



Edmund G. Brown Jr.
GOVERNOR

CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

SUMMARY REPORT

REGULATORY AND ENFORCEMENT COMMITTEE MEETING

April 28, 2016

California Architects Board
2420 Del Paso Road, Suite 105, Sacramento, CA 95834

Committee Members Present

Matthew McGuinness, Chair
Barry Williams, Vice Chair
Fred Cullum
Robert De Pietro (via teleconference in Los Angeles, CA)
Robert Ho
Gary McGavin
Michael Merino (via teleconference in Orange, CA)
Sheran Voigt

Board Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Justin Sotelo, Program Manager, Administration/Enforcement
Bob Carter, Architect Consultant
Barry Williams, Architect Consultant
Sonja Ruffin, Enforcement Analyst
Kristin Walker, Enforcement Analyst

Guests

Jonathan Burke, Board and Bureau Relations Manager, Department of
Consumer Affairs (DCA) Executive Office
Yeaphana La Marr, Legislative Analyst, DCA Division of Legislative and
Regulatory Review
Kurt Cooknick, Director of Regulation and Practice, The American Institute
of Architects, California Council (AIACC)
Michael Corrick, President, Nacht & Lewis
Mike Parrott, Vice President, Nacht & Lewis

2420 DEL PASO ROAD,
SUITE 105
SACRAMENTO,
CA 95834

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

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 11:03 a.m. He welcomed everyone and requested self-introductions. Guests and Board staff introduced themselves.

Vice Chair Barry Williams called the roll and indicated all Committee members were in attendance. A quorum was present.

Mr. McGuinness 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 Approve November 5, 2015, REC Meeting Summary Report

Mr. McGuinness asked if there were any questions, comments, or changes to the November 5, 2015, REC Meeting Summary Report. There were none.

Sheran Voigt moved to approve the November 5, 2015, REC Meeting Summary Report.

Michael Merino seconded the motion.

Members De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. Member Cullum abstained due to the fact he was not present at the November 5, 2015, meeting. The motion passed 7-0-1.

D. Enforcement Program Update

Justin Sotelo presented the Enforcement Program Update and highlighted items of interest to the REC, including the: architect consultant contract for the next three fiscal years (FY) [2016/17 through 2018/19], which was awarded to Bob Carter with a tentative agreement start date of July 1, 2016; and continuing education (CE) audits and actions taken for noncompliance.

Gary McGavin asked for clarification about the requirement for architects to maintain records of completion of the required coursework for two years from the date of license renewal and asked if staff could send yearly reminders to licensees via email regarding that requirement. Mr. Sotelo offered to distribute reminders through the Board's website and newsletter. Doug McCauley informed the REC that the Board must submit a report to the Legislature by January 1, 2019, regarding the provisions of the CE program and suggestions for improvements.

Mr. Merino remarked that the number of CE citations is much greater than he had expected, and inquired about the general causes for the citations. Mr. McCauley responded by informing the REC that the majority of the citations were issued to licensees who completed their coursework after being notified by the Board that they had been selected for an audit. He also reminded the REC that as with any new law, compliance generally improves over time. Mr. Merino expressed his concern that the CE citations may be overly punitive, and asked Kurt Cooknick of AIACC to comment on whether there is a perception in the profession that the penalties for noncompliance with the CE requirement should be modified. Mr. McGuinness commented that the Board's CE noncompliance rates were comparable to previous years and other licensing boards. Mr. McCauley offered to gather and portray any additional information regarding the CE requirements to meet the REC's needs, and explained that staff anticipates the number of enforcement actions as a result of CE audits will decrease over time. He described the CE citations as a zero-sum effort because, with a limited enforcement staff, they divert resources from other complaints.

Mr. Merino informed the REC that he raised his concerns regarding the impact of the CE requirement on the Board's Enforcement Program while he was a Board member, and expressed that he would prefer staff's efforts be focused on pursuing unpaid citations, unlicensed practice, and other more important matters. He opined that negative reinforcement may not encourage compliance with the CE requirement, and reiterated his request for a response to the matter from Mr. Cooknick on behalf of the profession. Mr. Cooknick concurred with Mr. McCauley, and stated that enforcement actions as a result of the CE requirement should decrease over time. He also requested that the Board remind licensees of the CE requirement through mail, email, and/or the Board's website, and stated that AIACC will remind its members of the requirement as well.

