

MINUTES
BOARD MEETING
CALIFORNIA ARCHITECTS BOARD

September 29, 2016

Los Angeles

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

Board President, Jon Alan Baker called the meeting to order at 10:40 a.m. and Board Secretary, Sylvia Kwan called roll.

Board Members Present

Jon Alan Baker, President
Matthew McGuinness, Vice President
Sylvia Kwan, Secretary
Denise Campos
Tian Feng
Pasqual Gutierrez
Ebony Lewis
Robert C. Pearman, Jr.
Nilza Serrano

Board Members Absent

Barry Williams

Guests Present

Andrew Bowden, Chair, Landscape Architects Technical Committee (LATC)
Kurt Cooknick, Director of Regulation and Practice, The American Institute of Architects, California Council (AIACC)
Katherine Roussel, Career and Outreach Coordinator, Woodbury University School of Architecture (Woodbury)
Michael Hricak, Lecturer, University of Southern California (USC)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Marccus Reinhardt, Program Manager Examination/Licensing
Alicia Hegie, Program Manager Administration/Enforcement
Mel Knox, Administration Analyst
Michael Santiago, Attorney, Department of Consumer Affairs (DCA)
Bryce Penney, Television Specialist, DCA

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

B. PRESIDENT'S PROCEDURAL REMARKS AND BOARD MEMBER INTRODUCTORY COMMENTS

Mr. Baker 1) announced that Board member Barry Williams has an excused absence; 2) thanked Pasqual Gutierrez and HMC Architects for arranging the meeting site; 3) announced that Katherine Roussel from Woodbury, and Michael Hricak from USC, are scheduled to provide the Board with an update on their Integrated Path to Architectural Licensure (IPAL) programs during Agenda Item G; 4) advised that all motions and seconds will be repeated for the record, and votes on all motions would be taken by roll-call; and 5) announced that the meeting is being webcasted.

C. PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Kurt Cooknick conveyed a message from Michael Strognoff that AIACC will soon raise the issue of improving the quality of continuing education (CE) coursework. Mr. Cooknick suggested that standardization of CE content should be explored.

Andrew Bowden, representing the LATC, announced his presence.

D. REVIEW AND POSSIBLE ACTION ON JUNE 9, 2016 AND JULY 28, 2016 BOARD MEETING MINUTES

Mr. Baker asked for comments concerning the minutes of the June 9, 2016, Board meeting.

- **Nilza Serrano moved to approve the June 9, 2016, Board meeting minutes.**

Robert C. Pearman, Jr. seconded the motion.

There were no comments from the public.

Members Campos, Feng, Gutierrez, Kwan, Lewis, McGuinness, Pearman, Serrano, and President Baker voted in favor of the motion. The motion passed 9-0.

Mr. Baker asked for comments concerning the minutes of the July 28, 2016, Board meeting.

- **Ebony Lewis moved to approve the July 28, 2016, Board meeting minutes.**

Tian Feng seconded the motion.

There were no comments from the public.

Members Campos, Feng, Gutierrez, Kwan, Lewis, McGuinness, Pearman, Serrano, and President Baker voted in favor of the motion. The motion passed 9-0.

E. EXECUTIVE OFFICER'S REPORT

Doug McCauley reported that Alicia Hegje is the Board's new Administration/Enforcement Program Manager. Mr. McCauley reminded the Board that its next Board meeting will be on December 15, and 16, 2016, in Sacramento and will include a Strategic Planning session. He indicated that the Strategic Planning session will be facilitated by DCA's Strategic Organization, Leadership, and Individual Development (SOLID) Training and Planning Solutions. Mr. McCauley reported that the Communications Committee will meet on November 10, 2016, the Executive Committee on December 1, 2016, and the Landscape Architects Technical Committee on October 12, 2016.

Mr. McCauley explained that the Board is currently part of BreEZe Release 3, and that DCA is collaborating with the Release 3 boards and bureaus and the California Department of Technology in preparing a project plan. He noted that a Project Approval Lifecycle Framework, outlining four stages (business analysis, alternative analysis, solution development, and project readiness and approval), was provided to the Board. Mr. McCauley also reported that there were issues with BreEZe implementation and the contract with the prime vendor was terminated; DCA is now exploring other options. He indicated that the final step will be for the Board to implement BreEze, but it is not clear at this time whether it will be with a vendor or with DCA's information technology staff.

