

MINUTES

UNIFIED BOARD OF DESIGN PROFESSIONALS DIVISION WITHIN THE DEPARTMENT OF BUSINESS REGULATION (DBR)

Unified Board Meeting

Public Meeting

March 26, 2008, 3:00 PM

Department of Administration Building

Conference Room C

Voting Board Members present were:

Richard A. Bernardo, PE

L. Robert Smith, PE

Wilbur E. Yoder, AIA, PE, NCARB

James R. Carlson, NCARB, AIA

Richard S. Lipsitz, PLS

Thomas D. Drury, Jr., PLS

John C. Carter, LA

Sara Bradford, LA

Non-Voting Board Members present were:

Barbara Feibelman, NCARB, AIA

Dana M. Newbrook, NCARB, AIA

Others present were:

Richard W. Berstein, DBR Executive Counsel

**Peter N. Dennehy, Department of Administration (DOA), Deputy Chief
Legal Counsel**

Dawne Broadfield, Recording Secretary

1. Called to Order

- **Chair Bernardo called the meeting to order on March 26, 2008 at 3:00 p.m. At the 3:00 p.m. time, all voting members were present.**

2. Approval of the Open Session Minutes of the Meeting.

- **Mr. Carlson moved to accept the February 27, 2008 open meeting minutes. Mr. Yoder seconded. Motion carried.**
- **Mr. Carlson moved to accept and seal the February 27, 2008 executive meeting minutes. Mr. Lipsitz seconded. Motion carried.**

3. Discussion on the Preparation of “Operating Procedures and Guidelines” for the Unified Board

- **At the last meeting it was agreed on that this item will remain on the**

agenda. This Board will not move forward with the development of its “Operating Procedures and Guidelines” until such time as the Committees have their amended “Rules and Regulations” in place. Attorney Bernstein noted that this is still acceptable. Therefore, this item has been continued.

4. Report of Architects Committee meeting of March 19, 2008

- Mr. Drury moved to accept the Architects Committee Meeting minutes of March 19, 2008. Mr. Carlson seconded. Motion carried.**

5. Report of Engineers Committee meeting of February 27, 2008

- Mr. Smith moved to accept the Engineers Committee Meeting minutes of February 27, 2008. Mr. Carlson seconded. Motion carried.**

6. Report of Landscape Architects Committee meeting of March 19, 2008

- Ms. Bradford moved to accept the Landscape Architects Committee Meeting minutes of March 19, 2008. Mr. Carter seconded. Motion carried.**

7. Report of Land Surveyors Committee meeting of March 13, 2008

- Mr. Lipitz moved to accept the Land Surveyors Committee Meeting**

minutes of March 13, 2008. Mr. Drury seconded. Motion carried.

8: Posting Executive Session Items on the Open Session Agenda.

- **After discussion between Attorney Bernstein and Attorney Sholes, of the Attorney General's Office, Attorney Bernstein advised this Board and the Committees that the acceptable procedure to post executive session agenda items on the open agenda is to post general descriptions, without any specific names.**

9. Clarification on the "Title" used by the Individual Four (4) Committees.

- **The Engineers Committee requested that Director Marques consider the use of the term "board" with a small "b" in their title within the DBR instead of the use of the term "Committee." Director Marques answered that the Committees' titles would be addressed as follows:**

- **Architects Committee of the Unified Board of the Division of Design Professionals**

- **Landscape Architects Committee of the Unified Board of the Division of Design Professionals.**

- **Professional Engineers Committee of the Unified Board of the Division of Design Professionals**

- **Professional Land Surveyors Committee of the Unified Board of the Division of Design Professionals**

Attorney Bernstein discussed this with Director Marques and he is adamant that there is only one Board and it is this Board. At one of

the Committee meetings, this matter was discussed. Possible remedies would be to introduce legislation that would undo this most current legislation and another remedy would be that when each Committee develops their amended Rules and Regulations, those Rules and Regulations will be entitled with the new Committees names. The public would then be able to comment at a public hearing. If comments are made, the hearing officer is obliged to take all comments into consideration and make recommendations to Director Marques.

Chair Bernardo stated that the Committees have an agreement with Director Marques to try to make this work. The first goal was to work with him to get the Committees reconstituted to their five (5) members' status. The second goal would be to introduce legislation to correct the current legislation.

