

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF BUSINESS REGULATION

DIVISION OF DESIGN PROFESSIONALS

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MINUTES

BOARD OF EXAMINATION AND

REGISTRATION OF ARCHITECTS

DATE: December 17, 2008

PLACE: Department of Business Regulation (DBR)

1511 Pontiac Avenue, Bldg 69-2 Conference Room

Cranston, RI 02920

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

MEMBERS ABSENT: None

OTHERS PRESENT: Neena Savage, DBR Chief of Legal Services

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 November 12, 2008 as published. Mr. Cirillo seconded. Motion approved.

(2) Secretary Carlson moved to approve and seal the executive session meeting minutes of the November 12, 2008 as published. Mr. Cirillo seconded. Motion approved.

EXECUTIVE SESSION

(1) Secretary Carlson moved to convene into executive session at 1:07 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. Feibelman seconded. Motion approved.

(2) Secretary Carlson moved to adjourn from executive session and to reconvene to an open meeting at 1:36 p.m. pursuant to R.I.G.L. §42-46-4. Ms. Feibelman 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. Ms. Feibelman seconded. Motion approved to close the Tiverton Yacht Club.

(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). Ms. Feibelman seconded. Motion approved.

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OLD BUSINESS

(1) Discussion on Proposed Amendments to the “Rules and Regulations”

The Board is continuing to review the “Rules and Regulations” for pertinent changes as needed. Those suggested changes are as follows:

(1a) Page 2

In the first paragraph, Line 6, after “Examination and Registration of Architects, add which is one component of the a Ddivision of.

Remove from the third sentence at the end of the third paragraph.

(1b) Page 5

In 2.6, delete “shall be deemed to refer to the Chair of the Board.”

In 2.11, question arose regarding the entity requirements of directors and officers (shareholders if there are no directors), and as such for the other entities. The National Council of Architectural Registration Boards (NCARB) Model Law and Regulations are different than referenced in the Rhode Island General Laws. In order to change, it would require a law change and then a Rules and Regulations change.

(1c) Page 6

In 2.15, in the first sentence add “Is a single administrative division...”, in line 5, change “combined” to “comprised” and delete the last 5 words, “into a single administrative division.

In 3.1, delete “reviewed and approved by the Board and add for National Council of Architectural Registration Boards (NCARB) Direct Eligibility.

Delete 3.1.1, 3.1.2 and 3.1.3, and add a new 3.1.1 as follows: “The Board reserves the right to review and rescind eligibility to the

architectural registration examination (ARE).”

(1d) Page 7

Changes previously made still stand.

(1e) Pages 11 and 12

Changes previously made still stand.

(1f) Page 16

Changes previously made still stand.

(1g) Page 29

In 8.5.2, Ms. Feibelman will review the wording of this section in accordance with the NCARB Model Laws and Regulations and report back to the Board.

(1h) Page 30

Changes previously made still stand.

(1i) Page 31

Changes previously made still stand.

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(a) Pre-Set Fine Amounts for Violations

Secretary Carlson volunteered to review and develop a draft of Disciplinary Guidelines for Administrative Fines using Florida's document as a guide and will bring a draft to the Board at the February 2009 meeting.

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

At the last meeting, the Board requested that this be investigated further and that Mrs. Broadfield inquire with the Massachusetts Board legal counsel as to whether or not the Massachusetts Board requires insurance for other entities other than Limited Liability Companies and Limited Liability Partnerships.

Attorney Berstein inquired with Dolores Randolph, Massachusetts Board Attorney, who indicated that she will inquire with the Board at their next meeting on December 17, 2008. Therefore, this has been continued.

(C) Green Books – Approval by the Board.

Since this Board participates in the National Council of Architectural Registration Boards (NCARB) Direct Eligibility program, the NCARB Green Cover submitted to the Board by NCARB no longer needs to be reviewed by the Board. The NCARB Green Cover is a file that verifies that the architectural registration examination (ARE) candidate has completed all of the requirements required to sit for the ARE and allows NCARB to admit the candidate into the ARE without having the approval of this Board. The Board has given NCARB that authority and no longer needs to approve the NCARB Green Covers. The Rules and Regulations presently requires that the Board approve Green Covers. Therefore, this wording will 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 Savage, who is the legal record retention expert and coordinates with the Rhode Island Secretary of State's office in order to establish record retention schedules, told the Board what the requirements are and that the schedules are mandated by statute. She explained that the record retention schedule established by the Rhode Island Secretary of State allows the Board to know how long to keep and store its records.

