

Architecture Columns

Newsletter of the
North Carolina
Board of Architecture
December 2010



President's Message By Barbara A. Field, FAIA

First, congratulations to AIA North Carolina, President Mike Cox and Executive Director Dave Crawford on breaking ground for their new headquarters building and design center located in our Capital City of Raleigh. "The building has been designed to meet LEED (Leadership in Energy and Environmental Design) standards at the highest Platinum level, and AIA Committee On The Environment (COTE) goals, which include regional appropriateness and the use of regionally available materials, land use and site ecology, sustainable materials and methods of construction, reduced water usage, and increased energy efficiency." This is an accomplishment to be proud of.

As we enter the New Year, I would like to take the opportunity to remind architects of their professional duty to protect the health, safety and welfare of the public. As you may recall, in the last Board newsletter I mentioned that there has been, within the profession, an increase in allegations of unethical practices by architects. While this may be a result of the lean times in the construction industry, most especially for architects, a licensed professional must adhere to the highest ethical standards and ensure the client and public's best interest.

Board Rule 21 NCAC 02.0209 (9) states that an architect shall not knowingly cooperate in a violation of any provision of § 143-64.31. This statute is commonly known as the "Mini-Brooks Act" or "Fee Bidding". In the rules and laws section of the Board web site you will find a copy of this statute. The law was enacted to help ensure that the public's best interest is served by having those in responsible charge of the public funds make decisions based on the best qualified architectural and/or engineering firms and not based on the lowest price. An architect should be fully aware of the provisions of the Mini-Brooks act and be able to adequately react when faced with a possible ethical dilemma: responding to a request for a price an architect could be in violation of Board rules vs. not responding and as a result, losing the opportunity for work.

Be informed – here are a few basic pieces of information that may assist you in responding to RFQs from public entities:

Responding with any sort of information that would allow a government/public agency to ascertain a fee for a project would be a violation. This may include 'unit pricing' or responding to questions about fees during the interview process.

While agencies may exempt their project from the act, architects must verify that the exemption has been issued prior to responding. Exemptions must be made on a project by project basis, in writing and documented at a public meeting. An architect may be able to verify that a project was properly exempted by contacting a City or Town manager or legal counsel for the public entity. The Board of Architecture may also be a resource for you.

Know that if you are asked to provide two envelopes – one containing your price – you may be in violation of the law. Even in a sealed envelope, you may not disclose pricing until the selection has been made and negotiations begin.

For the entire board, we wish you a safe, peaceful and happy holiday season and all the best in the New Year.

Board Members

Barbara Field, FAIA	President
Cheryl C. Walker, FAIA	Vice President
Thomas P. Turner, Jr. FAIA	Secretary
Kiki Teague, Public Member	Treasurer
Charles H. Boney Jr, FAIA	Member

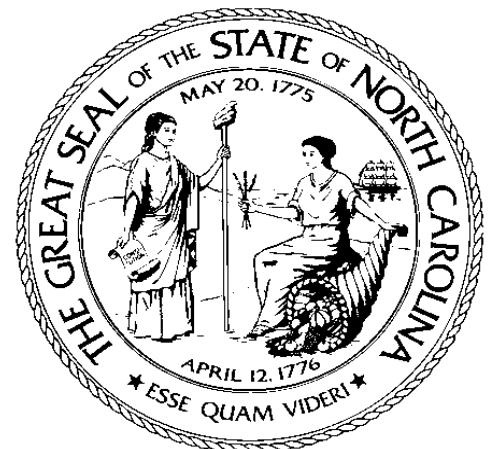
Board Staff

Cathe M. Evans	Executive Director
Julie L. Piatek	Administrative Services Coordinator
Tyler Barrick	Firm/CE Compliance

2011 Meeting Dates

January 7, 2011
February 11, 2011
April 8, 2011
May 13, 2011
July 8, 2011

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from the executive director's desk



A reminder for all owners of registered firm– Firm renewal forms for 2011 were mailed to all currently licensed firms. If you do not complete and return your firm renewal fee by December 31, 2010, the FIRM license will expire.

