

# **BACKGROUND PAPER FOR THE California Architects Board and the Landscape Architects Technical Committee**

**(Oversight Hearing, March 5, 2019, Senate Committee on  
Business, Professions and Economic Development and  
Assembly Committee on Business and Professions)**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS FOR The California Architects Board and Landscape Architects Technical Committee**

### **BRIEF OVERVIEW OF THE CALIFORNIA ARCHITECTS BOARD**

#### **History and Function of the California Architects Board (CAB or Board)**

The Governor of California approved “An Act to Regulate the Practice of Architecture” in 1901, thus creating CAB’s predecessor, the State Board of Architecture. The Legislature changed its name in 1929 to the California State Board of Architectural Examiners, reflecting the fact the Board administered exams, both oral and written, to prospective architects. The Board assumed oversight responsibilities for the Landscape Architects Technical Committee in 1998. CAB gained its current moniker in 2000 to reflect that, in addition to examining candidates, the CAB also maintains a wide range of programs to protect consumers and broadly regulates the practice of architecture. CAB oversees more than 21,000 licensed architects.

The Architects Practice Act (Act) defines the practice of architecture as “offering or performing, or being in responsible control of, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures.”<sup>1</sup> The Act exempts individuals from licensure requirements who prepare plans for smaller scale, woodframe construction projects such as single-family homes less than two stories. Structural, civil, and professional engineers; landscape architects; and land surveyors are also not subject to the Act, but cannot use the term “architect” unless they are so licensed.<sup>2</sup>

The mission of the CAB is to protect the public health, safety, and welfare through the regulation of the practice of architecture and landscape architecture in California. The following goals frame CAB’s efforts:

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<sup>1</sup> Business and Professions Code (BPC) Section 5500.1

<sup>2</sup> BPC §§ 5537, 5537.1, 5537.4, 5537.5, 5537.6, 5537.7.

1. Ensure the professional qualifications of those practicing architecture by setting requirements for education, experience, and examinations;
2. Establish regulatory standards of practice for California architects and protect consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur;
3. Increase public and professional awareness of the Board’s mission, activities, and services;
4. Improve effectiveness of relationships with related organizations in order to further the Board’s mission and goals; and
5. Enhance organizational effectiveness and improve the quality of customer service in all programs.

**CAB Membership and Committees**

The ten-member CAB consists of five architects and five public members.<sup>3</sup> The Governor appoints the professional members and three of the public members, while the remaining two public members are appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively.<sup>4</sup> Board members meet four times per year, and all meetings are subject to the Bagley-Keene Open Meetings Act.<sup>5</sup> Current members attend meetings regularly, and the Board reports it has not had any quorum concerns since the last Sunset Review.

There are currently two gubernatorial vacancies on the Board: one professional and one public member.

The current members are as follows:

Name and Background	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>Sylvia Kwan, FAIA, LEED™ AP BD+C, Board President</b></p> <p>Kwan founded Kwan Henmi Architecture and Planning Inc. in 1980 and in 2017 became a principal of DLR Group   Kwan Henmi. Her portfolio includes civic, education, transportation, residential, and commercial developments in communities across the Bay Area. Kwan has served as Director of The American Institute of Architects (AIA) National Board, the California Council Board, and the San Francisco Chapter Board. She is also a member of the San Francisco Chamber of Commerce, the Bay Area Council, and the Western Council of Architectural Registration Boards. Kwan received both her Artium Baccalaureus in architecture and Master of Architecture from</p>	<p>August 16, 2013</p>	<p>June 30, 2019</p>	<p>Governor</p>

<sup>3</sup> Business and Professions Code (BPC) § 5514

<sup>4</sup> BPC § 5515

<sup>5</sup> BPC § 5522

<p>the University of California, Berkeley. Kwan chairs the Board’s Executive Committee and serves on the Regulatory and Enforcement Committee.</p>			
<p><b>Tian Feng, FAIA, FCSI, Board Vice President</b></p> <p>Feng has been the District Architect for the San Francisco Bay Area Rapid Transit District (BART) since 2001. Prior to BART, he practiced architectural consulting, construction expert witnessing, and teaching with employments including Jacobs Engineering and University of Southern California (USC).</p> <p>Feng is a fellow of both AIA and the Construction Specifications Institute. He received a Master of Building Science from the School of Architecture at USC and a Bachelor of Engineering in Architectural Engineering from Tongji University. He serves on the National Council of Architecture Registration Board’s (NCARB) Certification Alternatives Review Team and the National Architecture Accrediting Board’s (NAAB) Architectural Accreditation Visiting Team. Feng serves on CAB’s Professional Qualifications Committee and the Executive Committee.</p>	<p>February 27, 2018</p>	<p>June 30, 2021</p>	<p>Governor</p>
<p><b>Nilza Serrano, Board Secretary</b></p> <p>Serrano founded TMS Production and Post Production firm and serves on the Getty House Foundation Board of Directors. Serrano also serves on the Board of Directors for Hispanas Organized for Political Equity (HOPE)-PAC, a Political Action Committee. Her advocacy helps to build and leverage opportunity, education and outreach to benefit community based services. Serrano serves on the Board’s Executive Committee.</p>	<p>July 19, 2016</p>	<p>June 30, 2020</p>	<p>Governor</p>
<p><b>Denise Campos</b></p> <p>Campos brings over 16 years of experience working in community and government relations to CAB. Campos currently works for Southern California Gas Company’s Regional Public Affairs team, and worked for several Los Angeles local elected officials prior. She is a graduate from San Diego State University with dual bachelor’s degrees in Political Science and Mexican American Studies, and is a member of the Hispanas Organized for Political Equality Leadership Institute 2014. Campos chairs the Board’s Communications Committee.</p>	<p>June 30, 2014</p>	<p>June 30, 2020</p>	<p>Assembly</p>
<p><b>Pasqual V. Gutierrez, AIA</b></p> <p>Gutierrez served as the Director of Architecture for HMC Architects, and previously served as senior project architect, associate, senior associate and principal. From 1988 to 1999, he was principal of the architecture firm The Gutierrez Partnership. Prior to that, Gutierrez was an architect with the interior design firm Reel Grobman Associates from 1983 to 1988. He serves</p>	<p>July 11, 2014</p>	<p>June 30, 2020</p>	<p>Governor</p>

<p>on NCARB’s Certification Alternatives Review Team. Gutierrez chairs CAB’s Professional Qualifications Committee.</p>			
<p><b>Ebony Lewis</b></p> <p>Lewis has been with Kaiser Permanente since 2005 and currently works as a Service Quality Consultant. She previously managed Southern California regional projects and supported physicians in residency training, built physician capacity, and developed diversity recruitment through outreach strategies. Lewis is a member of the University of Southern California Society of Trojan Women, Women in Health Administration, Junior League of Los Angeles, and a Co-Founder of the Black Los Angeles Young Democrats. She earned an Executive Master of Health Administration from the University of Southern California, Sol Price School of Public Policy. Lewis serves on the Board’s Communication Committee.</p>	<p>December 23, 2014</p>	<p>June 30, 2019</p>	<p>Governor</p>
<p><b>Robert C. Pearman, Jr.</b></p> <p>Pearman has been a California real estate and public agency lawyer for 30 years, focusing on public works, redevelopment, real estate, construction, affordable housing, financial institutions, and litigation law. Pearman has represented diverse clients, such as housing departments, redevelopment agencies, transportation authorities, cities, banks and mortgage lenders, construction companies, and real estate developers. He is currently Of Counsel to the law firm Sanders, Roberts, LLP. Pearman is also an arbitrator and a member of the American Arbitration Association’s National Roster of Neutrals (Commercial and Construction Disputes Panels), State of California Public Works Contract Arbitration Panel, and Caltrans Dispute Resolution Board. He earned his Bachelor of Science in Economics, cum laude, from the University of Pennsylvania, Wharton School, and his Juris Doctor from Yale Law School. Pearman serves on the Board’s Regulatory and Enforcement Committee.</p>	<p>August 15, 2018</p>	<p>June 30, 2022</p>	<p>Senate</p>
<p><b>Barry Williams</b></p> <p>Williams has been principal architect and owner of Barry Lorenz Williams Associates since 2010 and was previously principal architect and owner from 1981 to 1998. Williams has been a lecturer at California Polytechnic State University, San Luis Obispo since 1979, and is currently the off-campus coordinator for the College of Architecture and Environmental Design program in Mexico. He was a principal architect at Westberg and White Inc. Architects and Planners from 1998 to 2010 and was a research analyst and professional liability specialist at Design Professionals Insurance Company from 1995 to 2001. He earned both a Bachelor of Architecture and a Master of Science in architecture from California Polytechnic State University, San</p>	<p>December 18, 2014</p>	<p>June 30, 2018</p>	<p>Governor</p>

