

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF BUSINESS REGULATION

DIVISION OF DESIGN PROFESSIONALS

1511 PONTIAC AVENUE, BLDG. 68-2

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MINUTES

BOARD OF EXAMINATION AND

REGISTRATION OF ARCHITECTS

DATE: November 12, 2008

PLACE: Department of Business Regulation (DBR)

1511 Pontiac Avenue, Bldg 69-2 Conference Room

Cranston, RI 02920

MEMBERS PRESENT: Dana A. Newbrook, Wilbur E. Yoder, James R. Carlson, Joseph A. Cirillo and Barbara Feibelman

MEMBERS ABSENT: None

OTHERS PRESENT: Richard W. Berstein, DBR Executive Counsel

Brian J. Riggs, DBR Department Budget Administrator

Dawne Broadfield, Board Executive

CALLED TO ORDER: Chair Newbrook called the meeting to order at

1:05 p.m. to commence Board business.

MINUTES OF THE MEETING OF THE BOARD

(1) Secretary Carlson moved to approve the open meeting minutes of October 8, 2008 as published. Mr. Cirillo seconded. Motion approved.

(2) Secretary Carlson moved to approve and seal the executive session meeting minutes of the October 8, 2008 as published. Mr. Cirillo seconded. Motion approved.

EXECUTIVE SESSION

(1) Secretary Carlson moved to convene into executive session at 1:05 p.m. pursuant to RI General Laws, §42-46-5 (a)(2) for sessions or work sessions pertaining to collective bargaining or litigation and §42-46-5 (a)(4) for investigative proceedings regarding allegations of civil or criminal misconduct. Mr. Cirillo seconded. Motion approved.

(2) Secretary Carlson moved to adjourn from executive session and to reconvene to an open meeting at 3:02 p.m. pursuant to R.I.G.L. §42-46-4. Vice-Chair Yoder seconded. Motion approved.

(3) Secretary Carlson moved to seal the executive session and record

the votes taken in executive session pursuant to RI General Laws §42-46-4 and §42-46-5. Vice-Chair Yoder seconded. Motion approved to close B. Thomas Heinzer Associates, Inc. – Certificate of Authorization Renewal Application – Disciplinary Action Reported.

(4) Secretary Carlson moved pursuant to RI General Law §42-46-4 that the Board defer disclosure of all votes in executive session until such time as such disclosure would not jeopardize any strategy, negotiation, or investigation undertaken concerning RI General Law §42-46-5(a). Vice-Chair Yoder seconded. Motion approved.

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OLD BUSINESS

(1) Discussion on Proposed Amendments to the “Rules and Regulations” – Changes and Possible Increase of Fees

The Board is continuing to review the “Rules and Regulations” for pertinent changes as needed.

(a) Pre-Set Fine Amounts for Violations

The Board is looking to establish a list of Pre-Set Fine Amounts for Violations and is using Florida’s list as a guide.

Secretary Carlson suggested using the “lead-in” wording from Florida as follows: “The purpose of the disciplinary is to give notice

to licensees of the range of penalties which will normally be imposed upon violations of particular provisions.”

Attorney Bernstein suggested that this be a section added to the Rules and Regulations under Section 8.4 Compliance of Laws and entitled Disciplinary Guidelines for Administrative Fines. The statute allows the Board to add this section since the Board will be interpreting for the licensees what administrative fines would be imposed.

Secretary Carlson volunteered to review and develop a draft of Disciplinary Guidelines for Administrative Fines using Florida’s document as a guide. The Board’s goal is to have a draft completed by February 2009. Attorney Bernstein suggested that the Board use the wording in the Rhode Island General Laws (RIGL) §5-1-13.1(1) and (2). Attorney Bernstein suggested to list all of the items listed in RIGL §5-1-13.1(1) and (2) on a spreadsheet and then incorporate the Florida categories. Attorney Bernstein felt if this was done the Board’s Rules and Regulations will be impermeable.

(B) Certificate of Authorization (COA) Requirement (Liability Insurance)

Secretary Carlson stated that Mrs. Broadfield further investigated what Massachusetts required for insurance. Massachusetts responded that it requires insurance for Limited Liability Companies and Limited Liability Partnerships, but it does not mention

corporations or partnerships.

