



TEXAS Board of
Architectural Examiners
Architects • Landscape Architects • Registered Interior Designers

LICENSING NEWS

ARCHITECTURE • INTERIOR DESIGN • LANDSCAPE ARCHITECTURE

MARCH 2017

CHAIR'S COLUMN

Minimum standards and the gold standard

Here at the Texas Board of Architectural Examiners (TBAE), we administer the law as it is written by the Texas Legislature. One way to understand the agency's overall role in the regulatory structure of the state is that we are here to ensure that TBAE registrants meet initial requirements for registration and maintain those requirements throughout their careers, and that only those permitted by law to practice or use certain titles do so.

At the agency level, one tool TBAE uses to accomplish its goal to protect the public is that of rulemaking. Often an agency rule mirrors a statute written by the Legislature while incorporating more operational detail to guide the agency in its actions and the public in understanding. In essence, an agency rule is a backstop, a minimum standard of practice for a regulated profession. A floor to stay above, rather than a sky to shoot for. A minimum standard of design, not the gold standard.

Any working professional knows the difference between hovering near minimum standards and working towards excellence. If your professional performance stays well above that floor of minimum standards, you're more likely to do well—but the floor is there for a reason, and state regulations are here to serve that function.

One minimum standard in particular comes into focus in this issue of *Licensing News*: accessibility and universal design. Senate Bill 111, the original 1969 Texas architectural barriers

law, came in response to federal legislation the previous year. In the nearly five decades since SB 111, statutes, regulations, and agency programs have changed drastically to ensure that all who live, work, and play in the built environment are better protected. Those regulations are the minimum standard. Meanwhile, the gold standard might be found in the fact that universal design contributes to making the project more attractive and convenient for visitors to use, and better for owners in terms of risk management and liability. A classic win-win for all involved in the project. So it is worth taking some time to reflect on universal design, and learn how you can contribute.

Inside you'll find discussion of a range of accessibility-related topics, increasingly important in the design professions these days. You'll also find practical, helpful advice on how to not only avoid the floor (otherwise known as a violation of TBAE or TDLR rules), but perhaps how to avoid trouble in the first place. One way TBAE can better serve its purpose of ensuring Texas design professionals protect the public is to make it easier to comply with regulations. Read on to learn how to do just that.



Debra Dockery, FAIA
Chair

Dockery elevated to AIA College of Fellows

Only about 3 percent of the membership of the American Institute of Architects (AIA) can boast of induction into the College of Fellows. To earn Fellowship, the inductees must have achieved a standard of excellence and have contributed significantly to the profession and to society on a national scale. The College of Fellows remains the paradigm of professionalism and dedication to architecture.

Your TBAE staff is honored and privileged to announce that Debra Dockery, Chair of the Texas Board of Architectural Examiners, is among the 2017 class of inductees to the AIA College of Fellows. Only 178 architects across the country were so honored, and we are proud of Chair Dockery and the other new Fellows.

Perspectives on accessibility, from a Public Board Member and your Executive Director



Julie Hildebrand *Executive Director*

Julie Hildebrand serves as Executive Director of the Texas Board of Architectural Examiners.



Chase Bearden *Board Member*

Chase Bearden serves as one of three Public Members of the Texas Board of Architectural Examiners and as Director of Advocacy for the Coalition of Texans with Disabilities.

Twenty-one years ago, the Texas Department of Licensing and Regulation (TDLR) established a multi-day training event called the Texas Accessibility Academy. Over the past few years, several TBAE staff have attended the Academy. Every TBAE attendee reported that the exposure to the intricacy and depth of accessible design regulation was revealing. To a nonspecialist like a TBAE staff member, the real-world purpose of universal design is intelligible. The Academy does a thorough job of showing the advantages of universal design and the challenges and complexities of producing a compliant design.

We are writing this column together for this issue because universal design is not only an increasingly important aspect of the design professions, but one that is touched on from many angles, by various entities public and private. Accessible design matters, and its profile is rising. What follows is a look at just a handful of the ways in which that's true.

