

Minutes of the Meeting of
Louisiana State Board of Architectural Examiners
Baton Rouge, Louisiana
March 01, 2013
10:00 AM

Attending Creed Brierre, President presiding
 Allen Bacqué
 Ronald Blitch
 J. David Brinson
 John Cardone, Jr.
 Richard LeBlanc
 Teeny Simmons, Executive Director
 Paul H. Spaht, Board Attorney
 Robert Eddleman, Board Investigator

Call to Order

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

Minutes Approved

2. The minutes from the meeting held December 14, 2012, were approved as written.

IDP Report

3. Ms. Marsha Cuddeback, IDP State Coordinator, was unable to attend due to NCARB meeting but prepared the following report:

1. NEWS! NCARB Think Tank

Sarah Bowers (LSU SOA Grad) participated in the NCARB Intern Think Tank. Over 197 interns applied, and Sarah was one of 12 members. The purpose of the Think Tank was to, "analyze the current program's real-world implementation and effectiveness, explore blue-sky ideas related to internship, and share ideas with the Council's leadership." (NCARB) Members were charged with additional tasks to prepare for upcoming meetings in 2013.

10 Steps to Licensure (<http://www.youtube.com/watch?v=-ShoVVZJahY>)

2. IDPAC (Intern Development Program Advisory Committee)

IDP State Coordinator appointed for a second term to the IDPAC, NCARB funded participant, FY2013. The spring meeting is scheduled for March 1-2, 2013, in Portland, OR. The LA State IDP Coordinator has been working on a subcommittee charged with reviewing the content of the Emerging Professionals Companion and making blue sky recommendations to create a powerful tool for earning IDP training hours.

3. UPCOMING EVENTS

IDP Presentation/Discussion

University of Louisiana Lafayette, Friday, March 29, 2013, Noon (confirmed)

AIA South Louisiana, Thursday, March 28, 5:00 PM (confirmed)

Louisiana State University and Tulane University (TBA)

IDP Coordinators Conference July 2013, Location (TBA)

4. The Executive Director reported the following:

A. Preparation for 2013 firm renewals.

Executive Director's
Report

- B. Processing 2013 delinquent renewals/notified by letter February 26, 2013.
- C. Finalized and recorded lease with Rotary and Facility Planning and Control.
- D. Attendance:
 - 1. January 9-13, 2013/MBE/Com 6/Orlando.
 - 2. January 29/FMO.
 - 3. January 31 to February 1/Critical Issues Summit.

Legal

- 5. Mr. Spaht presented the following legal matters:
 - A. Rule § 1303 (Architect's Seal or Stamp) – The board reviewed the NOI published on November 20, 2012 in the Louisiana Register proposing to amend Rule § 1303 by providing for the shape, size, and design of the architect's seal. On motion by Mr. Cardone, seconded by Mr. Brinson, the board adopted the proposed rule. The adopted rule will be published in an upcoming edition of the Louisiana Register.
 - B. Rules §§ 1905 and 1907 (Aggravating and Mitigating Circumstances and General Disciplinary Guidelines) – The board reviewed the NOI published on November 20, 2012, in the Louisiana Register proposing to adopt Rules §§ 1905 and 1907 by providing as to the normal discipline which will be imposed by the board for particular violations of the licensing law or board rules absent aggravating or mitigating circumstances, identifying aggravating and mitigating circumstances which the board may consider when imposing discipline, and describing circumstances which the board will not consider when imposing discipline. On motion by Mr. Blich, seconded by Mr. LeBlanc, the board adopted the proposed rules. The adopted rules will be published in an upcoming edition of the Louisiana Register.
 - C. Military Bill – The board reviewed a proposed NOI implementing the requirements of Act 276 of 2012 (the "Military Bill"). The proposed NOI was modeled after the proposed rule drafted by Dan Taylor of NCARB. On motion by Mr. Cardone, seconded by Mr. Bacque, the proposed NOI will be published in the Louisiana Register.
 - D. Architect Emeritus – The board reviewed a proposed NOI regarding the title which an architect who has received emeritus status from the board pursuant to Rule § 1105.E should use. On motion by Mr. LeBlanc, seconded by Mr. Brinson, the proposed NOI will be published in the Louisiana Register.
 - E. Maintaining Records Electronically – The board reviewed an email dated December 17, 2012, from Jimmy A. Castex, Jr. asking whether an architect may keep and maintain his or her required documents in electronic form, rather than actual hard copies. Mr. Castex mentioned R.S. 37:153 of the licensing law which states that "[t]he board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violation." After discussion, the board concluded that, from the standpoint of the Architect's Licensing Law, records may be maintained in electronic form. The executive director will so advise Mr. Castex.

