



MEETING MINUTES CALIFORNIA ARCHITECTS BOARD

September 16, 2022
Teleconference Meeting

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

On September 16, 2022, Board President Tian Feng called the meeting to order at 10 a.m. and Secretary Brett Gladstone called roll.

Board Members Present

Tian Feng, President
Charles "Sonny" Ward, Vice President
Malcolm "Brett" Gladstone, Secretary
Mitra Kanaani
Robert Pearman
Ronald Jones (left meeting at 12 p.m.)
Sylvia Kwan

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

Board Members Absent

Ebony Lewis
Nilza Serrano

Guests Present

Keelan P. Kaiser, California Baptist University
Mark Robinson, California Baptist University

Board Staff Present

Laura Zuniga, Executive Officer
Kimberly McDaniel, Regulations Manager
Jane Kreidler, Administration Manager
Marccus Reinhardt, Examinations & Licensing Manager
Alicia Kroeger, Enforcement Manager
Trish Rodriguez, LATC Manager
Drew Liston, Board Liaison
Michael Sganga, Lead Enforcement Analyst
Kourtney Nation, LATC

DCA Staff Present

Mary Kate Cruz Jones, Executive Office
Harmony DeFilippo, Budget Office
Karen Halbo, Board Counsel
Sarah Irani, SOLID Moderator
Michael Kanotz, Board Counsel
Matt Nishimine, Regulations/Budget Office
Cesar Victoria, Office of Public Affairs

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

President Feng welcomed Jon Wreschinsky, Landscape Architects Technical Committee (LATC) Chair.

Mr. Feng announced that Mark Christian, Director for Government Relations at American Institute of Architects California (AIACA), for nearly two decades is retiring from AIACA this year and this will be his last meeting in his current capacity. The Board is awarding a Certificate of Recognition, which reads:

Mark, for your outstanding contributions to the California Architects Board while working at AIA CA Director of Government Relations since 1999. You have been a tremendous advocate for the architect profession and an invaluable source of expertise to the Board and staff. Thank you for your exceptional performance.

Public Comment:

Mr. Christian shared that it has been an honor working with the Board during his 24 years of working at AIA. He has enjoyed working with the staff led by Steve Sands, Doug McCauley and Laura Zuniga. He said it has been a privilege and a learning experience.

Laura Zuniga said it has been a pleasure working with Mark throughout the years and thanked him for everything he’s done.

Sylvia Kwan also said that she appreciated his collaboration and will miss his counsel.

C. UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

Mary Kate Cruz Jones provided DCA’s Board and Bureau Relations (BBR) update:

- COVID-19 – Legislation has passed allowing more remote meetings, but Boards choosing to hold in-person meetings are to follow the local public health guidelines.
- On August 10, DCA held a brown bag meeting on social media best practices.

- DCA is updating its work force and succession plan to ensure a skilled and diverse workforce is represented.
- New DCA staff: Oliva Trejo has been appointed as DCA's Chief of the Office of Human Resources as of October 1. Taylor Schick was appointed Chief Fiscal Officer in July. The Governor recently appointed a new Director of Board and Bureau Relations, Melissa Gear. She will be joining DCA in October.
- Board members are required to complete Board Member Orientation Training (BMOT) within one year of appointment or reappointment. Executive Officers can also join.

Mr. Feng mentioned that he would like the new appointees to come to the next meeting either virtually or in person. Ms. Zuniga said we can invite them to the next Board meeting and Mary Kate will bring the request back to the Executive Office.

There were no comments from the public.

D. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

There were no comments from the public.

E. REVIEW AND POSSIBLE ACTION ON BOARD MEETING MINUTES

June 8, 2022 Board Meeting Minutes

Mr. Wreschinsky stated a correction needs to be made on Item H, page 6, second paragraph and last sentence: It should read, LATC voted to appoint Mr. Jon Wreschinsky to the CLARB work group. The work of the CLARB group hasn't commenced yet, and Mr. Wrechinsky will participate at that point in time.

Sylvia Kwan moved to approve the June 8, 2022 minutes as amended.

Ron Jones seconded the motion.

There were no comments from the public.

Members Feng, Gladstone, Kanaani, Jones, Kwan, Pearman and Ward voted in favor of the motion. Motion passed 7-0.

