

MINUTES

BOARD MEETING

CALIFORNIA ARCHITECTS BOARD

September 7, 2017

Burbank

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

Board President, Matthew McGuinness, called the meeting to order at 10:03 a.m. and Board Secretary, Tian Feng, called roll.

Board Members Present

Matthew McGuinness, President
Tian Feng, Secretary
Sylvia Kwan, Vice President
Jon Alan Baker
Denise Campos (arrived at 10:12 a.m.)
Pasqual Gutierrez
Ebony Lewis
Robert C. Pearman, Jr.
Nilza Serrano
Barry Williams

Guests Present

Mark Christian, Director of Government Relations, American Institute of Architects, California Council (AIACC)
Catherine Roussel, Career and Outreach Coordinator, Woodbury University (Woodbury)
Marq Truscott, Member, Landscape Architects Technical Committee (LATC)
Ingalll Wahlroos-Ritter, Dean, School of Architecture, Woodbury

Staff Present

Doug McCauley, Executive Officer (EO)
Vickie Mayer, Assistant Executive Officer
Alicia Hegje, Program Manager Administration/Enforcement
Brianna Miller, Program Manager, LATC
Marcus Reinhardt, Program Manager Examination/Licensing
Mel Knox, Administration Analyst
Bob Carter, Architect Consultant
Tara Welch, Attorney III, Department of Consumer Affairs (DCA)
Caesar Victoria, 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. McGuinness 1) announced that the meeting is being webcast; 2) acknowledged that LATC member, Marq Truscott, was in attendance; 3) thanked Catherine Roussel for assisting with arranging the meeting site; 4) introduced Tara Welch as the Board's new legal counsel; and 5) reminded members that votes on all motions will be taken by roll-call.

C. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

There were no comments from the public.

D. REVIEW AND POSSIBLE ACTION ON JUNE 15, 2017 BOARD MEETING MINUTES

Mr. McGuinness asked for comments concerning the minutes of the June 15, 2017, Board meeting. Doug McCauley offered an edit on page 3, under Agenda Item E, to replace "those who practice in exempt areas" with "unlicensed individuals."

In relation to the Board's discussion at the June 15, 2017, meeting, Mr. Feng announced that the National Council of Architectural Registration Boards (NCARB) President, Kristine Harding, conveyed to him that there are current efforts underway to increase the diversity of candidates for NCARB leadership opportunities.

- **Nilza Serrano moved to approve the June 15, 2017, Board meeting minutes, with an edit on page 3 under Agenda Item E changing "those who practice in exempt areas" to "unlicensed individuals."**

Barry Williams seconded the motion.

Members Baker, Feng, Gutierrez, Kwan, Lewis, Pearman, Serrano, Williams and President McGuinness voted in favor of the motion. Member Campos was absent at time of vote. The motion passed 9-0.

E. EXECUTIVE OFFICER'S REPORT- UPDATE ON BOARD'S ADMINISTRATIVE/MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS

Mr. McCauley reminded the Board that its next meeting, scheduled for December 7, 2017, will be in Sacramento. He also provided an update on the enforcement case management and licensing system known as BreEZe. He reported that Board staff met with DCA Office of Information Services staff on July 11, 2017, when the Board learned that BreEZe Phase Three is no longer an implementation group; instead, remaining DCA boards and bureaus may now opt into BreEZe if they choose. Mr. McCauley informed that the Board anticipates it will opt to incorporate BreEZe into its business operations, and that preparations to identify key milestones are underway.

Mr. McCauley also reported that Senate Bill 547, the legislation that, in part, extends the sunset provisions for the California Council of Interior Design Certification (CCIDC) until 2022, is on the Senate floor. He noted that monitoring the Sunset Review process for CCIDC is valuable because the Board can become aware of current cross-cutting and evolving issues and dynamics as it prepares for its Sunset Review in 2018.

Mr. McCauley reported, in response to Jon Baker's request from the June 15, 2017, meeting concerning the California Supplemental Examination (CSE) wait-time to retest, that the structure of the examination item bank presents issues that make reducing the wait-time problematic. He asked the Office of Professional Examination Services (OPES) to be more definitive and to provide a formal assessment with possible variables to consider for future development.

