

**BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS
AND LANDSCAPE ARCHITECTS MEETING**

MINUTES

The Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on March, 31, 2009, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

James R. Boyd
John S. Clark, Jr.
J. Everette Fauber, III

Land Surveyors

John R. McAden
Nancy E. McIntyre
W. R. Stephenson, Jr.

Landscape Architects

Vaughn B. Rinner
William H. Spell

Professional Engineers

Nico De León
Stanley C. Harris, Sr.
Wiley V. Johnson, III

Interior Designers

Lorri B. Finn
Cameron C. Stiles

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director

Nick A. Christner, Deputy Director for Compliance and Investigation

Mark N. Courtney, Deputy Director for Licensing and Regulation Division

Kathleen R. Nosbisch, Executive Director

Marian H. Brooks, Program Administrator

Amy Goobic, Administrative Assistant

Michelle Gowen, Administrative Assistant

Michelle Atkinson, Legal Analyst

Steven P. Jack, Assistant Attorney General, was present at the meeting.

Ms. Stiles, Chair, called the meeting to order at 9:00 a.m.

Call to Order

Mr. Clark moved to approve the agenda. Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

Approval of Agenda

Ms. Stiles introduced the new Administrative Assistant for the APELSCIDLA Board, Amy Goobic.

**Introduction of
Administrative
Assistant**

Mr. Fauber moved to approve the minutes for the following meetings as amended:

Approval of Minutes

- December 10, 2008, APELSCIDLA Board Meeting;

- December 10, 2008, Informal Fact-Finding Conference (PE);
- January 15, 2009, Informal Fact-Finding Conference (LA);
- January 21, 2009, Informal Fact-Finding Conference (PE);
- February 10, 2009, Professional Engineers Section Meeting;
- February 12, 2009, Landscape Architects Section Meeting;
- February 18, 2009, Land Surveyor Section Meeting; and
- March 4, 2009, Informal Fact-Finding Conference (ARCH).

Mr. Spell seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

Public Comment Period – Board members were given the opportunity to read letters of public comment from Mr. Bill Haynie, licensed architect; and Mr. Thomas Tingle, licensed architect. The individuals were unable to attend the board meeting but wanted to express their concerns regarding the phone book listings of unlicensed professionals.

**Public Comment
Period**

Clifton Strickland, licensed architect, was present to address the Board with regards to §§541.201, 541.304 and 541.402.2 of the *Code of Virginia*. Mr. Strickland stated that he does not feel the Board is following the Code with regards to processing complaints, questioned the powers of the Director and members of the Board, and Virginia's penalty process for unlicensed activity.

Matt Arnold, licensed architect, recalled an instance several years ago where a wall in a carwash collapsed, killing a person. It was discovered that there had been a forged architect seal on the plans and the resulting fine was only \$50.00. Through the office of the Attorney General, the law was changed transferring enforcement authority to DPOR. Mr. Arnold respectfully requested that the Board utilize its authority to enforce the regulations regarding unlicensed activity and unlawful listings in phone books and on the Internet.

Duncan Abernathy, VSAIA, was present to address the Board regarding individuals and businesses listed in the phone book as architects. Mr. Abernathy stated that as of 2007, the Board has had the authority to enforce penalties upon unlicensed professionals offering services in the phone book. Mr. Abernathy provided a handout of the licensing laws and information of actions taken by states surrounding Virginia, regarding the penalties enforced. Mr. Abernathy spoke, in general terms of an investigation that he had knowledge of where the investigator was unfamiliar with the laws regarding phone book listings and the Board's authority.

Regarding **File Number 2009-02353, Alexander Echols**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits and the summary and recommendation of the presiding Board member. Mr. Johnson moved to

**File Number 2009-
02353, Alexander
Echols**

accept the recommendation of the presiding Board member and approve Mr. Echols to sit for the FE examination under 18 VAC10-20-190.5 and also to allow Mr. Echols to reapply under 18 VAC 10-20-20.D for the FE examination when he has obtained the required engineering experience and meets the applicable Board regulations enforced as of that date. Mr. De León seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles. As the presiding Board member, Mr. Harris, was not present during the discussion, or vote.

Regarding **File number 2009-00978, Robert Chi**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Chi. Mr. Harris moved to accept the Consent Order which cites the following violations: 18VAC10-20-750.A (Count 1) and 18VAC10-20-750.C (Count 2) of the Board's regulations. For these violations Mr. Chi agrees to revocation of his license and to pay Board costs in the amount of \$150.00. Mr. De León seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles. As the reviewing Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2009-00978, Robert Chi

Mr. Koerner was present to address the Board. Mr. Koerner stated that he was present for any questions that may arise regarding his case.

File Number 2008-04181, Brian Koerner

Regarding **File number 2008-04181, Brian Koerner**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as and the Section's recommendation. Mr. Harris moved to accept the recommendation of the Professional Engineer Section, which voted to reject the recommendation of the presiding Board Member and recommend a finding of no violation. Mr. Johnson seconded the motion which was unanimously approved by members: Boyd, Clark, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles. As the presiding Board member, Mr. De León was not present during the discussion or vote.

Regarding **File Number 2009-00385, Stephen Barcena**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Barcena. Mr. McAden moved to accept the Consent Order which cites the following violations of 18VAC10-20-370.D.2.c (Count1) and 18VAC10-20-370.D.2.k (Count 2) of the Board's regulations. For these violations, Mr. Barcena agrees to pay the following monetary penalties: \$150.00 for the violation contained in Count 1; and \$100.00 for the violation contained in Count 2; as well as Board costs in the amount of \$150.00, for a total monetary penalty of \$400.00. Ms. McIntyre seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, and Stiles. As the reviewing Board member, Mr. Stephenson was not present during the discussion or vote.

