

**BOARD OF EXAMINATION AND  
REGISTRATION OF ARCHITECTS  
RULES OF THE BOARD**

**Adopted June, 1978  
Amended July, 1983  
Amended November 9, 1987  
Amended March 11, 1992  
Amended October 24, 2001**

**I. RELATIVE TO APPLICATIONS**

A. Applications for examinations [a completed Council Record file of the National Council of Architectural Registration Boards (NCARB)] will be received at the Office of the Board, reviewed and approved by the Board.

1. Personal appearance before the Board, if required, shall be at a time and place designated by the Board.

2. The Board may request additional evidence or information in writing to further support the application.

3. Failure to comply, within sixty days from the date of written request by the Board, for additional evidence or information, or to appear before the Board, when such an appearance is deemed necessary by the Board, may be considered as just and sufficient cause for disapproval of the application.

B. Applications for registration by reciprocity (an approved Council Record and Certificate from NCARB showing satisfactory qualifications) including NCARB “Broadly Experienced Architect” and “Condition Z” will be received at the Office of the Board. (Allow a minimum of forty days for applications to be reviewed and acted on by the Board.)

C. Applications for certificates of authorization (C.O.A.) will be received at the Office of the Board. (Allow a minimum of forty days for properly completed applications to be reviewed and acted on by the Board.)

D. Application for “Architect Emeritus” status shall be made in writing to the Board, accompanied by the appropriate fee and surrendering of the Architects seal. (Allow a minimum of forty days for the application to be reviewed and acted on by the Board.)

E. Applicants for examination, reciprocity or C.O.A. must disclose any and all disciplinary action imposed by other professional registration jurisdictions or NCARB.

F. Applicants for reciprocity must certify completion of continuing education in accordance with the State of Rhode Island requirements for continuing education.

## **II. RELATIVE TO APPROVAL OF APPLICATIONS**

A. All applications shall be considered individually and passed or rejected on a roll call vote of the Board.

B. The action taken on each application shall be recorded in the minutes.

C. An outline of the action taken shall be placed with the application.

## **III. RELATIVE TO PRACTICE**

A. An applicant (or firm) who has established eligibility to practice architecture under the requirements of Title 5 of the General Laws of Rhode Island will, upon payment of the stipulated fee, receive a Certificate of Registration (or Authorization).

B. 1. SEAL, The seal is an embossed circular seal 1-½ inches in diameter consisting of two concentric circles; the outer being 1-1/2 inches in diameter and the inner being 1-1/8 inches in diameter. The space between the circles shall contain the name of the architect at the top and the word “Architect” at the bottom. The inner circle to contain the State emblem and the architect’s certificate number. The word “Registered” shall appear below the State’s emblem, just above the word “Architect” in the space between circles.

2. The Board shall loan each architect the right to purchase an individual stamp capable of imprinting the seal to be used as hereinafter directed in the following paragraph, on all documents prepared by the architect or under the architect's responsible control, for use in the State of Rhode Island, for the purpose of properly imprinting the drawings, specifications or project manual, and other documents. A digital facsimile of the seal may be used in lieu of the hand stamp.

3. The seal shall be applied on documents so as to produce legible reproduction on all copies or prints made from the documents. After application of the seal, the architect's name shall be hand signed in ink across the imprinted seal, and dated below the seal. Electronic signature and dating is not permitted.

4. The architect shall imprint the seal only if in responsible control of the document.

5. Upon retirement, certificate revocation, death or non-payment of renewal fee, the loaned right to the stamp shall be voided and the stamp shall be immediately returned to the Board. If not returned to the Board within sixty days, or within fifteen days of a notice to return, the Board will notify NCARB of this rule violation and take whatever action necessary.

