

BEFORE THE STATE OF MARYLAND STATE BOARD OF ARCHITECTS

STATE BOARD OF ARCHITECTS

v.

CARLO JOSEPH DITONNO
105 MILL ROAD
NEWVILLE, PA 17241

Respondent

Agency Case Nos.: 18-AR-09

* * * * *

SETTLEMENT AGREEMENT AND CONSENT ORDER

This matter comes before the State of Maryland State Board of Architects ("Board") as the result of the Board conducting a random audit of Carlo Joseph Ditonno's ("Respondent") license renewal application to determine if the Respondent completed the required Continuing Professional Competency ("CPC") hours. As a result of the random audit and subsequent investigation, the Board determined that the Respondent failed to demonstrate having completed the required CPC hours and that administrative charges against the Respondent are appropriate.

To resolve this matter without a formal administrative hearing, the Board and the Respondent (collectively "Parties") agreed to enter into this Settlement Agreement and Consent Order ("Consent Order") to provide for the imposition of disciplinary measures that are fair and equitable in these circumstances and consistent with the best interests of Maryland's citizens.

The Parties agree and stipulate to the following:

1. At all times relevant to the matter, the Board had jurisdiction over the subject matter and the Respondent who is a Board licensed architect with registration number of 04-6812.
2. The Maryland Architects Act ("Act") is codified at Business Occupations and Professions Article ("BOP"), Annotated Code of Maryland §3-101, *et seq.* BOP §3-309.1 provides that the Board shall adopt regulations to require a licensee to demonstrate continuing professional competency by completing at least 24 hours of professional development activities as a condition of renewal of a license.
3. The Board adopted and promulgated such regulations at Code of Maryland Regulations ("COMAR") 09.21.05.01 *et seq.*, and COMAR 09.21.05.03 sets forth specific CPC requirements as follows:

COMAR 09.21.05.03 Requirements.

A. Except as set forth in §B of this regulation, a licensee shall complete at least 12 LUs¹ during each of the 2 preceding calendar years that occur prior to the calendar year in which an applicable license term is set to expire.

B. In the event a licensee is unable to fulfill the continuing competency requirements in accordance with the criteria described in §A of this regulation, but still completes 24 LUs during the relevant term of the license, the Board may accept such completion as the acceptable fulfillment of the license renewal requirements for a particular licensing term.

C. A licensee may not carry forward as a credit any of the LUs earned in excess of 12 annual LUs described in §A of this regulation.

4. On or about October 15, 2017, the Respondent submitted a license renewal application and, pursuant to COMAR 09.21.05.07(A), certified completing the required hours for the renewal term that ended on October 25, 2017.
5. Pursuant to BOP §3-309(c)(4) and COMAR 09.21.05.07(B), the Board selected the Respondent for a random audit to confirm that the Respondent had completed the required CPC hours, and required that the Respondent provide documentation for the 24 hours he certified completing. The Respondent only provided documentation for 13.5 CPC hours, and the Board only allowed 12.5 CPC hours as indicated below:

| Program | Date | Hour | Allowed |
|---|----------|------|---------|
| Coastal Resilience | 10/31/17 | 1 | 1 |
| Sustainable Campus Development | 11/16/16 | 1 | 1 |
| Steep Slope Roofing Common Mistakes | 11/16/16 | 1.5 | 1.5 |
| The Trend Towards Composite Masonry: A Greener Solution | 11/16/16 | 1 | 1 |
| Building a Better Deck and Rail: Using Trends, Installation, & Design Elements | 11/16/16 | 1 | 1 |
| Climate Zoned Cladding and Contemporary Commercial Solutions with Fiber Cement Siding | 11/16/16 | 1 | 1 |
| Benefits of Daylight and Fresh Air in Residential Design | 11/16/16 | 1 | 1 |
| Green Walls | 7/11/16 | 1 | 1 |
| Building Integrated Photovoltaics | 4/19/16 | 1 | 1 |
| Water and Resilience | 8/24/15 | 1 | 1 |

¹ For the purposes of this agreement, herein CPC hour includes LU. COMAR 09.21.05.02(B)(4) provides that "Learning unit (LU)" means one continuous instructional hour spent attending and completing the professional development activity in health, safety, and welfare subjects. One LU means a minimum of 50 minutes of face-to-face or distance learning instruction per 60-minute hour and is equivalent to a comparable single educational unit that may be utilized by AIA or NCARB.

| | | | |
|--------------------------|---------|-------------|-------------|
| Adapting to New Environs | 6/28/15 | 1 | 1 |
| Architecture & Money | 5/24/15 | 1 | 0 |
| Innovations in Glass | 3/3/15 | 1 | 1 |
| Total | | 13.5 | 12.5 |

