

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

January 23, 2013

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

Wednesday, January 23, 2013

Chairman Greg Erny called the meeting to order at 8:35 a.m.

Roll Call: Greg Erny, Chairman; George Garlock, acting Secretary/Treasurer; Kimberly Ciesynski, Jim Mickey, JoAnn Oppenheimer, William Snyder, Sean Tanner, and Larry Tindall. John Klai was absent.

Also in attendance: Gina Spaulding, Executive Director; Louis Ling, Legal Counsel; Betty Ruark, Chief Investigator; Laura Bach, Monica Harrison, and Tammy Bond, staff.

AGENDA ITEM 1 Public Comment

There was no public comment.

AGENDA ITEM 2 Approval of Consent Agenda

Consent agenda included the following:

- A. Approval of Agenda
- B. Approval of Minutes: October 24, 2012
- C. Secretary/Treasurer Report
 - 1. Nevada Architect, Registered Interior Designer and Residential Designer Licensing Statistics
 - 2. Wells Fargo Bank Statements
 - 3. December 31, 2012 QR Statement
- D. Ratification of Reciprocal Licenses (see attached list)
- E. Firm Name Approval Requests
 - 1. Integrated Design & Architecture, PC
 - 2. gH Architecture
 - 3. Mark Sanders Architect, Inc.
 - 4. DLR Group Architecture inc.
- F. Firm Registration Approval Requests
 - 1. Altoon Partners LLP
 - 2. ONESOURCE DESIGN GROUP, LLC
 - 3. DiG Design Group

Architects: Registration by reciprocity

6886	Ronald G. Brissette	6895	Vince G. Chupka
6887	Andrew N. Hinson	6896	Bruce C. Knepper
6888	Donald C. Miller	6897	Christopher Rodriguez
6889	Anthony M. Reiter	6898	Jeffrey L. Carlile
6890	Matthew L. Rossetti	6899	John A. Day
6891	James E. Strack	6900	Kenneth A. Karkau
6892	Sarah N. Ellis	6901	Thomas J. Micklich
6893	Aaron W. Lester	6902	Andrew J. Dunbar
6894	James D. Campbell	6903	David E. Schmitz

Board members requested agenda item 2E-2 and 2E-4 be pulled from the consent agenda.

Motion: Garlock moved to approve the consent agenda, items 1 through 2E-1, 2E-3, and 2F-1 through 2F-3. Motion seconded by Snyder.

Vote: All in favor. Motion passes.

AGENDA ITEM 2E-2 Firm name approval request: gH Architecture

Tindall and other board members expressed concern with the application briefly describing the nature of their business as architectural design and construction. Spaulding suggested that a reminder be included in the firm's letter of approval that if the nature of the business includes construction they must be duly registered under NRS 624-Contractors Board. Board members agreed that this would suffice.

Motion: Tindall moved to approve the firm name request for "gH Architecture." Motion seconded by Garlock.

Vote: All in favor. Motion passes.

AGENDA ITEM 2E-4 Firm name approval request: DLR Group Architecture inc.

Garlock asked if the three existing firm names listed on the proposed application would become inactive upon approval of "DLR Group Architecture inc." Spaulding verified that upon approval, the other firm names, "DLR Group KKE Architecture inc.", "DLR Group Architects & Engineers inc.", and "Pawelko & Pearsall, Ltd" will become inactive and this group of individuals will now have one active firm.

Motion: Garlock moved to approve the firm name request for "DLR Group Architecture inc." Motion seconded by Tindall.

Vote: All in favor. Motion passes.

AGENDA ITEM 7B Discussion and possible decision regarding closure of enforcement cases

Ruark recommended the following cases, which were investigated, for closure without disciplinary action:

11-023N	12-011N	12-012N	12-020R	12-021N
12-036N	12-041N	12-044N	12-047N	12-048N
12-050N	12-051N	13-004R	13-007N	13-017N
13-019N	13-020N	13-021N		

Motion: Tindall moved to close the above-referenced cases. Motion seconded by Snyder.

Vote: Garlock recused himself. All others in favor. Motion passes.

AGENDA ITEM 7C Enforcement Report

There was no enforcement report.

AGENDA ITEM 8A Joint Board/AIA Continuing Education Committee Update

Spaulding told the board that the committee will be meeting at the end of the month and an update will be forthcoming regarding further details on the joint board/AIA continuing education sessions scheduled for 2013.

AGENDA ITEM 8B RID Binder Application Committee Update

Spaulding said the RID binder application committee met via teleconference on December 4th and discussed options regarding amending the 54-page registered interior design binder application. The committee is considering adopting some of NCIDQ's recommended changes to the process. The committee will have further information for the board at a future meeting.