F. PRESENTATION ON THE CALIFORNIA BAPTIST UNIVERSITY, COLLEGE OF ARCHITECTURE

Mr. Feng introduced Keelan P. Kaiser, Program Director of Architecture and Professor of Architecture. Additionally, Dean Mark Robinson, Visual Art Design, joined the presentation.

Mr. Robinson shared that California Baptist University (CBU) expanded in 2012, which included an architecture program.

Mr. Kaiser mentioned that CBU was fully accredited in 2018 with the National Architectural Accrediting Board (NAAB), and currently has 250 students. CBU is in the top 25% of ARE pass rates in California and they are serious about teaching students to be practitioners and are ready to practice. CBU has an accelerated five-year program—one of the few in the country. The benefit for the students and family is the shorter timeframe and about 90% finish within that five-year timeframe. CBU has approximately 60 graduates in the workplace. Many students have won awards for their work and are hired by regional firms and in the Los Angeles market.

Mr. Pearman asked if students are able to get internships in Riverside County. Mr. Kaiser said most students obtain internships in Riverside County.

Ms. Kwan asked about the actual degree program and whether is a BA or M. Arch option? Mr. Kaiser said that most enter into the M.Arch (Masters in Architecture) program at entry (168 credit hour program for NAAB accreditation). At the fall semester of the senior year, students can opt out of the master's program and choose to graduate with a BA degree. This serves students who may want to attend graduate school elsewhere or take a break and work for a while. Ms. Kwan said the five-year approach is interesting and hopes her local firm office has some of their students.

Mr. Jones commended them for a fantastic presentation and applauded the program's efforts. He asked whether they have a professional practice curriculum and if a success rate is assigned to that curriculum. Mr. Kaiser said that part of the required curriculum includes two business classes—one on a small practice and one on project management. Additionally, they offer two professional practice courses. Ms. Kanaani thanked them for their presentation and asked if they are considering Integrated Paths to Licensure (IPAL) program. Mr. Kaiser said they have considered it, feel it's a great plan but doesn't have any plans to offer it. Mr. Ward commended them and said their scores are reflective of professional practice. Mr. Feng asked if the program accepts transfer students from community college. Mr. Kaiser said they do and probably bring in 15 out of 50 freshmen each year from community colleges. They also work with underrepresented student populations. Most students are from within 500 miles, but some are from throughout the United States, and a few are international students. Mr. Feng mentioned the five-year M.Arch program is a nice alternative path. Ms. Kanaani clarified that a five-year master's degree is not a new concept and started with Texas Tech 20 years ago. Four plus three happens when the applicant student is coming from another discipline and are switching majors.

Mr. Ward stated that he chairs the Professional Qualifications Committee, which is currently in the process of updating CAB's experience and credit for schools. This conversation goes back to the regional credit for an accredited four-year school in California. There are multiple pathways for licensure and for every year of accredited

architectural education for the California route, the four-year program would count for four years and this five-year program under the California regional path of licensure would only receive five years of credit. Mr. Ward clarified that California offers multiple pathways to licensure and doesn't only follow National Council of Architectural Registration Board (NCARB) because we accept licensure in a different way. President Feng than thanked Mr. Kaiser and Mr. Robinson to end the presentation

PUBLIC COMMENT:

Cary Bernstein commented about the University's Standards and Ethics. She believes that CBU's religious approach is in contradiction with today's social, architectural and business values.

G. BUDGET UPDATE FROM DCA BUDGET OFFICE-

Harmony De Filippo, Budget Analyst

Ms. DeFilippo started her update with an overview of FY 21-22 expenditure projections (pages 40-41). Over the last two years, expenditures have been impacted by the Business Modernization Project. During fiscal year 21/22, the Board is projected to spend approximately \$4,167,000, of which \$2,355,000 is expended on personal service costs and \$1,837,000 on operating expenses and equipment.