Luis Obispo. Williams serves on the Professional Qualifications Committee.			
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CAB has the following standing committees:

- The Executive Committee is composed of four members: the current President, Vice President, Secretary, and one additional Board member (typically the past President). It is responsible for:
  - Increasing public and professional awareness of the Board’s mission, activities, and services;
  - Improving the effectiveness of the Board’s relationships with organizations to further its mission and goals; and
  - Enhancing the Board’s organizational effectiveness and improving the quality of customer service in all programs.
  
- The Professional Qualifications Committee is composed of eight current and former Board members and outside experts. It is charged with:
  - Establishing requirements for licensee education, experience, and examination;
  - Reviewing the Board’s national examination to ensure that it fairly and effectively tests the knowledge, skills, and abilities of importance to architectural practice in California;
  - Analyzing and making recommendations on educational and experience requirements relative to entry-level qualifications;
  - Ensuring the Act accurately reflects areas of practice;
  - Providing general California Supplemental Examination (CSE) oversight;
  - Working with the Board’s testing experts, examination vendors, and subject matter experts to provide valid, defensible, and efficient examinations; and
  - Addressing broad examination policy issues.
  
- The Regulatory and Enforcement Committee (REC) is composed of seven current and former Board members and outside experts. It is charged with making recommendations on:
  - Practice standards and enforcement issues;
  - Regulatory standards of practice for architects;
  - Policies and procedures designed to prevent violations; and
  - Informing the public and licensees of the Board’s standards and enforcement programs.
  
- The Communications Committee is composed of seven current and former Board members and outside experts. It is charged with:
  - Overseeing all of the Board’s communications and identifying strategies to effectively communicate to key audiences; and
  - Providing strategic input on enhancing the use of social media to communicate with the Board’s stakeholders.
  - Communicating with the public through a variety of publications and programs, such as those designed to reach architectural students and faculty.

## **Fiscal and Fund Analysis**

The CAB is a self-supporting, special fund agency that obtains its revenues from fees, which in turn support its licensing, examination, enforcement, and administration programs.

CAB's fund is well balanced, and the Board does not project any needs for fee increases or decreases; CAB last raised its fees in 2010.<sup>6</sup> The fund has 13 months in reserve, or \$4.48 million, which is well within statutory mandates.<sup>7</sup>

Revenue is primarily generated by the biennial license renewal and examination fees. CAB's major expenditures are its enforcement program (30%), examination program (27%), and pro rata (22%). CAB is in BreEZe Release Three, and has spent a total of \$328,269 on BreEZe activities, but does not yet have a new technology system. The Department of Consumer Affairs is working with CAB to evaluate CAB's technology needs, and project procurement is set to begin in January 2020.

## **Staffing**

CAB's EO oversees a staff of nearly 30. Staff consistently receives high marks from consumer satisfaction surveys for courteousness, efficiency, and accuracy. CAB incorporated DCA's Workforce and Succession Plan into its Business Continuity Plan and updates it annually to develop strategies to retain expertise and staff knowledge.

## **Licensing**

CAB regulates over 21,000 active California architects. The Board evaluates a candidate's architectural education, experience, and examination results to assess their knowledge, skills, and ability to perform the services required of a competent California architect.

According to CAB's website, California's examination and licensure requirements are more flexible than most other jurisdictions. A potential licensee must:

- Provide verification of five years of education equivalence and three years of architectural work experience. At least one year of work experience must be under the direct supervision of an architect licensed in a US jurisdiction, or two years' experience under the direct supervision of an architect registered in a Canadian province.
- Successfully complete the Architect Registration Examination (ARE), Architectural Experience Program (AXP), and the California Supplemental Examination (CSE).

Candidates may submit applications for the ARE, CSE, and licensure at any time; there are no set deadlines for submission. Candidates requesting Board consideration of their education must have certified transcripts sent directly from their school or obtained from their NCARB Record, and their Employment Verification Forms (EVF) must be submitted.

ARE is a practice-based examination developed and administered by the National Council of Architectural Registration Boards (NCARB), which concentrates testing those services that most affect

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<sup>6</sup> AB 1145 (Price, Chapter 385, Statutes of 2009)

<sup>7</sup> This is well within the statutory mandate of 24 months, per BPC 128.5

the public’s health, safety, and welfare. The examination attempts to determine the candidate's qualifications not only to perform measurable tasks, but also to exercise the skills and judgment of a generalist working with numerous specialists.

ARE is comprised of the following six divisions:

- Construction & Evaluation
- Practice Management
- Programming & Analysis
- Project Development & Documentation
- Project Management
- Project Planning & Design

<b>Examination Data</b>								
<b>Architect Registration Examination (ARE) 4.0 (National Examination)</b>								
License Type		Architect						
Exam Title: ARE Divisions <sup>1</sup>		BD	BS	CDS	PPP	SD	SPD	SS
FY 2014/15	# of 1 <sup>st</sup> Time Candidates	579	605	921	824	731	775	569
	Pass %	339 (59%)	395 (66%)	485 (53%)	457 (55%)	518 (71%)	484 (62%)	375 (66%)
FY 2015/16	# of 1 <sup>st</sup> Time Candidates	627	599	1,119	933	656	902	552
	Pass %	374 (60%)	374 (62%)	512 (46%)	510 (55%)	480 (73%)	564 (63%)	360 (65%)
FY 2016/17	# of 1 <sup>st</sup> Time Candidates	447	476	1,064	923	335	837	448
	Pass %	250 (56%)	294 (62%)	492 (46%)	455 (49%)	249 (74%)	538 (64%)	288 (64%)
FY 2017/18	# of 1 <sup>st</sup> Time Candidates	186	187	639	752	137	599	232
	Pass %	101 (54%)	107 (57%)	282 (44%)	328 (44%)	108 (79%)	359 (60%)	138 (59%)
Date of Last OA		2012 NCARB Practice Analysis of Architecture						
Name of OA Developer		PSI Services, LLC						
Target OA Date		2020 (tentative)						

<sup>1</sup> Abbreviations used in the above table for ARE 4.0 (prior administered national examination) divisions are explained as follows:

- BD Building Design & Construction Systems
- BS Building Systems
- CDS Construction Documents & Services
- PPP Programming, Planning, & Practice
- SD Schematic Design
- SPD Site Planning & Design
- SS Structural Systems

A new version, ARE 5.0, launched November 1, 2016:

<b>Examination Data</b>							
<b>Architect Registration Examination (ARE) 5.0 (National Examination)</b>							
License Type		Architect					
Exam Title: ARE Divisions <sup>1</sup>		CE	PCM	PA	PDD	PJM	PPD
FY 2016/17	# of 1 <sup>st</sup> Time Candidates	103	205	95	225	137	289
	Pass %	51 (50%)	83 (40%)	35 (37%)	96 (43%)	70 (51%)	115 (40%)
FY 2017/18	# of 1 <sup>st</sup> Time Candidates	321	708	429	518	437	703
	Pass %	202 (63%)	332 (47%)	190 (44%)	251 (48%)	268 (61%)	290 (41%)
Date of Last OA		2012 NCARB Practice Analysis of Architecture					
Name of OA Developer		PSI Services, LLC					
Target OA Date		TBD					

<sup>1</sup> Abbreviations used in the above table for ARE 5.0 (currently administered national examination) divisions are explained as follows:

- CE Construction & Evaluation
- PCM Practice Management
- PA Programming & Analysis
- PDD Project Development & Documentation
- PJM Project Management
- PPD Project Planning & Design

A candidate must also pass the CSE to ensure knowledge of California-specific conditions, such as the state's large, varied landscape and climate, high seismicity, and distinctive legal framework. The Board administers the CSE to candidates who have successfully completed all divisions of the ARE.