Attorney Berstein stated that Representative Donald J. Lally, Jr., House Deputy Majority Leader, has been approached and may possibly be looking at introducing clarifying legislation. Mr. Carter indicated that Representative Lally is his representative and that he told him about this situation. Mr. Lally agreed to introduce legislation to clarify the current legislation. Mr. Lally will be using a draft of legislation that was prepared by Attorney Dennehy several months ago. The legislation would remove the sections that removes the five (5) members and the make up, but would not change the DBR designation. Mr. Carter will notify this Board of any information

pertaining to this bill if it is introduced.

Attorney Bernstein also pointed out that at one of the Committee meetings there was a concern that the new titles could cause problems with the National Councils. Attorney Bernstein stated that the resolution could be i.e. Architects Committee (formerly known as the Board of Examination and Registration of Architects).

10. Clarification on the Attorney General's Office Representation to the Individual Four (4) Committees and this Board.

- It was agreed at the last meeting that this Board would try one more time and request representation from the Attorney General's Office. The same exact answer that was given to several of the individual Committees was received by this Board in that this Board will not be receiving representation.**

11. Any other business

(A) Unlicensed Activity

- Attorney Bernstein indicated that the Committees are concerned about unlicensed activity. The Architects Committee is in the process of preparing and sending out a letter to notify Building Officials in the Municipalities as well as the Inter-Local Trust and the Insurance Agents Association that reminds them that Architects have**

to be licensed and that they are listed on the Committee's website, and include with the letter a copy of the 2008-2009 Providence Yellow Book and the 2008 Verizon Yellow Pages highlighting those Architects and architectural firms that do not hold licensure/certification. Attorney Berstein will add a sentence to the letter that was drafted by Mrs. Broadfield and Mr. Carlson to state that this could be an issue of not only public safety but also potential liability.

Attorney Berstein explained that DBR has a process before an administrative hearing begins. DBR brings the purported offenders in and tells them that they can voluntarily enter into a Cease and Desist Agreement by which the purported offenders would acknowledge what they have done and agree not to do it again. If the purported offenders do not agree to a voluntarily Cease and Desist Agreement, then DBR would then invoke the Administrative Procedures Act (APA) and issue a formal Cease and Desist notice. DBR also tells the purported offenders that there is some risk to them if they do not voluntarily settle. Once DBR issues the formal Cease and Desist, it becomes a public matter and the information may be published on its website as an enforcement action. Some of the Committees still have the ability to request that the Attorney General's Office bring criminal prosecution against the purported offenders.

After discussion, Mr. Carlson suggested that one letter be sent from this Board for the four (4) Committees.

A Sub-Committee consisting of one (1) member from each Committee including, Mr. Carlson, Mr. Smith, Mr. Carter and Mr. Lipsitz, was formed to develop a letter to notify Building Officials in the Municipalities as well as the Inter-Local Trust and the Insurance Agents Association that reminds them that Architects, Engineers, Landscape Architects and Land Surveyors have to be licensed and that they are listed on the Committees' websites, and include with the letter a copy of the 2008-2009 Providence Yellow Book and the 2008 Verizon Yellow Pages highlighting those professions and the professions' firms that do not hold licensure/certification. Attorney Berstein will add that this could be an issue of not only public safety but also potential liability. The Sub-Committee will make a recommendation to this Board.

- Attorney Berstein suggested that this Board may want to consider also sending a letter to Idearc Media which is the Yellow Pages, and Yellow Book, warning them to be careful not to promote a possible violation Rhode Island law and that before they publish an individual name or a company name that those individuals/companies provide registration numbers.**

The Attorney General's Office has corresponded with Idearc Media and has received a response from Sandra L. Skogen, Associate General Counsel. The response indicated that Idearc Media has agreed to verify that individuals and companies listed under the

Engineers and Architects sections are properly registered in Rhode Island.

Attorney Berstein suggested that another letter be might sent to Idearc Media from DBR indicating that this is true for all of the Committees.

(B) Mr. Carlson stated that the Architects Committee meets once a year at the Building Code Officials meeting and attends that meeting to refresh what an individual can and cannot build with an Architect. Mr. Carlson suggested that meeting be expanded to all four (4) Committees.