The Board requested that this be investigated further and requested that Mrs. Broadfield inquire with the legal counsel for the Massachusetts Board if it requires insurance for other entities other than Limited Liability Companies and Limited Liability Partnerships. Attorney Bernstein requested to be involved with that inquiry.

Secretary Carlson stated that the theory of the Certificate of Authorization (COA) was to tie a person to the corporation so that someone was responsible. But if someone is responsible and does not have insurance, what is the point to the requirement.

(C) Green Books – Approval by the Board.

The National Council of Architectural Registration Boards (NCARB) Green Book is the NCARB file that verifies that the architectural registration examination (ARE) candidate has completed all of the requirements required to sit for the ARE. The Rhode Island Board belongs to the (NCARB) Direct Eligibility program. The program allows NCARB to admit the candidate into the ARE without having to be approved by the Board. The Board has given NCARB that authority and no longer needs to approve the NCARB Green Books. At the present time, the Rules and Regulations require that the Board approves Green Books. Therefore, this wording must be deleted.

(2) Record Retention Schedule

The Boards will continue working with Ms. Shirley DosSantos, DBR Project Coordinator, on developing a record retention schedule.

Attorney Bernstein indicated that he asked Mrs. Broadfield to forward to the Board members the Record Retention requirements, and he urged the Board members to review what some of the Record Retention

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requirements are. Attorney Neena Savage, who is the legal record retention expert and coordinates with the Rhode Island Secretary of State's office, will be invited to the December 10, 2008 Board meeting at 1:05 p.m. to discuss what the Records Retention Schedule is and what the requirements are.

(3) Meeting with the Board(s), State Building Code Commissioner, and the Building Officials – (Held Annually in September)

Secretary Carlson and Mr. Cirillo will contact Mr. John P. Leyden, CBO, State Building Code Commissioner, to schedule a meeting with the Building Officials.

(4) Annual Review of the Continuity of Operations Plan (COOP)

Attorney Bernstein stated that it is his understanding that because the

Department of Business Regulation (DBR) is physically located within the Department of Labor and Training (DLT) complex, DBR will follow the DLT COOP.

Secretary Carlson moved that this Board's COOP remain in effect. Mr. Cirillo seconded. Motion approved.

(5) National Council of Architectural Registration Boards (NCARB) Direct Registration Process

The Board received several responses to its inquiry regarding the pros and cons of participating in the NCARB Direct Registration Process which were favorable.

Secretary Carlson moved to begin the NCARB "Direct Registration" as soon as administratively feasible. Ms. Feibelman seconded. Motion approved.

BLUE BOOKS (RECIPROCITY)

(A) Secretary Carlson moved to approve the following Blue Books as submitted with an expiration date of December 31, 2009. Vice-Chair Yoder seconded. Motion approved.

(1) ARMINGTON, Stephen P. (5) KNOWLES, Stephen Lee

(2) ARNER, Christopher W. (6) LOPATICH, David Mark

(3) BALL, Kevin T. (7) SHUE, Greg

(4) BARZIN, Shahin (8) WILLS, William S.

GREEN BOOKS (APPROVAL TO TAKE ARCHITECTURAL REGISTRATION EXAM)

(A) Vice-Chair Yoder moved to approve the following Green Books as submitted. Ms. Feibelman seconded. Motion approved.

(1) BITNER, Jeremy R. (3) LEE, Eleanor Yin-Nor

(2) HERCHENROETHER, Daniel

CERTIFICATES OF AUTHORIZATION (COA) APPLICATIONS (See Attached List)

(A) Ms. Feibelman moved to approve the applications for the Certificates of Authorization for the Sole Proprietorships for Christopher Heinzmann, Robert E. Leach, AIA Architect and Studio Luz as submitted. Secretary Carlson seconded. Motion approved.

(B) Ms. Feibelman moved to continue the application for Certificate of Authorization for the Limited Liability Company (LLC) for H2L2 Architects/Planners LLC as submitted. After review, the Board is requesting a copy of the Florida citation imposed. Secretary Carlson seconded. Motion approved.

(C) Ms. Feibelman moved to deny the application for Certificate of Authorization for the Corporation for Dore & Whittier Architects, Inc. as submitted. The structure of the corporation does not meet the requirements of Rhode Island General Laws 5-1-15.1 in that there are not 2/3rds of the Directors and Officers

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that are Architects or Engineers. The structure of the Directors and Officers is two registered architects out of five. Secretary Carlson seconded. Motion approved.