File Number 2009-00385, Stephen Barcena

Regarding **File Number 2009-02220, Randy Ennis**, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, transcripts, exhibits and the Summary of the Informal Fact-Finding Conference. Ms. Rinner moved to accept the amended recommendation of the presiding Board member and approve the divisions of the LARE exam taken and passed prior to Board approval. Mr. Spell seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

File Number 2009-02220, Randy Ennis

Regarding **File Number 2009-02135, Adriane Fowler**, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, transcripts, exhibits and the Summary of the Informal Fact-Finding Conference. Mr. Spell moved to accept the amended recommendation of the presiding Board member and approve the divisions of the LARE exam taken and passed prior to Board approval. Ms. Rinner seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

File Number 2009-02135, Adriane Fowler

After reviewing the application and Agreement for Registration, Mr. Harris moved to accept the Agreement for Registration as seen and agreed to by AMG, Inc. Mr. Johnson seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

Agreement for Registration 2009-06, AMG, Inc.

After reviewing the application and Agreement for Registration, Mr. McAden moved to accept the Agreement for Registration as seen and agreed to by Hall Planning & Engineering, Inc. Mr. Johnson seconded the motion which was unanimously approved by members: Boyd, Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Spell, Stephenson, and Stiles.

Agreement for Registration 2009-07, Hall Planning & Engineering, Inc.

The Board members took a break from 10:42 a.m. to 10:58 a.m.

Break

Ms. Stiles opened the floor for discussion and questions regarding telephone listings and advertisements of unlicensed professionals. Mr. Spell stated that it is not only Architects who have to deal with the problem; it also occurs with the Landscape Architects. Mr. Boyd stated he would like the Board enact a policy to issue cease and desist orders on any unlicensed person or company that advertised under a protected professional designation. Mr. Jack commented that each case would have to be decided based on the facts and evidence in the record; that the Board could not have a 'blanket' rule on the

Discussion of Telephone Listings and Advertisements

issue.

Ms. Stiles questioned Mr. Christner as to the process followed when a complaint such as this has been filed. Mr. Christner explained that the Department does in-depth web searches, and in some cases, random visits to businesses and cold calls. With regards to the phone book listings, Mr. Christner further clarified that even though a business may have a listing in the phone book, they may not have requested or paid for that listing. Mr. Jack added that to pursue action against someone, there has to be substantial evidence to support the case; not just a portion of the case.

Mr. Boyd questioned whether the Board has the authority to impose civil penalties on those advertising unlawfully in the phone book. Discussion was held on how to obtain documentation of proof that a person knowingly advertised under false pretenses so that penalties could be imposed.

Ms. McIntyre suggested that an advisory letter be sent to any person or company that might not be in compliance with regulations. Mr. Christner explained that 'notification' letters are sent when a company or person is complained about, but there is not sufficient evidence to support a violation. Ms. Finn asked that the Board see a copy of the letter that is sent, which was provided by Mr. Christner.

Discussion was held on statistics of complaints and letters sent. Mr. Christner said that they have received 16 complaints during FY 09 regarding over 100 entries in the phone book. Mr. Boyd questioned whether the Department of Professional and Occupational Regulation has had conversations with phone book providers regarding the issue. Mr. Christner indicated that he had attempted to do so with very limited success. Mr. Boyd also posed the question, would statutory reform help? Mr. Jack indicated the Board could pursue amending the existing cease and desist law, although he did not advocate this course of action.

Ms. Nosbisch informed the Board of recent legislative activity. Handouts were given of House Bill 2072 and Senate Bill 1008 pertaining to onsite sewage systems; House Bill 2147 pertaining to land surveying requirements for licensure; and Senate Bill 940 requiring the licensure of landscape architect effective July 1, 2010.

The Board members were provided with a comprehensive report of enforcement activity since the last Board meeting.

The Board members were provided with financial statements from February 2009 for informational purposes. Ms. Nosbisch informed the Board members that she had met with the budget director and that the APELSCIDLA Board appeared good through 2012.

Ms. Nosbisch updated the Board members on the status of the new Continuing Education requirements that will go into effect April 1, 2009. A

Legislative Update

Comprehensive Report of CID Activity

Review of Board Financial Statements

Other Business

handout was given with the new requirements for the Board members to review.

Ms. Nosbisch acknowledged the observance week or month for each of the professions:

National Engineers Week - February 15 through 21
National Land Surveyors Week – March 15 through 21
National Architect Week – April 7 through 14
Landscape Architect Month – April
Photogrammetrist – September 7 through 11

Ms. Nosbisch informed the Board members that as of February 18, 2009 Virginia had its first licensed Photogrammetrist.

Ms. Stiles read a letter to the Board that she received from The Council on Licensure, Enforcement and Regulation (CLEAR), thanking the Board for the time Ms. Nosbisch had dedicated.

Ms. Nosbisch informed the Board members that the new licensing and regulation software, EAGLES, was now in place, and the Department had “gone live” on March 24.

Mr. Christner discussed the Consent Order process and reiterated that a Consent Order is voluntary. He also stated that CID had seen an increase in Consent Orders.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:08 a.m.

Adjourn

Cameron C. Stiles, Chair

Jay W. DeBoer, Secretary