Mr. McCauley shared that the most recent edition of the *California Architects* newsletter was published on September 19, 2016, which followed a Special Edition on August 4, 2016. He reminded the Board that two Special Editions of newsletter are now published in a calendar year in addition to the quarterly publications. Mr. McCauley reported that the Board's social media presence continues to increase, and that the Board's Twitter account (@CAArchitectsBd) has exceeded 1,000 followers. He also noted that the Board most recently created an Instagram account.

Mr. McCauley reported that the Board is prepared to release its Request for Proposal (RFP) for an additional architect consultant contract. He explained the significant resource that the consultants are at the Board, as they consult on professional practice issues. He reminded the Board of its Strategic Plan objective to authorize an additional architect consultant contract, but expressed doubt that staff workload, at this time, justifies having three Consultants under contract simultaneously. He informed that staff is launching the process to renew a contract. Ms. Serrano asked how the Board plans to reach out women and minority candidates about the RFP, to which Mr. McCauley informed that the RFP will be shared with the National Organization of Minority Architects (NOMA) and other professional minority and women organizations. Mr. McCauley asked for suggestions of other organizations, to which Ms. Kwan suggested the Asian American Architects and Engineers Association.

Mr. McCauley noted that the number of citations regarding CE has reduced, as anticipated. He also reported that the Enforcement Unit is seeing positive trends among *pending cases* and *average days to close* statistics, which are down significantly from previous years.

Ms. Serrano observed that California candidate performance is low in the 1) Construction Documents & Services, and 2) Programming, Planning, & Practice divisions of the Architect Registration Examination (ARE). She opined it significant that the failure rate for these two divisions continue to exceed 50 percent, and reiterated her desire to see stronger candidate

performance on the examination. Mr. McCauley shared with the Board that the National Council of Architectural Registration Boards (NCARB) recently met with test preparation vendors to update them on the ARE 5.0 in hopes that their clients (candidates) will be better informed about the new examination. Mr. Baker also expressed concern that California candidates perform below the national average across all ARE divisions. Vickie Mayer noted that when ARE 5.0 is eventually launched it will take time for scores to stabilize. Ms. Mayer also noted that California's multiple pathways to licensure enable candidates not only with a college degree to take the ARE, but also those with work experience only. She stated that, when compared to the nation, California's candidate pool and subsequent examination results are diverse in that way. Mr. Baker suggested the Board have a deeper discussion about these observations and explore how to improve California candidate performance on the ARE during the next Strategic Planning session.

Board members and staff provided liaison reports on their assigned organizations and schools as follows:

McCauley

American Council of Engineering Companies
Board for Professional Engineers, Land Surveyors & Geologists
California Building Officials
Contractors State License Board

Baker

NewSchool of Architecture

McGuinness

College of San Mateo
City College of San Francisco
West Valley College, Saratoga
Associated General Contractors of California

Gutierrez

Association of Collegiate Schools of Architecture
California Polytechnic State University, Pomona
Woodbury University
Bakersfield College
Mt. San Antonio College, Walnut
San Bernardino Valley College

Kwan

National Council of Examiners on Engineering and Surveying
Urban Land Institute
Academy of Art University
California College of the Arts
College of Marin, Kentfield
Cosumnes River College, Sacramento

Feng

University of California, Berkeley

Diablo Valley College

Campos

University of California, Los Angeles
Glendale Community College
Rio Hondo College, Whittier

Lewis

USC
Citrus College
East Los Angeles College
Los Angeles Valley College

Serrano

Cerritos College, Norwalk
Los Angeles City College
Orange Coast College, Costa Mesa
Ventura College

Mr. McGuinness informed staff of the need to update points of contact at some of his assigned schools. Ms. Kwan recommended that liaisons contact their school and organization assignments via email with key issues and messages, if engaging with them via telephone is challenging.

F. UPDATE AND POSSIBLE ACTION ON LEGISLATION REGARDING SENATE BILL (SB) 1132 (GALGIANI) [ARCHITECT-IN-TRAINING], SB 1195 (HILL) [BOARD ACTIONS: COMPETITIVE IMPACT], AND SB 1479 (BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT) [EXAM ELIGIBILITY – INTEGRATED DEGREE PROGRAM]

Mr. McCauley informed the Board that SB 1132 (Galgiani), the AIACC proposal to create the “architect-in-training” title for candidates for licensure, was vetoed by Governor Brown. He explained that, based upon the veto message, the Governor concurs with NCARB’s assessment that there is no need for a title other than architect to protect consumers. Mr. McCauley also noted the Governor’s history of vetoing title act bills. Mr. Cooknick stated that AIACC is unsure at this time about how to approach reintroducing the title issue in the future.

