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## TEXAS BOARD OF PROFESSIONAL ENGINEERS

August 14, 2006

Mr. R. Carson Fisk  
c/o Ford Nassen Baldwin  
8080 North Central Expressway, Suite 1600, LB 65  
Dallas, TX 75206-1819

Dear Mr. Fisk:

On April 5, 2006, you submitted two questions to the Policy Advisory Committee regarding the exemptions for building designs in the Texas Engineering Practice Act. On August 9, 2006, the committee met and approved the following response:

Question No. 1: Is it a violation of the Engineering Practice Act for a building designer who is not a registered architect or a licensed professional engineer to prepare any of the designs for a public or private entity in connection with a building which will have a total floor area of more than 5,000 square feet but less than 20,000 square feet without the involvement of a licensed professional engineer? Assume for the purpose of this hypothetical that the building is not otherwise exempt from the Professional Engineering Act.

Question No. 2: If a building designer who is not an engineer or an architect is required to retain an engineer to design parts of a building that is not exempt from the Engineering Practice Act, what are those parts?

There are three sections of the TEPA that contain language that would apply to these questions:

### § 1001.053. Public Works

The following work is exempt from this chapter:

- (1) a public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is \$8,000 or less; or
- (2) a public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is \$20,000 or less; or
- (3) road maintenance or improvement undertaken by the commissioners court of a county.

### § 1001.056. Construction or Repair of and Plans for Certain Buildings

(a) A person, sole proprietorship, firm, partnership, joint stock association, or private corporation is exempt from the licensing requirements of this chapter if:

- (1) a representation that engineering services have been or will be offered to the public is not made or implied; and
- (2) the person or entity is erecting, constructing, enlarging, altering, or repairing or is drawing plans or specifications for:
  - (A) a private dwelling;
  - (B) apartments not exceeding eight units for each building in the case of one-story buildings;
  - (C) apartments not exceeding four units for each building and having a maximum height of two stories;

- (D) a garage or other structure pertinent to a building described by Paragraph (a), (b), or (c);
- (E) a private building to be used exclusively for:
  - (i) farm, ranch, or agricultural purposes; or
  - (ii) storage of raw agricultural commodities
- (F) a building having no more than one story that:
  - (i) is not a building exempt from the licensing requirements of this chapter under Section 1001.053 or subject to Section 1001.407;
  - (ii) has a total floor area of not more than 5,000 square feet; and
  - (iii) does not contain a clear span between supporting structures greater than 24 feet on the narrow side.

(b) If a structure described by Subsections (a)(2)(F)(i) and (ii) contains unsupported spans greater than 24 feet, only the trusses, beams, or other roof supporting members must be engineered or pre-engineered.

#### § 1001.407. Construction of Certain Public Works

The state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

- (1) the engineering plans, specifications, and estimates have been prepared by an engineer; and
- (2) the engineering construction is to be performed under the direct supervision of an engineer.

Both questions involve the three sections of the TEPA and also refer to the practice of architecture as regulated by the Texas Board of Architectural Examiners (TBAE). Questions regarding the practice of architecture must be answered by the TBAE. It will be noted here that the following responses to the submitted questions are in reference to the practice of engineering and the Texas Engineering Practice Act only.

The simple answer to question 1 is "yes", it is a violation of the TEPA for a building designer who is not a licensed professional engineer to prepare any of the designs for a public or private entity in connection with a building which will have a total floor area of more than 5,000 square feet without the involvement of a licensed professional engineer.

The reason for this answer can be found in the sections of the TEPA reproduced above. An unlicensed person is allowed to prepare the engineering designs for a **private** building of **less than 5,000 total square feet** (See § 1001.056. Construction or Repair of and Plans for Certain Buildings). For **public** buildings, the exemption is based on the dollar value of the entire project regardless of the building size (See § 1001.053. Public Works).

For question 2, a licensed engineer is required to prepare the design plans for the building systems that require engineering. These systems include but are not limited to:

- 1) The structural system of the building including foundation.
- 2) The building electrical system.
- 3) The building mechanical systems including but not limited to the plumbing system, waste system, environmental systems, and roof drainage system.

If the building is constructed with public funds, then a licensed professional engineer must prepare the design plans **and** a licensed professional engineer must supervise the building construction.

It should be noted that local building codes or ordinances might be more restrictive than the TEPA and require professional engineering involvement at lower thresholds.

Sincerely,



Dale Beebe Farrow, P.E.  
Executive Director

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