(D) Ms. Feibelman moved to continue the application for Certificate of Authorization for the Corporation for Planmark, Inc. as submitted. The application is pending resolution of the complaint and the corporation structure. Secretary Carlson seconded. Motion approved.

NEW BUSINESS

**(1) Certificate of Authorization Applications – “Fee Waived”
Explanation**

This has been continued.

(2) John Paul Ryan, #3522

Mr. Ryan submitted a request for the Board to change his name from John Paul Ryan (given name) to Jack Ryan (professional name). Secretary Carlson moved that the Board send a letter to Mr. Ryan indicating that it needs evidence of his legal name change before this Board can change his name, advise the National Council of Architectural Registration Boards (NCARB) that this Board is asking for evidence of legal name change and ask NCARB how they change a person's name on the NCARB record without evidence of legal name change. Mr. Cirillo seconded. Motion approved.

(3) Administrative Hearing Process

Attorney Berstein informed the Board that there is a situation where the "Design Professionals Boards" statutorily have their own autonomous administrative hearing process and since the Boards are now part of the Department of Business Regulation (DBR), the DBR has its own administrative hearing process.

Attorney Berstein indicated that he will be introducing mandatory legislation that whenever the Board takes a formal action, it would be the Board's recommendation to the DBR Director, and the Director would have the final sign off. DBR is going to be submitting a statutory amendment that states that any Boards that are within DBR will adhere to DBR's legal administrative procedures already in place.

This amendatory change, which will be in the DBR enabling statute, will supersede any pre-existing statute to the contrary.

Secretary Carlson felt that this Board would be advocating its authority to the DBR Director and did not agree.

Attorney Bernstein stated that Attorney Neena Savage will appear before the Board on December 10, 2008 to make a presentation to the Board on the legislation. The Director feels that he has a responsibility because the Boards are a Division within the DBR that DBR rules need to apply. If this Board did something that was contrary to policy and had some sort of mistake, it could direct question to the DBR Director on whether or not he was in agreement with the Boards. The DBR Director would refer to the Boards since they are the experts.

(4) Legislation

Attorney Bernstein indicated that the Department of Business Regulation (DBR) trying to introduce legislation in DBR's enabling act to require all licensees to have an email address in order to reduce costs and also because of the technological necessity.

Secretary Carlson objected and compared it to requiring him to have a cell phone and felt that it is un-American Secretary Carlson also stated that email addresses change every other week. Ms. Feibelman stated that things get lost in cyberspace.

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ADJOURNMENT

Chair Newbrook announced that the next meeting of the Board is scheduled for December 10, 2008 at 1:00 p.m. at 1511 Pontiac Avenue, Conference Room 69-2, Cranston, RI 02920. Ms. Feibelman moved to adjourn the meeting at 4:07 p.m. Secretary Carlson seconded. Motion approved.

Respectfully submitted,

**James R. Carlson, NCARB, AIA
Secretary**

JRC/dmb

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C. O. A. APPLICATIONS

Board Meeting of NOVEMBER 12, 2008

SOLES

CHRISTOPHER HEINZMANN - 0 - APPROVED – 11/12/08

ROBERT E. LEACH, AIA ARCHITECT - 0 – APPROVED – 11/12/08

STUDIO LUZ - 0 - APPROVED – 11/12/08

LIMITED LIABILITY COMPANIES

H2L2 ARCHITECTS/PLANNERS LLC \$100. REVIEWED - THERE WAS A FLORIDA CITATION. DOCUMENTATION NOT REC'D TO DATE - CONTINUED – 11/12/08

CORPORATIONS

DORE AND WHITTIER ARCHITECTS, INC. \$100. DENIED – 11/12/08

Under Part III, those listed do not say (Director, DOES NOT MEET 2/3rds – 1/3 rd Officer or Shareholder). I will call when I get back.

PLANMARK, INC. \$125. (OWES \$225 - \$50 FOR 05, 06, 07, 08 + \$25)

Attached list does not show profession and shows SEND LETTER - PENDING RESOLUTION OF THE Directors and I'm assuming Officers. I will call when COMPLAINT AND RESOLUTION OF THE 2/3rds –

I get. 1/3rd - CONTINUED – 11/12/08

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