



# Oregon

STATE BOARD OF EXAMINERS  
FOR ENGINEERING &  
LAND SURVEYING

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## PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting  
June 12, 2015

### Members present:

Ken Hoffine, Chair  
Shelly Duquette  
Steven Burger  
Oscar Zuniga

### Staff present:

Mari Lopez, Board Administrator  
JR Wilkinson, Investigator

### Others present:

Katharine Lozano, Assistant Attorney General  
Chris Aldridge, (observer)  
Darrell Fuller, Lobbyist (by phone)

The meeting of the Professional Practices Committee was called to order at 2:00 p.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

### Public Comment

There was no public comment.

### Unfinished Business

#### Requirements for companies to have licensed engineers on staff – Brett King

Upon receiving further clarification from Mr. King on the topic of requirements for companies to have licensed engineers on staff, it was moved and seconded (Duquette/Burger) to share the Board waived privilege on DOJ File No. 917001-GB0025-15 Industrial Exemptions and Private Timber Companies to provide further clarification to his latest questions. There was no additional discussion. The motion passed unanimously. Staff will respond accordingly.

### New Business

#### Right of entry and mailing requirements – Geffory Adair

A question form was submitted to the Board by Mr. Adair on the topic of right of entry and the requirement for notice. Mr. Adair asked if certified mail by the USPS with return receipt will suffice for first class mail as required in ORS 672.047(4). AAG Lozano commented, “yes, absolutely.” There was no additional discussion. Staff will respond accordingly.

BCD April 2015 amendment to 2014 ORSC; section R325 – Eric Walter

Mr. Walter submitted a series of questions on the topic of stamping requirements for exempt buildings. The first scenario is when a professional engineer submits calculations only and an unlicensed person prepares the final drawing(s) from the calculations. His question is, does the final drawing require the PE's stamp? After discussion, the Committee pointed out the following statutes and rules: ORS 672.002(9) and (10), ORS 672.020(2), OAR 820-010-0010(5) and (6), and OAR 820-010-0621. Through general consensus, the Committee regarded these specific laws and rules to provide the guidance on how to handle the scenario modeled. Subsection 2 of ORS 672.020 states: "\*\*\*\*\* Every final document including drawings, specifications, designs, reports, narratives, maps and plans *issued by a registrant* shall be stamped with the seal and signed by the registrant. \*\*\*\*\*." Which led to the question of who is issuing the drawings? Are the drawings being issued by the professional engineer or the unlicensed person? There was no further discussion on this matter since the professional engineer is required to seal and sign *only those documents prepared under their direct supervision and control*. To add, his following question relates to unstamped plans submitted by an engineering firm's building design division and not done under the supervision of a professional engineer. It was moved and seconded (Duquette/Zuniga) to seek advice of the Board's legal counsel on the matter due to the Board's lack of registration for an engineering firm. Ms. Duquette noted that the Board may decide not to waive the advice of counsel. There was no additional discussion. The motion passed unanimously. Staff will respond accordingly.

Mr. Walters's final question is regarding an apparent discrepancy between the Reference Manual for Building Officials and the Oregon Residential Specialty Code (ORSC); specifically with the new Section R325. After a lengthy discussion amongst the members regarding the roles of Building Codes Division (BCD) and OSBEELS, the Committee agreed that OSBEELS lacks jurisdiction over ORSC. Further, BCD may adopt building code requirements that exceed the minimum standards set by OSBEELS. As background, the ORSC deals primarily with residential building standards and specifications for the purposes of plan review and approval, issuance of permits, inspections, and issuance of certificates of occupancy. In contrast, the OSBEELS laws and rules determine what constitutes the practice of engineering in Oregon, the licensing and discipline of engineers, and the state's regulatory authority over persons who unlawfully practice engineering in Oregon without a license to do so. The ORSC and the OSBEELS laws and rules govern two related but separate aspects of the building trade. Therefore, what is considered a residential occupancy building under the ORSC may or may not be the same as what is considered a single family residence for the purposes of OSBEELS exemptions, and what is considered an accessory structure to a residential building under the ORSC may or may not be the same as what is considered an appurtenance to a single family residence (and, therefore, exempt from licensure) under OSBEELS statutes and rules.

Under the new Section R325 of the ORSC, it appears that a detached building can now be considered an accessory structure to a residential occupancy building, subject to the less stringent plan review, permitting, and building requirements of the residential structural code, even if that accessory structure is up to 12,000 square feet in size – as long as it is at least 60 feet from the specified list of points for measurement. OSBEELS has no authority over whether plans are

approved, permits are issued, or occupancy is certified, regardless of what the plans design or who drafts those plans.

Staff was directed to inform Mr. Walter of the proposed draft rule defining “appurtenance” as discussed previously during the February 13<sup>th</sup> Rules and Regulations Committee meeting and subsequently during the March 10, 2015 Board meeting. The proposed definition does not allow a structure of more than 4,000 square feet to be considered an “appurtenance” to a single family residence. If an individual who is not a licensed engineer or architect submitted a design to a local jurisdiction for a residential “accessory structure” that exceeded 4,000 square feet, the OSBEELS would not consider that individual to fall within an OSBEELS licensure exemption. That individual would be subject to OSBEELS enforcement action, and could face civil penalties, injunctions, or both for unlicensed practice. This would be true irrespective of whether the plans for that accessory structure had been approved by a local building department. AAG Lozano will draft the response. There was no additional discussion.

The meeting adjourned at 2:46 p.m.