



Edmund G. Brown Jr.
GOVERNOR

CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

SUMMARY REPORT

REGULATORY AND ENFORCEMENT COMMITTEE

April 24, 2014

California Architects Board, Conference Room
2420 Del Paso Road, Suite 105, Sacramento, CA 95834

Committee Members Present

Fermin Villegas, Chair
Sheran Voigt, Vice Chair
Fred Cullum
Robert De Pietro
Robert Ho (Arrived 10:05 a.m.)
Gary McGavin
Michael Merino

Board Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Leosha Eves, Enforcement Officer
Bob Carter, Architect Consultant
Barry Williams, Architect Consultant
Peter Merdinger, Enforcement Analyst
Sonja Ruffin, Enforcement Analyst
Kristin Walker, Enforcement Technician

Guest

Kurt Cooknick, Director of Regulation and Practice, The American Institute of Architects, California Council (AIACC)

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A. Welcome and Introductions

Regulatory and Enforcement Committee (REC) Chair, Fermin Villegas called the meeting to order at 10:01 a.m. He welcomed the REC, staff, and guests, and thanked them for attending.

Mr. Villegas announced his acceptance of a preliminary offer of employment with the California Attorney General's Office (AG) and will be starting at the end of May 2014. He stated he will be stepping down from the Board prior to any further meetings because the AG represents the Board in enforcement actions. Mr. Villegas thanked the Board, staff, and Senate Rules Committee for the opportunity to serve on the Board.

Mr. Villegas requested self-introductions. Board staff and members of the public introduced themselves.

Mr. Villegas acknowledged the newest REC member, Robert Ho, and asked him to introduce himself to the Committee. Mr. Ho stated he currently teaches at Mt. San Antonio College and hopes to contribute to the Committee.

B. Roll Call

Vice Chair Sheran Voigt called the roll. She indicated all Committee members were in attendance and a quorum was present.

C. Public Comments

Mr. Villegas opened the floor for public comments. No comments were made. Doug McCauley stated the Board received two written comments in response to Agenda Item G.

D. Review and Approve April 25, 2013 REC Summary Report

Mr. Villegas asked if there were any questions, comments, or corrections regarding the April 25, 2013 REC Summary Report. Kurt Cooknick requested changes to the report to correct the spelling of the AIACC acronym.

A motion was made by Michael Merino and seconded by Robert De Pietro to approve the April 25, 2013 REC Summary Report with the requested modifications to the AIACC acronym. The motion passed 4-0-3 (Fermin Villegas, Robert Ho, and Sheran Voigt abstained due to the fact they were not present at the April 25, 2013 meeting).

Mr. Merino asked to make a statement prior to moving to the next agenda item. Mr. Villegas granted the request. Mr. Merino commended departed REC member Phyllis Newton for her contributions to the REC and requested the Board's staff consider future recognition for Ms. Newton.

E. Enforcement Program Update

Mr. Villegas asked Leosha Eves to highlight the Enforcement Program Update. Ms. Eves stated one of the architect consultant contracts was set to expire in June 2013 and a Request for Proposal (RFP) was released on February 19, 2013. She added the other architect consultant contract was set to expire in January 2014 and that RFP was released on August 30, 2013. Ms. Eves announced the contracts were awarded to Bob Carter and Barry Williams, respectively.

Ms. Eves reported the architect consultants responded to 109 inquiries between April 2013 and March 2014 through the Board's Building Official Contact Program. She stated the inquiries typically included discussions regarding interpretations of the Architects Practice Act (Act), stamp and signature requirements, and the scope of architectural practice.

Ms. Eves continued, both of the Board's architect consultants attended the 2014 Annual Business Meeting of California Building Officials (CALBO), which was held in March 2014 in Anaheim. She stated there were approximately 350 people representing various building departments throughout the state, and noted the Board sees this as a valuable tool for the architect consultants to directly interact with building officials and others in the profession.

