Minutes of the Meeting of
Louisiana State Board of Architectural Examiners
Baton Rouge, Louisiana
September 21, 2012
10:00 AM

Attending

Robert W. McKinney, President presiding
Allen Bacqué
Creed Brierre
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 June 08, 2012, were approved as written.

IDP Report

3. Ms. Marsha Cuddeback, IDP State Coordinator, presented the following report:

1 **IDP Coordinators Conference, July 27-28, 2012, Chicago, IL**
The annual IDP Coordinators Conference was held in Chicago at the end of July. Louisiana was very well-represented by NCARB President/Chair of the Board (Ron Blitch), 4 of the 5 IDP Educator Coordinators (Geoff Gjertson, Bill Willoughby, Judith Kinnard, Alice Guess), the LA State Coordinator (Marsha Cuddeback), and the LSBAE Executive Director (Teeny Simmons).

The 2012 Louisiana IDP Forum was presented by the LA State Coordinator at the request of NCARB to gather input from other State Coordinators and determine how NCARB can provide assistance in replicating the Forum nationwide. NCARB is planning to develop a toolkit modeled on the Louisiana IDP Forum under the direction of Nick Serfass, NCARB Assistant Director IDP, and he has asked the LA State Coordinator for assistance.

2 **IDP Educator Coordinators, AY 2012-13**
Louisiana State University: Alice Guess
Louisiana Tech: William Willoughby
Southern University: Jason Lockhart
Tulane University: Judith Kinnard
University of Louisiana Lafayette: Geoff Gjertson

3 **IDPAC (Intern Development Program Advisory Committee)**
IDP State Coordinator appointed for a second term to serve on the IDPAC, NCARB funded participant, FY2013. The first meeting is scheduled for October 5-6, 2012 in Washington, DC. The second meeting is tentatively scheduled for March 1-2, 2013.

4 **New FY12 NCARB Records by Current Students / Graduates**
The following numbers represent new applications for an NCARB Record during FY2012
Louisiana State University: 31 / 16
Louisiana Tech: 3 / 8
Southern University: 2 / 15
Tulane University: 60 / 5

University of Louisiana Lafayette: 18 / 16

5 **LA IDP Auxiliary Coordinators**
Goal: To identify and engage auxiliary coordinators across the state.
Confirmed: Ray Tse, Chenevert Architects, Baton Rouge, LA
Potential: Matt Baker, Abell + Crozier Architects, Lafayette, LA

6 **Firm Outreach for Interns | Auxiliary Coordinators | Emerging Professionals**
AIA LA prepared a list of all Louisiana firms (288) organized by Chapter. The LA State IDP Coordinator is developing a program to visit firms across the state with the assistance of auxiliary coordinators, once identified.

7 **NCARB IDP NEWS**
2012 NCARB Award for the Integration of Practice and Education, Deadline October 2, 2012

NCARB by the Numbers Released
The June 2012 inaugural edition of NCARB by the Numbers includes the NCARB Abstract, which provides charts and information that draw on NCARB Record data, and the NCARB Perception Survey Report, which shares an analysis of the perceptions of interns and architects surveyed by NCARB in December 2011. Sample attached. Download full PDF at http://www.ncarb.org/About-NCARB/NCARB-by-the-Numbers.aspx.

8 **UPCOMING EVENTS**
IDPAC, October 5-6, 2012, Washington, DC
2012 AIA Louisiana Design Conference, September 26-28, Lafayette, LA
Recently Licensed Architects Recognition, Friday, September 28, 11:45 AM -1:30 PM
Designing Your Career, Martin Smith (NCARB), Saturday, September 29, 9:45 - 11:30 AM
Margarita Mentoring, Saturday, September 29, 2:00 PM

Executive Director's Report

4. The Executive Director reported the following office functions:

A. Processing of 2012 firm renewals and delinquent firm renewals.

B. Finalized "Information on Architecture and Engineering Licensure Laws and Rules in Louisiana". Booklet was sent to approximately 450 building officials and will be posted on websites of LSBAE, Engineer's Board, FMO and possibly AIALA.

