

Code Official Corner

Complaints Against Design Professionals

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Many code officials have faced the problem of receiving unsigned or improperly signed construction documents submitted for review. This is a reoccurring problem for jurisdictions in Minnesota. Professional ethics and state statutes require a certain standard of care for the submittal of construction documents, and code officials in their review and regulatory capacity are an integral part of the enforcement of the statute.

Design professional rules in Minnesota are promulgated and enforced through the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design (AELSLAGID). The licensure statute gives the Board its scope and authority. Under these rules, the design professional is to achieve and maintain licensure through education, testing and experience. The statute further regulates when the involvement of a design professional is required for construction in Minnesota. All Minnesota code officials should be familiar with MN Rule 1800.5900; the exemption table for professional design, and the statutory exemptions for professional design in MN Statutes §§ 326.02 and 326.03.

Because the local building official is required to review all plans for code compliance, he is uniquely positioned to see the evidence of plan submittals that may not comply with the statutes and rules regulating the design professional. In the past, code officials regularly reported submittal deficiencies to the Board for investigation. Recent issues surrounding the responsibility of the code official and “related” rule enforcement have caused local jurisdictions to rethink their role in enforcing the Board rules.

Local leaders and administrators are reluctant to pursue complaints against design professionals for submittal infractions but instead are satisfied with simply rejecting the questionable plans. This action fulfills the local responsibility of not accepting plans that do not comply with the Board statutes while at the same time keeps the jurisdiction clear of involvement in further enforcement against a designer. This avoids the perception of an over zealous public safety department that enforces rules other than the building code. Local leaders reason it is not the job of the code official or local government jurisdiction to enforce the rules of the Board.

This is a permissible position for a community except that it may not adequately serve the public need for safe buildings. Submittal infractions may constitute a fraudulent act

that the Board should prosecute in order to maintain a credible licensure program which ultimately assures the competency of professional designers practicing in Minnesota. If the Board fails to maintain the licensure program, the quality of designers and designs will be compromised thus compromising safety in the built environment. With this in mind, public safety would be better served if the code official assists the Board in its enforcement by forwarding the evidence to the Board for review and enforcement action.

Code officials, local administrators, and the Board of AELSLAGID share an ethical responsibility to appropriately address all laws in the State of Minnesota even if not responsible for their specific enforcement. Regarding construction regulations, code officials have a professional responsibility to work cooperatively with the design professionals to assist them in maintaining their licensure statutes, and design professionals have an ethical and professional responsibility to cooperate with code officials in design compliance to the construction codes. Finally, it is incumbent upon local administrations to understand and promote this cooperative enforcement effort. In this manner public safety is assured through the professional design and construction oversight of the buildings in which we live, work and play.