

California Architects Board

Regulatory & Enforcement  
Committee Meeting

August 24, 2017  
Sacramento, California





Edmund G. Brown Jr.  
GOVERNOR

# CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

## NOTICE OF MEETING

### REGULATORY AND ENFORCEMENT COMMITTEE

**August 24, 2017**  
**1:00 p.m. to 4:00 p.m.**  
**(or until completion of business)**  
**California Architects Board, Sequoia Room**  
**2420 Del Paso Road, Suite 109**  
**Sacramento, CA 95834**  
**(916) 574-7220**

The California Architects Board (Board) will hold a Regulatory and Enforcement Committee (REC) meeting, as noted above. The notice and agenda for this meeting and other meetings of the Board can be found on the Board's website: [cab.ca.gov](http://cab.ca.gov). For further information regarding this agenda, please see below or you may contact Kristin Walker at (916) 575-7203.

### AGENDA

- A. Call to Order/Roll Call/Establishment of a Quorum
- B. Public Comment on Items Not on Agenda  
*The REC may not discuss or take action on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting. (Government Code sections 11125 and 11125.7(a).)*
- C. Review and Possible Action on November 8, 2016, REC Meeting Summary Report
- D. Update on Board's Enforcement Program and Complaint, Citation, and Disciplinary Action Statistical Data and Information
- E. Discuss and Possible Action on the Following 2017–2018 Strategic Plan Objectives to:
  - 1. Update the *Building Official Information Guide* to Better Educate Local Building Officials on the Architects Practice Act

2420 DEL PASO ROAD,  
SUITE 105  
SACRAMENTO,  
CA 95834

916-574-7220 T  
916-575-7283 F

[cab@dca.ca.gov](mailto:cab@dca.ca.gov)  
[www.cab.ca.gov](http://www.cab.ca.gov)

*(Continued on Reverse)*

2. Educate Consumers on the Standard of Care so They Understand What to Expect From an Architect When Choosing to Hire One
3. Measure the Effectiveness of the Board's Citation Collection Methods as a Means of Protecting Future Consumers
4. Develop Educational Materials for Newly Licensed Architects to Provide More Information About the Requirements in Order to Avoid Future Violations

F. Review and Possible Action on Retention Schedule for Board's Complaint and Citation Records

G. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the REC Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the REC are open to the public.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the REC prior to the REC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the REC, but the REC Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the REC to discuss items not on the agenda; however, the REC can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Kristin Walker at (916) 575-7203, emailing [kristin.walker@dca.ca.gov](mailto:kristin.walker@dca.ca.gov), or sending a written request to the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, CA 95834-9673. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation. Telecommunications Relay Service: dial 711.

***Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Business and Professions Code section 5510.15)***

## **Agenda Item A**

### **CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF QUORUM**

Roll is called by the Regulatory and Enforcement Committee (REC) Vice Chair, or in his/her absence, by a member designated by the REC Chair.

### **COMMITTEE MEMBER ROSTER**

Barry Williams, Chair

Robert C. Pearman, Jr., Vice Chair

Fred Cullum

Robert De Pietro

Robert Ho

Gary McGavin

Michael Merino

Sheran Voigt

**PUBLIC COMMENT ON ITEMS NOT ON AGENDA**

Members of the public may address the Regulatory and Enforcement Committee (REC) regarding items that are not contained in the meeting agenda at this time. However, the REC may not discuss or take action on any item raised during this public comment session, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting [Government Code sections 11125 and 11125.7(a)].

Public comments will also be taken on agenda items at the time the item is heard and prior to the REC taking any action on said items. Total time allocated for public comment may be limited at the discretion of the REC Chair.

## **Agenda Item C**

### **REVIEW AND POSSIBLE ACTION ON NOVEMBER 8, 2016, REC MEETING SUMMARY REPORT**

The Regulatory and Enforcement Committee (REC) is asked to review and take possible action on the November 8, 2016, REC Meeting Summary Report.

Attachment:

November 8, 2016, REC Meeting Summary Report



Edmund G. Brown Jr.  
GOVERNOR

# CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

## SUMMARY REPORT

### REGULATORY AND ENFORCEMENT COMMITTEE MEETING

**November 8, 2016**

California Architects Board, Sequoia Room  
2420 Del Paso Road, Suite 109, Sacramento, CA 95834

#### Committee Members Present

Matthew McGuinness, Chair  
Fred Cullum  
Robert De Pietro (via teleconference in Los Angeles, CA)  
Robert Ho  
Gary McGavin  
Michael Merino (via teleconference in Orange, CA)  
Robert C. Pearman, Jr.

#### Committee Members Absent

Barry Williams, Vice Chair  
Sheran Voigt

#### Board Staff Present

Doug McCauley, Executive Officer  
Vickie Mayer, Assistant Executive Officer  
Alicia Hegje, Program Manager, Administration/Enforcement  
Rebecca Bon, Staff Counsel, Department of Consumer Affairs (DCA)  
Bob Carter, Architect Consultant  
Reanna Graham, Enforcement Technician  
Peter Merdinger, Enforcement Analyst  
Stacy Townsend, Licensing Coordinator, Landscape Architects Technical  
Committee (LATC)  
Kristin Walker, Enforcement Analyst

#### Guests

Kurt Cooknick, Director of Regulation and Practice, The American Institute  
of Architects, California Council (AIACC)  
Yeaphana La Marr, Legislative Analyst, DCA Division of Legislative and  
Regulatory Review  
Linda Panattoni, California Legislative Coalition for Interior Design

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cab@dca.ca.gov  
www.cab.ca.gov

## **A. Call to Order/Roll Call/Establishment of Quorum**

Regulatory and Enforcement Committee (REC) Chair Matthew McGuinness called the meeting to order at 10:10 a.m.

Robert Pearman called the roll and indicated Committee members Sheran Voigt and Barry Williams were absent. A quorum was present.

Mr. McGuinness welcomed everyone and requested self-introductions. Guests and Board staff introduced themselves. He advised the REC that all motions and seconds should be repeated for the record, and votes on all motions would be taken by roll call.

## **B. Public Comment on Items Not on Agenda**

Mr. McGuinness opened the floor for public comment on items not contained in the meeting agenda. No comments were received.

## **C. Review and Possible Action on April 28, 2016, REC Meeting Summary Report**

Mr. McGuinness asked if there were any questions, comments, or changes to the April 28, 2016, REC Meeting Summary Report. There were none.

*Michael Merino moved to approve the April 28, 2016, REC Meeting Summary Report.*

*Robert De Pietro seconded the motion.*

*Members Cullum, De Pietro, Ho, McGavin, Merino, and Committee Chair McGuinness voted in favor of the motion. Member Pearman abstained due to the fact he was not a member of the REC at the time of the meeting. The motion passed 6-0-1.*

## **D. Enforcement Program Update**

Alicia Hegje presented the Enforcement Program Update and highlighted items of interest to the REC, including the: 1) Request for Proposal (RFP) for architect consultant services for three years (February 1, 2017, through January 31, 2020) to replace the current contract that expires January 31, 2017; 2) next Board meeting scheduled for December 15-16, 2016, which includes a Strategic Planning session; 3) pursuit of a contract to allow the Board to begin referring unpaid administrative fines to a collection agency; and 4) audits regarding coursework on disability access requirements, actions taken for noncompliance, and the report regarding the coursework provisions that must be submitted to the Legislature by January 1, 2019. She also acknowledged the ongoing efforts of the Board's enforcement staff to reduce case aging, and explained the number and average age of pending complaints have been reduced by approximately 40% and 26%, respectively, compared to the last five fiscal years (FY).

Doug McCauley provided an update regarding the National Council of Architectural Registration Boards (NCARB) Integrated Path to Architectural Licensure (IPAL), which integrates the examination and experience requirements for licensure into a degree program. He informed the REC that 18 National Architectural Accrediting Board (NAAB) accredited programs were accepted to participate in IPAL, including three programs in California (NewSchool of Architecture & Design, University of Southern California, and Woodbury University). Mr. McCauley explained the programs are based on general framework from NCARB to enable students to test earlier and satisfy most, if not all, of the required hours for the Architectural Experience Program (AXP) while earning their degrees. He stated while there is no guarantee the students will be licensed upon graduation, as only the Board can grant licenses, the programs will award degrees with the goal for the graduates to become licensed shortly thereafter. Mr. McCauley shared the Board is enthusiastic about IPAL, and stated Business and Professions Code (BPC) section 5550.2 authorizes the Board to grant early eligibility for the Architect Registration Examination (ARE) to candidates enrolled in an IPAL program. He explained IPAL was implemented this year, and that the Board will be monitoring and measuring the success of the program.

Mr. McCauley advised the REC that Senate Bill (SB) 1132 (Galgiani) [Architect-in-Training], an AIACC-sponsored proposal to create and define a special title for candidates for licensure, was extensively discussed by the Board at its June 2016 meeting, and the Board ultimately voted to refer the matter to a working group to identify a model that would be functional for the Board and emerging professionals. He explained staff worked with the Board's DCA legal counsel to identify and develop four different models for the Board's consideration. Mr. McCauley informed the REC that the Board held a special meeting via teleconference in July 2016 to discuss SB 1132, and voted to support the bill if amended to require enrollment in AXP to use the architect-in-training title. He explained the bill was amended to reflect that requirement, but was ultimately vetoed by the Governor with a veto message indicating there is only a need for a title for licensees.

Mr. De Pietro asked, given there are three programs in California participating in IPAL, what happened to the other architecture programs, such as the one at California Polytechnic State University, San Luis Obispo. Mr. McCauley explained there are no changes to other architecture programs as a result of IPAL; it is a voluntary system and many schools are taking a "wait and see" approach prior to fully embracing it. He also commented that some architecture programs may never participate in IPAL, as their missions and goals may not be to prepare architects, but instead, to provide a broader, design-based education. Mr. De Pietro inquired about the experience IPAL participants will have compared to current requirements, if their years in school will have to increase for them to have adequate experience, and where are they going to get that experience. Mr. McCauley indicated there are no changes to the licensure requirements, and explained the IPAL participants will be completing the ARE and AXP in a more logical sequence, with better integration.

Mr. De Pietro asked if the candidates will have the same amount of experience as other schools or someone without an architecture degree. Mr. McCauley shared according to *NCARB by the Numbers*, on average, it takes about 13 years to obtain a license, due to

variables such as the rolling clock and experience reporting requirements, and indicated the goal of IPAL is to be more efficient through the integration of these variables.

Mr. De Pietro asked, with SB 1132 being vetoed by the Governor, if the issue would be pushed again in the future. Mr. McCauley indicated that it would be up to AIACC to decide whether to sponsor it again in the future. Gary McGavin inquired if additional programs can participate in IPAL at a later date. He also asked what will happen to the structures portion of the ARE, and suggested with early testing, students could take that division after they completed the coursework. Mr. McCauley stated several programs, such as the University of Kansas, were added after the initial list of 13 programs was released by NCARB, so additional programs may be able to pursue it. He also noted reform in public institutions, particularly in California, can take longer. Mr. McCauley explained the content of ARE 5.0 is much more integrated, and noted it will be up to the individual schools to review the transition plan, and determine how their coursework correlates to the ARE divisions. He also indicated it is important to ensure students have logged their requisite hours of experience. Mr. McGavin noted his school currently does that, and explained his school is one of the few that requires students to complete internships with licensed architects prior to graduation.

Robert Ho asked if the students in California IPAL programs have begun taking the ARE, or if they have just enrolled in the program. Mr. McCauley clarified the students have enrolled in an IPAL program. Mr. Ho inquired about when the students could begin taking the examination. Mr. McCauley explained the ARE eligibility points vary, and offered to obtain more information from the specific programs. He also noted the California IPAL programs are regularly invited to Board meetings because the Board wants to know how each program is working and what the Board, as the licensing entity, can do to support IPAL. Mr. McGavin asked if students who are not enrolled in an IPAL program could also begin taking the ARE after they have completed the appropriate coursework. Mr. McCauley explained the Board specifically posed that question to NCARB, but it is not envisioned at this point.

**E. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Identify and Pursue Needed Statutory and Regulatory Changes so Laws and Regulations are Consistent with Current Architectural Practice to Promote Public Health, Safety, and Welfare**

Kristin Walker presented this agenda item, and reminded the REC that it reviewed the written contract requirement in 2013 and 2014, and made a recommendation, which the Board ultimately accepted, to amend BPC § 5536.22 to add a description of the: 1) project and address; and 2) procedure to accommodate contract changes, to the written contract requirement. She explained in January 2016, staff submitted a proposal to the Senate Business, Professions and Economic Development Committee for possible inclusion in an omnibus bill to include those items the REC recommended in 2014; however, the proposal was found to be substantive, and must be included in another bill. She explained at the April 28, 2016, REC meeting, staff suggested the REC also consider including a statement identifying the ownership or reuse of documents prepared by the architect, as well as a notification to the client that the architect is licensed by the Board, within the written contract requirement. She advised the REC that it directed staff to prepare proposed language to

include those two elements for its consideration, and asked the REC to review and discuss the proposed language and consider making a recommendation to the Board.

Mr. McGuinness questioned if it is necessary to include the Board's address, as any changes to the Board's location would require statutory amendments. Rebecca Bon suggested including the Board's website, as it includes all of the Board's contact information and may be more effective. Mr. McCauley informed the REC that staff can include both the address and website, if the REC wishes. Fred Cullum cautioned that it would still be in legislation. Mr. McCauley explained non-substantive items, such as addresses, can be updated through omnibus clean-up bills sponsored each year by the Assembly or the Senate.

Kurt Cooknick asked Ms. Bon if there are similar requirements for other professions regulated by DCA. Ms. Bon informed Mr. Cooknick that she would not be able to answer that question, as she has not worked with each of the DCA boards and bureaus. Mr. Cooknick inquired if there are any such requirements from the boards and bureaus she represents. Ms. Bon explained she mainly works with healthcare boards and other boards without written contract requirements, so she would be unable to respond. Mr. Cooknick asked if the purpose of the proposed language is to notify the consumer that there is a licensing board for architects. Mr. McCauley responded affirmatively. Mr. Cooknick explained he is struggling with the proposed notification requirement, and commented that AIACC may bring an amendment to the Board. He also indicated there is no issue with the proposed language regarding the ownership and use of the architect's instruments of service, as it is recommended in AIA contracts. Mr. McGuinness explained as a contractor, he is required to have his license number on everything to ensure the public knows he is licensed by the Contractors State License Board (CSLB).

Mr. Merino informed the REC that he agrees with Mr. Cooknick, and expressed his concerns that the language, as written, may encourage post-project litigation. He explained if the client has any buyer's remorse or issues, he or she may decide to file a frivolous complaint with the Board. Ms. Bon explained many boards and bureaus have establishment requirements to notify consumers there is a licensing board and encourage them to contact the board with any issues. Mr. Merino questioned if the language could simply state: "The individual providing this contract is licensed by the State of California. If you have any questions or comments..." He asked Ms. Bon if the proposed language for subsection (a)(9) is identical to other DCA boards and bureaus. Ms. Bon replied that she has seen similar prescriptive requirements, and stated she does not see any reason why it would be problematic to encourage consumers to know where to go with issues regarding a licensee. Mr. Merino reiterated his concerns regarding the use of the word "complaints" in the proposed language, as it implies the relationship has already turned negative.

Mr. Merino explained a consumer may read the proposed subsection (a)(9) and then decide he or she did have a complaint regarding the architect. Mr. De Pietro shared he would vote no on the proposed language. Mr. McCauley described the written contract requirement as an invaluable tool to protect the consumer and the architect. He explained when the Board receives a complaint, if the contract is sufficiently clear on the item that is in dispute, the architect is often protected when following the terms of the contract. He commented many

consumers will often inform staff they were unaware that architects are licensed or that the Board existed. Mr. McCauley informed the REC that as a consumer protection board, this notice to consumers should be considered. He also stated the majority of complaints involve consumers with residential or tenant improvement projects who have never worked with an architect before, and noted those consumers often have issues with their projects, as they may not understand the design and construction process. Mr. McCauley clarified the written contract requirement is not designed for a facilities director for a public agency; instead, the intent is to protect the consumers who have the most issues with their projects. Mr. Merino explained he supports putting a notice in the written contract requirement; however, he objects to the use of the word “complaints.” He stated contractors provide physical products, whereas architects provide services, and expressed his concerns that with a less-sophisticated consumer, the complaint could be based upon anything.

Mr. McCauley suggested the REC consider reviewing similar language for contractors and real estate salespersons, and noted the REC’s concerns regarding the word “complaints.” Ms. Bon stated with regard to the concerns about the word “complaints,” the Board is the place to address complaints from the public, so the language would be beneficial for consumers. She also cautioned the REC to not underestimate the skills of Board staff, and noted with the appropriate laws in place, such as the written contract requirement, staff can properly field complaints. Mr. Cooknick commented he was not comfortable with requiring such a statement in an architect’s written contract, as it is an instrument of service, not an advertisement for the Board. He noted the written contract is 22 years old; however, the Board is still disciplining architects for failing to comply with the requirement. He cautioned there will still be problems with architects not including the required items in their written contracts, and suggested a consumer who hires an architect more than likely knows he or she is licensed, as compared to a consumer who hires an unlicensed individual without a written contract. Mr. Cooknick commented he understands the intent to heighten consumer awareness, but does not believe it addresses the real problem of unlicensed activity, which he argued is causing more harm to consumers than licensed activity. Mr. Merino agreed with Mr. Cooknick’s comments, and explained he has no objection to the thought process, but is not sure it addresses the matter and would not be comfortable with the language.

Mr. McGuinness expressed that as a consumer safety board, the proposed subsection (a)(9) would educate the consumer at the beginning of the project through the written contract. He commented the requirement is not at the end of the project, where a consumer may be looking for reasons to sue the architect, and noted that if the consumer was looking for reasons to sue, he or she will find them. He explained the language is not intended to solve separate issues, such as projects by unlicensed individuals without written contracts, and stated in his time on the Board, this is the first proposal he has seen that is clearly in the interest of consumer safety.

Mr. Cullum explained he likes the idea of having the notice to the client in the written contract, as the client may not see it in an initial visit to an architect’s office, but he feels the word “complaints” is too inflammatory. He explained he would be more comfortable with “questions or concerns.” DCA Legislative Analyst Yeaphana La Marr read an excerpt from CSLB’s written contract requirement, which, in part, states: “If you file a complaint against a licensed contractor within the legal deadline, usually within four years, CSLB has the

authority to investigate the complaint. For more information, visit CSLB’s website \_\_\_\_, call \_\_\_\_, or write \_\_\_\_.” She also offered to poll other legislative analysts in her office regarding language within similar practice acts, if it would be beneficial to the Board. Mr. Merino stated he would be more comfortable if he had more background information and facts, and if the language was also available to AIACC to analyze and provide a position. He also stated he would support the word “questions.”

*Robert Ho moved to recommend to the Board that it approve the proposed language to amend BPC § 5536.22 with the word “comments” instead of “complaints” in the proposed subsection (a)(9).*

*Robert De Pietro seconded the motion.*

Mr. McGuinness asked if it is acceptable to amend the language. Mr. McCauley responded affirmatively, but explained that based upon the Board’s consumer protection mandate, the word “complaints” should not be problematic, as that is a mechanism available to consumers to address issues with architects. Mr. McCauley suggested if consumers were more aware the Board existed, they may be less inclined to file civil lawsuits. He explained consumers will find their remedy, and the REC should not be concerned about complaints coming to the Board. Mr. Merino informed Mr. McCauley it is an issue of concern to practitioners. Mr. McCauley reminded the REC that with the *North Carolina State Board of Dental Examiners v. Federal Trade Commission* case, any action by the Board that does not further consumer interest may need to be explained to the Legislature through Sunset Review or to the DCA Director. Mr. Merino suggested the REC consider a motion that states the REC had some concerns and would like to review additional language from other DCA boards and bureaus before making a formal recommendation to the Board.