All architects who plan to renew their individual license to practice architecture must complete 12 contact hours of CONTINUING EDUCATION by December 31, 2010. It is your responsibility as a licensed professional to ensure compliance with the Board rules governing CONTINUING EDUCATION.

Questions related to CE or FIRM compliance should be directed to Tyler Barrick at tyler@ncbarch.org

Best Wishes for a Happy New Year!
Cathe M. Evans, Executive Director

board happenings

On November 1 and December 1, 2010 several rule changes went in to effect. Some changes were substantial and will affect your practice, others were merely ‘housekeeping’ items that either clarified or updated a rule to be relevant to current practice or to accommodate other North Carolina General Statute Changes. You are responsible for being aware of and understanding these changes. The full rules and laws of the Board are found on the Board web site www.ncbarch.org Questions should be sent to ncba@ncbarch.org

21 NCAC 02 .0108 Fees– housekeeping.

21 NCAC 02 .0109 Definitions – new rule that contains definitions of terms used throughout other rules.

21 NCAC 02 .0201 Architect, Firm or Partnership Contact Information as on File with the Board – outlines architect’s responsibility to notify the Board, within 30 days, of changes to their contact information.

21 NCAC 02 .0204 Forms of Practice – clarifies the description of the types of entities through which architectural services may be offered.

21 NCAC 02 .0205 Name of Firm – clarifies what constitutes a ‘deceptive’ or misleading firm name.

21 NCAC 02 .0206 Requirement for and Use of Professional Seal – clarifies the use of an individual and firm seal. It outlines where and when a seal should be used.

21 NCAC 02 .0208 Dishonest Conduct – housekeeping.

21 NCAC 02 .0209 Unprofessional Conduct – specifically, the ‘branch office’ part of this rule was clarified.

21 NCAC 02 .0213 Individual Licenses – housekeeping, adds stipulations to waive late fees for individuals services in the armed forces.

21 NCAC 02 .0214 Corporate Practice of Architecture – housekeeping.

21 NCAC 02 .0215 Out of State Firms – (previously known as “Foreign Corporations), housekeeping.

21 NCAC 02 .0216 and .0219 REPEALED

21 NCAC 02 .0301 Application - housekeeping.

21 NCAC 02 .0302 Examination – updated to allow for early entry to the Architectural Registration Exam, updated the retention of credit for passing scores, allows for use of ‘Intern Architect’ or ‘Architectural Intern’ with certain stipulations.

21 NCAC 02 .0303 Licensure by Reciprocity – housekeeping.

21 NCAC 02 .0701 Continuances, Failure to Appear – housekeeping.

21 NCAC 02 0703 Subpoenas – housekeeping.

NCARB news

NCARB along with Prometric released the Number and Percent Passing Report for the third quarter of 2010. The first group contains statistics for North Carolina. The middle group contains statistics for all U.S. NCARB jurisdictions. The final group contains statistics for the Southern Region - {AL, AR, FL, GA, LA, MS, NC, PR, SC, TN, TX, VI}.

NC	# Cand	# Pass	% Pass
BD	26	16	62
BS	19	17	89
CDS	24	19	79
PPP	18	15	83
SD	19	15	79
SPD	12	10	83
SS	18	11	61
All States	# Cand	# Pass	% Pass
BD	1032	652	63
BS	997	631	63
CDS	1252	816	65
PPP	1253	777	62
SD	1162	867	75
SPD	1000	766	77
SS	1035	723	70
So. Reg.	# Cand	# Pass	% Pass
BD	239	150	63
BS	220	127	58
CDS	283	194	69
PPP	254	162	64
SD	263	194	74
SPD	228	172	75
SS	251	159	63

The ARE Five-Year Rolling Clock: Will you Roll in 2011?

January 2011 marks the fifth anniversary of the NCARB ARE Five Year Rolling Clock. It also marks the beginning of division scores expiring due to the rule. If you have questions specific to the status of your score with North Carolina, send inquiries to ncba@ncbarch.org
What is the NCARB ARE Five-Year Rolling Clock?

