

IN THE MATTER of The New Zealand Registered Architects Act 2005 (“Act”) and The New Zealand Registered Architects Rules 2006 (“Rules”)

BETWEEN **THE NEW ZEALAND REGISTERED ARCHITECTS BOARD**

AND **EDWARD LEE, Former Registered Architect 3074**

DATE OF HEARING: 25 November 2015

VENUE: Boardroom, NZRAB, Wellington

BOARD MEMBERS PRESENT FOR THE DISCIPLINARY HEARING

- Warwick Bell (Chair)
- Callum McKenzie
- Euan Mac Kellar

The Board members above form a quorum in accordance with section 29 of the schedule to the Registered Architects Act 2005.

COUNSEL FOR NZRAB: Matthew McClelland QC

COUNSEL FOR THE ARCHITECT: No appearance

LEGAL ASSESSOR TO DISCIPLINARY HEARING: Terry Sissons

OTHER PERSONS PRESENT:

- Andrew Symonds, Clerk of the Hearing & Executive Officer New Zealand Registered Architects Board (NZRAB)
- Paul Jackman, Chief Executive New Zealand Registered Architects Board (NZRAB)

RELEVANT SECTIONS OF THE REGISTERED ARCHITECTS ACT 2005:

Sections 24 – 26

RELEVANT RULES FROM THE REGISTERED ARCHITECTS RULES 2006:

Rules 46 and 72 – 78

DECISION OF THE BOARD

Introduction

1. At all material times Mr Edward Lee ("Mr Lee") was a New Zealand registered architect although he presently resides in Melbourne and works there as an architect.

The Charge

2. Mr Lee is charged with a breach of section 25(1) d) of the Registered Architects Act 2005 and rule 46 of the Registered Architects Rules 2006 in that:

When completing the New Zealand Registered Architects Board Continuing Registration Competence Review Assessment Form ("Assessment Form") to satisfy the New Zealand Registered Architects Board ("the Board") that he met the minimum standard for continued registration for the next five years Mr Edward Lee ("Mr Lee") made a declaration or representation dated 12 February 2015 knowing it to be false or misleading in one or more material particulars:

Particulars

3. Mr Lee was required to complete Section 3 of the Assessment Form: Maintenance of Architectural Knowledge and Skills ("Section 3") by providing details of the professional development activities and NZRAB CPD he had undertaken over the past five years.
4. In completing Section 3 Mr Lee claimed to have attended the following conferences and/or courses when he knew that was false or misleading and that he had not attended those conferences and/or courses:

Particulars

- (i) The 2011 NZ Property Council Annual Conference, the 2012 NZ Property Council Blueprint Presentation, the 2013 NZ Property Council Retail Conference and the 2014 New Zealand Property Council Retail Conference.
- (ii) The 2011 NZ Local Authority Property Association Conference.
- (iii) The 2014 Council of Educational Facility Planners International (CEFPI) Australasia Conference in Adelaide.
- (iv) The Site Safe training courses 2011, 2012, 2013 and 2014.

5. In completing Section 3 of the Assessment Form Mr Lee claimed CPD points for the following research visits when he knew that the “*Summary of Site Visit*” and “*Learning*” that he entered were false or misleading in that they were plagiarised text obtained from the internet:

Particulars

- (i) For a research visit to the Eureka Tower but the text that he entered was a cut-and-paste from Wikipedia at https://en.wikipedia.org/wiki/Eureka_Tower.
 - (ii) For a research visit to the Sydney Opera House but the text he entered was a cut-and-paste from the website “Architecture and Archaeology” at <http://arch-and-arch.blogspot.co.nz/2013/12/sydney-opera-house.html>.
 - (iii) For research visits to the Southern Cross Station, the Exhibition and Convention Centre, Sidney Meyer Music Bowl, Olympic Pool, AAMI Park (Rectangular Sports Stadium), ICI House but the text he entered for each one of these was each a cut-and-paste from a tourism website for Melbourne at <http://www.visitmelbourne.com/Regions/Melbourne/Things-to-do/Art-theatre-andculture/Architecture-and-design/Architecture-Landmarks.aspx>.
6. In completing Section 3 of the Assessment Form Mr Lee claimed CPD for watching the following movies when he knew the “*Summary of Content*” and “*Learning*” that he entered were false or misleading in that they were plagiarised text:

Particulars

- (i) The “*Summary of Content*” and “*Learning*” entries for the movie “*My Architect*” that he entered were both an identical cut-and-paste from an on-line ABC review by Margaret Pomeranz at <http://www.abc.net.au/atthemovies/txt/s1214209.htm>.
- (ii) The “*Summary of Content*” and “*Learning*” for the film “*Unfinished Space*” that he entered were both an identical cut-and-paste from Wikipedia at https://en.wikipedia.org/wiki/Unfinished_Spaces.
- (iii) The “*Summary of Content*” and “*Learning*” for the film “*Sketches of Frank Gehry*” that he entered were both an identical cut and paste from an AV Club film review by Nathan Rabin at <http://www.avclub.com/review/sketches-of-frank-gehry-3958>.

7. In completing Section 3 of the Assessment Form Mr Lee claimed CPD points for reading the Australian Building Code. The "Summary of Content" and the "Learnings" that he entered are identical extracts of text from the Australian Building Code.

8. At Section 6: Declaration of the Assessment Form Mr Lee made the following declarations:

- that I understand and will continue to adhere to the Code of Minimum Standards of Ethical Conduct for Registered Architects ("the Code");
- that all the information contained in this application and attachments is correct and true,

when he knew that one or both of the declarations were false or misleading in a material particular and/or produced to the Board the Assessment Form knowing it to contain a declaration which was false or misleading in a material particular.

