

# Information *For architects*

This Newsletter is an official ARBV communication with Architects

## ARCHITECTURAL PRACTICE EXAM (APE) 2007-2008

**Fees for the APE in Round 3 2007 will increase, in line with changed fees detailed in the May Newsletter, No. 75.**

Round 3 of the APE for 2007 begins on 4 September, with submission of Logbooks and applications for Parts 1 & 2 of the exam.

Cost: Parts 1 & 2: \$350  
Part 3: \$300

These fees are now in line with those of other States and Territories.

**APE DATES FOR 2008 will be available later this year.** Candidates should check the ARBV website in November .

## PI INSURANCE COMPLIANCE

One Certificate of Currency is required this year – within a month of your 2007-2008 renewal date. Reminder letters will be sent to targeted groups according to renewal periods during the year.

Thank you to all who have provided their renewal information.

## ARCHITECTURAL SERVICES AWARD 2007

The Board is very pleased with responses to the Award for this year.

The judging panel is now determining a short list for interviews to be conducted before November.

Winners will be announced at the Board's annual presentation ceremony in December.

## ELECTION OF ARCHITECTS TO THE ARBV - 2007 election

Polling day for the election was 2 July. The outcome of the election was:

Compliant ballot papers received	745
Informal votes	49

(Election rules are that each ballot paper must show two candidates selected.)

### Candidates' votes

Jose Alfano	365
Jenifer Nicholls	606
Alex Njoo	519

Two candidates have clearly higher votes.

Congratulations to Jenifer Nicholls who is re-elected and to Alex Njoo who is elected, for a 2-year term beginning in November 2007.

The Board thanks Jose Alfano for his most valued contribution to the Board during his appointment.

Thank you to all architects who participated with their votes.

Two other positions on the Board: architecture schools' representative and community representative are still subject to Ministerial nomination and all positions subject to Governor in Council approval.

## CHANGE OF ADDRESS AND CONTACT DETAILS

If you are changing address and/or phone, we need your contact details in writing.

Please use our email at [registrar@arbv.vic.gov.au](mailto:registrar@arbv.vic.gov.au) or

fax on 03 94174711

# COMPLAINTS AND DISCIPLINARY PROCEEDINGS INVESTIGATIONS, INQUIRIES AND OUTCOMES ANNUAL REPORT 2006-2007

An inherent aspect of the legislation is Board action on behalf of consumers of architectural services. This takes many forms, ranging from verbal and written advice about the working relationship between architect and client to facilitation of formal complaint and inquiry procedures held at no cost to the complainant.

Title breach actions, complaint investigation and Tribunal procedures require a combination of investigative, legal, quasi-legal services and provision of hearing space, administrative and procedural costs each year.

## **Board and Tribunal procedures with complaints**

The Architects Act (Section 18) provides that the Board may inquire into an architect's fitness to practise or professional conduct. The Architects Regulations 2004 contain Professional Conduct Regulations required of architects. Inquiries and discipline procedures are managed by the Inquiries Officer.

Each year the Board receives enquiries related to the services of architects. In many cases, the caller is seeking information or clarification of rights and responsibilities, normal practice and reasonable expectations of architects; generally not wishing to make a complaint. Callers are assisted as far as possible with information or referred to Board publications and other relevant sources. Some callers are seeking information about or clarification of the disciplinary provisions of the Act and Regulations. Other callers require information about complaint procedures and a complaint form, so they have the necessary documentation to make a formal complaint if they wish to do so.

Complaints need to be in writing and include a completed official complaint form, which is available from the Board. All complaints are carefully reviewed using documentation supplied by complainant and architect and further investigation conducted where necessary.

If after reviewing a complaint the Board decides that there are prima-facie grounds for further inquiry, it refers the matter to the Architects Tribunal.

The Tribunal operates independently of the Board and has access to its own legal advice.

If the Architects Tribunal finds allegations against an architect proved, the Board is required to enforce the Determinations made by the Tribunal. The Act provides for application to be made to the Victorian Civil and Administrative Tribunal for review of a Determination made at an inquiry.

The Act also provides for application to be made to the Victorian Civil and Administrative Tribunal for review of a decision by the Board not to refer a complaint to inquiry.

## **Panel of Architects Tribunal members**

In accordance with the requirements of the Act, a Panel of persons qualified to serve as Architects Tribunal Panel members has been appointed by the Minister.

