



DRAFT MEETING MINUTES CALIFORNIA ARCHITECTS BOARD

September 11, 2019
Pleasant Hill

A. CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

On September 11, 2019, Board President, Sylvia Kwan, called the meeting to order at 10:40 a.m. and Vice President, Tian Feng, called roll.

Board Members Present

Sylvia Kwan, President Tian Feng, Vice President Denise Campos Pasqual Gutierrez Ebony Lewis Robert C. Pearman, Jr.

Six members of the board present constitute a quorum. There being six members present at the time of roll, a quorum was established.

Board Members Absent

Nilza Serrano, Secretary

Members of the Public Present

Daniel Abbott, Architecture Design and Technology Program Chair, Diablo Valley College

Mark Christian, Director of Government Relations,

American Institute of Architects, California (AIA California)

Nick Steele, Associate Practice Area Leader,

International Interior Design Association, Northern California (IIDA NC)

Marq Truscott, Chair,

Landscape Architects Technical Committee (LATC)

Staff Present

Laura Zuniga, Executive Officer (EO)
Vickie Mayer, Assistant EO
Marccus Reinhardt, Program Manager Examination/Licensing
Michael Sganga, Enforcement Analyst
Tara Welch, Attorney III, Department of Consumer Affairs (DCA)
Gabrial Nessar, Administration Analyst
Mike Sanchez, Television Specialist, DCA

B. PRESIDENT'S PROCEDURAL REMARKS AND BOARD MEMBER INTRODUCTORY COMMENTS

Ms. Kwan: 1) announced the meeting is being webcast, 2) thanked Diablo Valley College (DVC) for allowing the Board to hold its meeting on their campus, and 3) reminded members all motions will be repeated for the record and votes on all motions will be taken by roll call.

C. UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

EO, Laura Zuniga delivered updates on Assistant Deputy Director, Karen Nelson's behalf. Ms. Zuniga indicated that in June 2019, the Chief Deputy Director hosted the Director's Quarterly meeting. It was encouraged that the boards submit ideas regarding cost-cutting projects so that the Administration can focus on them. Ms. Zuniga informed the Board that in July 2019, the Department released an EO salary study and the next Director's Quarterly meeting is scheduled for October 16, 2019.

D. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

There were no comments from the public.

E. PRESENTATION OF OCTAVIUS MORGAN DISTINGUISHED SERVICE AWARD TO BARRY N. WILLIAMS

Ms. Kwan announced she was pleased to present the 2018 Octavius Morgan Award to Barry N. Williams who contributed nearly 1,000 volunteer hours over 30 years of service to the Board. Mr. Williams addressed the Board and expressed his gratitude for the opportunity to serve the community as an architect.

F. PRESENTATION ON DIABLO VALLEY COLLEGE – DANIEL ABBOTT, ARCHITECTURE DESIGN AND TEHCNOLOGY PROGRAM

Professor Daniel Abbott, Chair of the Architecture Design and Technology Program at Diablo Valley College (DVC) informed the Board there are approximately 400 students enrolled in the program; of those 200-250 are dedicated architecture students who will later transfer to four- and five-year programs at universities. He said there is a subset of the student population who are enrolled in courses like architectural history to fulfill general education requirements. Prof. Abbott touched upon the demographics of DVC and said approximately 60 percent of students come from nontraditional backgrounds and there is a strong international community at DVC. He described the program curricula and mentioned it still includes freehand drafting in addition to training in modern industry software applications for design and drafting.

Ebony Lewis asked whether DVC actively recruits international students into its program. Prof. Abbott responded that DVC periodically sends representatives to countries like China and Korea to recruit students for the program. Ms. Lewis expressed what she believed to be an important concern of the Board regarding international students returning home to their respective countries rather than remaining in California and applying for licensure; she added it is a foreseeable problem [for the Board to address].

Robert Pearman asked when DVC began its architecture program. Prof. Abbott provided a brief history of the program and speculated it began sometime around 1970. Mr. Pearman followed-up and asked whether DVC has information on how many of its students work in the Bay Area architecture community. Prof. Abbott said many of those involved with architecture in the Bay Area went through DVC – though admitted he did not have precise statistics available at the moment. He added that many DVC students transfer to architecture programs throughout the country, including those at Ivy League schools.

