

OHIO ARCHITECT



Newsletter of the Ohio Board of Examiners of Architects

Fall 1998



The View From Here

An information packet including a current copy of the Laws and Regulations governing the practice of architecture in Ohio is being distributed to all architects currently licensed to practice in this state with this Newsletter. Of particular note are two new rules you need to be aware of. The first, 4703-3-09, requires written contracts between architects and their clients. The Board receives far too many complaints generated by misunderstandings about who is providing what and for how much and when. There are some items that are required to be a part of the contract. Also enclosed in this packet is a paper containing other recommendations concerning contracts. The other rule, 4703-3-10, tracks the illicit use of designs and documents created by another architect. It is hoped that this will clarify the statutory laws concerning authorship of documents. You will note that a large part of this issue and accompanying information is devoted to the "seal law" and the use of the architect's seal. This is important information that can affect your license. Please read it carefully and, if you have any questions, contact the Board office.

INSIDE:

- New Registrants
- Enforcement activities
- Application deadline
- Getting around the Seal Law
- Reciprocal registration
- Meeting dates/locations

Does Ohio Have A Seal Law?

With the enactment of the "seal law" in November 1995, it was thought that Ohio had finally taken the necessary and long awaited step to unify the laws of the state and to bring the state up to the level of most states in protecting the public health, safety and welfare. Unfortunately the Board has found there not to be any uniformity to what is being accepted as the architect's seal prescribed by law which is an embossed seal over an ink signature. Some of the building departments are requiring seals while others have told us that they would like to enforce the seal requirements but cannot do so with the authorization of the State Board of Building Standards. The building departments have been very helpful in letting this Board know of violations even though they could not reject the submissions for lack of a proper seal.

To resolve this dilemma, this Board sent a letter to the Board of Building Standards in March requesting they send a directive to the building departments throughout the state telling them what constitutes an architect's seal. In their June reply, the Board was informed that the Board of Building Standards would not grant this request. Subsequent discussions with the Board of Building Standards and its staff have failed to change that position.

This Board will make a concerted effort to enforce the laws concerning the seal and will work with the Building Departments throughout the state in doing so. Information is included with this mailing about the proper method of sealing documents by architects. Please read these carefully and if you have any questions, don't hesitate to contact the Board office.

NEW REGISTRANTS

Since the last publication of the Newsletter, the following persons have been licensed by examination. Each of these new architects passed all or part of the examination by computer. Anyone interested in seeing the tutorial for the graphic parts of the exam can download it directly from NCARB's website at www.ncarb.org.

Cert. No. 11886 Sherri Dempsey Scott	Cert. No. 11938 Keith A. Gerchak	Cert. No. 11989 Angel Alvarez	Cert. No. 12052 Gary Edward Henry, Jr.
Cert. No. 11887 Guy E. Humphrey	Cert. No. 11947 Philip M. Claggett	Cert. No. 11990 Kofi Ansu-Gyeabour	Cert. No. 12053 Robert Edwin Humphreys
Cert. No. 11898 Brian G. Fabo	Cert. No. 11950 Robert J. Powell	Cert. No. 11991 John L. Breidenbach	Cert. No. 12054 Travis P. Mayer
Cert. No. 11904 Amy Carpenter	Cert. No. 11951 William L. Watson	Cert. No. 11998 H. Mitchell Goldberg	Cert. No. 12055 Mark A. Nasset
Cert. No. 11909 Richard Gallagher	Cert. No. 11964 Eric Shaver	Cert. No. 11999 Michael W. Pipta	Cert. No. 12056 Terence Thomas Oden
Cert. No. 11910 Scott D. Kobylski	Cert. No. 11981 Kevin Brown	Cert. No. 12035 Pavan Mehra	Cert. No. 12057 Tatyana G. Prokofyeva
Cert. No. 11911 Thomas E. Miller	Cert. No. 11982 James F. Geers	Cert. No. 12050 Andre C. Ballard, Sr.	Cert. No. 12058 Tulu Toros
Cert. No. 11933 Steven A. Ginter	Cert. No. 11983 Theodore J. Scripps	Cert. No. 12051 Eric Dean Droll	Cert. No. 12059 Raymond L. Warner

HOW CAN I GET AROUND THE "SEAL LAW?"