Mr. McCauley offered to include the REC's concerns in the Board's report to the Legislature regarding the CE requirement, and informed the REC that it may have an opportunity, along with the Professional Qualifications Committee, to review the report prior to submission. He suggested a possible conclusion for the report could be that the profession is doing well with accessibility, and there may not be a further need for mandatory CE on a continuing basis. He also informed the REC that he does not recall any complaints against architects in the past five years with regard to accessibility violations. Mr. McGavin asked if there was a sunset provision in the existing statute. Mr. McCauley responded that there is not currently a sunset provision, but it could be suggested in the report. Mr. Merino restated his concerns regarding the number of citations that have been issued as a result of the CE requirement. Robert Ho also shared similar concerns regarding the CE citations, and thanked Mr. McCauley for providing information regarding the lack of accessibility-related complaints received by the Board.

Mr. Sotelo directed the REC's attention to the Enforcement Statistics table within the Enforcement Program Update, and noted that the new content and format of the table was recommended by the REC and approved by the Board at its December 10, 2015, meeting. He explained that the Board's case aging and pending caseload statistics for March 2016 were significantly lower than the Board's average over the past five FYs.

Mr. Sotelo also informed the REC that the Board's proposal to amend Business and Professions Code section (BPC) 5536.22 by adding a description of the: 1) project and address; and 2) procedure to accommodate contract changes, was submitted to the Senate Business, Professions and Economic Development Committee (BP&ED) on January 11, 2016, for possible inclusion in an omnibus clean-up bill. He explained that BP&ED staff determined that the proposal is substantive and must be included in another bill in 2017, and noted the REC will be asked to consider adding two additional elements to the proposed language of BPC 5536.22 under Agenda Item F.

Mr. Sotelo updated the REC on the status of the Board's regulatory proposal to amend California Code of Regulations section (CCR) 154 to incorporate the Board's updated *Disciplinary Guidelines* by reference. He informed the REC that DCA legal counsel advised staff that further substantive changes to the *Guidelines* are necessary, and explained that staff is currently developing recommended revisions to the *Guidelines* in response to legal counsel's concerns.

Mr. Merino questioned if the increase in citations from FY 2013/14 to FY 2014/15 was a direct result of the CE requirement. Mr. Sotelo responded affirmatively. Mr. Merino asked Mr. McCauley if staff is able to issue letters of advisement, in lieu of citations, for noncompliance with the CE provisions. Mr. McCauley clarified that the statute states that a licensee shall be subject to a citation or disciplinary action for failure to comply with the CE requirement.

Mr. McCauley acknowledged the efforts of the Board's enforcement staff to reduce its pending caseload, and explained the Board is consistently exceeding DCA's performance standards for enforcement programs. Mr. Sotelo directed the REC's attention to the Enforcement Program Report within the meeting packet, and explained that the new report is the result of the REC's recommendation, which was approved by the Board, and will be included in all future Board and REC packets. He also noted that the meeting packet contains an overview of final citations and disciplinary actions since the last REC meeting.

E. Discuss and Possible Recommendation Regarding Senate Bill 1132 (Galgiani) and The American Institute of Architects, California Council's (AIACC) Architect-in-Training Title Change Proposal

Mr. McCauley presented this agenda item. He explained that the issue of creating a special title for candidates for licensure had been previously discussed by the REC twice and by the Board three times. He reminded the REC that the intern titling issue emerged when the National Council of Architectural Registration Boards (NCARB) appointed a Future Title Task Force to review and evaluate the terminology used during the life cycle of an architect's career, from education through retirement. He informed the REC that the Task Force's efforts have been primarily focused on the pre-licensure phase, and the name change of the Intern Development Program (IDP) to the Architectural Experience Program (AXP) was a direct result of the Task Force's work on the issue. Mr. McCauley

reminded the REC that the Board's 2015-2016 Strategic Plan tasked the REC with an objective of monitoring NCARB's actions on the intern titling issue, reviewing and analyzing the findings, and determining whether there was a need for Board action in response to those findings. He explained that as an offshoot to that effort, AIACC's Academy of Emerging Professionals (AEP) had a meeting on January 23, 2015, which Board representatives attended, to discuss titling in the profession. He explained that the Board ultimately received a letter from AIACC on March 4, 2015, requesting that the Board consider amending the Architects Practice Act (Act) to allow the use of the title "architectural intern" by candidates on the path to licensure. He informed the REC that AIACC sponsored legislation, Senate Bill (SB) 1132 (Galgiani) [Architects: architects-in-training], was introduced on February 18, 2016, and has already been heard by the BP&ED and the Senate Appropriations Committee.

