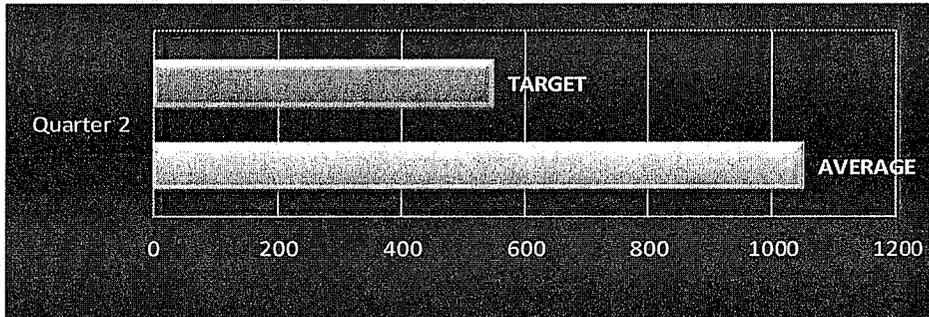


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q2 Average: 1,042 Days

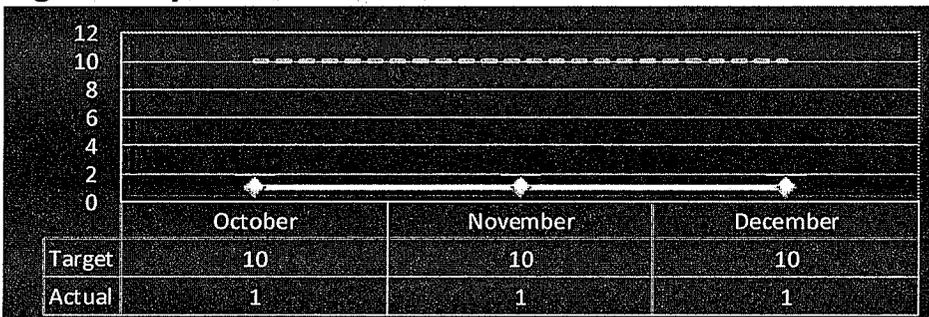


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: 1 Day



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q2 Average: N/A

The Board did not handle any probation violations this quarter.

Performance Measures

Q3 Report (January - March 2011)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

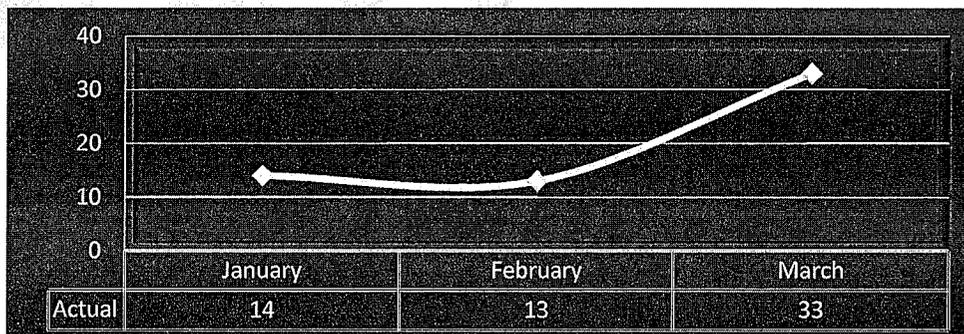
In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.