The CAB has administered the CSE by computer since 2011. The current CSE is based on a 2014 Occupational Analysis (OA) and Test Plan and consists of two separately timed sections: a project scenario and general knowledge. CAB administers the CSE at 39 nationwide locations, including 17 in California.

<b>Examination Data</b>		
<b>California Supplemental Examination (CSE)</b>		
License Type	Architect	
FY 2014/15	# of 1 <sup>st</sup> Time Candidates	540
	Pass	349 (65%)
FY 2015/16	# of 1 <sup>st</sup> Time Candidates	705
	Pass	510 (72%)
FY 2016/17	# of 1 <sup>st</sup> Time Candidates	810
	Pass	548 (68%)

FY 2017/18	# of 1 <sup>st</sup> time Candidates	829
	Pass	480 (58%)
Date of Last OA		2014
Name of OA Developer		Office of Professional Examination Services (OPES)
Target OA Date		TBD

Passing scores are determined by a representative group of architects who serve as subject matter experts and are set using criterion-referenced methodology in accordance with psychometric standards for licensure examinations.

Currently, a candidate who fails the CSE must wait 90 days to take it again.

Although it appears concerning that pass rates for both the ARE and CSE are relatively low, OPES indicates that it is normal for professions with multiple paths to licensure to have lower performance on licensing examinations.

Licensee Population					
		FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Architect	Active*	20,504	20,914	21,025	21,377
	Delinquent	2,817	2,559	2,099	2,146
	Retired	1,312	1,387	1,457	1,542
	Out-of-State	3,805	3,813	3,853	3,915
	Out-of-Country	184	189	189	189
Note: 'Out of State' and 'Out of Country' are two mutually exclusive categories. A licensee should not be counted in both.					

\* Data does not include pending incomplete renewal applications, which range from 450 to 500 per FY and may result in an "Active" license record when application is completed correctly.

The Board's performance target for processing applications and issuing licenses is 30 days from application receipt. Where the application is complete and all requirements are met, the Board typically meets this goal. When the volume of applications and staffing shortages delay processing, the Board temporarily redirects available staff from other units.

NCARB maintains a disciplinary database used by member boards to disclose and share information regarding disciplinary actions taken against licensees and unlicensed individuals within their jurisdictions. Prior to the issuance of each license, CAB's Enforcement Unit staff searches the database and verifies if any disciplinary action has been taken against the candidate in another state, but was not disclosed to the Board on the candidate's application. During the past four years, the Board denied one license application for a conviction substantially related to the practice of architecture.<sup>8</sup>

Unlike many other DCA boards, CAB is not statutorily mandated to fingerprint candidates as a condition of license. In meeting its Strategic Plan objectives in 2011 and 2012, the Board considered

<sup>8</sup> The candidate was convicted of two felony counts of attempted sexual abuse in the first degree involving a person under the age of 14.

adopting a fingerprint requirement, but determined that the increased costs and likely de minimis arrest reports would not substantially increase the public’s health, safety, and welfare. This issue was revisited in 2018, at which the REC concluded there is insufficient data to justify the need for fingerprinting. Factoring into its decision were the following considerations:

1. A low percentage of the Board’s applicant and licensee population has criminal records, and of those, most are not substantially related to the qualifications, functions, or duties of an architect.
2. Applicants and licensees must disclose convictions to the Board.
3. A fingerprint requirement would result in increased costs for applicants and licensees.
4. Related design and construction boards (the Board for Professional Engineers, Land Surveyors, and Geologists and the Contractors State License Board) fingerprint their applicants, but only deny a negligible percentage of applications due to prior convictions.
5. The Texas Board of Architectural Examiners is the only architectural licensing board in the United States with a fingerprint requirement.
6. A fingerprint requirement would only apply to applicants and licensees, not unlicensed employees of architectural firms who enter consumers’ homes and businesses.
7. Licensees who work on school projects are required to submit to a background check.

**Continuing Education (CE) and Continuing Education Provider (CEP) Requirements.**

Current law requires California architects to complete five hours of CE on disability access requirements as a condition of license renewal.<sup>9</sup> The coursework must include information and practical guidance on the Americans with Disabilities Act of 1990 and related state and federal laws. The only criteria for CEP eligibility is that the content must be presented by trainers or educators with “knowledge and expertise” in these requirements.

The Board requires architects to certify on their license renewal form, under penalty of perjury, that they have completed the required CE within the previous two years. Architects must maintain CE verification for two years from the date of license renewal, and upon audit, provide the requested information to the Board.

The Board audits at least three percent of license renewals each year for CE, and its population evidences a high compliance rate.

<b>Fiscal Year</b>	<b>Audits Conducted</b>	<b>Licensees Failing Audit</b>
2014/2015	277	50 (18%)
2015/2016	372	61 (16%)
2016/2017	342	56 (17%)
2017/2018	311	57 (18%)

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<sup>9</sup> BPC § 5600.05

## **Enforcement**

The Board received an average of 345 complaints per year since FY 2014/15, which is a 25% increase since the previous reporting period, due primarily to the Board's mandatory CE audits.<sup>10</sup>

The Board is exceeding its goal of assigning complaints to staff for investigation within seven days; it currently averages one day. It is also exceeding its goal for timely complaint investigation (270 days). Enforcement staff closed 58% of investigations within 90 days, and 93% within one year. The average number of days from complaint receipt to closure was 123 days, which is a 22% reduction since the last Sunset Review.

<b>Enforcement Statistics</b>			
	FY 2015/16	FY 2016/17	FY 2017/18
<b>INVESTIGATION</b>			
All Investigations			
First Assigned	385	324	380
Closed	411	291	337
Average days to close	116	110	98
Pending (close of FY)	82	115	158
Desk Investigations			
Closed	400	281	335
Average days to close	114	103	97
Pending (close of FY)	75	114	154
Non-Sworn Investigation			
Closed	0	0	0
Average days to close	0	0	0
Pending (close of FY)	0	0	0
Sworn Investigation			
Closed	11	10	2
Average days to close	158	324	292
Pending (close of FY)	7	1	4
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	1	0
Cease & Desist/Warning	214	166	157
Referred for Diversion	N/A	N/A	N/A
Compel Examination	N/A	N/A	N/A
<b>CITATION AND FINE</b>			
Citations Issued	65	32	54
Average Days to Complete	270	416	152
Amount of Fines Assessed	\$79,750	\$45,750	\$36,000
Reduced, Withdrawn, Dismissed	\$1,250	\$3,000	\$5,500
Amount Collected	\$60,536	\$27,567	\$37,112
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	0	0	1

<sup>10</sup> These are tracked as Board-initiated complaints.

The Board has increased its citation issuance since the prior Sunset Review, primarily due to CE compliance. Each citation includes a fine, which averages \$1,210.

