

MINUTES

Board of Architecture and Interior Design

Hampton Inn
1200 34th Street North
St. Petersburg, Florida 33713
727.322.0770

May 3, 2011
9:00 a.m.

General Business

Call to Order

Mr. Ehrig, Chair, called the meeting to order at 9:03 a.m.

Roll Call

Board Members Present:

John P. Ehrig
E. Wendell Hall
Aida Bao Garciga
Joyce Shore
Garrick Gustafson
Wanda Gozdz

Board Members Absent:

Warren Emo, excused
Johnstone Reid, Jr., excused
J. Emory Johnson, excused

Others Present:

Mary Ellen Clark, Board Counsel
David Minacci, Prosecuting Attorney
Anthony Spivey, Executive Director
Terri McEwen, Government Analyst
Ramji Shah
Oram Tonge
Annett Gabrelcik
Doug Brown
Gayle Barr
Peggy Oberlin
Marc Oberlin
Paul Renker
Gareth Elca

Court Reporter: Argus Reporting, LLC dba Bay Park Reporting, Inc., 41010 West State Street, Tampa, Florida 33609. Telephone 813.490.0003

Disciplinary Cases

Settlement Stipulations

Licensed

DBPR vs. Oram H. Tonge

Case Number 2009-046868

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Tonge was present and sworn in by the court reporter. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent being the sole practitioner with a firm and left the firm but continued to sign and seal their plans. The respondent was not able to provide documentation required for responsible supervision of the drawings. A one count administrative complaint was filed for improperly certifying work prepared by another person.

The probable cause panel recommended costs, two hours of continuing education pertaining to laws and rules, and two years reporting probation. The settlement stipulation reflected the panel's recommendation.

Motion: Ms. Shore moved that the board accept the settlement stipulation as presented.

Second: Ms. Gozdz seconded the motion and it passed unanimously.

DBPR vs. Gayle Barr and Country Club Designers, Inc.

Case Number 2010-018220

PCP: Rodriguez, Wirtz, and Gustafson

Ms. Barr was present and sworn in by the court reporter. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent offering interior design services through a corporation with a delinquent license. A two count administrative complaint was filed for offering interior design services without a certificate of authorization and attempting to use an interior design license while in a delinquent status.

The probable cause panel recommended an appearance, a \$2,500 fine plus costs. The settlement stipulation reflected a \$1,250 fine plus costs.

Motion: Ms. Bao-Garciga moved that the board accept the settlement stipulation as presented.

Second: Ms. Gozdz seconded the motion and it passed unanimously.

Request for Payment Review

Ramji Shah – Case 2007-056632

Mr. Shah was present and sworn in by the court reporter. Mr. Shah requested that the board reduce his fine and allow him to make a one lump sum payment for half the amount due. Mr. Shah explained that he submitted monthly payments that were returned. It was determined that the address information was incorrect on the checks submitted. After discussion it was determined that Mr. Shah's fine would not be reduced and he would continue to make payments on the case until the full amount was paid.

Locke vs. Shore

Joint Petition for Rehearing *En Banc* or Alternatively for Panel Rehearing

Motion of *Amici Curiae* for Leave to File Brief in Support of Petition for Rehearing *En Banc* or Alternatively for Panel Rehearing

Mr. Glogau reported that the courts determined that the interior design practice act was Constitutional. There was a commerce clause debated such as whether the statute discriminates against interstate commerce. The court recognized that there was no discrimination or impediments from practicing interior design in Florida. The plaintiffs had not proved a burden regarding the licensure requirement and they insisted that Florida must prove a sufficient benefit of licensure to overcome the burden of licensure. Mr. Glogau argued that where there was health, safety, and welfare regulation it comes to the court with the protection of due process. The court's looked at the legislative history and found that it was a legitimate health and safety benefit.

The plaintiffs argued that the practice of interior design was an artistic expression and ignored the technical aspects of the profession. They argued that the First Amendment protected their right to practice interior design. The court found that there was a valid regulation for interior design.

Mr. Glogau explained the process for the motion for rehearing and how the plaintiff brings up additional issues. One issue is that other circuit courts have ruled differently than the Eleventh Circuit Court regarding this profession.

Mr. Glogau reported that an agreement was met regarding attorney's fees for the plaintiffs. He reported that the Institute of Justice will file in the Supreme Court.

Disciplinary Cases

Motion for Order Waiving Formal Hearing

Licensed

DBPR vs. James T. Melvin

Case Number 2010-012087

PCP: Rodriguez, Wirtz, and Gustafson

Mr. Melvin was not present or represented by counsel. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on a final order entered June 23, 2009 requiring the respondent to pay fines plus costs and serve a probationary period. As of today the respondent had not paid the fines, costs or provided a project list as required for the probationary period. A one count administrative complaint was filed for failing to comply with a lawful order of the board.

The administrative complaint was hand served January 12, 2011. The respondent failed to respond to the administrative complaint. The probable cause panel recommended revoking the license.