Mr. McCauley informed that the OPES will attend the December 7, 2017, meeting, and will be available to answer questions and develop a plan of action. Mr. Baker enquired about the number of different CSE forms that exist, to which Mr. McCauley stated that the number of forms is protected information and due to examination security, cannot be discussed at a public meeting.

Mr. McCauley reported that the LATC and the Council of Landscape Architectural Registration Boards (CLARB) currently do not have a structured internship program, so LATC is now recommending to CLARB that it develop such a program. He explained that a structured program will ensure that emerging professionals get experience in all critical areas of practice, which would protect the public health, safety, and welfare; it also helps to better prepare candidates for examination.

Mr. McCauley opined that LATC enforcement metrics are impressive, and reported that the five-year average for case-aging is 266 days, but is currently at 109 days. He also reported that the Board's enforcement metrics are similarly positive, exceeding the 151-day average at 109 days.

Ms. Serrano enquired about the high number of California-candidates that have failed various divisions of the Architect Registration Examination (ARE) 5.0, to which Mr. McCauley informed that declines in candidate performance are common whenever a new examination is released; he reminded the Board that it saw a similar pattern when NCARB introduced ARE 4.0. Mr. McCauley indicated that the pass/fail metrics generally stabilize over time. Ms. Serrano expressed concern that the new ARE 5.0 may impact a candidate's ability to obtain licensure (because of the high fail rate), to which Marcus Reinhardt informed that candidates still have the option to take ARE 4.0 or ARE 5.0 until June 30, 2018. Ms. Serrano asked if a failing score on the ARE 5.0 will have a monetary impact on a candidate, to which Mr. Reinhardt answered that any failed examination requires a candidate to retest. Sylvia Kwan commented that the fee to take ARE 5.0 is less expensive than ARE 4.0 because ARE 5.0 administers fewer divisions. Ms. Kwan also noted that NCARB is creating conditions for reduced costs, and that companies often pay for their employees to take the examination. Mr. Feng opined that candidates are adapting to ARE 5.0. Ms. Serrano opined that ARE 4.0 and 5.0 low pass rates for California candidates are unacceptable because students spend a lot of time and money on an education, yet cannot pass an examination. Mr. McCauley reported that NCARB has communicated with the profession and test-preparation companies to provide accurate, publicly available information about the ARE 5.0. He opined that this kind of engagement should lead to better-prepared candidates who take the examination. Mr. Baker opined that until ARE 5.0, the examination was not very well integrated, which contributed to the problem of low pass rates. He also commented that much of the examination now requires candidates to have sufficient practical experience, which is obtained through an effective Architectural Experience Program (AXP). Mr. Baker observed that, consistently and across the board, in almost every category, California candidate performance is lower than the national average. He conveyed his desire for staff to bring more detailed data about this phenomenon (e.g., accredited degree, non-accredited degree, and experience only candidates) to identify what is impacting the average. Mr. Reinhardt indicated that the Board's psychometrician, OPES, has been asked about this concern. He explained that because there are many ways for an individual to obtain licensure in California, there are more variables than the Board can account for since there are factors unique to each candidate and

their chosen path to licensure. Ebony Lewis conveyed that it is very important for the Board to understand which pathways to licensure are more successful than others so that emerging professionals may know which pathways lead to successful outcomes; Mr. Baker concurred. Mr. McGuinness expressed concern that the information being requested will not result in changes to the examination, and, instead, might produce unintended consequences. He noted that the examination tests for minimum level of competency, and warned that if the Board seeks the data, other jurisdictions could use it against California candidates. Mr. Baker assured that no one is suggesting potentially compromising the rigor of the examination, but if an individual chose a pathway to licensure that puts them at a disadvantage the Board should at least be aware of why the pathway is less advantageous. He explained that because the data might reveal information that the Board believes is problematic is not a valid reason not consider the data to understand what is happening. Mr. Williams asked how candidates can effectively be classified, to which Mr. McCauley replied that staff will consult with NCARB to collect the best information available. Mr. McCauley also reminded the Board that OPES will be available to speak and answer questions about the CSE at the next meeting, which will help the Board digest the data.

