

**OPEN MINUTES
ARCHITECTURAL DIVISION
OF THE MISSOURI BOARD FOR ARCHITECTS,
PROFESSIONAL ENGINEERS, PROFESSIONAL LAND
SURVEYORS AND LANDSCAPE ARCHITECTS**

Wednesday, September 26, 2012
Division of Professional Registration, Room 380
3605 Missouri Boulevard
Jefferson City, Missouri

The Architectural Division of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects met via telephone conference call and was called to order by Mr. J.C. Rearden at 9:00 a.m. on Wednesday, September 26, 2012. A quorum being present, Mr. Rearden declared the meeting open for business.

Members Present

James C. "JC" Rearden, Chair of the Division
Kenneth M. Frashier, Member of the Division
Kathy W. Achelpohl, Member of the Division

Others Present

Judy Kempker, Executive Director
Sandy Robinson, Licensing Technical Supervisor
Curt Thompson, General Counsel

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

Discuss the use of seal per Section 327.411, RSMo

Mr. Rearden discussed the use of a seal per Section 327.411, RSMo with the Architectural Division Members. Mr. Rearden previously submitted information regarding use of seals, which was part of the discussion by the Division Members. The information is as follows:

Commentary: The existing Missouri statute governing the use of the professional seal is confusing. There is no argument that plans and specifications intended for construction must be sealed as well as any changes to the documents (i.e., Addenda, ASI's, Change Orders, etc.) The need to affix a professional seal to a non-

technical document is not clear, particularly when the content can be provided legally by someone who is not licensed. At what point does the content of a document warrant an architect's seal? The following analysis is intended to focus on the current statute, determine which documents should be sealed and provide a clear description of when a sealed document is necessary.

NCARB's Recommendation: All technical submissions, which are (a) required by public authorities for building permits or regulatory approvals, or (b) are intended for construction purposes, including all addenda and other changes to such submissions, shall be sealed with the impression of his/her seal and the signature of the architect.

Existing Missouri Statute: 327.411. 1. Each architect and each professional engineer and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision. Such licensee shall either prepare or personally supervise the preparation of all documents sealed by the licensee, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee, whether prepared or drafted by another licensee or not.

Documents currently required to be sealed

Plans: The dictionary provides many definitions for "plans" that include perspective drawings, layout drawings, etc. that do not need to be sealed and lack the total breath of drawings that typically make up a complete set of construction drawings (i.e., elevations, sections, details, schedules, etc.). As a minimum, use of the term "Plans" should be changed to the more accurate term "Drawings." It also does not make sense to require a seal on drawings that are used for promotional material and contain no technical content, e.g., perspective illustrations. The need to seal demolition drawings is not clear, but my experience is that architects will typically include their seals on these documents. None of this deals with how to affix a seal to a BIM Model that many promote as the graphic tool that will someday replace the traditional drawings that are now submitted. For that reason, I am inclined to require a seal on a "technical submission" rather than on a "document." This is consistent with many of our neighboring state statutes.

Specifications: I would include this as an example of technical submissions along with the drawings as previously stated.

Estimates: There should be no obligation to seal an estimate of the probable construction cost for a new facility. The preparation of a cost estimate is not a science. They are simply a prediction of what someone else may be willing to enter into a contract amount at a future date. The skills required to prepare a cost estimate are not necessarily unique to an architect's education, training and experience. Most cost estimates are prepared by contractors.

Mr. Frashier suggested that "cost consultants" be added after "...by contractors"

Plats: The preparation of a plat is not a service that can be provided by an Architect.

Reports: There are many types of reports issued by architects that contain information that do not affect the construction of a building. Field Reports simply note what is observed and can be prepared legally by non-licensed people such as contractors, representatives of the owner, etc. Monthly reports are provided to the owner to document the progress of design or bidding. Meeting reports are issued to record what was said and decisions that were reached. None of these should require a seal. If others disagree then the language needs to be clear on this matter. At best, only reports that assess the condition of existing construction and/or makes recommendations for construction to be implemented should be sealed. This would include the assessment and/or recommendation of an expert witness in testimony against a licensed professional.

Mr. Rearden stated that he was very troubled by the use of the word "reports." It is too vague and so is the term "Exhibits" that was recently proposed in a Rule change. It was decided to add "exhibits" at this point, to be consistent with the new rule.

Surveys: The preparation of a land survey is not a service that can be provided by an Architect. However, architects are often asked to "survey" a building in the context of investigating existing conditions or to "survey" an Owner's staff for their needs. I am not certain that these other types of "surveys" need to be sealed but a definition definitely needs to be provided that makes it clearly a land surveyor's work product.

Mr. Rearden stated that he was concerned with the use of “surveys”. He stated that many times his client would ask him to survey a project; however, they did not mean “survey” as in providing legal boundaries or typographical information but rather an observation of the condition of the property.

Proposals: The sealing of proposals should be removed from the statutes. Even non-Missouri licensed architects are allowed to submit proposals. Some of Missouri's largest firms are not owned by architects and most owners would prefer a firm owner signature on a proposal over a managing agent. Non-technical submissions should not require a seal.

Other documents or instruments prepared by the licensee: This requirement is too vague, implying that every document prepared by an architect should be sealed. It should be deleted.

After much discussion, the Members of the Architectural Division recommended the following amendment to Section 327.441.1, Personal seal, how use, effect of:

327.411. 1. Each architect and each professional engineer and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final [documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments] **technical submissions, which are (a) required by public authorities for construction permits or regulatory approvals, or (b) intended for construction purposes, including all addenda and other changes to such submissions. Technical submissions shall include, but are not limited to, drawings, specifications, plats, land surveys, exhibits, reports, and certifications of construction** prepared by the licensee, or under such licensee's immediate personal supervision. Such licensee shall either prepare or personally supervise the preparation of all documents sealed by the licensee, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee, whether prepared or drafted by another licensee or not.

2. The personal seal of an architect or professional engineer or professional land surveyor or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering, surveying, or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any

architectural or engineering project, survey, or landscape architectural project. Licensees shall undertake to perform architectural, professional engineering, professional land surveying and landscape architectural services only when they are qualified by education, training, and experience in the specific technical areas involved.

3. Notwithstanding any provision of this section, any architect, professional engineer, professional land surveyor, or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural or engineering project or survey or landscape architectural project.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

Mr. Rearden directed Ms. Kempker to finalize the proposed changes to Section 327.411 and email the proposed changes to the Board Members for review and comment. Mr. Rearden then directed Ms. Kempker to include these proposed changes with all the other proposed changes to Chapter 327, which are to be reviewed by the Board's General Counsel, Curt Thompson. Ms. Kempker is to place this item of the Board's November 2012 agenda for full Board discussion.

Adjournment

There being no further discussion, a motion was made by Ms. Achelpohl and seconded by Mr. Frashier to adjourn. The motion carried unanimously. The meeting adjourned at 9:38 a.m. on September 26, 2012.

ATTEST:

Executive Director

Date Approved: _____