Bob Carter informed the REC that as an architect consultant to the Board, he speaks with a number of consumers who are just seeking information and do not want to file a complaint. He suggested the REC consider the word “concerns” instead of “comments.” Mr. Ho concurred with Mr. Carter’s suggestion and asked if doctors are required to post a sign in their offices directing patients to file complaints with the Medical Board of California or file malpractice lawsuits. Mr. McCauley stated the signs do not mention litigation, and indicated he is not familiar with the specific requirement. Mr. Cooknick shared that he has seen a patient’s bill of rights posted in a doctor’s office.

*Robert Ho moved to amend the motion to recommend to the Board that it approve the proposed language to amend BPC § 5536.22 with the word “concerns” instead of “complaints” in the proposed subsection (a)(9).*

*Michael Merino seconded the motion as amended.*

Mr. Carter suggested the REC consider using the words “concerns about” instead of “complaints concerning.” Mr. Ho agreed with Mr. Carter’s proposed revision.

*Robert Ho moved to amend the motion to recommend to the Board that it approve the proposed language to amend BPC § 5536.22 with the words “concerns about” instead of “complaints concerning” in the proposed subsection (a)(9).*

*Robert Pearman seconded the motion as amended.*

*Members Cullum, De Pietro, Ho, McGavin, Merino, Pearman, and Committee Chair McGuinness voted in favor of the motion. The motion passed 7-0.*

**F. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Pursue Recruitment of Additional Architect Consultant to Ensure Continuity and Effectiveness in Board’s Enforcement Program**

Ms. Walker presented this agenda item, and reminded the REC that this objective had been previously discussed by the REC at its November 5, 2015, and April 28, 2016, meetings. She advised the REC that the Board currently contracts with two architect consultants who work from the Board’s office in Sacramento. She reiterated that staff is currently in the process of replacing the architect consultant contract that expires on January 31, 2017, and noted the final date for submission of proposals in response to the RFP is November 28, 2016.

Ms. Walker explained that to address the Strategic Plan objective, staff also completed the necessary training to execute delegated contracts with independent expert consultants who can assist the Board by providing an expert opinion on enforcement matters. She noted the Board also uses delegated contracts with subject matter experts who assist in California Supplemental Examination development and occupational analyses. Ms. Walker reminded the REC that at its November 5, 2015, meeting, the REC voted to recommend to the Board that it authorize staff to pursue an RFP to provide the Board with a third architect consultant and continue to utilize the services of independent expert consultants through the delegated contract process, and the recommendation was approved by the Board at its December 10, 2015, meeting.

Mr. McCauley explained that no action from the REC is necessary at this time, as staff has authority from the Board to award a third architect consultant contract. He shared that as he reported to the Board at its September 2016 meeting, staff’s current workload does not warrant three consultants, and he has already reduced the number of hours worked by one of the consultants. Mr. McCauley explained staff must be mindful of workload, and a third consultant contract would be difficult to justify at this time, and stated the intent of the Strategic Plan objective is to focus on succession planning.

*Michael Merino moved to receive and file staff’s report on the status of the Strategic Plan objective.*

*Fred Cullum seconded the motion.*

Mr. Ho asked about the amount of work for the architect consultants. Mr. McCauley explained in recent history, the Board’s pending caseload has reduced approximately 30%,

but suggested focusing on the number of cases with the consultants, as they handle the more robust, professional practice-based cases. Mr. Ho asked if the consultants are expected to be physically available to Board staff. Mr. McCauley responded affirmatively and informed Mr. Ho that the consultants work from the Board's office in Sacramento.

*Members Cullum, De Pietro, Ho, McGavin, Merino, Pearman, and Committee Chair McGuinness voted in favor of the motion. The motion passed 7-0.*

**G. Discuss and Possible Recommendation Regarding Proposed Amendments to Title 16, California Code of Regulations (CCR) sections 152 (Citations) and 152.5 (Contest of Citations, Informal Conference)**

Ms. Walker presented this agenda item, and informed the REC that the Board's Executive Officer (EO) is authorized to issue citations for violations of the Architects Practice Act (Act) and Board regulations pursuant to California Code of Regulations (CCR), Title 16, section 152. She explained after the issuance of a citation, a cited person may request an informal conference before the EO, which provides the cited person with an opportunity to demonstrate to the EO that there was not a violation of the Act as alleged in the citation, and/or a formal administrative hearing before an administrative law judge (ALJ).

Ms. Walker stated staff requests the REC, and ultimately the Board, consider possible amendments to CCR § 152.5 that would allow the EO to delegate to a designee, such as the Assistant Executive Officer or Enforcement Program Manager, the authority to hold an informal conference with a cited person and make a decision to affirm, modify, or dismiss a citation. She informed the REC that this delegation would only be used in the event the EO knows one of the parties in the investigation or for simple unlicensed or continuing education cases. She explained staff also suggests additional revisions to CCR § 152.5, including:

- Changing the deadline for requesting an informal conference from 10 days after service of the citation to 30 days of the date of issuance of the citation, for consistency with the deadline for requesting an administrative hearing as provided for in BPC § 125.9(b)(4).
- Authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause.
- Clarifying that the decision to affirm, modify, or dismiss a citation is made following (rather than at the conclusion of) an informal conference, and a copy of the decision will be sent to the cited person within 30 days.

Ms. Walker asked the REC to review and discuss the proposed regulatory language to amend CCR § 152.5, and consider making a recommendation to the Board. Mr. Ho questioned if this proposed regulation was due to the EO being too busy to conduct informal conferences. Mr. McCauley explained the primary purpose is to address situations where he, as the EO, may know one of the parties involved in the case. He recalled a recent case where an unlicensed individual had assumed the identity of an architect who he knows personally and

lives in his neighborhood. Mr. McCauley explained with the unlicensed individual's consent, he recused himself from the informal conference and allowed the Enforcement Program Manager to preside over it, to ensure there was no perception of a problem. He advised the REC it would be better to have clear authority to delegate this duty to a designee, but such delegation would be used infrequently.

*Michael Merino moved to recommend to the Board that it approve the proposed regulation to amend CCR § 152.5 and authorize staff to proceed with the regulatory change.*

*Robert Ho seconded the motion.*

*Members Cullum, De Pietro, Ho, McGavin, Merino, Pearman, and Committee Chair McGuinness voted in favor of the motion. The motion passed 7-0.*

#### **H. Update and Possible Recommendation Regarding Proposed Amendments to Board's Disciplinary Guidelines and Title 16, CCR section 154 (Disciplinary Guidelines)**

Ms. Walker presented this agenda item, and reminded the REC that it had previously reviewed and discussed revisions to the Board's *Disciplinary Guidelines* in 2013 and 2014. She explained in April 2016, legal counsel advised staff that further substantive changes were necessary to the *Guidelines* prior to submission to the Office of Administrative Law, and recommended: 1) comparing the Board's *Guidelines* to other DCA boards' and bureaus' disciplinary guidelines; 2) lowering the minimum penalty of 90 days suspension and 5 years of probation; 3) adding recommended penalties for additional violations of the Act, general provisions of the BPC, and Board regulations, if necessary; and 4) further refining the timelines in Optional Conditions 9 (California Supplemental Examination) and 10 (Written Examination) as they relate to the tolling provisions. Ms. Walker informed the REC that based on legal counsel's recommendations, staff proposes additional revisions to the Board's *Guidelines*, including:

- Expanding the content of the "General Considerations" section to better assist ALJs in preparing proposed decisions and deputy attorneys general in negotiating stipulated settlements.
- Adding recommended maximum and minimum penalties for additional violations of the BPC.
- Amending the recommended minimum penalties for violations based upon changes made to the standard and optional conditions of probation.
- Adding model language for disciplinary orders.
- Adding a severability clause, a license surrender option, and requirements for a probationer to maintain an active and current license and notify the Board of any

changes to his or her address, telephone number, and employment, to the standard conditions of probation.

- Adding an ethics course and the procedures for the notification to clients to the optional conditions of probation.
- Amending the language of Optional Conditions 9 and 10 to revise the timelines within the “condition subsequent” option as they relate to the tolling provisions, and provide a “condition precedent” option that would require a probationer to take and pass the examination(s) prior to resuming or continuing practice.
- Making minor, technical or non-substantive changes throughout the *Guidelines*.

Ms. Walker asked the REC to review the additional recommended revisions to the Board’s *Guidelines* and the revised proposed regulation to amend CCR § 154, and consider making a recommendation to the Board. Mr. Merino asked if BPC § 5586 (Disciplinary Action by a Public Agency) is existing statutory language or if it is being proposed through regulation. Ms. Walker replied BPC § 5586 is an existing law within the Act, but was inadvertently excluded from the 2000 edition of the Board’s *Guidelines*. Mr. Merino asked staff to explain disciplinary action by a public agency, as he feels it is open-ended and draconian. Vickie Mayer clarified that all code sections listed in the *Guidelines* are existing laws and regulations, and explained a public agency, in the context of BPC § 5586, includes other state architectural boards, as well as other governmental agencies within California. She reiterated BPC § 5586 is an existing law, and the Board is articulating suggested guidelines when imposing penalties for it. Mr. Merino expressed his concern that the Division of the State Architect (DSA) may gain the ability to take action against architects, and asked if there could be a potential ramification for licensees under that law. Mr. McCauley informed the REC that he discussed project closeout and certifications with the Deputy State Architect, and clarified that it is a quasi-enforcement action on the part of DSA. He explained if DSA started filing complaints with the Board for violations of DSA’s statutory provisions, he, as EO, would not be issuing citations to enforce another agency’s provisions, as it is not an appropriate use of Board resources and may not stand up to appeal before an ALJ.

Mr. Merino restated his concern that the term “public agency” is vague, and asked if the language could be clarified. Ms. Mayer explained in order for the Board to take action based upon BPC § 5586, another public agency must have taken disciplinary action against a licensee for an act substantially related to the qualifications, functions, or duties of an architect. Mr. Merino questioned how it could happen if DSA has no authority or jurisdiction to take disciplinary action. Ms. Mayer clarified that BPC § 5586 only applies when another public agency has taken disciplinary action against an architect. She explained staff reviews the circumstances of the action taken against the licensee, and determines if action should be taken against the California license. Mr. Merino asked Ms. Mayer if, in her opinion, the language of BPC § 5586 was clear enough that it could not be abused or taken out of context. Ms. Mayer responded affirmatively and explained it specifically states “disciplinary action,” so it must be based upon a formal action taken against a licensee. Mr. McCauley advised Mr. Merino to keep in mind that the Board’s *Guidelines* are beneficial

because they set parameters for the ALJ, and asked Mr. Carter if he recalled how many cases within the past few years involved actions from other public agencies. Mr. Carter replied that BPC § 5586 typically applies in cases where an architect holds a contractor license, and that license is disciplined by CSLB for violations substantially related to the practice of architecture. Mr. Merino explained his intent is not to make the statute agency-specific, and stated if the REC and staff feel it is not an issue, he will not push any further.

Mr. McGuinness asked if there was any explanation of the requirements for the ethics course required by Optional Condition 14 (Ethics Course). Mr. Cooknick asked if the ethics course was optional. Ms. Walker replied that the ethics course is an optional condition of probation. Mr. McGuinness noted it was not included as an option for each violation. Ms. Mayer explained recommended penalties depend on the type of violation, and stated the ethics course is included as an optional condition where appropriate.

Mr. Pearman asked Mr. McCauley if staff tracks deviations from the Board's *Guidelines* in proposed decisions issued by ALJs, and if those deviations affect future modifications to the *Guidelines*. Mr. McCauley indicated deviations are informally tracked by staff, and offered to review cases in the past five years, identify any deviations from the Board's *Guidelines*, and bring that information to the next Board meeting. Mr. Pearman questioned if by "cost reimbursement, including expert consultant opinions and services," the Board is pursuing the fees of its architect consultants. Ms. Walker replied affirmatively. Mr. Pearman asked if this was a new change. Ms. Walker stated it is not a change in procedure; instead, new language was added to the *Guidelines* to explain the purpose. Mr. Pearman asked how the Board tracks and calculates the architect consultants' costs for disciplinary cases. Ms. Mayer clarified cost reimbursement was already included in the *Guidelines*, but was added as an optional condition of probation for additional violations. She explained the consultants track their time, and the Board is allowed to pursue cost reimbursement up to the point of the hearing, either through a stipulated settlement or a proposed decision from an ALJ. Mr. Pearman asked if the costs have been included in the past. Ms. Mayer responded affirmatively. Ms. Bon explained cost recovery is standard across DCA, as BPC § 125.3 provides the authority to charge for it. She stated cost recovery can be included in a stipulated settlement, where the disciplined licensee is agreeing to pay those costs through the agreement, or at the hearing level, following factual findings of the validity and support for cost recovery, based upon itemized invoices. Mr. Pearman asked what is meant by "mitigating evidence" under the "Factors to be Considered." Ms. Bon explained mitigating evidence could be anything that helps demonstrate rehabilitation or correction of the error. Mr. Pearman asked if it is included as a "catch-all" provision. Ms. Bon described the language as intentionally broad.

Mr. Pearman questioned why, under CCR § 110.1 (Rehabilitation Criteria), expungement proceedings pursuant to Penal Code (PC) section 1203.4 are not included when considering the denial of an architect license, but the expungements are considered with the suspension or revocation of a license. Ms. Bon noted Mr. Pearman is referring to existing regulation language, and explained in the development of the *Guidelines*, staff included the regulation for reference, but is not seeking to revise it. She suggested making the text of the regulation an item for future discussion and consideration by the REC. Mr. Pearman questioned why

the language could not be revised within the *Guidelines*. Ms. Mayer responded it is an existing regulation that is already in effect with that wording, and clarified that Ms. Bon is suggesting the REC may want to consider changing that regulation in the future. Ms. Bon noted the “Factors to be Considered” already include mitigation and rehabilitation evidence, so staff already has the ability to take applicants’ expungements into consideration, and explained the statements of issues typically plead the underlying facts of the criminal violation, not just the conviction, because if the criminal conviction is expunged, the administrative case can still rely on the underlying facts. Ms. Mayer commented that expungement proceedings may also be included under CCR § 110.1(a)(4), which references the extent to which the applicant has complied with any terms of parole, probation, restitution, or any sanctions lawfully imposed against the applicant, and noted in order to have a conviction dismissed under PC § 1203.4, the applicant would have complied with the terms of probation or parole. Mr. Pearman asked if, based upon the discussion, the REC could not add or modify anything under CCR § 110.1. Ms. Mayer responded affirmatively, and reiterated the Board would need to amend the regulation and then revise it in the *Guidelines*.

Mr. Pearman stated although he does not agree, he understands staff’s position, and questioned why there was not additional information regarding a petition for a reduction of penalty. Ms. Bon explained the *Guidelines* must accurately restate a regulation, but suggested removing the regulation and generally stating the principles the Board is looking for, or revising the underlying regulation and updating the *Guidelines* accordingly. Mr. Pearman commented that since the regulation does not describe the guidelines for the reduction of penalty, the Board is free to do so through its *Guidelines*. Ms. Bon responded affirmatively.

Mr. McGavin asked if there are any qualifications for the ethics course, such as the type of provider, due to the problems he has seen in education. Mr. McCauley explained the Board considers the courses on a case-by-case basis, and noted that the ethics course requirement is used infrequently. Mr. McGuinness noted the ethics course will be used more often, as it is a recommended penalty for many violations. Ms. Mayer clarified that probationers must submit courses to the Board for prior approval.

Mr. McGuinness asked for clarification regarding “informed consent” under CCR § 160(f)(1). Mr. Carter explained the intent of the regulation is to prevent an architect from making a substantial change to a design or project without the owner’s written consent.

Mr. Cooknick commented that there are a lot of changes for architects and candidates to digest, and asked the Board to help “get the word out” regarding these changes and the potential consequences. Mr. McCauley stated one of the Board’s most popular outreach components involves the architect consultants speaking to licensees and advising them how to stay out of trouble. Ms. Mayer explained the existing *Guidelines* are posted on the Board’s website, and offered to include an article in the Board’s newsletter on the *Guidelines* when they are final to alert licensees and candidates of the changes. Mr. Pearman noted that there is a long lead time to educate individuals regarding the changes.

*Fred Cullum moved to recommend to the Board that it approve the additional revisions to the Board's Disciplinary Guidelines and the proposed regulation to amend CCR § 154, and authorize staff to proceed with the required regulatory change to amend CCR § 154 in order to incorporate the revised Disciplinary Guidelines by reference.*

*Gary McGavin seconded the motion.*

*Members Cullum, De Pietro, Ho, McGavin, Merino, Pearman, and Committee Chair McGuinness voted in favor of the motion. The motion passed 7-0.*

## **I. Adjournment**

The meeting adjourned at 11:43 a.m.

DRAFT

## **Agenda Item D**

### **UPDATE ON BOARD'S ENFORCEMENT PROGRAM AND COMPLAINT, CITATION, AND DISCIPLINARY ACTION STATISTICAL DATA AND INFORMATION**

Attached is the Enforcement Program Update, which is a synopsis of California Architects Board (Board) and Enforcement Program activities and projects of interest to the Regulatory and Enforcement Committee (REC).

Also included in this item are the Enforcement Program Report (fiscal year [FY] 2014/15 through 2016/17) and an overview of Citations and Disciplinary Actions from October 1, 2016 through July 31, 2017 (reporting period since the last REC meeting).

#### Attachments:

1. Enforcement Program Update (October 2016 through July 2017)
2. Enforcement Program Report (FY 2014/15 through 2016/17)
3. Citations (October 1, 2016 through July 31, 2017)
4. Disciplinary Actions (October 1, 2016 through July 31, 2017)

**ENFORCEMENT PROGRAM UPDATE**

October 2016 through July 2017

**Architect Consultants**

Building Official Contact Program:

Architect consultants were available on-call to Building Officials from October 2016 through July 2017, when they received 31 telephone, email, and/or personal contacts. These types of contacts generally include discussions regarding the California Architects Board's (Board) policies and interpretations of the Architects Practice Act (Act), stamp and signature requirements, and scope of architectural practice.

Contracts:

One of the architect consultant contracts expired on January 31, 2017. Staff prepared a Request for Proposal (RFP) for consultant services for three years (February 1, 2017, through January 31, 2020) and submitted it to the Department of Consumer Affairs (DCA) Contracts Unit for review on August 23, 2016. The RFP was released on October 5, 2016, and advertised on the Internet under the Cal eProcure portal. The RFP was also posted on the Board's website and Twitter account, distributed to the Board's e-subscribers, and shared with The American Institute of Architects, Central Valley Chapter, the Asian American Architects and Engineers Association, the National Organization of Minority Architects, and the Board's subject matter experts. The final date for submission of proposals was November 28, 2016. The proposals received in response to the RFP were evaluated through a two-phase process, which included scoring each written proposal (First Phase Evaluation) on November 30, 2016; one proposer received an overall technical score of 30 or more in the first phase and proceeded to the Second Phase Evaluation, an oral interview. On December 6, 2016, the Evaluation Committee interviewed the candidate and awarded technical points based on selection criteria contained in the RFP. Robert Lee Chase was selected as the awardee of the contract. The Notice of Intent to Award announcing the consultant selected was posted, as required by law, in the Board's office on December 12, 2016, and the agreement became effective February 1, 2017. The Board ratified the approval of the contract at its March 2, 2017, meeting.