Ms. Eves stated since the last REC meeting, the architect consultants responded to a total of 269 telephone and/or email inquiries from licensees and the public through the Board's Education and Information Program. She added 142 of these inquiries were from licensees and the majority of the inquiries requested clarification of business name requirements or advice on business organization. She stated other inquiries from licensees focused on written contract requirements, stamp and signature requirements, out-of-state licensees seeking to do business in California, and clarification regarding the scope of practice relative to engineering disciplines.

Ms. Eves stated the last Board meeting was held in February 2014. She stated the Board has three more meetings scheduled for this year; June 12 in the Bay Area, September 10 in San Diego, and December 10-11 in Sacramento. She added the December Board meeting will include the Strategic Planning Session.

Ms. Eves reported the Department of Consumer Affairs (DCA) has been working with Accenture, LLP to design, configure, and implement an integrated, enterprise-wide enforcement case management and licensing system called BreEZe. She added the new system will replace an aging legacy business system and is designed to increase efficiency for DCA boards' licensing and enforcement programs. BreEZe will combine data across the various DCA boards and allow the Board to see actions other boards have taken against licensees and will enable electronic payments. She added BreEZe is being deployed in three phases, and the Board is part of the third phase, which is scheduled for release in December 2015.

Ms. Eves stated the Board is pursuing a negative Budget Change Proposal to reduce its spending authority by \$400,000 for fiscal year (FY) 2015/16. She noted the Board is able to reduce its spending as a result of examination cost savings by switching from the previous oral format to a computer-based California Supplemental Examination (CSE). Ms. Eves stated the CSE has been administered to 661 candidates so far in FY 2013/14 and currently has a pass rate of 61%.

Mr. McCauley discussed the CSE development and occupational analysis (OA) process. He stated all licensing exams are required by national standards and state law to be tied to a valid analysis of the practice of each profession. He added the Board has begun the OA process through the Intra-Agency Contract (IAC) Agreement with DCA's Office of Professional Examination Services (OPES). Mr. McCauley stated the Board added a new element to the OA by conducting focus groups of architects, contractors, building officials, and related design professionals. He stated the purpose of the focus groups was to highlight the current issues in the marketplace in order to revise the survey document. Mr. McCauley stated the Board has gathered data and conducted additional architect interviews, and will use that information after it has been analyzed to develop the survey. He stated the survey is crucial for the CSE and identifies the tasks performed in the profession, how often those tasks are performed, and how important the tasks are to the health, safety, and welfare of the public. He added the survey is then used to develop a test plan, write test items, and produce the CSE. He stated the process will culminate in June 2015. Mr. McCauley stated the Board also has intra-agency provisions to conduct a review of the Architect Registration Examination (ARE) to ensure the development process is consistent with the national standards required for licensing exams. He further stated another component is the linkage study to ensure the Board is not double-testing for material previously covered as a part of the ARE.

Ms. Eves stated Assembly Bill (AB) 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011. She stated the bill amended the Board's statutory provisions [Business and Professions Code sections (BPC) 5600 and 5600.05] pertaining to the continuing education (CE) requirements for licensees. The bill required audits of CE coursework beginning with the 2013 license renewal cycle. She also stated the bill added a citation and disciplinary action provision for licensees who provide false or misleading information regarding the audit and mandated the Board provide a report to the Legislature. She noted the audit system was developed by the Professional Qualifications Committee (PQC) and was approved by the Board in June 2012. She added the audits began in January 2013, and so far the Board has audited about 470 licensees and found 46 cases of possible audit failure. She stated the audit failure cases have been referred to the Enforcement Unit. Ms. Eves stated the Enforcement Unit has 124 pending cases, and noted 46 of those are CE cases.

Mr. McCauley stated AB 186 (Maienschein) would authorize boards to issue an 18-month provisional license to spouses, domestic partners, or other legal companions of an active duty member of the Armed Forces. He added that legal counsel found that the provisions of the bill would require the Board to waive the CSE. Mr. McCauley stated this raises significant concern from the Board because the CSE ensures architects understand California's unique seismic, accessibility, energy efficiency, and legal

requirements. He added the Board requested exemption from this bill, but has not received a response at this point.