Q3 Total: 60

Q3 Monthly Average: 20

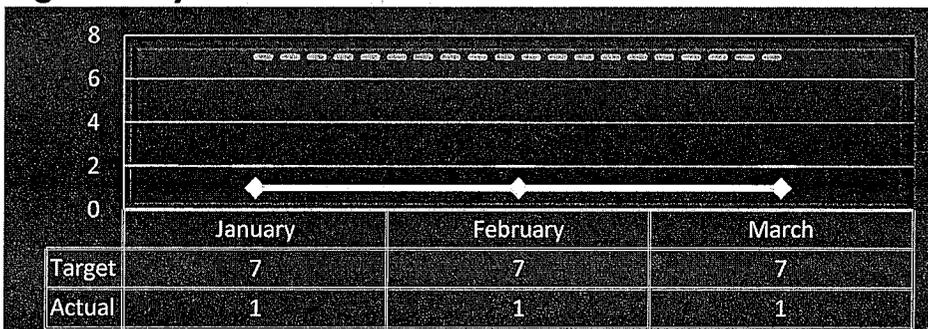


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 7 Days

Q3 Average: 1 Day

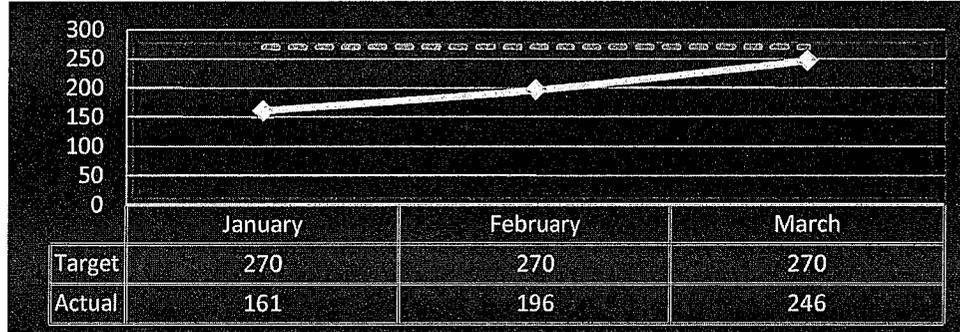


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q3 Average: 206 Days



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: N/A

The Board did not close any formal discipline cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: N/A

The Board did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter.

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO REVIEW, UPDATE, AND PUBLISH CONSUMER'S GUIDE TO HIRING AN ARCHITECT

The California Architects Board's (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to review, update, and publish the *Consumer's Guide to Hiring an Architect*.

The Board initially produced the Guide to assist the consumer in understanding the complex and technical nature of architectural services. The Guide was last updated in 2004.

The existing text of the Guide has been reviewed and revised by staff taking into consideration common questions and misinterpretations, based on telephone, email, and written communications the Board receives from consumers. Attached is the revised draft showing the staff's suggested changes made in ~~strikeout~~ and underline.

The REC is asked to review the text and recommend any changes prior to submitting it to the Board for final approval.

Attachment:

1. Revised Draft *Consumer's Guide to Hiring an Architect*

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INTRODUCTION

Are you thinking about hiring an architect? Consumers and businesses often wish to construct or modify sites, buildings, or other structures. The best approach is to hire an architect to plan, design, and observe the construction of these projects. Working with an architect helps ensure that your project is designed properly. The California Architects Board (Board) examines, licenses, and regulates more than 202,000 architects. The Board's mission is to protect the welfare of the public by ensuring the professional performance of those architects licensed to practice in the state.

The Board produced this *Consumer's Guide to Hiring an Architect* to help ~~with~~ [understand](#) the sometimes complex and technical nature of architectural services. It provides information on:

- what types of projects require a licensed architect;
- how to find and select an architect;
- what the written contract between you and your architect should contain; and
- how to manage budgeting and construction of your project.

By following the steps laid out in this guide and carefully planning and thoroughly discussing your project beforehand with your architect, you will help develop a successful working relationship and project.

THE PRACTICE OF ARCHITECTURE

California law defines [the practice of architecture](#) ~~real practice~~ as the planning of sites, and the design, in whole or in part, of buildings or groups of buildings and structures. Any person who uses the title of architect, or advertises to provide architectural services in California, must be licensed as an architect by the Board.

Obtaining an [architect's](#) license requires an ~~architect~~ [individual](#) to demonstrate competence by passing the national examination and the California Supplemental Examination, as well as providing evidence of at least eight years of education and experience. ~~Architects-Individuals~~ are examined for competence [which include](#) the following areas:

- applicable codes and regulations, and assistance in the governmental review process~~;~~
- investigation, evaluation, consultation, and advice~~;~~
- planning, schematic and preliminary studies, designs, working drawings, and specifications~~;~~
- coordination of services and/or documents by technical and special consultants~~;~~
- technical assistance in the preparation of bid documents and agreements between clients and contractors~~;~~
- contract administration~~;~~ [and](#)
- construction observation.