Education/Information Program:

Architect consultants are the primary source for responses to technical and/or practice-related questions from the public and licensees. From October 2016 through July 2017, there were 263 telephone and/or email contacts requesting information, advice, and/or direction. Licensees accounted for 113 of the contacts and included inquiries regarding written contract requirements, out-of-state licensees seeking to do business in California, scope of practice relative to engineering disciplines, and questions about stamp and signature requirements.

Outreach:

The 2017 Annual Business Meeting of California Building Officials (CALBO) was held March 20-23, 2017, in Newport Beach. This was the 55<sup>th</sup> annual meeting of the organization. The Board sponsored a vendor table as part of the Exhibitor's Program, which was staffed by Board architect consultants Bob Carter and Bob Chase. There were approximately 320 people representing

various building departments throughout the State. The Board had over 15 documented direct contacts. Once again, CALBO leadership extended a special thank you to the Board for participating and continuing its history of support to the organization. In addition, the City and County of San Francisco and the Counties of Orange and San Mateo requested supplies of the Board's *Consumer's Guide to Hiring an Architect* and *Consumer Tips for Design Projects*.

## **Board Meetings**

Since October 2016, the Board met on: December 15-16, 2016, in Sacramento; March 2, 2017, in Los Angeles; and June 15, 2017, in San Francisco. The next Board meetings are scheduled for September 7, 2017, at Woodbury University in Burbank, and December 7, 2017, in Sacramento.

## **BreEZe**

DCA has been working with Accenture, LLP to design, configure, and implement an integrated, enterprise-wide enforcement case management and licensing system called BreEZe. This system supports DCA's highest priority initiatives of job creation and consumer protection by replacing aging legacy business systems with an industry-proven software solution that utilizes current technologies to facilitate increased efficiencies for DCA board and bureau licensing and enforcement programs. More specifically, BreEZe supports applicant tracking, licensing, license renewal, enforcement, monitoring, cashiering, and data management capabilities. Additionally, the system is web-based which allows the public to file complaints and search licensee information and complaint status via the Internet. It also allows applicants and licensees to submit applications, license renewals, and make payments online. BreEZe is being deployed department-wide via three separate releases. Release 1 was implemented on October 9, 2013; Release 2 was implemented on January 19, 2016; and Release 3 began development in 2016. The Board is currently part of Release 3.

The State Auditor recommended that DCA conduct a cost-benefit analysis for Release 3 boards and bureaus. Absent any contrary finding in that analysis, DCA plans to bring the remaining boards and bureaus into BreEZe, but likely will do so in smaller groups. DCA is developing a plan for the boards and bureaus that have not transitioned to the BreEZe system. On July 11, 2017, staff met with DCA's Office of Information Services and SOLID's Organizational Change Management (OCM) staff to discuss the status of Release 3. DCA has structured a Business Modernization Plan that creates a roadmap for those programs formerly of Release 3 and in need of modernization and automation. The Plan outlines business activities, including as-is business analysis and documentation, and business requirements. Should IT considerations be necessary, the Plan outlines the required steps through the Project Approval Lifecycle, the four-stage project approval process through the Department of Technology. This process documents business justification (Stage 1), alternatives and cost benefit analysis (Stage 2), solution development framework (Stage 3), and project approval (Stage 4). The final step of the process will be system modification/implementation, possibly following an agile or agile-hybrid development methodology. On August 17, 2017, staff met with SOLID's OCM staff to discuss the initial inventory of the Board's existing administrative, enforcement, and licensing business processes. This inventory will inform the proposed timeline for the effort, currently under development. The path forward will include business process planning, during which existing processes will be mapped (documented and potentially re-engineered), use cases developed, and solution requirements defined.

## **Collection Agency Contract**

The Board's 2015-2016 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to pursue methods to obtain multiple collection mechanisms to secure unpaid citation penalties. At its November 5, 2015, meeting, the REC reviewed and discussed this objective, and voted to recommend to the Board that it should encourage staff to continue pursuing all avenues for collecting unpaid administrative fines, and specifically, start utilizing a collection agency for unpaid accounts aged beyond 90 days, or at the discretion of the EO. The Board approved the REC's recommendation at its December 10, 2015, meeting.

Following the Board meeting, staff identified outstanding accounts that could be referred to a collection agency and obtained quotes for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions if appropriate. Staff is currently in the process of securing a contract with a collection agency through the informal solicitation method (Government Code section 14838.5) to allow the Board to refer unpaid accounts aged beyond 90 days to a collection agency. The collection agency contract is planned to be presented to the Board for review and possible action at its December 7, 2017, meeting, to allow the Board to refer unpaid accounts to a collection agency beginning January 1, 2018 (or upon approval of the contract).

## **Continuing Education (CE) Audit System**

Assembly Bill (AB) 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011, and amended the statutory provisions of Business and Professions Code (BPC) sections 5600 and 5600.05 pertaining to the CE requirement for licensees. This bill amended the CE provisions by: 1) requiring an audit of license renewals beginning with the 2013 renewal cycle; 2) adding a citation and disciplinary action provision for licensees who provide false or misleading information; and 3) mandating the Board to provide the Legislature with a report on the level of licensee compliance, actions taken for noncompliance, findings of Board audits, and any recommendations for improving the process.

An audit system was developed by the Professional Qualifications Committee and approved by the Board on June 14, 2012. The Board has audited at least 3% of the license renewals received each year since January 2013 to verify the completion of the CE requirements by licensees. As of July 31, 2017, the Board has audited approximately 1,600 licensees and found 232 cases where licensees have: 1) certified false and/or misleading information regarding their compliance with this requirement when filing their license renewal applications with the Board; 2) failed to maintain records of completion of the required coursework; or 3) failed to provide the Board with records of completion of the required coursework upon request. As of July 31, 2017, 77 citations have been issued to licensees for noncompliance with the CE provisions of BPC § 5600.05.

## Enforcement Program Statistics

<u>Enforcement Statistics</u>	<u>Current Month</u> July 2017	<u>Prior Month</u> June 2017	<u>5-FY Avg</u> 2012/13 - 2016/17
<b>Complaints</b>			
Received/Opened:	24	42	314
Closed:	13	29	305
Average Days to Close:	91 days	80 days	123 days
Pending:	126	115	109
Average Age of Pending:	99 days	87 days	151 days
<b>Citations</b>			
Issued:	0	1	40
Pending:	5	6	10
Pending AG:**	3	3	4
Final:	1	2	37
<b>Disciplinary Actions</b>			
Pending AG:	3	4	4
Pending DA:	0	0	2
Final:	1	0	2
<b>Continuing Education (§5600.05)*</b>			
Received/Opened:	0	10	58
Closed:	0	0	55
Pending:	12	12	21
<b>Settlement Reports (§5588)*</b>			
Received/Opened:	0	8	30
Closed:	0	1	30
Pending:	13	13	8

\* Also included within "Complaints" information.

\*\* Also included within "Pending Citations."

### Most Common Violations:

The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

During FY 2016/17, 32 citations with administrative fines became final with 50 violations of the provisions of the Act and/or Board regulations. Below are the most common violations that resulted in enforcement action during the last FY:

- BPC § 5536(a) and/or (b) - Practice Without License or Holding Self Out as Architect [38%]
- BPC § 5536.22(a) - Written Contract [14%]
- BPC § 5579 - Fraud in Obtaining License [4%]
- BPC § 5584 - Negligence or Willful Misconduct [4%]
- BPC § 5586 - Disciplinary Action by a Public Agency [2%]
- BPC § 5600.05(a)(1) and/or (b) - License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements [16%]

- California Code of Regulations (CCR), Title 16, section 160(b)(2) - Rules of Professional Conduct (Willful Misconduct) [6%]
- CCR § 160(c)(4) - Rules of Professional Conduct (Conflict of Interest) [2%]
- CCR § 160(f)(1) - Rules of Professional Conduct (Informed Consent) [4%]
- Other Violations [10%]

## **Legislation**

Senate Bill (SB) 547 (Hill) extends the sunset date of the California Council of Interior Design Certification (CCIDC) and its certification program until January 1, 2022. At the March 2, 2017, meeting, the Board voted to support the extension of CCIDC’s sunset date; subsequent letters of support for SB 547 were sent to the Legislature on May 23 and July 7, 2017. The bill is now with the Assembly Committee on Appropriations.

AB 1489 (Brough) is The American Institute of Architects, California Council’s (AIACC) bill that proposes two changes to the Act via BPC § 5536.25: 1) a clarification that an architect is not responsible for damage caused by “construction deviating from a permitted set of plans, specifications, reports, or documents” not authorized or approved in writing by the architect; and 2) an update to the definition of “construction observation services” to clarify that those services do not include inspection, or determining or defining means and methods (the day-to-day activities a contractor employs to complete construction). The bill will not move forward as currently written.

## **Newsletter**

Issues of the Board’s newsletter, *California Architects*, were published, posted on the website, and distributed to email subscribers on November 4, 2016, and March 13, 2017. The next issue is scheduled for publication in August 2017.

## **Regulatory Proposals**

### CCR § 152.5 (Contest of Citations, Informal Conference):

Staff developed proposed regulatory language to amend CCR § 152.5 to allow the Executive Officer (EO) to delegate to a designee, such as the Assistant Executive Officer or the Enforcement Program Manager, the authority to hold an informal conference with a cited person and make a decision to affirm, modify, or dismiss a citation. The proposed regulatory language also contains additional revisions to CCR § 152.5, including: changing the deadline for requesting an informal conference for consistency with the deadline for requesting a formal administrative hearing; authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause; and clarifying that the decision to affirm, modify, or dismiss a citation is made following (rather than at the conclusion of) an informal conference, and a copy of the decision will be transmitted to the cited person within 30 days after the conference. The REC reviewed and discussed staff’s draft proposed regulation to amend CCR § 152.5 at its November 8, 2016, meeting, and voted to recommend to the Board that it approve the regulation and authorize staff to proceed with the regulatory change. At its December 15, 2016, meeting, the Board approved the REC’s recommendation, and delegated authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed. Staff is preparing the proposed regulatory package for submission to DCA for review, prior to publicly noticing with the Office of Administrative Law (OAL).

CCR § 154 (Disciplinary Guidelines):

The Board's 2013 and 2014 Strategic Plans included an objective to review and update the Board's *Disciplinary Guidelines*. The REC reviewed recommended updates to the Board's *Disciplinary Guidelines* in 2013 and 2014. Additionally, at the request of the REC, staff consulted with a representative of AIACC to address a proposed modification to the "Obey All Laws" condition of probation. The representative concurred with the revision and indicated that there was no issue with the proposal. Staff then consulted with the REC Chair who agreed to provide the *Disciplinary Guidelines* with recommended revisions to the Board for consideration at its December 2014 meeting due to the target date established for the Strategic Plan objective. At its December 2014 meeting, the Board approved the proposed revisions to the *Disciplinary Guidelines* and authorized staff to proceed with a regulatory proposal to amend CCR § 154 in order to incorporate the revised *Disciplinary Guidelines* by reference. Staff prepared the required regulatory documents for the Board's review and approval at its June 10, 2015, meeting. The Board approved the proposed regulatory language to amend CCR § 154 at its June 10, 2015, meeting and delegated the authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes, if needed.

At its August 6, 2015, meeting, the Landscape Architects Technical Committee (LATC) reviewed recommended updates to LATC's *Disciplinary Guidelines* based on the revisions made to the Board's *Guidelines*. Following the meeting, legal counsel advised LATC staff that additional research may be necessary regarding Optional Conditions 9 (California Supplemental Examination) and 10 (Written Examination) in LATC's *Guidelines*. LATC staff subsequently discussed the matter with legal counsel on September 30, 2015. Board staff reviewed legal counsel's comments as they relate to the Board's *Disciplinary Guidelines*, and determined the Board's *Guidelines* would also need to be amended. On October 21, 2015, Board and LATC staff sent proposed edits to these conditions to legal counsel for review. Legal counsel notified Board and LATC staff on November 12, 2015, that the proposed edits were acceptable, but substantive, and would require re-approval by the Board.

On November 25, 2015, legal counsel further advised staff to include the current version of the Board's Quarterly Report of Compliance form (1/11) as "Attachment A" in the Board's *Disciplinary Guidelines*, as this method was previously approved by OAL for the 2000 edition of the *Guidelines*. At its December 10, 2015, meeting, the Board reviewed and approved the additional recommended revisions to the Board's *Disciplinary Guidelines* and the proposed regulation to amend CCR § 154, and delegated the authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes to the language, if needed. Staff prepared the proposed regulatory package for legal counsel's review and approval on March 15, 2016. On April 8, 2016, legal counsel advised staff that further substantive changes were necessary prior to submission to OAL. Staff developed recommended revisions to the *Guidelines* in response to legal counsel's concerns, and presented those revisions to the REC for review and consideration at its November 8, 2016, meeting. At the meeting, the REC voted to recommend to the Board that it approve the additional revisions to the *Disciplinary Guidelines* and authorize staff to proceed with the regulatory change to amend CCR § 154. The additional revisions to the *Guidelines* and the proposed regulatory language to amend CCR § 154 were presented to the Board for consideration at its December 15, 2016, meeting. At the meeting, the Board approved the additional revisions to the *Disciplinary Guidelines* and the proposed regulation to amend CCR § 154, authorized staff to proceed with the required regulatory change to amend CCR § 154 in order to incorporate the revised *Guidelines* by reference, and delegated

authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed. Staff is preparing the proposed regulatory package for submission to DCA for review, prior to publicly noticing with OAL.

### **Social Media**

In expanding the Board's social media presence, a new Instagram account was launched on September 20, 2016; the Board currently has 168 followers. The Board currently has 1,094 Twitter followers. In addition, the Board launched its new Facebook account on June 6, 2017.

### **Strategic Plan**

On December 16, 2016, the Board participated in a session to update its Strategic Plan for two years (2017–2018). The session was facilitated by DCA's SOLID team. The Board reviewed and updated six goal areas (Professional Qualifications, Practice Standards, Enforcement, Public and Professional Awareness, Organizational Relationships, and Organizational Effectiveness and Customer Service), which assisted members in developing objectives for 2017–2018.

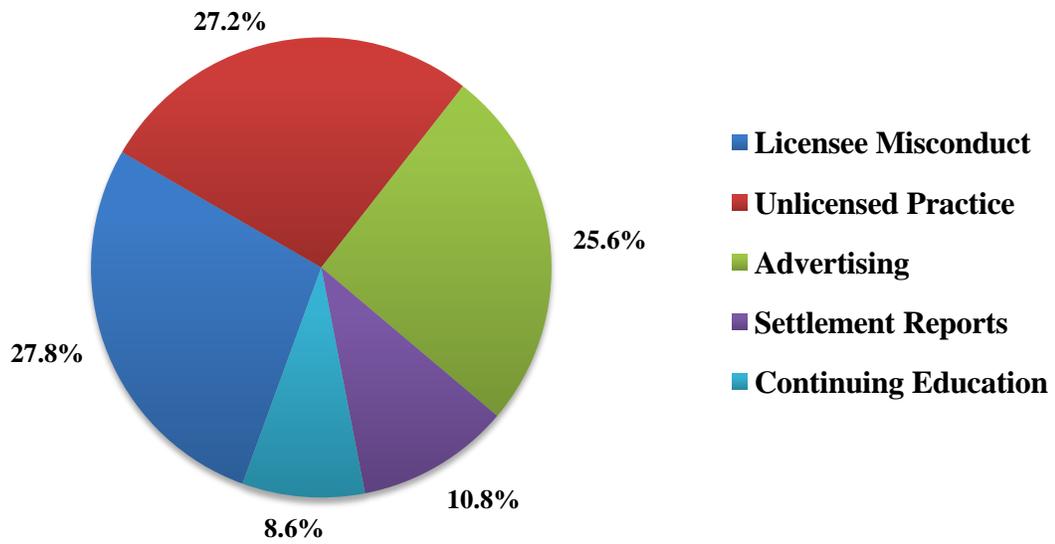
SOLID updated the Board's 2017–2018 Strategic Plan based on the Board's session, and it was approved by the Board at its March 2, 2017, meeting. The Board's 2017–2018 Strategic Plan contains five objectives in two goal areas, Practice Standards and Enforcement, that have been assigned to the REC.

### **Written Contract (BPC § 5536.22)**

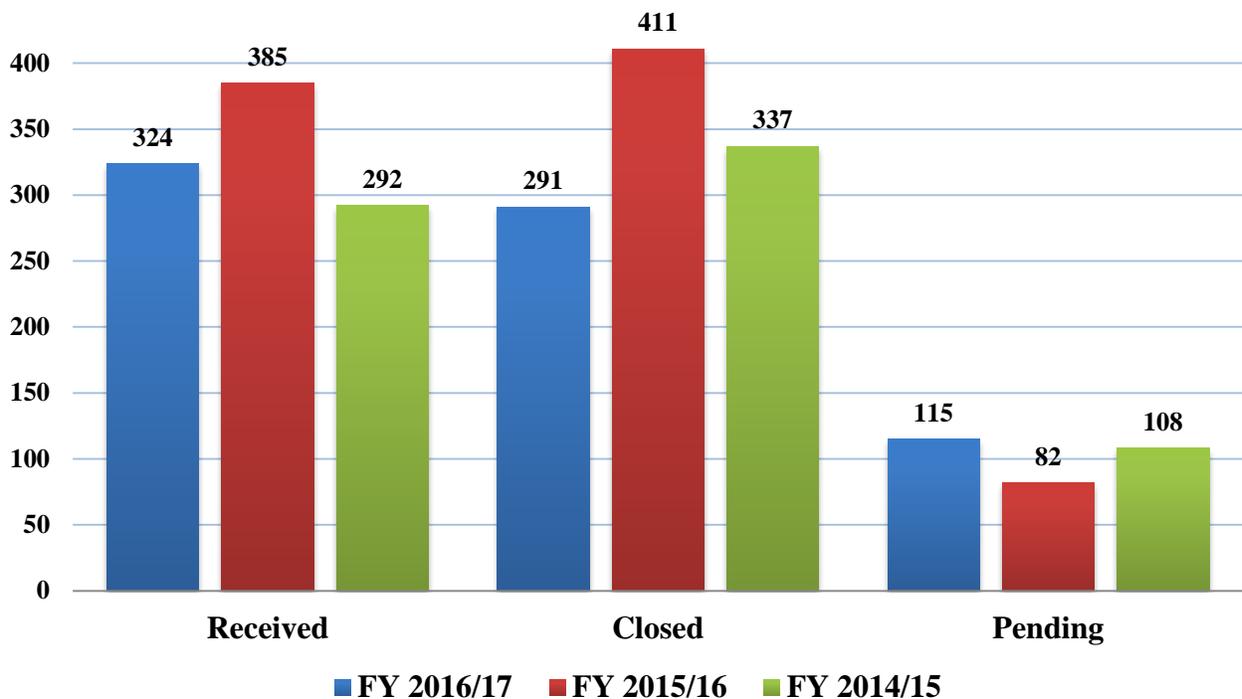
A proposal was previously submitted by the Board to the Senate Business, Professions and Economic Development Committee (BP&ED) for possible inclusion in an omnibus bill. The amendment to BPC § 5536.22 sought to clarify that the following elements are needed in architects' written contracts with clients for professional services: 1) a description of the project; 2) the project address; and 3) a description of the procedure to accommodate contract changes. BP&ED staff determined that the proposal was substantive and, as such, would need to be included in another bill. At its April 28, 2016, meeting, the REC accepted staff's recommendation to also include a: 1) statement identifying the ownership and/or reuse of instruments of service prepared by the architect; and 2) notification to the client that the architect is licensed by the Board, in the amendment to BPC § 5536.22. Staff developed proposed language for BPC § 5536.22 to include these two additional elements, and presented it to the REC for consideration at its November 8, 2016, meeting. At the meeting, the REC supported adding the two additional provisions to the written contract requirement, but expressed concerns that the use of the word "complaints" in the proposed language for subsection (a)(9) could result in frivolous complaints to the Board against architects. The REC ultimately voted to recommend to the Board that it approve the proposed language to amend BPC § 5536.22 with the words "concerns about" instead of "complaints concerning" in the proposed subsection (a)(9). The Board considered the REC's recommendation at its December 15, 2016, meeting, and approved the proposed language to amend BPC § 5536.22 with the exception of proposed subsection (a)(9); the Board returned subsection (a)(9) to the REC for further study and consideration of alternative methods of disclosure.

