

Minutes of the Meeting of
Louisiana State Board of Architectural Examiners
March 4, 2016
10:00 AM

Attending

Richard J. LeBlanc, President
Ronald Blicht, Secretary
Allen Bacqué
J. David Brinson
John Cardone, Jr.,
Robert McKinney
Knox Tumlin
Teeny Simmons, Executive Director
Paul H. Spaht, Board Attorney
Joe Holt, Investigator

Call to Order

1. The meeting was called to order by the President.

Minutes Approved

2. The minutes from the meeting held December 11, 2015 were approved as written.

IDP Report

3. Ms. Jenny Chandela, State Architectural Licensing Advisor provided the following report:

1. LA Licensure Forum 2016 – took place: Saturday, February 13

- a. Break Down of Registrants:
 - i. (24) R3 Members - many of whom are also practitioners
 - ii. (22) Educators
 - iii. (15) Practitioners
 - iv. (13) Students
- b. received positive feedback regarding integration with NCARB Region 3 Educators/ Practitioners Conference
- c. follow-up survey
- d. recommendations for future topics: work/ life balance; follow-up on Integrated Licensure Path
- e. Recommendation to the Board: Continue Integration of two conferences with the following challenges to consider:
 - i. Frequency of the Conference (every 2 years versus Forum every 3 years)
 - ii. NCARB Regional Conference so will not always take place in Louisiana

2 – Outreach:

- a. ULL – COMPLETE
- b. TU/ AIA – COMPLETE
- c. LA Tech – NCARB due visit

d. LSU – Friday, March 11 at 1pm

3 – Licensure Update:

- a. NCARB to rename Intern Development Program; as of June 2016, will be the **Architectural Experience Program (AXP)**
- b. Reminder from last update: **Overhauled IDP** goes into effect June 2016
- c. NCARB Releases ARE 5.0 Details and Question Type Demos
 - a. Each division of ARE 5.0 will have between 80 to 120 questions
 - b. New Question Types (replacing vignettes): Hot Spots, Case Studies, and Drag-and-Drop
 - c. Test Durations released for each Test Section

Executive Director's
Report

4. Executive Director's primary office functions:

- A. Continuing individual license renewals.
- B. Begin work with Image Tech (Allen Gilbert) imaging files and John Strickland (Laserfiche).
- C. New Computers installed.
- D. Mr. Bacque and Mr. Brinson reappointed to the Board.
- E. Attendance:
 - 1. December 17, 2015 Joe Holt.
 - 2. January 29, 2016 AIALA Board meeting (Simmons, Spaht) Legislation.
 - 3. February 23, 2016 Arch/Eng Committee meeting (Brinson, Simmons).

Legal

5. Mr. Spaht presented the following legal matters for discussion:

- A. *Merritt E. McDonald v. Louisiana State Fire Marshal*, Suit No. 614,502, Section 25, 19th JDC – Mr. Spaht reported that Mr. McDonald has still not responded to the written discovery which was propounded to him several months ago (September 23, 2015). That discovery seeks information concerning Mr. McDonald's prior submissions to the OFM, the exact scope of authority which he seeks in his suit, and related matters. Mr. Spaht will keep the board informed.
- B. Legislation – Mr. Spaht reported that on January 29, 2016, he and Ms. Simmons attended the meeting of AIA Louisiana board to explain: (1) the proposed legislation amending La. R.S. 37:149 (allowing the board to charge and collect registration fees from architectural firms) and amending R.S. 37:150 (allowing the board to charge and collect firm renewal and delinquent fees from architectural firms); (2) the proposed legislation amending La. R.S. 37:144(F) (authorizing the board to establish, fund, and operate a Louisiana Architecture Education and Research Fund); (3) the proposed new Rule §1323 (regulating the Louisiana Architecture Education and Research Fund), and (4) the proposed amendments to Rule §1701 (Professional Architectural Corporations) and Rule §1703 (Architectural-Engineering

Corporations), and the proposed adoption of new Rule §1705 (Architectural Firms). At this meeting, Mr. Spaht and Ms. Simmons advised that if the proposed legislation was enacted the board intended to increase the licensing, renewal, and delinquency fees charged to I/S architectural firms from \$50 to \$75, and the licensing, renewal, and delinquency fees charged to O/S architectural firms from \$50 to \$150. These fees would be charged to all architectural firms practicing architecture in Louisiana, not just PACs, architectural-engineering corporations, and LLCs.

Members of the board of AIA Louisiana asked several questions, and a few made comments indicating that they were in favor of the proposed legislation and rules, particularly the proposed legislation concerning the establishment and funding of the Louisiana Architecture Education and Research Fund. No opposition to the proposed legislation was expressed.

The proposed legislation will be introduced during the 2016 regular session.

- C. NC Dental Board case – The board reviewed and discussed the memorandum dated February 18, 2016 from Michael Armstrong (NCARB) and the Florida Attorney General opinion dated December 9, 2015, both of which concerned the U.S. Supreme Court decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 U.S. 1101 (2015). The Florida AG opinion analyzed the holding, and Mr. Armstrong’s memorandum summarized how certain other states (OK, FL, AZ, CT, and GA) were addressing the decision.

The impact of the decision upon the operations of regulatory boards in Louisiana, and particularly this board, is unclear. It is clear, however, that the decision concerns all licensing boards in the United States, not just regulatory boards in Louisiana, and not just this board.

The board observed that whether the new Governor will propose or the legislature will enact some sort of solution in the upcoming session is unknown. The board asked Ms. Simmons to make Lynn Robertson of AIA Louisiana aware of the decision and ask her to keep the board advised of any actions by the Governor or legislature addressing same. In addition, the board will itself endeavor to monitor the actions of the Governor and the legislature to see if any actions are taken in response to the recent decision.