The Board uses the Franchise Tax Board (FTB) Intercept Program to collect unpaid administrative fines from unlicensed individuals and recover dishonored checks. The majority of the Board’s outstanding fines are against unlicensed individuals, and the Intercept Program provides an additional tool to seek those penalties. Thus far, success in collecting via this program has not been significant, as the potential sources of recovery are limited to Lottery proceeds, state tax refunds, and unclaimed property.

The Board’s current Strategic Plan includes an objective to contract with collection agencies to pursue and recover unpaid citations from unlicensed individuals. Accordingly, the Board is currently collaborating with DCA to execute a contract with a collection agency for full-service debt collection services, including “skip tracing,” credit reporting, and filing legal actions.

<b>Cost Recovery</b> (dollars in thousands)					
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Total Enforcement Expenditures					
Potential Cases for Recovery *	2	3	14	4	3
Cases Recovery Ordered	2	3	14	2	3
Amount of Cost Recovery Ordered	\$13	\$9	\$3	\$28	\$13
Amount Collected	\$5.5	\$7	\$3	\$11	\$12

\* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.

Current law requires every licensee and insurer providing professional liability insurance to a California architect to report to the Board within 30 days of any civil action judgment, settlement, arbitration award, or administrative action of \$5,000 or more alleging fraud, deceit, negligence, incompetency, or recklessness in practice.<sup>11</sup> The Board received 138 settlement reports in the current reporting period.

CAB is also mandated to receive notice of any settlements in excess of \$5,000 as a potential trigger for a complaint; the Board is receiving these notices, and the current average for such settlement reports is \$362,211. Because of the disconnect between the threshold and average amounts, the Board last reviewing the reporting figure in 2014 to determine whether a higher figure would result in more effective use of staff time. The Board declined to raise the amount.

Courts are also required to report to the Board any judgments that a licensee has committed a crime or is liable for any death, personal or property injury, or loss caused by the license’s fraud, deceit, negligence, incompetency, or recklessness in practice.<sup>12</sup> However, the Board has never received such a judgement. The Board previously requested the California Administrative Office of the Courts to assist in attaining compliance from court clerks, but to no avail. In an effort to address this ongoing issue,

<sup>11</sup> BPC §§ 5588 and 5588.1

<sup>12</sup> BPC § 5590

the Board requested its Deputy Attorney General liaison to send a letter to clerks in early 2019. The Board will report on any feedback.

### **The Underground Economy**

The Board reports that consumers, licensees, and other government agencies are vigilant in reporting unlicensed activity, and the Board encourages this engagement through the letters, bulletins, and the Board's Building Official Contact Program. This program makes available on-call architect consultants to building officials to discuss potential Act violations, including unlicensed practice and aiding and abetting concerns.

In an effort to address unlicensed practice and educate consumers, the Board promotes its *Consumer's Guide to Hiring an Architect*. The *Guide* was designed to help consumers understand the nature of architectural services by providing information on the types of projects requiring a licensed architect; how to find and select an architect; written contract requirements and recommendations; how to manage the project budgeting and construction; and what to do if a problem occurs. The *Guide* is available online and is distributed in hard copy to building and planning departments throughout the state. The Board also publishes *Consumer Tips for Design Projects*, which contains basic steps consumers can take to keep their projects on track.

Many unlicensed advertising or activity complaints are from consumers involved with their first residential or tenant improvement projects. These consumers often rely on "referral" websites that offer to match them with "prescreened" professionals in their area who have passed certain websites' background checks and provide quotes for requested services. While these websites provide valuable information to consumers, such as ratings and reviews from past clients, they do not guarantee the accuracy, quality, or reliability of the information contained in the professionals' advertisements, and some allow unlicensed individuals to identify themselves as architects and/or offer architectural services to the public without verifying licensure. The Board reports it is interested in researching the feasibility of partnering with such referral websites to verify licensure and remove illegal advertisements by unlicensed individuals.

The Board has been vital in assisting consumers during California's recent spate of natural disasters. CAB published *A Homeowner Rebuilding Bulletin* to educate homeowners on their rights, and collaborates with the Contractors State License Board to provide consumer education material at disaster recovery centers. Assistance is also available through social media and press releases, through which the Board promotes the availability of its toll-free number and Architect Consultants to assist homeowners as they begin the rebuilding process.

### **BreEZe**

The Board is not on DCA's BreEZe information technology (IT) system, but the Board has paid \$328,269. CAB, along with 19 other boards and bureaus, were scheduled for BreEZe's third release, which was cancelled due to numerous technical delays and mismanagement. CAB is using two legacy systems and in February began accepting online credit card payments for license renewals and enhanced its license verification tool.

The Board, in collaboration with DCA, is reviewing its technology needs. CAB is on schedule for the "business activities phase," which includes documenting its current and 'could be' business processes, along with the creation of a functional requirements list. The Board will perform a cost benefit

analysis, or determine the cost effectiveness of alternative platforms, during a later stage of the IT evaluation process.

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

CAB last underwent Sunset Review in 2015, during which the Senate and Assembly Committees raised eight issues. The Board submitted its Sunset Review Report in December 2018, in which it described actions taken since its prior review to address recommendations.

The following are some of the more important programmatic and operational changes, enhancements, and other policy decisions or regulatory changes. Issues not addressed and which may still be of concern are addressed and discussed under “Current Sunset Review Issues.”

- DCA has consistently approved the Board’s travel requests for out-of-state professional association meetings.
- The Board does not have concerns with costs and services provided by DCA’s use of pro rata.
- The Board recently appointed a new Executive Officer (EO), Laura Zuniga, who replaced Doug McCauley, who served since 2001. The Board reports strong continuity in the EO position, as Mr. McCauley’s predecessor served for 14 years.
- The Board has expanded its social media presence to include three platforms: Twitter, Instagram, and Facebook. As of June 30, 2018, CAB’s Twitter account (launched in 2014) had 1,183 followers, Instagram (launched in 2016) had 391 followers, and Facebook (launched in 2017) had 61 followers.
- The Board is currently collaborating with DCA to execute a contract with a collection agency for full-service debt collection services, including “skip tracing,” credit reporting, and filing legal actions to assist in the collection of unpaid citation penalties, administrative fines, and cost reimbursement accounts aged beyond 90 days. The Board and LATC anticipate execution of this contract by early 2019.
- Launched in 2015, the Integrated Path to Architectural Licensure (IPAL) is an initiative spearheaded by NCARB designed to provide aspiring architects the opportunity to complete the requirements for licensure in a more integrated and accelerated manner. Programs from three California schools were accepted by NCARB for participation: NewSchool of Architecture and Design, University of Southern California, and Woodbury University; to date there are 26 programs at 21 participating schools around the country. The first IPAL students graduated from Florida and North Carolina in May 2018.
- A revised CSE based upon the Summer 2016 Test Plan was launched on March 1, 2017.
- The Board is initiating the rulemaking process to reduce the time necessary to wait between retaking the CSE from 180 to 90 days.

## CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the CAB, new issues not previously addressed by the Committees, new issues raised by the CAB, and other areas of interest for the Committees to consider. Committee staff have made recommendations regarding various issues or problem areas which may need further action.

### CAB ADMINISTRATION

**ISSUE #1: CAB has an even number of board members, represented equally by professional architects and public members.**

**Background:** In order to discourage a tie vote, the majority of DCA boards are comprised of an odd number of members. In contrast, CAB has ten board members, represented equally by professional architects and public members. Although the Board reports a tie has never been a problem, its composition may present an opportunity to mirror the composition of similar DCA boards while providing representation to the Landscape Architects Technical Committee (LATC), which the Board has overseen since 1997.