C. Hurricane Issac/office closed August 28-31.

D. Working with AIALA on New Licensee luncheon (as part of AIALA conference) on Friday September 28.

E. Customer Service Survey was prepared and approved by committee (Bacque, Brinson, McKinney).

F. Attendance:

1. June 19-24 NCARB Annual Meeting, Minneapolis.
2. June 28 Meeting with Donna Sentell (Engineers Board) re: building official guide.
3. July 20 AIALA-BOD meeting with Dave Brinson.
4. July 26-29 IDP Coordinators conference, Chicago.

5. August 1 AIALA (Lynn/Janet) re: New Licensee luncheon.
6. September 12-16 NCARB MBE committee meeting, Washington, DC.

5. Mr. Butch Browning, State Fire Marshal, made some informational comments on his office and offered their continual help in the future.

Legal

6. Mr. Spaht presented the following legal matters:

A. Rule § 1305 (Placing of Seal or Stamp) – For informational purposes, the board reviewed this rule published on July 20, 2012, in the Louisiana Register. This rule, now adopted, makes clear that contract drawings and specifications within the meaning of this rule include construction documents prepared for bidding or for receipt of proposals, as well as such documents submitted for permitting. No board action on this matter was deemed necessary.

B. Rule § 1303 (Architect's Seal or Stamp) – The board reviewed a proposed NOI concerning the architect's seal or stamp. The proposed rule provides for the shape, size, and design of the architect's seal. On motion by Mr. Bacque, seconded by Mr. LeBlanc, a proposed NOI will be published in the Louisiana Register.

C. Act 514 of 2012 (Firm Practice) – The board reviewed the enrolled version of HB 1063 of 2012, which was recently passed by the legislature and became Act 514 of 2012. The executive director and the board attorney will make a recommendation to the board at the December meeting as to what sort of rule should be adopted to implement the new legislation.

D. General Disciplinary Guidelines – The board reviewed proposed rules concerning general disciplinary guidelines ("GDG"). The executive director reported that the proposed rules had been provided to AIA Louisiana, and no comments had been received. On motion by Mr. LeBlanc, seconded by Mr. Bacque, § 1907.E was amended to (i) delete the word "minimum" in the first sentence; (ii) amend the discipline for "fraud, deceit, dishonesty, misrepresentation, misconduct" so that the discipline for fraud, deceit, dishonesty, or intentional misrepresentation would be a $3,000 fine, revocation, and public reprimand, and the discipline for negligent misrepresentation and misconduct would be a $1,500 fine, suspension, and public reprimand, and (iii) begin using the GDG, which were published in the June newsletter of the board, now. A NOI concerning the GDG will be published in the Louisiana Register.

E. Act 276 of 2012 (Military Trained Applicants and Military Spouses) – The board reviewed (i) a letter dated August 6, 2012, from the Secretary of the Louisiana Department of Veterans Affairs regarding Act 276 of 2012; (ii) the executive director's email dated August 16, 2012; (iii) a digest of Act 276; (iv) a copy of Act 276; (v) an email dated August 20, 2012 from Michael J. Armstrong, Chief Executive Officer of NCARB, and (vi) a memorandum dated August 21, 2012 from Kathy Hillegas, Director, Executive Office, NCARB. The executive director and board attorney reported that legislation similar to Act 276 has been adopted in a number of other states, and still more states are considering similar legislation. From the information reviewed, NCARB is considering a model rule which will accomplish the purpose of the legislation and which can be adopted nationwide. On motion by Mr. Cardone, seconded by Mr. Brinson, on an interim basis a committee of the board will review any application of a military-trained applicant or military spouse to

determine whether the requirements of Act 276 are satisfied and whether the applicant or spouse is entitled to a license from the board to practice architecture in Louisiana. Mr. Brinson, Mr. Brierre, and Mr. McKinney will serve on this committee. In addition, the executive director will write NCARB and request that it expedite its consideration of this issue.

F. Continuing Education – The board reviewed an email chain related to a request by LaHouse Resource Center for preapproval of initial training for mold remediation for continuing education credit. This chain led to a discussion of whether the sponsor of a seminar, lecture, or course must be an AIA national provider. Although AIA requires its members to take courses through AIA CES Registered Providers to obtain HSW or SD credits, it was observed that our rules (Rule § 1315) contain no such requirement.