Bruce Allen, Margaret Pitt, Peter McEwan, Emanuel Moraitis, John Permewan, Peter McMahon, Andrew Begg, Tony Mussen, Alan Synman, Peter Haworth, Maggie Edmond, Sally Angell, Renee Gorenstein, Nicole Feeney, Ian Cunliffe, Drago Dragojlovic, Tony Hinz, Ian Lulham, Shirley Rooney, Michael Ryan, Les Schwarz, Mark Yorston, Heather Howes, Eliza Collier, Bronwyn Naylor, Peter Harkness.

## **Complaint statistics**

10 complaints were made to the Board during the reporting period.

The Board found that there were no grounds for referral to inquiry in 6 cases. 1 has been referred to the Architects Tribunal. 3 remain subject to review, 1 of which has been referred to mediation.

Additionally, an Architects Tribunal appointed in March 2006 was adjourned until the conclusion of a concurrent VCAT hearing; it is scheduled to conduct its inquiry in August 2007.

The incidence of complaints, as well as the proportion of complaints resulting in Tribunal inquiry, bears favourable comparison with the number of architects registered in Victoria (of whom approximately 2,800 are in practice).

	2004 - 2005	2005 - 2006	2006 - 2007
<i>Number of calls about services of architects</i>	55	53	55
<i>Number of complaint forms provided</i>	29	26	44
<i>Number of formal complaints received</i>	8	5	10
<i>Matters pending</i>	1	1	4
<i>Number of Tribunal inquiries completed</i>	2	2	0
<i>Number of matters referred to mediation</i>			1

## REPORTS OF ARCHITECTS TRIBUNAL INQUIRIES

No Architects Tribunal inquiries were completed during the reporting period.

## REPORTS OF MEDIATION

One mediation was conducted, the outcome of which was that the matters were not resolved.

## PROHIBITED CONDUCT - TITLE PROTECTION

Section 46 (k) of the Architects Act 1991 enables the Board "to investigate and take proceedings for offences against [the] Act". The Act (Sections 4, 5, 6, 7 & 8) controls the title of "architect", as well as the expressions "architectural services", "architectural design services" and "architectural design" in certain contexts. It also contains more general provisions against "holding out".

### Investigations of Title breach actions by the Board

The Board inquires into allegations of misuse of the title, as well as undertaking investigations on its own behalf. In the reporting period, 33 complaints of breaches of the Act were received, in addition to numerous telephone enquiries regarding registration status of individuals and firms.

If after investigation it appears that a breach of the Act has occurred, a letter from the Board requiring compliance is sent, and normally this is sufficient to achieve compliance with the Act. In cases where this purpose is not achieved, the matter is referred to the Board's lawyers for advice regarding prosecution in the Magistrate's Court.

During this reporting period, 15 letters of compliance were issued either to a person or firm representing themselves as an architect or using the protected terms, or to media outlets such as newspapers and magazines that have published the protected words in relation to persons or firms not registered or approved by the Board.

One prosecution was completed during the reporting period (*see below*). Two matters have been referred for prosecution and charges have been issued in one of those.

Title breach actions - summary

	2004 - 2005	2005 - 2006	2005 - 2006
<i>Number of Title breach investigations</i>	44	32	33
<i>Number of letters of compliance issued</i>	33	17	15
<i>Number of referrals for prosecution</i>	2	2	1
<i>Number of completed prosecutions</i>	1	1	1

**Prosecution of Dene Burgess and Burgess Properties Pty Ltd**

These matters were heard before Ms Wakeling M in the Melbourne Magistrates' Court on 16 May 2007.

Burgess Properties Pty Ltd pleaded guilty to five charges of using the word 'architectural' in relation to the design of buildings, contrary to the former section 6(1)(b)(i) of the Architects Act 1991 (Act).

Dene Burgess pleaded guilty to:

- a charge of using the word 'architectural' in relation to the design of buildings, contrary to section 6(1)(b) of the Architects Act 1991
- five additional charges of using the word 'architectural' in relation to the design of buildings, contrary to the former section 6(1)(b)(i) of the Act;
- and two charges of failing to comply with the condition of an undertaking to be of good behaviour, contrary to section 79(1) of the Sentencing Act 1991.

Burgess Properties Pty Ltd was fined an aggregate of \$2500.

Dene Burgess was fined an aggregate of \$2250.

The magistrate granted a stay of six months for payment of the fines. She also ordered both defendants to pay costs of the prosecution in a sum to be agreed or, in the absence of agreement, to be determined by the court.