Mr. McCauley stated AB 630 (Holden) (Chapter 453, Statutes of 2013) was an AIACC-sponsored bill focusing on instruments of service, and stipulates that architects' instruments of service cannot be used without a written contract or written authorization. He noted the Board had some initial concerns about the bill, including its desire to ensure that anyone subsequently using those plans should be a registered, appropriate design professional, and provide that the instruments of service would not be unreasonably withheld from the end user. He added the AIACC ultimately did not accept the first amendment but did resolve the second, and the Board voted to support the amended bill.

Mr. McCauley stated Senate Bill (SB) 308 (Chapter 333, Statutes of 2013) was the sunset bill for the California Council for Interior Design Certification (CCIDC), the non-profit entity that certifies interior designers. He added CCIDC wanted to expand and modify the definition of certified interior designer (CID). Mr. McCauley stated the Board held an extensive review of the explanations and ultimately was not convinced there was valid evidence or empirical data that CIDs were competent in any of the new areas of practice being suggested. He added after multiple stakeholder meetings and dialogue between AIACC and CCIDC, the modified definition element was not included in the bill. Mr. McCauley stated the bill included provisions requiring CIDs to have written contracts and held the CCIDC to the same meeting standards established in the Bagley-Keene Open Meeting Act as the Board.

Mr. McCauley stated AB 2192 (Melendez) is an agenda item and he will introduce it at a later point in the meeting. Mr. McCauley stated SB 850 (Block) would authorize Community Colleges to establish baccalaureate degree pilot programs at campuses. He noted the Board previously had discussions regarding the number of new architects entering the profession and the lack of growth in public schools of architecture over the past 20 years. He stated the new bill contains conditions that still must be met, but the pilot program could be leveraged to create an additional pathway to licensure.

Mr. Ho asked if there was a hearing regarding SB 850 on April 23, 2014. Mr. McCauley acknowledged there was a hearing by the Senate Education Committee and he had just received new amendments. Gary McGavin asked if there was any funding tied to the bill. Mr. McCauley replied that he did not recall any appropriations or funding for the bill. He stated most of the amendments concerned checks and balances, and institutional controls via the Chancellor of the California Community Colleges system.

Ms. Eves announced the Board's next issue of *California Architects* is scheduled to be published within the next few weeks. She noted the Board published the first electronic HTML version in March 2014.

Ms. Eves stated California Code of Regulations section (CCR) 103, *Delegations of Certain Functions*, became effective January 1, 2014. She added CCR 103 was amended to allow the Executive Officer to approve stipulated settlements to revoke or surrender a license.

Ms. Eves stated the Board's next Sunset Review Report is due November 1, 2014. She stated the Executive Committee will review the first draft of the Report at its next meeting in May 2014. She stated the final section of the Enforcement Program Update in the meeting packet contains a summary of citations issued since the last REC meeting in April 2013.

Mr. Villegas asked for any comments regarding the Enforcement Program Update. Mr. Merino commended Ms. Eves for her current work as the Board's Enforcement Officer and recognized the recent departure of Hattie Johnson.

Mr. Merino asked if the budget savings could be passed on to the licensees and noted the license renewal fees had been previously raised over the past few years. He suggested a rebate, if a permanent reduction is not feasible. Mr. McCauley stated the budget reduction adjusts the Board's fiscal blueprint, which is reviewed by the Legislature each year. He stated Board staff conducted fiscal analysis for the Board and the Landscape Architects Technical Committee (LATC) and found revenue was consistent with expenditures. He noted LATC may be able to reduce the renewal fees for one renewal cycle, but it was not found to be feasible for the Board.

Mr. McGavin asked if the CSE focuses on the practice of architecture only in California and Mr. McCauley confirmed that Mr. McGavin is correct.

F. 2014 Strategic Plan Objectives

F.1 Discuss and Possible Action on Strategic Plan Objective to Review and Update CAB's Disciplinary Guidelines

Mr. Villegas recused himself from the discussion and voting on the updates to the Board's Disciplinary Guidelines due to his acceptance of employment at the AG. Mr. Villegas asked Vice Chair, Ms. Voigt to lead the discussion. Ms. Voigt opened the floor for discussion regarding the proposed changes to the Board's Disciplinary Guidelines. Vickie Mayer advised that the REC had previously requested that Board staff obtain clarification from the Deputy Attorney General (DAG) regarding the tolling period and the clause stating probationers shall "obey all laws" under the standard conditions of probation. Ms. Mayer stated the REC thought additional language should be added to include only laws related to the practice of architecture. She informed the members that the DAG advised it should remain "obey all laws." Ms. Eves added the DAG opined the clause should remain "obey all laws" because it is the standard used by other DCA boards and it is a condition of probation, not the starting point of disciplinary action.