I.* REVIEW AND POSSIBLE ACTION ON JUNE 12, 2019 BOARD MEETING MINUTES

Ms. Kwan asked for comments concerning the minutes of the June 12, 2019 Board meeting. Pasqual Gutierrez requested an amendment to the minutes under agenda item K.1., regarding Assembly Bill 476 in which he suggested resources to provide DCA. He clarified that his suggestion was to specifically provide the Board's *Architect Licensure Handbook* on our requirements to DCA.

• Tian Feng moved to approve the June 12, 2019 Board meeting minutes.

Ebony Lewis seconded the motion.

Mr. Gutierrez identified one needed correction under Item K.1 on page 5. He requested that the word "resources" be changed to "*Architects Licensure Handbook*."

 Tian Feng amended the motion to approve the June 12, 2019 Board meeting minutes with an amendment to page 5 under Agenda Item K to change "resources" to "Architect Licensure Handbook."

Ebony Lewis seconded the amended motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, and President Kwan voted in favor of the motion. The motion passed 6-0.

G. PRESENTATION ON SIGNIFICANT CHANGES IN THE 2019 STATE BUILDING CODE – SHARON GOEI, PRESIDENT, CALIFORNIA BUILDING OFFICIALS AND DIRECTOR OF HOUSING, CITY OF MILPITAS

Agenda item not taken up due to unavailability of presenter.

H. PRESENTATION ON REBUILDING EFFORTS IN THE CITY OF PARADISE AND SONOMA COUNTY – MIKE RENNER, 4LEAF, INC.

Agenda item not taken up due to unavailability of presenter.

J. EXECUTIVE OFFICER'S REPORT – UPDATE ON BOARD'S ADMINISTRATION / MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS

Ms. Zuniga provided the Board with a brief update on its programs.

- In July 2017, the DCA implemented the FI\$Cal system, the statewide system for budgets, accounting, and procurement that the State of California has implemented for all state departments. The transition continues to pose challenges in the reconciliation and closing of the fiscal year (FY) 2017-18. The final financial reports for FY 2017-18 are expected in August 2019. Staff continuously monitor the Board's budget with the DCA Budget Office staff. Once the final reports are available, a comprehensive budget update will be provided at the December Board meeting.
- Business Modernization is in process. It is a four-stage process and the Board recently started the second stage which begins the oversight with the Department of Technology.
- The California Architects newsletter was published on May 24, 2019. The next issue of the newsletter was published on August 2019. Linked-In was added to the Social media statistics.
- Subject Matter Experts' recruitment for the Enforcement Unit is in process. The information was provided to qualifying candidates and so far, 30 individuals have met the Board's qualifications.

K. UPDATE AND POSSIBLE ACTION ON LEGISLATION REGARDING:

1. Assembly Bill (AB) 476 (B. Rubio, 2019) Department Of Consumer Affairs: Task Force: Foreign-Trained Professionals

Ms. Zuniga presented this item that requires DCA to appoint a task force with the goal of integrating foreign-trained professionals into the workforce and stated that it was presented for information only and no action was requested. She advised that the bill was on the Assembly Floor. Mr. Feng asked what the Board's role would be, and Ms. Campos replied we could provide our educational materials.

2. AB 613 (Low, 2019) Professions And Vocations: Regulatory Fees

Ms. Zuniga presented this item, which authorizes boards within DCA to increase fees according to the increase in the Consumer Price Index, outside of the regulatory process. She advised the bill was a two-year bill and could be brought up again in the Legislature next year.

3. AB 626 (Quirk-Silva, 2019) Conflicts Of Interest

Ms. Zuniga presented this item, which provides an exemption to existing conflict of interest provisions for certain work performed by a variety of professions, including architects. She stated that it was a two-year bill, and that the Board had requested to further discuss this item at this meeting and consider taking a position. Mr. Feng asked what the Board can do to support the bill. Ms. Zuniga noted there were several groups in opposition to the bill. Mark Christian stated that all opposition could have been addressed by limiting the provisions to only pre design work, as the opponents wanted construction management services to continue to be prohibited. While AIA California, a cosponsor, was fine with that concept the other co-sponsor, the American Council of Engineering Companies, California, did not want to accept that amendment. Mr. Christian advised that he felt it may be too late at this point to achieve consensus among the interested parties. Ms. Lewis stated that she would like to hear more information about the concerns of both sides before the Board votes to take a position. Ms. Zuniga replied that the item would be added to the December agenda, and additional background information will be provided.