Mr. McCauley noted that the CSE wait-time was discussed at a recent meeting with AIACC's Emerging Professional's Academy, which memorialized its interest in the issue. He directed the Board's attention to their letter, which, he advised, should be considered written public comment to help inform the Board's actions at the December meeting. Mr. Baker asked if the Board has seen a Test Plan for the new CSE, to which Mr. McCauley reminded the Board that the most recent CSE Test Plan was presented to the Board by OPES in 2014; Vickie Mayer noted that the CSE Test Plan is updated every five to seven years. Mr. Baker asked if the Test Plan will be updated based on the release of ARE 5.0, to which Mr. McCauley explained that the Board always uses the most recent Occupational Analysis (OA) from NCARB to conduct a side-by-side analysis. Mr. Reinhardt informed that the current Test Plan will be in effect until the next OA is released, likely around the year 2019.

F. PRESENTATION ON WOODBURY UNIVERSITY'S INTEGRATED PATH TO ARCHITECTURAL LICENSURE (IPAL) BY INGALILL WAHLROOS-RITTER, DEAN

Dean Ingalill Wahlroos-Ritter of Woodbury's School of Architecture gave a presentation on its IPAL program. The presentation covered:

1. Woodbury's federal designation as a Hispanic-serving institution;
2. The school's ethical philosophy and commitment to architectural practice;
3. Requirements for licensure (i.e., education, experience, examination);
4. Woodbury's IPAL structure and timeline; and
5. Efforts to raise awareness of IPAL.

Two architecture students, one Bachelor of Architecture student and one Master of Architecture student, shared with the Board their IPAL and AXP experience. Ms. Wahlroos-Ritter explained how it can be a financial burden on architecture firms to hire IPAL students, and recommended, as an incentive, that firms be recognized by the profession for providing IPAL students with valuable exposure to architectural projects. She recommended, for instance, that The American Institute of Architects offer IPAL-designated architecture firms membership discounts.

Mr. Williams asked if the IPAL student curriculum and traditional architecture student curriculum at Woodbury is integrated. Ms. Wahlroos-Ritter informed that the curriculum at Woodbury has not

changed, but noted that firms offer suggestions about skills students should learn earlier in their architectural education. Mr. Baker thanked Ms. Wahlroos-Ritter for her efforts to place students at firms. He opined that the work experience will enhance IPAL students' career advancement because, by the time they graduate, they will already have hands-on experience at firms. Mr. Baker asked why Woodbury has not restructured its program in a way that prepares students for IPAL participation. Ms. Wahlroos-Ritter replied that the balance between classroom studio work and professional practice should be weighed to allow room for different teaching and learning outcomes. She acknowledged that students at the school of architecture, collectively, struggle to pass examinations, and stated that the school's approach is designed to help them. Mr. Baker commented that the more Woodbury focuses on structuring its program to prepare students, the more the Board can help the program and the students.

Ms. Serrano asked how Woodbury is a designated Hispanic-serving institution, to which Ms. Wahlroos-Ritter explained that the federal government recognizes that greater-than 25 percent of students at Woodbury are Hispanic and, therefore, the university qualifies for federal funding. Ms. Serrano asked about the international versus domestic student ratio at Woodbury, to which Ms. Wahlroos-Ritter reported that approximately 20 percent of students at Woodbury are international students. Ms. Wahlroos-Ritter informed that international students have enquired about participating in the IPAL program, and she can see no reason why these students may not. She also estimated that 70 percent of Woodbury's architectural students stay in Los Angeles after graduation. Robert C. Pearman, Jr. asked what would happen to an IPAL student if the IPAL-participating firm he or she works for decides to discontinue participating in the program, to which Ms. Wahlroos-Ritter stated that another placement will be found for that student. Denise Campos enquired about the IPAL program acceptance rate at Woodbury. Ms. Roussel opined that 50 percent of students who apply are accepted into the IPAL program at Woodbury. Ms. Wahlroos-Ritter agreed that Ms. Roussel's estimation is likely more accurate.