- The Board began FY 20/21 with a fund balance of \$5,706,000 and collected the following:
 - \$3,020,000 in revenue.
 - \$312,000 from initial license fees
 - \$2,000,611 from license renewals
 - \$97,000 was collected from issuance of citations, fines, delinquent fees and other revenue.
- Projected Revenues for the same time period are \$4,000,362; consistent with the high/low trend of renewal years.
 - \$366,000 projected initial license fees
 - \$3,000,904 from renewal fees
 - \$92,000 from the issuance of citations, fines, delinquent fees and other revenue
- Projected Expenditures for the same time period are \$4,157,000, which include reimbursements to the Board.
 - Outgoing expenditures are projected to grow at a factor of 3%
 - The fund condition shows the Board fully expending its appropriation ongoing. This projection includes Business Modernization costs. She stated that to the extent the Board does not fully expend its appropriation, any savings remain in the Board fund and would help support the reserve balance.

- Ms. DeFilippo added that future legislation or other events could require the Board to request additional resources through the annual budget process, increasing cost pressures on the fund.
- The fund balance reserve is the amount of funds remaining at the end of any given fiscal year. The Board has a statutory fund balance limit of 24 months, but typically three-to-six months is considered sufficient.
- Ms. DeFilippo added that a structural imbalance occurs when projected revenues are less than the anticipated expenditures. The Board's fund balance reserve is currently declining due to a structural imbalance. This is due to increased expenditures outweighing the revenue. For FY 21/22 the imbalance is projected at approximately \$316,000, and it's anticipated to increase and accelerate in the 22/23 budget year, which will cause the fund to become insolvent in 24/25. Ms. DeFilippo previously noted the Board has had a historical reversion of at least \$450,000; however, it is anticipated that costs associated with Business Modernization will increase. Ms. DeFilippo stated that because current law requires the fund to remain viable and solvent the Board is required to rectify these fundamental structural issues. The Board will need to take action to reduce or eliminate the structural imbalance to remain solvent by 1) reduce spending, 2) increase revenue, or 3) a combination of both 1) and 2). The Board has already begun taking action by voting to approve increasing the initial and renewal license fees from \$300 to \$400 through the regulatory process. This action is projected to increase revenues by approximately \$1.1 million per year. While we have been aware of the historical, high, low variants. Ms. DeFilippo mentioned that the DCA budget office will be conducting a fee study.

President Feng asked whether other boards have similar budgetary issues. Ms. DeFilippo responded that DCA monitors all boards and bureaus and watch for structural imbalances, and that other boards and bureaus face similar situations.

Matt Nishimine, DCA Regulations and Budget Office, stated that he would be talking about the fiduciary responsibility of Board members and Board management. Mr. Nishimine noted that LATC was also experiencing a structural imbalance and would be included in his presentation. He noted that LATC has reached its statutory caps and cannot increase fees without a legislative change.

Mr. Nishimine stated that his role is to help assist the Board and LATC to navigate these financial matters and priorities. Mr. Nishimine presented a past dated memo from another Board addressing the same budget issues. Mr. Nishimine stated that the purpose of this agenda item is to inform the Board members about their fiduciary duties and responsibilities under California law for the fiscal management and administration of the Board's fund. He continued that Government Code section 13324 says that every person who incurs any expenditure in excess of the allotments, or other provisions of the fiscal year budget, as approved by the department is liable both personally, and on his official bond for the amount of the

excess expenditures. He added, it's a very serious responsibility of Board members that makes them technically liable for these over expenditures. Mr. Nishimine then noted that the regulatory fee increases that began last spring are moving through the pipeline and will bring in over \$1 million per year, which will stabilize the budget in the near future. However, if the Board fails to take action, CAB could become insolvent by FY 25/26. The current regulatory fee proposal will increase the fees to their statutory caps. The Board cannot increase fees further without legislative change. Mr. Nishimine then gave an overview of the legislative process to making a fee change. Adding that it takes time, thought and effort, Mr. Nishimine stated that a fee study analysis has commenced through cooperation between the Board's EO, Management team and his office. A brief overview of how the study would be performed was presented. Both studies should be completed by the December 9 Board meeting.

President Feng asked if the Business Modernization implementation was taken into account for this report. Ms. DeFilippo said it was. Mr. Feng asked if other Boards were paying in the same way. Ms. DeFilippo explained the shared cost of the project and its future maintenance costs. Mr. Feng inquired of any other methods of reducing cost associated with the maintenance part of the Business Modernization plan. It was explained that the current method is the most cost effective for both DCA and CAB.