This question has been asked not once or twice since the "seal" law became effective in November 1995. In fact, it has been raised dozens of times. To our dismay, the question has been asked not by contractors, draftsmen, etc., but by architects. One architect said he couldn't find a good electrical engineer in his area but a local electrical contractor did good work and thought it would be all right if he hired him to do the engineering as long as he signed and sealed it. Another wanted to seal the work of a designer whom he said did very good work. Apparently it has become common practice for some architects to make a business out of sealing documents for

out-of-state architects.

The Board is not here to tell anyone how to get around the law, the Board is here to advise you on what the law requires of you as an architect and to take disciplinary action against those who violate the law. Plan stamping is viewed as one of the most flagrant and dangerous ways a professional can violate the law. If you have any questions about the use of your seal, please call the Board office. If you become aware of anyone sealing documents they did not prepare or were not prepared under their direct supervision, please report it.

ENFORCEMENT ACTIVITIES

The Board has taken action concerning the following individuals and firms. Although every effort is made to ensure that the information is correct, before making any specific decision based upon this information, you should check with the Board office to ensure accuracy. The listing may not reflect a change occurring near or following the publication date. Further, the listing does not reflect pending appeals for hearings or rehearings.

File No. 97-03

Daniel R. Traurig
Cincinnati, Ohio

Mr. Traurig, who is not an architect, allegedly used the word, "Architect" on his title block for residential drawings submitted for permit in the Cincinnati, Ohio area. Mr. Traurig entered into a *settlement agreement* whereby he will cease and desist from such practices.

File No. 97-10

Robert W. Dziech
RWD Associates
Cincinnati, Ohio

Alleged to have engaged in the unlicensed practice of architecture by providing mechanical and electrical designs for a commercial building in the Cincinnati, Ohio area. Also alleged to have placed a sticky back copy of an architect's seal and signature on such documents without the architect's knowledge or consent. Entered into a *settlement agreement* whereby he will cease and desist from such practices.

File No. 97-18

Charles D. Novak, Cert. No. 5346
Rosemount, Minnesota

After an administrative hearing, the Board found Mr. Novak to be in violation of Ohio laws for "failing to comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction", namely the state of Nevada. The Board voted to *suspend* Mr. Novak's certificate to practice architecture for a period of six (6) months, then following the suspension, Mr.

Novak will serve a six (6) month *probationary* period.

File No. 97-27

John R. Kingston, Cert. No. 5652

Lexington, Kentucky

After an administrative hearing, the Board found Mr. Kingston to be in violation of Ohio laws for "failing to comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction", namely the state of Tennessee. The Board voted to *reprimand* Mr. Kingston for his actions.

File No. 97-34

Laura L. Andujar, Cert. No. 11340

Robertson Design Services

Newark, Ohio

Alleged to have advertised the provision of architectural services through a firm using an improper firm name, which was not licensed to provide architectural services. Entered into a *settlement agreement* whereby she will cease and desist from such practices and change the name of the firm to comply with the law.

File No. 98-03

James C. Thomson, Cert. No. 8354

Wichita, Kansas

Mr. Thomson entered into a *settlement agreement* for allegedly "failing to comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction", namely the state of North Carolina.

File No. 98-08

Edward J. Rypinski
Euclid, Ohio

Alleged to have entered into the unlicensed practice of architecture by designing interior tenant renovations to a commercial office building in the Chardon, Ohio area. Entered into a *settlement agreement* whereby he will cease and desist from such practices.

File No. 98-17

Jerome Kerner, Cert. No. 11571

South Salem, New York

Mr. Kerner entered into a *settlement agreement* for allegedly "failing to comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction", namely the state of South Carolina.