SHOULD I HIRE AN ARCHITECT FOR MY BUILDING PROJECT?

For a successful project, it is generally recommended that you hire an architect; however, not every building project requires an architect's services. Current California law provides that persons who are not licensed as architects or registered as civil or structural engineers can design certain types of buildings or parts of buildings, which include:

- **S**ingle-family dwellings of conventional woodframe construction that are not more than two stories and basement in height.
- **M**ultiple dwellings containing no more than four dwelling units that are of conventional woodframe construction, not more than two stories and basement in height, and not more than four dwelling units per lot.
- **G**arages or other structures added to dwellings of woodframe construction that are not more than two stories and basement in height.
- **A**gricultural and ranch buildings of woodframe construction, unless the building official deems that an undue risk to the public health, safety, or welfare is involved.
- **N**onstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment, including nonstructural work necessary to provide for their installation.
- **N**onstructural or nonseismic alterations or additions to any building necessary for the installation of storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those alterations do not change or affect the structural system or safety of the building.

Before you hire someone who is not a licensed architect or registered engineer to design a new structure or alter an existing structure, consult the building official in your city or county building department. You may save time and money by first discussing your project with the building official who will advise you if your project will require a licensed architect or engineer to prepare and submit plans and specifications. In deciding if you need a licensed architect, the building official will consider existing state laws as well as public health, safety, and welfare. The building official will also consider local environmental and geographical conditions such as snow loads, winds, earthquake activity, tidal action, and soil conditions.

FINDING AND SELECTING AN ARCHITECT

Start by obtaining the names of several architects from more than one source. You can ask for recommendations from people you know, or look on the internet in the yellow pages of the telephone directory under "Architects" for California licensed architects individuals, firms, and professional associations. You can also receive more information about the practice of architecture and referrals from professional associations such as The American Institute of Architects (AIA) – Web-site at www.aia.org— The Board does not maintain a referral service and cannot recommend architects; however, the Board can advise you if an architect is currently licensed and whether the Board has taken any enforcement and/or disciplinary action against that architect. You are strongly encouraged to check with the Board to determine if an architect is currently licensed and authorized to practice in California.

Some architects specialize in designing certain types of structures such as single-family

dwellings, multiple residential, commercial, institutional, or industrial structures, while others design a variety of building types. You may find it to your advantage to contact several architects or architectural firms. ~~The CAB does not maintain a referral service and cannot recommend architects; however, CAB can advise you if an architect is currently licensed and whether the Board has taken any disciplinary action against that architect.~~

After receiving referrals and recommendations from various sources, you will need to determine which architect will be able to provide the services you need at a cost you are willing to pay.

BASIC CRITERIA

Prior to selecting an architect, you need to develop basic criteria for your project and provide this to the architects you are considering. The basic criteria for your project should include, but not necessarily be limited to:

- the size, appearance, and functional requirements of your project.
- the services you expect the architect to perform.
- what you intend to spend for design fees, if known.
- what you intend to spend for construction.
- how the project will be financed and, if known, by whom.
- anticipated starting and completion dates of your project.
- how you intend to construct the project.

Request For Information

To make sure you get the best person for your project, you should request information on qualifications and experience from several architects. After reviewing their qualifications, you may want to interview a number of architects to determine their understanding of your project and your compatibility. During the selection process, you may want to ask some or all of the following questions:

General Information

- How long have you been in business?
- How many persons are employed by your firm?
- Do you have a valid California architect's license? If so, what is your license number?
- How have you kept current in your practice?
- Do you intend to use consultants for this project? If so, who do you propose to use? What are their qualifications? What has been your experience with them?
- What percentage of your practice involves the type of structure I intend to build?
- Do you carry insurance? If so, what type(s)? How long have you carried each type and what are the policy limits?