C. Expired Certificates. Application for restoration of an expired certificate which has been allowed to lapse for not more than 6 months shall be approved by the Board upon receipt of the required registration fees. Application for the restoration of an expired certificate, which has been allowed to lapse for a period of 6 months to not more than two years, shall be accompanied by a brief outline setting forth the professional activities of the applicant during the lapsed period, and, if the applicant is a non-resident, a completed NCARB Council Record and Certificate must also be submitted. If the certificate has been expired for more than 2 years, the applicant shall follow the procedure for a new application.

D. When personal names of architects are used in the name of the firm, only names of living registrants or former registered members now retired or deceased may be used. Any reference in the firm name to other persons of the firm, partnership or corporation shall be permitted only when such other persons are design professionals (landscape architects, professional engineers or registered land surveyors) and their identity is made known specifically on letterheads of the firm (sole proprietorship, partnership or corporation).

E. A firm is permitted to practice under a name which does not include the names of registered principals, provided said name is submitted to the Board for review and approved before adoption of same. A firm, using such an assumed name shall file with the Board the name of each registered member of the firm. The Board shall be promptly advised of any and all changes in the composition of a firm that may occur subsequent to the original filing, and the COA shall be resubmitted for approval.

F. Any use of the word "Associate" or "Associates" in the title of a firm, partnership or corporation shall be permitted only when it refers to other registered architects, landscape architects, professional engineers or registered land surveyors in the firm, partnership or corporation and their identity and professional status is made known on letterheads of the firm, partnership or corporation. The title "Associate" shall only be given to registered professionals of the firm, partnership or

corporation. The use of the plural form of “Architect” – “Architects” shall only be used in a firm’s title if there is more than one architect at the business.

#### **IV. DEFINITIONS**

- A. "Architect". As defined in the General Laws of Rhode Island, Paragraph 5-1-2.
- B. “Architect Emeritus” - Upon application and payment of a fee, an honorary title issued to a retired architect who is prohibited from practicing architecture in the State of Rhode Island.
- C. “Practice of Architecture”. As defined in the General Laws of Rhode Island, Paragraph 5-1-2.
- D. "State," as used in the General Laws of Rhode Island, Paragraph 5-1-9, and shall include any jurisdiction recognized by NCARB.
- E. "Experience" and "Training", are interchangeable and mean satisfactory architecturally related employment as required by NCARB.
- F. "A person practices as a "Principal" if the person is (a) an architect, and (b) a director of the corporation, if the practice is through a corporate organization; a general partner of the partnership, or if the practice is through a sole proprietorship; and (c) the person in responsible control of the organization's architectural practice, either alone or in concert with others who qualify under (a) and (b)." (d) A partner, officer, or director is a member of a firm who is responsible for the profits and losses of the firm and who is legally liable for the acts of the firm.
- G. “Responsible Control” - As defined by NCARB.

#### **V. RELATIVE TO EXAMINATIONS**

- A. Architectural Registration Exam (ARE)
  - 1. Evaluation of education and training credits shall be at the discretion of the Board and in general accordance to NCARB criteria.
  - 2. All applicants are required to satisfactorily complete the Intern Architect Development Program (IDP) in accordance with NCARB criteria.
  - 3. The Architectural Registration Examination (ARE) will be given all applicants qualifying under Paragraph 5-1-8 of the General Laws of Rhode Island.
  - 4. The Architectural Registration Examination (ARE) shall be taken and successfully passed by all applicants.
  - 5. The scope, dates, times and location(s) of the ARE are as established by the Board in conjunction with NCARB.

6. The minimum-passing grade in all subjects of the ARE shall be as established by the NCARB.

7. All applicants taking examinations may take each examination division three (3) times. All applicants must pay a new fee at each re-examination.

8. Applicants not passing all divisions of the examination retain credit for those subject areas passed for four years from the date of the examination. After the four year period, these subject areas must be retaken.

9. An applicant who has failed to pass a division of the examination after three (3) attempts, will be required by the Board to show evidence satisfactory to the Board that the applicant has acquired sufficient additional education or experience in the subject failed. Prior to re-examination under this rule, the applicant will be required to have a personal interview with the Board to show evidence of satisfactory preparation before the Board will permit re-examination.