Mrs. Broadfield will work with Attorney Savage and Ms. DosSantos to

establish this record retention schedule. This will remain on the agenda for update.

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

Mr. Cirillo contacted Mr. John P. Leyden, CBO, State Building Code Commissioner, to schedule a meeting with the Building Officials. Mr. Leyden told Mr. Cirillo that he will respond to him after the holidays.

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

Per the February 27, 2007 Board meeting, the wording on the Certificate of Authorization application regarding the “Fee Waiver” explanation was changed from “Fee Waived, If No Employees” to the exact wording of the Rhode Island General Laws, 5-1-15.1(D) as follows: “This fee shall be waived if the firm consists of only one person who is the registered architect.”

Attorney Savage agreed that the exact wording of the Rhode Island General Laws, 5-1-15.1(D) remain on the application and that the fee be waived if the entity consists of one person only. If the answer to the number of people in the firm excluding the Sole Proprietor is zero, then the fee is waived. Attorney Savage felt that is consistent with the statute. Therefore, the wording and the previous practice of the

Board will remain.

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(5) John Paul Ryan, #3522

A letter was sent to Mr. Ryan requesting legal documentation for his request to change his name from John Paul Ryan (given name) to Jack Ryan (professional name). A second letter was also sent to the National Council of Architectural Registration Boards (NCARB) advising them that this Board is asking Mr. Ryan for evidence of his legal name change and also asking NCARB how they change a person's name on the NCARB record without evidence of legal name change. Since the letters were just sent, this item has been continued.

(6) 2009 Legislative Session – General Law Changes.

This item has been combined with Item #7 – Administrative Hearing Process.

(7) Administrative Hearing Process (Attorney Neena Savage, DBR, will be making a presentation to the Board). – 1:05 p.m.

Attorney Savage told the Board that the Department of Business Regulation (DBR) has to be compliant with the Administrative Procedures Act (APA) and that requires DBR to keep the hearing officer function separate from the prosecution function.

Attorney Savage told the Board that a Supreme Court case came out in 2007, Arnold v. Lebel. She explained that the case defines that the same person that prosecutes and investigates the case cannot be the same person who makes the decision on the case without having everyone in the room at the same time and that all of the Boards in DBR act as investigators and determiners of regulatory and statutory violations. The Boards are the experts and know what is correct and what is not correct in the industry and profession.

Attorney Savage indicated that her job as legal counsel is to protect the validity of the action and give advise on how to keep what the Board does protected from being overturned in the Superior Court in accordance with the APA.

Attorney Savage recommended to this Board that the Board with legal counsel from the DBR act as the prosecutor since the Board is the experts. A hearing officer will be appointed from the pool of lawyers at the DBR who will act as hearing officer. That hearing officer would make a recommendation based on the facts and the evidence presented. The hearing officer's decision goes as a

recommendation to the DBR Director. The Director can accept, reject or modify the hearing officer's findings and advise that is sound practice under the APA. This would only affect the formal hearing process.

Secretary Carlson did not want someone else, other than the Board, making the decision about a registrant's registration.

Ms. Feibelman was concerned that the Board had one of its members was missing from this discussion. Ms. Feibelman suggested that the minutes be drafted, sent to Attorney Savage for review of the proper wording and then sent to all Board members for review prior to the next meeting along with a synopsis of the Supreme Court case prepared by Attorney Savage.

Mr. Riggs told the Board that it is his impression that this legislation in some form is going forward. Attorney Savage was before this Board to tell the Board in advance. If the Board disagrees, then the Board has the right to testify against the legislation

Secretary Carlson stated that the Board could certainly comply with this Supreme Court decision without involving the Director of any division of the State. Attorney Savage stated that this is a DBR policy issue.