Ms. Kwan asked if we were able to stabilize the odd/even year income discrepancy through a process change, would this make the fund more stable. Mr. Nishimine explained changing the process would be a huge undertaking.

Mr. Pearman asked if the Board could receive money from the State's General Fund since it has such a large surplus. Mr. Nishimine said the Business Modernization project is a recent undertaking and CAB/LATC and several other programs joined to reduce costs which are more efficient and reasonable than others. With regard to receiving general fund dollars, most DCA programs do not use general fund dollars, but it is your right to seek the appropriation from the governor. DCA does not solicit general fund dollars, but the Board can work through the legislature. He cautioned that when you receive general fund dollars, it's not a blank check. You are semiautonomous as a Board and once you start receiving general fund dollars, you are part of the administration and could be subject to less autonomy. Ms. Zuniga recognized Mr. Pearman's statement regarding Business Modernization because originally the whole department was involved in the Breeze program. The likelihood of getting general fund monies is not great and the department has approximately 40 boards and bureaus and we'd have to explain why we deserve it when others aren't receiving it. We are supported by license fees because it is the cost the licensees pay for having the Board's structure.

Mr. Pearman said that if licensees protest, the Board might think we have an obligation to ask for the money and the governor's office has taken money in the past. The notion that we would relinquish our independence doesn't make sense

because we are in this situation because of imposed fees by DCA. Ms. Zuniga mentioned the state borrowed money in the past and repaid it.

Mr. Jones mentioned that Mr. Nishimine's office and CAB staff are working together in seeking a solution and asked when the Board gets involved in the process. Ms. Zuniga responded that more information and options will be presented at the December 9 Board meeting and reiterated the Board's fiduciary responsibility. Mr. Jones noted that LATC is having the exact same issue and this conversation parallels the one from LATC's last meeting. He wanted clarification regarding LATC's budget. Ms. Zuniga shared that LATC will discuss its budget and the Board will oversee and vote on any LATC business. Mr. Wreschinsky commented that LATC is extremely concerned about this issue and anticipates having to raise fees to the point where they may become prohibitive in order to cover expenses. He said they are eagerly awaiting the presentation at LATC's November meeting.

Mr. Ward commented that this presentation has surprised him because he was never told of this fiduciary responsibility when he was appointed. Ms. Zuniga said the presentation wasn't meant to be threatening and believes it's important that Board members be aware. She concurred that this is not covered in BMOT or when Board members are appointed. He ensured that staff will do everything possible to reduce our costs. Mr. Ward expressed his concerns about the future of the Board. He also noted the staff is not frivolous or wasteful. The idea that the protection of consumers is on the back of the people providing the service seems ironic.

Ms. Kwan said we have had discussions about further combining LATC and CAB (same meetings, etc.), and asked if further consolidation would result in savings. Ms. Zuniga replied that savings would result because of duplication, and could result in staff reductions, which would yield significant savings. Ms. Kwan stated it makes a lot of sense. Mr. Feng expressed his desire to make this issue important and said that there will be multiple discussions at the December meeting in search of a solution.

There were no comments from the public.

H. UPDATE AND POSSIBLE ACTION ON LEGISLATION

Ms. Zuniga provided the update.

1. SB 1214 (Jones). This bill had a provision sponsored by AIACA that requires local planning agencies ensure architectural drawings are available online. The Governor signed the bill, and we will complete some outreach.

Brett Gladstone mentioned that he has represented many homeowners who can't get their plans because they need the permission of the architect who prepared the plans. He said the law seems to address the frustration in getting plans for their own properties, and says architects are allowed to prepare some kind of schematic or condensed version of the plans and provide to members of the public. He asked if he was correct and what was the reasoning? Ms. Zuniga said

the bill is a little different than what Mr. Gladstone is questioning, but we can look at it and report back. Mr. Gladstone is particularly interested in the origin of the law. Mr. Feng said that Mark Christian and Ron Jones may have additional information.

