

Before the West Virginia Board of Architects

West Virginia Board of Architects,

Complainant,

v.

Case No. 11-20-2018

Anthony E. Ewen, WV Registration No. 4776,

Respondent.

Consent Agreement and Order

The West Virginia Board of Architects ("Board") initiated a complaint against Respondent Anthony E. Ewen for allegedly "sealing" MEP¹ technical submissions for a Family Dollar Store project that were not prepared by him or under his direct supervision in violation of the Rules of Professional Conduct set forth in W. Va. Code R. § 2-1-9 *et seq.* The parties have reached an agreement as to the disposition of this matter in controversy, with consideration to necessary safeguards for protection of the public and do hereby agree to the following:

1. The Board is a state entity created by W. Va. Code § 30-12 *et seq.*, and is empowered to regulate the practice of architecture in this state.
2. Pursuant to W. Va. Code § 30-12-8, the Board may impose a civil penalty upon a registered architect in this state for violating the Rules of Professional Conduct, W. Va. Code R. § 2-1-9 *et seq.*
3. Respondent is a licensed or registered architect (WV Registration# 4776) in the State of West Virginia.
4. The Board has jurisdiction to take disciplinary action against Respondent.
5. The Board alleges that Respondent "sealed" MEP technical submissions concerning a Family Dollar Store project that were not prepared by him or under his supervision, nor were 'incidental' as related to the "Practice of Engineering" as defined by W.V. Code Sec. 30-13-3(e).
6. Respondent avers and maintains that he believed he was following applicable statutes and regulations and that he behaved reasonably and within accepted standards of the 1 Mechanical, electrical, and plumbing construction drawings.

Professional Standards of Practice

The West Virginia Board of Architects ("Board") initiated a complaint against Respondent

concerning a family building project that was not prepared by him or under his supervision in violation of the Rules of

Professional Conduct set forth in W. Va. Code R. § 2-1-9 et seq. The parties have reached an

agreement as to the disposition of this matter in controversy, with consideration to necessary

standards for protection of the public and do hereby agree to the following:

The Board shall not be held liable for any action taken by it in this matter.

Respondent shall not be held liable for any action taken by it in this matter.

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profession in that he viewed the technical submission as 'incidental' and was not aware of any formal definition of that term under the West Virginia rules or regulations.

7. Respondent avers and maintains he will not "design, nor sign/seal, any type of engineering beyond the extent set forth by criteria definition of engineering in 30-12-3€€, set by the WV Board of Engineers and/or beyond any 'incidental' extent set forth by the WV Board of Architects." (See Respondent's Letter to the Board dated December 12, 2018).

Consent of Licensee

Respondent, by affixing his signature hereto, acknowledges the following:

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

2. Respondent 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 Respondent to make this settlement other than as set forth herein.

4. Respondent 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. Respondent 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. Respondent 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, Respondent consents to this Consent Agreement and Order; however, this is

not an admission by Respondent to the Board's allegations, findings of fact or conclusions of law and shall not be construed as such.


8. Respondent, 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:

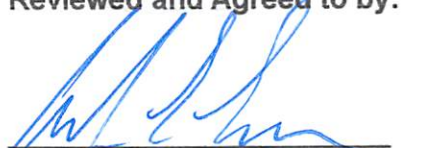
1. Respondent shall pay a civil penalty of \$500.00.
2. The civil penalty shall be paid within 30 days of the execution and entry of this Consent Agreement.
3. Respondent's failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Respondent violate any of the terms of this Consent Agreement and Order, the Board may take further disciplinary action against Respondent's license or registration.

Entered this 17th day of JULY, 2019.



President West Virginia Board of Architects


Reviewed and Agreed to by:



Anthony E. Ewen

7-2-19

Date



Legal Counsel or Witness

7/10/2019

Date

WVBA - Receive Payments

Certificate Number: 4776 Receipt Number 201183
Annual Number: 201183 Date Received 7/10/2019
Year: 2019-20 Deposit Date: 7/10/2019

Name: ANTHONY E. EWEN
Title: EMPLOYEE
Firm: LAND INVESTMENT SERVICES LLC
Address: 2572 WEST STATE ROAD 426, #2064
City/State/Zip: OVIDEO, FL 32765
SEMINOLE

Total Payment \$: 500.00 Check Number: 1026

Description of Payment: CIVIL PENALTY RE: #11-20-2018

WEST VIRGINIA BOARD OF ARCHITECTS
405 CAPITOL ST., MEZZANINE SUITE 3
CHARLESTON, WEST VIRGINIA 25301
PHONE (304) 558-1406

No 201183

RECEIPT OF PAYMENT

Received From:
ANTHONY E. EWEN
2572 WEST STATE ROAD 426, #2064
OVIDEO, FL 32765
SEMINOLE

The Sum of \$: 500.00
Date Received: 7/10/2019
Check Number: 1026
Deposit Date: 7/10/2019

Description of Payment: CIVIL PENALTY RE: #11-20-2018