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Information *For architects*

This Newsletter is an official ARBV communication with architects.

THE ARBV ARCHITECTURAL SERVICES AWARD 2005

To be eligible, Architects or Firms should have at least two and no more than three nominations for commissions completed during the two years prior to June.

Nominations must reach the Board no later than 31 August 2005.

Two nomination forms have been sent to each registered architect.

Architects may get additional forms by contacting the ARBV office.

INFORMATION AND COMMUNICATION

DESIGN PROCESS

MANAGEMENT OF THE PROJECT

CONTRACTUAL FULFILMENT

The emphasis of this award is on how the architect has met the clients' needs in the areas of **information and communication, design process, management and contractual fulfilment**. This is not a design award; but the nature of the design may contribute to the overall outcome for clients

Invariably, complaints received by the ARBV do not focus on design. They are more concerned with things like budget over-run, confusion and lack of communication, lack of resolution of problems that occur during a project, lack of a client/architect agreement and documentation that is untimely or difficult to understand.

Through the promotion of this award, the ARBV seeks to alert both the public and profession to the high-quality service available from architects and encourage architects to maintain their level of service in these key areas.

The award is limited to those projects not exceeding \$4 million and will be judged by an expert panel of architects, consumers and industry professionals appointed by the ARBV.

To nominate their architect, clients should complete the ARBV *Architectural Services Client Evaluation* form available from their architect or the ARBV. Nominations should be sent directly to the ARBV by the nomination closing date.

The winning architect, announced at a special award ceremony to be held in December, will receive \$5000 and a framed certificate of excellence. The client also will receive a framed certificate.

If you have any questions about the Award, please contact the Registrar, Michael Kimberley on 03 9417 4444.

INSURANCE COMPLIANCE FOR 2005

The Board congratulates all architects who have been able to confirm their compliance with PI insurance requirements for 2005-2006.

Our records show that 219 architects have yet to provide confirmation of their insurance arrangements by the end of August.

If you are still having trouble with insurance please keep us informed and forward your confirmation as soon as possible.

Our records also show that 263 architects and 113 Companies or Partnerships have not yet renewed their registration for 2005-2006. Re-instatement letters will be sent to these people.

Practising Certificates have been sent only to architects who have renewed registration and provided proof of insurance.

Change of address Please let us know if you change address by email at registrar@arbv.vic.gov.au

LEGAL MATTERS

REPORT FOR THE 2004-2005 YEAR

The Architects Act 1991 (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.

If after investigating a complaint the Board decides that on the face of the evidence before it there are grounds for further inquiry, it refers the matter to the Architects Tribunal.

The Tribunal operates independently of the Board and has access to independent legal advice. The Act provides for application to be made to the Victorian Civil and Administrative Tribunal for review of a decision by the Board not to institute an inquiry.

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 (sections 42-44).

The majority of complaints are from clients of architects, although the Act provides that any person may make a complaint.

Number of complaints for misconduct

In the 2004 -2005 financial year, 55 telephone inquiries about potential complaints were received and 8 formal complaints were made to the Board.

Of the 8 complaints at 30 June 2005, 4 were judged by the Board to warrant no further inquiry. Three remain subject to review and or legal advice before proceeding. One has been referred to Architects Tribunal inquiry.

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 2,500 are in practice).

Architects Tribunal inquiries

Note: At its June 2004 meeting the ARBV decided that, in future, reports of Tribunal outcomes will include the name of the architect concerned if a Tribunal finds that an allegation or allegations against the architect are proved. This policy applies from the first Tribunal arising from any complaint received after 1 July 2004. None of the matters reported here falls within this category.

Tribunal 04/03

This Inquiry was conducted on 30 July 2004, the Tribunal issuing its Notice of Findings and Reasons on 12 August 2004.

The allegations, in summary, were:

1. That in or about January 2004 [the architect] forwarded a letter in which you used offensive and threatening language to your former client, and you therefore failed to perform your work as a architect in a competent manner and to a professional standard in contravention of regulation 5 of the Architects Regulations 1993 and pursuant to regulation 22 of those regulations you are therefore guilty of unprofessional conduct.
2. That in or about January, 2004 you forwarded a letter in which you used offensive and threatening language to your former client, and you are therefore guilty of unprofessional conduct.