## ENFORCEMENT PROGRAM REPORT

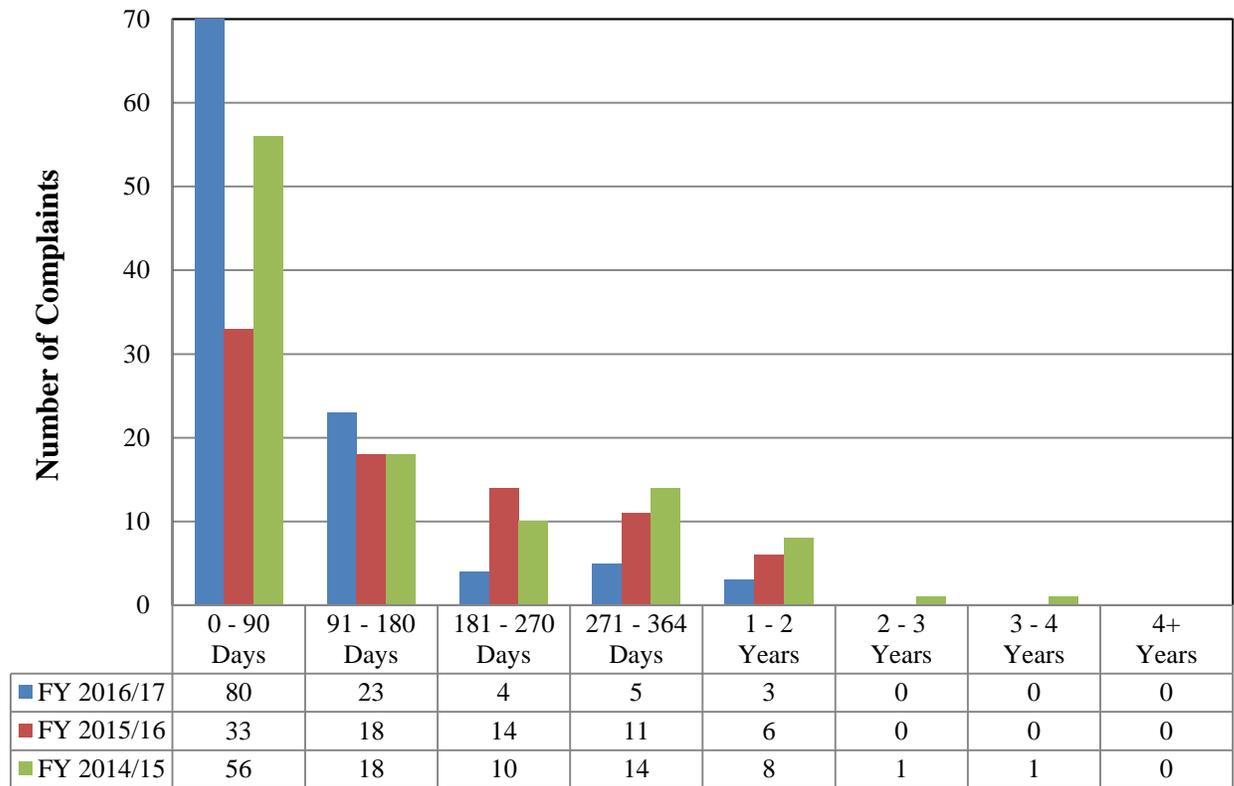
### Types of Complaints Received FY 2016/17



### Complaints Received, Closed, and Pending by FY



## Comparison of Age of Pending Complaints by FY



## Closure of Complaints by FY

Type of Closure	FY 2016/17	FY 2015/16	FY 2014/15
Cease/Desist Compliance	67	56	9
Citation Issued	30	77	62
Complaint Withdrawn	6	6	2
Insufficient Evidence	8	20	13
Letter of Advisement	99	158	185
No Jurisdiction	13	14	11
No Violation	52	62	40
Referred for Disciplinary Action	4	4	6
Other (i.e., Duplicate, Mediated, etc.)	12	14	9

## **Disciplinary and Enforcement Actions by FY**

<b>Action</b>	<b>FY 2016/17</b>	<b>FY 2015/16</b>	<b>FY 2014/15</b>
Disciplinary Cases Initiated	2	4	5
Pending Disciplinary Cases	4	6	6
Final Disciplinary Orders	4	4	1
Final Citations	32	65	47
Administrative Fines Assessed	\$45,750	\$79,750	\$78,000

## **Most Common Violations by FY**

During FY 2016/17, 32 citations with administrative fines became final with 50 violations of the provisions of the Architects Practice Act and/or Board regulations. The most common violations that resulted in enforcement action during the last three fiscal years are listed below.

<b>Business and Professions Code (BPC) Section or California Code of Regulations (CCR) Section</b>	<b>FY 2016/17</b>	<b>FY 2015/16</b>	<b>FY 2014/15</b>
BPC § 5536(a) and/or (b) – Practice Without License or Holding Self Out as Architect	38.0%	24.5%	41.8%
BPC § 5536.1(c) – Unauthorized Practice	0%	4.1%	5.1%
BPC § 5536.22(a) – Written Contract	14.0%	3.1%	5.1%
BPC § 5584 – Negligence or Willful Misconduct	4.0%	5.1%	2.5%
BPC § 5600.05(a)(1) and/or (b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements*	16.0%	52.0%	31.6%
CCR § 160(b)(2) – Rules of Professional Conduct	6.0%	7.1%	5.1%

\* Assembly Bill 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011 and amended the coursework provisions of BPC § 5600.05 by requiring an audit of license renewals beginning with the 2013 renewal cycle and adding a citation and disciplinary action provision for licensees who provide false or misleading information.

**CITATIONS**

October 1, 2016 – July 31, 2017

Samuel Aslanian  
(Tarzana)

CCR § 160(c)(4) – Rules of Professional Conduct

The Board issued a one-count citation that included a \$2,000 administrative fine to Aslanian, architect license number C-24043, for an alleged violation of California Code of Regulations (CCR), Title 16, section 160(c)(4). The action alleged that in or around January 2011, the City of Santa Monica (City) issued an Invitation for Bids on a construction project at city hall. Aslanian was employed by the City and was responsible for reviewing the bids and recommending a contractor for the project. During this process, Aslanian approached a contractor with a proposition whereby he would be awarded the contract if he paid Aslanian \$5,000 per month in cash for the duration of the project to a maximum of \$40,000. In addition, the contractor would pay Aslanian 15% of the total amount of any change orders approved during the project. The contractor agreed to pay Aslanian and was awarded the contract by the City, based on Aslanian's recommendation. On and between April 1, 2011 and April 11, 2012, Aslanian unlawfully and knowingly asked for, received, and agreed to receive from the contractor a bribe for the purpose of his influence. The contractor paid a total of \$14,000 to Aslanian per their agreement. On or about October 9, 2012, a complaint was filed against Aslanian in the Superior Court of California, County of Los Angeles, charging Aslanian with five counts of having committed on or about April 1, 2011, the offense of California Penal Code (PC) section 68 (Felony Bribery). On or about May 22, 2013, the Superior Court of California added to the complaint a violation of PC § 641.3 (Felony Commercial Bribery) as count six. Aslanian pled guilty and was convicted of one count of PC § 68 and one count of PC § 641.3. While Aslanian was an employee of the City tasked with managing a City construction project, he engaged in a activity with the City's building contractor outside his capacity of his employment that created the perception of impropriety and compromised his ability to fulfill his role to control, inspect, review and audit the City's building contractor as required by his job description. Aslanian paid the fine, satisfying the citation. The citation became final on April 6, 2017.

Peter Thaddeus Barnum  
(Aptos)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$1,500 administrative fine to Barnum, dba PTB Design Build, PTB Designs, PTB Designs Planning, and PTB Designs & Drafting, an unlicensed individual, for alleged violations of Business and Professions Code (BPC) section 5536(a). The action alleged that on or about July 25, 2016, Barnum’s LinkedIn profile stated that his company, PTB Design Build, “offers a broad range of Architectural Services” and is able to “provide a full scope of Architectural Services”; included “Architectural Design,” “Architectural Drafting,” “Architecture,” and “Interior Architecture” under “Skills”; and was listed under the heading “Architecture & Planning.” Barnum’s advertisement on the Internet at angleslist.com for his company, PTB Design Build, was also listed under the heading “Architect.” In addition, Barnum’s website, ptbdesigns.com, under the business name “PTB Designs” also stated that his company “offers a broad range of Architectural Services” and is able to “provide a full scope of Architectural Services.” Barnum’s advertisement on the Internet at houzz.com under the business name “PTB Designs” offered “Architects & Engineers” as “Additional services.” Barnum’s advertisements on the Internet at local.yahoo.com and yelp.com under the business name “PTB Designs” were also listed under the headings “Architecture” and “Architects,” respectively. Furthermore, Barnum’s advertisement on the Internet at architecturepractices.com under the business name “PTB Designs Planning” identified his company as an “Architect in Aptos, CA” and stated his company “provides a broad array of Architectural Services.” Barnum’s advertisement on the Internet at yellowpages.com under the business name “PTB Designs & Drafting” was also listed under the heading “Architects.” The citation became final on October 26, 2016.

Armen M. Devejian  
(Lafayette)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR § 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Devejian, architect license number C-26573, for alleged violations of BPC § 5600.05(a)(1) and CCR § 160(b)(2). The action alleged that Devejian failed to provide documentation to the Board from the course provider upon an audit of his 2016 License Renewal Application and failed to respond to the Board’s

requests for information within 30 days in regards to an investigation. Devejian paid the fine, satisfying the citation. The citation became final on March 10, 2017.

Paul Joseph Dhanens  
(Bakersfield)

BPC § 5536.22(a) – Written Contract

The Board issued a one-count citation that included a \$500 administrative fine to Dhanens, architect license number C-23843, for an alleged violation of BPC § 5536.22(a). The action alleged that Dhanens failed to execute a written contract prior to commencing professional services for a residential project located in Bakersfield, California. Dhanens paid the fine, satisfying the citation. The citation became final on March 17, 2017.

Tobin T. Dougherty  
(Nevada City)

BPC § 5536.22(a)(3), (4) and (5) – Written Contract

The Board issued a one-count citation that included a \$500 administrative fine to Dougherty, architect license number C-24452, for alleged violations of BPC § 5536.22(a)(3), (4) and (5). The action alleged that Dougherty’s written contract to provide design services for an addition and remodel to an existing residence did not include: the name, address, and license number of the architect; the address of the client; a description of the procedure that the architect and the client will use to accommodate additional services; and a description of the procedure to be used by either party to terminate the contract. Dougherty paid the fine, satisfying the citation. The citation became final on October 10, 2016.

Tiger Edwards  
(Carmichael)

BPC § 5536(a) and (b) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$1,000 administrative fine to Edwards, dba Tiger Edwards Designs, an unlicensed individual, for an alleged violation of BPC § 5536(a) and (b). The action alleged that on or about August 18, 2016, Edwards prepared drawings for a residential project located in Sacramento, California, and affixed a stamp to the drawings, which read: “ARCHITECTURL [sic] DESIGNER,” “INDOOR RANGE” and “Tiger Edwards.” The stamp was circular in shape and of a design used by licensed architects, pursuant to CCR § 136. The citation became final on March 7, 2017.

Adrienne Bert Ferree  
(Rancho Palos Verdes)

BPC § 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$750 administrative fine to Ferree, architect license number C-18520, for an alleged violation of BPC § 5600.05(b). The action alleged that Ferree failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Ferree paid the fine, satisfying the citation. The citation became final on December 20, 2016.

Kevin L. Fuller  
(San Francisco)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Fuller, architect license number C-28634, for an alleged violation of BPC § 5600.05(a)(1). The action alleged that Fuller certified false or misleading information on his 2016 License Renewal Application. The citation became final on December 12, 2016.

Rodolfo Garces  
(Palmdale)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect  
CCR § 134(a) – Use of the Term Architect

The Board issued a two-count citation that included a \$4,000 administrative fine to Garces, aka Rudy Garces and dba AAA Architectural Designs, ADS Architecture Group, and Affordable Drafting Services, an unlicensed individual, for alleged violations of BPC § 5536(a) and CCR § 134(a). The action alleged that on or about December 9, 2014, Garces provided a client with an “Architectural Proposal” offering to “Create and complete architectural plans for a residential 2nd floor room addition” to an existing single-family residence located in Fullerton, California. The proposal was on “ADS Architecture Group” letterhead, included “all architectural designs/plans and structural engineering (drawings and calculations) necessary for city submittal,” and referenced his business’ “architectural” and “architectural design” departments. In addition, on or about March 3, 2015, Garces provided a client with an “Architectural Proposal” offering to “Create/complete architectural tentant (sic) improvement plans for an existing 1500 sq.

ft. commercial building” located in Lancaster, California. The proposal was on “ADS Architecture Group” letterhead, identified Garces as an “Architect,” included “architectural plans” in the services he would provide, and referenced his “Architectural Hourly Fees” and his business’ “architectural” and “architectural design” departments. Garces subsequently invoiced the client through his PayPal account under the business name “ADS Architecture Group” for an “Architectural Services Retainer,” an “Architectural Services 50% Set,” and “Completed Architectural Plans.” Furthermore, on or about August 25, 2016, Garces: identified himself as a “project architect”; described his business as an “Affordable Architect,” “architecture firm,” and “architecture practice”; used the email address “affordablearchitect1@gmail.com” and the username “@LA.Architecture”; described his services as “Architectural,” “Architects,” and “Architecture”; used the terms “licensed” and “California Architect License” and the fictitious license number “CA856467”; and listed his businesses under the headings “Architect,” “Architectural Designers,” “Architectural Services,” “Architects,” “Architects & Builders Services,” and “Architecture,” in his Facebook profile and advertisements on the Internet at ads-architecturegroup.com, angieslist.com, buzzfile.com,groupon.com, houzz.com, losangeles.craigslist.org, manta.com, merchantcircle.com, promatcher.com, yellowpages.com, and yelp.com. Garces also used the business names “AAA Architectural Designs” and “ADS Architecture Group” without a California licensed architect who is in management control of the professional services that are offered and provided by the business entities and either the owner, a part-owner, an officer, or an employee of the business entities. The citation became final on December 7, 2016.

Michael Edward Genshock  
(Phelan)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

CCR § 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$750 administrative fine to Genshock, architect license number C-17282, for alleged violations of BPC § 5600.05(a)(1) and CCR § 160(b)(2). The action alleged that Genshock certified false or misleading information on his 2013 License Renewal Application and failed to respond to the Board’s requests for information within 30 days in regards to an investigation. The citation became final on November 3, 2016.

Andrew Paul Goetz  
(Corona del Mar)

BPC § 5579 – Fraud in Obtaining a License

The Board issued a one-count citation that included a \$1,000 administrative fine to Goetz, architect license number C-18499, for an alleged violation of BPC § 5579. The action alleged that Goetz submitted a false statement under penalty of perjury on his 2015 License Renewal Application when he answered “no” to the question, “In the preceding renewal period, have you been disciplined by a public agency or have you been convicted of a crime in any state, the USA and its territories, federal jurisdiction, military court, or other country, which involved a plea or verdict of guilty or a conviction following a plea of nolo contendere?” On or about February 5, 2014, a Decision of an Administrative Law Judge became effective, denying his application for a California Real Estate Salesperson License, but gave him the right to a restricted license. This was based on the Statement of Issues filed against Goetz by the Bureau of Real Estate on August 21, 2013, centering on Goetz’s conviction on or about February 29, 1984, for theft by use of credit card and his conviction on or about January 21, 2005, for violating 13 counts of falsifying records. Goetz paid the fine, satisfying the citation. The citation became final on October 6, 2016.

Alan Marshall Grant  
(Los Angeles)

BPC § 5536.22(a)(3) and (4) – Written Contract  
CCR § 160(f)(1) – Rules of Professional Conduct

The Board issued a two-count modified citation that included a \$750 administrative fine to Grant, architect license number C-20912, for alleged violations of BPC § 5536.22(a)(3) and (4) and CCR § 160(f)(1). The action alleged that Grant’s written contract to provide architectural and engineering services for a residential project was not executed by Grant and did not include Grant’s architect license number and a description of the procedure that he and the clients would use to accommodate additional services in the contract. In addition, Grant revised the construction drawings which materially altered the scope of the project by changing garage construction from masonry walls and steel framing with metal deck and concrete fill slab to poured-in-place concrete without first fully informing the clients and obtaining their consent in writing. Grant paid the fine, satisfying the citation. The citation became final on November 2, 2016.

Gary David Hawkins  
(Chico)

BPC § 5536.22(a) – Written Contract

The Board issued a one-count citation that included a \$500 administrative fine to Hawkins, architect license number C-18693, for an alleged violation of BPC § 5536.22(a). The action alleged that Hawkins failed to execute a written contract prior to commencing professional services for a residential remodel located in Durham, California. Hawkins paid the fine, satisfying the citation. The citation became final on October 19, 2016.

John Man Kong Lee  
(Temple City)

BPC § 5536(b) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$2,500 administrative fine to Lee, dba JLCC Construction and JLCC Design and Construction, an unlicensed individual, for an alleged violation of BPC § 5536(b). The action alleged that on or about February 28, 2015, Lee prepared drawings for a residential project located in Los Angeles, California. Lee affixed a stamp to the drawings, which read: “REGISTERED PROFESSIONAL ARCHITECT,” “John M Lee,” “34188,” “EXP. DATE 6-30-2016” and the legend “STATE OF CALIFORNIA.” License number 34188 belongs to California licensed architect Myung-Jong Lee. Furthermore, on or about May 14, 2015, Lee’s company, JLCC Construction, submitted an Application for Building Permit and Certificate of Occupancy and an Application for Grading Permit and Grading Certificate to the City of Los Angeles, Department of Building and Safety for the project. On the Applications, Lee used California licensed architect Myung-Jong Lee’s name, address, license number, and Lee’s telephone number without the architect’s knowledge or consent. Lee paid the fine, satisfying the citation. The citation became final on October 4, 2016.

Kiran Mehra  
(Inyokern)

CCR § 160(f)(1) – Rules of Professional Conduct

The Board issued a one-count citation that included a \$500 administrative fine to Mehra, architect license number C-12014, for an alleged violation of CCR § 160(f)(1). The action alleged that Mehra failed to inform and obtain the consent of his client in writing prior to altering the scope of work of a residential project by increasing the overall project size from 46’x52’ to 48’x54’. Mehra paid the fine, satisfying the citation. The citation became final on October 5, 2016.