Experience

- Have you recently designed the type of structure I intend to build? ~~How many times?~~
- When and what was your most recent project?
- May I see examples of your previous projects that are similar to my project (sketches, photos, plans)?
- May I have the names, addresses, and telephone numbers of the clients for these previous similar projects?
- What was the actual construction cost versus budgeted cost for these projects?

Services

- What services did you provide for these clients during the design, bidding, and construction phases?
- What services do you propose to provide for my project during each of these phases?
- Who will provide these services, you or your employees?

Fees

- ~~What will the fee schedule be?~~
- How will your fees for my project be determined and what services do the fees cover?
- Will you provide probable construction cost estimates for my project?
- If consultants (civil, structural, mechanical, electrical, geotechnical, testing and inspection, etc.) are necessary, are their fees included in your basic fee or are they separate services?
- What additional costs (e.g., permit and other governmental fees) or services (e.g., time spent obtaining necessary permits and other approvals) do you anticipate for my project?
- How do you establish your fees for additional services and reimbursable expenses?
- Will there be a charge for redesign if it is necessary to meet the construction budget?
- Will there be additional charges for changes required by the building department or other government agency?
- How are additional charges computed for design changes requested by me or requested by a contractor?

Time

- Can you meet my proposed schedule?

MAKING THE FINAL DECISION

It is wise to check the references that each architect gives you and ask the following questions:

- Did the architect adhere to required schedules and budgets?
- Were you pleased with the architect's services and your working relationship with the architect?
- Did the architect listen to your concerns and attempt to resolve them?
- Would you hire the architect again?
- What problems surfaced during the project?

If possible, visit the projects the architects have used as examples of their services.

In addition, you may call the Board or visit the Web site at www.cab.ca.gov to verify the license status of any architect(s) you are considering. Upon written or telephone inquiry, the Board will also inform you of any public complaints, or enforcement or disciplinary action against an architect.

THE CONTRACT FOR DESIGN SERVICES

Since January 1, 1996, California law has required that any architect who agrees to provide architectural services to a client must have a written contract. The contract must be signed by the architect and client prior to commencing services, unless the client knowingly states in writing that the services can be started before the contract is signed, or the client states in writing, after being informed about the statutory provision, that he or she does not want a written contract.

However, the Board recommends that you always have a written contract ~~for design services~~ with the architect. Many architects prepare their own contracts or have them prepared by an attorney; others use American Institute of Architects (AIA) standard forms of agreement appropriate to the type of project and services required.

Whatever contract is used for professional services, it is a legal document that binds you and the architect to certain obligations for the life of the project and, in some cases, beyond project completion. It should include the specific services that you and your architect have agreed upon and the conditions under which these services are to be rendered. Otherwise, issues could arise that may be both expensive and time consuming to resolve.

Review the contract carefully. It is your responsibility, along with the architect's, to understand and follow the contract. You have the right to question and negotiate changes in the terms of the contract before signing it, even if it is a printed standard form. Because it is a binding legal document, you may wish to have your legal counsel review the contract before you sign it. You, the owner, should retain an original copy of the signed contract. In addition, you should not make agreements with other parties regarding your project without first notifying the architect with whom you have the primary agreement.

MANDATORY ITEMS FOR THE WRITTEN CONTRACT

California Business and Professions Code Section 5536.22 requires that a written contract for architectural services contain, at a minimum, the following items:

1. a description of services to be provided by the architect to the client;
2. a description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties;
3. the name, address, and license number of the architect and the name and address of the client;
4. a description of the procedure that the architect and the client will use to accommodate additional services; and
5. a description of the procedure to be used by either party to terminate the contract.