The NCARB ARE Five-Year Rolling Clock is a rule that says that all divisions of the Architect Registration Examination® (ARE®) must be passed within five years. Note the NC Board of Architecture rule 21 NCAC 02 .0301.

When does my Rolling Clock start?

Your Rolling Clock starts on the day you sat for and passed your first division—not the day you received your score. Failed divisions do not start your Rolling Clock.

When does my current Rolling Clock end?

Your current Rolling Clock end date is reached five years after the day you sat for and passed your first division.

What happens if I do not complete all currently required divisions of the ARE within five years?

When your Rolling Clock "rolls," the exam score that originally started your clock will expire and you are required to retake the division or any divisions now considered equivalent. Assuming you have other passing scores, your end date will continue to roll until you have completed all currently required divisions of the exam within five years. Your next Rolling Clock end date will be established by the next sequential division that you passed.

What happens to divisions I passed prior to 1 January 2006?

When the Rolling Clock went into effect on 1 January 2006, all divisions passed prior to the inception date were originally exempt. Due to a resolution passed by the NCARB Member Boards in June 2009 and NC Board of Architecture rules that went in to effect on November 1, 2010, those divisions will now expire on 1 July 2014.

North Carolina Rule Relevant to Exam Scores

21 NCAC 02 .0302 EXAMINATION

Section (b) Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period of time established by the exam provider, NCARB.
- (2) As of July 1, 2011, passing scores received on any part of the ARE prior to July 1, 1996 are invalid.
- (3) As of July 1, 2014, passing scores received on any part of the ARE after July 1, 1996 and prior to July 1, 2006 are invalid.

enforcement report

Following is the Enforcement Report for the period July 17, 2010 through December 2010. The Board is not bound by precedence in matters of disciplinary action. It is the prerogative of the Board to be conservative in its review of cases and to enforce the rules and laws with sanctions and civil penalties as allowed by law. You may request a copy of the entire order by sending an email to cathe@ncbarch.org be sure to include the case number with your request.

Consent Judgment

Case 869 – Paul Stafford

A Consent Judgment for Injunctive Relief was granted in Wake County Superior Court by Judge Gessner to the Board of Architecture in the matter of Paul Stafford. A Final Agency Decision was issued in November 2009 revoking Stafford's license to practice architecture. Despite the Final Agency Decision it was determined that Stafford continued to offer and render architectural services. Stafford placed the seal of another architect on the project plans and made himself the agent for the project. Stafford, via Consent Judgment, was permanently enjoined from the practice of architecture. Any violation of this Judgment shall be deemed contempt of court and shall be punishable by both the civil and criminal contempt powers of the Court upon proper showing. A copy of the entire order may be obtained from Cathe Evans, Executive Director, cathe@ncbarch.org

Cease and Desist Order

A cease and desist order for the non-licensed practice of architecture was issued to James Brennan of Architecturally Speaking, LLC.

Letters of Caution

The Board closed one with a letter of caution issued to architects licensed in North Carolina. A letter of caution is a non-disciplinary, non-published action.

Dismissed/Unfounded

The Board of architecture dismissed three cases as unfounded.

Close without Prejudice

The Board closed two cases without prejudice.

Letters of Warning

The Board issued letters of warning to the following:

Case 860- Bill Caskey of 3e Design Studios, Inc. and Envisioneering Faith, Inc.

Case 880 – Richard Banks, III of RBanks Design

Case 883 – Deanna L. Howe of Howe Design Services

Consent Orders

The Board closed two cases with Consent Orders, they are as follows:

Case 884 - ESINC, Inc, Respondent Firm.