File No. 98-18

Samuel E. Rodell, Cert. No. 11821

Spokane, Washington

Mr. Rodell entered into a *settlement agreement* for allegedly "failing to comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction", namely the state of South Carolina.

File No. 98-20

David L. Wallace, Cert. No. 8599

Memphis, Tennessee

Mr. Wallace entered into a *settlement agreement* for allegedly "failing to comply with the registration laws and regulations governing his her professional practice in any United States jurisdiction", namely the State of New Mexico.

Disciplinary Action Reporting

Whenever a state or other NCARB jurisdiction takes legal action against an architect, information about the matter is forwarded to NCARB and is included in a national database. The database contains only the name of the architect and the state in which the action was taken. This information is available to all state boards regulating the practice of architecture. If further information is required by a board, they must contact the state where the action was taken. Most state laws provide that if an architect violates the laws of any jurisdiction, it is a violation in any state in which the architect is licensed and can take disciplinary action based upon the fact that they violated the law in another jurisdiction, not on the original violation itself.

There have been numerous instances where an architect has entered into a settlement agreement to resolve charges against their license thinking that to be the quickest way to get the matter behind them. They soon find out that their license might be in jeopardy in every state in which they are registered. We are often told that although there were mitigating circumstances they simply didn't feel the need to press the issue since a settlement agreement so easily resolved the matter. One should be very careful in entering into any kind of settlement where they are not satisfied it represents a fair and clear representation and settlement of the issue.

Registration by Reciprocity

Anyone applying for registration in Ohio by reciprocity is required by statute to have NCARB Certification. To apply, simply call NCARB at (202)783-6500 and tell them that you would like to apply for registration in the state of Ohio. You will be sent the Ohio application and information along with the authorization for NCARB to transmit your Council Record to Ohio. When you have completed everything, send it back to NCARB with the appropriate fees and they will forward it on to us with your Record and fee.

Applications received for reciprocal registration are promptly expedited by the Board staff. The normal turn around time is twenty four hours or less. It is not uncommon for registration to be issued on the day the application is received. The only time when that does not

happen is when one of the two people in our office who are involved in that process are out of the office or when additional information such as verification of your current registration, either in your base state or state of residency, was not available when the application was forwarded to us by the NCARB.

We often receive calls from architects who are very impatient about receiving their registration because they have a project ready to go to the building department and need to seal the documents. In Ohio, as in most states, it is unlawful to even sign a contract for services prior to obtaining licensure. If you haven't followed those requirements, you risk not being able to obtain your license at all.

APPLICATION DEADLINE REMINDER

Anyone intending to apply for registration under the education or experience syllabus which was in effect prior to January 1, 1994 must make application before January 1, 2000. If you are intending to qualify your education through experience or a combination of education and experience and/or completed the experience requirement prior to IDP, this deadline applies to you. If you have any question about whether or not you are affected by this deadline, please contact the Board office. Since this newsletter is received only by architects and official candidates, please share this information with anyone you know that might be affected by the deadline. Thanks!

Meetings of the Board

Meetings of the Board of Examiners of Architects are public meetings and everyone is welcome to attend. These meetings are held at various locations around the state to encourage attendance. It would be great to have a representative of each AIA and ARA Chapter attend so they could keep their constituents informed and up to date on issues the Board is working with. A strong liaison promotes better understanding and, ultimately, reduces many of the problems the Board wrestles with on a regular basis. A meeting schedule for the next six months can be found on page 6. Unless otherwise noted, meetings begin at 9:00 AM. An agenda is published ten days before every meeting and is available upon request.

NCARB News

Record Transmittals

The National Council of Architectural Registration Boards has been undergoing some major changes in its record transmittal department. New computers and a new system for handling requests for transmitting Council Records for reciprocal registration promise to make the turn around time at the Council office much faster and more accurate. This is good news for all architects anticipating work in other states.