LATC exists within a committee of the Board, and each provides regular updates of key issues at each other's meetings to sustain understanding of each entity's priorities. The Board appoints a liaison who attends LATC meetings on behalf of the Board, and an LATC member attends Board meetings to ensure the Committee's concerns are raised. The LATC member does not have voting power, however, and the Board maintains the final authority to discipline landscape architects and issue examinations.<sup>13</sup>

The Board is not aware of any consumer-related issues with respect to the structure, and the respective professions and their organizations appear to be pleased with the current structure.

**Staff Recommendation:** *The Board may wish to consider adding an LATC member, bringing its total to eleven.*

**ISSUE #2: Some provisions of the Act do not reflect current terminology and could be updated to facilitate streamlined administration.**

**Background:** From 1964 through 1985, the Board regulated registered building designers. The registration process began in 1964 and continued until 1968, and the Board continued to regulate the practice of registered building designers through 1985, although no new registrations were granted. Effective January 1, 1986, it became a misdemeanor for individuals to represent themselves as "registered building designers." Of the estimated 700 active building designers registered at the time, about 300 applied for and were granted licenses as architects. The Board now licenses only architects and has one office in Sacramento.

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<sup>13</sup> BPC §§ 5620 (d), 5622(a)

CAB's official seal is mandated to read "California State Board of Architectural Examiners," even though its official name was changed to the California Architects Board in 1999.

Current law requires a licensee to maintain records of completed CE and to make those records available to the board for auditing upon request. The statute provides that the licensee is responsible for making the records available; it could explicitly authorize the CE provider to send on licensees' behalf to make auditing and recordkeeping more convenient.

**Staff Recommendation:** *The following Business and Professions Code sections should be updated as follows:*

*5600.05: amend to strike outdated references to past dates and expired requirements.*

*5520: update the Board's title on the official seal.*

*5536(c): delete the misdemeanor charge for representing oneself as a "registered building designer."*

*5552.5: update the term "intern development program" to "architectural experience or internship program."*

*5600.05(a)(3): amend to allow CEP to provide records on a licensee's behalf.*

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**ISSUE #3: CAB does not have authority to fingerprint license applicants.**

**Background:** Unlike most other DCA boards and bureaus, CAB is not statutorily mandated to fingerprint candidates as a condition of license.<sup>14</sup> In meeting its Strategic Plan objectives in 2011 and 2012, the Board considered adopting a fingerprint requirement, but determined that the increased costs and likely de minimis arrest reports would not substantially increase the public's health, safety, and welfare. This issue was revisited in 2018, at which the REC concluded there is insufficient data to justify the need for fingerprinting. Factoring into its decision were the following considerations:

1. A low percentage of the Board's applicant and licensee population has criminal records, and of those, most are not substantially related to the qualifications, functions, or duties of an architect.
2. Applicants and licensees must disclose convictions to the Board.
3. A fingerprint requirement would result in increased costs.
4. Related design and construction boards (the Board for Professional Engineers, Land Surveyors, and Geologists and the Contractors State License Board) fingerprint their applicants, but only deny a negligible percentage of applications due to prior convictions.
5. The Texas Board of Architectural Examiners is the only architectural licensing board in the United States with a fingerprint requirement.
6. A fingerprint requirement would only apply to applicants and licensees, not unlicensed employees of architectural firms who enter consumers' homes and businesses.
7. Licensees who work on school projects are required to submit to a background check.

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<sup>14</sup> CAB indicates that the Bureau of Automotive Repair, the Board of Barbering and Cosmetology, and the Bureau of Household Goods and Services also do not require fingerprinting prior to licensure.

**Staff Recommendation:** *Public protection is the highest priority for the CAB, and applicants should be fingerprinted. Amend BPC § 144 to include the Board.*

**ISSUE #4: CAB’s EO is not authorized to hold an informal conference with a person who received a citation.**

**Background:** Several other boards and bureaus within DCA allow the EO, or his or her designee, to conduct an informal settlement conference, which would allow a licensee to provide explanatory information that may result in a modification of the original citation. The Board has proposed language that would authorize the EO to delegate the authority to affirm, modify or dismiss the citation to another individual.

**Staff Recommendation:** *The Act should be updated to allow a designee the authority to hold an informal conference with a person who received a citation.*

**ISSUE #5: CAB has minimal criteria for CE or CEPs.**

**Background:** Current law requires California architects to complete five hours of CE on disability access requirements as a condition of license renewal.<sup>15</sup> The coursework must include information and practical guidance on the Americans with Disabilities Act of 1990 and related state and federal laws. The only criteria for CEP eligibility is that the content must be presented by trainers or educators with “knowledge and expertise” in these requirements. There are no accreditation or approval requirements for either coursework or coursework providers, and thus, licensees may not be getting the full benefit of this learning opportunity.

**Staff Recommendation:** *The Board should establish minimum criteria for CE and CE providers.*

**ISSUE #6: The “written contract requirement” provisions of law need updating.**

**Background:** The Board indicates that its “written contact requirement” is one of its most important consumer protection tools. Current law requires an architect’s written contract to:

- 1) describe the services to be provided by the architect to the client;
- 2) describe the basis of compensation and method of payment;
- 3) identify by name and address the client and the architect, including the architect’s license number;
- 4) describe the procedure to accommodate additional services; and
- 5) describe the procedure to be used by both parties to terminate the contract.<sup>16</sup>

The Board has investigated many consumer complaints that centered on the existence of a contract or meaning of specific terms. As such, the Board’s experts in the Enforcement Program have identified

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<sup>15</sup> BPC § 5600.05

<sup>16</sup> BPC § 5536.22

several potential improvements to the current law. Many of the disputes that have resulted in complaints stemmed from misunderstandings concerning the project description and/or failure to manage changes in the project description during the design process. The description of the project has direct bearing on the design services required, compensation related to those services, and the project budget and schedule. Without a defined project description, it is often unclear whether the project is on track in meeting the expectations and project requirements established by the client and the architect.

According to the Rules of Professional Conduct, architects are prohibited from materially altering the scope or objective of a project without first fully informing the client and obtaining the client's consent in writing.<sup>17</sup> However, architects are not currently required to define the project description in their written contracts. Therefore, it can be difficult for the client or architect to determine when the project description has been materially altered if it has not first been defined and agreed upon in the written contract.

The Board has also received complaints and questions from consumers regarding the ownership and use of an architect's instruments of service (plans, drawings, etc.). Current law prohibits the use of an architect's instruments of service without the consent of the architect in a written contract, written agreement, or written license specifically authorizing that use.<sup>18</sup> However, architects are not currently required to include a provision addressing the ownership and use of their instruments of service in their written contracts with clients. Therefore, clients are often unaware of each party's rights with respect to the architect's instruments of service.

**Staff Recommendation:** *Require the following in architects' written contracts for professional services:*

- 1) A description of the project for which the client is seeking services;*
- 2) the project address;*
- 3) a description of the procedure that the architect and the client will use to accommodate contract changes, including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment;*
- 4) a statement identifying the ownership and use of instruments of service prepared by the architect; and*
- 5) a statement notifying the client that architects are licensed and regulated by the Board.*

*Exclude contracts with public agencies from the written contract requirement.*

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<sup>17</sup> Title 16, California Code of Regulations, § 160(f)(1)

<sup>18</sup> BPC § 5536.4

**CONTINUED REGULATION OF THE ARCHITECT PROFESSION**  
**BY THE BOARD**

**ISSUE #7. (CONTINUED REGULATION BY THE CAB) Should the licensing and regulation of architects be continued by the Board?**

**Background:** Clients and the public are best protected by strong regulatory boards with oversight of licensed professions. CAB has proven to be a competent steward of the architect profession, and should be continued with a four-year extension of its sunset date.

**Staff Recommendation:** *The licensing and regulation of architects should continue to be regulated by the Board, and it should be reviewed again in four years.*

# BRIEF OVERVIEW OF THE LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

## History and Function of the Landscape Architects Technical Committee (LATC or Committee)

California began regulating the practice of landscape architecture in 1953 by forming the Board of Landscape Architecture (BLA). BLA became a Committee under the California Architecture Board in 1998.