In 2016 a new partnership began between the National Council of Architectural Registration Boards (NCARB) and the American Institute of Architecture Students (AIAS). The effort is called Freedom by Design, and “empowers architecture students to improve the safety and accessibility of homes, community spaces, and playgrounds through sensitive design.” The program encourages close mentorship of emerging professionals by registered professionals. To support this effort, NCARB has agreed that students participating in the program may count their experience toward their Architecture Experience Program (AXP). Already, students from three accredited Texas programs have expressed interest in participating in Freedom by Design. For our part here at TBAE, we will of course also accept that experience.

From this single example, it's easy to see what we mean when we say universal design is something of interest to

many. The program was created by a national council and the student chapters of an industry group. It reaches out to schools—including public schools—for participation. Mentorship is provided by individual registered architects, and the experience gained is counted toward the eventual registration of program participants here at the state licensing board. And it's all aimed to benefit those who use or visit the projects designed—whether the visitors are from the disability community or not. Everyone benefits, and entities from the private sector, the regulatory community, and the academy are all involved.

Perhaps no other organization has the institutional understanding of how universal design benefits everyone as does the [United States Access Board](#). The 43-year-old federal agency “promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards.” The Access Board also has become a leading source of practical information on accessible design, including [useful animations to explain details and answer frequently asked questions](#) from those in the design community. Incidentally, the six video animations total up to just under 50 minutes of instructional time—so if you read another portion of the Access Board site for a few minutes, this will count as self-study for one required hour of accessible design continuing education.

The Access Board is one high-profile part of the machine designed to help weave universal design into the fabric of the built environment. But there are many, many critical components. TBAE, TDLR, and the Texas Legislature are all interested in various aspects of accessibility. Local governments are as well. That's not to mention, of course, the people very directly making universal design happen every

Continued on page 4

Save yourself some trouble: Helpful hints from a Registered Accessibility Specialist

By Peter Grojean *Registered Accessibility Specialist #0075*

I have been reviewing and inspecting projects for compliance with the Texas Accessibility Standards (TAS) since 1995. There is no such thing as a typical project, as they run the spectrum from small interior finish-outs and large university academic buildings, to thousand-room hotels and conference centers. But not surprisingly, there are some very common areas where there are problems, or “Violations,” as they are called on the final inspection reports.

For instance, I did a final TAS inspection last year, and was walking the project with the architect and owner’s representative. At one point I said, with regard to a detail, “The details are always right.” Both the owner and the architect couldn’t help but laugh. I understood the humor, but with regard to accessibility, the details are usually right. They are frequently included in separate drawings as the accessibility standards. Or they are the standard toilet room plans and elevations showing standard mounting heights, clear floor areas, and fixture locations. The problem is these drawings are rarely consulted in the field. I believe it is best to build more leeway into the design, so that contractors don’t need to get it exactly right in order to pass the final TAS inspection.

When I am asked to present to design professionals—architects, interior designers, engineers, and landscape architects—I include what I call “Common Design and Construction Problems” and “Pete’s Helpful Hints.” I’ve developed these summaries after reviewing and inspecting thousands of projects. The recurring theme or problem associated with these observations is designing to the maximum or minimum allowed standard. Here are the most problematic:

1. Doors located in 5' alcoves or corridors: The maneuvering clearance on the pull side extends 18" over from the latch edge of the door. This requires the contractor to locate the door frame in a very precise location. Frequently this does not happen, and the situation is expensive and disruptive to fix later.
2. The surface slope of accessible parking designed to be at 2%. This is the maximum allowed and does not allow for construction irregularities. Spot elevations are recommended with a design slope of 1.5%.

3. The cross slope of the accessible route designed at 2%. Same problem as above, and same suggested solution.
4. Single occupant toilet rooms do not provide adequate clear width and the lavatory is within the water closet “clear floor area.” The minimum clear width of the wet wall is based on the width of the lavatory. Typically, this minimum is 7'-2". But this does not allow for any irregularity in construction. Again, a disruptive and expensive correction to make after project completion.
5. Ramps without edge protection. Edge protection is required when there is drop off of 1/2" or more along sloped segments and landings. As dirt usually will settle, a drop of more than 1/2" will exist and edge protection is now required. Typically, a lower rail 4" above the ramp and landing surface is required and should be a standard detail.
6. Accessible toilet stall partitions without 9" of toe clearance require extra width (66") and depth (62" or 65" depending on type of water closet).
7. Side grab not extending to 54" from rear wall. Specifying a 48" grab bar will accommodate most installation errors.
8. Wall sconces protruding out more than 4" between 27" AFF and 80" AFF. Known as “Protruding Objects,” these conditions are difficult to detect during the plan review. Wall lights that protrude no more than 4" will result in fewer Protruding Object conditions.
9. The “hi” drinking fountain frequently becomes a protruding object if the units are not located in an alcove. Fixing these conditions is not usually expensive, but the fix results in a design that is not favorably received.

