



TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-3600

**Board Meeting Minutes for April 12, 2018
First Floor Conference Room 1-A
Davy Crockett Tower**

Tennessee Board of Architectural and Engineering Examiners met on April 12, 2018, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Wagster called the meeting to order at 10:00 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Frank Wagster, Robert Campbell, Jr., Blair Parker, Ricky Bursi, Rick Thompson, Brian Tibbs, Kathy Ware, Alton Hethcoat, Stephen King, Susan Ballard, Grant Minchew

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Roxana Gumucio, Liz Goldstein, Sara Page, Wanda Garner

ROLL CALL / AGENDA

Mr. Wagster provided the notice of meeting and Ms. Garner called roll. Newly appointed Public Board member, Grant Minchew, was introduced and guests were acknowledged.

ASSISTANT COMMISSIONER

Assistant Commissioner Lawrence, appearing before the Board, announced that Roxana Gumucio has been selected as the Executive Director of the Board of Architectural and Engineering Examiners.

Mr. Lawrence and Accounting Director Bill Huddleston reported that reducing the biennial registration would not adversely affect Board revenue. Motion was made by Mr. Campbell and seconded by Mr. Bursi to authorize the rule-making process to reduce the initial and biennial registration renewal fee from \$140.00 to \$125.00. The motion passed unanimously.

MINUTES

Motion was made by Mr. Thompson and seconded by Mr. Campbell to adopt the minutes from the December 7, 2017 meeting as amended. The motion carried with Ms. Ballard abstaining.

Motion was made by Mr. Campbell and seconded by Mr. Parker to adopt the minutes from the February 15, 2018 meeting as submitted. The motion passed unanimously.

PROFESSIONAL SOCIETY REPORTS

Nathan Ridley from the TN chapter of the American Society of Landscape Architects (ASLA-TN) provided a brief summary of the general status of current legislative proposals.

Kasey Anderson, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN) provided a brief summary of the general activities of TSPE/ACEC-TN and of upcoming meetings.

Don Baltimore from Tennessee Interior Design through Education and Advocacy (TN IDEA) provided a brief summary of the general activities of TN IDEA.

Ashley Cates from American Institute of Architects Tennessee Chapter (AIA-TN) provided a brief summary of the general activities of AIA-TN and of upcoming meetings.

SPECIAL GRANT UPDATE - DANA MOODY

Dana Moody, University of Tennessee Chattanooga, Graduate Program Director, Interior Design Professor, and two students reported on how the \$20,000 grant from the Board of Architectural and Engineering Examiners to the University of Tennessee Chattanooga Interior Design, Engineering and Architect programs is being used.

LEGAL CASE REPORT (presented by Sara Page)

1. 2017080331

First Licensed: N/A

Expiration: N/A

Type of License: N/A

History (5 yrs.): N/A

Reviewer: None

Respondent listed herself as an interior architect on her website. Respondent quickly responded to the complaint and indicated she was unaware of the restriction on the term architect, and would change the title immediately on all public websites. Legal reached out to Respondent to answer questions Respondent had. Respondent thoughtfully reviewed the law, and asked questions aimed at ensuring future compliance. Legal composed an email containing the law and rules for the firm's review as well.

As background, Respondent holds an undergrad degree from a NAAB-accredited university, but has not sat for examination to date. As part of an interior design firm, Respondent does design certain interior components in residential projects such as millwork, cabinetry, and stonework.

Mitigating Factors: (1) Quickly changed title on all public pages.
(2) Took time to read and ask questions about statute to fully understand limitations.

Aggravating Factors: None.

Recommendation: Close.

Board Decision: Concur.

2. 2018010221

First Licensed: 01/16/2001

Expiration: 01/31/2019

Type of License: Professional Engineer

History (5 yrs.): N/A

Reviewer: Ricky Bursi

The project in question was Complainant's renovation of a commercial building. Complainant hired an architect who in turn hired Respondent for HVAC and plumbing design. Complainant claims Respondent was grossly negligent in his design of how and where to install a water backflow preventer. Complainant says Respondent's failure cost him money in correcting the issue. The backflow preventer was found to be out of compliance with the city's codes upon inspection since it was built inside a room without sufficient clearance on both sides.