Having considered the material before the Tribunal and the submissions made on behalf of the parties, the Tribunal:

1. granted leave to the Board to withdraw the allegation contained in clause 6.1 of the Notice of Inquiry dated 14 July 2004, and
2. found the allegation contained in clause 6.2 of the said Notice proven and, as a consequence, the Tribunal found [the architect] guilty of unprofessional conduct, and determined to caution the architect and direct that the architect shall pay costs to the Board of \$500 not later than 1 September 2004."

Tribunal 04/08

This Inquiry was conducted on 24 November 2004.

The allegation, in summary, was:

1. That in or about April 2003, before accepting an engagement by [the clients] to provide architectural services, namely the design of a residence, you failed to set out in a written document the description, terms and conditions of the engagement and failed to supply a copy of that document to the clients in contravention of regulation 18 of the Architects Regulations 1993 and you are therefore, pursuant to regulation 22 of the Regulations, guilty of unprofessional conduct.

Finding:

The Tribunal found the allegation proved.

Determination:

The Tribunal made the following Determination and order as to costs:

1. To caution the architect.
2. The architect shall pay the costs of the Board fixed and agreed at \$1000 by 24 December 2004.

Tribunal 04/09

This Inquiry was conducted on 24 March 2005. The Tribunal issued its Findings, Reasons and Determinations on the same day.

The allegation, in summary, was:

1. That in or about October 1997, before accepting an engagement by [the client] to provide architectural services you failed to set out in a written document the description, terms and conditions of the engagement and failed to supply a copy of that document to the client in contravention of regulation 18 of the Architects Regulations 1993 and you are therefore, pursuant to regulation 22 of the Regulations, guilty of unprofessional conduct.

Finding:

The Tribunal found the allegation, which was not contested by the architect, proved.

Determination:

The Tribunal made the following Determinations:

1. to caution the architect;
2. to require the architect to pay costs of \$440.

Tribunal 04/10

This Inquiry was conducted on 13 April 2005. The Tribunal issued its Findings, Reasons and Determinations on 16 June 2005.

The allegation, in summary, was that:

1. On or about 12 May 2004 you provided a written report to [a client] on painting work carried out by [a painter] which contained comments that were inappropriate in all the circumstances and you are therefore guilty of unprofessional conduct.

Finding:

The Tribunal found the allegation proved.

Determination:

The Tribunal made the following Determinations:

1. to reprimand the architect;
2. to require the architect to pay costs of \$2000.

Referrals to Tribunal – in progress

Complaints 04/02 and 04/07 have been referred to the Architects Tribunal, and are scheduled to be heard on 23 August 2005 and 20 September 2005 respectively. The outcomes of these Tribunals will be reported in a forthcoming Newsletter and in the 2005-2006 Annual Report.

Professional conduct investigations in progress

At the time of reporting there are two professional conduct matters before the Board.

Title Protection

Section 46 (k) of the Architects Act 1991 enables the Board “to investigate and take proceedings for offences against [the] Act”.

Until 30 June 2005, the Act protected the title of ‘Architect’ and the derivative words ‘architecture’ and ‘architectural’ in relation to the design of buildings or parts of buildings and the preparation of plans, drawings or specifications for buildings or parts of buildings.

The Architects (Amendment) Act 2004 amended these provisions. The Act (Sections 4, 5, 6, 7 & 8) now 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”. These amendments came into force on 1 July 2005.

This report is based on the provisions of the previous Act.

The Board inquires into allegations of misuse of the title, as well as undertaking investigations on its own behalf. In the reporting period, 44 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 is determined 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, 33 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 matter was prosecuted and two matters are pending under Board investigation.

Prosecution of Burgess Properties Pty Ltd and Dene Meredith Burgess

These prosecutions were heard in the Melbourne Magistrates’ Court on 21 January 2005.

The defendants pleaded guilty to four charges of using the work ‘architectural’ in relation to the design of buildings, contrary to paragraph 6(1)(b) of the Architects Act 1991. The charges were adjourned without conviction to 20 January 2006 on the defendants giving undertakings to be of good behaviour during the period of the adjournment.