BLUE BOOKS (RECIPROCITY)

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

(1) BASILE, Thomas J. (3) MOYNIHAN, Megan Allison

(2) KINLIN, Bruce D. (4) WOOD, David Allan

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BLUE BOOK (REINSTATEMENT)

(A) Secretary Carlson moved to approve the reinstatement of the Blue Book as presented with an expiration date of December 31, 2009. Mr. Cirillo seconded. Motion approved.

(1) GOLDMAN Mitchell S., #2359

GREEN BOOKS (APPROVAL TO TAKE ARCHITECTURAL REGISTRATION EXAM)

(A) Secretary Carlson moved to approve the following Green Books as submitted. Ms. Feibelman seconded. Motion approved.

(1) DISALVO, SUZANNE MARIE (4) ROMANO, Amanda Page

(2) LEE, BASIL (5) STARK, Daniel

(3) REMILLARD, MARK

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

(A) Secretary Carlson moved to approve the applications for the Certificates of Authorization for the Sole Proprietorships for Christopher W. Arner; S. Barzin Architect; W. A. Fuller Architect; Ashley C. Prester and Greg Shue, AIA as submitted. Mr. Cirillo seconded. Motion approved.

(B) Secretary Carlson moved to approve the application for the Certificate of Authorization for the Reinstatement Sole Proprietorship #A-10,416 for Lynne M. Heinzmann as submitted. Mr. Cirillo seconded. Motion approved.

(C) Secretary Carlson moved to approve the Name Change for the application for Certificate of Authorization for the Sole Proprietorship for MBH Architecture; A-10,333 as submitted. The former name was Michael B. Herlands, Architects. Mr. Cirillo seconded. Motion approved.

(D) Secretary Carlson moved to approve the application for Certificate of Authorization for the Limited Liability Company (LLC) for H2L2 Architects/Planners LLC as submitted. After review, this LLC had a hearing against them. The hearing has been closed and Secretary Carlson did not see anything in that hearing to warrant this Board not to grant a Certificate of Authorization. Mr. Cirillo seconded. Motion

approved.

(E) Secretary Carlson moved to approve after the review of the disciplinary action noted the application for Certificate of Authorization for the Limited Liability Company (LLC) for MJM Architects, LLC, as submitted. Mr. Cirillo seconded. Motion approved.

(F) Secretary Carlson moved to approve the Name Change for the application for Certificate of Authorization for the Limited Liability Company for Windigo Architecture, LLC; ALLC37 as submitted. The former name was Windigo Architecture, LLC d/b/a Windigo Design, LLC. Mr. Cirillo seconded. Motion approved.

(G) Secretary Carlson moved to approve the applications for the Certificates of Authorization for the Corporations for Design +, Inc.; designLAB architects, inc.; Millennium Design Associates, Inc.; Newman Architecture, PC; and Robert G. Lyon and Associates, Inc. as submitted. Ms. Feibelman seconded. Motion approved.

(H) Secretary Carlson moved to approve the Name Change and Change in Business Structure for the application for Certificate of Authorization for the Corporation for CDI Architects, Inc. DBA CDI Design Solutions, #A-14,335, as submitted. The former name was CDI Architects, Inc. Ms. Feibelman seconded. Motion approved.

(I) Secretary Carlson moved to approve the Change in Business Structure for the application for Certificate of Authorization for the Corporation for JCJ Architecture, Inc., #A-14,338, as submitted. Ms. Feibelman seconded. Motion approved.

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(J) Secretary Carlson moved to approve subject to receipt of the remaining of the back fees owed to equal the amount of \$325 for the application for Certificate of Authorization for the Corporation for KFP Architects, Inc., #A-14,305, as submitted. Ms. Feibelman seconded. Motion approved.

(K) Ms. Feibelman moved to approve the application for the Certificate of Authorization for the Corporation for The Robinson Green Beretta Corp. after the business structure was corrected via an email that was sent from Mr. Joseph Beretta removing William Hughes as Vice President. The email was accepted as evidence that the application was changed. Mr. Cirillo seconded. Secretary Carlson recused. Motion approved.

(L) Secretary Carlson moved to deny the application for Certificate of Authorization for the Reinstatement Corporation, A-14,281 for Planmark, Inc. as submitted. The corporation does not meet the requirement of Rhode Island General Laws 5-1-15.1 for the composition of the corporation, has an outstanding legal case against them and owes back fees totaling \$325. Mr. Cirillo seconded. Motion approved.