Mr. Christian said that AIACA sponsored the bill and stated there are two different things—one is seeking entitlements through the planning department and the second is seeking a building permit through the building department. The building department has the construction documents for homeowners to be able to get modifications. This bill does not address those documents—it deals with the architectural drawings to planning departments. Mr. Gladstone asked for an explanation as to the intent of the law. Was it that the proprietary interest of the architect be protected or does it also involve consumer protection? Mr. Christian said that local planning departments have a common practice that architectural drawings are submitted to them online. The act of them doing that is a violation of federal law; therefore, it is a violation of architects' intellectual property rights. The act of posting it online is a copyright violation and can facilitate someone to download online. We are trying to help local planning departments to do their job and allow their constituencies participation in the process and protect the intellectual property rights. The bill says you cannot post online in a format that can be copied, but it does create other documents that can be posted online. We are trying to help local governments not violate copyright law and protect intellectual property of architects.

2. SB 1237 by Senator Newman is still before the governor and makes a clarification of the definition of active duty and when members of the military are eligible for a waiver of the renewal process.
3. SB 1443 by Senator Roth extends the Board's sunset date for one year. The sunset review report must be prepared and submitted in January 2024 and hearings will be in the spring of 2024.

Mr. Jones asked if the sunset report would be the appropriate document to address the relationship between the Board and LATC. Ms. Zuniga said it would be the opportunity to explain and address changes.

There was no public comment.

I. UPDATE AND DISCUSS NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Ms. Zuniga shared that NCARB will now be providing the Board with upcoming meeting notifications six months in advance so we can plan travel, and they would like us to notify them in advance of members who will attend meetings. The next regional meeting is in Hawaii in March 2023 and the annual meeting is in Florida. and there are virtual options available. Ms. Kwan added that the Honolulu meeting has been finalized. Ms. Zuniga said we'll have to get the trip approved. NCARB

funds the EO, a public member and two other Board members. They also announced that a newly appointed Board member could be added.

There was no public comment.

J. UPDATE ON COMMITTEES

1. Landscape Architects Technical Committee

LATC Manager Trish Rodriguez began with a recap of LATC's August 2 meeting. She said LATC is experiencing a structural funding imbalance and looks forward to working with DCA's Budget Office to seek solutions. Ms. Rodriguez said the UCLA extension certificate program is adapting to provide a distance learning option where students would participate in-person during designated weekends during the enrollment period and participate remotely the rest of the time. She shared that the upcoming CLARB meeting in Omaha, Nebraska will be attended by Ms. Zuniga, Mr. Wreschinsky and herself. Mr. Wreschinsky has been reappointed to LATC through June 2026.

Mr. Rodriguez asked the Board to approve LATCs 2022-2024 Strategic Plan which was approved by the Committee at the August meeting. The plan includes implementation of a new automated licensing and enforcement system, conducting a linkage study between the Landscape Architects Registration Examination (LARE) and the California Supplemental Examination, need for continuing education, and preparation for the Sunset Review. Ms. Rodriguez pointed out a specific objective that was brought up earlier today. There is an objective to research the economic and consumer protection impact of re-establishing the Landscape Architects Board or establishing a merged board for CAB to provide better representation and strengthening the distinction between the two entities and increase efficiencies.

The Board is asked to approve the 2022-2024 Strategic Plan.

Ron Jones made a motion to approve the 2020-2024 Strategic Plan.

Robert Pearman seconded the motion

There was no public comment.

Members Feng, Gladstone, Kanaani, Jones, Kwan, Pearman and Ward voted in favor of the motion. Motion passed 7-0.

Ms. Rodriguez stated that CLARB recently conducted a linkage study of the LARE and is transitioning to a new exam format in December 2023. The formats are identified in regulations sections, 2614, examination, transition plan and this allows us to give credit to those who have taken previous sections appropriately applying it to the new structure. Ms. Rodriguez directed the Board to information

in the packet and asked for approval of the proposed regulatory text for section 2614, direct staff to submit the text to the director of the Department of Consumer Affairs, and the Business Consumer Services and Housing Agency for review and authorize the EO to take all steps necessary to initiate the rulemaking process and make any non- substantive changes to the package. If no adverse comments received during the 45-day comment, period, and no hearing is requested, authorized the executive officer to adopt the proposed regulations at section 2614 as originally noticed.

Tian Feng made a motion to approve the rulemaking language on the Memo under Action Requested.

Robert Pearman seconded the motion.

There was no public comment.

