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

LICENSING NEWS

ARCHITECTURE • INTERIOR DESIGN • LANDSCAPE ARCHITECTURE

JANUARY 2018

CHAIR'S COLUMN

Recovery, Restoration, Resiliency

When Hurricane Harvey slammed into the Texas Gulf Coast this summer and stayed there for days, so many storylines were born both in the news and, for many of us, directly from friends and family in the area. That's not to mention those of us who were on the spot trying to keep their families, homes, businesses, and property safe. Think of the rescues by boat. The first responders, the Cajun Navy, and all the brave, resourceful neighbors making sure people were moved out of harm's way. The world witnessed compassion, kindness, and courage in Houston. Those are necessary ingredients during the floods. What will come in handy in the next months and years is a different skillset, and one to which design professionals are well-equipped to contribute.

Recovering from such staggering devastation will not be quick or easy. The numbers alone paint a picture. A record-setting 52 inches of rain fell. More than 440,000 people applied for FEMA aid. 45,000 sought refuge in storm shelters. Governor Abbott has estimated the recovery could cost up to $180 billion.

Before the rain even stopped, the multiyear effort to rebuild began. Federal, state, and local governments swung into action with an array of programs, services, and staff to assist with problems from the immediate to the forward-looking. And Texas design professionals were—and continue to be—components of the disaster recovery toolkit.

Understandably, this issue of *Licensing News* is devoted heavily to the overall topic of disaster response, recovery, and rebuilding. You'll read about the efforts of this agency and several others, how we are coordinating with our colleagues across the design professions, and what we are able, within the law, to do to help those affected by the storm.

But I'd like to point out one facet of the story that emerged, which might have been overlooked in the days and weeks immediately following the storm, the flood, and the initial efforts at recovery. Around state government, there is a sharp focus on one concept: resiliency in the built environment. Resiliency appears in remarks by top state officials, the agendas of interagency workgroups, and elsewhere in places where decision-makers work together. Sustainable design is and always has been important. It's also important that a sustainably designed environment is habitable after a disaster like Super Storm Sandy in 2012, Hurricane Harvey in 2017, or the next disaster. The emergence of resilient design as a topic in so many conversations inside and out of the design and construction industries is a very welcome development.

As state and local leaders shift from recovery to rebuilding, design is and should be a top priority. Storms like Harvey have crashed into Texas before, and they will do so again. With a renewed purpose in preparing for storms like this—across the design and construction professions, and with a plan in mind—one hopes that while future storms are as inevitable as they are unpredictable, their impact on the people of Texas can be mitigated. As you know, and as state and local leaders know as well, careful consideration of where, how much, and in what way we shape the built environment plays an outsize part in how the state fares in the face of future disasters.

Debra Dockery, FAIA
Chair

INSIGHT FROM THE EXECUTIVE DIRECTOR:

What we've done after the storm, and what you can do

After any large-scale disaster, it's expected that certain things will happen. Citizens in and near the affected area will help their friends, families, and neighbors to safety. First responders will arrive to move the sick and injured to care facilities, and manage traffic and access into and out of dangerous areas. Blaring sirens, strobing red-and-blue lights, and television coverage ensure that everyone knows local, state, and often federal resources are on site to help.

Less obvious to most are the efforts of other entities, like TBAE, to do what we can to assist in times of need. With a limited jurisdiction, the measures we take in the aftermath of a disaster won't be found on the evening news—but they can provide direct assistance to registrants and candidates like you nonetheless. We have taken those steps, and others, to do all we can to ease the burden of registrants and candidates affected by the storm and the flooding.

First and most directly, if you were impacted by the storm and unable to comply with a continuing education audit because of it, simply contact us in reply to your audit letter to discuss the matter. Additionally, we may be able to waive certain fees and other requirements, depending on the circumstances. Recognizing the difficulty affected TBAE registrants may have experienced due to the storm, we want to assist those in declared disaster areas and during the declared disaster period.

If you were affected by Hurricane Harvey and were not able or will not be able to timely renew your registration, please contact us at 512-305-9000 or renewals@tbae.state.tx.us.

Coordination with other state agencies and professional societies has occurred as well. In the immediate aftermath of the storm and flooding, TBAE worked closely with TxA on their cross-government, inter-profession program to sign up professionals to volunteer their expertise on the coast. The program has a lot of moving parts, and we are proud of TxA for playing a valuable role. Governor Abbott's Office of State and Federal Relations convened a workgroup of diverse state agencies—occupational licensing agencies among them—to report on their efforts, and TBAE took part. Stemming from that workgroup, the TDLR has initiated a new workgroup of occupational licensing agencies called HOPE to share data, analytics, lessons learned, and best practices going forward.