G. Attorney General Opinion 11-0048 dated December 7, 2011 – Don Zeringue and Wayne R. Crouch, Office of Legal Affairs, Attorney Supervisor, appeared to discuss AG Opinion 11-0048. The opinion states that the Fire Marshal is authorized to promulgate rules concerning the permitted areas of practice of engineers, as well as the use of a discipline-specific seal by engineers who sign plans and/or subsystem plans that are submitted to the fire marshal, all as more fully set forth in said opinion. Mr. Zeringue and Mr. Crouch advised that the Fire Marshal intends to adopt such rules, as it is authorized to do.

H. Housing Solutions Alliance, LLC/Art Schuldt, Jr. – The board reviewed emails dated June 29, July 3, and July 5, 2012 from Art Schuldt, Jr. In his June 29, 2012 email, Mr. Schuldt advised that SGB Architects LLC is considering the creation of a new entity, HSA Architects, LLC. This new entity will be owned by Housing Solutions Alliance, LLC (HSA), which presently provides non-architectural services such as bookkeeping and HUD submissions to public housing authorities in six states. The new entity, HSA Architects, LLC, will provide architectural services to public housing authorities. Mr. Schuldt asked: (1) can this new entity be solely owned by HSA considering that he owns 50% of HSA and a non-architect owns the other 50%, and (2) if the scope of work of the new entity is renovation of residential buildings in which the renovations do not affect the structural integrity or life safety, are those renovations exempt from the licensing law pursuant to Rule § 1311. In connection with this second question, Mr. Schuldt asked: does this [§ 1311] permit HSA to perform this service without having to perform the work under a licensed architectural firm and, if so, can he assume that an architect's seal is not required.

In his July 3, 2012 email, Mr. Schuldt explained:

> The contemplated work could be to a variety of residential building types. Some are single-family, but a number would be duplexes and quad-plex buildings. The work is what HUD refers to as modernization. The scope is basically maintenance upgrades. It would include such things as window and door replacement, finish upgrades, kitchen cabinet replacement, replacement of light fixtures, replacement of deteriorated plumbing fixtures and new washer-dryer connections. In some cases, there may be an electric service upgrade to accommodate new electric dryers or HVAC replacement. (In that case, we would use the services of a licensed electrical or mechanical engineer). Exterior work may include new roofing, fascia and soffits.

> None of the contemplated work involves a structural reconfiguration of the housing unit and there would be no new construction. The work would not entail any change to exit or fire safety requirements.

In his July 5, 2012 email, Mr. Schuldt advised that the requirements of Rule § 1705.E (which requires that the supervising professional architect of a limited liability company be "a full-time active employee of the limited liability company, and whose primary occupation is with that limited liability company") would be satisfied by "hiring a full time employee that is also a Louisiana licensed architect."

Mr. Schuldt's first question concerns the ownership of the new entity, HSA Architects, LLC. The laws and rules governing limited liability companies practicing architecture do not prohibit such a company from being owned by a non-architect. Thus, the answer to Mr. Schuldt's first question is "yes," that is, the new entity (HSA Architects, LLC) may be solely owned by Housing Solutions Alliance, LLC.

The answer to Mr. Schuldt's second question is more complicated. Mr. Schuldt does not define "renovation" or "residential buildings." Within the meaning of Rule § 1311 and R.S. 37:155.A.4.c, the board considers "renovation" to mean items such as painting and finishings which are less than $125,000. Further, "residential buildings" are defined in the International Building Code and the International Residential Code. If the thresholds set forth in the IBC or IRC are met, an architect if required. The answer to Mr. Schuldt's second question is therefore "no."

Ms. Simmons will advise Mr. Schuldt of the board's discussions and conclusion.

I. Landscape Architecture – The board reviewed an email dated July 3, 2012, from Roger W. Kipp, AIA. Mr. Kipp sought clarification because of what he perceived as a conflict between the Architect's Licensing Law (La. R.S. 37:141 et seq.) and the Horticulture Commission Law (La. R.S. 3:3801 et seq.). The Architect's Licensing Law (La. R.S. 37:141.B.3) defines the practice of architecture. R.S. 37:141.B.3 provides:

> (3) The "practice of architecture" is the rendering or offering of the services specified in this Paragraph in connection with the design, construction, enlargement, or alteration of a building, a group of buildings, or *the space within and surrounding buildings* which have human occupancy or habitation as their principal purpose. Such services shall include the following: planning; providing preliminary studies, designs, drawings, specifications, and other technical submissions; administration of construction contracts; and the coordination of any element of technical submissions prepared by others, including but not limited to engineers and *landscape architects*, as appropriate. The practice of architecture shall not include the practice of engineering as defined in R.S. 37:682; however, a registered architect may perform such engineering work as is incidental to the practice of architecture.
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> (Emphasis added).