Mr. Merino was concerned if issues that are unrelated to architecture, such as parking tickets, would violate the terms of probation. He asked for clarification regarding the question and answer to the DAG. Ms. Mayer clarified a parking ticket would not violate probation nor initiate disciplinary action. She further stated the DAG was pointing out that most boards have the "Obey All Laws" clause and assess each situation based upon the law the individual violated to determine if the stay order should be initiated on a

decision. Mr. Merino replied the consensus is the language is too broad and wanted it to be related to the practice of architecture. He expressed his concern regarding the lack of written language allowing staff to exercise discretion. Ms. Voigt stated probationers would likely follow all laws if the “Obey All Laws” provision was in the back of their minds. She stated staff would be able to determine appropriate action to take and since the DAG recommends that language, her inclination is to accept it.

Mr. McCauley asked Ms. Mayer to explain the conviction report handling process. Ms. Mayer stated after receipt of a conviction report, staff refers it to the DAG and together they decide if the violation warrants action. She added if the violation did warrant action, the probationer would be served with a Petition to Revoke Probation, would be entitled to an appeal, and a formal legal hearing. She stated the decision would go to the Board who would make the final determination based upon the information provided. She stated staff already does this with conviction information received from applicants. She stated staff assesses internally if the conviction is substantially related to the practice of architecture. Mr. De Pietro asked if there have been convictions in the past that have violated probation. Ms. Mayer recalled one instance.

Mr. Cooknick observed many other DCA boards are not consistent with the Board’s provisions. He provided the example of a proposal for a mental evaluation prior to licensure because the Medical Board of California does it. He added he trusts the current staff to exercise appropriate discretion, but the future staff may not, so he would prefer if the language was limited to violations related to architecture. Mr. Cooknick requested to see the exact question posed to the DAG and the direct response.

Mr. Merino stated he was confused if there is discretion or an obligation to forward conviction reports to the DAG. He stated he needs to understand, how it will be applied if there is discretion. He further stated the Board would need to determine acceptable violations of law by probationers if the “Obey All Laws” provision was adopted.

Mr. McCauley stated the Board’s staff exercises discretion every day as the Board’s investigative team. He added staff investigates every complaint it receives and would not expend DAG resources on baseless cases. Fred Cullum asked Mr. McCauley if everything would go to the DAG. Mr. McCauley replied there would likely be some cases that would not need to go to the DAG. Mr. Cullum stated the provision is poorly worded and too broad.

Mr. De Pietro stated discretionary ability is still required if the standard is substantially related to the practice of architecture because staff still needs to determine if the violation is related. Mr. Cooknick stated the current language in the Act is substantially related to the practice of architecture. Mr. Merino stated the REC may need to return it back to staff and representatives of the profession for further discussion and asked if it is critical to make a decision at this meeting. Ms. Voigt responded it is the job of the REC to narrow it down. Mr. McCauley stated these are important revisions to the Guidelines. Mr. Merino suggested accepting all of the revisions with the exception of the “Obey All Laws” standard condition of probation.

Ms. Voigt read the question and response from the DAG regarding the inclusion of the “Obey All Laws” provision. Mr. Merino stated the Board is not in the business of determining if a stalking charge is appropriate for license revocation. Mr. Cooknick asked to clarify the stalking charge and asked for a response. Mr. Ho questioned if the Board automatically receives reports of violations or if it is up to the probationer to report the violations. Ms. Voigt responded the Board does not receive notifications of violations. Mr. Merino was concerned that a member of the public could report frivolous violations. Ms. Voigt replied the Board would want them to report it. Mr. Merino questioned what those violations have to do with architecture. Ms. Voigt stated other professions can lose their licenses for violations not related to the profession. Mr. Merino replied there are defined standards for that.