10. A six month waiting period is required before a failed division of the ARE may be retaken.

## **VI. PROFESSIONAL CONDUCT**

### **A. Competence.**

1. In engaging in the practice of architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by architects of good standing, practicing in the same locality.

2. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.

4. No individual shall be permitted to practice architecture if, in the Board's judgment, such individual's professional competence is, despite reasonable accommodations, substantially impaired by physical or mental disabilities.

## **B. Conflict of Interest**

1. An architect shall not accept compensation for their services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

2. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest. If the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

## **C. Full Disclosure**

1. An architect shall accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit.

2. If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against such architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially and adversely affect the health, safety and welfare of the public, the architect shall:

- a. report the decision to the local building official or other authority having jurisdiction; and
- b. refuse to consent to the decision; and
- c. in circumstances where the architect reasonably believes that other such decisions will be taken, notwithstanding their objection, terminate their services with respect to the project. In the case of a

termination in accordance with this clause, the architect shall have no liability to their client or employer on account of such termination.

3. An architect shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with their application for a registration or renewal thereof or otherwise lawfully requested by the Board.

4. An architect shall not assist the application for registration of an individual known by the architect to be unqualified in respect to education, training, experience or character.

5. An architect possessing knowledge of a violation of the provisions of professional conduct by another architect shall report such knowledge to the Board.

#### **D. Compliance with Laws**

1. An architect shall not, in the conduct of their practice, knowingly violate any state or federal criminal law.

2. An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the registered architect is interested.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any NCARB recognized jurisdiction. An architect may be subject to disciplinary action if, based on grounds substantially similar to those which led to disciplinary action in this jurisdiction, the architect was disciplined in any other NCARB recognized jurisdiction.

4. An employer engaged in the practice of architecture shall not violate federal or state law protecting the rights of persons working for the employer with respect to fair labor standards or with respect to maintaining a workplace free of discrimination. For purposes of this rule, any architect employed by a firm engaged in the practice of architecture who is in charge of the firm's architectural practice, either alone or with other architects, shall be deemed to have violated this rule if the firm has violated this rule.

#### **E. Professional Conduct**

1. Each office in Rhode Island offering architectural services shall have an architect resident and regularly employed in that office.

2. An architect shall not sign or seal technical submissions unless they were prepared by or under the responsible control of the architect; except that they may sign or seal those portions of the technical submissions that were prepared by or under the responsible control of

persons who are registered under Rhode Island general laws if the architect has reviewed and adopted in whole or in part such portions and has either coordinated their preparation or integrated them into their work, and the architect may sign or seal those portions of the technical submissions that are not required by Rhode Island general laws to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such submissions and integrated them into the work. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the architect has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. Any architect signing and sealing technical submissions not prepared by that architect but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation.

a. Prototypical projects are building designed by an architect registered in a jurisdiction recognized by NCARB, for use by an Owner in multiple jurisdictions. Documents for these types of building may be sealed by a Rhode Island Architect, deemed to be in responsible control, under the following conditions:

- (1) Written approval of the Owner.
- (2) Written permission of the original architect.
- (3) Removal and invalidation of previous title blocks and seals.
- (4) Acceptance of liability as the architect in responsible control.
- (5) Complete review and modifications made to the documents to conform to applicable codes, and adapted to specific local conditions.
- (6) Maintain records of all modifications made to the documents.

3. An architect shall neither offer nor make any gifts, other than gifts of nominal value (in accordance with Rhode Island State Law), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

## **VII. INTER-JURISDICTIONAL PRACTICE**

A. A non-resident architect can “offer” to provide services for a specific future project in this state only if:

1. The architect holds current registration in the jurisdiction where the architect’s office is located.

2. The architect holds a NCARB Certificate.

3. The architect notifies the Board, in writing, of the specific project for which the services will be offered. The non-resident may not present any project related graphic material or provide architectural services prior to registration in Rhode Island.