4. Senate Bill (SB) 53 (Wilk, 2019) Open Meetings

Ms. Zuniga presented this item, which amends the Bagley-Keene Open Meetings Act to require two-member advisory bodies to hold open meetings. She stated that it was held in the Assembly Appropriations Committee and is a two-year.

5. SB 601 (Morrell, 2019) State Agencies: Licenses: Fee Waiver

Ms. Zuniga presented this item, which authorizes boards within DCA to waive certain fees in the event of a declared emergency. She stated that the bill had passed the Legislature and was on the Governor's Desk for final action.

6. SB 608 (Glazer, 2019) Architects And Landscape Architects

Ms. Zuniga presented this item, which extends the Board and LATC's sunset dates and makes additional changes, including requiring new applicants for licensure to be fingerprinted in order to complete a criminal background check. She summarized amendments to the bill and stated that the bill was currently in the Assembly Appropriations Committee.

L. DISCUSS AND POSSIBLE ACTION ON ARCHITECT REGISTRATION EXAMINATION (ARE)

Ms. Zuniga reminded members that ARE performance was discussed at the Board's June 12, 2019 meeting. She also reminded the Board that there was some concern regarding the accuracy of the performance data, which prompted members to ask that staff verify it. Ms. Zuniga added that an error was discovered, and corrected data was previously sent to members. Members raised concerns with the National Council of Architectural Registration Boards (NCARB) data because it excludes California from the national average. Members opined this greatly skews the data in a negative manner. The Board requested data in future EO Reports include comparison of California with true national average data. It also asked staff to provide comparison data for states with similarly large architect populations. Ms. Zuniga said staff would request updated data from NCARB and that the EO Report for the December meeting would include the Board's request.

Mr. Gutierrez expressed his concern over the number of architects being licensed each year. He asked whether enough architects were being licensed to meet future needs of the profession and consumers. Ms. Kwan concurred with Mr. Gutierrez that this is an issue the Board should soon address. The Board asked staff to research whether there are enough architects using standard economic indicators and annually present the data. Ms. Zuniga advised the Board the questions raised were also considered by DCA, and that it is a challenge for boards because their role is to ensure minimum competency standards and professional qualifications, and there is little that can be done to regulate the number of individuals who seek and ultimately become licensed.

Mr. Feng asked members whether the Board should be concerned over ARE performance by candidates. He noted that performance between first-time testers and those who retake an examination was similar. Ms. Kwan wondered whether the lower performance rates on an ARE division was indicative of it being too hard for candidates. Mr. Reinhardt explained that the psychometricians review the performance of each question, which is a better indicator of whether an examination is properly discriminating between those who possess the requisite knowledge to competently practice and those who do not.

M. DISCUSS AND POSSIBLE ACTION ON RETIRED LICENSE STATUS AND FEE

Mr. Reinhardt reminded members that at the June 12, 2019 Board meeting staff was asked to analyze the budgetary impact of reducing the retired architect license fee. He cited the Analyses of Fund Condition included in the meeting packet and indicated that reduction of the retired license fee from the current level to half or zero would appear to be absorbable in the budget. Mr. Reinhardt advised the Board staff was seeking authorization to prepare a regulatory amendment that would clarify the fee. Ms. Zuniga advised the Board that it would first need to set the fee and then proposed language would be brought before the Board at the December 11, 2019 meeting.

The Board discussed the matter and included in its consideration the feedback from Mr. Williams and LATC Chair Marq Truscott, on the reasonableness of the fee to call oneself a retired architect and the benefits to architects and the public. Members expressed their concern is now more focused upon what constitutes a reasonable administrative fee for processing the request. Several members questioned why there should be a fee and recommended honorary bestowment of the title "retired architect" for the many years of service to the public. Vickie Mayer explained that those who apply for the retired license receive a wall certificate like the one issued when they receive their initial license from the Board.