The final remark I always make is the problem associated with not reading the plan review report. OK, I know it’s not great or interesting reading, but, from my experience, approximately 50% of the time, the items noted in the plan review report were not addressed, either through plan revisions or supplemental instructions to the contractor. It is very difficult to have the owner pay for these corrections when the “non-conforming” condition was brought to the attention of the design professional—usually before construction commenced.

www.tbae.state.tx.us

day: the design professionals adhering to regulations, advocates for the disability community and the design professions providing resources and education, the Registered Accessibility Specialists looking for trouble spots, and the emerging professionals preparing to someday contribute to the built environment.

We at TBAE are happy to play our part in the machine, and to make it as simple as possible for registrants, emerging professionals, and other stakeholders like you to play yours.

When all the parts of the accessibility machinery work well together—state government, federal government, private sector, college design programs, design professional societies, and advocates for the disability community to name a few—the end result can only be a safer, more usable, and more enjoyable built environment for the people who live, work, and play in Texas.

Resources:

Texas Accessibility Academy (by TDLR)
United States Access Board (Animations)



Tony Whitt
Continuing Education Coordinator

What does a Continuing Education “year” mean?

Registration renewals are due at the end of each month, based on the month in which you were born. So at the end of each month, we receive additional calls from some people born that month who are about to renew, but have a question before they do: “I’m a little short on my CE hours—should I wait to finish the hours I’m missing and then renew late?”

There’s a misunderstanding baked into this very common question, and I’ll clear it up here: *At the time you are renewing your license, we are always asking whether you are compliant with CE requirements for the previous calendar year.*

A few examples may be helpful. If you’re renewing, for instance, in April of this year (2017), you’ll be certifying compliance with CE requirements for the previous calendar year (January 1 through December 31, 2016). If you’re renewing your registration in September of 2018, you’ll be certifying compliance that you met the requirements during calendar year 2017.

The simple beauty of the system is this. As long as you are sure to earn your 12 hours of CE each calendar year—no matter whether it’s one hour each month or 12 hours all in one long weekend—you never need worry about certifying compliance. (Of course, you’ll want to be sure to maintain documentation.)

Below is a quick but useful tip sheet to help answer some of the top questions we get, but if you do need help on one or two of these matters you’re encouraged to call. My number is 512-305-8528, and I’ll do all I can to help you stay in compliance.

Contact Tony Whitt directly about continuing education issues!

PHONE: 512-305-8528 • EMAIL: ce@tbae.state.tx.us

TOP
5

Things to remember about your TBAE Continuing Education

- You need a total of 12 hours per calendar year (January 1 through December 31)
- One hour must be in sustainable or energy-efficient design, and one hour must be in accessible design
- Up to four hours of your total of 12 may be self-study (or you can do all 12 in a classroom setting—it’s your choice)
- Both your accessible design and sustainable design hours may be earned via self-study; you are welcome to earn one or both of these required hours in a classroom setting, but you also may earn them in the comfort of your own home
- CE hours are earned by calendar year; keep your course completion certificates organized by calendar year, not by your renewal period (which is still based on your birth month)

How to avoid TDLR referrals

By Jack Stamps *Managing Investigator*

I once got into some serious trouble with my first wife. I secretly made reservations, sent a dozen roses, and came home from work with a box of chocolates to celebrate our wedding anniversary. She was furious. I asked her what was wrong and she said I got the right day—but the wrong month! She got two dozen roses that year (in the correct month) and I learned a valuable lesson. I have been very careful with exact dates ever since.