B. A non-resident architect may practice in this state under their own name provided a principal or partner, of the non-resident architect, is the architect in responsible control of the project, is registered in this state, holds a Certificate of Authorization, and is clearly identified on all drawings and contract documents as the architect in responsible control.

## **VIII. CONTINUING EDUCATION (C.E.)**

A. Continuing education is deemed necessary for the protection of the public health, safety and welfare.

B. For renewals beginning in 2003: A registered architect must demonstrate professional development activities since the architect’s last renewal or initial registration, as the case may be.

C. The Board shall by regulation describe professional development activities acceptable to the Board and the form of documentation of such activities required by the Board.

D. An “Architect” must certify on the renewal application that the architect has met the requirements of the Board. The architect must maintain records of C.E. Falsification of records will result in disciplinary action by the Board.

E. The Board may decline to renew a registration if the architect’s professional development activities do not meet the standards set forth in the Board’s regulations.

F. The Board or its Designee may randomly audit licensees to insure compliance. An architect who is audited will be notified in writing and will be required to provide written documentation of the continuing education for the two (2) year period at issue. The Board may require the architect who cannot produce such documentation to develop and complete a specific corrective action plan within 90 days, prior to approval of renewal.

G. Rhode Islands, Continuing Education requirements may be satisfied by either:

1. Compliance with the continuing education requirements of NCARB or AIA.
2. Compliance with the continuing education requirements, providing they exist, in any other jurisdiction recognized by NCARB.

H. If an architect has allowed registration to lapse in Rhode Island for more than two years, the architect shall provide evidence of compliance with Rhode Islands requirements, for the lapsed period, upon application. Continued registration in an NCARB recognized jurisdiction, that requires continuing education, will be deemed to satisfy this requirement.

## **IX. COMPLAINTS AND HEARINGS**

### **RULE 1-ORGANIZATION.**

1.01 Chapter 5-8 of the General Laws establishes the Board of Examination and Registration of Architects (hereinafter Board) and sets forth its jurisdiction and powers. The duties of the Board are set forth in said chapter of the General Laws.

1.02 It is the function of the Board to regulate the practice of architecture within the State of Rhode Island as defined by the General Laws.

### **RULE 2-DEFINITIONS.**

2.01 The term "Board" wherever used in these regulations shall be deemed to refer to the Board of Examination and Registration of Architects or, when the context permits, to the relevant Administration or personnel thereof.

2.02 The term "Chair" wherever used in these regulations shall be deemed to refer to the Chair of the Board.

### **RULE 3-PRACTICE BEFORE THE BOARD.**

3.01 No person may appear in a representative capacity before the Board other than attorneys at law duly qualified and entitled to practice before the Supreme Court of the State of Rhode Island. Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state may request permission of the Board to appear in a representative capacity. The Chair, may in circumstances he deems appropriate, permit a bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation to appear for such individual firm, association, partnership, or corporation.

3.02 All persons appearing in proceedings before the Board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Rhode Island. If

any such person does not conform to such standards, the Board may decline to permit such person to appear in a representative capacity in any proceeding before the Board.

#### **RULE 4-COMPLAINTS, ANSWERS & HEARINGS.**

4.01 Hearings required by law shall be conducted in accordance with these rules and regulations. Where no hearing is required by law, the Board may nevertheless in its discretion conduct or direct informal hearings or investigations be conducted in such manner and according to such procedures as it may deem appropriate.

4.02 In any contested case, all parties shall be served with such notice as may be provided by law, but in the absence of such requirement the Board may order such notice as it deems necessary for the protection of the parties involved.