Mr. McGavin stated the opinion is just one attorney’s and it is not an official legal opinion. He felt it is too all encompassing and needs clear definitions for discretion so the Board cannot get in trouble for exercising it. Ms. Mayer clarified the opinion came from the Board’s DAG liaison. Ms. Voigt asked what language the Committee would like to see. Mr. De Pietro asked if the Board is already doing things it should not be doing. He would like the provision to be limited to violations related to the practice of architecture so the Board does not have to exercise as much discretion when determining probation violations. Mr. McCauley suggested adding a “serious violations” qualifier to the language. Mr. Merino stated the wording needs to be fully addressed. Mr. Cooknick stated this is what happens when you overlay what one board does with another board. He stated some boards will revoke your license for a driving under the influence conviction (DUI). He asked Ms. Voigt if that was true for realtors. Ms. Voigt responded she would likely be put on two years of probation.

Mr. McGavin also questioned the stopping of practice listed on page nine. He was concerned about the tolling part. Ms. Mayer replied the provision is based upon someone who has had an Accusation filed against them, and has this as a condition of probation specified in the decision. Mr. Merino stated this only applies after someone has gone through the entire process, and Ms. Mayer concurred, stating this only applies to those who have been disciplined.

Mr. De Pietro questioned why 100 days had been changed to one year on pages 10 and 11. Ms. Voigt thought maybe it was easier to track. Mr. De Pietro questioned if it serves any purpose other than making it harder for the person on probation. Mr. Merino asked if this was a general rule. Mr. McCauley replied it is the standard.

Mr. De Pietro said the new timeline makes it more restrictive. Ms. Mayer replied it may have been changed to be easier to calculate back or remain in line with other boards. Mr. De Pietro replied the person would then have to start taking the exam earlier to pass it. Ms. Mayer stated the typical term of probation is five years so they have plenty of time to complete the examination. Mr. De Pietro acknowledged the statement, but questioned if it is necessary to make it more difficult. Ms. Mayer stated these were edits from the first revision the Committee had already reviewed.

Mr. Merino asked if the intent is the probationer must pass the written examination no later than one year prior to the expiration of probation. Mr. Cooknick questioned where the 100 days provision came from. Ms. Mayer stated she did not recall. Mr. Cooknick said it must be there for a reason. Ms. Mayer stated the edits and recommendations were made after examining other programs and discussing them with the DAG.

Mr. De Pietro stated he just wanted to know where it came from and would not vote against it. Ms. Voigt replied it may have just been an easy date to calculate. Ms. Mayer added it is a lengthy process to terminate probation. Mr. Cullum questioned if a licensee failed to pass in four years and a day, would the Board then terminate his license. Ms. Mayer responded the Board would initiate the legal process. Mr. McCauley stated the probationer is still entitled to due process.

A motion was made by Fred Cullum to approve the recommended changes to the Disciplinary Guidelines with the exception of the “Obey All Laws” provision in the Standard Conditions of Probation. The motion was seconded by Gary McGavin. The motion passed 6-0-1 (Fermin Villegas recused).

Mr. Merino suggested referring the “Obey All Laws” provision back to staff for additional work prior to making a recommendation to the Board. He asked if the REC should make a partial recommendation to the Board. Mr. McCauley suggested the REC send its recommendations to the Board as a whole.

A motion was made by Michael Merino to return the “Obey All Laws” provision of the Disciplinary Guidelines to staff for additional work with members of the profession (AIACC) to create new language to set parameters for actionable violations. The motion was seconded by Robert De Pietro. The motion passed 6-0-1 (Fermin Villegas recused).

F.2 Discuss and Possible Action on Strategic Plan Objective to Review and Consider Adding a Provision Regarding “Scope of Work” to the Written Contract Requirements [Business and Professions Code Section (BPC) 5536.22]

Mr. Villegas requested Ms. Eves present the staff report on this item. Ms. Eves stated the written contract requirement (BPC 5536.22) was added to the Architects Practice Act in 1996. She added the requirement has proven to be an invaluable consumer protection tool and has improved the relationship between architects and clients. She reviewed the five elements of the current written contract requirement. Ms. Eves stated the Board staff and architect consultants have determined some areas of the current law could be strengthened to provide more clarification.