You are probably asking what this has to do with your practice. Well, let me tell you. The advice I am about to give you could save you well over \$300 (I'll get to that later).

I have been working at TBAE for fifteen years, and during that time if I had a nickel for every TDLR late submittal referral I have received I could have retired to Bora Bora five years ago. When TDLR receives a Proof of Submission form that indicates plans were submitted for TAS review past the 20-day deadline, TDLR staff are obligated by statute to refer those cases to TBAE. They make that determination by simple math. Count the number of business days from the date construction documents issued for regulatory approval, permitting or construction on privately owned projects, or when construction documents are publicly posted for bids on government-owned projects to the date the construction documents are submitted to a RAS for TAS review. If the number exceeds 20 days, the referral is made. We get batches of up to 70 referrals at a time.

What percentage of these referrals do you think result in enforcement penalties? 50 percent? 25?

Less than 10 percent of referrals ultimately result in an enforcement penalty. And why is this, you ask? Let's go through the process.

We receive the referral, open an enforcement case on the registrant, and send a letter of notification and requesting a response. Quite often the response indicates that the registrant entered the wrong dates on the Proof of Submission form. The respondent submits the required documentation to prove compliance and sometimes enters into a detailed narrative explaining the mistake. Once confirmed, we dismiss the case and notify the registrant that he or she is off the hook.

We are required by statute to proceed with this process in each case, and are glad to do so. But it would be so much better if you, our registrant, would pay closer attention to the simple matter of entering the correct dates in this section of the form. It's a simple mistake to make, and a simple one to avoid. Here's how.

The entry in the "Date Construction Documents Issued" field should be the date you issued the construction documents for the purposes of regulatory approval, permitting or construction. (For publicly funded projects, enter the date the construction documents were publicly posted for bids.) This is the date that matters, because it starts the 20-day clock. The "Issued" date is rarely the date the construction documents were sealed, but often the sealing date is what ends up in that field. So that's an easy mistake to avoid: simply remember to enter the issuance date, not the sealing date.

The "Date Construction Documents Submitted" field is the date you mailed or delivered the construction documents to the RAS. You must sign the form and enter the correct date of signature. Responses indicate these forms are often filled out by employees who make the errors. If another filled out the form for you, double check the dates—especially the "Issued" date—to avoid the hassle.

____/____/____	
Date Construction Documents Issued	
____/____/____	to <input type="checkbox"/> TDLR
Date Construction Documents Submitted	<input type="checkbox"/> RAS # _____ Name: _____
Signature of Design Professional: _____	Date of Signature: ____/____/____

If closer attention is paid to these simple date entries, the number of referrals would decrease dramatically and my staff could spend more time investigating other cases in which the Board's laws and rules have been violated.

Oh yeah, about that \$300 savings I mentioned at the beginning of this article? I am guessing a good round number for hourly billing is \$150. It appears to me, from reviewing tons of responses, that the average registrant spends at least two hours preparing and submitting a response to our investigations. That could be time well spent on serving a client with billable hours.

I hope this helps out, and I wish you all much success in 2017. And please don't forget your wedding anniversary.

Disciplinary Action

The following cases were decided during the TBAE Board meeting in December, 2016. Each case is based on the applicable rule in effect at the time of the violation, and was considered by Enforcement staff and the Board in light of its unique facts. Individual rules may have changed between the time a violation occurs and the time the case is publicized.

In order to ensure compliance with continuing education responsibilities, TBAE staff audits 10 percent of its registrants each year through a random selection process. All of the continuing education enforcement cases brought to the Board at the meetings stem from the random audit program. The cases reflect the most common violations: (1) failing to complete adequate continuing education hours during a program year, (2) failing to maintain continuing education records and verification of participation in CE activities for a period of five years, (3) falsely certifying, at the time of renewal, compliance with continuing education responsibilities, and/or (4) failing to respond to a request for information within 30 days. Each continuing education infraction is subject to a standard administrative penalty.

Registrant Cases

Barnett, Randall C. **\$10,700**
Irving, TX

By using the title "architect" and providing architectural services for nine projects at a time when his certificate of registration was expired, Respondent violated TEX. OCC. CODE ANN. §1051.351(a) & 1051.701 and 22 TEX. ADMIN. CODE §1.123, §1.82(b).