- F. Fire Marshall Round Table – The board reviewed the minutes of the round table meeting held on December 6, 2012, and Ms. Simmons reported on the meeting which she attended on January 29, 2013. Ms. Simmons reported that very little, if any, of the discussion at these meetings concerns the board.
- G. Schematic Drawings – The board reviewed an email dated January 7, 2013 from Clarence P. Babineaux asking if an architect needs to stamp and sign schematic drawings. After discussion, the board concluded that an architect is not required to stamp schematic drawings. The executive director will advise Mr. Babineaux of the board’s discussion and decision.
- H. Continuing Education – AIA Virtual Convention – The board reviewed an email dated December 19, 2012 from Mikael T. Kane asking if acquiring CEUs through the “AIA Virtual Convention” is acceptable to the board. After discussion, the board concluded that CEUs may be acquired through the AIA Virtual Convention. The executive director will advise Mr. Kane of the board’s discussion and decision.
- I. Continuing Education – Repeating Presentation - The board reviewed an email dated January 9, 2013 from Ken Bergeron. Mr. Bergeron is the newly elected president of the Central Louisiana Chapter of AIA, and he has started booking some of the usual presenters for the coming months. He noticed that some of the material to be presented was covered the previous year. He asked: how much time has to pass before an architect can repeat the same presentation and still receive credit for it.

The board reviewed the licensing law and its rules and observed that there is no specific provision answering this question. The board will consult with NCARB and AIA to see if there is policy regarding this matter. The executive director will advise Mr. Bergeron of the board’s discussion and intended action.

- J. Public Construction Project/Death of Architect – The board reviewed an email dated January 24, 2013 from Owen J. “Jimmy” Bello, the Parish Administrator of the Pointe Coupee Parish Police Jury. Mr. Bello inquired regarding the Pointe Coupee Parish Police Jury’s construction projects for the Sheriff’s civil office. The Police Jury had contracted with a local architect, Glenn Morgan, for the design and engineering of two buildings. Unfortunately, Mr. Morgan passed away after the project was bid out for construction. No action was taken on the bids, and the Police Jury now needs to re-bid as too much time has elapsed since the bids were received. David Mougeot, owner of Mougeot Architecture, is under agreement to provide architectural services for the Police Jury. The Police Jury would like to contract with Mr. Mougeot to complete this project, rebid the existing drawings, and have Mr. Mougeot provide construction administration services and assume responsibility for Mr. Morgan’s design. The Police Jury is seeking to confirm that all of this will be in compliance with the Architect’s Licensing Law.

After discussing Mr. Bello’s inquiry, the board believes that R.S. 38:2317 is applicable. R.S. 38:2317.A provides that all plans, designs, specifications, or other construction documents resulting from professional services paid for by any public entity shall remain the property of the public entity whether the project for which they were prepared was constructed or not. Further, “such documents may be used by the public entity to construct another like project without the approval of, or additional compensation to, the design professional.” R.S. 38:2317.E provides:

Prior to the re-use of construction documents for a project in which the designer is not also involved, the public entity shall remove and obliterate from the construction documents all identification of the original designer, including name, address, and professional seal or stamp.

Accordingly, the board is of the opinion that the Pointe Coupee Parish Police Jury is the owner of the drawings prepared by Mr. Morgan for the Sheriff's civil office. The Police Jury may rebid the project, provided Mr. Morgan's name, address, and professional seal or stamp are removed.

The board further believes that the situation which Mr. Bellos describes is similar to the situation where prototypical documents are used. Board Rule § 1313.B.1 governs the use of prototypical documents. After Mr. Morgan's stamp or seal is removed from the documents, Mr. Mougeot of Mougeot Architecture may stamp or seal such documents provided the requirements of board Rule § 1313.B.1 are satisfied. Mr. Mougeot shall assume professional responsibility as the architect of record for the project, and he shall maintain design control over the use of the documents as if they were his original design. Assuming that Mr. Mougeot is agreeable to accepting such responsibility, the board has no objection to the Police Jury proceeding as described above. The executive director will advise Mr. Bello of the board's discussion and decision.

