

**BEFORE THE BOARD OF GOVERNORS
OF LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS
AND REGISTERED COMMERCIAL INTERIOR DESIGNERS OF OKLAHOMA
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT
AGAINST:

PHILLIP B. TOWNSEND
4613 MISTY VALLEY WEST
WICHITA FALLS, TEXAS 76310

Respondent.

Case No. 2022-625

FINAL AGENCY ORDER

The Board of Governors of the Licensed Architects, Landscape Architects, and Registered Commercial Interior Designers of Oklahoma (“Board”) met on Wednesday, April 5, 2023, at the Board’s Office, located at 220 NE 28th Street, Suite 150, Oklahoma City, Oklahoma 73105, at 9:30 a.m., in a properly noticed meeting under the Oklahoma Open Meeting Act, 25 Okla. Stat. § 301 *et seq.* At the meeting, a sufficient number of members of the Board to constitute a quorum held a hearing in the above-captioned matter. Russell C. Lissuzzo III of RUSSELL C. LISSUZZO, III, PLLC, appeared as the Board Prosecutor. Respondent, Philip B. Townsend (“Mr. Townsend” and/or “Respondent”) did not appear. The proceeding was brought under the provisions of Article II of the Administrative Procedures Act, 75 Okla. Stat. § 308a, *et seq.* All testimony was taken under oath. The meeting was recorded electronically and by court reporter. A permanent record of the hearing will be maintained at the Board's office.

FINDINGS OF FACT

1. The Notice of Complaint and Hearing was officially filed on February 9, 2023. *See* February 9, 2023 Notice of Complaint and Hearing. Service of the Notice of Complaint and Hearing was achieved on February 13, 2023.

2. On February 28, 2023, the First Amended Notice of Complaint and Hearing was officially filed. *See* February 28, 2023 First Amended Notice of Complaint and Hearing. Service of the First Amended Notice of Complaint and Hearing was achieved on March 2, 2023. *See* March 2, 2023 Greencard Mailing Receipt, included as **Exhibit 8**.

3. Mr. Townsend did not appear at the Board's April 5, 2023 Board Meeting. *See* Hearing Transcript, at p. 4, lines 14-15.

4. At all relevant times, Mr. Townsend has not held, and has not been issued, a License to practice architecture within the State of Oklahoma by the Board. *See id.*, at p. 5, lines 8-10.

5. On February 22, 2021, Mr. Townsend affixed his Texas Registered Architect Stamp to the plans for a new childcare facility for the Comanche Nation located in Lawton, Oklahoma (the "Childcare Facility Project"). *See* Childcare Facility Project Plans, included as **Exhibit 1**.

6. The real property where the Childcare Facility Project is located is owned by the Comanche Nation in Fee Simple. *See* March 20, 2023 Correspondence and Attachments, included as **Exhibit 9**.

7. The real property where the Childcare Facility Project is subject to regulation by the State of Oklahoma because the real property is not owned in trust for the benefit of the Comanche Nation. *See id.*; *see also* Hearing Transcript, at p. p. 11, lines 21 – 25 and p. 12, lines 1 – 17.

8. An architect is required to design a childcare facility with an occupancy load in excess of fifty (50) people within the state of Oklahoma. *See* Hearing Transcript, at p. 13, lines 10 – 14; *see also* 59 Okla. Stat. § 46.21b(B)(6).

9. On December 30, 2022, Mr. Townsend affixed his Texas Registered Architect Stamp to the plans for a medical marijuana grow facility located in Nowata, Oklahoma (the “Vivian Farm Project”). *See* Vivian Farm Project Plans, included as **Exhibit 2**; *see also* Vivian Farms Project December 30, 2022 Existing Building Plan Permit Application Form, included as **Exhibit 3**.

10. On December 30, 2022, Mr. Townsend affixed his Texas Registered Architect Stamp to the plans for a medical marijuana grow facility located in Coyle, Oklahoma (the “Viking Gardens Project”). *See* the Viking Gardens Project Plans, included as **Exhibit 4**; *see also* Viking Gardens Project December 30, 2022 New Construction Building Permit Application Form, included as **Exhibit 5**.

11. On June 3, 2009, the Board issued a civil penalty of \$4,000.00 against Mr. Townsend for practicing architecture in the state of Oklahoma without a valid license. *See* June 3, 2009 Hearing Transcript, included as **Exhibit 6**, at p. 29.

12. Mr. Townsend has failed and refused to remit payment for the June 3, 2009 civil penalty. *See* Hearing Transcript, at p. 23, lines 18 – 25.