Mr. Cooknick remarked that the AEP saw great value in creating a special title for candidates and asked AIACC to advance the issue to the Board and also through legislation. He shared the goal was to create something very simple that would not create confusion and would address the concerns of the Board, as well as the needs of the AEP. He added that the bill was not meant to cause additional workload or expense to the Board, but it was simply to encourage those who are on the path to licensure to stay on that path. He opined those intentions are clearly reflected in the language of SB 1132. He explained that SB 1132 includes two components: 1) if an individual has received Board confirmation of eligibility for the Architect Registration Examination (ARE), he or she has met the requirements to use the title "architect-in-training" (AIT); and 2) the individual who is choosing to use the title must obtain permission from his or her employer. He explained that those mechanisms are spelled out in AIACC's "Architect-in-Training Title Change Proposal."

Mr. Cooknick commented that he is at a loss to understand the amount of resistance the AIACC has experienced on the issue, both on the regulatory side of advancing its proposal, which was deemed not comprehensive, and on the legislative side with SB 1132. He informed the REC that a legislative staff person commented that for a bill the Board does not have a position on, it is working very hard to kill it. He referred to the Board's March 28, 2016, and April 20, 2016, letters to Senator Galgiani and the Senate Appropriations Committee, respectively, and alleged the letters included a false statement that the Board tabled the matter of creating a special title for candidates for licensure. Mr. Cooknick distributed copies of the fiscal analysis of SB 1132 that was drafted by legislative staff for members of the Senate Appropriations Committee. Robert De Pietro and Mr. Merino noted for the record that they did not receive copies of the document, as they were participating via teleconference.

Ms. Voigt questioned who would monitor the use of the proposed title, if it is not the Board. Mr. Cooknick replied that candidates and their employers would be responsible for maintaining their own records, and producing those records upon request by the Board, similar to the audit methods used by the Franchise Tax Board (FTB) or the Internal Revenue Service. He characterized the AIACC's proposal as the basis for collaborative discussion between the Board and AIACC, and explained he could have

prepared a more detailed proposal, but it would have required assumptions on his part. Mr. Cooknick explained that the Board's management of the proposed title could be as simple as what is contained in the bill, and suggested the Board include a paragraph in the Board's letter to an individual who is eligible for the ARE explaining he or she is now eligible to use the title AIT with the support of his or her employer. He commented that the individual would maintain documentation from the employer stating he or she is allowed to use the title, and provide that documentation to the Board upon request. He reiterated the intent of the proposal was to help those who are seeking licensure and encourage them to stay on that path, and suggested the Board and the profession get back on the path where they work collaboratively on these issues. Mr. Cooknick further described resistance to the issue as troubling because it cannot be understood, but cautioned the REC that the Board and AIACC must do everything possible to encourage licensure, or the Board may be merged with another board in the future because the licensure population may no longer justify an independent entity.

Ms. Voigt questioned why AIACC could not wait for NCARB's decisions on the issue. Mr. Cooknick replied that NCARB made its decision, but there was some pushback from Region 3 boards, and as result, the matter went back to NCARB and lost by one vote to return to the status quo. He commented that in his conversations with NCARB Chief Executive Officer Michael Armstrong, he was informed that the decision of whether to create a paraprofessional title is a state's decision, but NCARB's position on the matter is state boards regulate licensed architects, not unlicensed individuals, so NCARB no longer suggests titles for unlicensed individuals. Ms. Voigt informed the REC that she is the Chair of the NCARB Professional Conduct Committee, and noted that the issue of titling has been brought before the Committee at each meeting. She explained that current law prohibits the use of any term confusingly similar to the word "architect" unless licensed by the Board, and SB 1132 would be granting permission to use the word "architect" with the caveat "in-training" to someone who is not an architect. Mr. Cooknick explained that he put language in AIACC's proposal to prevent an individual from using the title to offer and provide services independently, and opined that an individual would be more likely to misuse the title "architect" rather than AIT. He also commented that a consumer would be able to understand the difference between an architect and an AIT.

Mr. McGavin noted that there is precedence for a title based on the Board for Professional Engineers, Land Surveyors, and Geologists' (BPELSG) engineer-in-training (EIT) title. Mr. McGuinness replied that EITs are required to pass an examination prior to using the title. Mr. McGavin commented that AITs would be on the path to being tested, and have reached a threshold after being deemed by the Board to be eligible for the ARE. He also questioned the examination development costs contained in the fiscal analysis of SB 1132, as he did not recall discussing an examination component at the previous REC meeting. Mr. McGuinness explained the information was included based on AIACC's comparison of the title AIT to other professions which include the testing component. He also noted that SB 1132 would be extending the Board's purview to regulate unlicensed candidates.