Since this is a national and state issue, the actions, if any, by the board concerning this matter will depend upon what the Governor, legislature, and other licensing boards (in state and out-of-state) do in response to the decision. The board anticipates that the decision will be discussed next week at the regional meeting in Savannah and in June at the annual meeting in Seattle. For now, the board is aware of the decision, attempt to gather more information, and act appropriately.

- D. Minutes from Fire Marshal Roundtable – The board reviewed the minutes for the industry roundtable meeting on November 12, 2015. This review was for information purposes only, and no board action was deemed necessary.
- E. Diamond Design, LLC – The board reviewed and discussed (i) the letter dated January 13, 2016, from Joseph J. Holt to Diamond Design, LLC, and (ii) the letter dated January 19, 2016, from Warren L. Dietz, P.E. responding thereto. Diamond Design, LLC is not registered by the board. It advertises itself on its website as “RESIDENTAL COMMERCIAL BUILDING DESIGNERS.” According to its website, Diamond Design, LLC is owned by James and Melissa Bell, neither of

whom are registered by the board. Diamond Design, LLC does not employ an architect or civil engineers.

Mr. Holt's letter dated January 13, 2016, quoted La. R.S. 37:145(A) in pertinent part; stated that neither Diamond Design, LLC nor James or Melissa Bell were registered by the board or licensed to practice architecture in Louisiana, and observed that the design of commercial buildings is included within the definition of the practice of architecture in Louisiana. Mr. Holt thus advised that Diamond Design, LLC may not advertise or represent itself as a commercial building designer. Doing so is the use of an advertisement or other device to indicate that Diamond Design, LLC practices or offers to practice architecture, or renders architectural services, or is an architect, in violation of La. R.S. 37:145(A). Mr. Holt's letter concluded by requesting that Diamond Design advise of its actions to correct its violation of the Architect's Licensing Law, or if it contended that it was not in violation that it explain its reasons.

Mr. Dietz responded on behalf of Diamond Design in his letter dated January 19, 2016. Mr. Dietz is a civil engineer. He advised that he collaborates and designs alongside with Diamond Design on all commercial drawings.

According to the Architects Licensing Law (La. R.S. 37:141 et seq.), only architects may practice architecture in this state, or use the title "architect," or any term derived therefrom, or display or use any title, sign, advertisement, or other device to indicate that such person practices or offers to practice architecture, or renders architectural services. *See* La. R.S. 37:145(A). In the opinion of the board, the design of commercial buildings is architecture. *See* La. R.S. 37:141.

Mr. Dietz is a civil engineer, and civil engineers are exempt from the Architects Licensing Law. *See* La. R.S. 37:155(A)(2). Although Mr. Dietz may practice architecture, Mr. Dietz is not Diamond Design, LLC. Mr. Dietz does not claim to be an owner, member, or even an employee of Diamond Design, LLC. In the opinion of the board, the exemption for civil engineers cannot be expanded to include Diamond Design, LLC.

After discussion, the board concluded that it should request the opinion of LAPELS on this issue. Ms. Simmons will write LAPELS and request its opinion of whether the advertisement by Diamond Design, LLC is permissible.

Ms. Simmons advised that, since the agenda was prepared and the board packets were sent out to the board members, requests for consideration of two (2) additional matters had been made. On motion by Mr. LeBlanc, seconded by Mr. Brinson, the board unanimously agreed to consider these two additional matters, which are described below:

- F. Quad 5 Architecture, LLC – The board reviewed an email dated March 2, 2016, from Tad Sabastian, Architect, asking if his use of the name "Quad 5 Architecture, LLC" would be permissible. In his email, Mr. Sabastian referred to Rules §§ 1505 and 1521, and advised that, although he did not intend to include his name as part of the official company name, he will be sure to list his name in the letterhead and website of Quad 5 Architecture, LLC.

After discussion, the board concluded that the name "Quad 5 Architecture, LLC" would be acceptable, provided Mr. Sabastian's name or the name of at least one licensed architect is identified in the letterhead and website of such firm, as required

by Rule § 1505. Ms. Simmons will so advise Mr. Sabastian and request that he provide a copy of the letterhead of Quad 5 Architecture, LLC, when such is developed.

- G. Jimmy A. Castex, Jr. – The board reviewed a letter dated February 26, 2016, from Jimmy A. Castex, Jr., attorney. In his letter, Mr. Castex asked a question regarding “required architectural services.” More specifically, he asked “whether an architect, when preparing architectural plans, is required to establish finished floor elevations and a site grading plan.” He advises:

Now assuming that an engineer, retained separately by the owner, established finished floor elevations and the general contractor and/or licensed architect prepared a grading plan, would that relieve the architect of any obligation to provide this information.

After discussion, the board concluded that the letter asked legal questions concerning the scope of an architect’s responsibilities, not questions concerning licensing issues. Except to advise that the scope of an architect’s responsibilities normally depend upon his or her contract with the owner, the questions asked were, in the opinion of the board, beyond its authority. The executive director will so advise Mr. Castex.

6. Our own John Cardone, Candidate for NCARB Public Director, and if elected, will be first to serve in this capacity on NCARB’S Board.
7. The January, 2016 budget report was reviewed.
8. As requested in prior meeting, the 2015-2016 budget was amended and approved which includes approximate costs for imaging of files.
9. The Board meeting dates for 2016 are as follows:

June 10
September 23
December 9

Budget Report

10 June 2016

Date


Richard J. LeBlanc, President


Ronald B. Blich, Secretary