AGENDA ITEM 8C Blue Book Committee Update

Spaulding said the Blue Book Committee met on December 6, 2012 at the board office.

The NSBAIDRD was represented by board members Snyder, Tindall, and Tanner with Spaulding facilitating the meeting. She said committee members representing each of the design and construction industry agencies were in attendance with the exception of the engineers and surveyors board committee members, who were unable to attend.

Spaulding said that representatives from each agency in attendance had an opportunity to participate and propose revisions to the upcoming 2013 Blue Book. She said the minutes from that meeting as well as a full transcript of the proceedings was included in the board members' e-books.

Spaulding said the meeting went very well. Those in attendance are submitting any proposed changes to Spaulding to be incorporated into a working Word document for the board's and the committee's review during the next meeting. The committee will meet again on May 15 and again after the close of Nevada's 2013 Legislative Session and if needed once more before submitting final revisions for publication.

Additionally, Spaulding said staff will present any new or amended Frequently Asked Questions for the board's consideration at the next meeting. Upon the board's approval, the FAQs will be presented to the blue book committee in May.

Spaulding said the proposed schedule for publication of the 2013 Blue Book is for September of this year. When asked if our board has always absorbed the cost of the publication, Spaulding said NSBAIDRD shares the cost with the sister boards.

AGENDA ITEM 9A Discussion and possible decision regarding which board members will attend the WCARB Regional Meeting in Providence, RI on March 14-16, 2013.

Erny asked the board who would like to attend the upcoming WCARB Regional Meeting in Providence, RI. Board members Klai, Mickey, and Ciesynski were selected to attend. Erny, who currently represents the Western Council of Architectural Boards on the NCARB Board of Directors, will be funded by NCARB. Spaulding, who also serves as the executive director for the region, will be funded by WCARB.

Spaulding said the WCARB Executive Committee asked that each board be prepared to share the one 'Golden Nugget' that their board does exceptionally well for attendees to take back and share with their own jurisdictions.

Board members discussed the board's top three strengths which were the publication of the Blue Book, a strong enforcement division, and being the only state that licenses residential designers.

Spaulding said the publication of the Blue Book results in Nevada having the advantage of a unique collective participation among the Nevada building departments and the various design and construction industry boards. Garlock said it is also important to note that we are the only board in the country with the three disciplines of architecture, registered interior design, and residential design with tremendous success in terms of residential design as a discipline.

Erny suggested that we present The Blue Book, A Reference Guide for the Nevada Construction Industry as the Nevada board's 'Golden Nugget' and if time permits, build into the discussion the enforcement division and residential design components. Board members agreed.

AGENDA ITEM 9B **FYI: NCARB CEO Update: November and December 2012**

Erny said this item was provided for board members' information.

AGENDA ITEM 9C **FYI: NCARB Board of Directors Brief: December 2012 and Board of Directors/Meeting Minutes: September 2012**

Erny said this item was provided for board members' information.

AGENDA ITEM 9D **FYI: News Clips regarding 2012 Survey of Registered Architects and NCARB to Host Intern Think Tank**

Erny said this item was provided for board members' information.

AGENDA ITEM 9E **FYI: NCARB Fast Facts-November and December 2012**

Erny said this item was provided for board members' information.

AGENDA ITEM 10A **FYI: NCIDQ's ballot to amend its name to Council for Interior Design Qualification**

Spaulding said this item was provided for board members' information.

AGENDA ITEM 10B **NCIDQ press release regarding Jeff Kenney's departure from NCIDQ**

Erny said this item was provided for board members' information.

AGENDA ITEM 10C **FYI: NCIDQ BOD meeting minutes for October and November 2012 and COD**

Erny said this item was provided for board members' information.

AGENDA ITEM 10D **FYI: NCIDQ Exam changes email from Ken Baker**

Ciesynski said all candidates have been notified of the changes to the NCIDQ Exam. She said it would be beneficial to inform candidates that they are now able to take the first section right out of school. Spaulding said we will publish this information in an upcoming *Focus* newsletter.

AGENDA ITEM 10E **FYI: NCIDQ press release regarding the 2012 Tregre Award winner**

Erny said this item was provided for board members' information.

AGENDA ITEM 3A **Deliberations/Action on applications for registration: Architect**

Garlock swore in the following individuals as architects:

1. Brent W. Hoefflin.....6904
2. Meeta K. Shah.....6905
3. Jeremy W. Smith.....6906
4. Erik E. Tuomy.....6910

Motion: Snyder moved to approve the registration of the above referenced individuals as architects. Motion seconded by Garlock.