4.03 The Board shall require that all complaints filed against any person or firm registered by this Board and/or subject to its jurisdiction be filed with the Board in a "verified" format. Each "verified" complaint shall include, at a minimum, the name and address of the person or firm filing the complaint, the name and address of the person or firm against whom the complaint is filed, a statement of facts sufficient to establish that the Board has jurisdiction over the conduct alleged and a statement setting forth the facts which support the allegation(s) that the individual or firm has violated the laws, code of ethics and/or rules and regulations governing the practice of Architecture in this state.

#### **4.10 Service of Process.**

4.10.01 By whom Served. The Board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served or caused to be served by the party filing it. Service shall be accomplished by certified mail at the last address on file with the Board with return receipt being required.

4.10.02 Upon Whom Served. All papers served by either the Board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

4.10.03 Service Upon Parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

4.10.04 Method of Service. Service of papers shall be made personally or by first-class registered or certified mail.

4.10.05 When Service Complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed. Proof of service shall be required except that any party may evidence adequate attempts of service by demonstrating two (2)

separate attempts at service, each such attempt being not less than two (2) weeks from any prior attempt.

4.10.06 Filing with Board. Papers required to be filed with the Board shall be deemed filed upon actual receipt by the Board at the office of the Board.

#### **4:20 Subpoenas.**

4.20.01 Form. Every subpoena shall state the name and address of the Board and the Title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

4.20.02 Issuance to Parties. When permitted by law and upon application of counsel for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The Board may issue subpoenas in accordance with law to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

4.20.03 Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person.

4.20.04 Proof of Service. The person service the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the Board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the Board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

4.20.05 Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the Board or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

4.20.06 Enforcement. Upon application and for good cause shown, the Board may seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

4.20.07 Geographical Scope. Such attendance of witnesses and such production of evidence may be required from any place in the State of Rhode Island, at any designated place of hearing.

#### **4.30 Official Notice - Matters of Law.**

The Board, upon request made before or during a hearing, will officially notice:

(1) Federal Law. The Constitution; Congressional Acts, Resolutions, Records, Journals and Committee Reports; Decisions of Federal Courts and Administrative Agencies; Executive Orders and Proclamations; and all rules, orders and notices published in the Federal Register.

(2) State Law. The Constitution of the State of Rhode Island, acts of the Legislature, Resolutions, Records, Journals and Committee Reports; decisions of administrative agencies of the State of Rhode Island, Executive orders and proclamations by the Governor; and all rules orders and notices filed with the Code Revisor.

(3) Governmental Organization. Organization, territorial limitations, officers, departments and general administration of the Government of the State of Rhode Island, the United States, the several states and foreign nations.

(4) Board of Organization. The Board's organization, administration, officers, personnel, official publications, and practitioners before its bar.

#### **4.06 Official Notice - Material Facts.**

In the absence of controverting evidence, the Board and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) Board Proceedings. The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the Board;

(2) Business Customs. General customs and practices followed in the transaction of business;

(3) Notorious Facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any Federal or state officer, department, or agency;

(4) Technical Knowledge. Matters within the technical knowledge of the Board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) Request or Suggestion. Any party may request, or the Board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any pre-hearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) Statement. Where an initial or final decision of the Board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the Board may consult any source of

pertinent information, whether or not furnished as it may be by and party and whether or not admissible under the rules of evidence;

(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or non-existence of the material fact assumed or denied in the decision;

(8) Evaluation of Evidence. Nothing herein shall be construed to preclude the Board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

#### **4.07 Presumptions.**

Upon presentation of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the Board, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) Identity. That persona and objects of the same name and description are identical;

(3) Delivery. Except in a proceeding where the liability of the carrier for non-delivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company or authorized common carrier of property with of postage trolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) Ordinary Course. That a fact exists or does not exist, upon proof of the existence or non-existence of another fact which in the ordinary and usual course of affairs, usually and regularly co-exists with the fact presumed;

(5) Acceptance of Benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept the same where it is clearly in his own self-interest so to do;

(6) Interference with Remedy. That evidence, with respect to a material fact which in bad faith is destroyed, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

#### **4.08 Stipulations and Admissions of Record.**

The existence or non existence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon Whom Binding. Such a stipulation or admission is binding upon the parties by whom it is made, there privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or non-existence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a pre-hearing conference, oral hearing, oral argument or by writing filed and served upon all parties within five days after by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the Board that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

#### **4.09 Prehearing Conference Rule.**

4.09.01 In any proceeding the Board or its designee, upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

- (1) The simplification of the issues;
- (2) The necessity of amendments to the pleadings;
- (3) The possibility of obtaining stipulations, admissions of facts and of documents;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the proceeding.