6. The Board disallowed Architecture & Money completed on May 24, 2015 because the CPC hour was not in a health, safety, and welfare subject as required by COMAR 09.21.05.02(B)(4) and COMAR 09.21.05.03 respectively.
7. The Board notes and the Respondent agrees that although the Board could disallow the 1 CPC hour for Coastal Resilience completed on October 31, 2017 because the Respondent completed it after October 25, 2017, the Board will allow it because the Respondent agrees herein that he will not attempt to apply this 1 CPC hour toward his CPC requirements for any other license renewal term.
8. The Respondent agrees and acknowledges that, after applying the October 31, 2017 Coastal Resilience 1 hour CPC to the license term that expired on October 25, 2017, he only demonstrated completing 12.5 of the required CPC hours, and has failed to provide documentation for 11.5 CPC hours.
9. Pursuant to BOP §3-311, subject to the hearing provisions of §3-313, the Board may reprimand a licensee, or suspend or revoke a license if "(v) the ... licensee violates any provision of [the Act]." Pursuant to BOP §3-311(a)(2)(i) "[i]nstead of or in addition to reprimanding the licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding \$5,000 for each violation."
10. To resolve this matter, the Respondent hereby admits to a finding, and consents to the Board entering a reflective Order, that the Respondent violated BOP §3-309.1 by failing to demonstrate that he completed the required 24 CPC hours for the license term that expired on October 25, 2017, and requiring:
 - a. That the Respondent shall immediately and voluntarily surrender his Maryland Architect's license ("license") in lieu of the Board reprimanding the Respondent, suspending or revoking the Respondent's license, imposing any civil monetary penalty on the Respondent, or taking any other corrective action as permitted by law;
 - b. That immediately upon surrendering his license, the Respondent shall cease, desist, and otherwise refrain from engaging in any conduct, now or in the future, that requires licensure by the Board until such time as the Respondent obtains the required licensure; and
 - c. That if the Respondent seeks licensure from the Board at any future date, then the Respondent shall appear before the Board, or its designee, for a hearing where the Board may consider the findings herein, any matters related to the Respondent's October 15, 2017 license renewal application and subsequent audit, any other matters as the Board deems appropriate, and where the Board may deny the Respondent

licensure on the basis of the findings in this Consent Order alone or in addition to any other lawful basis.

11. The Respondent agrees that if the Respondent fails to comply with the terms of this Consent Order, the Respondent's license will immediately and automatically be suspended by the Board, without a hearing on the suspension, and that the suspension will continue until the Respondent evidences compliance. The Respondent recognizes that should the license be suspended, the Board is required to notify the National Council of Architectural Registration Boards of the license suspension.
12. The Parties agree that waiver of any rights or duties provided herein must be in writing, that any such waiver constitutes a one-time waiver on a case-by-case basis, and that any such waiver is not a waiver of this entire agreement or the subject provision(s) unless otherwise explicitly stated in writing.
13. The Parties intend that this Consent Order represents the final expression of the Parties' intent and agreement between the Parties relating to the subject matter of this Consent Order. The Parties further intend that this Consent Order contains all the terms the Parties agreed to on the subject matter of this Consent Order. The Parties further intend for this Consent Order to replace all the Parties' previous discussions, understandings, and agreements relating to the subject matter.
14. By entering this Consent Order the Respondent expressly waives the right to have the charges reduced to writing, to an administrative hearing before the Board or its designee on the charges, to the making of Findings of Fact and Conclusions of Law, to any and all other proceedings before the Board or its designee, and to any rights to appeal from this Consent Order to any court of competent jurisdiction.
15. The Respondent hereby acknowledges that he has had the opportunity to consult with private counsel of his choosing and at his expense prior to entering this Consent Order and that he is entering into this Consent Order knowingly, voluntarily, and intelligently.
16. The Parties agree that this Consent Order will serve as the Final Order in this matter and be a part of the Respondent's licensing record that is maintained by the Board. The Board's records and publications will reflect the terms of the Consent Order.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 8th DAY OF March, 2018, BY THE STATE BOARD OF ARCHITECTS HEREBY:

- I. **ORDERED** that the Respondent violated BOP §3-309.1 by failing to demonstrate that he completed the required 24 CPC hours for the license term that expired on October 25, 2017; and it is further
- II. **ORDERED** that the Respondent shall immediately and voluntarily surrender his Maryland Architect's license ("license") in lieu of the Board reprimanding the Respondent,

suspending or revoking the Respondent's license, imposing any civil monetary penalty on the Respondent, or taking any other corrective action as permitted by law; and it is further

- III. **ORDERED** that immediately upon surrendering his license, the Respondent shall cease, desist, and otherwise refrain from engaging in any conduct, now or in the future, that requires licensure by the Board until such time as the Respondent obtains the required licensure; and it is further
- IV. **ORDERED** that if the Respondent seeks licensure from the Board at any future date, then the Respondent shall appear before the Board, or its designee, for a hearing where the Board may consider the findings herein, any matters related to the Respondent's October 15, 2017 license renewal application and subsequent audit, any other matters as the Board deems appropriate, and where the Board may deny the Respondent licensure on the basis of the findings in this Consent Order alone or in addition to any other lawful basis; and it is further
- V. **ORDERED** that if the Respondent does not meet the terms and conditions of this Consent Order, the Respondent's architect's license will be immediately and automatically suspended by the Board, without a hearing on the suspension, and that the suspension will continue until such time as the Respondent evidences compliance with the terms of this Consent Order, and that the National Council of Architectural Registration Boards will be notified of the license suspension; and it is further
- VI. **ORDERED** that unless otherwise specified in this Consent Order, each provision of this Settlement Agreement and Consent Order shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further
- VII. **ORDERED** that this document shall constitute a Final Order of the Board, and the Board may consider this Settlement Agreement and Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Settlement Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/or any court; and it is further
- VIII. **ORDERED** that the Board's records and publications shall reflect that the Respondent and the Board resolved this matter through this Settlement Agreement and Consent Order.