Members Feng, Gladstone, Kanaani, Kwan, Jones, Pearman and Ward voted in favor of the motion. Motion passed 7-0.

2. Communications Committee

Chair Kanaani announced the Communications Committee has a new member-- former EO of CAB, Doug McCauley, who is currently the Commissioner of the Department of Real Estate. She stated the committee had a productive meeting discussing Strategic Plan goals and will focus on goals that can be completed this year. She mentioned that the goal to publicize architects from diverse backgrounds can only be achieved with input.

Ms. Kwan asked about communication between the Board and the Coalition of Community College Architecture Programs (CCCAP). Ms. Kanaani said she is aware of CCCAP, and it is working on transforming community colleges into four-year colleges. Ms. Kwan said that CCCAP will be presenting at NCARB next week and will be happy to provide a report at the next Board meeting. Mr. Feng affirmed that it should be on the agenda. Mr. Gladstone mentioned the committee is doing a tremendous job to accomplish things that have been discussed in the past.

There was no public comment.

The Board took a break and Secretary Gladstone re-established a quorum with Members Feng, Ward, Gladstone, Kanaani, Kwan, and Pearman in attendance.

K. EXECUTIVE OFFICER'S REPORT

- Business Modernization's first release should occur in December 2022 and will close out in November 2023.
- We are keeping the Assistant EO position open for salary savings and we have one vacancy in Licensing

- Our new video “Licensing 101” has been completed
- We have posted NCARBs free practice exams available to candidates and will highlight again
- Ms. Zuniga recognized Kim McDaniel and Karen Halbo for their hard work on CAB’s regulations
- Ms. Zuniga mentioned pass rates for the ARE, LARE and both CSE exams and directed the Board’s attention to the enforcement actions.

There was no public comment.

L. DISCUSS AND POSSIBLE ACTION ON MODIFIED PROPOSED REGULATORY TEXT FOR CCR TITLE 16, DIVISION 2, ARTICLE 10, SECTION 109.1 (RETIRED LICENSE APPLICATION) AND AMENDMENT TO SECTION 144 AND PROPOSED RESPONSES TO PUBLIC COMMENTS

Kimberly McDaniel, Regulations Manager, shared the status of the retired license regulation. The 45-day public comment period closed July 19 and seven comments were received. Three were directed at the rulemaking; one expressed concern and three were positive comments. One commentor questioned why licensees need to certify under penalty of perjury and questioned other language that we feel the BPC addresses. There were several comments about the short time period when the Board issued a retired license for \$300 and individuals asked for a refund because we are charging \$40 now. LAD researched the issue and found CAB is unable to issue refunds. We are not making any changes to the proposed regulatory text and asking for your approval to finish this proposed rulemaking package.

Sonny Ward made a motion that the Board, upon reviewing the written public comments received during the 45-day comment period, adopt the proposed responses to the written comments.

Tian Feng seconded the motion.

Public Comment:

Mr. Christian, AIACA, supports the regulation and thanks the Board and staff for the excellent work.

Members Feng, Gladstone, Kanaani, Kwan, Pearman and Ward voted in favor of the motion. Motion passed 6-0.

M. DISCUSS AND POSSIBLE ACTION ON MODIFIED PROPOSED REGULATORY TEXT FOR CCR TITLE 16, DIVISION 2, ARTICLE 8, SECTION 165 (DISABILITY ACCESS CONTINUEING EDUCATION)

Karen Halbo spoke about the disability access continuing education (CE) comments and staff felt there were reasonable comments; therefore, the text was changed for clarity. Ms. Halbo stated the original language seemed as if a person who attended a live presentation wouldn’t get a certificate. Since there are two CE packages in the

works, the language now aligns with the zero net carbon design regulatory package. The Board is considering the proposed responses to comments and the second modified text and we request the Board to vote to accept the proposed responses by staff and the second modified text. This package was originally published on November 12, 2021 and the notice lasts for one year. We would send the 15-day modification period right away and move forward with completing the package. If there are comments, we may have a problem making the one-year time period. It's a limited change that came from a licensee's complaint and has been clarified. Mr. Feng said it has met the intent but would like to hear from our members who have a legal background. Mr. Pearman stated he felt the Board was responsive and Mr. Gladstone said the comments were good and staff addressed them.