Mr. Pearman asked how many apply for the retired architect license. Ms. Zuniga and Mr. Reinhardt replied that the Board receives approximately 85 retired license applications per year. Mr. Pearman subsequently asked whether the Board must, at this meeting, move to set a fee (or no fee) for the retired architect license. Ms. Zuniga respond that the Board could move to set the fee or at least come to a consensus of what they would like the fee to be and then staff could provide language at the December meeting for the Board's approval.

The Board asked for an estimate of the administrative costs for retiring a license. Ms. Zuniga responded that staff would research the associated costs and include the suggested fee in the regulatory language to be presented at the December meeting. Tara Welch, Board legal counsel, advised the members interested in not charging a fee that there is a statutory requirement to require an application and fee to retire a license. She added that it would be necessary to amend the law, if the Board decides it does not want to charge a fee for the retired license.

Ms. Campos asked whether the Board could direct a temporary reduction in the retired architect license fee. Ms. Zuniga suggested the Board not take this action now, but instead wait until the next meeting after the new fee is determined by the Board. Ms. Zuniga also said that in the interim an email notification would be sent to licensees advising them the fee would be considered for a reduction in December. Ms. Mayer said staff would contact any licensees who apply for a retired architect license and ask whether they want to wait until the Board has

determined the new fee or retire the license now. She added that licensees who choose to wait would have their respective application returned to them.

N. REGULATORY AND ENFORCEMENT COMMITTEE (REC)

1. Update On August 1, 2019 Rec Meeting

Mr. Pearman, Chair of the REC stated that the REC had a productive meeting with good contributions and thoroughly considered the Building Official Information Guide before recommending approval and made progress on some of the other Strategic Plan objectives assigned to the Committee.

Ms. Zuniga recounted that the SME recruitment process was discussed and will be addressed more at the December Board meeting, at which time we expect to have some contracts in place and beginning to do some work with those experts. She advised that one of the Committee members asked whether there was some correlation between architect license numbers and the number of complaints that were filed which will be discussed further at the next REC meeting. She said based on research, staff concluded that the increase in complaints among licensees with numbers in the 20,000-29,999 range was because those are the bulk of architects currently practicing.

2. Review And Possible Action On Update To Building Official Information Guide

Mr. Sganga described progress on the Building Official Information Guide, a publication that is distributed to all the building officials in the state, and which tries to answer the questions most frequently asked of the enforcement staff. He advised the last time the Guide was updated in 2000. He referred the members to the copy included in the meeting packet, which has been reviewed by the REC, and edited to incorporate their suggestions as well as those of the architect consultants and legal counsel. He added it is now ready for the Board's review and printing with the Board's approval.

Denise Campos asked how the Guide will be distributed once it is printed. Mr. Sganga stated that there would be some hard copies because a lot of building officials like those, and it will be on the Board's website as well.

Mr. Gutierrez made the following recommendations for edits to the Guide: In the introduction, second sentence, the phrase "methods of construction" is not something that the architect does. An architect does not have domain over it, and it should be "architect's scope of practice," which is defined later in this document. Ms. Kwan stated she understands the objection because architects are not supposed to be worried about "methods," but they do worry about materials.

Mr. Gutierrez then referred to the section about advertising of architectural services, item 2 ["How must architectural businesses advertise?"], which explains the parameters of advertising. It is unclear to him why that section was removed. Mr. Sganga stated that several changes were made in order to remove legal advice about owning a business entity. Ms. Zuniga confirmed that the information that was there before went beyond what is described in statute. Ms. Mayer pointed out that the previous language points to California Code of Regulations section 134, which was amended. Mr. Feng expressed that it is not our job to regulate how a business must advertise.

Mr. Feng asked what the main information is that building officials want to get from this Guide? Mr. Sganga replied that one thing they want to know is what the limitations of practice are for unlicensed individuals, engineers, surveyors, and interior designers. Ms. Kwan also pointed out some other good questions that she did not know the answer to, such as what happens when an architect quits or is discharged, may another architect sign the original licensee's plans or instruments.

Mr. Gutierrez asked about the section on Exempt Buildings and Structures, under the definition of "single family dwellings" it refers to a free-standing unattached dwelling of wood frame construction, but what about the dwelling that has a garage attached? He suggested taking out the word "attached." Ms. Kwan stated that she believes that "free standing" and "unattached" have the same meaning, so we don't need to use both.