ADDITIONAL RECOMMENDED ITEMS IN THE WRITTEN CONTRACT

Beyond those items required by law, the Board recommends that a contract for architectural services be as clear and complete as possible in defining the goals and the expectations of both parties for the project. The contract could include the following:

- the title and address of the project.
- a narrative description of the project including any unique or special requirements.
- a definition of the project schedule with critical time frames for events such as funding cycles, third-party approvals, completion of design services, start and completion of construction, occupancy date, etc.
- an estimated construction budget and a description of what it includes.
- a provision for fee and construction budget cost escalation or contingencies for changes in the project scope during design and construction phases.
- a provision for fee and construction budget cost escalation or contingencies for delay in schedules.
- a clarification of when the client's approval must be given in order for the architect to proceed to the next phase.
- an itemized listing and description of the architect's basic services-
• ~~and the proposed fee, for these basic services.~~
- a definition of additional services and procedures for authorization and compensation.
- a definition of reimbursable expenses and the procedures for authorization and compensation.
- a definition of the procedure for documenting all changes in project scope, cost, and schedule.
- a listing of the project consultants, if known, that may be needed (i.e., engineering, geotechnical, landscape, etc.), and a definition of the procedure for hiring and compensating them.
- a schedule of when fee payments are due and in what amounts.
- a definition of the amount of any required retainer fee and how, when, and where it will be applied to the total fee for services.
- how final payment is computed if the contract is terminated.
- a clarification of who is responsible for keeping project account records and when they may be reviewed.
- whether construction observation services are included, and if they are part of basic or additional services.
- whether assistance with bidding and/or establishing a contract between a contractor and owner will be provided and if it is part of basic or additional services.
- a clarification on ownership, use, or reuse of the project documents, including electronic files.
- a procedure for handling disputes between the parties should the need arise (for example, arbitration, ~~or~~ mediation, or civil action). (Be aware an architect has a right to file a Design Professional's Lien and/or a Mechanic's Lien. See page XX)

KEEPING RECORDS

It is important to keep the written contract and a written record of all verbal communication with your architect related to the project. Do not assume your architect will interpret everything you discuss with him or her the same way you do. When you have a meeting or discussion with the architect about your project, write the architect a memo or email confirming your understanding of that meeting or discussion. These memos can help to prevent misunderstandings from occurring and may prove invaluable should a problem or dispute occur. Include the date and time of your conversation in the memo or email, as well as the date you write it.

You may also want to write memos or notes to yourself about the progress of the project. Photographs or videotapes taken at regular intervals (with notes as to the dates that the photos are taken) can be very useful in establishing a historical record of the project.

Keep detailed financial records by ensuring the architect provides detailed invoices. Also keep records of the date and amount of each payment you make. Require the architect to obtain your written approval at designated phases and before additional costs are incurred.

Make sure that you receive a copy of all documents you sign, and keep a copy of all documents you give to your architect.

FINANCIAL ISSUES

Before you sign the written contract, clearly establish the total amount of money (including contingency funds) you are willing to pay for the design and construction of your project, the frequency of progress payments you will make to your architect, and the amounts and schedule for these payments. Make sure this fee schedule is recorded accurately in the written contract, and that you make each payment to the architect as called for in the contract. If you have obtained a loan for your project, ensure that it covers both the cost of your architect's services and the construction cost.

Payment schedules should reflect the services to be provided on your project. Be wary of excessive advances or retainer fees to begin services. Make the final payment when the services are complete in accordance with your contract and you are satisfied with the services your architect has provided you.

Careful planning and discussion with your architect regarding services and payments, as well as accurate record keeping, will develop open communication and lead to a successful working relationship.

RELEASE OF PLANS

Pursuant to Health and Safety Code sections 19850-19853, the building department maintains plans of a common interest development. Plans do not need to be filed for certain residential dwellings and other types of buildings. The official copy of the plans maintained by the building department of the city or county shall be open for inspection as a public record. A copy may only be duplicated with the permission of the architect and the original or current owner.

CONSTRUCTION HINTS

Unless you are experienced in construction, you probably should not attempt to build your project yourself. A properly licensed and experienced building contractor should perform the construction. ~~Therefore, it is important for you to ensure that the construction documents (building plans and specifications) you receive from the architect are complete enough for you to obtain bids from one or more contractors, and for the contractor to construct your project.~~

Contact the Contractors State License Board at (800) 321-2752 or www.cslb.ca.gov to verify licensure and access consumer information.

A building permit does not guarantee that the plans your architect gives you are sufficient for construction. Discuss the plans with your architect and your contractor to ensure that they are suitable for bidding and construction purposes.