Vote: All in favor. Motion passes.

AGENDA ITEM 3B **Deliberations/Action on applications for registration: Registered Interior Designer**

Garlock swore in the following individuals as registered interior designers:

1. Chelsea M. Dora.....201-ID
2. Louise Cohen.....202-ID

Motion: Snyder moved to approve the registration of the above referenced individuals as registered interior designers. Motion seconded by Ciesynski.

Vote: All in favor. Motion passes.

After the board conducted its own swearing-in and registration ceremony, Erny introduced Randy Lavigne, Hon. AIA, Executive Director of AIA Nevada and AIA Las Vegas. Lavigne was in attendance to congratulate the new registrants. The six new registrants were recognized for their milestone accomplishments of becoming registered in the state of Nevada and Lavigne presented each of them with a Certificate of Recognition on behalf of the AIA.

Erny asked the new registrants to offer any feedback, comments, or concerns they had regarding the entire exam and licensing process.

New registrants thanked Monica and the entire staff for their assistance in the process.

A new architect registrant asked why exam candidates must wait six months to retake a failed exam. She suggested candidates perhaps be limited to taking it twice a year rather than being required to wait six months before being allowed to re-test. Erny said that repeated exposure of the exam content could potentially breach security of the exam and the six month requirement also gives candidates time to prepare for the retest.

A registered interior designer said she was surprised that upon passage of her exams there was an additional open book quiz on the Nevada law. Spaulding said that all new candidates take the Nevada open book quiz to ensure all registrants are aware of Nevada law in regards to architecture, registered interior design, and residential design. She said that registrants also should know that anytime they have any questions or concerns it is best to call the board office for clarification before moving forward and having a problem arise later.

AGENDA ITEM 4 **Formal Contested Administrative Hearing – In the matter of Robert Martel and Berard Martel Architecture, Inc., (Case No. 12-053N), consideration and adjudication of the Complaint alleging violations of NRS 623.360.1(c)**

George Garlock presided as acting Chairman over the formal hearing against Robert Martel and Berard Martel Architecture, Inc. A formal hearing was held in the matter of Robert Martel and Berard Martel Architecture, Inc., Case Number 12-053N. The respondent was alleged to have violated NRS 623.360.1(c) by practicing architecture without a valid registration.

In attendance:

Louis Ling, Board Prosecutor
Sophia Long, Deputy Attorney General, Board Counsel

Witnesses for the prosecution:

Betty J. Ruark, NSBAIDRD Chief Investigator

Board Chairman, Greg Erny recused himself from the proceedings.

The cause of action brought against Robert Martel and Berard Martel Architecture, Inc. is as follows:

By practicing architecture in the state of Nevada without a valid registration, respondent has violated NRS 623.360.1(c).

Testimony was heard and evidence was introduced into the record, which substantiated the allegations against Respondent Robert Martel and Berard Martel Architecture, Inc.

Motion: Tanner moved that the State find the Respondent guilty of practicing architecture without a valid registration violating NRS 623.360.1(c) as evidenced by the testimony given and documentation presented. Motion seconded by Snyder.

Vote: All in favor. Motion passes.

Penalty Phase:

Motion: Tanner moved to impose an administrative fine of \$4,000 and order payment of all fees and

costs associated with the investigation and prosecution of this matter. Snyder seconded the motion.
Vote: All in favor. Motion passes.

AGENDA ITEM 5 **Formal Contested Administrative Hearing – In the matter of Paul and Vicky Kaleta and Basin Strategies Inc., (Case No. 09-070N), consideration and adjudication of the Complaint alleging violations of NRS 623.360.1(c)**

Greg Erny, Chairman, presided over the formal hearing in the matter of Paul and Vicky Katela and Basin Strategies, Inc., Case No. 09-070N. Paul and Vicky Katela do not have certificates of registration issued by this board. The respondents were alleged to have violated NRS 623.360.1(c) by engaging in the practice of architecture without a valid registration.

In attendance:

Louis Ling, Board Prosecutor

Sophia Long, Deputy Attorney General, Board Counsel

Louis Ling, Board Prosecutor explained that prior to presenting the case in this matter, the board would need to hear and make a decision regarding the respondents' Request for Continuance received by the board office via e-mail on January 22, 2013, one day prior to the formal hearing. NAC 623.940(3) requires that a request for a continuance be made at least 15 days before the date of a hearing and that the Board may, within its discretion, grant or deny the request for continuance. Board members reviewed the packet marked 'Exhibit 1' containing the letter requesting a continuance as introduced into the record by Ling.

Motion: Garlock moved that the State deny the Respondents' request for continuance in this matter. Motion seconded by Snyder.