Falsely reporting completion of CE responsibilities in order to renew registration

Failure to timely complete CE requirements within the program year

Failure to respond to two Board inquiries within 30 days

Continuing Education Cases

Bell, Matthew M. **\$700**
Plano, TX

Failure to maintain a detailed record of continuing education for 5 years

Brannan, Elizabeth Ann **\$700**
Houston, TX

Failure to maintain a detailed record of continuing education for 5 years

Dumont, Edward Abdo **\$700**
Bellaire, TX

Failure to maintain a detailed record of continuing education for 5 years

Hyndman, Dennis Emmanuel **\$700**
Encinitas, CA

Falsely reporting completion of CE responsibilities in order to renew registration

Jackson, Alana Colleen **\$1,700**
Dallas, TX

Failure to timely complete CE responsibilities

Falsely reporting completion of CE responsibilities in order to renew registration

Failure to timely respond to 2 board inquiries

Jankowski, Paul Brian **\$700**
Dallas, TX

Falsely reporting completion of CE responsibilities in order to renew registration

Landry, Barry **\$700**
Austin, TX

Falsely reporting completion of CE responsibilities in order to renew registration

Mendel, Stephen A. **\$700**
Houston, TX

Failure to maintain a detailed record of continuing education for 5 years

Murff, James A. **\$500**
Austin, TX

Failure to timely complete CE requirements within the program year

Norman, Stephen Thomas **\$700**
Dallas, TX

Falsely reporting completion of CE responsibilities in order to renew registration

Powers, Christopher J. **\$500**
Arlington, TX

Failure to timely complete CE requirements within the program year

Raffa, Anthony **\$700**
Houston, TX

Falsely reporting completion of CE responsibilities in order to renew registration

Scarborough, David C. **\$700**
Tyler, TX

Falsely reporting completion of CE responsibilities in order to renew registration

Schulz, Cory **\$500**
Plymouth, MN

Failure to timely complete CE requirements within the program year

Sheeley, Candace K. **\$500**
Effingham, KS

Failure to timely complete CE requirements within the program year



TEXAS Board of Architectural Examiners

Architects ■ Landscape Architects ■ Registered Interior Designers

333 Guadalupe, Suite 2-350, Austin, TX 78701 • P.O. Box 12337, Austin, TX 78711
Telephone: (512) 305-9000 • Fax: (512) 305-8900 • www.tbae.state.tx.us

Registrants, please encourage your interns to sign up for the TBAE list serve for important news and updates.

Change of Address

Please make sure that we have your current mailing and email address so we may send your renewal notice to you in a timely fashion. You may update your own record by logging in to your online account on our Web site, www.tbae.state.tx.us. You can also mail or fax **512.305.8900** the address change along with your signature. We will send renewal reminders to registrants at the e-mail address on file with TBAE, so be sure to keep your valid and unique email address updated.

Upcoming Board Meetings

- February 16, 2017
- June 8, 2017
- August 16-17, 2017
- November 8, 2017

EXECUTIVE DIRECTOR

Julie Hildebrand

BOARD MEMBERS

Debra Dockery, AIA

Chair, Architect Member; Term ends 1/31/17

Sonya B. Odell, FASID, AAHID, RID

Vice-Chair, Registered Interior Designer Member; Term ends 1/31/17

Paula Ann Miller

Secretary-Treasurer, Public Member; Term ends 1/31/17

Chuck Anastos, AIA – Architect Member; Term ends 1/31/19

Corbett “Chase” Bearden – Public Member; Term ends 1/31/21

Chad Davis, RLA – Landscape Architect Member; Term ends 1/31/19

Jennifer Walker, AIA – Architect Member; Term ends 1/31/21

Bob Wetmore, AIA – Architect Member; Term ends 1/31/21

The mission of the Texas Board of Architectural Examiners (TBAE) is to serve the State of Texas by protecting and preserving the health, safety, and welfare of the Texans who live, work, and play in the built environment through the regulation of the practice of architecture, landscape architecture, and interior design.

www.tbae.state.tx.us