Ms. Kwan suggested that firms who employ IPAL students should apply for grants to help cover the cost of hiring these students. She offered to raise the idea at her next Western Council of Architectural Registration Boards' Executive Committee meeting to stimulate thought at NCARB about how to support firms who participate in the IPAL program. Ms. Wahlroos-Ritter added that, perhaps, firms can think of their employment of IPAL students as a kind of philanthropic gift, which may then provide tax benefits. Mr. McGuinness supported Ms. Kwan's idea for firms to seek grant funding to finance IPAL students' employment.

Mr. Williams noted that California Polytechnic State University, San Luis Obispo is geographically isolated from architecture firms, but the University is considering developing an IPAL program. Ms. Wahlroos-Ritter noted that administrators from other universities have asked if their students can participate in IPAL at Woodbury for similar reasons. Mr. Pearman asked if employment under the Division of the State Architect (DSA) is qualifying AXP experience, to which Mr. Reinhardt answered that it would indeed be valid employment experience so long as the candidate works under an architect. Mr. Pearman suggested the Board encourage the DSA to accept as many IPAL students as they can.

Ms. Campos congratulated Ms. Wahlroos-Ritter and Woodbury on its positive student diversity metrics.

G. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT

Mr. Williams updated the Board on the recent activities of the REC and informed that the Committee last met on August 24, 2017, to work on its assigned 2017-2018 Strategic Plan objectives. Mr. Williams reported that:

1. The Board's architect consultants and staff are in the process of making necessary updates and revisions to the content of the *Building Official Information Guide*. The proposed changes are planned to be presented to the REC for review and discussion at its next meeting.
2. Staff presented the REC with proposed methods to further educate consumers on the standard of care, including:
 - a. Updating and expanding the content of the "Consumers" section of the Board's website;
 - b. Developing and sharing more consumer-oriented materials through the Board's social media accounts; and
 - c. Promoting the Architect Consultants' Education and Information Program.

The REC requested that staff further research the intent of the objective (to educate consumers on the standard of care), for the REC to develop its message to consumers and made a recommendation to the Board.

3. Staff provided the REC with statistics related to the Board's citation collection rate over the past five years, which is currently 54 percent (with collection rates for 78 percent for licensees and 41 percent for unlicensed individuals). Staff will reassess the effectiveness of the Board's citation collection methods after the collection agency contract is in place and the outstanding accounts have been pursued by the collection agency.
4. Staff shared its intention to create a checklist for new licensees containing: license renewal and coursework requirements; mailing address and business entity reporting requirements; common violations of the Architects Practice Act; and information regarding the Architect Consultants' Education and Information Program. The draft checklist is planned to be presented to the REC for review and discussion at its next meeting.

Mr. Williams also reported that the REC made a recommendation for the Board's consideration concerning its retention schedule for complaint and citation records. Alicia Hegje explained that every DCA board and bureau is required to maintain and review their Records Retention Schedule every three years. Ms. Hegje informed that the Board's current Schedule is due to expire in December 2018, which requires complaint and citation records to be retained in the Board's office for five years after they are closed, and then be confidentially destroyed. She further reported that, in the past, citations were retained in the Board's office and disclosed to the public for 100 years, which was amended in 2002 from 100 to 20 years; the Board then reduced the disclosure period for citations from 20 years to 5 years in 2005. Ms. Hegje explained that the current five-year retention period often prevents staff from being able to disclose citation information to consumers, and from establishing a pattern of past citations to be used in future disciplinary and enforcement actions. Therefore, to increase consumer protection, she asked the Board to consider REC's recommendation to increase the retention period for the citation records and related complaint files, and the public disclosure period for citations from 5 years to 10 years. Ms. Hegje also indicated that the proposed changes would allow for additional time to collect outstanding fines from

unlicensed individuals through a collection agency and the Franchise Tax Board “Intercept Program.”