13. On December 5, 2012, the Board issued a civil penalty of \$15,000.00 against Mr. Townsend for practicing architecture in the state of Oklahoma without a valid license. *See* December 5, 2012 Hearing Transcript, included as **Exhibit 7**, at pgs. 5, 16, and 17.

14. Mr. Townsend has failed and refused to remit payment for the December 5, 2012 civil penalty. *See* Hearing Transcript, at p. 23, lines 18-25.

15. Any conclusion of law below that is more properly characterized as a finding of fact is hereby incorporated as a finding of fact.

CONCLUSIONS OF LAW

1. The Oklahoma State Architectural and Registered Commercial Interior Designers Act (the “Act”), Title 59 Okla. Stat. § 46.7(17), states:

[T]he Board shall have the power and duty to... [p]romulgate rules of conduct governing the practice of licensed architects [and] landscape architects. . .

2. The Act, at 46.8a(A), provides that:

It shall be unlawful for any person to directly or indirectly engage in the practice of architecture in this state or use the title “Architect,” “Registered or Licensed Architect,” “Architectural Designer,” or display or use any words, letters, figures, titles, signs, cards, advertisements, or other symbols or devices indicating or tending to indicate that such person is an architect or is practicing architecture, unless the person is licensed under the provisions of this act. . .

3. The Act, at 59 Okla. Stat. § 46.3(2), further provides that:

‘Practice of Architecture’ means rendering or offering to render certain services, in connection with the design and construction, enlargement or alteration of a building or a group of buildings and the space surrounding such buildings, including buildings which have as their principal purpose human occupancy or habitation. The services referred to include planning, providing preliminary studies, designs, drawings, specifications, investigations and other technical submissions prepared by other consultants including, as appropriate and without limitation, consulting engineers and landscape architects; provided, that the practice of architecture shall include such other professional services as may be necessary for the rendering of or offering to render architectural services.

4. The Act, at 59 Okla. Stat. § 46.3(3), defines “license” as a “license issued by the Board.” Further, “[t]he definition of “license” shall apply to those persons licensed under a practice act.” *Id.*

5. The Act, at 59 Okla. Stat. § 46.21b(B)(6) provides that “[t]he construction, addition or alteration of a building of any size or occupancy in the following Code Use Groups shall be subject to the provisions of the [Act]: . . . [b]uildings for which the designated Code Use Group changes are not exempt from the [Act].”

6. The Rules of the Board, recorded in the Oklahoma Administrative Code (OAC) 55:10-1-1, *et seq.* (the “Rules”), provide that “[v]iolating the Act, or any Rule or order issued by the Board, including the unlicensed practice of architecture or landscape architecture” constitutes “grounds for probation, denial, revocation, suspension, refusal to renew, orders, injunctions, civil and/or criminal penalties[.]” OAC 55:10-15-2.

7. Respondent Mr. Townsend is in violation of 59 Okla. Stat. § 46.8a(A) for providing architectural services in connection with the Childcare Facility Project despite Mr. Townsend not being licensed to practice architecture within the state of Oklahoma.

8. Respondent Mr. Townsend is in violation of 59 Okla. Stat. § 46.8a(A) for holding himself out as being able to practice architecture in the state of Oklahoma through his preparation, sealing, and submitting of plans for the Vivian Farm Project despite Mr. Townsend not being licensed to practice architecture within the state of Oklahoma.

9. Respondent Mr. Townsend is in violation of 59 Okla. Stat. § 46.8a(A) for holding himself out as being able to practice architecture in the state of Oklahoma through his preparation, sealing, and submitting of plans for the Viking Garden Project despite Mr. Townsend not being licensed to practice architecture within the state of Oklahoma.

10. Respondent Mr. Townsend is in violation of OAC 55:10-15-2(2) by violating the Board’s order issued during the June 3, 2009 hearing and the Board’s order issued during the

December 5, 2012 hearing, in failing to remit payment for the civil penalties levied against Respondent Mr. Townsend.