Mr. McCauley announced that DCA Legal Counsel Michael Santiago will discuss SB 1195 (Hill) later in the meeting. He explained that the bill is the Legislature’s response to the United States Supreme Court’s *North Carolina Dental Board v. Federal Trade Commission* case. Mr. McCauley reported that SB 1195 was not be successful this legislative cycle, but that similar legislation will likely be introduced when the Legislature reconvenes in January 2017. Mr. Baker emphasized that the Board exists to ensure consumer protection and regulate the practice of architecture; the Board should not promote commerce or marketplace issues.

Mr. McCauley informed that SB 1479 (Chapter 634, Statutes of 2016) was signed into law by the Governor and contains Board-sponsored clarifying language regarding integrated degree programs. He explained that the language contains a general reference to the IPAL initiative to prevent any issues with the name of NCARB’s program.

G. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Mr. McCauley reminded the Board that it previously approved supporting the NCARB Mutual Recognition Arrangement (MRA) between Australia and New Zealand architectural licensing authorities. He informed that for the MRA to be implemented, more than half of all NCARB Member Boards must become formal signatories to it by December 31, 2016. Mr. McCauley also informed that the MRA closely follows the Board's current one with Canada. Mr. Baker asked for affirmation of his understanding that the MRA allows a candidate from Australia to receive an NCARB certificate, not a license to practice. Mr. McCauley confirmed the clarification.

- **Sylvia Kwan moved to authorize President Baker to sign the MRA between NCARB, the Architects Accreditation Council of Australia, and the New Zealand Registered Architects Board.**

Matthew McGuinness seconded the motion.

There were no comments from the public.

Members Campos, Feng, Gutierrez, Kwan, Lewis, McGuinness, Pearman, Serrano, and President Baker voted in favor of the motion. The motion passed 9-0.

Ms. Roussel updated the Board on Woodbury's IPAL programs. She discussed the structure of Woodbury's NCARB-approved BArch and MArch programs, including the programs' application process and architectural firm placement. Ms. Roussel also discussed Woodbury student demographics with the Board.

Mr. Hricak updated the Board on USC's IPAL program. He informed that the program was launched this year and is being introduced to undergraduates. Mr. Hricak expressed content with the positive impact the program has had on students, particularly as it concerns inspiring them to obtain an NCARB Record at an early stage. He spoke about the organizational support the School of Architecture is receiving from the USC Architectural Guild, which helps with architectural firm placement for the IPAL program. Mr. Hricak also noted USC's NotLY (Not Licensed Yet) program as a key element to the IPAL infrastructure at USC. Ms. Serrano expressed her view that, generally, a greater emphasis should be placed on enrolling and educating more domestic students at schools of architecture than international students; Ms. Lewis informed that she recently had a conversation with the Assistant Dean about the issue.

J.* CLOSED SESSION

The Board went into closed session to:

1. Consider action on the June 9, 2016, and July 28, 2016, Closed Session Minutes;
2. Confer with legal counsel on litigation regarding *Marie Lundin vs. California Architects Board, et al.*, Department of Fair Employment and Housing, Case No. 585824-164724;
3. Consider action on one Proposed Settlement; and
4. Consider action on three Proposed Decisions.

K. RECONVENE OPEN SESSION

The Board reconvened open session.

H. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

Mr. Feng reported on the activities that took place at the July 12, 2016, PQC meeting. He informed the Board that the PQC discussed its Strategic Plan objective to collaborate with California's National Architectural Accrediting Board (NAAB)-accredited programs and NCARB to establish and promote an IPAL. Mr. Feng shared that SB 1479, which has language pertaining to IPAL, was approved by the Governor and becomes effective on January 1, 2017. He also reported that staff will also be monitoring NCARB communications for the latest information relative to IPAL. Mr. Feng indicated that PQC received an update regarding the Strategic Plan objective to conduct a review of the ARE testing environment in order to ensure security and efficiency. He stated that staff contacted NCARB to begin coordination of a mid-2017 site visit. Mr. Feng also noted that PQC received updates regarding NCARB Resolution 2015-02 concerning alternative for certification of foreign architects. He conveyed that the PQC was informed that the Board voted to support the alternative certification method and received clarification on the requirements of the Architectural Experience Program and ARE completion. Mr. Feng articulated that the PQC discussed the Strategic Plan objective to evaluate the profession in order to identify entry barriers for diverse groups.