Mr. Feng asked why we feel the need to instruct building officials about items within their expertise? Ms. Kwan pointed out that sometimes they need to have a handy authority to use when they are explaining things to their customers. Mr. Feng stated that we can regulate how architects practice, but not how other professions practice. Mr. Gutierrez stated that we can publish statements about where the Board stands on issues.

Mr. Pearman found the regulatory source of the language regarding freestanding and attached, so it cannot be changed. Ms. Zuniga stated that we can consider changing the regulation itself in the future.

Mr. Feng suggested that some of the material is too detailed such as "is a greenhouse constructed of metal framing and glass considered exempt?" Ms. Kwan pointed out that a typical greenhouse today is ordered from a manufacturer, then delivered and put on a foundation. She advised you do not need to stamp a greenhouse. Ms. Mayer reasoned that some of the information might be a little dated, but at the time there was a need for putting these questions in the Guide because the Enforcement Unit was asked these questions by building officials. Mr. Sganga stated that another reason to include such questions was to be instructive about the subtleties of certain provisions of the Architects Practice Act such as whether Business and Professions Code

(BPC) section 5537 applies to greenhouses and fruit stands. He felt the questions are important not only on their face, but to explain the meaning of the code sections. Mr. Feng said that the scope of the content is very broad and wanted to know who is responsible for the content. Ms. Zuniga answered that the architect consultants spent quite a lot of time with the revisions. Mr. Feng said that he is confident of the content if they have done exhaustive research and are confident of the details.

Ms. Kwan asked why Accessory Dwelling Units (ADUs) are not addressed in the Guide, since they are now relevant in every jurisdiction in the state. Ms. Zuniga confirmed that there was a recent statutory change. Mark Christian stated that there is pending legislation to make it more difficult for local jurisdictions to deny permit applications for ADUs. Ms. Zuniga stated that, if the publication is adopted, we can look at possible statutory changes to bring back to the Board at the end of the year.

 Pasqual Gutierrez made a motion to approve the Building Official Information Guide as updated with the one change to the Introduction on page 3 to replace "methods of construction" with "scope of practice."

The motion was seconded by Ebony Lewis.

Members Campos, Feng, Gutierrez, Lewis, Pearman, and President Kwan voted in favor of the motion. The motion passed 6-0.

- 3. Review And Possible Action On 2019-2021 Strategic Plan Objectives To:
 - a. Educate Architects Regarding Their Responsibilities Under Business And Professions Code (Bpc) Section 5535.1 (Responsible Control) And California Code Of Regulations (Ccr) Section 151 (Aiding And Abetting) To Protect Consumers From Unlicensed Practice

Mr. Sganga presented this item and described the Enforcement Unit's efforts to periodically publish an informational bulletin based on enforcement issues that arise. He advised the first one of these addresses the types of cases that the Unit deals with most often concerning responsible control. He directed the members to the article contained in the meeting packet concerning advertising by design-build companies that was reviewed as a response to mounting abuses and as a vehicle for discussion of future enforcement issues. He indicated the publication would be posted on the Board's website and distributed as a hard copy to design-build associations and building officials. He advised staff is asking the Board to authorize publication of this and subsequent enforcement bulletins with approval from the EO and legal counsel. Ms. Zuniga pointed out a typographical correction

that would be made to the draft bulletin, spelling out Business and Professions Code the first time that phrase is used.

Ms. Campos asked who the audience was for the informational bulletin. Mr. Sganga pointed out that staff was specifically asked to educate architects, and this is a difficult principle to understand, even for professional architects. He added since responsible control cannot be defined any better than it is in BPC section 5535.1, it is described by comparison of different case situations.

Ms. Kwan recounted that she has heard so many versions of what constitutes a legitimate architectural firm and hoped this will clarify it once and for all. Mr. Sganga agreed that this is one issue that raises a lot of questions and can be addressed in more detail in future bulletins, along with the professional limitations of design.

Mr. Gutierrez requested that the informational bulletin be included in the Board's Annual Practice Brief this year. Ms Zuniga said that it could.