Mr. Feng made a motion to approve the proposed modified text amending 16 CCR section 165 for a 15-day public comment period and if no adverse comments are received during the 15-day public comment period, delegate to the EO the authority to adopt the proposed modified text and also designate to the EO the authority to make any technical or non-substantive changes to the proposed modified text that may be required in completing the rulemaking file and adopting the proposed regulatory changes.

Robert Pearman seconded the motion.

Public Comment:

Mark Christian stated that AIACA supports the modified text and the amendment and thanked staff for modifying the text for clarity.

Members Feng, Gladstone, Kanaani, Kwan, Pearman and Ward voted in favor of the motion. Motion passed 6-0.

Mr. Feng made a motion for the Board to consider the public comments received during the 15-day public comment period and adopt the responses.

Ms. Kwan seconded the motion.

There were no comments from the public.

Members Feng, Gladstone, Kanaani, Kwan, Pearman and Ward voted in favor of the motion. Motion passed 6-0.

N. DISCUSS AND POSSIBLE ACTION ON MODIFIED PROPOSED REGULATORY TEXT FOR CCR TITLE 16, DIVISION 2, ARTICLE 5, SECTION 109 (FILING OF APPLICATIONS)

This item will be discussed at a future meeting.

O. DISCUSS AND POSSIBLE ACTION ON PROPOSED MODIFIED REGULATORY TEXT FOR CCR TITLE 16, DIVISION 2, ARTICLE 5, SECTION 135 (PUBLIC PRESENTMENTS AND ADVERTISING REQUIREMENTS) AND PROPOSED RESPONSES TO PUBLIC COMMENTS

Mr. Feng stated this was heavily discussed, the requirement for architects to put their license number in advertisements. Ms. Halbo stated that this proposed regulation was published at the end of December 2021 so we are in the one-year notice period. The Board would have to start over if this isn't completed by the end of December. She continued, that there were a lot of comments, and the Board needs to decide what to do. Staff had originally prepared responses to comments and tried to list the proposed alternatives. This is simply adding the license number to presentments and advertisements, which is the practice of other DCA licensing boards. Clarifying modifications were made and the Board needs to decide whether to move forward. Ms. Halbo said that many comments were against the regulation.

Mr. Feng said the regulation was developed with good intent for consumer protection and other Boards have the practice, and LATC adopted a similar regulation. For consistency of policymaking, the Board thought it was logical to have a similar regulation for architects. In the span of one year, there has been discussion and tremendous feedback. My overall observation is we have not seen any enforcement cases where consumers have been harmed because the license number of an architect was not in the presentment. Ms. Zuniga stated that for clarification, cases regarding advertising--which are the majority that we received--are handled with a letter of advisement.

Ms. Kwan shared that one of the comments was from a contractor and an architect who is accustomed to putting his contractor's license number on presentments but is perplexed because there's three to four licensed architects in the firm and wasn't sure which license should be put on the advertisement. The firms with several architects are in a bind as to what to do and most of the communication I read from architects say that it's CAB's responsibility and the information is on the website. Based on that we should decide on putting away the issue once and for all.

Mr. Pearman mentioned the staff did a good job in responding to the comments, consumer protection is our goal, and we have to strike a balance. The burden on the architect community is not something that overweighs the consumer protection and other occupations do it--even our LATC. I like the changes the staff made in modifying the language to make it clear. While there may be things to be worked out, they can be accomplished through enforcement procedures. It's childish to worry about whose license to use and not adopt it because of that. We know there's a lot of unlicensed people posing as architects. We have dealt with this long enough; let's join the others who have found this viable and not destructive to consumer protection.

Mr. Ward stated that his feelings parallel the evolution. He shared that when he was a new Board member, LATC passed their regulation, and he couldn't formulate how

he felt about it at the time. He believes it will harm law abiding architects and concluded that he would vote no or to table this.

Public Comment:

Mark Christian said AIACA still questions how this will protect the consumer. It does not stop unlicensed people from advertising on Craigslist, but it will impose a new requirement on licensed architects and subject them to disciplinary action. The law already includes architects to include their number when contracting. Most people who hire architects are probably sophisticated consumers. It's important to recognize the difference between contractors and architects. CSLB often has stings with law enforcement officers because there is a harm to consumers. There's no similar environment for architects. CAB has never held a sting operation with law enforcement to arrest architects. For those reasons we ask that it not proceed.