1. Rebecca Cunningham, President of respondent firm is licensed as an architect by this Board and is subject to Chapter 83A of the General Statutes of North Carolina and Title 21, Chapter 2 of the North Carolina Administrative Code.
 2. Respondent firm ESINC, Inc. is alleged to have offered and rendered services for projects in North Carolina.
 3. ESINC, Inc. has never been registered with this Board to offer and render architectural services in North Carolina. Respondent firm officers via Counsel, in September 2009 submitted an Application for Certification to Secretary of State in order to begin the firm licensure process. Subsequently, the firm filed for and received a Certificate of Authority to do business in this State from the North Carolina Secretary of State. Respondent firm's counsel failed to notify the Board of completion of the process with the Secretary of State and as such the firm did not obtain a license to practice architecture. Neither respondent nor other owners of the firm took responsibility to ensure firm licensure prior to marketing architectural services.
 4. Cunningham contends that during the time the firm was operating she did not personally offer and render services through this firm and was not active in the firm despite being an officer, shareholder and director.
 5. Respondent firm's action in failing to properly register the firm with this Board is a violation of G.S. 83A-8, G.S. 83A-12 and 21 N.C.A.C. 02 .0214. Cunningham contends that neither she nor any principle or employee in the firm intentionally violated North Carolina's Architecture Rules and Laws. Nevertheless, in lieu of further proceedings, ESINC, Inc. has agreed to enter in to this Consent Order.
 6. Respondent firm wishes to resolve this matter by Consent and agrees that the Board staff and counsel may discuss this Order with the Board ex parte whether or not the Board accepts this Order as written.
- agree to the following: CONTINUED on NEXT PAGE

enforcement report continued

BASED on the foregoing and in lieu of further proceedings under 21 N.C.A.C. Chapter 2, Section .0600, the Respondent firm shall, within thirty (30) days from the date this Order is approved by the Board, complete the process to properly register ESINC, Inc. Respondent firm shall pay a civil penalty in the amount of \$250.00 for practicing architecture through a firm not registered to do so in North Carolina.

Respondent firm shall pay a previously agreed upon amount of the Board's administrative costs incurred as a result of this matter.

Respondent firm shall pay firm renewal and late fees for 2010 totaling \$200.00

Respondent firm shall adhere to a previously agreed upon payment schedule.

Case 891

David P. Bryson

Bryson Design, Inc.

Respondent Bryson was licensed as an architect by this Board until July 1, 2008 and is subject to Chapter 83A of the General Statutes of North Carolina and Title 21, Chapter 2 of the North Carolina Administrative Code.

Respondent firm Bryson Design, Inc. held a firm license to practice architecture until December 31, 2008.

Respondent failed to renew his license to practice architecture for the license year 2008-2009.

Respondent, as President of Respondent Firm, failed to renew the firm license for the year 2009.

Respondent's license to practice architecture was revoked effective July 1, 2008 for failure to renew, as required by G.S. 83A-11.

Respondent firm license to practice architecture was revoked effective December 31, 2008 as set forth in 21 NCAC 02 .0213.

Respondent continued to offer and render architectural services as an individual through Respondent firm.

Respondent's actions in offering and rendering architectural services while not properly licensed by this Board are violations of G.S. 83A-12 and 21 NCAC 02.

BASED on the foregoing and in lieu of further proceedings under 21 NCAC 02 .0600, the Board and Respondent agree to the following:

Respondent is reprimanded.

Respondent shall pay a civil penalty in the amount of \$500.00 for offering and rendering architectural services without a license to do so.

Respondent shall pay individual renewal and late fees in the amount of \$150.00 for 2008-2009, 2009-2010 for a total of \$300.00

Respondent firm shall pay firm renewal and late fees in the amount of \$200.00 for 2009, 2010 for a total of \$400.00.

Respondent individual license will be reinstated as of the date of this order and will expire on July 1, 2011.

Respondent firm license will be reinstated as of the date of this order and will expire on December 31, 2010.

Respondent shall reimburse the Board administrative costs incurred in this matter in the amount of \$100.00.

licensing statistics

North Carolina Board of Architecture

License Statistics

As of December 17, 2010

Active Individual licenses (exp 6/30/11): 5650

Breakdown:

NC - 2388

Out-of-State - 3262

Active firm licenses: 1524

Breakdown:

NC - 680

Out-of-State - 844

Candidates Eligible to take the ARE - 440

(Note that not all candidates are actively taking the exam.)