Motion: Ms. Bao-Garciga moved that the board find that the administrative complaint was properly served upon the respondent and that the respondent waived the right to dispute the material facts by failure to timely respond thereto.

Second: Ms. Shore seconded the motion and it passed unanimously.

Motion: Ms. Bao-Garciga moved that the board adopt the findings of fact and conclusions of law as set forth in the administrative complaint.

Second: Mr. Hall seconded the motion and is passed unanimously.

Motion: Ms. Bao-Garciga moved that the board revoke the license.

Second: Ms. Gozdz seconded the motion and it passed unanimously.

Unlicensed

DBPR vs. Gal Levy and Lee Projects, LLC

Case Number 2010-033023

PCP: Rodriguez, Wirtz, and Gustafson

The respondent was not present or represented by counsel. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent offering architectural services on a commercial project without a license. A three count administrative complaint was filed for practicing architecture without a license, using the title architect without a license, and offering architectural services through a business without a certificate of authorization.

The administrative complaint was hand served on January 11, 2011. The respondent failed to respond to the administrative complaint. The probable cause panel recommended a \$15,000 fine plus costs.

Motion: Ms. Bao-Garciga moved that the board find that the administrative complaint was properly served upon the respondent and that the respondent waived the right to dispute the material facts by failure to timely respond thereto.

Second: Ms. Shore seconded the motion and it passed unanimously.

Motion: Ms. Bao-Garciga moved that the board adopt the findings of fact and conclusions of law as set forth in the administrative complaint.

Second: Mr. Hall seconded the motion and is passed unanimously.

Motion: Ms. Bao-Garciga moved that the board impose a \$15,000 fine plus costs.

Second: Ms. Gozdz seconded the motion.

Mr. Hall requested that the board consider imposing a \$2,000 fine per count plus costs. Mr. Manausa commented that the respondent was a detriment to the public. The board discussed that the respondent did not respond, they were unlicensed and were a danger to the public.

The question was called and it passed unanimously.

DBPR vs. Joseph M. McHarris and McHarris Planning & Design

Case Number 2009-042948

PCP: Rodriguez, Wirtz, and Gustafson

Mr. McHarris was not present or represented by counsel. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent offering architectural services in a proposal for a commercial project without a license. This was a second offense. A one count administrative complaint was filed for offering architectural services through a business without a certificate of authorization.

The administrative complaint was hand served on January 12, 2011. The respondent failed to respond to the administrative complaint. The probable cause panel recommended a \$5,000 fine plus costs.

Motion: Mr. Hall moved that the board find that the administrative complaint was properly served upon the respondent and that the respondent waived the right to dispute the material facts by failure to timely respond thereto.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Motion: Mr. Hall moved that the board adopt the findings of fact and conclusions of law as set forth in the administrative complaint.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Motion: Mr. Hall moved that the board impose a \$5,000 fine plus costs.
Second: Ms. Shore seconded the motion and it passed unanimously.

The board requested that a copy of the final order be sent to the Collier County Government including but not limited to the City of Naples, Marco Island Building Department, town and city councils, and City and County Commissions.

Settlement Stipulations

Licensed

DBPR vs. Gerald Belgrave
Case Number 2010-020103
PCP: Rodriguez, Wirtz, and Gustafson

Mr. Belgrave was not present or represented by counsel. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent signing and sealing residential plans prepared by an unlicensed draftsman without meeting with the client. A two count administrative complaint was filed for improperly certifying work prepared by another and aiding the unlicensed practice of architecture.

The probable cause panel recommended a \$3,000 fine plus costs. The settlement stipulation reflected a \$750 fine plus costs. The fine was reduced because this was a first time offense and the respondent agreed to comply.

Motion: Mr. Hall moved that the board adopt the settlement stipulation as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

DBPR vs. Jeorge Ann Samet and Interiors by Jeorge Anne
Case Number 2010-047471
PCP: Rodriguez, Wirtz, and Gustafson

The respondent was not present or represented by counsel. Mr. Gustafson was recused from the review of the case based on his participation with the probable cause panel. The case was before the board based on the respondent offering architectural services on a web site. A one count administrative complaint was filed for an interior designer offering render architectural services.

The probable cause panel recommended five hours of continuing education on the laws and rules and a \$250 fine plus costs. The settlement stipulation reflected the panel's recommendation.

Motion: Ms. Gozdz moved that the board adopt the settlement stipulation as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Request for Reinstatement of Null and Void License due to Hardship

William Watkins

Ms. McEwen presented the application, confirmed that he completed all required continuing education and provided an additional handout regarding Mr. Watkins' hardship. After discussion the following motion was made.

Motion: Mr. Hall moved that the board approve the reinstatement of the null and void license.

Second: Ms. Gozdz seconded the motion and it passed unanimously.