Rajesh Kumar Narayanan  
(San Diego)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count citation that included a \$5,000 administrative fine to Narayanan, dba Concorde Enterprises, an unlicensed individual, for alleged violations of BPC § 5536(a). The action alleged that on or about July 15, 2015, Narayanan prepared drawings for a residential project located in San Diego, California. Narayanan, without the architect's knowledge, affixed an architect's stamp to the drawings, which read: "LICENSED ARCHITECT," "BAHRAM MAHERONNAGAHS," "No.C 22453," "REN. 6-30-2015" and the legend "STATE OF CALIFORNIA." Architect license number 22453 belongs to Bahram Maheronnaghsh. In addition, on or about August 25, 2015, Narayanan's company, Concorde Enterprises, sent an email advertisement to a prospective client that included the term "Architectural" to describe the company's key capabilities and strengths and the word "Architects" under Narayanan's company name.

On or about August 27, 2015, Narayanan's company profile on the Internet at plus.google.com, included the term "Architectural" to describe the services that his company provides. On or about September 5, 2015, Narayanan's company sent an email advertisement to another prospective client that included the terms "Architectural" and "Architecture" to describe the services the company provides. On or about June 16, 2016, Narayanan's company's website, concordeusa.com, described the company's key capabilities and strengths as "Architectural" and described the company's key programs as "Design of Architecture." The website also included a link to a news article in the *Rancho Santa Fe News* where Narayanan was identified as an "Architect." Furthermore, on or about November 15, 2016, Narayanan's company was identified as or listed under "Architects" in advertisements on the Internet at citysearch.com, ehardhat.com, homeyou.com, manta.com, and towncontractors.com.

Narayanan was also previously cited by the Board on March 30, 2015, for offering "Architectural" Designs to the public through his advertisements in the weekly newspaper, *The Coast News*. The citation became final on February 3, 2017.

Fred Fucheng Qin  
(Poway)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$1,500 administrative fine to Qin, dba QE Construction, Inc., an unlicensed individual, for an alleged violation of BPC § 5536(a). The action alleged that Qin’s advertisements in the March and April 2015 issues of *We Chinese in America Magazine* contained the words “加州建築師執照” (“California Architect License”) in Chinese next to the words “California Contractor License” in English. On September 30, 2014, and December 30, 2014, the Board had previously advised Qin of the laws regulating the practice of architecture and cautioned him that any future complaints of a similar nature, if substantiated, will be pursued to the full extent of the law and can result in the issuance of a citation. Qin paid the fine, satisfying the citation. The citation became final on April 7, 2017.

Bruce Arthur Rothe  
(North Adelaide SA, Australia)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR § 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Rothe, architect license number C-20891, for alleged violations of BPC § 5600.05(a)(1) and CCR § 160(b)(2). The action alleged that Rothe failed to provide documentation to the Board from the course provider upon an audit of his 2015 License Renewal Application and certified false or misleading information on the Application. He also failed to respond to the Board’s requests for information within 30 days in regards to an investigation. The citation became final on October 25, 2016.

Phillip W. Shepherd  
(Dallas, TX)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Shepherd, architect license number C-12508, for an alleged violation of BPC § 5600.05(a)(1). The action alleged that Shepherd certified false or misleading information on his 2016 License Renewal Application. Shepherd paid the fine, satisfying the citation. The citation became final on October 4, 2016.

Allen Kent Smith  
(San Diego)

BPC § 5558 – Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements

The Board issued a one-count citation that included a \$1,000 administrative fine to Smith, architect license number C-13393, for an alleged violation of BPC § 5558. The action alleged that Smith failed to file with the Board the proper and current name and address of the entity through which he provides architecture services. Smith paid the fine, satisfying the citation. The citation became final on February 28, 2017.

Jeffrey Stanton Sulkin  
(Santa Monica)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect  
BPC § 5536.1(c) – Unauthorized Practice

The Board issued a one-count citation that included a \$2,500 administrative fine to Sulkin, dba Permit My Property Co., LLC, an unlicensed individual, for alleged violations of BPC § 5536(a) and 5536.1(c). The action alleged that on or about April 9, 2016, Sulkin was hired by a client to provide plans for an interior tenant improvement of an existing office space/warehouse located in Inglewood, California. The client was provided with 11 sheets of drawings dated June 27, 2016, which contained a title block stating “Permit My Property.” The drawings also stated “Drawn By: R.Z.” and “Checked By: J.S.” On or about July 27, 2016, the client received a document, totaling five pages, from the City of Inglewood Building Division, which provided a list of reasons why the issuance of a permit was being withheld, and stated that “the architectural and structural plans and calculations must be signed by a civil or structural engineer, or an architect licensed by the State of California.” Sulkin’s drawings of the interior tenant improvement of an existing office space/warehouse, which is not a building exempt from the Architects Practice Act pursuant to BPC § 5537(a), constitutes the practice of architecture as defined in BPC § 5500.1. The citation became final on July 24, 2017.

Tarik Said Taeha  
(Sacramento)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect  
CCR § 134(a) – Use of the Term Architect

The Board issued a one-count citation that included a \$1,500 administrative fine to Taeha, dba Space Plus Dimensions, Space Plus Dimensions Architects, and SPDArchitects, an unlicensed individual, for alleged violations of BPC § 5536(a) and CCR §

134(a). The action alleged that on or about December 9, 2014, Taeha prepared first and second floor plans for a residence located in Folsom, California. The title block on the plans contained the words “Architecture,” “Planning,” “Landscape,” “Architecture,” “Interior Design,” and “Graphics” below the name of his business, Space Plus Dimensions. In addition, on or about September 3, 2016, in response to the Board’s requests for information regarding a complaint made against him, Taeha sent emails to Board staff from the email address “spdarchitects@gmail.com.” Furthermore, on or about May 1, 2017, Taeha’s advertisement on the Internet at porch.com under the business name “SPDArchitects” described the business as an “architecture firm,” offered “Architecture Services,” and was listed under the heading “Sacramento Architects,” and Taeha’s advertisements on the Internet at ehardhat.com, homeyou.com, and towncontractors.com under the business name “SPDArchitects” were listed under the heading “Architects.” Taeha also used the business names “Space Plus Dimensions Architects” and “SPDArchitects” without an architect who is in management control of the services that are offered and provided by the business entities and either the owner, a part-owner, an officer, or an employee of the business entities. The citation became final on June 12, 2017.

Robert E. Thibodeau  
(Venice)

BPC § 5536.22(a)(3) – Written Contract

The Board issued a one-count modified citation that included a \$500 administrative fine to Thibodeau, architect license number C-25585, for an alleged violation of BPC § 5536.22(a)(3). The action alleged Thibodeau failed to include his architect license number in a written agreement to provide drawings to remodel an existing residence located in Los Angeles, California. Thibodeau paid the fine, satisfying the citation. The citation became final on March 7, 2017.

Kenneth Robert Vais  
(Carmel)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$2,500 administrative fine to Vais, dba ATELIER, an unlicensed individual, for alleged violations of BPC § 5536(a). The action alleged that on or about October 11, 2015, Vais, in response to a potential client, stated in an email, “Yes, I am very much a practicing architect and designer and I would be delighted to show you the Carmel-by-the-Sea residence.” Vais’ email signature line also included the word “Architect” under his name. On or about November 24, 2015, Vais emailed the client links to online articles on the websites

carmelbuilding.com and houzz.com, where he was identified as an “Architect.” On or about January 16, 2016, Vais drafted an Agreement and emailed it to the client offering to provide pre-conceptual design services to remodel the client’s existing single-family residence located in Pebble Beach, California. The Agreement included the term “architectural” to describe the scope of services and was printed on Vais’ letterhead, which included the word “Architect” under his name. Vais’ business card also included the word “Architect” under his name. In or around September 2016, Vais’ company website, krvatelier.com, described his company’s services as “architectural” and identified him as an “Architect.” In addition, Vais’ company’s services were described as “architectural” on the website houzz.com. Vais was also identified as an “Architect” on the websites carmelbuilding.com and nshoremag.com. The citation became final on May 4, 2017.

David Henry Vizcarra  
(Stockton)

BPC § 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Vizcarra, architect license number C-17693, for an alleged violation of BPC § 5600.05(a)(1). The action alleged that Vizcarra certified false or misleading information on his 2015 License Renewal Application. Vizcarra paid the fine, satisfying the citation. The citation became final on October 25, 2016.

Sara Louise Woodfield  
(Santa Rosa)

BPC § 5584 – Willful Misconduct  
CCR § 160(b)(1) – Rules of Professional Conduct

The Board issued a one-count citation that included a \$500 administrative fine to Woodfield, architect license number C-23108, for an alleged violation of BPC § 5584 and CCR § 160(b)(1). The action alleged that between July 2014 and March 2015, Woodfield performed tenant improvements to a building she purchased in Santa Rosa, California; however, Woodfield failed to obtain the legal permits to do those improvements. On or about May 12, 2016, Woodfield received a Notice of Violation from the City of Santa Rosa for performing the tenant improvement services without proper plans, permits, and inspections, after a tenant of an office space in the building filed a complaint with the City of Santa Rosa Planning Department Code Enforcement. Woodfield paid the fine, satisfying the citation. The citation became final on June 13, 2017.

Henry Yeung  
(San Francisco)

BPC § 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a two-count citation that included a \$4,000 administrative fine to Yeung, an unlicensed individual, for alleged violations of BPC § 5536(a). The action alleged that in or around April through August 2015, Yeung used the stamp of California licensed architect Jan Threlkeld on drawings and structural calculations Yeung independently prepared and submitted to the City of Millbrae Community Development Department for three projects in Millbrae, California. In addition, on or about October 6, 2016, Yeung’s LinkedIn profile described him as an “Architectural & Structural Designer,” stated he provides “Architectural & structural consultation for commercial and residential/non-building structures,” and included “Architectural Design” and “Architecture” under “Skills.” Yeung paid the fine, satisfying the citation. The citation became final on November 4, 2016.

**DISCIPLINARY ACTIONS**

October 1, 2016 – July 31, 2017

**Tien Hsi Chu** (Pasadena) Effective November 14, 2016, Chu's architect license number C-15558, was revoked. Chu was also ordered to reimburse the Board \$4,005 for its enforcement costs. The action came after a Proposed Decision was adopted by the Board.

An Accusation was filed against Chu for alleged violations of Business and Professions Code (BPC) sections 490 (Conviction of a Crime), 498 (License Secured by Fraud, Deceit, or Knowing Misrepresentation), 5577 (Conviction of Certain Crimes), and 5579 (Fraud in Obtaining License). The Accusation alleged that on or about August 25, 2014, after pleading nolo contendere, Chu was convicted of one misdemeanor count of violating Penal Code section 472 (Counterfeit Seal) in the criminal proceeding entitled *The People of the State of California v. Tien Hsi Chu* (Super. Ct. Los Angeles County, 2014, No. 4AH01921). The Court placed Chu on 36 months probation, and ordered him to complete 25 hours of community service. The circumstances underlying the conviction are that on and between 2004 through 2013, Chu had a business relationship with E.G.L., a licensed civil engineer. E.G.L. provided consulting services for Chu on his projects with the express condition that E.G.L. would not stamp or sign any drawings or calculations. Without E.G.L.'s knowledge or authorization, Chu obtained a civil engineer's seal using E.G.L.'s name and civil engineer license number C56706. Further, without E.G.L.'s approval or knowledge, Chu used the counterfeit engineer seal on structural drawings, plans, and specifications, and submitted the counterfeit engineer stamped documents to municipal building departments for reviews and approvals. Within the seal impression on all documents that Chu used the counterfeit seal, Chu made a forgery of E.G.L.'s initials. In addition, Chu obtained the renewal of his architect license by fraud or misrepresentation when he represented and certified under penalty of perjury on his 2015 License Renewal Application that he had not been convicted of a crime during the preceding renewal period when in fact, on or about August 25, 2014, Chu sustained a criminal conviction.

**Eddy Zhong Shen** (Sunnyvale) Effective July 26, 2017, Shen's architect license number C-12717 was revoked. The action came after a Default Decision was adopted by the Board.

An Accusation was filed against Shen for alleged violations of BPC § 5536(a) (Improper Advertising and Practicing Architecture While License Expired) and 5584 (Willful Misconduct), and California Code of Regulations, Title 16, sections 134(a) (Improper Use of the Term "Architecture") and 160(b)(2) (Failure to Respond to the Board Within 30 Days). The Accusation alleged that on or about February 24, 2014, Shen entered into a proposal and contract to provide design and construction documents for a client's project in Cupertino, California. Shen was paid \$7,000 for his services, and knew that the client planned to begin construction at the end of 2015. However, Shen never submitted drawings to the city of Cupertino, despite receiving four extensions to meet the deadlines and obtain the proper permits. Shen also failed to respond to the Board's requests for information in regards to an investigation of the Cupertino project.

In addition, on April 5, 2016, after Shen's architect license expired on April 30, 2015, Shen entered into a proposal and contract to provide design and construction documents to a client for a project in Fremont, California, and received a \$4,000 down payment. The letterhead on the proposal and contract stated "LRS Associates Inc. Architecture-Planning-Interiors," and Shen signed the document, which included his architect license number, as "President." On May 10, 2016, Shen provided elevation drawings to the client, and on May 17, 2016, Shen received a request for three modifications of the drawings from the client. Apart from one telephone call on July 29, 2016, in which he promised to give the client an update within a week, Shen had no further communication with the client and did not provide to the client any further drawings or plans on the project. Furthermore, as of May 2016, Shen's company's business name, LRS Associates Architecture and Planning, Inc., included "Architecture" as part of its title, and Shen's LinkedIn profile was listed under the "Architecture & Planning" category and identified him as an "Architect." Shen's company, LRS Associates Architecture Planning & Interiors, Inc., was also listed under the "Architect(s)" category on Facebook, and his company's services were described as "Architect" on the website angieslist.com.

**Steve C. Thompson** (Mill Valley) Effective November 9, 2016, Thompson's architect license number C-5746, was publicly reprovved for violations of BPC § 5536.22(a)(4) and (5) (Written Contract) and 5588 (Report of Settlement or Arbitration Award). Thompson's written contract failed to contain a description of the procedure that the architect and the client will use to accommodate additional services and a description of the procedure to be used by either party to terminate the contract. Thompson also failed to report to the Board in writing within 30 days a judgment of \$5,000 or greater in an action alleging negligence in the practice of architecture. Thompson was ordered to pay the Board \$500 as a penalty for his delay in reporting to the Board a judgment against him arising from the project at issue in this matter and to reimburse the Board \$1,500 for its enforcement costs. The action came after a Proposed Decision was adopted by the Board.

## **Agenda Item E**

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017–2018 STRATEGIC PLAN OBJECTIVES TO:**

1. Update the *Building Official Information Guide* to Better Educate Local Building Officials on the Architects Practice Act
2. Educate Consumers on the Standard of Care so They Understand What to Expect From an Architect When Choosing to Hire One
3. Measure the Effectiveness of the Board's Citation Collection Methods as a Means of Protecting Future Consumers
4. Develop Educational Materials for Newly Licensed Architects to Provide More Information About the Requirements in Order to Avoid Future Violations

## Agenda Item E.1

### **UPDATE THE *BUILDING OFFICIAL INFORMATION GUIDE* TO BETTER EDUCATE LOCAL BUILDING OFFICIALS ON THE ARCHITECTS PRACTICE ACT**

The California Architects Board's 2017–2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to update the Board's *Building Official Information Guide* to better educate local building officials on the Architects Practice Act.

The Board's *Building Official Information Guide* was last published in 2000 (Attachment), and is a compilation of responses to questions the Board has received from building officials and other items of interest to those who enforce local building standards.

The Board's architect consultants and staff reviewed the 2000 edition of the *Guide*, as well as the building official information guides published by the Board for Professional Engineers, Land Surveyors, and Geologists, and the Contractors State License Board, and is in the process of making necessary updates and revisions to the content of the Board's *Guide*. Staff's proposed changes to the *Guide* will be reviewed by the Board's legal counsel from the Department of Consumer Affairs (DCA) and presented to the REC for review and discussion at its next meeting.

After the content of the updated *Building Official Information Guide* has been approved, staff intends to work with the DCA Office of Design, Publication & Editing to improve the layout and graphic design of the publication.

The REC is asked to review and discuss this objective, and provide any additional direction or input to assist staff in updating the *Guide*.

Attachment:

Board's *Building Official Information Guide*, 2000 Edition

# CALIFORNIA ARCHITECTS BOARD

## BUILDING OFFICIAL INFORMATION GUIDE

# 2000

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# Purpose

This guide for building officials is provided by the California Architects Board (CAB) to aid you in understanding and enforcing the laws and regulations governing the practice of architecture in California.

The guide is a compilation of responses to questions that the CAB has received from building officials and of other items of interest to those who must enforce local building standards. It is intended as a source of basic information and does not attempt to address all the questions that could arise covering the practice of architecture in this large, diverse state.

Some of the items covered herein are interpretations of the Architects Practice Act and of the CAB's rules and regulations. Other items are explanatory and/or advisory.

If you need further information or assistance concerning this guide, please write or telephone:

## California Architects Board

400 R Street, Suite 4000  
Sacramento, California 95814-6238

Telephone: (916) 445-3394

Toll Free: (800) 991-2223

Fax: (916) 445-8524

E-mail: [cab@dca.ca.gov](mailto:cab@dca.ca.gov)

Website: [www.cab.ca.gov](http://www.cab.ca.gov)

## Landscape Architects Technical Committee

Telephone: (916) 445-4954

Fax: (916) 324-2333

E-mail: [latc@dca.ca.gov](mailto:latc@dca.ca.gov)

Website: [www.latc.ca.gov](http://www.latc.ca.gov)



# Introduction

Each day, millions of Californians work and live in environments designed by licensed architects. The decisions of architects about materials and methods of construction impact not only the health, safety and welfare of the present users, but of future generations as well.

To reduce the possibility of building failure, encourage energy conscious design, provide disability access and safeguard the public health and welfare, those who represent themselves as skilled in the design of complex structures must meet minimum standards of competency. It is equally necessary that those who cannot meet minimum standards by way of education, experience and examination be prevented from misrepresenting themselves to the public.

The California Architects Board (CAB) was created by the California Legislature in 1901 to safeguard the public's health, safety and welfare. It is one of the boards, bureaus, commissions and committees within the Department of Consumer Affairs, which is part of the State and Consumer Services Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services.

Effective January 1, 1998, the CAB assumed administrative responsibility for regulating landscape architects. Under current law, a Landscape Architects Technical Committee (LATC) acts in an advisory capacity to the CAB. The LATC, which consists of five professional members, performs such duties and functions which have been delegated to it by the CAB.

The CAB is presently composed of ten members of whom, by law, five are public members and five are architects. Five architect members and three of the public members are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint a public member to the CAB.

The CAB attempts to ensure that all who practice architecture are licensed and qualified to practice. To become licensed as an architect, a candidate must successfully complete a written and oral examination as well as provide evidence of at least eight years of education and/or experience.

The CAB attempts through its enforcement program to ensure that its licensees are competent to practice architecture and that the laws governing the practice of architecture are enforced in a

**Introduction** continued

fair and judicious manner. The CAB has the power, duty and authority to investigate violations of the Architects Practice Act and to discipline violators accordingly.

Building officials, on the other hand, enforce building code requirements which are also designed to protect the public health and safety. Many building departments depend on licensed design professionals (architects and engineers) to deliver structures that meet code standards. So, while the building officials rely on licensing boards to ensure that architects and engineers are competent, the licensing boards rely on the building officials to ensure that only properly licensed or registered professionals prepare, stamp and sign plans and specifications for non-exempt structures.