Vote: All in favor. Motion passes.

Witnesses for the prosecution:

Laura Bach, NSBAIDRD Investigator

Alan Jackson, Complainant

The cause of action brought against Paul and Vicky Kaleta and Basin Strategies, Inc. is as follows:

By practicing architecture in the state of Nevada without a valid registration, respondents have violated NRS 623.360.1(c).

Testimony was heard and evidence was introduced into the record, which substantiated the allegations against Respondents Paul and Vicky Kaleta and Basin Strategies, Inc.

Motion: Garlock moved that the State find the Respondent guilty of practicing architecture without a valid registration violating NRS 623.360.1(c) as evidenced by the testimony given and documentation presented. Motion seconded by Snyder.

Vote: Tanner opposed. All others in favor. Motion passes.

Penalty Phase:

Motion: Garlock moved to impose the maximum administrative fine of \$10,000, order payment of all fees and costs associated with the investigation and prosecution of this matter, and order respondents to cease and desist any and all activities that constitute the practice of architecture, interior design or residential design. Motion seconded by Snyder.

Vote: All in favor. Motion passes.

AGENDA ITEM 7A-3 Case No. 07-011R – In the matter of Dan Stuart Davis

Erny introduced Respondent's legal counsel who was in attendance. Attorney, Nic Wiczorek addressed the board and said he would be available to answer any questions on behalf of his client, Dan Stuart Davis who was in Florida and unable to attend.

The Respondent is alleged to have violated NRS 623.270.1 (d) (e) and (f) and ROC 5.2 by reviewing and sealing plans which were not prepared by him or under his responsible control and permitting the use of his name to assist unlicensed designers in evading certain provisions of this chapter thereby aiding and abetting the unlicensed practice of architecture in Nevada.

Staff received a complaint from Green Valley United Methodist Church alleging the Respondent breached his contract by failing to perform services in accordance with the terms and conditions of the owner and architect agreement.

The investigation revealed the Respondent did not coordinate the architectural drawings with the structural drawings and did not have the control over and detailed knowledge of the work that was being provided by other consultants, which is required in order for a registrant to be in responsible control (NRS 623.029).

Based upon the fact that the Respondent was not in responsible control of the GVUMC project and has had three previous disciplinary actions with this Board, staff requested a list of Nevada projects the Respondent completed within the last three years in order to examine his method of practicing architecture in Nevada. The Respondent provided staff with documentation for 12 additional projects.

A review of the additional documentation provided to staff revealed the Respondent was not in responsible control of the work he sealed and signed, and aided and abetted the unlicensed practice of architecture.

The Respondent was sent a Notice of Charges concerning these projects and a letter of response was received. The Respondent's case was discussed with Chief Investigator Ruark and the decision was made to offer the Respondent an opportunity to settle this issue informally rather than face a disciplinary hearing before the Board.

A settlement agreement and confession of judgment were negotiated. The settlement agreement incorporated a Guilt clause, a two year suspension commencing on the date the Board approves and signs this agreement. This suspension, however, is stayed, subject to the Respondent complying and fulfilling all terms and conditions imposed in this settlement agreement and the Respondent being placed on probation concurrently with the suspension for a period of two years from the date of approval of the Settlement Agreement by the Board. The Respondent is required to appear in person before the Board to request termination of his probation. The probation requires the Respondent to take and pass the NCARB Professional Monograph within 30 days of the Board approved settlement agreement. The Respondent must also obtain a peer reviewer for all aspects of his architectural work for projects located in Nevada and must submit to the Board, within five days of its execution, and before providing any architectural services, a copy of every contract contemplated for work in Nevada. The peer reviewer will submit quarterly reports to the Board. Any report from the peer reviewer of any unacceptable behavior or practice at any time will result in the voiding of the settlement agreement and the institution of appropriate disciplinary proceedings by the Board. The Respondent agrees that, during the term of the probationary practice, the Executive Director and two members of the Board may, upon three days' notice

to the Respondent, convene a hearing to consider whether a condition of probation has been violated. If such a hearing results in a finding of a violation of the Respondent's probation, that body may require the surrender of the Respondent's Certificate of Registration and the suspension of his professional practices until such time as the full Board may convene to consider the alleged violation at a regularly scheduled meeting. The settlement agreement also incorporates an Administrative Penalty of \$10,000 and Investigative Costs in the amount of \$6,400.

Staff recommends approval of the settlement agreement.

Motion: Tindall moved to approve the settlement agreement. Motion seconded by Snyder.

Vote: Garlock opposed. All others in favor. Motion passes.