Exam Tutorials

The tutorial for the graphic divisions of the ARE can now be downloaded directly from NCARB's website. This program includes sample vignettes for all of the graphic divisions of the exam allowing candidates to practice solving problems and to become familiar with the interface. You can download this free tutorial at www.ncarb.org.

CHANGE OF ADDRESS

With the biennial renewal of licenses it is more difficult to keep track of all our registrants and candidates. We often receive calls wondering why a renewal application or newsletter wasn't received and we find the person has moved and didn't let us know. We're pretty good but we're not psychic. To insure receipt of mailings and the accuracy of our roster, please be sure to notify the Board immediately of any address change. Send all changes to the following address or fax to 614/644-9048:

State Board of Examiners of Architects
77 S. High Street, 16th Floor
Columbus, OH 43266-0303

NAME: _____ REG. NO. _____

OLD ADDRESS: _____

NEW ADDRESS: _____

Is this your home? or business address?

PHONE: _____ FAX: _____

SIGNATURE _____

1998/1999 Meeting/Event Schedule

October 9	Board Meeting Youngstown	February 26	Board Meeting Location to be announced
November 20	Board Meeting Deer Creek State Park	March 19	Board Meeting/Hearings Columbus
December 11	Board Meeting/Hearings Columbus	March 25-28	NCARB Regional Meeting Indianapolis, IN
January 22	Board Meeting Columbus		



State of Ohio
Board of Examiners of Architects
77 S. High Street, 16th Floor
Columbus, OH 43266-0303
Tel:614/466-2316 Fax:614/644-9048
e-mail: cmharch@aol.com
website: www.state.oh.us/arc/

Board Members

Merle M. Myers, President
Medina
Joseph E. Vetter, Vice President
Toledo
Richard H. Kaplan, Secretary
Cleveland
John W. Spencer, Ass't. Secretary
Columbus
Harold Rasmussen, Past President
Akron

Staff

William N. Wilcox, Exec. Director
Kimberly Whisman Gall, Adm. Asst.
Chad B. Holland, Investigator
Cheryl L. Thaxton, Receptionist

Straight Talk from the Ohio Board of Examiners of Architects

1. Plan Stamping

Definitions:

- a. Plan Stamping: is demonstrated when an architect places his or her registration seal on any drawings, designs and/or specifications that he or she did not author or did not have *direct professional knowledge* and *direct supervisory control*.
- b. Direct Professional Knowledge: is best demonstrated when an architect has been *personally retained* by an owner, registered design professional or a design/build contractor and is *personally aware* of a project's scope, needs, parameters, limitations and special requirements. The architect is required to have a *written contract* for all professional architectural services to be rendered.
- c. Direct Supervisory Control: is best demonstrated when an architect has *direct professional knowledge*, a *written contract*, and is the *actual author*, or has been in *responsible charge* of a design from its very inception to completion. In many instances, subordinate employees of an architect may do the actual drafting, however, the architect must maintain responsible charge of the design and total control of all design decisions.

Investigative Practice:

- a. Identification of potential violations: There are several ways that "plan stamping" is discovered or detected:
 - Code officials and building department staff will notify the Board if something seems strange, or if they believe that an architect may not have direct professional knowledge and direct supervisory control of a set of drawings.
 - The Board investigator makes routine, random audits of plans submitted to building departments around the state.
 - The investigator is looking for suspicious or poorly prepared drawings that appear to lack the basic skills of an architect.
 - The investigator looks closely at drawings which do not clearly identify the architect as the designer, for example, documents without an architect's title block.
 - Fellow architects will notify the Board if they are aware that an architect may be "plan stamping".
- b. Hearings/Disciplinary Action: Any architect charged with "plan stamping" will have the opportunity to request an administrative hearing before the Board to show cause why discipline should not be imposed. Architects found to have stamped drawings which they do not have direct professional knowledge and direct supervisory control of, could face a *written reprimand*, *suspension* or *revocation* of their license. The Board has used all three forms of discipline in the past.