This guide is provided to aid building officials in understanding the laws and regulations governing the practice of architecture in California and better enable them to carry out their difficult jobs.

# Advertising of Architectural Services

## 1. May an unlicensed person advertise architectural services?

No. An individual not licensed by the CAB may not advertise or practice architecture in California. An unlicensed person cannot "...put out any sign or card or other device which might indicate to the public that he or she is an architect or that he or she is qualified to engage in the practice of architecture or is an architectural designer."

An unlicensed individual may not offer architectural services or advertise in the yellow pages or business directories under the heading of "architect," "architectural design" or "architectural drafting."

(Ref.: Business & Professions (B&P) Code Section 5536)

## 2. How must architectural businesses advertise?

When advertising and/or using any business card, or letterhead, or sign, or title-block or any other "advertising" device, an architectural business whose name, or description of services, includes the word "architect", "architecture", or "architectural" must also list the name of a licensed architect followed by the word "architect." The following architectural business name criteria are excerpted from the Architects Practice Act, California Code of Regulations Section 134.

If an architectural business name includes as part of its title or description of services the term "architect," "architecture," or "architectural," then that business name must include the following when the business is a:

1. **Sole-Proprietorship:** the name as licensed with the CAB of the architect and the fact that he or she is an architect.
2. **Partnership:** the name as licensed with the CAB of at least one general partner and the fact that he or she is an architect.
  - a) **Partnership exception:** If the business name contains the surnames of general partners licensed by the CAB, there is no further requirement to designate a licensee.

**Advertising of Architectural Services** continued

- 3. Corporation** (which is not a Professional Architectural Corporation): the name as licensed with the CAB of a licensed architect who is either an officer or an employee of the corporation and the fact that such person is an architect.
- 4. Professional Architectural Corporation:** refer to B&PC Section 5610 and the California Corporations Code for the specific requirements of this class of corporation.

(Ref.: B&P Code Section 5536 and California Code of Regulations (CCR) Section 134.)

# Aiding and Abetting Unlicensed Practice

## 1. What constitutes aiding and abetting?

Aiding and abetting occurs when a California licensed architect:

- Assists unlicensed individuals to circumvent the Architects Practice Act, B&P Code Section 5500 et seq.
- Stamps and signs documents which have not been prepared by the architect or in the architect's office, or under the architect's responsible control.
- Permits his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of the Architects Practice Act.

(Ref.: B&P Code Sections 5582, 5582.1 and CCR Sections 135 and 151)



# Architects Scope of Practice

## 1. Who may refer to himself or herself as an architect?

Only an individual who holds a current license issued by the CAB may refer to himself or herself as an architect or use any term confusingly similar to the word architect.

(Ref.: B&P Code Section 5536 (a))

## 2. What may an architect design?

The Architects Practice Act defines the practice of architecture as including “...the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures.” An exception is the structural design of a hospital that must be done by a structural engineer by the State Health & Safety Code.

(Ref.: B&P Code Sections 5500.1, 6737 and Health and Safety (H&S) Code Section 129805)

## 3. What is the CAB’s definition of construction observation services?

“Construction observation services” means periodic observation of completed work (*in progress*) to determine general compliance with the plans, specifications, reports or other contract documents. “Construction observation services” does not mean the superintendence (*supervision*) of construction processes, site conditions, operations, equipment, or personnel, or the maintenance of a safe place to work or any safety measures in, on or about the site.

(Ref.: B&P Code Section 5536.25 (c))

## 4. May architects design bridges?

In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design a structure such as a bridge.

(Ref.: B&P Code Sections 5500.1 and 6737)

**Scope of Practice** continued

**5. If the architect has not agreed to provide construction phase services for the owner of the project, can the building official require the architect to review project shop drawings?**

No. The architect has no obligation to provide such services either to the owner of the project or to a local building jurisdiction.

(Ref.: B&P Code Section 5536.25)

**6. May an architect act as a general contractor for the owner and hire subcontractors for the construction phase of a project under his architectural license?**

No. An architect would also need to be licensed as a contractor to perform such services. The Contractors' State Licensing Law (CSLL) does not exempt architects unless they are acting solely within their professional capacity, which does not include contracting work for others.

(Ref.: B&P Code Sections 5500.1 and 7051)

**7. Does an architect's license entitle an architect to build an exempt building without a contractor's license?**

No. The construction of buildings is governed by the CSLL (commencing with B&P Code Section 7000). The CSLL has an exemption which allows a person who is not a licensed contractor to construct a single-family residential structure provided they meet certain requirements. Questions concerning this exemption should be directed to the Contractors State License Board.

(Ref.: B&P Code Sections 5500.1 and 7000)

**8. May architects provide design/build services?**

Yes, but there are certain restrictions. The architect designs projects, but the construction of the project must normally be done by a licensed contractor. For example, an architect may also be a licensed contractor, or an architectural firm may have a subsidiary that is licensed as a contractor, or an architect may be associated with a licensed contractor.

(Ref.: B&P Code Section 5500.1)

**Scope of Practice** continued

**9. May architects prepare, stamp and sign electrical drawings?**

Yes. The Architects Practice Act allows architects to prepare, stamp and sign electrical drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..."

(Ref.: B&P Code Sections 5500.1 and 6737)

**10. May architects certify elevations of structures on a site when such certifications are required by building officials?**

Yes. However, the certification must be based on survey data furnished by licensed surveyors or appropriately registered civil engineers.

(Ref.: B&P Code Sections 5500.1 and 8700)

**11. Are there any height restrictions or limitations imposed by the CAB as to an architect's structural design capabilities?**

No.

(Ref.: B&P Code Section 5500.1)

**12. May an architect prepare, stamp and sign landscape drawings without a landscape architect's license?**

Yes. Insofar as the architect is responsible for the planning of a site, the architect is exempt from the Landscape Architects' Licensing Law and, therefore, may prepare, stamp and sign landscape drawings for the site.

(Ref.: B&P Code Section 5500.1)

**13. Are architects required to have liability insurance or to be bonded?**

No. However, a professional architectural corporation and a limited liability partnership are required to provide adequate security for claims against it by insurance or other means.

(Ref.: B&P Code Section 5610 and CCR Sections 16101, 16953, 16956, and 16959)

**Scope of Practice** continued

**14. May architects prepare and sign mechanical and plumbing drawings normally prepared by mechanical engineers?**

Yes. The Architects Practice Act allows architects to prepare, stamp and sign mechanical and plumbing drawings since the definition for scope of architectural practice includes "...the design, in whole or part, of buildings..."

(Ref.: B&P Code Sections 5500.1 and 6737)

**15. May an architect prepare designs for site retaining walls, culverts and other fixed works on a site if the architect is not responsible for the site planning of a project and the work is not considered a "phase of architecture" under the Professional Engineers Law exemption?**

No, given the situation where the architect is not responsible for the planning of the site or the "fixed works" are not associated with the design of a building or groups of buildings. Under such circumstances the "fixed works" would be considered civil engineering and the architect would not qualify for the exemption under the Professional Engineers Act.

(Ref.: B&P Code Sections 5500.1 and 6737)

**16. May architects prepare, stamp and sign site grading and drainage plans ?**

Yes. An architect is allowed under the Architects Practice Act and the Professional Engineers Act exemption to prepare, stamp and sign site grading and drainage plans, except where such plans are submitted pursuant to the Subdivision Map Act. Cities or counties may not prohibit an architect from engaging in the preparation of plans for site grading which is a function of the practice of architecture as defined in Business and Professions Code Section 5500.1.

(Ref.: B&P Code Sections 460, 5500.1, 6737 and Government Code Section 66410 et seq.)

**17. May local building officials insist that civil engineers prepare and sign site grading and site drainage drawings as required by the Uniform Building Code as a condition for permit issuance even though an architect prepares the site plan and the grading and drainage plans?**

No. Architects are allowed by the Architects Practice Act to prepare, stamp and sign such drawings as part of their services. State licensure of architects supersedes any local code or ordinance that might restrict an architect licensed by the State from performing services.

(Ref.: Previous question #16 and B&P Code Sections 460 and 5500.1)

**Scope of Practice** continued

**18. Are architects authorized to perform soil tests?**

No. Such tests are not considered to be part of the practice of architecture.

(Ref.: B&P Code Section 5500.1)

**19. Does an architect's license entitle an architect to perform special inspections as specified in the Uniform Building Code without demonstrating their ability to perform such services to the satisfaction of a building official?**

No. Special inspections are not considered to be part of the practice of architecture. Therefore, an architect would have to comply with a building official's requirement to demonstrate such ability before being permitted to perform required special inspections.

(Ref.: B&P Code Section 5500.1)

**20. May architects prepare, stamp and sign structural calculations and structural drawings?**

Yes. The Architects Practice Act allows architects to prepare, stamp and sign structural calculations and structural drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..." except for the structural calculations and structural drawings for a hospital.

(Ref.: B&P Code Sections 5500.1, 6737 and H&S Code Section 129805)

**21. May architects design swimming pools?**

In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design a structure such as a swimming pool.

(Ref.: B&P Code Sections 5500.1 and 6737)

**22. Must below grade swimming pool drawings be prepared and signed by an architect or engineer?**

Under both the Architects Practice Act and the Professional Engineers Act, below grade swimming pools would be considered non-exempt "fixed works" or structures requiring the stamp and signature of a licensed architect or registered engineer.

(Ref.: B&P Code Sections 5500.1 and 6737)

**Scope of Practice** continued

**23. Are architects authorized to perform surveys without a surveyor's license or civil engineer registration?**

No.

(Ref.: B&P Code Section 5500.1)

**24. When a licensed architect working on a project quits or is discharged, may another architect sign the original licensee's plans or instruments?**

Provided both architects are licensed in California, and the supplanting architect completely reviews the plans of the original architect, making necessary, or client directed changes, the supplanting architect has "prepared" the plans for purposes of Business and Professions Code Section 5582.1 and may stamp and sign them, absent fraud, deception or dishonesty.

# Building Designers

## **1. Are building designers licensed by the state?**

No. At one time, the state recognized “registered building designers”; however, that category was eliminated in 1985.

(Ref.: B&P Code Section 5536(b) & (c))

## **2. May individuals advertise as building designers?**

Yes. However, they cannot refer to themselves as “registered” building designers or otherwise indicate that they are licensed or registered by the state.

(Ref.: B&P Code Section 5536(b) & (c))

## **3. What services can a building designer provide?**

Refer to the section titled “Unlicensed Individuals” that can be found elsewhere in this guide.



# Building Official's Responsibility With Respect to Architects Practice Act

## **1. Are building officials required to verify whether the individual who prepares and submits permit documents for non-exempt projects has a current license?**

Yes. If a building permit is required, building officials are required to verify that an individual who prepares and submits permit documents for non-exempt projects has a current license. The building official must require a signed statement that the person who prepared the plans and specifications is licensed under the Architects Practice Act or is otherwise licensed in this state to prepare the plans and specifications. An architect's signature and stamp on plans and specifications will satisfy the signed statement requirement. The CAB's biennial "Roster of Licensed Architects" may be used to verify licensure of an architect. If the architect is listed and the expiration date is current, no further action by the building official is necessary. If the architect is listed and the expiration date has passed, the building official should contact the CAB for verification of status. If the person submitting the plans purports to be an architect and is not listed in the CAB's roster, the building official should contact the CAB for verification.

(Ref.: B&P Code Section 5536.2)

## **2. When plans have been filed by the original architect of record, may a building official accept changes to those plans which are submitted by the supplanting architect or engineer?**

A building official is only required to verify that the appropriate stamp and signature is on the documents before a permit is issued and that design changes are made and approved by the appropriate person.

(Ref.: B&P Code Section 5536.25)

## **3. Is a building official required to notify an architect of record when another architect/engineer takes over a project, uses that architect's drawings or makes changes?**

No. The Architects Practice Act does not require this notification.

**Responsibility with Respect to Architects Practice Act** continued

**4. Is a building official liable if he or she informs the CAB of possible aiding and abetting which later turns out to be unfounded and the architect takes legal action against the building official?**

The law grants a qualified privilege to individuals who communicate, in good faith, to an official administrative agency concerning a possible violation of law. Further information on this subject should be obtained from the legal advisor for the building department.

(Ref.: Civil Code Section 47)

**5. In some cases, the architect who designed a project may be located in another part of the state or out of state. If the architect does not wish to submit a minor design change in person, what procedure should the building official follow so as not to delay the project?**

The Architects Practice Act does not address this situation. An architect will not be responsible for damage caused by changes which are not approved by the architect to his or her plans made by local government agencies. This question should be addressed by the legal advisor for the building department.

(Ref.: B&P Code Section 5536.25)

**6. Sometimes an owner has separate contracts with an architect and the structural, civil, mechanical and electrical engineers. No one discipline has overall coordination of the project and a design change is required that will affect the work of all disciplines. May a building official require the project architect to make and sign for changes on his own work as well as others? Can the architect coordinate the work of the others?**

No. The architect is only required to stamp and sign and take responsibility for his or her own documents. The same shall apply to each design professional. The building official should notify the owner that such coordination is required and it is the owner's responsibility to arrange for proper coordination. An architect can coordinate the services and documents of others if he or she accepts the responsibility.

(Ref.: B&P Code Section 5536.1)

**Responsibility with Respect to Architects Practice Act** continued

**7. May an architect certify that the construction of a project is in conformance with the design documents?**

Yes, the architect may certify that the construction is in conformance but the architect may choose not to do so.

**8. If a corrections list is returned by a building official to the owner of a structure and the owner makes the corrections, is this acceptable?**

The statute does not specify who can make changes to the documents. If the changes relate to non-exempt projects, they should be made and signed by an appropriately licensed person before a permit for construction is issued. For changes to exempt projects, building officials should consult with the legal advisor to their department regarding potential problems.

(Ref.: B&P Code Section 5536.25)

**9. If an architect asks or requests by telephone that a building official make required design changes which the architect will approve later, should the building official make such changes?**

No, not without prior written confirmation. It is not the building official's responsibility to make design changes.

(Ref.: B&P Code Section 5536.25)

**10. What procedure should a building official follow when the original architect is no longer the architect of record and design changes or corrections are required before a permit will be issued?**

Notify the owner of the project. It is the owner's responsibility to notify the building official of a change in Architect of Record and to hire another qualified design professional to make, stamp and sign the design changes.

(Ref.: B&P Code Section 5536.25)

**Responsibility with Respect to Architects Practice Act** continued

**11. Is a building official liable if he or she approves the plan submittal and later learns that the architect who submitted the plans has a revoked or suspended license?**

The CAB does not determine liability. This is a question of civil law. Building officials should discuss this issue with their legal advisors. To avoid such problems, the law requires the building department to verify licensure prior to issuing any permit.

(Ref.: B&P Code Section 5536.2)

**12. Should a building official make a design change to a drawing that requires design changes?**

If a building official makes design changes to drawings without the authorization or approval of the architect, the architect will not be responsible for damages caused by those changes. The building official would be responsible for damage caused by his or her unauthorized changes. Building officials should discuss this issue with the legal advisor for their building department before undertaking any such action.

(Ref.: B&P Code Section 5536.25)

**13. Are building departments required to maintain record copies of permitted drawings?**

Yes, under certain circumstances. Refer to Health and Safety Code Section 19850. This code section requires that drawings of certain categories of buildings be retained by local building departments.

**14. Are building officials required to give a copy of record documents to anyone who asks for them?**

No. See Health and Safety Code Section 19851 which specifies who may obtain copies of drawings and under what conditions.

**15. Do building officials need to verify licensure of persons signing plans for exempt projects?**

No.

(Ref.: B&P Code Section 5536.2)

**Responsibility with Respect to Architects Practice Act** continued

**16. When should verification of licensure be made?**

Verification of licensure should be done at the time of initial submittal of the plans and specifications.

(Ref.: B&P Code Section 5536.2)

**17. What is a building official required to do when an architect has a dispute with an owner and the architect wants to withdraw plans previously submitted for plan check or notifies the building official that he or she disclaims any responsibility for the project and wants to remove his or her name from the submitted documents?**

Consult the legal advisor for the building department as to what procedures to follow.



# Business Associations

## **1. What must an architect do when entering into an association with an unlicensed individual to jointly offer architectural services?**

Prior to offering architectural services through such an association, the architect must agree in writing to be responsible for all architectural services offered and/or performed during the life of the association. The written agreement must provide the following information:

- The date when the association will begin.
- The approximate date when the association will be dissolved if such association is not to be a continuing relationship. The fact that the relationship is to be a continuing one, if applicable.
- The identity of the project for which the association is being formed if the relationship is not a continuing one.
- The name, address, telephone number, license number and signature of the architect.
- The name, address, telephone number and signature of the unlicensed individual(s) with whom the architect is associated.

Prior to engaging in the design phase of the project, the architect shall send a copy of the written agreement of association to the CAB.

All plans, specifications and other instruments of service and records resulting from the association shall be retained by the architect and made available for review for ten years from the completion date of the project.

Forms for filing the agreement of association are available by writing or calling the CAB office.

(Ref.: CCR Section 135)



# Complaint Procedures

## **1. How is a complaint filed?**

Anyone who believes there has been a violation of the Architects Practice Act may file a complaint with the CAB. All complaints should be filed in writing. A complaint form is included on page 63 or is available upon request or the complainant may write a letter to the CAB detailing the event(s) that led to the complaint and attach copies of all documentation (plans, contracts, business cards, correspondence, etc.) to substantiate the complaint.

## **2. Is there an informal process available to building officials to address issues concerning documents submitted by a specific architect for plan check review and construction permitting?**

On December 4, 1998, the CAB adopted a Plan Check Review Process & Evaluation Program that allows building officials to bring to the CAB's attention concerns they have regarding practice issues of a specific Architect without the filing of a formal complaint. A copy of the Review Request Form, which includes a complete description of the Program, is included on page 65.

## **3. How does someone find out if there is a complaint against an architect or an unlicensed individual?**

Contact the CAB. The CAB will disclose the number of pending complaints which have been reviewed by the CAB staff and indicate a probable violation of the CAB's licensing laws and/or regulations has occurred and are under investigation. The CAB will also disclose closed complaints which resulted in disciplinary action (i.e., citation, accusation, statement of issues, stipulated settlement).

## **4. What should architects or building officials do if they know that someone may be violating the Architects Practice Act?**

Gather evidence to substantiate the accusation and forward all evidence to the CAB with a written complaint.

**Complaint Procedures** continued

**5. Does the CAB process complaints between architects and clients regarding contract or fee disputes?**

Only if the dispute involves an alleged violation by the architect of the CAB's licensing laws and/or regulations. Otherwise the complainant is advised to seek legal counsel.

# Contractors

## **1. Are contractors exempt from the Architects Practice Act?**

A contractor may design what an unlicensed person may design under B&P Code Section 5537 (exempt structures) and B&P Code Section 5538 as determined by the local building official. On non-exempt structures, the contractor is limited to services noted in B&P Code Section 6737.4 (Professional Engineers Act) specifically; licensed mechanical contractors and licensed electrical contractors may design mechanical and electrical systems, respectively, in accordance with applicable construction codes if they also install those systems. If they do not install the systems and supervise the installation of the systems, they must have an architect or engineer design the systems. In addition, a contractor may design systems that are required to complete the contracting services he or she has offered or contracted to perform. Such systems are considered temporary and must be removed once the project he or she has contracted to build is completed.

(Ref.: B&P Code Section 5537.2)

## **2. May a licensed contractor perform design services under the direction of a structural or civil engineer for a non-exempt structure?**

Yes, provided the contractor works under the responsible charge of the engineer and the engineer signs all engineering documents prepared by the contractor.