Mr. De Pietro, a professional engineer, recalled his experience as an EIT, and informed the REC that he never used the EIT title, but instead, used designer because he thought it was a better title. He also noted that the term “engineer” is not a protected title in California, whereas the term “architect” historically has been. He explained that the title AIT may be confusing to consumers. He also commented that he is unaware of any problems with the current law, and explained that the Board’s workload would be increased by having to monitor the new title. He noted the topic has been extensively discussed by the REC, and suggested the issue not be returned to the REC until there is a strong argument detailing the need for the title.

Robert De Pietro moved to recommend to the Board that it oppose SB 1132.

Sheran Voigt seconded the motion.

Mr. Merino explained that he is torn on the issue, and asked if staff contacted BPELSG to obtain information regarding the EIT program. He also asked Ms. Voigt if NCARB has made its final decision on the titling issue, or if the issue may be reconsidered in the future. Ms. Voigt clarified that NCARB’s position on the issue is that it is not appropriate to regulate titles for unlicensed individuals, and explained that the NCARB Professional Conduct Committee continually reviews the use of the term “architect.” Mr. McCauley informed the REC that staff contacted BPELSG regarding its EIT program, and obtained information regarding the disciplinary actions and associated costs with managing the EIT program. He offered to obtain additional information regarding the history of the EIT program.

Mr. McCauley explained that NCARB has recently taken a number of actions regarding the term “intern,” including: 1) renaming IDP to AXP; 2) removing the term from its brochures, documents, website, and other communications; and 3) a possible amendment to NCARB *Model Law* from Region 6, of which the Board is a member. He also clarified that Region 3, which includes just 12 of the 54 NCARB Member Boards, expressed concerns with NCARB’s recommendation. Mr. McCauley informed the REC that the Board continually works to nurture the future of the profession, and cited examples of recent efforts to streamline the licensure process, including: 1) reducing the current nine-division ARE to six divisions; 2) removing the elective components from IDP, soon to be AXP, thereby reducing it to a two-year program; 3) offering the California Supplemental Examination in a computer-based format that is available to candidates six days a week in testing centers throughout California and the United States; and 4) eliminating the Comprehensive Intern Development Program requirement.

Mr. Merino questioned whether the REC should recommend to the Board that it oppose SB 1132, or attempt to amend the language of the proposal so that the Board would be able to implement it in the event it became law in 2017. Mr. McCauley explained that staff suggests the REC recommend to the Board that it oppose SB 1132 because it is not necessary for legislation to be passed immediately, and instead, recommended the REC consider developing a more comprehensive solution to the issue of encouraging licensure.

Michael Merino moved to amend the motion to recommend to the Board that it oppose SB 1132 without prejudice.

Robert De Pietro accepted the amendment to the motion.

Mr. Williams inquired if there was any research from the AEP demonstrating that the issue of titling was a problem. Mr. Cooknick replied that the issue came from a summit of emerging professionals that was held in Phoenix, Arizona, and explained that the AEP ultimately decided to pursue the title AIT because they felt it best conveyed that they possess the necessary skills, but had not passed the required examinations yet.

Mr. Williams explained that he had the opportunity to discuss the issue of creating a special title for candidates with approximately 40 future graduates of California State Polytechnic University, San Luis Obispo. He informed the REC that he then polled the students regarding the titles they would want upon graduation, and 11 individuals preferred “designer,” 8 did not specify a title, 7 preferred “associate,” 5 preferred “intern,” 4 preferred AIT, 2 preferred “project manager,” and 2 preferred “production assistant.” He stated he then asked the students if they would prefer the title “project manager” or AIT, and nine preferred AIT whereas the other students wanted a different title. He expressed his concerns with amending the Act without any supporting data to demonstrate there is a problem. Mr. Cullum commented that he does not understand the need for a special title for candidates, and explained that the Board would need to regulate it, as it is not feasible for employers to manage the use of the title.