Mr. Carter noted the option to expand the written contract requirement was presented at the last REC meeting. He stated Attachment 1 in the meeting packet provided the proposed language and the previous discussion. He stated at the last meeting, the REC questioned if it was necessary to add the name and address of the property owner to the project and requested clarification about adding project scope to the written contract

requirement. He added there was a debate and discussion if project scope would be interpreted as scope of services or scope of work. Mr. Carter stated Board staff separated the two items to eliminate any confusion. He stated although the Board is unable to educate everyone through statutes by expanding BPC 5536.22, staff feels strongly that these issues need to be required in a written contract. He noted it has been 18 years since the written contract requirement became effective and the Enforcement Unit still receives cases either without contracts or with incomplete contracts.

Mr. Carter introduced the proposed language of BPC 5536.22. He stated the information in the proposal came from Ms. Newton, Mr. McGavin, and Board staff. Mr. Carter suggested the REC review the proposed language and recommend to the Board that it be included in the upcoming Sunset Review Report as a way to strengthen the statute and improve consumer protection. Mr. McCauley explained there is a section in the Report that allows the Board to unveil its future legislative concepts. He added if the Legislature supports the revised statute, it could be incorporated in the Sunset Bill with the endorsement of the Sunset Review Committee.

Mr. Villegas requested clarification of the term “scope of work.” He questioned if the Board may run into conflict regarding its interpretation. Mr. Carter responded by acknowledging the potential for misinterpretation was the reason the term “scope of work” was changed to “description of the project.” Mr. Merino expressed his support of the new language and stated one of the greatest elements of consumer protection is the requirement that architects and clients define the project in a written contract. He added the new changes are highly beneficial and he is very supportive.

Mr. Cooknick questioned if there was any value in adding an eighth item to the written contract requirements to outline if a mechanic’s lien will be recorded. Mr. Carter stated the issue was initially addressed in the first proposal to include the name and address of the property owner. Mr. Cooknick asked if the Board staff could create an example of the project description. He stated the language “description of the project for which the client is seeking services” is confusing. Mr. Carter replied the intent is to simply initiate a conversation between the architect and client.

Mr. Cooknick questioned if there was any concern of misuse of the project description against the profession. Mr. Merino replied statutes cannot mitigate an adversarial relationship. Mr. Carter stated a contract is a living document and architects need to communicate changes to clients and make amendments, if necessary.

A motion was made by Michael Merino and seconded by Robert Ho to recommend the Board approve the proposed language to amend BPC 5536.22. The motion passed 7-0.

F.3 Discuss and Possible Action on Strategic Plan Objective to Review Reporting Threshold (\$5,000) in Reporting Requirements (BPC 5588)

Mr. Villegas asked Ms. Eves to introduce this item. Ms. Eves stated the 2013 Strategic Plan assigned the REC the objective to review and consider adding mediation to reporting requirements under BPC 5588. She stated the REC designated a working group

to further discuss the objective and make a recommendation. She added when the working group met in July 2013, they determined that mediation should not be added to the reporting requirements; however, the group recommended the Board consider reviewing the \$5,000 reporting threshold.

She stated on December 9, 2004, the Board approved REC's recommendation that BPC 5588 should be amended to require that only settlements or arbitration awards that exceed \$5,000 be reported to the Board. She added the recommendation was based on the Board for Professional Engineers, Land Surveyors, and Geologists' (BPELSG) legislation. She added in March 2005, a task force met and reviewed the BPELSG statutory language regarding settlements and arbitration awards reporting requirements. She stated the task force examined the BPELSG's \$50,000 reporting threshold and compared it to the Board's \$5,000 reporting threshold. She stated the task force decided to keep the reporting threshold at \$5,000 based upon the fact that raising the threshold to \$50,000 would be a reduction in consumer protection. She further stated in a large project, a \$50,000 settlement may be considered small; however, in a small project, a \$5,000 settlement may be substantial. Ms. Eves stated larger firms settle in excess of \$50,000 as a normal course of business so raising the limit would not impact larger firms, but it would screen out consumers with smaller projects.