Mr. Feng asked for background information about why, in 2005, the retention period was reduced from 20 years to 5 years. Vickie Mayer recalled that the REC believed a five-year retention period seemed to be more reasonable. However, Ms. Mayer explained that staff finds the five-year limitation to be problematic, especially when trying to establish a pattern, collecting an outstanding fine, or disclosing citation information to consumers (information may not be available if record is beyond five years). She reported that staff researched the retention schedules of other DCA boards and bureaus in similar professions, and some of them have 15-year retention periods. Ms. Mayer opined that 10 years would be enough time to fit the Board’s needs and address its concerns as staff provides the information to consumers. Mr. Feng stated that he supports the recommended retention period extension to 10 years, but would like to see additional reporting or evidence about the 10-year timeframe being in alignment with best practices. Mr. Pearman opined that 10 years seems reasonable when one considers that a judgement in California is valid for 10 years. Pasqual Gutierrez asked if there is any monetary impact to increasing the number of years of records retention, to which Mr. McCauley stated that any monetary impact would be minor and absorbable. Ms. Serrano asked if the records are in electronic or paper form, to which Mr. McCauley confirmed that the records are all in paper form.

Mark Christian agreed that the recommendation to increase the retention period to 10 years is reasonable for the reasons explained by staff. Mr. Christian stated that AIACC would have no issue with the increase. He asked the Board to consider keeping the retention policy for violations that do not involve the performance of services (e.g., continuing education [CE] requirements) at five years, if it could be divided in such a way. Mr. McCauley explained that CE violations may seem relatively minor, but, in most of cases, one has signed under penalty of perjury that they have completed their CE coursework requirements, yet have not. Mr. Williams reported that the REC discussed that very point and determined that because one certifies they have completed the required coursework, it is indicative of a character/personal misconduct issue, and is still a violation that should be enforced the same as any other violation. Ms. Campos asked for clarification in her understanding that enforcement records will be purged after five years under the current retention schedule. Ms. Hegje explained that if, six years ago there was a citation against someone, the Board would have no record of that citation if that person was reported to have engaged in that same or another violation today. Ms. Mayer also noted that, if a citation is currently reportable and one violates the Act again, if the old violation is purged while the new violation is being investigated before it goes to hearing, it cannot be added to the new complaint as an aggravating factor or pattern. She suggested reassessing the effectiveness of the 10-year retention period in the future.

- **Tian Feng moved to approve the REC’s recommendation to extend the Board’s retention period for citations and related complaint files, and the public disclosure period for citations from 5 years to 10 years.**

Ebony Lewis seconded the motion.

Tara Welch commented, in response to Mr. Christian’s query, that it is possible to divide violations under different retention time periods. Ms. Welch advised the Board not to consider that approach to avoid inadvertently encouraging violations of the Act based on retention time. She noted that it would also invite administrative problems for the Board that could threaten consumer protection. Mr. Christian reiterated his rationale for the request to exempt certain

violations from the proposed 10-year retention period; certain violations that have no direct harm to a member of the public or involvement with a client. Ms. Serrano conveyed her desire to protect consumers from all violations of the Act as much as possible.

Members Baker, Campos, Feng, Gutierrez, Kwan, Lewis, Pearman, Serrano, Williams and President McGuinness voted in favor of the motion. The motion passed 10-0.

H. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Brianna Miller updated the Board on the recent activities of the LATC, and informed that the Committee last met on July 13, 2017, in Sacramento.

Ms. Miller reminded the Board of its June 15, 2017, request for the LATC to develop a proposal for its initial and reciprocal licensure requirements to closely align with one another and, where possible, mirror those of the Board (which includes an experience-only pathway). She informed that, in response to the Board's request, staff prepared a draft Table of Equivalents to amend California Code of Regulations (CCR) section 2620 (Education and Training Credits) to align with that of the Board's, which was presented to the LATC at its July 13, 2017, meeting. Ms. Miller reported that the Committee subsequently approved the pathways noted on the draft Table of Equivalents, including "experience only," and established a subcommittee to determine the amount of experience credit appropriate for the proposed new pathways, and to determine what types of degrees related to landscape architecture should be considered. She also noted the proposed licensure pathways detailing those which were accepted compared to those which were accepted and referred to the subcommittee for further discussion. Ms. Miller informed that the subcommittee is scheduled to meet on October 3, 2017, and its recommendations will be considered by the LATC at its November meeting. She directed the Board's attention to a letter contained in the meeting packet, dated August 25, 2017, from the LATC Chair to the Board President that conveyed LATC's agreement with the Board regarding the importance of developing a comprehensive licensure proposal that supports diverse pathways into the profession. Ms. Miller also directed the Board's attention to historical information about CCR §§ 2620 and 2615 (Form of Examinations). Mr. Feng commented that he hopes the LATC Education/Experience Subcommittee is able to successfully meet its charge. Mr. Baker asked for clarity about the evaluation of a candidate's training and educational experience, to which Ms. Miller answered that the chart in Attachment 5 compares the LATC's maximum education credit allowed with the Board's maximum credit for similar experience (out of eight years).