Yeaphana La Marr, a legislative analyst with the DCA Division of Legislative and Regulatory Review, informed the REC that third-year engineering students used to be required to take the Fundamentals of Engineering Examination and be granted the EIT certification in order to graduate. She explained that many institutions no longer require passage of the examination as a graduation requirement, but the certification is still available for individuals pursuing careers as professional engineers or licensed land surveyors. She also noted that BPELSG’s EIT and land surveyor-in-training programs have examination components, enforcement programs, and fees associated with issuing the certifications.

Michael Corrick, President of Nacht & Lewis, informed the REC that he and Mike Parrott, Vice President of the firm, met with six of the firm’s candidates who would qualify to use the title AIT under SB 1132, and commented that his firm takes the comments and concerns of its emerging professionals seriously as they are the future of the architectural profession. He shared that one comment from the discussion was that the proposed title may encourage individuals to begin the licensure process sooner. He stated that the firm has always encouraged its candidates to pursue licensure because it is good for the profession, and the firm’s public sector clients also recognize the value of an architect’s involvement with a project. Mr. Corrick explained that the firm supports its candidates through helping them acquire their IDP hours, mentoring them, providing coaching for the licensing examinations, and granting a salary increase upon licensure. He remarked that as an employer, he supports anything the Board could do to encourage individuals to get licensed sooner. Mr. Parrott explained that within the architectural

profession, the term “intern” often implies that an individual has not graduated from college yet, and with the competitive nature of the schools of architecture, the proposed title is an opportunity for the profession to recognize an individual who has obtained a degree and made a commitment to the profession by pursuing licensure. He added that the title AIT recognizes individuals for their hard work on the path to licensure without devaluing the term “architect.”

Mr. Cooknick questioned the costs included in the fiscal analysis of SB 1132.

Ms. La Marr clarified that the document was prepared for the Senate Appropriations Committee by legislative staff, not DCA. Mr. Cooknick inquired about the source of the costs contained in the document. Ms. La Marr shared that DCA and the Board worked to develop the costs associated with implementing and enforcing the provisions of SB 1132 based upon the stated intent of the bill. She explained that the Department of Finance will not approve a legislative budget change proposal if the associated costs were not first identified in the fiscal analysis. Mr. Cooknick requested the first and second items be removed from the fiscal analysis of SB 1132. Mr. McGuinness informed Mr. Cooknick that the document is not subject to discussion. Ms. La Marr explained that those items cannot be removed, and suggested Mr. Cooknick discuss his concerns with Board and DCA staff.

Mr. McGuinness recalled that one of Mr. Cooknick’s first statements was that he was surprised the REC was not willing to collaborate, and reminded Mr. Cooknick that all the REC has been asking to do is to collaborate with AIACC on the issue. He explained that instead of returning to the REC with a proposal containing sufficient information to justify the need for a solution, AIACC sponsored legislation and provided misleading information to the Legislature regarding the Board’s actions on the issue, and as a result, the Legislature moved forward on the issue based on misinformation. He further stated the REC is more than willing to discuss the issue, but the AIACC’s actions in advancing legislation prior to addressing the REC’s concerns are inappropriate. He expressed his concerns that the legislation is being pushed through, despite the fact that it could have major effects on the Board, and explained that AIACC needs to revisit the issue, and work together with the REC and the Board to develop a solution if there is a problem.

Sheran Voigt moved to end discussion.

Members Cullum, De Pietro, Ho, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion to end discussion. Member McGavin was opposed. The motion passed 7-1.

Robert De Pietro repeated the amended motion to recommend to the Board that it oppose SB 1132 without prejudice.

Sheran Voigt seconded the motion as amended.

Members Cullum, De Pietro, Ho, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. Member McGavin was opposed. The motion passed 7-1.

Mr. Ho expressed his appreciation to Messrs. Corrick and Parrott for encouraging their employees to pursue licensure, and asked them to identify the job titles that are currently included on their employees' business cards. Messrs. Corrick and Parrott responded with the job titles "design technician" and "project coordinator." Mr. Ho questioned if those employees preferred AIT over their current job titles. Mr. Corrick responded that his employees did not express a preference for AIT over their existing job titles.

Mr. McCauley reiterated that the REC requires more information and research from AIACC in order to make a decision on the issue of titling for candidates, and noted that was the Board's last action reflects that fact as well. He reminded the REC that multiple forms of AIACC's proposal have been discussed, and offered to collaborate with AIACC to develop a solution to promote licensure beyond a title. Mr. McCauley remarked that the Board needs to be convinced that there is a real problem and that the proposed title is an effective solution. Ms. Voigt commented that the REC's decision takes all of that into account, and suggested it may be time to put the issue aside and focus on other objectives.