In the end, design professionals and others will do the actual work of designing and rebuilding damaged or destroyed property. Design expertise will prove essential to restoring the coast to what it was, and TBAE registrants have that. Standards of care, particularly in such a precarious circumstance as wide-scale recovery, are paramount as well and it is our job to make sure those standards are upheld. We know they will, and we will do our best to promote a safe, quick recovery and a more resilient Texas as a result.

Julie Hildebrand
Executive Director

For the latest news and updates, visit:

www.tbae.state.tx.us

Rebuilding after the storm: an accessibility perspective

By Carroll Lee Pruitt, FAIA, NCARB, APA

Many of us will be involved in some manner regarding the rebuilding of areas damaged by recent hurricanes in Texas as consultants to owners, property insurance adjusters, or others. Many architects or firms will be hired to prepare plans to rebuild or repair damage. There is always a rush to get the building repaired and back in operation, understandably. However, these repairs and rebuilding of damaged structures must continue adherence to applicable codes and standards, including the Texas Accessibility Standards (TAS).

Where a primary function is altered, building owners are obligated to spend up to 20 percent of the cost of construction to upgrade path of travel elements in an existing building. Path of Travel is defined in 106.5.41 as *a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility. An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements. The term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.*

The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking. If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three-year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate. Also see definition of "Disproportionality".

Disproportionality is discussed in TAS under 106.5.25: *Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area. Costs that may be counted as expenditures required to provide an accessible path of travel may include:*

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY); and

(iv) Costs associated with relocating an inaccessible drinking fountain.

All determinations of disproportionality are made by the Department in accordance with the variance procedures contained in Chapter 68, Texas Administrative Code.

It is important to note that it is the Texas Department of Licensing and Regulation that determines disproportionality, and not the Registered Accessibility Specialist reviewing the plans and inspecting the facility. Further, nothing in the standards, law, or rules lessens the requirement for compliance. Floor covering replacement and extensive replacement of wall board may be considered an alteration to an area of primary function. Toilet rooms and parking also must be considered for accessibility, even if these are the only items to be replaced.

Keep in mind that governmental jurisdictions including, but not limited to, building inspection departments do not have the authority to waive provisions of the Texas Accessibility Standards.

Many building owners carry code upgrade insurance and this may be an opportunity to cover some or all of the costs of meeting accessibility requirements. Furthermore, this applies to a building with a repair cost that is less than $50,000.

On a recent trip to the Houston area, as a code consultant, I had to remind those doing the work, including the owner and the insurance adjuster, that the Texas Accessibility Standards had to be complied with during the repair of a flooded building.

Be aware of your obligations as a Texas Registered Architect if you or your firm is involved in any of these projects.

Note: Commentary is by the writer and not as a representative of the Texas Department of Licensing and Regulation or the Texas Board of Architectural Examiners.

An imperfect storm

By Jack Stamps *Managing Investigator*

I just returned from spending the Thanksgiving week in Galveston. We rented an 1884 "storm survivor" home in the historic east end district and ate twice at the Mosquito Café a block away. On the wall, seven feet above floor level, they sport a bronze plaque noting the water level in 2008 when Hurricane Ike blew through.

The historic Galveston Hurricane of 1900, Hurricane Ike, and most recently Hurricane Harvey shared similar aspects: they were preceded by relatively calm and peaceful days; they hit fast; they intensified greatly; and they left a path of destruction. Efforts to rebuild and repair were gargantuan. The 1900 hurricane has been called "The Perfect Storm." Our hearts go out to all who have lost due to Ike, Harvey, the 1900 storm, and all of the other disasters that have befallen our state and the Gulf Coast through the years.

By contrast, I would like to draw your attention to a matter at TBAE that I will refer to as "An Imperfect Storm." And it is exemplified by waves upon waves upon waves of TDLR late submittal referrals, crashing over my "sea wall" and raining down into my inbox. Just like the storms mentioned above, there was a period of relative calm and peace before the onslaught. The referrals then hit fast and intensified but unlike the natural disasters listed, they haven't gone away. I am thinking about mounting a similar bronze plaque on my cubical wall noting the highest level of case referrals in my inbox.

Let's do the numbers. In fiscal year 2016 we received 30 referrals, much like the previous years; In 2017 we received more than 300 and as of 12/1/17, just four months into fiscal year 2018 we have received more than 160 referrals. It is a downpour of TDLR referrals.