Respondent responded to explain that the original drawings did call for the backflow preventer to be built in the interior of the structure, but that the notes specifically stated, "Variance approval required when backflow is located inside building." Respondent says that after it drafted the plans for how to install the backflow preventer in a closet the architect designed, they did not hear back for some time from Complainant. When Complainant did contact Respondent, it was to request his assistance in seeking a variance for the backflow preventer. Respondent produced a more detailed design of the device in the closet, but the design included the required clearance on both sides. After receiving that detail drawing, the contractor stated that the installation performed did not match the design. That was when Respondent learned the device had already been installed, despite no variance having been granted. Respondent visited the site and noted that the device was installed 90 degrees off of what was designed.

Ultimately, the city rejected the variance request due to the preemptive installation, and required the closet be expanded to afford the device proper clearance on all sides. Respondent notes that none of this implicates any finding of gross negligence against Respondent. Respondent noted that Complainant has been found to have knowingly defied city codes in the past.

Ricky Bursi reviewed the case and agreed that no violations occurred.

Mitigating Factors: None.

Aggravating Factors: None.

Recommendation: Close.

Board Decision: Concur.

3. 2018008511

First Licensed: 03/11/1993

Expiration: 02/28/2017 (EXPIRED – SEEKING REINSTATEMENT)

Type of License: Professional Engineer

History (5 yrs.): 2015 – LOW for being disciplined in another state.

Reviewer: None

Respondent self-reported three projects he sealed while his registration was expired. Respondent states that the lapse in his license was an oversight that he caught while checking on the status of his registration in other states. Respondent performed work on the following projects: (1) renovation of a restaurant; (2) new structure for a taco shop; and (2) new structure for a restaurant. All buildings are less than 2,000 square feet and wood-framed construction.

Mitigating Factors: (1) Self-reported.

Aggravating Factors: (1) Used the expired seal on three commercial projects.

Recommendation: Authorize a civil penalty in the amount of \$500 for use of expired registration. Respondent shall also take and pass the laws and rules examination.

Board Decision: Concur.

4. 2018008481

First Licensed: 06/25/2007

Expiration: 06/30/2019

Type of License: Professional Engineer

History (5 yrs.): None

Reviewer: Ricky Bursi and Robert Campbell

Respondent responded to a continued education audit. While Respondent did submit the required hours and proof, Respondent obtained the hours after his renewal date had passed. Therefore, technically the hours were earned late.

Mitigating Factors: None.

Aggravating Factors: None.

Recommendation: Close upon issuance of a letter of caution.

Board Decision: Close upon issuance of a letter of caution and Respondent must take a pass the laws and rules examination.

5. 2018008541

First Licensed: 03/12/1994

Expiration: 02/29/2020

Type of License: Professional Engineer

History (5 yrs.): None

Reviewer: None

Respondent's license expired in April 2014. Respondent stated a client informed him that his license was not listed as active. Respondent had been performing consultant work when the license status was discovered. Respondent contacted the Board and learned he had failed to remit a renewal payment in April 2014, and he would have to reapply. Respondent has reapplied and now has an active license. Respondent takes responsibility for the lapse, and stated the only explanation on how he missed it might be due to Respondent moving out of his office and into a storage space at that time.

Mitigating Factors: (1) Self-Reported.
(2) Working with a larger firm that will manage renewals and payments for Respondent.

Aggravating Factors: (1) Length of time.

Recommendation: Authorize a civil penalty in the amount of \$500 for practice on an expired registration. Respondent shall also take and pass the laws and rules examination.

Board Decision: Concur.

6. 2018013791

First Licensed: N/A

Expiration: N/A

Type of License: N/A

History (5 yrs.): None

Reviewer: None

Respondent applied for a license in Tennessee. In his application, Respondent incorrectly indicated on his NCEES council record he had not been disciplined in another jurisdiction. Respondent responded to indicate he has amended his NCEES council record to reflect the \$250 civil penalty paid in Ohio, and Respondent withdrew his application for licensure in Tennessee. Respondent indicated the license was no longer needed.