F. Discuss 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 advised the REC that this objective from the Board's 2015-2016 Strategic Plan objective had not been previously discussed in 2015. She explained that in 2013 and 2014, the REC was tasked with a similar objective to determine whether a provision concerning "scope of work" should be added to the written contract requirement. Ms. Walker explained that a working group, comprised of Phyllis Newton and Mr. McGavin, discussed the issue and, in an effort to add clarification and reduce confusion between the architect and the client, ultimately proposed that a description of the: 1) project and address; and 2) procedure to accommodate contract changes, be added to the written contract requirement. She reminded the REC that it reviewed and accepted the working group's proposed language to amend BPC 5536.22 at its April 24, 2014, meeting, and the proposed language was subsequently approved by the Board at its June 12, 2014, meeting. Ms. Walker explained that while drafting the legislative proposal to amend BPC 5536.22, staff reviewed the laws and regulations regarding architectural practice in other states and found that two states, Nevada and Ohio, also have written contract requirements. She informed the REC that in addition to the five elements currently contained in BPC 5536.22, both states have a provision requiring architects to include a statement identifying the ownership and/or reuse of documents. She advised the REC to consider also adding the following provisions to the written contract requirement: 1) a statement identifying the ownership

and/or reuse of documents prepared by the architect; and 2) a notification to the client that the architect is licensed and the Board is the licensing entity.

Ms. Walker explained that another component of the Strategic Plan objective is to ensure laws and regulations are consistent with current architectural practice. She reminded the REC that it previously appointed Messrs. McGavin and Williams to a working group to review the Board's Occupational Analysis of the architect profession and identify marketplace trends that impact consumer protection. She explained that the working group met on October 15, 2015, and discussed general marketplace trends affecting architectural practice, including: 1) the architect's role in leading the project team; 2) increased specialization within architectural firms; 3) changes in project delivery methods; 4) a lack of business courses within architectural programs; and 5) unlicensed practice.

Ms. Walker informed the REC that in addressing the objective, staff reviewed the Act and Board regulations, and compared them to other states' laws and regulations regarding the practice of architecture, as well as NCARB's *Legislative Guidelines and Model Law* (2014-2015 Edition). She advised the REC that possible statutory and regulatory changes the REC may wish to consider include: 1) strengthening the laws and regulations regarding aiding and abetting the unlicensed practice of architecture (BPC 5582 and 5582.1 and CCR 151); 2) enhancing the Board's Rules of Professional Conduct (CCR 160), and specifically, amending subsection (b)(2) to require licensees to respond to other Board requests for information and/or evidence within 30 days, not just in response to an investigation; and/or 3) clarifying the business entity reporting requirements (BPC 5558 and CCR 104). Ms. Walker suggested the REC consider forming a working group consisting of two members to review and analyze the Act and Board regulations, and develop proposals for possible statutory and/or regulatory changes for the REC's consideration at its next meeting.

Mr. Cooknick questioned if the proposed language for BPC 5536.22, which includes "contract changes, including, but are not limited to," would apply to changes in arbitration or settlement provisions of the written contract. Mr. Carter responded that the proposed language would not impact arbitration or mediation, because dispute resolution is not addressed in the basic contract requirements.

Michael Merino moved to recommend to the Board that it approve the proposed language to amend BPC 5536.22.

Mr. McCauley clarified that the Board has already approved the proposed language to add a description of the: 1) project and address; and 2) procedure to accommodate contract changes, to the written contract requirement. He informed the REC that staff is suggesting further amendments to the proposed language to require: 1) a statement identifying the ownership and/or reuse of documents; and 2) a notification to the client that the architect is licensed by the Board, in an architect's written contract. He explained that staff intends to develop proposed language for those two additional provisions and present it for the REC's consideration at its next meeting.

Michael Merino moved to amend the motion to direct staff to add a: 1) statement identifying the ownership and/or reuse of documents prepared by the architect; and 2) notification to the client that the architect is licensed by the Board, to the proposed language to amend BPC 5536.22 for the REC's consideration at its next meeting.

Sheran Voigt seconded the motion as amended.

Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.

G. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Pursue Methods to Obtain Multiple Collection Mechanisms to Secure Unpaid Citation Penalties

Ms. Walker presented this agenda item. She explained that the Board currently utilizes the FTB "Intercept Program" as an additional tool to collect unpaid fines from unlicensed individuals, but the Board's success has been limited, as the potential sources of recovery are limited to State tax refunds, Lottery proceeds, and unclaimed property. She reminded the REC that it discussed multiple strategies to collect the fines at its April 29, 2015, meeting, and, following the meeting, staff strengthened the content of the Board's communications with licensees and unlicensed individuals who have not satisfied their citations, as well as became more proactive in offering payment plans. She also informed the REC that staff reviewed each of the options that was discussed by the REC at the meeting, and determined that pursuing a contract with a collection agency may be the most effective method to encourage payment of outstanding fines from unlicensed individuals. Ms. Walker reminded the REC that at its November 5, 2015, meeting, it recommended to the Board that it encourage staff to continue pursuing all avenues for collecting unpaid fines, and specifically, start utilizing a collection agency for unpaid accounts aged beyond 90 days, or at the discretion of the Executive Officer. She informed the REC that the recommendation was approved by the Board at its December 10, 2015, meeting.

Ms. Walker explained that following the Board meeting, staff has identified outstanding accounts that could be referred to a collection agency, as well as obtained quotes for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions, if appropriate. She advised the REC that staff also explored the feasibility of reporting unpaid accounts directly to the three credit reporting agencies (Equifax, Experian, and TransUnion), and obtained information regarding the reporting services they offer to government entities. She explained that based on the information provided by the agencies, staff determined it is more cost-effective to allow the collection agency to provide credit reporting services, as it already possesses and maintains nationwide credit reporting accounts and the required software to electronically transmit data to the credit reporting agencies. She explained that staff is currently in the process of securing the contract with a collection agency through the informal solicitation method

(Government Code section 14838.5). Ms. Walker advised the REC that, as another component to address the objective, staff is strengthening its efforts to collect unpaid fines from licensees, including increasing the frequency of enforcement letters and possible disciplinary action against licensees who have not satisfied their citations.

Mr. Cooknick asked if the Board is able to offer an amnesty program for unpaid fines, where an individual could settle the matter by paying a reduced amount of the fine. Mr. McCauley replied that he previously discussed the concept with a past Board president, but it was not well-received at that time. He informed the REC that another issue to consider is the fine amounts, and suggested that staff review the fine amounts for the outstanding citations and determine if there is a more effective strategy that may encourage payment. Ms. Voigt asked if the Board just recently increased the fine limits. Mr. McCauley responded that the maximum fine is \$2,500, unless certain aggravating conditions are met, which would allow for a maximum fine of \$5,000. Mr. Merino inquired about the total amount of unpaid fines. Ms. Walker replied with an estimate of \$150,000. Mr. McCauley clarified that amount is over the history of the Board's cite and fine program, and explained that at some point, the Board is investing more in its collection efforts than it will receive in paid fines. He also reminded the REC that the fines are not intended to sustain the Board's Enforcement Program, and advised that the fine amounts often do not even cover the Board's costs for issuing the citation and participating in the appeal process. Mr. Cooknick commented that Governor Brown signed an amnesty bill for traffic citations, and explained that the bill waived the penalties and assessments if individuals paid the original fines. Mr. McCauley clarified that the Board does not assess penalties for unpaid fines at this time.

Mr. Williams asked if the Board can suspend a license for failure to pay the fine. Vickie Mayer informed the REC that staff will research that option, as other DCA boards and bureaus may have automatic license suspension provisions for failure to satisfy citations. She explained that under current law, the Board is unable to automatically suspend a license for failure to pay a fine, but instead, precludes a licensee from renewing his or her license until both the renewal fee and the outstanding fine have been paid. She advised the REC that staff will investigate whether licensees with unpaid fines may also be practicing architecture without a current license. Mr. McGuinness asked if the license renewal period is two years. Ms. Mayer responded affirmatively, and explained that if a citation is issued at the beginning of the renewal period, a licensee has up to two years to pay the fine, without accruing any interest or penalties. Mr. Cooknick asked if the majority of fines were assessed against unlicensed individuals. Ms. Mayer responded affirmatively, but explained that the amount of unpaid fines from licensees has been increasing over time. Mr. Carter commented that some licensees with CE citations have not been paying the fines, similar to unlicensed individuals.

Michael Merino moved to receive and file staff's report on the status of the Strategic Plan objective and request that staff continue to investigate other options for citation collection as they present themselves.

Barry Williams seconded the motion.

Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.