Janis Kent acknowledged the language was changed and more specific, but the issue is the same and shouldn't be applicable to architects. We put our licenses on contracts but doesn't belong on other things such as my website, etc. We are similar to other professionals such as attorneys and CPAs. It doesn't feel correct, and we are not in the same category as a contractor. Ms. Kent concluded that she would say this is not appropriate. We put our license number where it is necessary.

Mr. Feng shared that we should vote to table this indefinitely, until we see a reason that having this regulation will protect the consumer. Ms. Zuniga said that if it is tabled, it's dead and we would need to restart it. We need action one way or the other. Mr. Feng said because of timing, the regulation would have to restart.

Mr. Gladstone shared that he agrees with Mr. Pearman. Gladstone continued that it's ironic that the two lawyers on the Board seem to feel the same way and the architects feel differently. Lawyers, unlike contractors and architects, don't have public safety as part of their practice. At the last meeting, he suggested compromises with the intent that the public most likely to be taken advantage of are homeowners. One compromise proposal involved requiring license numbers on social media outreach because consumers are the most vulnerable. Mr. Gladstone continued by saying at this point it may not be a good use of our Board time to continue to debate. Any compromise wouldn't be drafted and approved in time for our last meeting of the year, but he pointed out that he shares Robert Pearman's thoughts.

Mr. Pearman asked if we move to the December meeting will we have time? Ms. Halbo responded that we wouldn't have time to circulate the modified text and submit the documents before December 31. Ms. Zuniga said the Board can direct staff to work on something else but this was a strategic plan objective regarding social media, and this was already an alternative. Mr. Pearman said he shares Brett Gladstone's observation that the public members are for this and architects are opposed. He also stated, I would want to make a motion to be on record that I made the motion because I believe it's a mistake.

Mr. Ward reminded everyone that CAB has jurisdiction over licensed architects only and would only affect them. Mr. Feng said we are a consumer protection Board, and the need is not there, but we want to align with other professions. I hope we have some objectivity to judge that we don't have the evidence, yet the need is there. The point that Robert Pearman summarize touches me because in the physical presence today, architect members outnumber public members. Two public members are absent and we have an obligation to think about that aspect.

Mr. Ward said this agenda item is not the only way that California architects can protect consumers. The defeat does not stop the Board from protecting consumers.

Ms. Kanaani stated that she has mixed feelings and this is not protection of consumers, but is about convenience. Kanaani continued, we are putting our license number on a marketing document, this is not protecting the consumer.

Mr. Gladstone shared that as a real estate lawyer he deals with a lot of people who use contractors and some of his best friends are contractors. His clients are aware that a licensed contractor is required to list a license number. He said it has always been his hope that over time it would become commonplace for consumers to look for an architect's license number. This is not about handing out tickets and creating another reason to discipline architects. I believe it protects architects who are licensed.

Mr. Feng made a motion to table this motion.

Sonny Ward seconded the motion.

Public Comment:

Janis Kent agrees, doesn't believe this will give consumers the protection they need, and it punishes architects.

Members Feng, Ward, Kanaani, Kwan voted yes; Members Gladstone and Pearman voted no. There are 4 yes votes and 2 no votes.

Michael Kanotz said the motion fails because BPC Section 5524 requires the concurrence of five members.

Mr. Pearman said we could vote at the next meeting and try to get it through.
Mr. Feng asked Ms. Zuniga to place it on the December agenda.

P. REVIEW OF FUTURE BOARD MEETING DATES

Ms. Zuniga mentioned that LATC is meeting on November 4 and the next Board meeting is December 9 which will need to be all in-person or a hybrid meeting format, a location will be at DCA and another office. There's no IT support from DCA if we meet at another location. She will survey members and ask which format works best.

Mr. Gladstone mentioned that a meeting hasn't been held in the bay area for years now, and maybe we can have a meeting at a university. Ms. Zuniga said we can look at different options.

Q. Closed Session

No closed session

R. Adjournment

The meeting was adjourned at 2:13 p.m.