So, this begs the question: did a good number of our registrants suddenly decide that after issuing plans for regulatory approval, permitting or construction, they would just kick back for a few months before submitting the plans and Proof of Submission Form to a Registered Accessibility Specialist for accessibility review? No. Not at all. A relatively low percentage of these referrals are deemed, upon our investigation, to represent violations. The majority of these referrals, which we are required by statute to investigate, involve the omission of dates or the entry of incorrect dates on the TDLR Proof of Submission Form. A couple of quick and simple examples may prove helpful and keep your Proof of Submission Form off my desk.

- The "Date Construction Documents Issued" blank should be filled with the date on which you submitted or "issued" your construction documents for regulatory approval, permitting, or construction. This is different than the sealing date, and the issuance date starts the 20-day clock for submitting for accessibility review (see page 3 for more about accessibility review and associated issues).
- The "Date Construction Documents Submitted" is the date on which you submitted (mailed, delivered, etc.) the documents to the Registered Accessibility Specialist for review.

Quite unlike Ike, Harvey and the great storm of 1990, this imperfect storm can be prevented. As I wrote a few newsletters ago and as I preach whenever I get a chance, responding to a letter regarding an investigation into a late submittal violation and gathering up enough evidence to prove innocence can be time consuming. Spending a few minutes checking and completing dates on the form when filling it out can avoid all of that. And if you are not sure, you can always call us at 512.305.9000. We will be happy to assist you.

Disciplinary Action

The following cases were decided during the TBAE Board meetings in June, August, and November, 2017. 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 and Non-registrant Cases

Ahearne, Patrick M. — $1,000
Allen, TX

Respondent failed to submit a document as required by the Architectural Barriers Act, in violation of Board Rule 1.170(a).

Chu, Pui-Lam — $10,000 + sanctions*
Houston, TX

By affixing his seal, signature, and date of sealing to construction documents that he did not prepare and were not prepared under his supervision and control, Respondent violated Board Rule 1.144(a).

By affixing his seal to a set of dcouments that were prepared by another architect without that architect's knowledge or consent, and submitting such plans to the city of Deer Park as his own, Respondent engaged in dishonest practice in violation of Board Rule 1.144(a).

**Sanctions: In addition to $10,000 administrative penalty, probated suspension of architectural registration for a period of two (2) years from the date of the Board's Order; submission of a report of Respondent's projects to the Board every three (3) months after the entry of the Board's Order; and successful completion of the National Council of Architectural Registration Board's Monograph Course "Professional Conduct" or an equivalent of ten (10) hours of ethics courses, subject to approval by Board staff.*

Cosme, Frank Cruz — $1,000
San Antonio, TX

By using the title "architect" and providing architectural services and sealing plans for a project at a time when his certificate of registration was expired, Respondent violated TEX. OCC. CODE ANN. §1051.351(a) & 1051.701 as implemented by Board Rules §1.123, 1.148(c) and 1.82(b).

Freeman, Charles E. — $1,000
Kennedale, TX

Respondent failed to submit a document as required by the Architectural Barriers Act in violation of Board Rule 1.170(a).

Garrison, David L. — $1,000
Plano, TX

By affixing his seal, signature and date to a landscape plan not prepared by him or under his supervision and control, Respondent violated Tex. Occ. Code §1052.252(1) and Board Rule §3.104(a).

Grauke, Olie Chadwick — $2,000
Bryan, TX

Respondent previously was registered as an architect in Texas, but that registration was revoked in 2008. Nor was Respondent's firm registered with the agency. Respondent utilized the terms "architect" and "architecture" in connection with his practice, in violation of Tex. Occ. Code §1051.701(a) and Board Rule 1.123.

Greico, Tom — $1,000
Carrollton, TX

Respondent is not and has never been registered to practice architecture in Texas. By referring to the term "Architecture" to describe the services he offers on his LinkedIn webpage, Respondent violated Tex. Occ. Code §1051.701 and 22 Tex. Admin. Code §1.123(a).

By referring to himself as an "Architect" through his firm's Web site, Respondent violated Board Rule 1.123(a).

Keller, Michael Roy — $1,000
Buda, TX

By using the title "architect" and providing architectural services and sealing plans for a project at a time when his certificate of registration was expired, Respondent violated Board Rules 1.82(b) and 1.123.

Lobb, Chuck — $1,000
Dallas, TX

Respondent is not and never has been registered as an architect in Texas. Respondent issued a construction document while utilizing the business title "Chuck Lobb - Architectural," in violation of Tex. Occ. Code 1051.701 and Board Rule 1.123.