The LATC mission is to regulate the practice of landscape architecture through the enforcement of the Landscape Architects Practice Act (Act) to protect consumers, and the public health, safety, and welfare while safeguarding the environment. There are approximately 3,600 active landscape architect licensees. California has both a practice act, which precludes unlicensed individuals from practicing landscape architecture, and a title act, which restricts use of the title “landscape architect” to those licensed by the LATC.

Landscape architects offer an essential array of talent and expertise to develop and implement solutions for the built and natural environment. Based on environmental, physical, social, and economic considerations, landscape architects produce overall guidelines, reports, master plans, conceptual plans, construction contract documents, and construction oversight for landscape projects that create a balance between the needs and wants of people and the limitations of the environment. The decisions and performance of landscape architects affect the health, safety, and welfare of the client, as well as the public and environment.

## LATC Membership and Subcommittees

The five-member LATC exists as a committee within the Board. As such, the Board and Committee share an Executive Officer, but LATC has five separate staff. The LATC and Board provide regular updates at each other’s meetings to sustain understanding of each entity’s priorities, and each designates a member to attend the other’s meetings. LATC consists of five professional members, three appointed by the Governor, and one each by the Senate and Assembly.

The current members are as follows:

<b>Name and Background</b>	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>Marq Truscott, Committee Chair</b></p> <p>Truscott is a partner at ATLAS Lab, a landscape architecture, public art and community design consulting firm and has practiced landscape architecture for over 35 years. He is currently the Chairman of the Urban Land Institute in Sacramento and has been a member of the American Society of Landscape Architects for three decades, holding many positions at the chapter, state and national levels. He was elevated to the status of Fellow of the Society in 2011 for his service to the profession and serves as the Chair of the Council of Fellows. Marq is also currently serving on</p>	June 9, 2016	June 1, 2020	Governor

<p>the Board of the Friends of Light Rail and Transit. He holds a Bachelor of Science in landscape architecture from California State Polytechnic University, Pomona and has completed advanced studies in project management and real estate development.</p>			
<p><b>Andrew C. Bowden, Committee Vice-Chair</b></p> <p>Bowden has been a licensed landscape architect since 1979. He has worked at Land Concern, LTD since 1976, serving as Principal / Landscape Architect since 2000. His innovative design solutions have been reflected in a variety of noteworthy projects ranging from large-scale master planned residential communities, parks, and swim/recreation facilities, to both high and low density residential neighborhoods and senior housing/assisted living developments. He is a two-time past President of the Southern California Chapter of the American Society of Landscape Architects as well as a past Chapter Trustee, and was elevated to the status of Fellow of the Society in 2018. He is currently the Chair of the UCLA Landscape Architecture Program Guidance Committee as well as a member of the Board of Directors of the California Landscape Architectural Student Scholarship Fund. Mr. Bowden earned an Associate of Science in Nursery and Landscape Technology from San Diego Mesa College and a Bachelor of Science in Landscape Architecture from California State Polytechnic University, Pomona.</p>	<p>June 1, 2015</p>	<p>June 1, 2019</p>	<p>Governor</p>
<p><b>Jon S. Wreschinsky</b></p> <p>Wreschinsky has been a licensed landscape architect since 1990 and is currently employed as a facilities planner with San Diego Unified School District. He has extensive experience in both public &amp; private sector roles addressing planning &amp; design issues throughout the United States and international community. He has been an Adjunct Professor at Cuyamaca College and the New School of Architecture and Design in San Diego, where he has taught courses on sustainable landscape design and construction, and community and ecology. Mr. Wreschinsky has been a member of the American Society of Landscape Architects (ASLA) since 1989, serving in many positions at the chapter, state, and national levels, including President of both the Northern California &amp; San Diego Chapters, and President of the California Council of ASLA. Jon is currently serving on ASLA National’s Policy Committee. He is a graduate of California Polytechnic University, Pomona’s Master of Landscape Architecture Program. He has a Bachelor of Science Degree in Geography from UC-Riverside, and holds a professional certification in Sustainable Business Practices from UC San Diego Extension.</p>	<p>February 2019</p>	<p>June 1, 2023</p>	<p>Senate</p>

<p><b>Patricia M. Trauth</b></p> <p>Trauth is an Associate Principal for RICK Engineering and manages the landscape architecture business line throughout their ten offices in the west. As a licensed landscape architect in California, a certified planner, and a LEED accredited professional, she has planned and designed numerous public projects throughout Southern California and the Denver region. Her projects have received awards from organizations including ASLA, CMAA, ASCE, APWA, ULI, APA and NAVFAC. Trauth was the President of the San Diego Chapter of American Society of Landscape Architects in 2014 and also served on the board of the South County Economic Development Council and remains an active member of California Women in Environmental Design. Trauth has taught landscape architecture at San Diego State University, the NewSchool of Architecture &amp; Design, and Mesa Community College. Ms. Trauth graduated from Bowling Green State University with a Bachelor of Fine Arts in Design and a Bachelor of Science in Education and has a Master of Landscape Architecture from the University of Arizona.</p>	<p>June 5, 2015</p>	<p>June 1, 2022</p>	<p>Governor</p>
<p><b>Susan M. Landry</b></p> <p>Landry is a landscape architect specializing in public projects, working with various constituents to develop innovative design solutions. Her clients include the Cities of San Jose, Morgan Hill, and Milpitas; County of Santa Clara, local school districts, Santa Clara University, Santa Clara Valley Water District, and the Monterey Bay Aquarium. She is the sole proprietor of Environmental Edges, a landscape architecture firm in Campbell, which emphasizes the wise and equitable use of our diminishing resources, creating projects that foster healthy environments with creative design solutions representative of diverse interests and viewpoints. Her outdoor environments include parks, playgrounds, schools, colleges, universities, creek trails, habitat restorations and transit corridors. Landry was elected to the City Council in 2016 and is currently Vice Mayor. In this role, she serves as the Chair of Santa Clara County’s Recycling and Waste Reduction Committee and is a member of Santa Clara County Water District’s Policy Advisory Committee. Susan holds a BSLA from California Poly Pomona.</p>	<p>July 25, 2018</p>	<p>June 1, 2022</p>	<p>Assembly</p>

LATC established the Education/Experience Subcommittee (Subcommittee) to review landscape architecture licensure requirements and various licensure pathways in other states. The LATC made recommendations, approved by the Board, to expand the pathways to licensure that include related degrees (accredited architecture and civil engineering degrees), non-related baccalaureate degrees, an experience-only pathway, and experience supervised by a landscape contractor. These proposals are now in the regulatory process.

## **Fiscal and Fund Analysis**

The LATC is a self-supporting, special fund agency that obtains its revenues from fees, which in turn support its licensing, examination, enforcement, and administration programs.

LATC's fund is well balanced and has 19.2 months in reserve, or \$1.75 million, which is well within statutory mandates.<sup>19</sup> In 2015, the LATC implemented a temporary license renewal fee-reduction that resulted in decreased fees from FY 2015/16 through FY 2018/19. The LATC will allow the renewal fee to revert to the full amount (\$400) beginning July 1, 2019.

Revenue is primarily generated by the biennial license renewal and examination fees. LATC's major expenditures are its enforcement program (23%), examination program (24%), and pro rata (25%).

## **Licensing**

LATC regulates over 3,600 active landscape architects. The LATC's performance target for processing applications and issuing licenses is 30 days from receipt of the application, and it typically meets this goal when the application is complete.