Mitigating Factors: (1) Withdrew Application.

Aggravating Factors: None.

Recommendation: Close upon issuance of a letter of caution regarding submission of incorrect/false information to the Board.

Board Decision: Concur.

7. 2018016701

First Licensed: 11/21/2005

Expiration: 05/31/2019

Type of License: Professional Engineer

History (5 yrs.): None

Reviewer: None

Codes sent this matter to the Board due to the license number appearing on the seal not matching a licensed Tennessee registrant. Respondent responded with proof he was licensed. The seal appears to have been saved as layers in the drafting program, and it did not properly copy over. The images inside the seal did not appear. Respondent stated he would correct the seal and resubmit the plan. Additionally, Respondent's signature does not fully cross the seal.

Mitigating Factors: (1) Respondent is in fact licensed
(2) Does appear to have been a simple error in applying the seal in the program.

Aggravating Factors: None.

Recommendation: Close upon issuance of a letter of warning regarding the style of seal and placement of the signature.

Board Decision: Close upon issuance of a letter of instruction regarding the style of seal and placement of the signature.

REPRESENTS

8. 2017070401

First Licensed: 03/30/1979

Expiration: 07/31/2019 (INACTIVE)

Type of License: Professional Engineer

History (5 yrs.): None

Reviewer: None

Respondent was previously assessed \$1,000 civil penalty, completion of 24 Professional Development Hours, and the laws and rules examination. This discipline was imposed due to Respondent failing to provide supporting documentation for PDHs he allegedly attended. Respondent did produce a chart of the hours, but stated he had failed to keep certificates or proof, and that he was unable to obtain the proof.

In response to the Consent Order, Respondent provided further explanation. Respondent set his license in inactive status in December 2017. Respondent has practiced for forty-one years, and intends to retire soon. Respondent states that he did, in fact, take the PDHs he provided in the chart, but simply has been unable to obtain supporting documentation. In light of this fact, his history of no violations, and his retirement, Respondent requested the civil penalty be reduced to \$500 and he be excused from making up the hours, since he says he did attend the courses. Respondent has taken the laws and rules examination in the meantime while awaiting to hear a response on the above request.

Mitigating Factors: (1) Set license inactive/retired so no ongoing concern about need to maintain PDHs.
(2) Did submit list of completed hours as required, but failed to keep supporting documentation. This makes this matter different than the usual failure to provide PDHs, because in most cases, neither a list nor supporting documentation is provided.

Aggravating Factors: (1) None.

Recommendation: Reduce the civil penalty from \$1,000 to \$500, and remove requirement to complete additional 24 PDHs.

Board Decision: Close and flag.

9. 2017043151

First Licensed: 07/12/1986

Expiration: 12/31/2019

Type of License: Professional Engineer

History (5 yrs.): N/A

Reviewer: Robert Campbell

Respondent was hired to conduct an inspection of a residential footing/foundation. Complainant states that the home construction began November 2014, but the Respondent's letter signing off on the foundation/footing was not received by the city until June 2015 after the project was complete. Complainant states that both Complainant and the building inspector had to ask multiple times to get Respondent to produce a letter. Ultimately, the home suffered damage that Complainant believed was related to the foundation. Complainant filed a complaint against Respondent as well as the contractor. Complainant alleges Respondent never actually visited the site since they did not see Respondent.

An investigation was conducted. The home damage seems to have been the result of the contractor's poor workmanship rather than the foundation. In relation to Respondent's inspection, Respondent claims he conducted the inspection on January 15, 2015, and the scope was to verify footing width, depth, reinforcing, and subgrade conditions. Respondent claims he did so and found no issues. Respondent produced only one page of notes related to the location of the home. No pictures or measurements were provided.

