

FILED 5/12/09 (Date)
ARCHITECTURE EXAMINING

BEFORE THE ARCHITECTURAL EXAMINING BOARD Board/Commission
OF THE STATE OF IOWA

Jude Loring
Signature, Executive Officer

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|-------------------|---|---------------------|
| IN THE MATTER OF: |) | CASE NO. 08-03 |
| |) | DIA NO. 08DOCAR003 |
| KEITH L. KOCH, |) | |
| |) | FINDINGS OF FACT, |
| |) | CONCLUSIONS OF LAW, |
| RESPONDENT. |) | DECISION AND ORDER |

On October 15, 2008, the Iowa Architectural Examining Board (Board) found probable cause to file a Statement of Charges against Keith L. Koch (Respondent). The Statement of Charges alleged that the Respondent provided architectural services without being duly licensed, in violation of Iowa Code section 544A.15(3)(a)(1)(2009) and 193B IAC 7.3. A Notice of Hearing was issued scheduling the hearing for January 13, 2009, but the hearing was continued.

The hearing was eventually held on April 1, 2009 at 10:00 a.m. The Respondent appeared for the hearing. The state of Iowa was represented by Pamela Griebel, Assistant Attorney General. The following Board members were present for the hearing: Susan McKinney, Chairperson; Jeffrey Morgan; Martha Green; Sue Jarboe; Terry Allers; and Tom Clause. John M. Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2009). After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2009), to deliberate its decision. The members of the Board instructed the administrative law judge to prepare the Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the Notice of Hearing, the State's Prehearing Conference Report, the testimony of the witnesses, and the following exhibits:

State Exhibit 1: Complaint;

State Exhibit 2: Board Letter to Koch, Koch response;

State Exhibit 3: Godwin Report;

State Exhibit 4: Notice of Intent, Request for Hearing, Notice of Hearing;

State Exhibit 5: Iowa Code section 544A.15.

STATEMENT OF ISSUES

- 1) Whether the Respondent performed architectural services without a valid Iowa license? and if so,
- 2) What sanctions, if any, are appropriate to address the violation?

FINDINGS OF FACT

The Respondent authored a report entitled, "Thermal and Moisture Problem Report," regarding the Biolife Plasma Center in Dubuque, Iowa. He signed the report "Keith L. Koch, Licensed architect, Anderson Design and Consulting, Inc."

In the report the Respondent outlined the problems he found after reviewing the Biolife facility and the Respondent made recommendations for the repair of the building.

John C. Allen, the architect who designed the Biolife building, filed a complaint with the Architectural Examining Board of the State of Iowa (the Board). Mr. Allen alleged that the Respondent was acting as an architect in the state of Iowa without a license.

The Board wrote to the Respondent and outlined the allegations made in the complaint. The Respondent replied to the Board's letter. The Respondent admitted preparing and issuing the report. He also admitted signing the report as a "Licensed architect." The Respondent explained that he is a licensed architect in the state of Illinois. He is in the process of becoming licensed in Iowa, but the process had not been completed.

The Respondent explained that he did not believe that the report constituted the practice of architecture, but was "merely an

independent opinion as to the state of affairs at Biolife Plasma Center."

The Board employed Kevin Godwin, an Iowa-licensed architect, to conduct a peer review of the Respondent's report to determine if in fact the report constitutes the practice of architecture. Mr. Godwin reviewed the report authored by the Respondent, the complaint filed in the case, the Board's letter to the Respondent and his response.

After reviewing the above documents Mr. Godwin came to the conclusion that the report constituted the practice of architecture. Mr. Godwin noted that the Respondent made recommendations to modify the building, specifically recommending that the pitch in the roof be increased. The change in the pitch of the building would impact the design of the building and would physically change the building. It was Mr. Godwin's opinion that the report constitutes the practice of architecture as found in the definition of the practice of architecture at Iowa Code section 544A.16(8).

CONCLUSIONS OF LAW

I. Violation

Iowa law provides that:

The practice of architecture affects the public health, safety, and welfare and is subject to regulation and control in the public interest. Only person qualified by the laws of the state are authorized to engage in the practice of architecture in the state.

Iowa Code § 544A.1.

Additionally, the Iowa code provides that:

It is unlawful for a person to engage in or to offer to engage in the practice of architecture in this state or use in connection with the person's name the title of "architect," "registered architect," or "architectural designer," or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use, or advertise any title, word, figure, sign, card, advertisement, or other symbol or description tending

to convey the impression that the person is an architect or is engaged in the practice of architecture unless the person is qualified by registration as provided in this chapter.

Iowa Code § 544A.15(1).

The preponderance of the evidence established that the Respondent acted as an architect in the state of Iowa without the required license in violation of Iowa Code sections 544A.1 and 544A.15(1). The Board finds that when the Respondent signed the report in question with the phrase "Licensed architect," he was conveying the impression that he was a registered architect.

Additionally, the Respondent's report makes recommendations to the design of the Biolife Plasma building. These design changes could affect the public's health, safety or welfare. Therefore it is determined that the Respondent's actions in authoring and issuing a report, signed as a "Licensed architect," sufficiently constituted the practice of architecture in the state of Iowa.

II. Sanction

The Board can impose a civil penalty, not to exceed \$1,000, for each violation. Iowa Code § 544A.15(3)(b). Iowa Code section 544A.15(3)(c) lists the factors to be considered by the Board in determining whether and in what amount to assess civil penalties. These factors include:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
- (2) The circumstances leading to the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of noncompliance.
- (5) The interest of the public.


Iowa Code § 544A.15(3)(c).

Based on his testimony and presentation at hearing, the Board finds that a \$1000 civil penalty should be imposed against the Respondent for his unlicensed practice of architecture in the state of Iowa.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the Respondent shall pay a \$1000 civil penalty.

Dated this day of April, 2009.


Susan McKinney, Chairperson
Iowa Architectural Examining Board

cc: Pamela Griebel, Assistant Attorney General

Keith Koch
Anderson Design & Consulting Inc.
1233 Rhomberg Avenue
Dubuque IA 52001

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.