

MINUTES OF THE NEVADA STATE BOARD OF ARCHITECTURE, INTERIOR DESIGN AND RESIDENTIAL DESIGN

September 1, 2011

Board Conference Room, 2080 E. Flamingo Rd., Suite 120, Las Vegas, NV 89119

Thursday, September 1, 2011

Acting Chairman Greg Erny called the meeting to order at 12:09 p.m.

Roll Call: Greg Erny, Sean Tanner, JoAnn Oppenheimer, and John Klai. Larry Henry and Kimberly Ciesynski were in attendance via teleconference. Larry Tindall was excused. George Garlock and Bill Snyder recused themselves.

Also in attendance: Gina Spaulding, Executive Director; Louis Ling, Board Prosecutor (via teleconference); Sophia Long, Deputy Attorney General and Board Counsel; Laura Bach, Investigator; Monica Harrison, Tammy Bond, Staff; and Dennis Rusk, Respondent.

AGENDA ITEM 1 **Penalty Phase of the Formal Contested Administrative Hearing – In the matter of Dennis Eugene Rusk, Case Numbers 08-080R and 11-019R, consideration and adjudication of the Complaint alleging violations of NRS 623.270.1(c,d,f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1).**

Erny asked for a review of the motions that were made at the August 16, 2011 formal hearing. Spaulding referred the board to the complaint and reported that the board found Mr. Rusk guilty on both counts based on the testimony and documentation presented on August 16th.

Erny explained that today's meeting was to determine the penalties and disciplinary actions the board should impose on Rusk with respect to both guilty counts. He opened the floor for discussion and/or a motion regarding Case No. 08-080R (Verge Project).

Board members had a conversation regarding possible revocation of Rusk's architectural license. Board members concurred that the violations did not rise to the level that would require revocation of his license.

There was a discussion among the board members about the suggested five International Code Council (ICC) Course recommendations; how the proposed classes are administered and the timeline to be given to Rusk to complete them. Board members then discussed possible suspension of license until completion of the courses versus allowing him to complete the courses while on probation. They also discussed the option of requiring a peer reviewer for all complex projects that Mr. Rusk does.

Rusk told the board that suspending his license would be as detrimental to him as revoking his license because he could not work during the suspension. Board members agreed with Rusk on this matter. Tanner suggested the board give Rusk a deadline for course completion and explained that suspension would be imposed if that deadline is not met.

Regarding the required ICC classes, board and staff discussed having Rusk report on his progress at the January 18, 2012 board meeting with the requirement that he have all courses completed when he appears at the March 21, 2012 board meeting. Henry agreed with the board consensus to not suspend Rusk's license during the timeframe allotted for completion of the required courses.

Board members discussed the following proposed sanctions:

- Two-year probation versus three-year probation.
- Board selection of a peer reviewer at Mr. Rusk's expense.
- The option of a project mentor when a project is outside the level of Mr. Rusk's historical practice. Spaulding further clarified that a peer reviewer would be an independent party, not a board member and paid at Rusk's expense.

Rusk asked the board if the peer reviewer conditions applied to out of country architectural projects. Erny clarified that today's proceedings only apply to architectural work within the state of Nevada.

Board went on to discuss the matter of imposed board costs, fines and the payment schedule for Count One.

Mr. Rusk explained that his current financial situation is dire.

Motion: Henry moved that Rusk be assessed the penalty of completing the following five International Code Council (ICC) courses: B-I, B-II, 21, 66 and 67 as soon as possible. He is to personally appear at the January 18, 2012 board meeting to update the board on his efforts to comply with the required coursework. If Mr. Rusk presents probable cause why he needs additional time beyond March 12, 2012, the board may grant him additional time based upon Mr. Rusk's presentation and reasons stated on January 18, 2012. If written evidence of satisfactory completion of the coursework is not submitted to the board by March 21, 2012 or by the extended deadline set by the board, then Mr. Rusk's registration shall be suspended for a period of six months and will remain suspended until all ordered coursework is satisfactorily completed. These five courses will not count towards meeting the Nevada continuing education requirement for annual license renewal.

A three-year probationary period will be imposed in which board staff will review all current and upcoming contracts to determine the complexity of each project either before he executes a contract or within five business days of executing the contract. Complex projects will be reviewed by a peer reviewer assigned to Mr. Rusk at his expense. During the probationary period, the peer reviewer will consult with and advise Mr. Rusk to assure that Mr. Rusk's work is done safely, competently, and professionally, including ensuring the work complies with all statutes, regulations, ordinances and codes regarding the practice of architecture in the state of Nevada.

Mr. Rusk will be imposed a fine of \$10,000 on the first project and must pay all board fees and costs of the investigation in the prosecution of this matter. Board costs will be paid first and then the fine amounts shall be paid. A payment schedule shall be negotiated between board staff and Mr. Rusk. License renewal is dependent upon timely payment of fees and fines and upon compliance with all terms of this order. The probationary period will not terminate until all payments have been made in full. Motion seconded by Tanner.

Vote: All in favor. Motion passes.

Erny opened the floor for discussion and/or a motion regarding Case No. 11-019R (Cutting Residence). Henry called for a discussion regarding an appropriate fine for this case. Board members discussed a proposed range that they deemed appropriate and decided that a \$3,000 fine was appropriate.

Motion: Henry moved that Rusk be assessed a \$3,000 fine and reimbursement for the board's fees and costs of investigation and prosecution of this matter, and the same payment terms as those previously set for Case Number 08-080R. Motion seconded by Klai.

Vote: All in favor. Motion passes.

AGENDA ITEM 2 **Public comment**

There was no public comment.

Acting Chairman Erny adjourned the meeting at 1:38 p.m.

Larry Henry, Secretary/Treasurer

Gina Spaulding, Executive Director