4.09.02 The Board shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

#### **4.10 Submission of Documentary Evidence in Advance.**

Where practicable the Board or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subdivision (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearings, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

#### **4.11 Excerpts from Documentary Evidence.**

When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered to the Board and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

#### **4.12 Continuances.**

Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the Board or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The Board or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the Board or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

The Board will act on all such requests as quickly as possible. Where time does not permit the full Board to meet and consider the request, the Chairman of the Board may grant the request for a continuance for a period of not more than forty (40) days. All requests for rescheduling must be approved by a majority of the Board.

#### **4.13 Rules of Evidence.**

4.13.01 Subject to other provisions of these rules, all relevant evidence is admissible which, in the opinion of the Board, is the best evidence reasonably obtainable having due regard for its necessity, availability and trustworthiness. The Board shall consider the relevance of the evidence and fairness of admitting evidence when making rulings on admissibility. In passing upon the admissibility of evidence, the Board shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the State of Rhode Island.

4.13.02 When objection is made to the admissibility of evidence, such objection will be noted for the record and such evidence may be received subject to a later ruling. The Board may, in its discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

4.13.03 Evidence will not be admitted, if after it is proffered, a majority of the Board votes against its admission.

#### **4.14 Stenographic Report of Evidence.**

An electronic record shall be made of every hearing or contested case before the Board. A copy of the original tape shall be made available to any party to the proceeding upon written request to the Board. A typewritten transcript shall be made of the whole or part of the record upon: (1) a written request filed with the Board by any party to the hearing or case, and (2) a deposit to the Board of an amount equal to the cost thereof, as estimated by the Board at the time of making such request. As soon as practicable, the Board shall ascertain the cost of the transcript and refund any excess deposit over the actual cost thereof, and it shall require the amount of any deficit from the party or parties requesting the report. No transcript shall be made unless the amounts required have been deposited as herein provided. Any party may request that a stenographic record be kept by tendering to the Board an amount equal to the estimated cost thereof not less than seven (7) days prior to any scheduled hearing date.

#### **4.15 Decisions.**

All decisions of the Board require a majority vote of the members sitting as Board members for the hearing.

### **RULE 5- PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL.**

5.01 Any interested person may petition the Board requesting the promulgation, amendment, or repeal of any rule.

5.02 Where the petition requests the promulgation of rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule

presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form if any. The petition must include all reasons for the requested amendment or repeal of the rule.

5.03 All petitions shall be considered by the Board and the Board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

5.04 Declaratory Rulings. As prescribed by Section 42-35-8, G. L. 1956, as amended, any interested person may petition the Board for a declaratory ruling. The Board shall consider the petition and within a reasonable time the Board shall:

- (1) Issue a non-binding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.
- (4) If a hearing as provided in subsection (3) is conducted, the Board shall within a reasonable time:
  - (1) Issue a binding declaratory rule; or
  - (2) Issue a non-binding declaratory ruling; or,
  - (3) Notify the person that no declaratory ruling is to be issued.

5.05 Forms. Any interested person petitioning the Board for a declaratory ruling pursuant to Section 42-35-8 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the RI Board of Registration of Architects." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and four legible copies shall be filed with the Board. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

Any interested person petitioning the Board requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the R. I. Board of Registration of Architects." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by department rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and four legible copies of the petitions shall be filed with the Board. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2 " x 13" in size.