11. The Rules, at OAC 55:10-15-2(2) and (14) provide that the following are “grounds for probation, denial, revocation, suspension, refusal to renew, orders, injunctions, civil and/or criminal penalties are as follows:”

- (2) Violating the Act, or any Rule or order issued by the Board, including the unlicensed practice of architecture or landscape architecture; . . .
- (14) Sealing, signing and/or dating plans and/or specifications not prepared in accordance with the Act and/or these Rules

12. Pursuant to 59 Okla. Stat. § 46.7, in addition to the other powers and duties imposed by law, the Board shall have the power and duty to:

- (13) Levy civil penalties plus the legal costs incurred by the Board to prosecute the case against any person or entity who shall violate any of the provisions of the State Architectural and Registered Commercial Interior Designers Act, or any rule promulgated pursuant thereto;
- (15) Initiate disciplinary action, prosecute and seek injunctions against any person or entity who has violated any of the provisions of the State Architectural and Registered Commercial Interior Designers Act or any rule of the Board promulgated pursuant to said act and against the owner/developer of the building type not exempt;
- (16) Investigate alleged violations of the State Architectural and Registered Commercial Interior Designers Act or of the rules, orders or final decisions of the Board.

13. Pursuant to 59 Okla. Stat. § 46.18(A), any person or entity who has been determined by the Board to have violated any provision of the [Act] or any Rule or order issued pursuant to the provisions of the [Act] may be liable for a civil penalty of not more than One Hundred Dollars

(\$100.00) for each day that said violation continues. . . The maximum civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any violation. . .

14. Pursuant to OAC 55:10-15-3, civil penalties may be levied by the Board separately or in addition to other penalties determined by the Board. The Board may seek criminal and injunctive relief through the courts for any violation of the Act, Rules, regulation, or to enforce any order issued by the Board.

15. Considering all the evidence presented and the testimony offered, it is more probably true than not that Mr. Townsend violated the Act and the Rules in practicing architecture in the state of Oklahoma despite not having a license issued by the Board to do so, for holding himself out as an architect licensed to practice in this state, and for failing to comply with the Board's orders issued in June 2009 and December 2012.

16. Any finding of fact above that is more properly characterized as a conclusion of law is hereby incorporated as a conclusion of law.

ORDER

It is therefore **ADJUDGED, DECREED, AND ORDERED** that Mr. Townsend has, contrary to the Act and the Board's administrative Rules, unlawfully practiced architecture in the state of Oklahoma, unlawfully held himself out as having the ability to practice architecture in the state of Oklahoma despite not having a license to do so, and in failing to pay the civil penalties issued by the Board against Mr. Townsend during the Board's June of 2009 hearing and December of 2012 hearing.

It is therefore **FURTHER ORDERED**, having weighed all factors under 59 Okla. Stat. § 46.18(B), that Mr. Townsend is hereby assessed a civil penalty of forty-thousand dollars

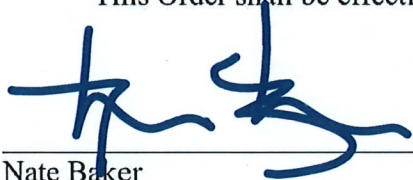
(\$40,000.00), which amounts to a civil penalty of \$10,000.00 for each of Count I, Count II, Count III, and Count IV contained in the First Amended Notice of Complaint and Hearing.

It is **FURTHER ORDERED** that a formal complaint shall be filed by the Board with the Texas Board of Architectural Examiners concerning this Order and the violations of the Board's Act and Rules by Mr. Townsend. Further, this case (Case No. 2022-625) shall remain on the Board's meeting agenda, with notice of each meeting to be mailed to Mr. Townsend's last known address, until Mr. Townsend's violations have been resolved.

IT IS SO ORDERED.

On April 5, 2023, a sufficient number of members to constitute a quorum of the Oklahoma State Board of Governors of Licensed Architects, Landscape Architects, and Registered Commercial Interior Designers voted 7-0 to find Mr. Townsend guilty of unlawfully practicing architecture in the state of Oklahoma, unlawfully holding himself out as being able to practice architecture in the state of Oklahoma, and for violation the Board's previous orders in failing to remit payment for civil penalties issued, and impose a civil penalty of forty-thousand dollars (\$40,000.00) as well as submitting a formal Complaint with the Texas Board of Architectural Examiners.

This Order shall be effective as of this 28th day of August, 2023.



Nate Baker
Presiding Officer

08/28/23

Date

CERTIFICATE OF SERVICE

This is to certify that on the 28th day of August, 2023, a true and correct copy of the above Final Agency Order was sent by US Mail to:

PHILLIP B. TOWNSEND
4613 MISTY VALLEY WEST
WICHITA FALLS, TEXAS 76310
Respondent

Russell C. Lissuzzo, III, Prosecuting Attorney
Russell C. Lissuzzo, III, PLLC
6110 E. 51st Place
PO Box 35746
Tulsa, Oklahoma 74153
*Attorney for the Oklahoma Board of Governors
of Licensed Architects, Landscape Architects
and Registered Commercial Interior Designers*



Leslie Hanska
Executive Director