H. 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

Mr. Sotelo presented this agenda item. He reminded the REC that it made a recommendation at its November 5, 2015, meeting that the Board authorize staff to pursue a Request for Proposal (RFP) to provide the Board with an additional architect consultant and continue to utilize the services of independent expert consultants through the delegated contract process. He explained that the Board currently contracts with two architect consultants, and one of the contracts expires on June 30, 2016, and the other contract expires on January 31, 2017. He informed the REC that staff originally intended to pursue two RFPs in April 2016, but staff from the DCA Business Services Office advised the Board to stagger the process and release separate RFPs to eliminate confusion. Mr. Sotelo advised that staff will be pursuing the RFP for the additional architect consultant in the spring, and also informed the REC that staff has continued to utilize the services of independent expert consultants through the delegated contract process.

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

Sheran Voigt seconded the motion.

Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.

I. Discuss and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Monitor AIACC Legislation Requiring Architect of Record to Perform Mandatory Construction Observation to Promote Consumer Protection

Ms. Walker presented this agenda item. She informed the REC that AIACC has shared that the proposal is intended to give architects the ability to protect themselves and the rights of individuals with disabilities through an accessible built environment. Ms. Walker explained that the proposal will be the subject of a more detailed explanation by AIACC in the future, and suggested the REC consider referring the objective to the Board's next Strategic Planning session for discussion.

Mr. Cullum questioned why the REC should support the proposal based on the fact that the Board has not received any complaints against architects for accessibility-related violations. Mr. Cooknick responded that architects have a mandatory CE requirement due to the prevalence of accessibility-related issues. Mr. McCauley clarified that Mr. Cooknick is focused on civil litigation related to accessibility issues whereas

Mr. Cullum is referring to the Board's consumer protection and enforcement efforts. He also noted that the Board previously pursued mandatory construction observation as a consumer protection enhancement, and commented that it may be beneficial to allow the architect to visit the construction site and ensure that what was designed was actually constructed. Mr. Cooknick agreed, and explained that because construction observation services are often not included in architect's agreement with the client, the architect is not afforded the opportunity to ensure that the access features of a commercial building were constructed as designed by the architect and approved by the building department. He also clarified that AIACC's proposal would allow the architect, or his or her designee, to compare the approved set of plans to what was actually constructed, and provide a report documenting the deviations to the client, the general contractor, and the building department. He noted AIACC's current proposal does not require the architect's designee to be a Certified Access Specialist (CASp). Mr. Cooknick commented that the architect and the client are often included in a civil suit related to an access code violation, despite the fact that the violation may be the result of third-party vendor. He reiterated that AIACC's intent is to ensure what was designed by the architect is reflected in the constructed facility, and characterized the proposal as beneficial for consumers and design professionals.

Mr. Cullum commented that the concept is already addressed in the administrative provisions of the California Building Standards Code (CBC), which allow an architect or engineer to specify on the construction documents that construction observation is necessary. Mr. Carter suggested that the issue may be related to compensation for those services. He also stated that the Act does not require the licensee who stamped and signed drawings to provide construction observation services, and, per the administrative provisions of the CBC, the building official can require the owner to furnish an architect to be in responsible control of the work during construction. Mr. Carter further explained that the term "architect of record" is outdated, as there could be multiple architects in responsible control of a project, and suggested AIACC consider which architect would be required to prepare the report documenting deviations from the approved construction documents. Mr. Cooknick responded to Mr. Cullum's statement by expressing his concerns that the administrative provisions of the CBC expose the architect to liability without compensation. Mr. Carter informed the REC that some jurisdictions have not adopted the administrative portion of the CBC, so those provisions may not apply, and explained that jurisdictions are able to create their own processes. Mr. Cullum explained that he supports having architects and engineers at construction sites, but expressed his concerns with limiting the efforts to access-related issues. He explained that current law requires each building department to have CASps on staff or available for plan check and inspections, and Assembly Bill 2873 (Thurmond) [Certified access specialists] would require all building inspectors, who conduct permitting and plan check services for compliance with state construction-related accessibility standards by a place of public accommodation, to be CASps.

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

Mr. Ho voiced his philosophical support for the intent of AIACC's proposal. Mr. McGuinness questioned whether there would be antitrust implications associated with the proposal, as it may restrict competition. Mr. Merino explained that the proposal may not be feasible within the free-market system, as it essentially requires a potential consumer to hire an architect to provide a specific service that he or she may not even be seeking.

Sheran Voigt seconded the motion.

Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.

J. Adjournment

The meeting adjourned at 1:23 p.m.