Ms. Eves stated staff gathered preliminary data for settlement reports received from 2008 to 2013. She stated the Board received 193 settlement reports, and of those, 1 case was referred for disciplinary action, 6 cases resulted in administrative citations, and 51 cases resulted in letters of advisement. She noted the majority of the violations were written contract requirements. She stated the BPELSG recently revised BPC 6770 to make the reporting threshold \$50,000 for settlements and \$25,000 for judgments. Ms. Eves advised the REC that Board staff strongly suggests the reporting threshold be maintained at \$5,000.

Mr. McCauley explained the process for handling settlement reports received by the Board. He stated after receiving settlement reports from insurance carriers or architects, Board staff opens a report file, which is different than a consumer complaint because the reports are investigative files and are not reportable to the public. He added settlement reports are only transitioned to a consumer complaint initiated by the Board if the architect consultants find possible violations of the Act. The complaint case would then be investigated, and it would become reportable if it leads to the issuance of a citation or the filing of an Accusation against the licensee. Mr. McCauley confirmed that the existence of a report itself cannot be disclosed to the public.

Ms. Voigt questioned the current small claims limit. Ms. Eves advised the current limit is \$5,000 for businesses filing in small claims court. Mr. Merino suggested the Board should stay in alignment with the current small claims court filing limit. Mr. Cooknick questioned the notion and stated raising the limit would result in less consumer protection.

A motion was made by Sheran Voigt and seconded by Fred Cullum to recommend maintaining the \$5,000 reporting threshold for BPC 5588. The motion passed 7-0.

F.4 Discuss and Possible Action on Strategic Plan Objective to Review and Explore Other Opportunities for Prosecuting Unlicensed Individuals, Such as Infractions

Mr. Villegas asked Mr. McCauley to introduce this agenda item. Mr. McCauley stated this objective emerged from the Board's December Strategic Planning session. He stated infraction authority can be used as a tool to address unlicensed practice. He explained an infraction authority program authorizes staff to issue "notices to appear" with a citation. Mr. McCauley added the DCA Director designates the authority to issue infractions to specified employees with the caveat that the employees must witness the alleged activity. He also added infractions are part of the criminal system so the District Attorney must be willing to prosecute the individual. He stated the challenge is the infractions for unlicensed practice end up in competition with more serious criminal cases. Mr. McCauley concluded an infraction authority program is not currently a viable tool for the Board. He requested the Committee members discuss his findings, present any other ideas, and give Board staff the opportunity to research further with other boards for alternative options.

Mr. McGavin asked how the Board is notified of unlicensed practice. Mr. McCauley stated the Board receives complaints regarding unlicensed practice through a variety of sources including architects, clients, contractors, building departments, and related design professionals. Mr. McGavin asked whether building departments have an obligation to report suspicions of unlicensed practice. Mr. Carter replied the building departments have an obligation to verify a properly licensed design professional has completed the work when required by statute. Mr. Carter added the building officials are often hesitant to report unlicensed activity due to political implications, but will report egregious violations to the Board.

Mr. Villegas asked how the Contractors State License Board (CSLB) handles unlicensed activity. Mr. McCauley replied due to its size, CSLB has peace officers and investigators in the field conducting investigations and sting operations. Mr. Villegas noted the Board would need to request additional funding to support such a program. Mr. Carter added the CSLB has representatives in the field who are able to cite and fine on the spot due to their law enforcement capabilities.

A motion was made by Michael Merino to note and file the staff's current assessment of the objective and to ask staff to pursue it further by contacting other boards and other state jurisdictions. Sheran Voigt seconded the motion. The motion passed 7-0.