This complaint was reviewed by Robert Campbell, and at the direction of the Board, Robert Campbell participated in an informal conference with Respondent.

Mitigating Factors: (1) Difficult to prove lack of inspection.

Aggravating Factors: (1) When requested, Respondent produced very little to no supporting working papers showing measurements or photographs.
(2) The delay in producing the report and the report's lack of detail and brevity raises concerns to the thoroughness of the inspection.

Recommendation: Close upon issuance of a letter of instruction explaining the best practice of keeping records and photographs.

Board Decision: Concur.

Procuring an Expert Witness

Motion was made by Mr. Tibbs and seconded by Ms. Ballard to allow Ms. Page to begin the process for procuring an expert witness for a pending legal case. The motion passed unanimously.

Motion was made by Mr. Campbell and seconded by Ms. Ware to ask Ms. Page, Mr. Bursi and a third person, as a committee, to select an expert witness for a pending legal case. The motion passed unanimously. Mr. Hethcoat agreed to be on that committee.

Legislative Updates

Ms. Goldstein reported that Proposed Rule changes are in various stages of the review process.

DIRECTOR'S REPORT

Ms. Gumucio reported that the Board's newsletter was disseminated on March 27, 2018.

NCARB Annual Meeting: June 27-30, 2018

Motion was made by Mr. Tibbs and seconded by Mr. Thompson to approve four persons to attend the NCARB Annual Meeting on June 27-30, 2018 (two as NCARB funded and two as State funded). The motion passed unanimously.

NCEES Annual Meeting: August 15-18

Motion was made by Mr. Parker and seconded by Ms. Ballard to approve six persons to attend the NCEES Annual Meeting on August 15-18, 2018 (four NCEES funded and two state funded). The motion passed unanimously.

Budget and licensing information were submitted for informational purposes only.

Administrative Complaint Report and Process

Motion was made by Ms. Ware and seconded by Ms. Ballard to close the complaints as submitted. The motion passed unanimously.

Tennessee Tech University- Grant Equipment Change

Motion was made by Mr. Tibbs and seconded by Ms. Ballard to accept the revised grant equipment change. The motion passed unanimously.

University of Tennessee Knoxville- Grant Equipment Change

Motion was made by Ms. Ballard and seconded by Mr. Minchew to accept the revised grant equipment change. The motion passed unanimously.

Board Newsletter

Ms. Gumucio stated that alternatives to publishing a newsletter are being considered.

ENGINEER COMMITTEE REPORT

The Engineer Committee, through Mr. Bursi, reported on topics discussed.

Mr. Bursi stated that the Engineer Committee and the Architect Committee agreed to defer developing definitions of their respective professions until they garner information from other jurisdictions.

LANDSCAPE ARCHITECT COMMITTEE REPORT

The Architect Committee, through Mr. Parker, reported on topics discussed.

Mr. Parker reported that the Committee will pursue a law change which will provide a less strict education and experience requirement for landscape architect licensure.

NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB) REGIONAL MEETING

Mr. Tibbs reported on topics discussed.

NEW BUSINESS

Nominations for 2018-2019 Board Officers

After opening the floor for nominations, Mr. Thompson recommended the following slate of officers to be voted on at the June meeting.

Chair – Robert Campbell

Vice Chair – Blair Parker

Secretary – Brian Tibbs

Grant Applications

Ms. Ballard requested that the Deans of qualifying Tennessee colleges and universities be sent applications for Board issued grants.

Committee Appointment

Mr. Wagster asked Mr. Minchew to be on the Grants Committee.

ADJOURNMENT

There being no other business, Mr. Wagster adjourned the meeting at 1:45 p.m.

Immediately after this meeting adjourned, the Tennessee Board of Architectural and Engineering Examiners remained on the record in order to participate in a joint meeting with the Tennessee Board of Examiners for Land Surveyors to discuss digital signatures and issues common to both professions. After an hour of discussion, the Land Surveyors removed themselves from the discussion allowing the Architects and Engineers to continue the discussion on "Qualifications Based Selection" (QBS) in a work group roundtable session.