NEW BUSINESS

(1) There was no new business at this time.

ADJOURNMENT

Chair Newbrook announced that the next meeting of the Board is scheduled for January 14, 2009 at 1:00 p.m. at 1511 Pontiac Avenue, Conference Room 69-2, Cranston, RI 02920. Ms. Feibelman moved to adjourn the meeting at 3:34 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 DECEMBER 17, 2008

SOLE PROPRIETORSHIPS

CHRISTOPHER W. ARNER - 0 - APPROVED – 12/17/08

S. BARZIN ARCHITECT - 0 - APPROVED – 12/17/08

W.A. FULLER ARCHITECT - 0 - APPROVED – 12/17/08

LYNNE M. HEINZMANN - 0 – APPROVED – 12/17/08

A-10,416 – Expired 12/31/04 – Requesting Reinstatement

MBH ARCHITECTURE - 0 – APPROVED – 12/17/08

A-10,333 – Name Change from: Michael B. Herlands, Architects

Renewal Application also rec'd with \$100 – if approved, will renew in new name.

ASHLEY C. PRESTER - 0 - APPROVED – 12/17/08

GREG SHUE, AIA - 0 - APPROVED – 12/17/08

LIMITED LIABILITY COMPANIES

H2L2 ARCHITECTS/PLANNERS LLC \$100. REVIEWED - THERE WAS

**A FLORIDA CITATION. DOCUMENTATION NOT REC'D TO DATE -
CONTINUED – 11/12/08**

**11/20/08 – EMAIL REC'D - ABSENCE OF HEARING
AND FORMAL DISMISSAL ORDER.**

**12/17/08 - APPROVED BASED ON THE HEARING AGAINST THEM
BEING CLOSED AND NOTHING IN THAT HEARING TO WARRANT
THIS BD FROM NOT GRANTING REGISTRATION**

MJM ARCHITECTS, LLC \$100. APPROVED – 12/17/08

ALLC42 – Requesting Renewal – Disciplinary Action Noted.

WINDIGO ARCHITECTURE, LLC \$175 APPROVED – 12/17/08

**ALLC37 – Name Change to match RI Sec of State Good Standing
Renewal Application also rec'd with \$100 – if approved, will renew in
new name.**

CORPORATIONS

**CDI ARCHITECTS, INC. DBA CDI DESIGN APPROVED – 12/17/08
SOLUTIONS \$175.**

**A-14,335 – Name Change and Business Structure Change
Renewal Application also rec'd with \$100 – if approved, will renew in
new name.**

DESIGN +, INC. \$100. APPROVED – 12/17/08

designLAB architects, inc. \$100. APPROVED – 12/17/08

JCJ ARCHITECTURE, INC. - 0 – APPROVED – 12/17/08

A-14,338 – Change in Business Structure

KFP ARCHITECTS, INC. OWES \$325 APPROVED – 12/17/08

A-14,305 – Expired 12/31/04 – Submitted Initial –

Should be a Renewal and owes back fees totaling \$325.

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Board Meeting of DECEMBER 17, 2008

**MILLENNIUM DESIGN ASSOCIATES, INC. \$100. APPROVED –
12/17/08**

NEWMAN ARCHITECTURE, PC - 0 - APPROVED – 12/17/08

**ROBERT G. LYON AND ASSOCIATES, INC. \$100. APPROVED –
12/17/08**

THE ROBINSON GREEN BERETTA CORP - 0 – APPROVED – 12/17/08

A-14,000 –Change in Business Structure

Renewal Rec'd Review Directors and Officer

PLANMARK, INC. \$125. (OWES \$325 - \$50 FOR 05, 06, 07, 08, 09, 10 + \$25)

A-14,281 – Renewal – Expired 12/31/04

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 it. 1/3rd - CONTINUED – 11/12/08

DENIED – 12/17/08 – DOES NOT MEET 2/3RDS –

1/3RD – HAS AN OUTSTANDING LEGAL CASE AND OWES BACK FEES OF A TOTAL OF \$325.

12/17/08

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