Ms. Welch agreed that staff does not need approval to send out the bulletin, so no further Board action was requested.

b. Collaborate With Websites To Restrict Advertisements From Unlicensed Entities

Mr. Sganga presented this item and recounted staff's research regarding unlicensed advertising on the Internet. He advised in a six-month sample of the most frequently used platforms by people unlawfully advertising architectural services is summarized in the attached chart in the meeting packet. He discussed the potential remedies for the problem as dependent on the type of platform. He advised some of them are controlled by the user and some by data-harvesting robots that automatically categorize companies independent of their license status. He further explained the first group can be ordered by the Board to cease and desist, the second cannot as they do not have legal responsibility for the content. Ms. Welch added that the Board also does not have authority to regulate Internet websites, only licensees or individuals attempting to practice or advertise the practice of architecture.

Mr. Feng asked how the Enforcement Unit finds such violations. Mr. Sganga answered that many architects report violations when they see them. He further explained that whenever the Unit starts investigating one, they find five more.

Mr. Sganga asked the Board for some input about how important the issue is and whether a reasonable remedy would be to require architect license numbers on all advertising. He explained we could then educate consumers

how to distinguish between licensed and unlicensed architects. Msses. Kwan and Zuniga recognized that contractors are so required and the LATC is also moving forward with regulations that would require this.

Ms. Lewis stated that it would make her more confident in an architectural firm if their license number was included in advertising, but as a consumer she does not know that she would be looking for that.

Mr. Pearman asked how it would work if Yelp does not need the architect to advertise affirmatively. Mr. Sganga responded that the architects, as Yelp's customers, can apply more pressure than the Board to put the correct information on their site. Ms. Lewis asked if it is useful to tell people what to put on Yelp, when the real information about an architect is on their own website. Ms. Mayer pointed out that the proposed law or regulation would apply to all advertising, not specifically Yelp. Mr. Feng stated his concern that a firm would not have a license number to put on advertising and it might create unintended liability for somebody to use their license number for a firm. His other concern is that doctors do not have to put their license number on their business card. Ms. Zuniga pointed out that doctors do have to display their license in their office.

Ms. Kwan asked to hear from the AIA representative. Mr. Christian stated that he has not had that discussion with his members, so he cannot offer any insight. He can inquire with his leadership and membership and get back to the Board. Ms. Zuniga pointed out that this question had been raised at the REC meeting. Nicki Dennis Stephens (Executive Vice President, AIA California) was there representing AIA and expressed her surprise that this was not already a requirement.

Ms. Welch explained that, in the general Business and Professions Code, section 137 provides all boards and bureaus the authority to promulgate regulations to include license numbers in any advertising, solicitations or other presentments to the public. She advised all of the boards and bureaus have the authority to do this, potentially because it may have been a problem.

Ms. Mayer made the comment that a lot of consumers do not know that architects are licensed and this is one more way to get that information out. She opined it might also help direct consumers to us if they have a complaint.

Ms. Kwan observed that there is no urgent need to get such a program going at this point and it seems like there are a lot of issues to consider, and some research to be conducted. Mr. Pearman asked if the Board could work with social media platforms like Yelp to advertise that consumers should check the license status of services listed under the architects category. Ms.

Zuniga said we could ask them if they would require a license number, but some websites are pretty reluctant.

O. REVIEW OF FUTURE BOARD MEETING DATES

Ms. Zuniga reminded members that the next Board meeting date is scheduled for December 11, 2019 in Los Angeles.

- P. CLOSED SESSION PURSUANT TO GOVERNMENT CODE (GC) SECTIONS 11126 (A)(1), (C)(3), AND (F)(4), AND 11126.1, THE BOARD WILL MEET IN CLOSED SESSION TO
 - 1. Review And Possible Action On February 27, 2019 Closed Session Minutes
 - 2. Deliberate And Vote On Disciplinary Matters
 - 3. Perform Annual Evaluation Of Its Executive Officer
 - 4. Adjourn Closed Session

Q. RECONVENE OPEN SESSION

The Board reconvened in Open Session.

R. ADJOURNMENT

The meeting adjourned at 2:58 p.m.

^{*}Agenda items for this meeting were taken out of order to accommodate presenters of items. The order of business conducted herein follows the transaction of business.