WHAT TO DO IF A PROBLEM OCCURS WITH YOUR PROJECT

You, the consumer, have a right to receive careful and professional service from the architect you have hired. Even if you have read and followed this guide and have done everything possible to prevent problems, you may still encounter difficulties. What should you do?

First, discuss the problem thoroughly and calmly with your architect. If the architect is violating your written contract, review the contract and other relevant documentation with the architect. If your contract has a dispute resolution procedure, you should comply with it. If you and your architect are still unable to settle the problem, your next step should be to call or write the Board [and take civil action as appropriate](#).

DESIGN PROFESSIONAL LIENS

[Design professionals have a right to record a lien before construction begins. A design professional lien is a separate remedy available only to architects, professional engineers, and land surveyors who provide services during the planning phase of a private work project under a written agreement with the owner. The lien is on the property for which the project is planned and may not be recorded until a building permit or other governmental approval associated with the project has been obtained in connection with the services rendered by the design professional.](#)

[A design professional lien is not available for a single-family, owner-occupied residence with construction costs of less than \\$100,000 in value.](#)

WHAT CONSTITUTES A COMPLAINT?

The Board has the power, duty, and authority to investigate alleged violations of the provisions of Business and Professions Code, Division 3, Chapter 3, Section 5500 et. seq. (Architects Practice Act). The Board is also given specific authority to receive and investigate complaints against its licensees and to discipline violators accordingly. Do not hesitate to call or write the Board about any questions or concerns you may have. The Board takes action against architects for:

- fraud in obtaining a license.
- impersonation or use of an assumed or corporate name.
- aiding unlawful practice.
- signing someone else's plans or permitting the misuse of their name.
- fraud in the practice of architecture.

- negligence or misconduct.
- failure to accurately represent qualifications.
- conflict of interest.
- incompetence or recklessness.

Disciplinary [and enforcement](#) actions may include license revocation, license suspension, license probation, citations, civil injunctions, and/or referral to local district attorneys for criminal prosecution.

The Board may also investigate complaints about unlicensed practice involving projects not exempted by state law.

HOW TO FILE A COMPLAINT

You may contact the Board at the address listed in this booklet. If you telephone the Board, you will be sent a complaint form with instructions. Complaint information and forms are also available ~~at~~ [on the Board's Web site at www.cab.ca.gov](http://www.cab.ca.gov). Fill out the form and return it to the Board with any evidence to support your complaint. If you submit a letter, fully describe your complaint. Submit copies of all documentation that you believe will substantiate your complaint. Keep the originals of these documents, as well as a copy of your complaint letter. Include your name, address, and telephone number so that the Board can contact you if more information is required.

You have the right to remain anonymous if you so choose by requesting it at the time you file your complaint. However, anonymity may add some difficulty or may prevent the Board from fully investigating your complaint and/or prosecuting the case.

HOW WILL THE BOARD RESPOND?

You are encouraged to notify the Board as early as possible, so that Board staff can help you resolve the problem.

After the Board receives your complaint, you will be formally notified of its receipt and that the Board is beginning the review process. If necessary, you will be asked to provide additional information. If the Board believes that the complaint has merit it will begin the investigation by evaluating the professional aspects of your complaint. A letter is sent to the architect approximately 10 days after receipt of your complaint. The letter to the architect requests him or her to respond with an explanation of his or her side of the situation.

If your complaint concerns something outside the Board's jurisdiction, you will be notified if another state or local agency might be able to assist you. **The Board does not have authority to recover monies for consumers.** The Board may only take action where there is a violation of the Architects Practice Act. If you are seeking recovery of money for alleged damages, you should consider other avenues of redress (i.e., arbitration, small claims court, civil, or criminal action). [The Department of Consumer Affairs has several publications at dca.ca.gov concerning small claims court.](#)

The Board gives priority to complaints involving a person's life, health, safety, or welfare.

SPECIAL PROVISIONS IN THE EVENT OF A NATURAL DISASTER

In the event of a declared disaster such as an earthquake, fire or flood, additional provisions of state law become effective.

PENALTIES FOR UNLICENSED PRACTICE

When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license. Only persons licensed by the Board may call themselves architects and provide architectural services.