2. Common Questions & Answers:

- Q. Can an architect make a complete, comprehensive review of drawings designed by an unlicensed person and seal them if he agrees to take responsibility?
- A. NO. An architect must have a contract for the project, possess direct professional knowledge and direct supervisory control before ever applying his or her seal.
- Q. Can an architect work with, or subcontract a draftsman to provide a drafting service?
- A. YES, provided the architect has a contract for the project, and has direct professional knowledge and direct supervisory control of the designs from inception to completion. The architect's name, address and phone number should be prominently displayed on the documents.
- Q. Can an architect seal drawings that have been authored by another architect?
- A. YES, provided that the sealing architect has a contract for the project, has obtained written permission from the originating architect for the use of the drawings, and makes a complete, comprehensive review. The drawings should be on the sealing architect's titleblock.
- Q. Should an architect seal manufacturer's cut sheets or performance specs?
- A. NO. As a general rule, if you did not design, create or author it, DO NOT SEAL IT!
- Q. Can an architect be engaged to only design hvac, electrical, plumbing or mechanical drawings?
- A. NO. If an architect is only hired to design hvac, electrical, plumbing or mechanical drawings, he or she is in violation of practicing "engineering". However, an architect is permitted to practice engineering that may be incident to the practice of architecture. In other words, an architect may provide engineering drawings, so long as the architect is also providing the architectural drawings of the same project.
- Q. Is an architect required to use written contracts when providing architectural services?
- A. YES. As of September 1, 1998, all architects are required to use written contracts when providing architectural services to clients.
- Q. What should an architect do if he or she has questions about "plan stamping" or any of the laws and rules governing the practice architecture in Ohio?
- A. Please call the Board of Examiners of Architects, (614) 466-2316. Do not rely on other sources for advice or information, it may be wrong or out dated.

3. Architect Sealing Procedures

All architects are required to seal their documents in the following manner:

- a. All drawings, documents and specifications submitted for official filing with building permit agencies shall apply the *embossing seal impression*, over an *ink signature* to the title or first sheet of bound sets of drawings and specifications. All loose sheets or documents shall also bear the embossing seal impression, over an in ink signature.
- b. The *rubber stamp* or *reproducible facsimile* version of the seal shall then be applied on all pages or tracings of the bound set of drawings to provide a legible reproduction of the registrant's seal.

4. Disciplinary Guidelines

The Ohio Board of Examiners of Architects recognizes that recommended penalties, sanctions and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations.

* The Board reserves the right to impose such sanctions as it deems appropriate depending upon the circumstances of each individual case. All architects will be provided the opportunity for an administrative hearing.

FACTORS TO BE CONSIDERED in determining whether revocation, suspension, reprimand or probation is to be imposed in a given case. Factors such as the following will be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration or corrective action to prevent recurrence.

VIOLATIONS	RECOMMENDATIONS
A. In case it is shown that the certificate of qualification was obtained by fraud.	<p>MIN: Revocation</p> <p>MAX: Revocation</p>
B. In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or deceit in his or her professional practice, or has been convicted of a felony by a court of justice.	<p>MIN: Letter of Reprimand</p> <p>AVG: 6 Month Suspension & 6 Month Probation</p> <p>MAX: Revocation</p>
C. In case the holder has been found guilty by the board of gross negligence, incompetence, or misconduct in the performance of his services as an architect or in the practice of architecture.	<p>MIN: Letter of Reprimand</p> <p>AVG: 6 Month Suspension & 6 Month Probation</p> <p>MAX: Revocation</p>
D. In case the holder of the certificate has been found guilty by the board of signing plans for the construction of a building as a "registered architect" where he or she is not the actual architect of such and where he or she is without prior written consent of the architect originating the design or other documents used in the plans.	<p>MIN: Letter of Reprimand</p> <p>AVG: 6 Month Suspension & 6 Month Probation</p> <p>MAX: Revocation</p>
E. In case the holder of the certificate has been found guilty by the board of aiding and abetting another person or persons not properly registered as required by sections 4703.01 to 4703.19 of the Revised Code, in the performance of activities that in any manner or extent constitute the practice of architecture.	<p>MIN: Letter of Reprimand</p> <p>AVG: 6 Month Suspension & 6 Month Probation</p> <p>MAX: Revocation</p>