Ms. Miller reminded the Board that it previously approved the LATC's *Disciplinary Guidelines* at its December 15, 2016, meeting. She reported that LATC staff recently reviewed and revised its *Disciplinary Guidelines* to mirror the Board's wherever possible, and directed the Board's attention to recommended highlighted revisions to the LATC's *Disciplinary Guidelines*.

Ms. Welch informed the Board that a few additional substantive items should first be reviewed as it considers whether to approve LATC's proposed revisions to the *Disciplinary Guidelines*. The Board was asked to consider the following additional changes to the proposed revisions:

- Change heading C under *II. General Considerations*, to "Cost Reimbursement" for purposes of consistency;
- Delete item 9 under heading *D Factors to be Considered*, as its inclusion is inappropriate and unnecessary;

- Change the word “statute” to “section” under heading *IV. Disciplinary Guidelines*;
- Delete “Plea of Nolo Contendere” in the heading of Section 5676 under *IV. Disciplinary Guidelines*;
- Add “renewal” before “fee” under *VI. Conditions of Probation*, item 5. *Maintain Active and Current License*, to specify the type of fees referenced in that text;
- Delete proposed sentence “Notice and opportunity to be heard are not required ...”, “or the matter is referred to the Attorney General’s office,” and paragraph beginning with “If respondent has not complied...,” under *VI. Conditions of Probation*, item 8. *Violation of Probation*; to avoid the appearance that due process may be denied.
- Change heading under *16. Cost Recovery* back to *Cost Reimbursement* to be consistent; and
- Change authority cited for Proposed Regulatory Language Title 16, CCR § 2680 from “Section 11425.50(e)” of Government Code to “Section 11400.20” as a more appropriate reference.

Mr. Pearman asked if the Board should review its *Disciplinary Guidelines* for similar changes, to which Ms. Welch replied that, indeed, it should review its *Disciplinary Guidelines* for similar changes if the Board approves the modifications to LATC’s *Guidelines*.

- **Nilza Serrano moved to approve the proposed regulatory language, as modified, direct the EO to take all steps necessary to initiate the formal rulemaking process, and authorize the EO to make any non-substantive changes to the rulemaking package, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.**

Robert Pearman seconded the motion.

Members Baker, Campos, Feng, Gutierrez, Kwan, Lewis, Pearman, Serrano, Williams and President McGuinness voted in favor of the motion. The motion passed 10-0.

Mr. Pearman noted that the LATC CSE pass-rate was approximately 70 percent two years ago but has recently dropped to 50 percent. He asked if this is something to be concerned about, to which Mr. McCauley explained that data regarding the candidate population is not immediately available and that he would follow-up with Mr. Pearman. Mr. Pearman also observed that the LATC has no public members, and asked if the Board should consider changing the Committee makeup for the greater public interest. Mr. McCauley indicated that the issue was raised and considered during a previous Sunset Review, and resulted in no change to the composition of the LATC membership due to opposition from the previous Administration.

I. REVIEW OF FUTURE BOARD MEETING DATES

The Board agreed to have staff survey member availability for Tuesday, Wednesday, and Thursday Board meetings in 2018.

J. CLOSED SESSION

The Board went into closed session to:

1. Consider action on the June 15, 2017, Closed Session Minutes; and
2. Deliberate on disciplinary matters.

K. RECONVENE OPEN SESSION

The Board reconvened open session.

L. ADJOURNMENT

The meeting adjourned at 2:16 p.m.