AGENDA ITEM 6 Board Counsel Report

Ling reported that he and Spaulding would be attending a mandatory settlement conference on January 24, 2013 in the Dennis Rusk Supreme Court appeal.

AGENDA ITEM 7A-1 Case No. 13-010N – In the matter of Martin J. Beck and Big Red Rooster

Motion: Snyder moved to approve the settlement agreement. Motion seconded by Tindall.

The Respondents are alleged to have violated NRS 623.360.1 (a)(b)(c) by holding themselves out as being qualified to provide services that fall under the practice of architecture and engaging in the practice of architecture without having been issued certificates of registration from the Board.

Staff received information which indicated that Big Red Rooster was providing architectural services for a restaurant project located in Nevada. Subsequent investigation revealed Big Red Rooster and its employees held themselves out as being qualified to practice architecture in Nevada by entering into contracts to provide architectural services which included but was not limited to: program development, schematic design, design development and construction documents for the Twin Peaks Restaurant project and multiple Five Guys Burgers and Fries restaurant projects.

Additionally, Big Red Rooster and its employees engaged in the practice of architecture by acting in the capacity of the architect for each project and providing programming through construction documents, contracting with the MP&E consultants, submitting documents for permit to local jurisdictions and revising documents as required to obtain building permits for seven projects located in Nevada, without Big Red Rooster having architects licensed in Nevada and the firm name being approved by the Board.

The Respondents were sent a Notice of Charges concerning this project and a response was received. The decision was made to offer the Respondents an opportunity to settle this matter informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt clause, Effect on Licensure clause, Administrative Penalty of \$42,500, plus Investigative Costs in the amount of \$3,400.

Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 7A-2 Case No. 12-055R – In the matter of Baek Young Ahn

Motion: Snyder moved to approve the settlement agreement. Motion seconded by Oppenheimer.

The Respondent is alleged to have violated NRS 623.360.1 (a) (b) and (c) by holding himself out as being qualified to practice architecture and by engaging in the practice of architecture, for a project located in Nevada prior to having a certificate of registration issued by this Board.

During the investigation of a related case, it was discovered that the Respondent was listed as the project manager for the Shoe Palace project at the Boulevard Mall. Further investigation revealed that the Respondent entered into a contract to provide services which fall under the practice of architecture and prepared construction drawings and then found out that he had to be registered in Nevada in order to provide these services. The Respondent then contacted a Nevada architect to work with and several months later sought reciprocity and became registered in Nevada.

The Respondent was sent a Notice of Investigation concerning this project and a letter of response was received. The Respondent's case was discussed with Chief Investigator Ruark and the decision was made to offer the Respondents an opportunity to settle this issue informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt Clause and an Administrative Penalty of \$7,500 plus Investigative Costs in the amount of \$1,175.

Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 7A-4 Case No. 12-054N – In the matter of Donald Kamm Jr./Cadd Technologies Design Inc.

Motion: Snyder moved to approve the settlement agreement. Motion seconded by Tindall.

The Respondents are alleged to have violated NRS 623.360.1 (a) (b) and (c) by holding themselves out as being qualified to practice architecture and by engaging in the practice of architecture, for eight projects located in Nevada without having a certificate of registration issued by this Board.

During the investigation of a related case it was discovered that the Respondents acted in the capacity of the architect by providing services that included: performing preliminary studies, working directly with the client, evaluating the client's needs and goals, giving advice and direction and preparing preliminary through construction drawings for eight Nevada projects.

The Respondents were sent a Notice of Charges concerning these projects and a letter of response was received. The Respondents' case was discussed with Chief Investigator Ruark and the decision was made to offer the Respondents an opportunity to settle this issue informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt Clause and an Administrative Penalty of \$16,000 plus Investigative Costs in the amount of \$3,425.

Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 11 Residential Designer Issues

Tindall said there was nothing to report.

AGENDA ITEM 12 Executive Director Report

Spaulding said that the next board meeting will be held in Las Vegas on Wednesday, March 27, 2013.

Spaulding told the board that she would be attending the Governance and Regional Leadership committee meeting from January 24-27, 2013 in Tucson, Arizona.

AGENDA ITEM 13 Public Information Report

Bond told the board that the latest issue of *Focus* was provided to them in the e-book.

AGENDA ITEM 14 Items for future agenda

- Update on the joint board/AIA continuing education seminars
- Update on the 2013 Legislative Session
- Discuss recommendations from the RID binder committee
- Propose additional Frequently Asked Questions for 2013 Blue Book revision

AGENDA ITEM 15 Public comment

There was no public comment.

Chairman Erny adjourned the meeting at 3:55 p.m.

John Klai, Secretary/Treasurer

Gina Spaulding, Executive Director