General Discussion

Financial Reports – Janet Parramore, DBPR Director of Budget and Financial Management

Financial Report ending March 31, 2011

Financial Report ending June 30, 2010

Financial Report ending June 30, 2009

Financial Report ending June 30, 2008

Financial Report ending June 30, 2007

Financial Report ending June 30, 2006

Ms. Parramore was unable to attend the meeting due to the end of the Legislative Session. She requested that the board postpone her appearance to the July meeting.

Review and Approval of Meeting Minutes

November 3, 2010 – General Business – Naples

Motion: Mr. Gustafson moved that the board approve the minutes as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

February 16, 2011 – Probable Cause Panel – Fernandina Beach

Ms. McEwen confirmed that the panel reviewed and approved the minutes as presented.

Motion: Mr. Hall moved that the board ratify the minutes as presented.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

February 17-18, 2011 – General Business – Fernandina Beach

Motion: Ms. Gozdz moved that the board approve the minutes as presented.
Second: Mr. Gustafson seconded the motion and is passed unanimously.

March 22, 2011 – General Business – Telephone Conference Call

Motion: Ms. Gozdz moved that the board approve the minutes as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Ratification List(s)

Licensure (handout)

Architects licensed by Exam

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Mr. Hall seconded the motion and it passed unanimously.

Architects license by Endorsement

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Mr. Hall seconded the motion and it passed unanimously.

Architect Business

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Ms. Shore seconded the motion and it passed unanimously.

Interior Design by Exam

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Ms. Gozdz seconded the motion and it passed unanimously.

Interior Design by Endorsement

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Ms. Shore seconded the motion and it passed unanimously.

Dual AR/ID by endorsement

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Interior Design Business

Motion: Mr. Gustafson moved that the board approve the list as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Continuing Education (handout)

Motion: Ms. Gozdz moved that the board approve the list as presented.
Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Reports

Chair's Report – John Ehrig

Mr. Ehrig reported that he and Mr. Hall would attend the National Council of Architectural Registration Boards' Annual Meeting in June.

Executive Director's Report – Tony Spivey

Financial Report ending December 31, 2010

Mr. Spivey reminded board members to obtain zero balance bills when they check out of the hotel. There was no discussion on the financial report.

AIA Report – Vicki Long

Ms. Long, Mr. Lingerfelt, and Mr. Jacobs were present. Ms. Long reported that the Fairness and Liability Legislative Language would be put forth at next years' session. She reported that the Consultants Competitive Negotiations Act was reviewed and many felt that the price should be considered above credentials. She reported that the bill would not move forward at this time. She reported that the International Green Construction Building Code (IGCC) would be adopted and the amendment cycles would change. She reported that the Growth Management Bill was divided into a few bills and would be retroactive to June 1, 2009.

Ms. Long reported that the House Bill 5005, the Deregulation Bill passed the Conference Committee process and would be considered under the Appropriations Act. She reported that House Bill 5007/ Senate Bill 1824 addressed continuing education and privatization of the board similar to the Florida Engineers Management Corporation (FEMC). She reported that AIA Florida requested use of the unlicensed activity funds for combating unlicensed activity.

Mr. Lingerfelt reported that there was a training program for Assessing Damage Structures after a natural disaster. Architects work as adjuncts and report their findings to the building department. Individuals have specialized training such as water, fire, etc. He reported that AIA Florida was working with Florida Emergency

Management on a credential or identification card for individuals that complete the Safety Assessment Program.

Mr. Lingerfelt commented that AIA Florida surveyed their members for the Top 100 Buildings to celebrate the architects for 100 years in Florida. He reported that the Community of the Environment (COTE) requested videos such as U-Tube to celebrate sustainable architecture.

Ms. Long reported that the Investigative and prosecutorial contract funds were submitted for the current level of \$425,000.

IDAF – Doug Feldman

Mr. Feldman was not able to attend the meeting.

Prosecuting Attorney's Report – David K. Minacci
Licensed Architecture Legal Cases
Licensed Interior Design Legal Cases
Unlicensed Architecture Legal Cases
Unlicensed Interior Design Legal Cases
Licensed/Unlicensed Investigative Cases
Fines Chart – Summary
Fines Chart – Licensed
Fines Chart – Unlicensed
Billable Hours January 2011
Billable Hours February 2011
Billable Hours March 2011
Board Meeting Results February 17, 2011
Press Releases/Speaking Engagements/Other Correspondence

Mr. Minacci reported that he provided a presentation to interior designers in Jacksonville. He reported that at the end of the month he would be providing a presentation to the Volusia County Building Inspectors.

Future Board Meetings

June 2, 2011 – Telephone Conference Call

July 25, 2011 Probable Cause Panel Meeting
July 26-27, 2011 General Business Meeting
Location: Hilton Naples

New Business

Motion: Ms. Shore moved that the board does not support House Bill 5005 and the Deregulation of Interior Designers.

Second: Ms. Bao-Garciga seconded the motion and it passed unanimously.

Old Business

No old business.

Adjourn

Motion: Ms. Gozdz moved that the meeting adjourn.

Second: Mr. Gustafson seconded the motion and it passed unanimously.

The meeting adjourned at 11:25 a.m.