

Before the West Virginia Board of Architects

Mark S. Orling,

Complainant,

v.

Certificate No. 1645

West Virginia Board of Architects,

Respondent.

Consent Agreement and Order

On March 21, 2019, the West Virginia Board of Architects (“Board”), considered Mark S. Orling’s application for reinstatement in accordance W. Va. Code R. § 2-1-8.7 (Inactive Status - Renewal of Registration). Mr. Orling disclosed that he engaged in the practice of architecture while there was a lapse in his registration which is a violation W. Va. Code § 2-1-8.9.

The parties have reached an agreement as to the disposition of this matter in controversy, and do hereby agree to the following.

Findings of Fact

1. The Board is a state entity charged with regulating the practice of architecture pursuant to W. Va. Code § 30-12 *et seq.*
2. The Board is empowered to review and act upon license/registration applications, renewals, and reciprocity registrations pursuant to W. Va. Code § 30-12 *et seq.*, and W. Va. Code R. § 2-1 *et seq.*
3. The Board may deny an application for reinstatement upon satisfactory proof that the applicant engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct, or has violated the provisions of W. Va. Code § 30-12-1 *et seq.*, or applicable rules. See W. Va. Code R. § 2-1-10.

4. Mr. Orling is a licensed or registered architect (Certificate No. 1645) in the State of West Virginia. He is considered to be on inactive status.

5. Mr. Orling is seeking reinstatement of his registration.

6. Mr. Orling disclosed that he had practice architecture while there was a lapse in his registration.

7. The Board alleges that by practicing architecture while on inactive status, Mr. Orling violated W. Va. Code § 2-1-8.9 and is subject to disciplinary action pursuant to W. Va. Code R. § 2-1-10.

Conclusions of Law

1. The Board is empowered to review and act upon license/registration applications, renewals, and reciprocity registrations pursuant to W. Va. Code § 30-12 *et seq.*, and W. Va. Code R. § 2-1 *et seq.*

2. The Board has jurisdiction to take disciplinary action against Mr. Orling.

3. The Board is mandated by W. Va. Code § 30-12-1 *et seq.* to safeguard the life, health, proper and public welfare of the people of this State and to protect the people against the unauthorized, or improper practice of architecture.

4. The Board may deny an application for reinstatement upon satisfactory proof that the applicant engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct, or has violated the provisions of W. Va. Code § 30-12-1 *et seq.*, or applicable rules. See W. Va. Code R. § 2-1-10.

5. The conduct alleged against Mr. Orling, if proven at a hearing of this matter, constitutes a violation of W. Va. Code § 2-1-10, in that he practiced architecture while on inactive status.

Consent of Licensee

Complainant, Mark Orling, by affixing his signature hereto, acknowledges the following:

1. Mr. Orling has been given the opportunity to consult with counsel of his choice with regard to this matter.

2. Mr. Orling executes this Consent Agreement and Order voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

3. No person or entity has made any promise or given any inducement whatsoever to encourage Mr. Orling to make this settlement other than as set forth herein.

4. Mr. Orling acknowledges that he is aware he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

5. Mr. Orling acknowledges that he is aware this Consent Agreement and Order is a public document, available for inspection at any time by any member of the public under W. Va. Code § 29B-1 *et seq.*, Freedom of Information Act, and may be reported to other governmental, professional Boards or organizations.

6. Mr. Orling waives any defense of laches, statute of limitations, estoppel, lack of jurisdiction, lack of due process, and waiver that he may have otherwise claimed as a condition of this Consent Agreement and Order.

7. Without admitting that his conduct violates W. Va. Code §30-12 *et seq.*, or applicable rules, Mr. Orling consents to this Consent Agreement and Order; however, this is not an admission by Mr. Orling to the Board's allegations, findings of fact or conclusions of law and shall not be construed as such.

8. Mr. Orling, by affixing his signature hereon, consents and agrees to the following terms and conditions:

ORDER

On the basis of the foregoing, the Board does hereby **ORDER** and **DECREE**:

1. The Board shall reinstate Mr. Orling's license or registration upon execution and entry of this Consent Agreement and Order;

2. Mr. Orling shall pay a reinstatement fee of \$250.00.

3. Mr. Orling shall pay a late renewal fee (2017-2018) of \$150.00.

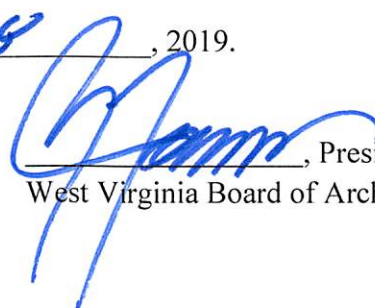
4. Mr. Orling shall pay a civil penalty of \$500.00.

5. Mr. Orling shall reimburse the Board for administrative cost in the investigation and disposition of this matter in the amount of \$350.00.

6. Fees, penalties, and costs shall be paid within 30 days of the execution and entry of this Consent Agreement.

7. Mr. Orling's failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Mr. Orling violate any of the terms of this Consent Agreement and Order, the Board may take further disciplinary action against Mr. Orling's license.

Entered this 3 day of MAY, 2019.



_____, President
West Virginia Board of Architects

Reviewed and Agreed to by:



Mark S. Orling

4/15/19
Date



Legal Counsel or Witness
MARY M. BODEN, WITNESS

4/15/19
Date