TEX. OCC. CODE ANN. §1051.701(a).

McCrery, James, II — $3,000
District of Columbia

By engaging or offering to engage in the practice of architecture on a project prior to obtaining an individual architect registration in Texas, Respondent violated Board Rules 1051.701(a) and 1.123(c).

By failing to register his architectural business with the Board, Respondent violated Board Rules 1051.701(b) and 1.124(a).

Reibenstein, Charles A. **$1,000**
Dallas, TX

Respondent failed to submit a document as required by the Architectural Barriers Act, in violation of Board Rule 1.170(a).

Rogers, Mason Samuel **$1,000**
Amarillo, TX

Respondent failed to submit a document as required by the Architectural Barriers Act, in violation of Board Rule 1.170(a).

Steinberg, Sanford P. **$2,000**
Houston, TX

Respondent failed to submit a document as required by the Architectural Barriers Act on two projects, in violation of Board Rule 1.170(a).

Continuing Education Cases

Bailey, Amy Sue **$500**
Dallas, TX

Failure to timely complete CE requirements.

Banwo, Olamide A. **$700**
Plano, TX

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

Fleming, Christine **$700**
Allen, TX

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

Gallaher, Charlye **$700**
Keller, TX

Falsely reporting completion of CE requirements in order to renew registration.

Garrett, Valerie Joan **$700**
Portland, OR

Falsely reporting completion of CE requirements in order to renew registration.

Grish, Michael W. **$1,200**
Austin, TX

Failure to timely complete CE requirements; and

Falsely reporting completion of CE requirements in order to renew registration.

Hines, Mary-Katherine **$700**
McKinney, TX

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

Hughes, Barbara L. **$700**
Lancaster, PA

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

Hunter, Zachry Michael **$500**
Austin, TX

Failure to timely complete CE requirements.

King, Palmer Franklin **$700**
Dripping Springs, TX

Falsely reporting completion of CE requirements in order to renew registration.

Krupa, Laurence **$700**
Houston, TX

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

Liles, Scott C. **$700**
Temple, TX

Falsely reporting completion of CE requirements in order to renew registration.

Linehan, Paul W. **$500**
Austin, TX

Failure to timely complete CE requirements.

Mayfield, Kelie Ann **$1,200**
Houston, TX

Failure to timely complete CE requirements; and

Falsely reporting completion of CE requirements in order to renew registration.

McGaughy, Peggy **$1,200**
Bellaire, TX

Failure to timely complete CE requirements; and

Falsely reporting completion of CE requirements in order to renew registration.

Mink, Marcia L. **$700**
Houston, TX

Falsely reporting completion of CE requirements in order to renew registration.

Nash, Patricia Breann **$700**
Houston, TX

Falsely reporting completion of CE requirements in order to renew registration.

O'Keefe, Oscar **$700**
Henderson, NV

Falsely reporting completion of CE requirements in order to renew registration.

Oualline, Matthew Waters **$950**
Emory, TX
SOAH Docket Case No. 459-17-3036
Failure to maintain a detailed record of his continuing education for 5 years.
Failure to respond to a board inquiry.

Palis, Douglas Wayne **$500**
Dallas, TX
Failure to timely complete CE requirements.

Pena, Mario Andres **$700**
Laredo, TX
Failure to maintain a detailed record of his continuing education for 5 years.

Plattner, Donald E. **$700**
Keller, TX
Falsely reporting completion of CE requirements in order to renew registration.

Powell, Raymond D. **$500**
Lubbock, TX
Failure to timely complete CE requirements.

Qualls, Curtis Lan **$500**
Madison, WI
Failure to timely complete CE requirements.

Randolph, Hugh Jefferson **$500**
Austin, TX
Failure to timely complete CE requirements.

Reedy, Frank B. **$700**
Dallas, TX
Falsely reporting completion of CE requirements in order to renew registration.