According to La. R.S. 3:3808.E, landscape architects shall be subject to the following provisions:

(1) A landscape architect's license authorizes the holder thereof to perform professional services such as consultation, investigation, research, preparation of general development and detailed landscape design plans, studies, specifications, and responsible supervision in connection with the development of landscape areas where, and to the extent that, the principal purpose of the service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the intended use of the land. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and practical requirements.

(2) In order to accomplish the duties described in Paragraph (1) of this Subsection, the landscape architect may prepare feasibility studies; formulate graphic and written criteria to govern the aesthetic and practical planning and design of land construction programs; prepare, review, and analyze plans for aesthetic and practical land use and development; produce landscape plans, landscape grading and landscape drainage plans, landscape irrigation plans, planting plans, and related landscape construction details, specifications, estimates of probable costs, and reports for aesthetic and practical land use; collaborate in the design of pleasing and practical settings and approaches for vehicular and pedestrian circulation systems, bridges, and nonhabitable structures, all with respect to the practical and aesthetic requirements of the areas on which they are to be placed; negotiate and arrange for execution of landscape projects; and conduct field observation of landscape construction, restoration, and maintenance.

(3) Nothing in this Subsection shall permit any person licensed under this Subsection to perform professional services which are defined as the practice of architecture in R.S. 37:141 et seq., or the practice of engineering or land surveying in R.S. 37:681 et seq., and which are not included in the practice of landscape architecture under this Subsection. *Nothing in this Subsection shall prohibit* the practice of engineering or land surveying or *the practice of architecture by any person who is licensed* as a professional engineer or land surveyor under R.S. 37:681 et seq., or *as an architect under R.S. 37:141 et seq.*

(Emphasis added).

After discussion, the board concluded that the Architect's Licensing Law, La. R.S. 37:141, specifically allows an architect to design the space surrounding buildings which have human occupancy or habitation as their principal purpose. The board offers no opinion on whether the architect's design may be regulated by other state or local laws or authorities. Ms. Simmons will so advise Mr. Kipp.

J. 2012 Design Conference – The board reviewed a letter dated August 6, 2012 from the Lynn Robertson, Executive Director of AIA Louisiana, requesting that the board join AIA Louisiana in recognizing duly licensed architects during the 2012 Design

Conference in Louisiana in Lafayette. Licensing new architects is essential to the duties imposed upon the board, and R.S. 37:144.E authorizes the board to make expenditures for any purpose which is reasonably necessary for the proper performance of its duties. The board authorized its director to contribute to the cost of recognizing newly licensed architects during the Design Conference.

K. Executive Order BJ 12-09 – The board reviewed Executive Order BJ 12-09 which terminates expenditures for per diem to members of boards which are made by the General Appropriations Act. The per diem expenditures to members of the board of the LSBAE are not made by the General Appropriations Act; accordingly, the per diem expenditures to the members of the board of the LSBAE are not terminated by Executive Order BJ 12-09.

L. CRC matters – There were no Consent Orders to be ratified.

M. Enforcement Report – Mr. Eddleman presented a written Enforcement Report for the period June 8, 2012- September 21, 2012. As set forth more fully in this report, the CRC at its June 8, 2012 meeting authorized the issuance of one (1) consent order. Further, since the June meeting, seven (7) cases have been opened, and at the direction of the CRC, five (5) cases were closed. Eight (8) cases were referred to the CRC for review: three (3) cases of unlicensed practice, four (4) cases relative to the improper use of the word architect, and one (1) case relative to fraud, deceit, and dishonesty, misrepresentation, misconduct, or gross negligence in the practice of architecture and unlicensed practice.

Budget Report

7. The August, 2012 Budget Report was reviewed. Ms. Simmons advised she was able (through Civil Service) to have Ms. Porche placed in an unclassified position which afforded a long overdue salary increase. If needed, the budget will be amended at the end of the fiscal year.

8. The remaining meeting for 2012 is Friday, December 14.

12/14/12
Date

Robert W. McKinney, President

Creed W. Brierre, Secretary