VIOLATIONS**RECOMMENDATIONS**

F. In case the holder of the certificate has been found to have practiced architecture during a period when his or her certificate of qualification had lapsed.	MIN: Letter of Reprimand AVG: Probation (to be determined) MAX: Deny renewal of certificate of qualification
G. In case the holder of the certificate has been found to have practiced architecture without a certificate of authorization for the firm (if not otherwise exempt).	MIN: Letter of Reprimand AVG: Probation (to be determined) MAX: Reject application of certificate of authorization. Suspend certificate of qualification.
H. In case the holder of the certificate has been found to have knowingly violated state or federal criminal laws, or laws and regulations governing his or her professional practice in any United States jurisdiction.	MIN: Letter of Reprimand AVG: 6 Month Suspension, 6 Month Probation MAX: Revocation
I. In case the holder of the certificate has been found to have engaged in conduct which would constitute a “conflict of interest” during the offering or providing of his or her professional architectural services.	MIN: Letter of Reprimand AVG: 6 Month Suspension & 6 Month Probation MAX: Revocation
J. In case the holder of the certificate has been found to have not properly embossed, sealed and signed his or her drawings, designs and specifications as is consistent with Chapter 4703 of the Administrative Code.	MIN: Settlement Agreement AVG: Letter of Reprimand MAX: Suspension
K. In case the holder of the certificate has been found to have signed or sealed drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control.	MIN: Letter of Reprimand AVG: 6 Month Suspension & 6 Month Probation MAX: Revocation
L. In case the holder of the certificate has been found to have defaulted on child support payments.	MIN: Deny renewal of, or suspension as per 2301.373 of the Revised Code MAX: Revocation as per 2301.373 of the Revised Code
M. Violation of Probation.	MIN: Revocation MAX: Revocation

Additional Penalties

1. Pursuant to 4703.15 of the Revised Code, the architect may be required to reimburse the State for any and all costs associated with this disciplinary action. Reimbursement costs may include, but are not limited to the following:
 - (a) Investigative time, travel & costs
 - (b) Hearing Officer’s fees & costs
 - (c) Court Reporter’s fees & transcript costs
 - (d) Board Member’s time, travel & costs
2. All disciplinary actions will be published in the *Ohio Architect Newsletter*.
3. All disciplinary actions will be reported to *NCARB* (National Council of Architectural Registration Boards).

5. New Rules

The Board of Examiners of Architects has three (3) new rules that are briefly described below. Should you have any questions or require a complete copy of the rules, please call the Board or refer to O. A. C. 4703.

- a. **Branch Offices** (O. A. C. 4703-3-04) An architect or architectural firm maintaining more than one place of business for the practice of architecture shall have a resident registered architect in responsible charge of the architectural activities of each office in this state. (Effective May 15, 1998)
- b. **Written Contract** (O. A. C. 4703-3-09) An architect is required to use a written contract when providing professional services as an independent contractor, employee or otherwise. Such contract shall be executed by the architect and the client, or his representative, prior to the architect commencing work on any project. (Effective September 1, 1998)
- c. **Authorship and Control** (O. A. C. 4703-3-10) In order to determine when an architect is the author, actual architect, or person in responsible charge of designs, drawings, plans, reports, specifications, contract documents, or other professional work or documents, the Board has listed factors or circumstances to better determine authorship and control. (Effective May 15, 1998)

*** Should you have any questions, comments or concerns regarding the laws and regulations governing the practice of architecture, please contact the Ohio Board of Examiners of Architects at (614) 466-2316.**