(Ref.: B&P Code Section 5537.2)

## **3. May contractors design non-exempt structures if they are going to build them?**

No. Contractors may only design exempt buildings under B&P Code Section 5537 and nonstructural or nonseismic storefronts or interior alterations which do not affect the structural system or safety of the building under B&P Code Section 5538. If they associate with an architect or engineer, contractors may prepare documents under the direct supervision of an architect or engineer. However, the architect or engineer must stamp and sign the documents.

(Ref.: B&P Code Section 5537.2)

**Contractors** continued

**4. A general contractor hires mechanical and electrical contractors to design the mechanical and electrical systems for a non-exempt building with the understanding that the contractors will also install their systems. The drawings are approved and a construction permit is issued. During the construction phase, the general contractor hires other mechanical and electrical contractors to install the systems. Are the initial mechanical and electrical drawings valid?**

No. B&P Code Section 6737.4 states that the respective mechanical and electrical systems must be installed by the licensed contractors who prepared the drawings for the systems.

(Ref.: B&P Code Section 6737.4)

**5. May the building official delay the project until properly prepared documents are re-submitted for approval?**

This question should be discussed with the legal advisor for the building department.

**6. May licensed mechanical and electrical contractors prepare and sign drawings for their respective systems without supervision of an architect or engineer?**

Yes. In B&P Code Section 6737.4 of the Professional Engineers Act, it states that licensed mechanical and electrical contractors may design such systems for any building if they also install them.

(Ref.: B&P Code Section 6737.4)

**7. May a general contractor prepare and sign drawings pertaining to mechanical and electrical systems for non-exempt structures?**

No. If the general contractor does prepare mechanical or electrical drawings, he or she must do so under the supervision of an architect or appropriately registered engineer. The architect or engineer must stamp and sign the drawings.

(Ref.: B&P Code Section 5537.2)

# Corporations

## **1. May a corporation offer architectural services?**

Yes. A corporation can offer and perform architectural services provided the services are performed by or under the responsible control of an architect. The architect must sign all instruments of service.

(Ref.: B&P Code Sections 5535, 5536.1(a) and CCR Section 134)

## **2. Does the CAB license architectural firms or corporations?**

The CAB licenses individuals only. The Secretary of State registers professional corporations, including professional architectural corporations, as well as general corporations. The Secretary of State's address is: 1500 11th Street, Sacramento, California 95814, phone (916) 653-6814.

(Ref.: B&P Code Section 5551)

## **3. What are the rules governing general corporations offering architectural services?**

It is unlawful for a corporation, which is not a professional architectural corporation as defined by B&P Code Section 5610, to use a business name which includes as part of its title or description of services the term "architect," "architecture," or "architectural" unless it includes in its title or designation the name as licensed with the CAB of a licensed architect followed by the word architect. All instruments of service must be signed by a licensed architect. The designated architect must be an officer or an employee of the firm.

(Ref.: CCR Section 134(c))

For example, ABC Architecture, a general corporation, must include an architect's name in its title or designation. They might legally advertise the following way:

**ABC Architecture**

*John Smith, Architect*

**Corporations** continued

#### **4. What distinguishes a professional architectural corporation from a general corporation?**

Professional architectural corporations are required to limit their shareholders, officers, and directors to licensed architects. In addition, the name of a professional architectural corporation and any name or names under which it may be rendering professional services must contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words “architectural corporation” or (2) the word “architect” or “architects” and wording or abbreviations denoting corporate existence.

(Ref.: B&P Code Sections 5610 and 5610.3)

# Disasters

## **1. If a person's residence is damaged by a natural disaster, how can the homeowner obtain a copy of the plans?**

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, an architect or other person who has prepared the plans used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the fact and the amount of damage for insurance purposes. The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.

(Ref.: B&P Code Section 5536.3)

## **2. Can the homeowner rebuild the property using the plans?**

The plans cannot be used to rebuild any of the property without the written consent of the architect or other person who prepared the plans. If written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

(Ref.: B&P Code Section 5536.3)

## **3. If the homeowner cannot contact the original designer, can the building department provide a copy of the plans?**

The building department can duplicate the plans under the provisions contained in Health and Safety Code Section 19851. Refer to that code section for details.

**Disasters** continued

**4. In the event of a declared disaster, what deterrents to unlicensed practice exist?**

Only persons licensed by the CAB may call themselves architects and provide architectural services. During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment. When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license by writing or calling the CAB office.

(Ref.: B&P Code Section 5536.5)

**5. Can architects perform structural inspections after an earthquake?**

Yes. Architects may provide structural inspections at the scene of a declared national, state, or local emergency when acting voluntarily and at the request of a public official, public safety officer, or city or county building inspector who is acting in an official capacity.

(Ref.: B&P Code Section 5536.27)

**6. What type of immunity is available to architects who provide inspection services for building departments?**

California has a good Samaritan law for licensed architects, engineers and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state or local emergency caused by an earthquake. This law provides architects who provide these services with immunity from liability. This immunity applies only for an inspection that occurs within 30 days of the earthquake.

(Ref.: B&P Code Section 5536.27)

# Engineers

## **1. Are engineers exempt from the Architects Practice Act?**

Civil and structural engineers may provide “architectural services” to the extent that they are included as part of the engineering services for which they are registered. Civil and structural engineers may not practice architecture, i.e. architectural design, unless it is a part of the civil or structural engineering services they are performing. Civil and structural engineers may not use the title “architect” or offer “architectural” services unless licensed by the CAB.

(Ref.: B&P Code Sections 5537.1, 5537.4 and 5537.5)

## **2. May a structural or civil engineer sign architectural drawings for non-exempt structures prepared by an unlicensed person who was not under their supervision even though the engineers prepared the structural drawings and calculations?**

This question must be answered by the Board for Professional Engineers and Land Surveyors (BPELS). If an architect signed documents that were not prepared under his or her responsible control, the CAB would consider the act “aiding and abetting” under B&P Code Sections 5582 and 5582.1.

(Ref.: B&P Code Sections 5537.1 and 5537.5)

## **3. What are the structural and civil engineer’s limitations as to performing architectural design services?**

There are none in the Architects Practice Act. The engineer may design any structure as long as the engineer adheres to the exemptions.

(Ref.: B&P Code Sections 5537.1 and 5537.5)

Title 21 and 22 of the CCR are more restrictive and do set limitations as to what services architects, civil and structural engineers may perform. However, Title 21 and 22 are relevant only to state regulated construction under the jurisdiction of the Division of the State Architect (DSA) and Office of Statewide Health Planning and Development (OSHPD).

**Engineers** continued

**4. May a structural or civil engineer sign mechanical or electrical engineering drawings if the engineer is not registered in those disciplines?**

This question should be answered by the BPELS.

**5. Section 5537.4 of the B & P Code exempts all professional engineers. Does this mean that all registered professional engineers can design non-exempt structures?**

No. Only structural and civil engineers are professional engineers authorized to design structures. Other professional engineers are exempt from the Architects Practice Act only to the extent that they practice the profession for which they are registered.

**6. If a structural or civil engineer prepares and signs structural calculations as a consultant to an architect, must the engineer also prepare and sign the structural drawings?**

Not necessarily. If the calculations are given to the architect, who then prepares the structural drawings from the information provided in the calculations, only the architect is required to sign the drawings. The engineer is not required to over-sign documents prepared by the architect.

# Exempt Buildings and Structures

## 1. What are exempt buildings or structures?

The Architects Practice Act defines exempt buildings or structures in B&P Code Section 5537 as follows:

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
  - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
  - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
  - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
  - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
- (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and

## Exemptions continued

signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

### **2. What is the CAB's definition of "conventional framing"?**

The CAB has approached this subject in the past and concluded that the phrase was borrowed from the UBC when the statute was written. Since it appears in the UBC & CBC, which is written by building officials, the UBC/CBC definition should be used.

(Ref.: B&P Code Section 5537(b), Title 24 of the UBC and/or CBC.)

### **3. What are the CAB's definitions of a "single family dwelling" and "multiple dwelling"?**

- (a) **Single-family Dwelling:** As defined in B&P Code Section 5537(a) and Title 16, Section 153 of the CCR, the term "single-family dwelling" means a free standing unattached dwelling of wood frame construction not more than two stories and basement in height. Such a single-family dwelling shall not share any common building components including, but not limited to, foundations, roofing and structural systems with any other structure or dwelling.
- (b) **Multiple Dwelling:** As defined in B&P Code Section 5537(a) and Title 16, Section 153 of the CCR, the term "multiple dwellings" means a structure composed of no more than four attached dwelling units which share any common building components including, but not limited to, foundations, roofing and structural systems. Such multiple dwelling units shall be of wood frame construction and not more than two stories and basement in height, and as defined in the CBC.

### **4. Must contractors and builders who prepare plans for exempt structures sign the drawings they prepare if they own the structure?**

If they are the owner, the B&P Code does not require the drawings to be signed.

(Ref.: B&P Code Section 5536.1)

**5. If a lot contains an existing residence, may an unlicensed person prepare plans for a maximum four additional units as exempted under Section 5537 of the B&P Code?**

No. The maximum number of units that could be designed on the lot by an unlicensed person would be three additional units in any combination.

(Ref.: B&P Code Section 5537)

**6. Is a roadside fruit and vegetable stand considered a non-exempt structure since the UBC classifies it as a business structure? Is an architect or engineer required to design it?**

Whether an architect or engineer is required to design a fruit and vegetable stand is determined by the building official. If the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved, an architect or engineer can be required.

(Ref.: B&P Code Section 5537)

**7. Is a “greenhouse” constructed of metal framing and glass considered an exempt structure if it is for personal use only?**

No. The Architects Practice Act in B&P Code Section 5537 refers only to wood-framed structures; therefore, metal-framed structures would not be considered exempt under the statute.

**8. If an owner prepares drawings for his or her own exempt building, is he or she required to sign the drawings?**

No. The statute requires only those who prepare drawings for others to sign them and if licensed to note their license number. However, the statute does not prohibit a building official from requiring the owner to sign the drawings.

(Ref.: B&P Code Section 5536.1)

**Exemptions** continued

**9. B & P Code Section 5537, which deals with exemptions, does not discuss site planning. Does this mean that an unlicensed person who prepares drawings for exempt structures must hire an architect to prepare the site plan drawings?**

An unlicensed person may only do site planning to the extent that such planning does not involve activities that are subject to regulation by any licensing boards. For example, preparing grading and drainage plans are activities that require a license. Therefore, an architect or engineer would be required to prepare such plans for an exempt structure.

**10. If an architect or engineer prepares and signs structural calculations for a portion of an exempt building and the building plans are prepared by the owner, must the architect or engineer sign the plans also?**

The architect or engineer would only sign for that portion of the drawings that pertain to his or her structural design, not the entire set of drawings. The architect is only required to note that portion for which he or she is taking responsibility. The remainder of the drawings would be signed by the person who prepared them.

(Ref.: B&P Code Section 5536.1)

**11. May the building official require other exempt structures to be designed by an architect or engineer in addition to the noted agricultural and ranch buildings if it is deemed that such structures are an undue risk to public safety, health or welfare?**

Yes. The building official may require part or all of the structure to be designed by an architect or engineer. The B&P Code does not supersede the building official's authority to protect the health, safety and welfare of the public.

**12. Are wood decks exempt in B & P Code Section 5537?**

Decks come in all sizes and shapes and are installed on all types of terrain. It is, therefore, left to the discretion of the local building official to determine if an architect or engineer is required to prepare and sign documents for such structures. The Architects Practice Act requires that any portion of an exempted structure that deviates from substantial compliance with the conventional framing requirements of the most recent California Building Code, shall be designed by an architect or engineer.

(Ref.: B&P Code Section 5537(b))

# Interior Designers

## **1. Are interior designers licensed by the state?**

No. They are not licensed by the state. There is a statutory provision for self-certification through a private organization.

(Ref.: B&P Code Section 5800)

## **2. What services may an interior designer provide?**

Interior designers and any other unlicensed persons may design nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. Interior designers may not design any components that change or affect the structural system or safety of the building.

(Ref.: B&P Code Sections 5537 and 5538)

## **3. What may interior designers call themselves?**

Interior designers may call themselves interior designers or designers. They cannot call themselves “architects,” “architectural designers,” “registered designers,” or any other name that might mislead the consumer to think that they are licensed architects or registered building designers or otherwise certified, licensed or registered by the State.

An interior designer may not represent to the public that he or she is “state certified” to practice interior design. However, a person who has been certified by an interior design organization may refer to herself or himself as a “certified interior designer”.

(Ref.: B&P Code Sections 5800 and 5804)

No unlicensed person may use the term “architect,” “architectural,” or “architecture” or use the term “licensed” or “registered”.

(Ref.: B&P Code Section 5536)

**Interior Designers** continued

**4. May interior designers stamp exempt plans?**

Yes. Unlicensed persons may stamp exempt plans as long as they do not use the legend “State of California” or words or symbols that indicate that they are licensed by the state.

(Ref.: B&P Code Sections 5802 and 5805)

# Landscape Architects

## **1. May a registered landscape architect refer to himself or herself as an “architect”?**

No. A landscape architect may not use the title “architect” without the word “landscape” unless he or she also holds an architect’s license.

(Ref.: B&P Code Section 5537.6)

## **2. Can landscape architects prepare site grading and site drainage plans?**

Yes. A landscape architect can prepare landscape architectural site grading and site drainage plans.

## **3. What structures can landscape architects design if they perform site planning services?**

Any exempt structures that unlicensed persons may design in accordance with B&P Code Section 5537 and exempt under the UBC/CBC. If a structure requires engineering, it must be designed by an appropriately licensed or registered person.

(Ref.: B&P Code Section 5537)



# Land Surveyors

## **1. May a licensed land surveyor use the title “architect”?**

No. A licensed land surveyor may not use the title “architect” unless he or she also holds an architect’s license.

(Ref.: B&P Code Section 5537.7)

## **2. Can licensed land surveyors prepare and sign site plans?**

No. Land surveyors are limited to preparing and signing documents relating to their survey services such as location of property lines or boundaries, topographic maps, site elevations, etc. They are not licensed to plan the improvements of a site.

(Ref.: B&P Code Section 5537.7)



# Mechanic's Lien Laws

## **1. How does one find out about Mechanic's Lien Laws?**

The CAB does not respond to questions regarding lien laws. The individual may consult an attorney or refer to publications at a public library. Another resource is the Contractor's License Law and Reference Book which may be obtained from: General Services Publications Unit, P.O. Box 1015, North Highlands, California 95660, (916) 928-4630.



# Signature Requirement

**1. May the title block for non-exempt buildings contain the words “drawings prepared by” and/or the name of the drafting service in addition to the name of the architectural firm?**

Yes. There is nothing in the statutes that prohibit this practice, but the architect responsible for their preparation must sign the drawings. If drawings were submitted without the architect’s signature, it would be of assistance to the CAB’s enforcement program to have a copy of the title block sent to the CAB office.

(Ref.: B&P Code Section 5536.2)

**2. In a set of plans submitted to a building official for approval and issuance of a permit, which sheets of the plans or drawings must be signed or stamped?**

The statutes do not address this issue. The building official has the discretion to determine which sheets should be stamped and signed.

**3. May an employee of an architect sign and stamp the plans or drawings or must the person whose name appears in the firm’s title block sign and stamp?**

An employee may stamp and sign the documents if the employee is licensed by the CAB.

**4. A building department requires wet signatures on all documents. To expedite the approval of a design change on plans submitted for plan check, an architect proposes to FAX a design change to the building department. As a FAX, the architect’s signature on the design change is a reproduction. Is a building official required to accept such documents in lieu of those with a wet signature? If a building official does not accept these faxed documents, is he or she liable for delaying the project?**

The CAB does not establish whether or not building departments should accept documents with reproduced signatures. Regarding liability for delaying a project, consult with your jurisdiction’s legal advisor.

(Ref.: B&P Code Section 5536.25)

**Signature Requirement** continued

**5. Must the architect sign the documents at initial submittal?**

Many architects do not want to sign the initial submittal until plan checks have been made. The statute requires building officials to obtain a signed statement that the person who prepared the documents is licensed to prepare such documents. The CAB believes that if an architect does not wish to sign initial submittal documents, the building official could accept the signed statement in lieu of the signature at the time of initial submittal. After the plan check corrections have been made and before the permit for construction is issued, the drawings must be stamped and signed by the architect.

(Ref.: B&P Code Section 5536.2)

**6. May building officials require architects to oversign a consultant's drawings?**

No. Architects are only required to sign what they have prepared themselves or what others have prepared under their responsible control. Architects cannot be required to over-sign documents prepared by others.

(Ref.: B&P Code Section 5536.2)

**7. Are reproduced signatures on documents acceptable?**

The CAB believes that building officials may accept documents with a reproduced signature. If building officials accept these documents, then it is recommended that building officials obtain the signed statement required in B&P Code Section 5536.2 and attach this statement to the documents as a permanent record.

**8. Must each page of a set of specifications or structural calculations be signed by the licensed person who prepares them?**

An architect is required to sign his or her plans, specifications and other instruments of service. The CAB does not require that each page of a set of specifications and/or calculations must be signed by the architect.

(Ref.: B&P Code Section 5536.1)

**Signature Requirement** continued

**9. Must the engineer who has prepared and signed structural calculations also sign the structural drawings if the structural drawings are prepared by a licensed architect?**

No. The engineer only signs the documents which he or she has prepared. The architect signs the structural drawings that he or she prepared.

(Ref.: B&P Code Section 5536.1)

**10. May non-exempt plans be signed by the unlicensed person who prepared the plans and the architect who is responsible for their preparation?**

An unlicensed person may prepare plans for a non-exempt structure only under the responsible control of an architect. The unlicensed person as well as the architect may sign the plans; however, the only required stamp and signature is the architect's.

(Ref.: B&P Code Section 5536.1)

**11. Are wet or dry signatures required on exempt plans?**

The B&P Code does not state what type of media be used, it only states that the drawings must be stamped and signed. Accordingly, the building official can require wet or dry stamps and signatures on plans.

(Ref.: B&P Code Sections 5536.1 and 5536.2)



# Stamp Requirement

## 1. Must architects stamp their plans, specifications and other instruments of service prior to obtaining a building permit?

Yes.

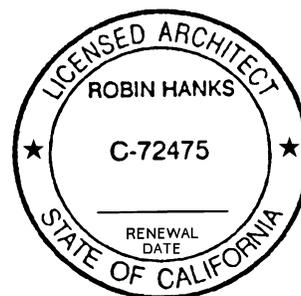
(Ref.: B&P Code Sections 5536.1 and 5536.2)

## 2. What must the architect's stamp look like and what must it contain?

The Architects Practice Act specifies that the architect's stamp contain: (1) the legend "State of California", (2) the term "licensed architect", (3) the architect's name (as licensed with the CAB), (4) the architect's license number, and (5) a means for noting the renewal date for the current license (last day of birth month and year). The renewal date may be hand written or typeset.

The stamp must be of a 1" minimum - 2" maximum diameter circular shape. The design of the circle may include solid lines (thin or thick) or broken lines such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the circle. Embellishments (stars, graphic designs) are also acceptable so long as the stamp is legible. The stamp shall not be of the embossing type. Provided below are basic examples of recommended formats for a California architect's stamp. Stamps can be ordered from any source - stationery stores, business supply houses, rubber stamp manufacturers and print shops.