G. Discuss and Possible Action on The American Institute of Architects, California Council Proposed Legislation (Assembly Bill 2192 Melendez) Regarding Peer Review on Exempt Projects

Mr. Villegas asked Mr. McCauley to introduce AB 2192 (Melendez). Mr. McCauley stated the bill was previously introduced at the February Board meeting and the Board was not prepared to take a position at that time. He stated the bill authorizes local agencies to create a program to issue a building permit after the plans have been reviewed

by another unaffiliated architect through a peer review system. He added the program is limited to exempt project types with some caveats. Mr. McCauley stated the first hearing on AB 2192 was scheduled for May 7, 2014. He stated the Board had questions regarding consumer protection implications, program structure, and accountability, and wanted the REC to have a further discussion to inform the Board. He acknowledged the Board received public comments regarding AB 2192.

Mr. Cooknick questioned the Board's interest in AB 2192 because peer review has been a practice of the University of California and California State University systems for over eight years. Ms. Voigt replied the Board was asked to take a position. Mr. Cooknick stated AIACC did not ask the Board to take a position on AB 2192. He called attention to Agenda Item G in the meeting packet, and stated he did not recall the Board expressing any concern over the bill at the meeting. He stated it was the Board's staff that expressed concern regarding AB 2192. Ms. Voigt replied the Board reviews bills regarding architects and felt obligated to review the bill, examine its scope, and determine if it protects the public and architects. Mr. Cooknick stated peer review is current practice with the Division of the State Architect (DSA) and did not recall the Board taking a position on the DSA's outsourcing provisions.

Mr. Villegas stated regardless of the past, AB 2192 is within the Board's purview to examine the issue and take a position. Mr. McGavin stated he learned an expensive lesson regarding taking a position on legislation as a seismic safety commissioner for 15 years. He recalled expensive political retributions resulting from the involvement in certain bills. He further stated the Board should not address it if there is no clear health, safety, and welfare issue. Ms. Voigt stated the recommendation to the Board could be that AB 2192 is not under the Board's purview.

Mr. Merino agreed with Messrs. McGavin and Cooknick, and advised the Board should not take a position. He stated this is a practice issue that the AIACC has taken on and the Board's involvement could have some negative consequences. He suggested the REC make a recommendation to the Board to take no position on the issue. He stated this is an issue related to the profession not to consumer protection.

Mr. Cullum stated he does not necessarily disagree, but thinks this creates consumer protection issues. He does not think the bill helps protect the life, health, safety, or property of the public and finds it to be a very self-centered program that could ultimately reflect poorly on architects. He stated other organizations, such as CALBO, will work to defeat the bill. Mr. Merino replied the bill does not help or harm consumer protection and is a neutral issue for the Board. He stated licensed architects would be conducting plan review for other architects. He added this is current practice in other areas of the profession and peer review is a very valuable process used by multiple agencies.

Mr. Villegas recognized there is room for abuse in the statute. He agreed with Mr. Cullum the bill does affect the health, safety, and welfare of the public if the plans just need to be approved by another architect and the building department issues a permit solely on that review. He further stated he ultimately agrees with Mr. Merino to take no position and let the bill take its course.

Mr. De Pietro stated the bill is detrimental to the public perception of architects because it narrows the ability of the consumer to make a choice on a level playing field. He added architects would be able to advertise they can get plans approved sooner through a program not available to other design professionals. Mr. De Pietro asked Mr. Cooknick to clarify the bill. Mr. Cooknick stated expedited plan review is currently available to anyone within many jurisdictions. He added this bill would allow, with the consent of the project owner, a peer reviewing architect to review the work of the architect of record.

Mr. De Pietro stated this is a very self-serving proposal. Mr. De Pietro stated the bill opens avenues that are not available for other design professionals and puts architects in a favored position for exempt projects.

Mr. Merino asked how the bill was brought to the attention of the Board if AIACC did not bring it to the Board. Mr. McCauley replied he brought it to the attention of the Board because he noted that there may be consumer protection issues that the Board would want to consider.

Mr. Ho asked if there were any other statutes allowing this type of peer review. Mr. Cooknick replied there may be existing or enabling language in other laws, but those did not include the specificity the AIACC wanted to see.

A motion was made by Michael Merino and seconded by Gary McGavin to recommend the Board take no position on AB 2192. The motion passed 7-0.

H. Adjournment

The meeting adjourned at 12:37 p.m.