The following are prerequisites to applying for eligibility to take the landscape architect licensing exams:

- Be at least 18 years of age
- Have a bachelors, masters, associate degree, or extension certificate in landscape architecture OR an architecture degree from a L accredited program
- Have six years of qualifying education and training experience in the practice of landscape architecture

A candidate for a landscape architecture license may submit applications for the Landscape Architect Registration Examination (LARE) at any time and, if found eligible, it may take several years for the candidate to pass all sections of the test. Candidates may then submit applications for the California Supplemental Examination (CSE) and licensure. There are no set deadlines for completing the examinations, but inactive candidate records may be purged after five years.<sup>20</sup> LATC receives assistance in recordkeeping from the Council of Landscape Architectural Registration Boards (CLARB), which implemented a Council Record as part of its application process in 2012. The Council Record includes information on the candidate's education and certifications of experience, and CLARB can be transmit this record to the LATC within one day.

During the past four years, the LATC has not denied any license based on an applicant's criminal history in which the conviction was substantially related to the practice of landscape architecture. Being part of CAB, LATC also does not require fingerprinting prior to licensure.

LATC has no CE requirements.

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<sup>19</sup> This is well within the statutory mandate of 24 months, per BPC § 128.5

<sup>20</sup> Title 16 California Code of Regulations (CCR) § 2620 (d)(2)

<b>Examination Data Landscape Architect Registration Examination (LARE) (National Examination)</b>					
License Type		Landscape Architect			
Exam Title: LARE Divisions <sup>3</sup>		Section 1	Section 2	Section 3	Section 4
FY 2014/15	# of 1 <sup>st</sup> Time Candidates <sup>1</sup>	See note 2 below			
	Pass %	69%	65%	68%	47%
FY 2015/16	# of 1 <sup>st</sup> Time Candidates <sup>1</sup>	See note 2 below			
	Pass %	72%	62%	62%	54%
FY 2016/17	# of 1 <sup>st</sup> Time Candidates <sup>1</sup>	See note 2 below			
	Pass %	69%	66%	60%	58%
FY 2017/18	# of 1 <sup>st</sup> Time Candidates <sup>1</sup>	See note 2 below			
	Pass %	63%	65%	72%	69%
Date of Last OA		2016			
Name of OA Developer		Professional Testing, Inc.			
Target OA Date		TBD			

<sup>1</sup> Data includes all California candidates.

<sup>2</sup> The current candidate management system used by CLARB is unable to track this information. CLARB is working to expand their system functions and may be able to provide this information in the future.

<sup>3</sup> The LARE sections currently administered are:

Section 1: Project and Construction Administration

Section 2: Inventory and Analysis

Section 3: Design

Section 4: Grading Drainage and Construction Documentation

<b>Examination Data California Supplemental Examination (CSE)</b>		
License Type	Landscape Architect	
FY 2014/15	# of 1 <sup>st</sup> Time Candidates	90
	Pass %	81%
FY 2015/16	# of 1 <sup>st</sup> Time Candidates	107
	Pass %	81%
FY 2016/17	# of 1 <sup>st</sup> Time Candidates	117
	Pass %	76%
FY 2017/18	# of 1 <sup>st</sup> time Candidates	141
	Pass %	55%
Date of Last OA	May 2014	
Name of OA Developer	OPES	
Target OA Date	May 2020	

## **Enforcement**

LATC has not experienced any fluctuations in enforcement data trends since the prior Sunset Review.

The LATC received an average of 27 complaints for FYs 2014/15, 2015/16, 2016/17, and 2017/18, of which an average of 13 were advertising and unlicensed activity complaints. It takes an average of one day to assign complaints for investigation, and enforcement staff closed 40% of investigations within 90 days and 41% within one year. However, some cases take longer because LATC's experts are not physically located in LATC's office and LATC staff must physically copy complaint information and mail it for review, then wait for return post.

The LATC has issued 10 citations since the last reporting period. Nine of the citations included a fine assessment averaging \$1,639, and one outlier was assessed \$16,000. The majority of citations issued were to unlicensed individuals, who are often difficult to locate because they change addresses frequently. For these citations, staff utilizes the Franchise Tax Board (FTB) Intercept Program to attempt to collect fines. However, there is currently no incentive for these individuals to pay their fines, unlike licensees who cannot renew their license without paying. To address this, the LATC is currently collaborating with DCA to execute a contract with a collection agency for full-service debt collection services, including "skip tracing," credit reporting, and filing legal actions as appropriate to assist in the collection of unpaid citation penalties and cost recoveries aged beyond 90 days. The Board and LATC anticipate this contract to be executed by early 2019.

Part of LATC's 2017/2018 Strategic Plan is to collect and review enforcement data to identify trends to tailor outreach efforts. LATC is considering contacting various social media platforms, such as Yelp and LinkedIn, to request the addition of "landscape designer" as a professional license category to mitigate unlicensed activity complaints for those individuals who advertise as a landscape architect due to lack of other options available on that platform.

The LATC has also continued to focus on promptly responding to consumer complaints and maintain an internal weekly report on case aging to improve the tracking of each case through the intake and investigation processes.

In evaluating its enforcement program, LATC emphasizes the importance of considering the nature of the profession regulated. Landscape architects often collaborate with other parties (engineers, architects, attorneys, contractors, other landscape architects, local building departments) who provide additional quality control. Thus, the cases that come to the LATC typically do not deal with major property damage or bodily injury.

<b>Enforcement Statistics</b>			
	FY 2015/16	FY 2016/17	FY 2017/18
<b>COMPLAINT</b>			
Intake			
Received	22	24	40
Closed	0	0	0
Referred to INV	22	24	40
Average Time to Close	1	5	1
Pending (close of FY)	0	0	0
Source of Complaint			
Public	9	5	7
Licensee/ Professional Groups	9	9	6
Governmental Agencies	3	7	26**
Other	1	3	1
Conviction / Arrest			
CONV Received	3	4	23**
CONV Closed	2	4	19
Average Time to Close	86 days	95 days	63 days
CONV Pending (close of FY)	0	0	6
<b>LICENSE DENIAL</b>			
License Applications Denied	0	0	0
SOIs Filed	0	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	N/A	N/A	N/A
<b>ACCUSATION</b>			
Accusations Filed	1	0	2
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	0
Average Days Accusations	828	N/A	247
Pending (close of FY)	2	1	2

<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	0	1	0
Stipulations	1	1	0
Average Days to Complete	1,260	953	N/A
AG Cases Initiated	1	1	1
AG Cases Pending (close of FY)	2	1	2
Disciplinary Outcomes			
Revocation	0	1	0
Voluntary Surrender	0	1	0
Suspension	0	0	0
Probation with Suspension	1	0	0
Probation	0	0	0
Probationary License Issued	0	0	0
Other	0	0	0
<b>PROBATION</b>			
New Probationers	1	0	0
Probations Successfully Completed	0	0	0
Probationers (close of FY)	1	1	0
Petitions to Revoke Probation	0	0	0
Probations Revoked	0	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
Petition for Reinstatement Granted	0	0	0
<b>DIVERSION</b>			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
* All complaints received by the LATC are referred for investigation.			
** Number of complaints received increased during FY 2017/18 due to the tracking of candidate and licensee disclosed convictions.			

<b>Enforcement Statistics (continued)</b>			
	FY 2015/16	FY 2016/17	FY 2017/18
<b>INVESTIGATION</b>			
All Investigations			
First Assigned	22	24	40*
Closed	33	19	37
Average days to close	306	145	117
Pending (close of FY)	8	13	16
Desk Investigations			
Closed	33	24	37
Average days to close	306	145	117
Pending (close of FY)	8	13	16
Non-Sworn Investigation			
Closed	0	0	0
Average days to close	0	0	0
Pending (close of FY)	0	0	0
Sworn Investigation			
Closed	3	2	0
Average days to close	80	169	0
Pending (close of FY)	2	0	0
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	15	6	12
Referred for Diversion	N/A	N/A	N/A
Compel Examination	N/A	N/A	N/A
<b>CITATION AND FINE</b>			
Citations Issued	8	4	0
Average Days to Complete	648	248	N/A
Amount of Fines Assessed	\$12,500	\$18,250	\$0
Reduced, Withdrawn, Dismissed	2	0	0
Amount Collected	\$1,000	\$8,750**	\$2,180**
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	0	0	0

\* Number of complaints received increased during FY 2017/18 due to the tracking of candidate and licensee disclosed convictions.