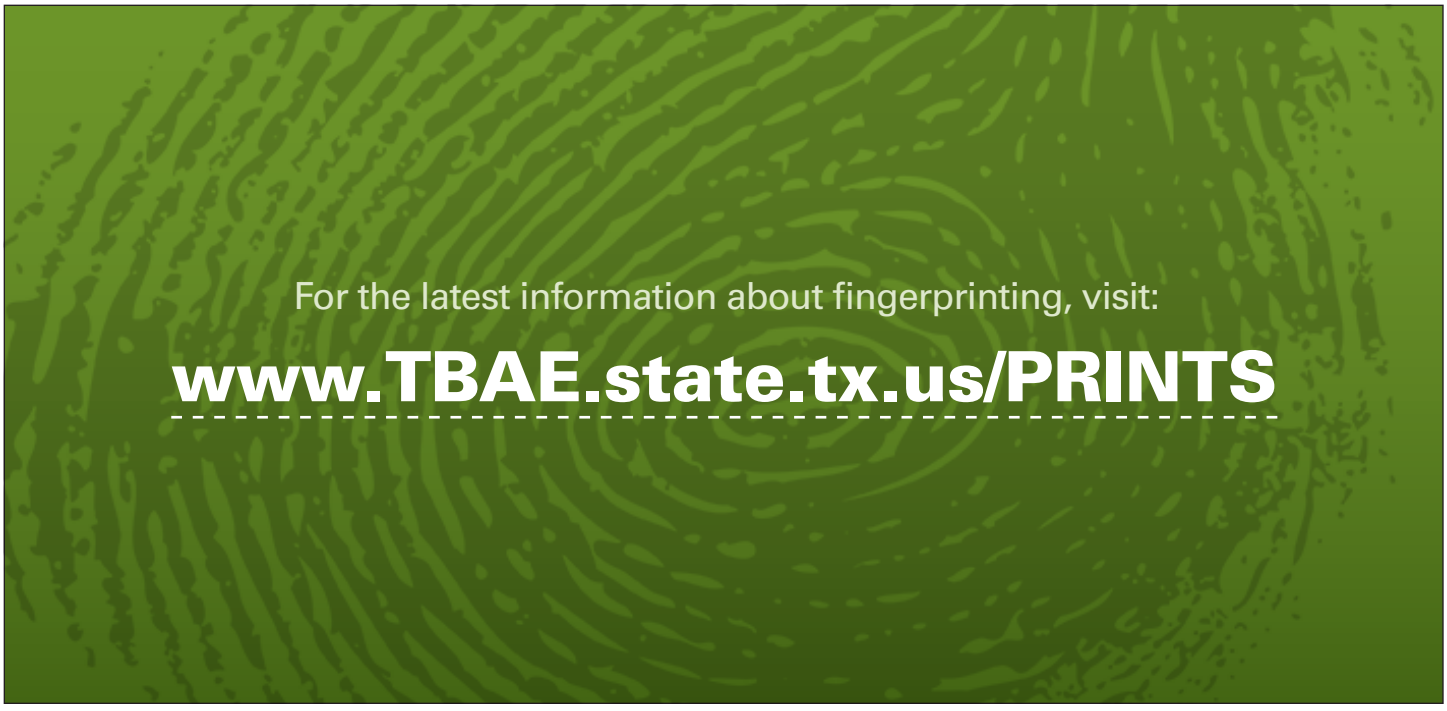
Rios, Gabriela **$500**
San Antonio, TX
Failure to timely complete CE requirements.

Sheats, Patricia T. **$1,700**
Fort Worth, TX
Failure to timely complete CE requirements;
Falsely reporting completion of CE requirements in order to renew registration; and
Failure to respond to two board inquiries.

Tang, Albert Lee **$700**
Richardson, TX
Falsely reporting completion of CE requirements in order to renew registration.

Walker, Michael Duke **$700**
El Paso, TX
Falsely reporting completion of CE requirements in order to renew registration.

Zadina, Peggy Jean **$500**
Dallas, TX
Failure to timely complete CE requirements.



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 1, 2018
- May 22, 2018
- August 21, 2018
- November 15, 2018

Executive Director

Julie Hildebrand

Board Members

Debra Dockery, FAIA
Chair, Architect Member; Term ends 1/31/17

Chad Davis, RLA
Vice-Chair, Landscape Architect Member; Term ends 1/31/19

Jennifer Walker, AIA
Secretary-Treasurer, Architect Member; Term ends 1/31/21

Sonya B. Odell, FASID, AAHID, RID
Registered Interior Designer Member; Term ends 1/31/17

Paula Ann Miller – 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

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

Attestation of Self-Directed Credit Hours Earned

TBAE newsletter, *Licensing News*

I certify that I read the _____ [Month, Year as found at top of page one] issue of TBAE's *Licensing News* for _____ hours (up to two) on _____ [date].

These continuing education hours will count for self-directed study for the calendar year in which they were earned.

I understand that up to four continuing education hours of the required 12 per calendar year may be earned via self-study.

_____ _____

Your name Date

Please keep this Certificate for your records, and submit it if you receive an audit letter from TBAE, along with all additional certificates for the specified calendar year.

TEXAS Board of Architectural Examiners
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