(Ref.: B&P Code Section 5536.1(b) and CCR Section 136)



REN. Refers to Renewal Date



# Title 24 (State Building Code)

## **1. Where can an individual obtain copies of State Building Code (Title 24)?**

The complete set of Title 24, consisting of the State Building, Electrical, Mechanical, Plumbing and specialty Codes may be obtained at specialty book stores specializing in construction documents or through:

International Conference of Building Officials  
5360 Workman Mill Road  
Whittier, CA 90601-2298  
(562) 699-0541  
1-800-284-4406  
[www.icbo.org](http://www.icbo.org)



# Unlicensed Individuals

## 1. What may an unlicensed individual design?

- A. Unlicensed individuals may design exempt buildings or structures. The Architects Practice Act defines exempt buildings or structures in B&P Code Section 5537 as follows:
- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
    - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
    - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
    - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
    - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
  - (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

**Unlicensed Individuals** continued

- B. Unlicensed individuals may design nonstructural or nonseismic alterations or additions as defined in the Architects Practice Act B&P Code Section 5538.

**2. What titles may unlicensed individuals use?**

Unlicensed individuals cannot call themselves “architects”, “architectural designers” or any other title that might indicate to the public that they are a licensed architect or qualified to engage in the practice of architecture or architectural design.

(Ref.: B&P Code Section 5536)

**3. May an unlicensed person prepare and sign plans for the interior of a building and then have an architect prepare and sign drawings of certain constructions within these plans? Must the architect sign all the drawings?**

The unlicensed person should only sign the documents prepared by him or her and the architect should only stamp and sign the documents the architect prepared. Architects can not stamp and sign the documents of others unless they were prepared under the responsible control of the architect.

(Ref.: B&P Code Sections 5536.1, 5536.2 and 5538)

**4. Must the design of a seismic bracing system required for raised computer floors be done by an architect or engineer?**

Yes. Plans for seismic bracing systems are considered a seismic alteration and should be designed and signed by architects or engineers. It is also important to consider perimeter walls that enclose the raised floor. The design of the walls should be analyzed for their ability to withstand lateral loads.

(Ref.: B&P Code Section 5538)

**5. May unlicensed individuals prepare and sign energy calculations for non-exempt buildings when tenant improvements are made?**

The State Energy Commission states that only appropriately licensed or registered persons can sign forms ENV-1, LTG-1 and MECH-1.

**Unlicensed Individuals** continued

**6. In Section 5538 of the B&P Code interior alterations and additions are considered exempt. Does the word “additions” apply to exterior work as well as interior or is it meant to apply only to interior additions?**

B&P Code Section 5538 discusses interior additions only. Exterior additions are discussed in B&P Code Section 5537.

**7. Does the replacement of a fire rated door require an architect or engineer to approve the replacement or write a specification for the replacement?**

The local building official should make this determination.

**8. May unlicensed individuals design and sign plans for handicap access systems?**

Yes. Unlicensed individuals may design systems, including handicap access systems, that are nonstructural and nonseismic in nature and that do not affect the safety of the structure, provided that the design of those systems is not restricted by law to registered or licensed individuals.

(Ref.: B&P Code Section 5538)

**9. Does the CAB provide building departments with specific criteria as to what interior components affect the safety of a building or its occupants?**

No. Local building departments determine such criteria.

**10. May an unlicensed individual design, plan or prepare instruments of service for store fronts or interior alterations?**

Yes. Unlicensed persons may prepare and submit plans for nonstructural or nonseismic interior alterations or additions, provided such alterations do not change or affect the structural system or safety of the building.

(Ref.: B&P Code Section 5538)

**Unlicensed Individuals** continued

**11. May an unlicensed individual design interior alterations or additions for non-exempt structures?**

Unlicensed individuals may prepare and sign plans for nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. However, an unlicensed individual may not prepare and sign plans for any components affecting the structural system or safety of any building as determined by the local building official.

(Ref.: B&P Code Section 5538)

**12. May unlicensed individuals prepare and sign plans for the interiors of any type of building? Are there square foot limitations?**

Unlicensed individuals may prepare and sign interior designs for any type of building subject to the approval of the building official. There are no square footage limitations imposed by the Architects Practice Act; however, some building departments do set square footage limitations applicable to design services by unlicensed individuals.

(Ref.: B&P Code Section 5538)

**13. What is considered an exempt nonstructural storefront?**

The CAB believes that a storefront, which does not require wind calculations and structural calculations to verify the stability of the installation, would qualify as an exempt nonstructural storefront. Each installation must be judged individually by the building official. If the storefront installation requires structural calculations, it is not exempt. However, if only glazing is replaced, then an architect or engineer may not be required to design the system.

(Ref.: B&P Code Section 5538)

**14. May unlicensed individuals design and sign mechanical, electrical and plumbing systems?**

No. Such systems must be designed and signed by appropriately licensed or registered professionals, or appropriately licensed contractors as allowed by the Professional Engineers Act.

(Ref.: B&P Code Sections 5537.2, 5537.4 and 6737.4)

**Unlicensed Individuals** continued

**15. If one occupancy is being converted into a more restrictive occupancy, is an architect or engineer required to prepare and sign the documents?**

Not necessarily. The building official should make the decision based on the scope of work required to convert the occupancy.

(Ref.: B&P Code Section 5538)

**16. Are full height, non-bearing, non-rated partitions considered components that affect the safety of the occupant?**

The CAB believes that the addition, relocation or removal of full height, non-bearing, non-rated partitions could change or affect the structure and/or the safety of a building. Each situation must be judged within its specific circumstances and thus the building official must decide whether such partitions would affect the safety of the building.

(Ref.: B&P Code Section 5538)

**17. What criteria does the CAB use to determine what it considers the “safety of a building”?**

The CAB has no specific criteria. For regulations dealing with those elements that affect the safety of a building and its occupants, see the California Building Code. The local building official should determine which components of building systems affect safety and are required to be designed by an architect or engineer.

**18. May unlicensed individuals prepare specifications for non-exempt structures?**

Unlicensed individuals may prepare specifications for non-exempt structures only under the responsible control of an architect or engineer. The architect or engineer is required to sign the specifications.

(Ref.: B&P Code Sections 5535.1 and 5536.1)

**Unlicensed Individuals** continued

**19. Suspended ceilings do not add to the structural stability of a building but require seismic bracing. Is an architect or engineer required to design suspended ceilings?**

The CAB believes that seismic components should be designed by architects or civil and structural engineers. However, some building officials allow such ceilings to be designed by unlicensed individuals if they do not exceed certain square foot limitations.

**20. May unlicensed individuals alter exterior wall, door and window configurations on non-exempt structures so that they are coordinated with new interior construction?**

No. The B&P Code does not allow an unlicensed individual to prepare and sign plans and specifications for the alteration of exterior walls, doors or windows except for nonstructural or nonseismic alterations to storefronts as determined by the local building official.

(Ref.: B&P Code Section 5538)

# Violations of the Architects Practice Act

## 1. Who may be prosecuted for violations of the Architects Practice Act?

- A. **Prosecutions:** The CAB may prosecute all persons guilty of violating the provisions of Chapter 3, Division 3 of the Business and Professions Code. Except as provided by Section 159.5, the CAB may employ the inspectors, special agents, investigators and staff it deems necessary to carry out the provisions of this chapter.

(Ref.: B&P Code Section 5525 — Prosecutions by Board; Employees)

- B. **Injunctions:** Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which will constitute an offense against Chapter 3, Division 3 of the Business and Professions Code, the superior court of the county in which the offense has occurred or is about to occur, on application of the CAB, may issue an injunction or other appropriate order restraining such act or practice.

(Ref.: B&P Code Section 5527 – Injunction)

The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.



**CALIFORNIA ARCHITECTS BOARD**

400 R STREET, SUITE 4000, SACRAMENTO, CALIFORNIA 95814-6238

Telephone: (916) 445-3393

Fax: (916) 445-8524

E-mail: [cab@dca.ca.gov](mailto:cab@dca.ca.gov)

Web: [cab.ca.gov](http://cab.ca.gov)

Affairs

Department of

Consumer

**CONSUMER COMPLAINT FORM**

**1. SUBJECT (Person Complaint is Against)**

Last Name		First Name		Middle Name	
Business Name					
Business Address					
City				State	Zip Code
Business Phone ( )		Home Phone (If Known) ( )		Architect License Number (If Known)	

**2. COMPLAINANT (Person Making the Complaint)**

Last Name		First Name		Middle Name	
Address					
City				State	Zip Code
Business Phone ( )		Home Phone ( )		Best Time of Day to Contact You	

3. Did you have a contract or letter of agreement with the subject? ..... YES  NO   
(If yes, please attach a copy.)

4. Have you discussed your complaint with the subject? ..... YES  NO

5. Have you contacted an attorney regarding this matter? ..... YES  NO   
If so, provide your attorney's name, address and phone number.

\_\_\_\_\_

6. Have you filed a claim in any court regarding this complaint? ..... YES  NO   
If so, name court: \_\_\_\_\_

and indicate hearing date, if scheduled: \_\_\_\_\_

7. What do you want the person or company to do to satisfy your complaint? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. Describe the nature of your complaint on the next page

ATTACHMENTS





CALIFORNIA ARCHITECTS BOARD
400 R STREET, SUITE 4000, SACRAMENTO, CALIFORNIA 95814-6238
Telephone: (916) 445-3393 Fax: (916) 445-8524
E-mail: cab@dca.ca.gov Web: cab.ca.gov



PLAN CHECK REVIEW PROCESS & EVALUATION PROGRAM
for
BUILDING OFFICIALS & ARCHITECTS

PROGRAM INTENT:

The California Architects Board (CAB) is offering this program to aid building officials and architects in the resolution of questions and issues concerning documents submitted by architects to the building official for plan check review and construction permitting.

Upon the request of a building official and/or an architect, the CAB will provide review of document submittals with reoccurring issues of code or procedure non-compliance, of document completeness and/or coordination, scope of practice and signature/stamp requirements. The program will not address specific code issues or usurp the regulatory authority of the building official.

The program is intended to assist both parties in understanding and interpretation of the standard of care as it applies to the Architects Practice Act and their respective responsibilities. The program goals are to resolve or prevent formal complaints, to prevent reoccurring submittal problems or deficiencies, and to improve communication and understanding between architects and building officials.

REQUEST FOR REVIEW:

A building official and/or an architect may request a review by the CAB's architect consultant (or other representatives) via fax, e-mail, letter or phone. The consultant will review the documents and the issues identified by the request, and if appropriate, will meet with both parties at their local building department. The consultant will advise both parties of the findings and may, in some cases, suggest improvements to avoid similar situations in the future.

REVIEW REQUEST FORM:

Review Requested by: Building Official \_\_\_\_\_ Architect \_\_\_\_\_ (Check One) Date: \_\_\_\_\_

Building Official: \_\_\_\_\_ Phone: \_\_\_\_\_

Jurisdiction/Agency: \_\_\_\_\_

Architect: \_\_\_\_\_ Phone: \_\_\_\_\_

Issues for Review: \_\_\_\_\_

\_\_\_\_\_
\_\_\_\_\_

CAB Architect Consultants:

Lawrence P. Segrue, FAIA @ larry\_segrue@dca.ca.gov & Robert L. Carter, AIA @ bob\_carter@dca.ca.gov
Telephone: (800) 991-2223



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## Agenda Item E.2

### **EDUCATE CONSUMERS ON THE STANDARD OF CARE SO THEY UNDERSTAND WHAT TO EXPECT FROM AN ARCHITECT WHEN CHOOSING TO HIRE ONE**

The California Architects Board's 2017–2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to educate consumers on the standard of care so they understand what to expect from an architect when choosing to hire one.

The Board currently provides outreach and education to consumers of architectural services through a variety of methods, including the Board's website, social media, publications, press releases, and responses to consumer questions via email, mail, and telephone.

The *Consumer's Guide to Hiring an Architect* was developed by the Board to educate consumers about the complex nature of architectural services. The *Consumer's Guide* provides information on: the types of projects that require a licensed architect; how to find and select an architect; what the written contract between an architect and a client should contain; and how to manage the budgeting and construction of a project. The Board also created the *Consumer Tips for Design Projects*, which contains basic tips to help consumers avoid problems with their projects.

In order to further educate consumers on the standard of care so they understand what to expect from an architect when choosing to hire one, staff recommends:

- Updating and expanding the content of the “Consumers” section of the Board's website to include general tips for hiring an architect, information regarding the standard of care and written contract requirement, and common violations of the Architects Practice Act.
- Developing and sharing more consumer-oriented materials through the Board's social media accounts, including Facebook and Twitter.
- Promoting the Architect Consultants' Education and Information Program, through which the consultants are available to discuss technical and practice-related issues and questions directly with consumers.

The REC is asked to review and discuss this objective, and provide any additional direction or input to assist staff in educating consumers on the standard of care.

## Agenda Item E.3

### **MEASURE THE EFFECTIVENESS OF THE BOARD'S CITATION COLLECTION METHODS AS A MEANS OF PROTECTING FUTURE CONSUMERS**

The California Architects Board's 2017–2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to measure the effectiveness of the Board's citation collection methods as a means of protecting future consumers.

The Board's overall citation collection rate over the past five years is approximately 54%, with collection rates of 78% for licensees and 41% for unlicensed individuals. Currently, if a licensee fails to satisfy a citation, the Board places a hold on his or her license preventing it from being renewed without payment of both the renewal fee and the administrative fine assessed with the citation [Business and Professions Code section 125.9(b)(5)].

However, the majority of the Board's outstanding, unpaid administrative fines are against unlicensed individuals, and some choose to ignore their citations, as they do not have licenses in jeopardy from failing to pay the administrative fines. The Board currently utilizes the Franchise Tax Board "Intercept Program" as an additional tool to collect unpaid administrative fines from unlicensed individuals, but the success in collecting fines through this program has not been significant, as the potential sources of recovery are limited to State tax refunds, Lottery proceeds, and unclaimed property.

The Board's prior Strategic Plan contained an objective to pursue methods to obtain multiple collection mechanisms to secure unpaid citation penalties. Staff identified accounts that could be referred to a collection agency and obtained quotes for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions, as appropriate, and staff are in the process of securing a contract with a collection agency through the informal solicitation method (Government Code section 14838.5) to allow the Board to refer unpaid accounts aged beyond 90 days to a collection agency. The contract is planned to be presented to the Board for review and possible action at its December 7, 2017, meeting, to allow the Board to refer unpaid accounts to a collection agency beginning January 1, 2018 (or upon approval of the contract).

Staff will reassess the effectiveness of the Board's citation collection methods after the collection agency contract is in place and the outstanding accounts have been pursued by the collection agency.

The REC is asked to review and discuss this objective, and provide any additional direction or input to assist staff in measuring the effectiveness of the Board's citation collection methods.

## Agenda Item E.4

### **DEVELOP EDUCATIONAL MATERIALS FOR NEWLY LICENSED ARCHITECTS TO PROVIDE MORE INFORMATION ABOUT THE REQUIREMENTS IN ORDER TO AVOID FUTURE VIOLATIONS**

The California Architects Board's 2017–2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to develop educational materials for newly licensed architects to provide more information about the requirements in order to avoid future violations.

The Board currently provides a Business Entity Report Form, information regarding the stamp requirements, and the Board's *Consumer's Guide to Hiring an Architect, Consumer Tips for Design Projects*, Twitter card, and bookmark, to new licensees with the initial license and wall certificate.

In order to further educate new licensees about the Architects Practice Act (Act), staff recommends creating a document for new licensees containing: license renewal and coursework requirements; mailing address and business entity reporting requirements; common violations of the Act; and information regarding the architect consultants' education and information program. This new publication would be distributed to each newly licensed architect with the initial license, and posted on the Board's website.

In addition, staff is developing a new webinar series featuring the Board's architect consultants. Possible discussion topics include information regarding the: written contract requirements; rules of professional conduct; stamp and signature requirements; exempt area of practice; standard of care; definition of responsible control; and reporting of settlements and arbitration awards.

The REC is asked to review and discuss this objective, and provide any additional direction or input to assist staff in developing educational materials for newly licensed architects.

### **REVIEW AND POSSIBLE ACTION ON RETENTION SCHEDULE FOR BOARD'S COMPLAINT AND CITATION RECORDS**

Each board and bureau is required to manage its records in accordance with the procedures established by the Department of Consumer Affairs and the policies, procedures, and standards set forth by the Department of General Services, Office of State Publishing, California Records and Information Management Program (CalRIM). The preservation and disposal of State records is managed and accounted for by maintaining a current Records Retention Schedule, which are written procedures outlining the treatment of records.

The California Architects Board's current Records Retention Schedule was filed with CalRIM on December 4, 2013, and will expire on December 5, 2018. The schedule requires complaint and citation records to be retained in the Board's office for five years after they are closed, and then be confidentially destroyed.

In the past, citations were retained in the Board's office and disclosed to the public for 100 years. In 2002, the Regulatory and Enforcement Committee (REC) and the Board considered changes to the Board's complaint disclosure policy, including the disclosure period for citations, which was amended from 100 to 20 years. The Board subsequently reduced the disclosure period for citations from 20 to 5 years in 2005, based upon the REC's recommendation. The Board's records retention schedules were updated accordingly, based upon these changes to the citation disclosure period.

In an effort to increase consumer protection, staff is requesting the REC consider proposed changes to the Board's Records Retention Schedule to increase the retention period for the citation records and related complaint files, and the public disclosure period for citations from 5 years to 10 years (Attachment).

Staff has found that the current five-year retention period often prevents staff from being able to disclose citation information to consumers, and from establishing a pattern of past citations to be used in future disciplinary and enforcement actions. The proposed changes would also allow for additional time to collect outstanding fines from unlicensed individuals through a collection agency and the Franchise Tax Board "Intercept Program." It should also be noted that based upon the Board's current retention schedule, records of complaints that are closed with no action (i.e., insufficient evidence, no jurisdiction, no violation, etc.) are retained for the same period of time as cases that resulted in citations with administrative fines.

The REC is asked to review and discuss the proposed changes to the Board's Records Retention Schedule for complaint and citation records, and the public disclosure period for citations, and consider making a recommendation to the Board.

#### Attachment:

Proposed Changes to the Board's Retention Schedule for Complaint and Citation Records

**PROPOSED CHANGES TO THE BOARD’S RETENTION SCHEDULE FOR COMPLAINT AND CITATION RECORDS**

Type of Record:	Current Retention Period:			Proposed Retention Period:		
	Office	SRC*	Total	Office	SRC*	Total
Pending Complaints** - include, but are not limited to: Correspondence Civil Action Judgments (if applicable) Settlements (if applicable) Arbitration Awards (if applicable) Evidence	Active		Active	<i>No Proposed Changes</i>		
Closed Complaints** - include, but are not limited to: Correspondence Civil Action Judgments (if applicable) Settlements (if applicable) Arbitration Awards (if applicable) Evidence	5 Years		5 Years	<i>No Proposed Changes</i>		
Closed Citations - include, but are not limited to: Complaints Correspondence Citations Informal Conference Decisions (if applicable) Proposed Decisions (if applicable) Evidence	5 Years		5 Years	10 Years		10 Years
Closed Formal Disciplinary Cases - include, but are not limited to: Complaints Correspondence Accusations/Statements of Issues Proposed Decisions (if applicable) Stipulations (if applicable) Evidence	10 Years	90 Years	100 Years	<i>No Proposed Changes</i>		

\* The Department of General Services, State Records Center (SRC) provides storage services for 144 State agencies, including the Board.

\*\* Exempt from disclosure pursuant to Government Code section 6254(f), unless the Executive Officer has determined the specified conditions for disclosure outlined in Title 16, California Code of Regulations section 137 have been met.

**ADJOURNMENT**

Time: \_\_\_\_\_