Marcus Reinhardt reported that, according to the *2016 NCARB by the Numbers* publication, racial and ethnic diversity has doubled in the profession since 2007 when it was at 22 percent. Mr. Reinhardt informed that data for 2015 (the most recent available) indicates that diversity has continued to increase and is now at 44 percent. He also explained that applicants who identified themselves as non-white represented 36 percent of new NCARB Record holders in 2015. This compares to 23 percent of the non-white US population, Mr. Reinhardt explained, based upon 2014 United States Census Bureau data. He advised that, as of July 1, 2016, California's architect population (20,914) consists of 20 percent (4,179) women and 80 percent (16,735) men. Mr. Reinhardt stated that, subsequently, the PQC approved a recommendation to the Board that it evaluate the following recommendations as the foundation to initiate a Strategic Plan objective to encourage and promote California diversity in architecture:

1. Assign a Board member to serve as liaison with NOMA and invite its representatives to attend Board and committee meetings;
 2. Encourage California community colleges with architectural programs to collaborate with NAAB-accredited programs and develop articulation agreements; and
 3. Inspire student interest in the profession through licensed professionals.
- **Denise Campos moved to approve PQC's recommendation to 1) assign a Board member to serve as liaison with NOMA and invite its representatives to attend Board and committee meetings; 2) encourage California community colleges with architectural programs to collaborate with NAAB-accredited programs and develop articulation agreements; and 3) inspire student interest in the profession through licensed professionals.**

Nilza Serrano seconded the motion.

Ms. Campos also observed that, according to the *2016 NCARB by the Numbers* publication, the percentage of NCARB Record holders who are Hispanic/Latino increased in 2015; when Hispanic/Latino ethnicity is factored in, according to the data, minorities made up 44 percent of the talent pool in 2015.

The Board discussed its view of the need for the profession to have a more accommodating attitude toward women and men who require a greater, more flexible work-life balance.

Pasqual Gutierrez moved to amend the motion to use PQC’s recommendation as the foundation to initiate a Strategic Plan objective to encourage and promote California diversity in architecture.

Mr. Gutierrez opined that the Board should have a deeper conversation about its advocacy efforts.

Mses. Campos and Serrano accepted the amended motion.

Mr. Pearman asked about “pipeline leakage,” a term that describes trends in declining participation along the path to professional practice. He asked if the Board ever considered how schools of architecture can address this problem. Mr. Baker opined that pipeline leakage is not simply a school problem, as approximately half of young people choose to use their architecture-related education and skills in other allied industries. He recommended that Board staff explore other professions’ after-graduation employment choices/statistics (e.g., doctors, lawyers) compared to that of the architectural profession. Ms. Kwan suspected low starting salaries compared to other professions as a major contributor to pipeline leakage.

There were no comments from the public.

Members Campos, Feng, Gutierrez, Kwan, Lewis, McGuinness, Pearman, Serrano, and President Baker voted in favor of the motion. The motion passed 9-0.

I. *NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION* CASE REVIEW – DEPARTMENT OF CONSUMER AFFAIRS LEGAL COUNSEL

Mr. Santiago explained that the *North Carolina Dental Board v. Federal Trade Commission* case addressed whether antitrust immunity is afforded to boards, and created a new test for determining whether boards can be held liable for violations of antitrust law. He stated that the case determined that a board, of which a controlling number of decision makers are active market participants, is only entitled to immunity from antitrust action if it meets two requirements: 1) the board must act pursuant to clear the articulated and affirmatively expressed state policy to replace competition with regulation of the profession, and 2) the board’s decisions must be actively supervised by the state. Mr. Santiago stated that this court case does not address all areas of antitrust law, and opined that future cases will be needed to further shape it. He explained that the California Legislature attempted to address those areas of ambiguity in SB 1195 (Hill), but the bill was not successful. Mr. Santiago explained to the Board guidance issued by the Federal Trade Commission (FTC), which expounded on the concept of active supervision. He also explained the California Attorney General’s (AG) opinion, which identified actions that are likely and less likely to be scrutinized from an anti-trust perspective.

Mr. Santiago surmised that a lack of immunity does not mean a board's conduct violates antitrust laws. He then advised the Board to remain focused on its public protection mandate to avoid antitrust challenges.

Mr. McCauley reminded the Board that promoting the profession is not the Board's mandate; the Board exists for the purpose of protecting California consumers. He stated that, with the help of legal counsel and DCA executive staff, he will continue to advise the Board on how best to avoid promoting the profession and to remain focused on consumer protection. Mr. Baker opined that most of the guidance proposed by the FTC and AG about decision-making and oversight practices already exists at the Board.

L. ADJOURNMENT

The meeting adjourned at 2:45 p.m.

**Agenda items for this meeting were taken out of order to accommodate presenters of items. The order of business conducted herein follows the transaction of business.*