(C) Mr. Carlson asked who will prosecute and who will represent the Committees. Attorney Berstein explained that if there is unlicensed activity, the matter would be referred to the Legal Division of DBR. DBR would appoint a prosecutor and a hearing officer. DBR can both prosecute and represent the Committee. DBR then holds a pre-hearing settlement conference, discovery, and would request that a person from the Committee be present to present the evidence/information gathered.

(D) Attorney Bernstein suggested at one of the Committee meetings that this process be simplified by having the Unified Board delegate authority to each Committee, so that each Committee could have the power derived from this Board to approve its own minutes. Attorney Bernstein spoke to Director Marques about it and Director Marques was not in favor of this approach at this time

(E) Acceptance of the Architects Committee's Executive Session Summary of the March 19, 2008 Meeting.

- Mr. Carlson moved to accept the attached, Exhibit A, Architects Committee's Executive Session Summary of March 19, 2008. Mr. Yoder seconded. Motion carried.**

(F) Acceptance of the Engineers Committee's Executive Session Summary of the February 27, 2008 Meeting.

- Mr. Smith moved to accept the attached, Exhibit B, Engineers Committee's Executive Session Summary of February 27, 2008. Mr. Carlson seconded. Motion carried.**

(G) Acceptance of the Landscape Architects Committee's Executive Session Summary of the March 19, 2008 Meeting.

- Mr. Carlson moved to accept the attached, Exhibit C, Landscape**

Architects Committee's Executive Session Summary of February 27, 2008. Ms. Bradford seconded. Motion carried.

(H) Acceptance of the Land Surveyors Committee's Executive Session Summary of the March 13, 2008 Meeting.

- **Mr. Lipsitz moved to accept the attached, Exhibit D, Land Surveyors Committee's Executive Session Summary of March 13, 2008. Mr. Drury seconded. Motion carried.**

12. Adjourn to Executive Session, if necessary

- **Chair Bernardo asked for a cause for this Board to go into Executive Session and heard none.**

13. Adjourn

- **The next Unified Board meeting will be held on April 23, 2008 at 3:00 p.m. at the Department of Administration Building, Conference Room C, One Capitol Hill, 2nd Floor, Providence, RI 02908. With no further business coming before this board, Mr. Smith moved to adjourn the meeting at 3:30 p.m. Mr. Carlson seconded. Motion carried.**

Respectfully submitted,

Richard A. Bernardo, P.E.

Chair

Prepared by: Dawne Broadfield, Recording Secretary

EXHIBIT A

EXECUTIVE SESSION SUMMARY

March 19, 2008

ARCHITECTS COMMITTEE

OF THE UNIFIED BOARD OF THE

DIVISION OF DESIGN PROFESSIONALS WITHIN THE

DEPARTMENT OF BUSINESS REGULATION (DBR)

1. There are three (3) licensing-related matters pending.

EXHIBIT B

27 FEBRUARY 2008

**ENGINEERS COMMITTEE OF THE UNIFIED BOARD OF THE DIVISION
OF DESIGN PROFESSIONALS.**

1 CAPITOL HILL 2ND. FLOOR

CONFERENCE ROOM C

Executive Summary:

- A. Five (5) cases were closed**
- B. There are three (3) litigation cases pending**
- C. There are four (2) potential cases pending**
- D. There are seven (7) monitoring cases**

EXHIBIT C

LANDSCAPE ARCHITECTS COMMITTEE OF THE UNIFIED BOARD OF THE DIVISION OF DESIGN PROFESSIONALS WITHIN THE DEPARTMENT OF BUSINESS REGULATION (DBR)

EXECUTIVE SESSION SUMMARY OF THE 3-19-08 COMMITTEE MEETING

1 new case was opened regarding unauthorized practice.

There are no other open cases.

EXHIBIT D

LAND SURVEYORS COMMITTEE OF THE UNIFIED BOARD OF DESIGN PROFESSIONALS DIVISION WITHIN THE DEPARTMENT OF BUSINESS REGULATION (DBR)

EXECUTIVE SESSION SUMMARY OF THE 3-13-08 COMMITTEE MEETING

5 open cases remain pending.

2 cases were closed.

0 new cases were opened.