During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment.

REQUIREMENTS FOR RECONSTRUCTION

Individuals are advised to contact their local building officials for clarification of the requirements for repair or reconstruction of their project. It may not be possible to recreate the home or business as it existed before the disaster if it was designed years ago to conform to building codes that have since been changed. In some instances, substantial design or redesign services may be necessary to meet current code requirements.

RELEASE OF COPY OF PLANS

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, the architect or other person who prepared the plans originally used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the amount of damage for insurance purposes.

The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans. The plans cannot be used to rebuild any part of the property without prior written consent of the architect or other person who prepared the plans. If prior written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

~~There is a procedure defined in Health and Safety Code sections 19850-19853 for the release of non-residential property plans by the building department. Release is conditioned on the requesting party submitting a signed affidavit containing all of the following provisions:~~

- ~~1. That the copy of the plans shall only be used for the maintenance, operation, and use of the building.~~
- ~~2. That drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record.~~
- ~~3. That Business and Professions Code section 5536.25(a) states in part that a licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to, or use of, those plans, specifications,~~

~~reports, or documents where the subsequent changes or uses are not authorized by the licensed architect who originally signed the plans.~~

IMMUNITY FOLLOWING AN EARTHQUAKE

California has a Good Samaritan Law for licensed architects, engineers, and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state, or local emergency caused by an earthquake. This law provides that the “Good Samaritan” architects who provide these services are immune from liability. This immunity applies only for an inspection that occurs within 30 days of the declared emergency.

WHERE TO NOTIFY THE BOARD

California Architects Board
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 574-7220
(800) 991-2223
www.cab.ca.gov
cab@dca.ca.gov

DISCUSS AND POSSIBLE ACTION ON STRATEGIC PLAN OBJECTIVE TO MONITOR FINGERPRINT REQUIREMENT FOR LICENSEES TO DETERMINE ITS POTENTIAL APPLICATION TO CAB

The California Architects Board's (Board) 2011 Strategic Plan directs the Regulatory and Enforcement Committee (REC) to monitor fingerprint requirement for licensees to determine its potential application to CAB.

In 2009, Senate Bill 389 was introduced and required all of the remaining healing arts boards to require their licensees to be fingerprinted. That bill did not include non-healing arts boards. The bill did not pass.

There are two points at which fingerprints can be taken: with an initial application or at renewal. This would depend on what the statute required.

Fingerprints are commonly obtained by either a fingerprint card (manual fingerprint card) or Live Scan. At Live Scan, fingerprints are electronically scanned and transmitted immediately to the California Department of Justice for processing. Live Scan is only available in California.

One example of a board that implemented a fingerprint program is the Board of Registered Nursing (BRN). The BRN first required fingerprinting in 1990. An emergency regulation approved by the BRN in 2008 required that it obtain fingerprints from licensees that were licensed prior to 1990, beginning with their March 2009 license renewals. BRN sent a letter in November 2008 to affected licensees stating that fingerprints would be required at the time of license renewal. As a result, licensees began getting fingerprinted before they received their renewal, resulting in between 1,000 and 1,500 paper "clearances" received by BRN per day. BRN was provided 12 additional staff for this new requirement and charged out-of-state licensees a fingerprint fee of \$51 for hard card. In-state licensees were required to submit their prints via LiveScan and all fees are paid directly to the vendor.

The Board of Accountancy (BA) began fingerprinting their applicants in 1998. BA receives about 3,000 applications per year that include fingerprints. BA receives approximately 250 Records of Arrests and Prosecution (RAP) sheets per year, which is eight percent of the applications received. Based on the RAP sheets, 15 – 20 cases are sent to their Enforcement Unit for investigation.

Last year the Board received 733 Architect Registration Examination Applications. Based on BA's data, the Board might receive 59 RAP sheets per year.

At this point, the Board is not included in any legislation that would require its licensees to be fingerprinted; however, staff is monitoring related legislation. If and when fingerprinting is included in legislation for the Board, staff will draft implementation plans and processes that will include the resources required to carry out the plan.