Clause 46 of the Code and Section 25 of the Act

9. Clause 46 provides:

"Standards related to the public

46. Not misrepresent himself or herself

A registered architect must not represent or promote himself or herself, his or her business, or his or her professional services in a false, fraudulent, misleading or deceptive manner".

10. Section 25(1)(b) and (d) of the Act provides:

"25. Grounds for discipline of registered architects

(i) The Board may (in relation to a matter raised by complaint or by its own inquiries) take any of the actions referred to in section 26 if it is satisfied that -

...

(b) A registered architect has breached the Code of Ethics contained in the Rules; or

...

- (d) *A registered architect has, for the purpose of obtaining registration (either for himself or herself or for any other person) –*
 - (i) *either orally or in writing, made any declaration or representation knowing it to be false or misleading in a material particular; or*
 - (ii) *produced to the Board or made use of any document knowing it to contain a declaration or representation referred to in subparagraph (i); or*
 - (iii) *produced to the Board or made use of any document knowing that it was not genuine.”*

11. Section 25(2) of the Act provides that:

“The Board may take the action whether or not the person is still a registered architect”.

The Evidence Produced in Relation to the Complaint

- 12. The Board received statements of evidence from Paul Jackman the Board's Chief Executive, which established all the particulars of the complaint, and from Andrew Symonds Executive Officer of the NZRAB, which set out the steps taken to send the notice of complaint and evidence to Mr Lee and his responses to these documents.
- 13. In accordance with rule 76 of the Rules the board was also provided with the investigating committee's report and notice of complaint.

Relevant Facts

- 14. Under the Act and the Rules the Board is required to review the competence of all architects every five years. To be granted an entitlement to a further five years' registration each architect must demonstrate that he or she is competent and also that he or she has taken reasonable steps to maintain the currency of his or her architectural knowledge and skill since the last assessment, this being referred to as Continuing Professional Development – CPD.
- 15. In February 2015 Mr Lee completed and submitted to the Board a *“Continuing Registration Competence Review Assessment Form”* (“Assessment Form”) which included a declaration dated 12 February 2015 that he understood and would

continue to adhere to the Code and that all the information contained in the application and attachments was correct and true.

16. Mr Lee's Assessment Form was assessed and it was determined that he met the required standard. On 21 March 2015 the Board granted Mr Lee an entitlement to annual registration from 1 July 2015 to 30 June 2020.
17. However in June 2015 Mr Paul Jackman, Chief Executive of the NZRAB made a number of inquiries which indicated that the information included by Mr Lee in his Assessment Form was false or misleading in a number of ways as set out in the Notice of Complaint.
18. As a result on 24 June 2015 the Board resolved to rescind its decision of 21 March 2015 granting Mr Lee an entitlement to annual registration from 1 July 2015 to 30 June 2020.
19. On 26 June 2015 Mr Jackman wrote to Mr Lee and asked him to provide evidence that his CPD claims were accurate and that he did in fact attend to the various activities referred to. He was also asked to explain his use of plagiarised text for the "*Summary of contents*" and "*Learnings*".
20. That same day Mr Lee contacted Mr Jackman and told him that he had not carried out the professional development activities that he had claimed in his Assessment Form and then emailed Mr Jackman requesting that he accept his "*resignation from NZRAB registration*".
21. Following notification that there be an inquiry into his conduct as a former architect and that that inquiry would be handled as if it were a complaint and would be referred to an Investigating Committee Mr Lee emailed Mr Jackman on 4 July 2015 and explained that he had not "*set out to deliberately deceive the Board and would like to express my remorse over my actions. In hindsight, I should not have taken such a cavalier attitude towards the recording of the CPD schedule*".
22. Later that same day he further advised Mr Jackman that he intended to take legal advice due to "*the seriousness of actions proposed, and potential damage to my professional reputation at stake*".
23. In an email dated 13 August 2015 Mr Lee advised that he accepted "*there are grounds for discipline against me, and await outcome of the decision*".
24. Mr Andrew Symonds, Executive Officer of the NZRAB kept Mr Lee advised of the outcome of the Investigating Committee's inquiry and that it had decided to refer the

matter to a Board disciplinary hearing. Having advised Mr Lee on 14 August 2015 of the procedure to be followed Mr Lee in an email of the same date advised Mr Symonds that he would not be attending the hearing.

25. Mr Lee was emailed by Mr Symonds on 14 September 2015 and requested that he confirm that there were grounds for discipline as set out in the Notice of Complaint together with a request that he sign the attached summary of facts. Mr Lee did not respond and Mr Symonds emailed him again on 5 October 2015. Again Mr Lee did not respond to that email and despite further efforts Mr Lee has not responded to either emails or telephone calls from Mr Symonds on behalf of the Board.

Deliberations of the Board

26. The uncontradicted evidence from Mr Jackman, establishes that Mr Lee provided false or misleading information to the Board when completing the Assessment Form and that the declaration at section 6 was false and misleading when he knew that the information contained in the application and the attachments was neither correct nor true and that he had not continued to adhere to the provisions of the Code.
27. Mr Lee admitted to Mr Jackman in a telephone conversation on 26 June 2015 that he had not carried out the professional development activities that he had claimed but, as per his email of 4 July, he had not set out to deliberately deceive the Board and in hindsight he accepted that he should not have taken such a cavalier attitude towards the recording of the CPD schedule.
28. The Board is satisfied that Mr Lee has represented his CPD in a misleading and deceptive manner in terms of clause 46. In doing so he has also acted in flagrant breach of section 25(i)(d) of the Act.
29. The Board finds that the charge against Mr. Lee is proved.
30. The Board voted and this is separately recorded in a Board minute as attachment 1.

DATED at Wellington this 25th day of November 2015



Chairperson