

STATE OF MINNESOTA

BOARD OF ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE ARCHITECTURE,
GEOSCIENCE AND INTERIOR DESIGN

In the Matter of the Petition for Rule Variance
by Ben Taheri

ORDER DENYING VARIANCE
FROM BOARD RULE

Board File No. 2011-0050

TO: Ben Taheri
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The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is a State agency whose adopted rules are found in Minn. Rule ch. 1800 and 1805 (2009). Pursuant to Minn. Stat. §§ 14.055 and 14.056 (2010), a person may petition a State agency for a variance from a rule adopted by the agency, as it applies to the circumstances of the petitioner.

The Board received a Petition for Rule Variance ("Petition") from Ben Taheri ("Petitioner"), and reviewed and duly considered the Petition and other information submitted by Petitioner at the Board meeting on June 2, 2011. Based on all the files, records, and proceedings herein, the Board hereby issues the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On April 22, 2011, Petitioner submitted the Petition to the Board seeking a rule variance from Minn. Rule 1800.1000, subps. 1 and 6-7, and 1800.1200 (2009) ("the Rules").

2. Architects are licensed professionals trained in the art and science of the design and construction of buildings and structures that primarily provide shelter. Additionally, architects may be involved with designing the total built environment—from how a building integrates with its surrounding landscape to architectural or construction details that involve the interior of the building to designing and creating furniture to be used in a specific space. An architect will create the overall aesthetic and look of buildings and structures, but the design of a building involves far more than its appearance. Buildings also must be functional, safe, and economical and must suit the specific needs of the people who use them. Most importantly, they must be built with the public's health, safety and welfare in mind.

3. On or about March 25, 1987, Petitioner submitted an application for registration to practice architecture by examination to the Board. At that time, Petitioner was approved to take the applicable examination pursuant to Minn. Rule 1800.1200 (1987). Petitioner's application was subsequently voided due to inactivity within three years pursuant to Minn. Rule 1800.0500, subp. 1 (1987).

4. In 2004 and 2006, the Board received score reports related to Petitioner's attempt to pass portions of the Architect Registration Examination ("ARE"). The Board subsequently notified Petitioner that, among other issues, he did not have an application for licensure pending with the Board.

5. On March 16, 2007, the Board received an application for licensure by examination to practice architecture from Petitioner. In May 2007, the Board notified Petitioner that his application was administratively denied under the existing rules as incomplete because it did not include evidence of qualifying experience as established by the Intern Development

Program (“IDP”) training requirements as defined in the National Council of Architectural Registration Boards guidelines. *See* Minn. Rule 1800.1000 (2007).

6. On July 21, 2010, the Board received a letter from Petitioner requesting that the Board waive the ARE and IDP requirements in order to allow him to become a licensed architect in the State of Minnesota.

7. On July 29, 2010, the Board sent Petitioner a letter that, among other issues, summarized his license application history, provided him with his previous test scores, and advised that he would need to submit a new application if he wished to pursue licensure.

8. On December 10, 2010, the Board received an email from Petitioner that requested an administrative hearing on his request for a waiver of the ARE and IDP requirements.

9. On December 21, 2010, the Board sent Petitioner a letter that declined his request for an administrative hearing, in part, because he did not have an application pending. The Board also notified Petitioner of the appropriate procedure to seek a rule variance, as well as provided instructions on what he would need to do to qualify for licensure as an architect in the State of Minnesota.

10. The purposes of the qualifying experience and examination requirements set forth in Minn. Rule 1800.1000, subs. 1 and 6-7, and 1800.1200 (2009) are to safeguard life, health, and property, and to promote the public welfare, by ensuring that licensed architects are competent and qualified to act under the license granted by the Board.

11. Board finds that none of the subparts in Minn. Stat. § 14.055, subd. 4 (2010) have been met. Specifically, the Board finds that application of the Rules to Petitioner would not result in hardship or injustice; that a variance from the Rules would be inconsistent with the

public interest; and, that a variance from the Rules would prejudice the substantial legal or economic rights of any person or entity. These findings are sufficient grounds for the issuance of the order specified below.

12. Application and enforcement of the Rules, as applied to the circumstances of the Petitioner, would serve the purposes of the Rules.

13. Any Finding of Fact herein, which should more properly be deemed a Conclusion of Law, is hereby adopted as such.

CONCLUSIONS OF LAW

1. Petitioner's request for a rule variance is properly before the Board, and the Board has jurisdiction to adjudicate the Petition. Minn. Stat. §§ 14.055 and 14.056 (2010).

2. Petitioner is not entitled to a mandatory or discretionary variance under Minn. Stat. § 14.055, subs. 3-4 (2010)

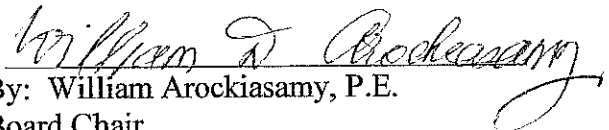
3. Any Conclusion of Law herein, which should more properly be deemed a Finding of Fact, is hereby adopted as such.

ORDER DENYING PETITION FOR RULE VARIANCE

Upon consideration of the foregoing Facts and Findings and Conclusions of Law, and based upon all the files, records, and proceedings herein, the Board hereby **DENIES** the Petitioner a variance from Minn. Rule 1800.1000, subs. 1 and 6-7, and 1800.1200 (2009).

Dated this 2nd day of June, 2011

**MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE
AND INTERIOR DESIGN**


By: William Arockiasamy, P.E.
Board Chair

