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## TEXAS BOARD OF PROFESSIONAL ENGINEERS

February 8, 2007

Mr. Cameron Labunski, P.E.  
Tom Green and Company Engineers  
3701 Executive Center Drive  
Suite 258  
Austin, TX 78731

Dear Mr. Labunski:

RE: EAOR#0019, Commissioning Buildings Policy Advisory Opinion Request

This letter is to inform you that the staff of the Texas Board of Professional Engineers (Board) is acting on your policy advisory opinion request dated February 9, 2006, regarding commissioning of buildings. You asked that commissioning be included in the statute, specifically under the section regarding the practice of engineering in §1001.003(c). The Policy Advisory information is specified in Subchapter M (§1001.601-604) of the statute and Subchapter G of the rules (§131.101-111). As a result of processing the request, the Board believes that the specific request regarding changing the language in the Texas Engineering Practice Act (Act) is addressed by procedural law. The Texas Legislature would have to enact legislation to include "commissioning" in the Act in the location that you have requested, which is beyond the scope of the powers provided by the Board.

In addition, you expressed concerns that there are currently no professional registration requirements for people performing commissioning activities. These individuals do not fall under the jurisdiction of the Board unless they are practicing engineering or offering engineering services. In that case, we would have authority to investigate engineering activities performed by non-licensed individuals and take enforcement action against them. We have researched the engineering issues involved in commissioning of buildings. In addition, we have held two stakeholder meetings June 23, 2006, and December 5, 2006. We recognize that you were able to attend both of these meetings in order to present your concerns to the Board staff and attending stakeholders. The Policy Advisory Committee directed staff to hold an additional stakeholder meeting specifically to include owners/clients perspectives. Based on these meetings, the Board

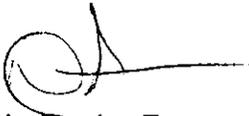
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staff feels that the existing statute addresses your concerns. The owners have the discretion to hire either an engineer or a non-engineer for commissioning their buildings. However, if someone is practicing engineering without a license, then they are in violation of the Act and subject to enforcement investigation. There is no requirement that a building, existing or new construction, be commissioned. This activity is a decision by an owner/client to verify the building systems are performing as designed.

There are efforts by several national associations to certify commissioning individuals through a testing and qualifications based procedure. The Board encourages you to contact these organizations with your concerns. In addition, there are activities involved in commissioning a building which are clearly not engineering, such as testing and balancing of the systems in place and designed by an engineer. Alteration of the design, however, should only be done by a licensed engineer, or under his direct supervision. If this is not the engineer that originally designed the system, the engineer in charge of the change is required to notify the original engineer, as written in the Act.

Thank you for your support of the policy advisory process. If you have any questions, please contact Mr. Wesley Smith, P.E. at (512) 440-7723.

Sincerely,



Dale Beebe Farrow, P.E.  
Executive Director

DBF: JWS: dpt

cc: Mr. Gerry Pate, P.E.  
Mr. Govind Nadkarni, P.E.  
Mr. C.W. Clark, P.E.  
Mr. Wesley Smith, P.E.