\*\*Amounts reflect fines collected, which were assessed in previous years.

### **Public Information Policies**

The LATC continually updates its website to reflect upcoming LATC and subcommittee meetings and activities, changes in laws or regulations, licensing information, forms, publications, and other relevant information of interest to consumers, candidates, and licensees. The LATC consulted with DCA Office of Information Services and updated its website in Fall 2018. LATC also uses eSubscriber for e-news broadcasts and social media (Twitter) to keep in touch with stakeholders.

The LATC publishes the following:

1. *Consumer Tips for Design Projects*. This summarizes the basic steps consumers can take to keep their projects on track.
2. *Consumer's Guide for Hiring a Landscape Architect*. This 2017 publication is a comprehensive guide for consumers that includes information about the practice of a landscape architect, contract criteria, and how to file a complaint.
3. *Selecting a Landscape Architect* publications, which include:
  - a. *Selecting a Landscape Architect for Public Sector Projects*;
  - b. *Selecting a Landscape Architect for Residential Projects*; and
  - c. *Selecting a Landscape Architect for Private Development Projects*.

These publications contain the following information:

1. A description of the typical services a licensed landscape architect can provide;
2. How to select a landscape architect;
3. What the written agreement between a consumer and a landscape architect should include; and
4. The LATC's role as a regulator. Though the information provided in each of the three publications is consistent, each publication has information tailored to the type of project performed by the landscape architect.

LATC makes these publications available online and distributes them to city and county building departments.

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

LATC last underwent Sunset Review in 2015, during which the Senate and Assembly Committees raised six issues. The Committee submitted its Sunset Review Report in December 2018, in which it described actions taken since its prior review to address recommendations.

The following are some of the more important programmatic and operational changes, enhancements, and other policy decisions or regulatory changes. Issues not addressed and which may still be of concern are addressed and discussed under “Current Sunset Review Issues.”

- DCA has consistently approved the Committee’s travel requests for out-of-state professional association meetings.
- The LATC, in collaboration with the Board, is currently collaborating with DCA to execute a contract with a collection agency for full-service debt collection services, including “skip tracing,” credit reporting, and filing legal actions to assist in the collection of unpaid citation penalties, administrative fines, and cost reimbursement accounts aged beyond 90 days. The Board and LATC anticipate execution of this contract by early 2019.
- LATC developed *Consumer’s Guide for Hiring a Landscape Architect* in 2017, which is a comprehensive guide for consumers that includes information about the practice of a landscape architect, contract criteria, and how to file a complaint.
- LATC promulgated regulations to award credit towards licensure for individuals teaching landscape architecture, expanded the ability to award credit for related degrees, allowed experience supervised by a licensed landscape contractor, and created an experience-only pathway to licensure.

## CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the LATC, new issues not previously addressed by the Committees, new issues raised by the LATC, and other areas of interest for the Committees to consider. Committee staff have made recommendations regarding various issues or problem areas which may need further action.

### LATC ADMINISTRATION

#### **ISSUE #1: LATC has only professional committee members.**

**Background:** DCA boards are comprised of a mix of professional and public members so that consumers' interests are represented in the regulation of professional licensing. In contrast, LATC has only professional members. However, LATC exists as a committee of the Board, which itself is comprised of public and professional members, who ultimately vote on LATC proposals.

While the Committee has not raised any consumer-related issues with respect to this structure, the Committee may wish to consider whether adding consumers could be beneficial to their discussions.

**Staff Recommendation:** *The Committee may wish to discuss whether adding consumers to its membership would be a benefit.*

#### **ISSUE #2: The "written contract requirement" provisions of law need updating.**

**Background:** The Committee indicates that its "written contract requirement" is one of its most important consumer protection tools. Current law requires a landscape architect's written contract to:

1. Describe the services to be provided by the landscape architect to the client;
2. Describe the basis of compensation, including total cost and method of payment;
3. Include a notice that reads, "Landscape architects are licensed by the State of California";
4. Identify by name and address the client and the landscape architect, including the landscape architect's license number;
5. Describe the procedure to accommodate additional services; and
6. Describe the procedure to be used by both parties to terminate the contract.

The Board has investigated many consumer complaints related to contracts, and LATC's experts in the Enforcement Program have identified several potential improvements to the current law.

Many of the disputes stemmed from misunderstandings of the project description and/or failure to manage changes in the project description during the design process. The description of the project has direct bearing on the design services required, compensation related to those services, and the project budget and schedule. Without a defined project description, it is often unclear whether the project is on track to meet expectations and project requirements established by the client and the architect.

According to the Rules of Professional Conduct, landscape architects are prohibited from materially altering the scope or objective of a project without first fully informing the client and obtaining the client's consent in writing.<sup>21</sup> However, landscape architects are not currently required to define the project description in their written contracts. Therefore, it can be difficult for the client or landscape architect to determine when the project description has been materially altered if it has not first been defined and agreed upon in the written contract.

The Board has also received complaints and questions from consumers regarding the ownership and use of an architect's instruments of service. Current law prohibits the use of an architect's instruments of service without the consent of the architect in a written contract, written agreement, or written license specifically authorizing that use.<sup>22</sup> However, architects are not currently required to include a provision addressing the ownership and use of their instruments of service in their written contracts with clients. Therefore, clients are often unaware of each party's rights with respect to the architect's instruments of service.

The LATC is proposing to clarify current law to include the following elements in landscape architects' written contracts:

1. A description of the project for which the client is seeking services;
2. The project address;
3. A description of the procedure that the landscape architect and the client will use to accommodate contract changes, including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment; and
4. A statement identifying the ownership and use of instruments of service prepared by the landscape architect.
5. A clarification that landscape architects are licensed by LATC.

The LATC expects this proposal to benefit consumers and landscape architects by providing enhanced transparency for contracted parties, thereby reducing the number of disputes related to project description disagreements, unauthorized changes made to the project during the design process, and/or the ownership and use of instruments of service.

**Staff Recommendation:** *Amend the law as proposed by the LATC.*

### **ISSUE #3: The California Architects Board (CAB) and the Committee designate different duties to the EO.**

**Background:** Currently, CAB allows the EO to approve settlement agreements for revocation or surrender of a license. The Committee, however, does not, which requires a licensee surrendering a license to appear before the Board at one of its quarterly meetings. Aligning the EO duties for both regulating entities would streamline discipline and conform with the LATC's strategic objective to align its practices with the Board.

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<sup>21</sup> Title 16, California Code of Regulations, § 2760(d)

<sup>22</sup> BPC § 5536.4

**Staff Recommendation:** *Adopt language approved by the Committee to allow the EO to approve settlement agreements for revocation or surrender of a license.*

**CONTINUED REGULATION OF THE LANDSCAPE ARCHITECT  
PROFESSION BY THE COMMITTEE**

**ISSUE #4. (CONTINUED REGULATION BY THE LATC) Should the licensing and regulation of landscape architects be continued by the Committee, through the CAB?**

**Background:** Clients and the public are best protected by strong regulatory boards with oversight of licensed professions. LATC has proven to be a competent steward of the landscape architect profession and should be continued with a four-year extension of its sunset date.

**Staff Recommendation:** *The licensing and regulation of landscape architects should continue to be regulated by the Committee, and it should be reviewed again in four years.*