- K. Appearance of Eric D. Baham – Mr. Baham, an Intern Architect, appeared and spoke in support of his letter dated February 12, 2013. Mr. Baham is currently testing for the ARE. Mr. Baham asked several questions concerning the ARE, such questions being answered primarily by Mr. Blitch. Mr. Blitch observed that Mr. Baham had made substantial progress in passing the ARE, and he should be encouraged, not discouraged. Mr. Bacque observed that, once Mr. Baham passes the ARE, he will have every opportunity to become involved in making changes to the ARE. Mr. Bacque encouraged Mr. Baham to become involved after he passes the ARE.
- L. Enforcement Report – Mr. Eddleman issued the following enforcement report:
1. The CRC at its December meeting authorized the issuance of one (1) Consent Order.
 2. Five (5) cases opened since the December meeting and, at the direction of the CRC, two (2) cases closed since the December meeting. In addition, five (5) cases were closed due to ratified Consent Orders, cease and desist letters, or no violation.
 3. Three (3) cases of unlicensed practice referred to CRC for review.
- M. CRC Matters - Mr. Eddleman presented the following CRC matter:
- Case 2011-10 – Inman Architecture – Mr. Eddleman reported on an unlicensed architectural firm that submitted an application for firm licensure and admitted to practicing and/or offering to practice architecture prior to obtaining licensure. The respondent has signed and returned the proposed Consent Order offered by the CRC. On motion duly made, seconded and passed, the board unanimously accepted the consent order signed by Inman Architecture and authorized its executive director to sign same.

On motion by Mr. Blitch, seconded by Mr. Cardone, the board decided to consider the following matters not on the agenda but which had been recently presented.

- N. Waiver from Secretary of State – The board reviewed emails dated February 14, February 15, and February 27, 2013, between Nancy Harmon of Mahlum | Architects Inc. (“Mahlum”) and the executive director. Mahlum is partnering with Scairono Martinez Architects, APAC on two upcoming projects in Louisiana, and it is seeking a waiver from the board so that it can complete its business license application. When the executive director raised questions regarding whether Mahlum satisfied all of the requirements of the Louisiana Professional Architectural Corporation law, Ms. Harmon indicated that another of the Mahlum shareholders is becoming licensed in Louisiana. From Ms. Harmon’s February 27 email, the board understands that Mahlum is in the process of becoming registered with the board. Upon this occurring, the board will advise the Louisiana Secretary of State that the name “Mahlum | Architects Inc.” is approved. The executive director will so advise Ms. Harmon.
- O. Out of State Architectural Corporation Wholly Owned by Out of State Business Corporation – The board reviewed an email dated February 28, 2013 from Alice Campbell of Gray Plant Mooty. A client of Ms. Campbell is a North Dakota business corporation with a single board member and officer (president, secretary, treasurer and sole director) who is an architect licensed in numerous jurisdictions including LA. This business corporation is wholly owned by another North Dakota business corporation, which is wholly owned by an ESOP. A majority of the ESOP beneficiaries are not licensed design professionals, although the majority of the design’s firm shares owned by the ESOP are for the benefit of licensed professionals (mostly engineers and architects). The ESOP trustees are both professional engineers. Ms. Campbell asks: “[w]ill the architecture subsidiary be able to become licensed to offer and practice architectural services in LA based on the ownership and governance described above, assuming no one has any of the ‘bad boy disqualifications’?”

After discussion, the board concluded that it is without authority to license the architectural subsidiary described by Ms. Campbell. R.S. 12:1090.B and 12:1090.C contain statutory requirements for the ownership of the shares of a professional architectural corporation, which the architectural subsidiary described by Ms. Campbell does not satisfy. Ms. Simmons will so advise Ms. Campbell.

- P. Roofing and Waterproofing Consultation – The board reviewed an email dated February 28, 2013 from H. Ray Stringer of ARMKO Industries, Inc. (“ARMKO”). Mr. Stringer advises that he is the corporate architect for ARMKO, which provides design services revolving around roofing and waterproofing only. At times, the building owner hires ARMKO to work with or through an architect; at times the architect hires ARMKO as part of his team to provide roofing and waterproofing specs and details, and at times the building owner hires ARMKO direct to perform the reroofing of an existing facility. Mr. Stringer asks whether he will be able to stamp and sign the documents that ARMKO provides to the architect of record. He further asks whether ARMKO is required to be a registered firm to provide roofing or waterproofing consulting services and, if so, what are the rules for that process.

As to the question regarding whether Mr. Stringer will be able to stamp and sign the documents that ARMKO would provide to the architect of record, the architect of record, not Mr. Stringer, would be proper person to stamp and seal those documents.

As to the question regarding whether ARMKO is required to be a registered firm to provide roofing or waterproofing consulting services, ARMKO is not required to be registered to provide roofing or waterproofing consulting services to an architect. If ARMKO is hired by the building owner to perform the re-roofing of an existing facility, the issue of whether ARMKO is required to be registered depends upon whether the project is exempt from the Louisiana Architects Licensing Law. Mr. Stringer should note in particular La. R.S. 37:155.A.5 regarding maintenance projects that exceed the contract limit for public bidding as defined in R.S. 38:2212(A)(1)(d). The executive director will advise Mr. Stringer of the board's discussion and conclusions.

Budget Report

6. The January, 2013 budget report was reviewed.

7. Future meeting dates:

Friday, June 7

Friday, September 20

Friday, December 13

Date



Creed W. Brierre, President



David Brinson, Secretary