

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

LEON CASES, )  
)  
Petitioner, )  
)  
vs. ) CASE NO. 93-4407  
)  
DEPARTMENT OF BUSINESS AND, )  
PROFESSIONAL REGULATION, BOARD OF )  
ARCHITECTURE AND INTERIOR DESIGN, )  
)  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to Notice, a formal hearing was conducted in this case on November 12, 1993, at Miami, Florida, before Michael M. Parrish, a duly designated Hearing Officer of the Division of Administrative Hearings. Appearances for the parties were as follows:

APPEARANCES

For Petitioner: Joseph Paglino, Esquire  
11601 Biscayne Boulevard, Suite 301  
Miami, Florida 33181

For Respondent: John J. Rimes, III, Esquire  
Assistant Attorney General  
Department of Legal Affairs  
The Capitol, LL 04  
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

The issue in this case is whether the Petitioner is entitled to be licensed as an architect in the State of Florida by endorsement as provided in Section 481.213(3), Florida Statutes.

PRELIMINARY STATEMENT

At the formal hearing on November 12, 1993, the Petitioner testified on his own behalf and also presented the testimony of five other witnesses. The Petitioner also offered three exhibits, all of which were received in evidence. At the conclusion of the Petitioner's evidentiary presentation, the Petitioner also filed with the Hearing Officer the Petitioner's Memorandum of Law in Support of Licensure. The Respondent presented the testimony of one witness and offered four exhibits, all of which were received in evidence.

At the conclusion of the hearing, the parties requested, and were granted, fifteen days from the filing of the transcript within which to file their respective proposed recommended orders. The transcript was filed on December

28, 1993. Thereafter, both parties filed timely proposed recommended orders containing proposed findings of fact and conclusions of law. Specific rulings on all proposed findings of fact are contained in the Appendix to this Recommended Order. With one exception noted in the Appendix, the Findings of Fact which follow are substantially identical to the findings proposed by the Respondent, with a few editorial changes in the interest of clarity.

#### FINDINGS OF FACT

1. The Petitioner, Leon Cases, is an applicant to become licensed as an architect in the State of Florida by endorsement as provided in Section 481.213(3), Florida Statutes. The Petitioner was originally licensed as an architect in the State of New York in 1992, and the parties stipulate that he has passed the national licensure examination as prepared by the National Council of Architectural Registration Boards (NCARB) and thus has completed all examination requirements for licensure. The parties also stipulate that the Petitioner has completed an architectural internship which is substantially equivalent to that required by Section 481.211, Florida Statutes.

2. The Petitioner graduated from the School of Architecture and Environmental Studies of the City College of New York on September 1, 1977, with the degree of Bachelor of Science in Architecture (BS Arch). The School of Architecture and Environmental Studies at the City College of New York is a school or college of architecture accredited by the National Architecture Accreditation Board (NAAB). The degree which the Petitioner received from the City College of New York is not the professional degree in architecture offered by that college.

3. NAAB accredits schools and colleges of architecture which offer curricula and programs leading to a first professional degree in architecture. A professional degree in architecture in the United States is uniformly evidenced by a five year degree leading to a Bachelor of Architecture (B. Arch) or a six or more year two stage degree program (a bachelor's [not a B. Arch degree] degree followed by a master's degree) leading to a Master of Architecture (M. Arch). It is not disputed that the Petitioner's degree (a four-year Bachelor of Science in Architecture degree) is not a professional degree in architecture as defined by NAAB.

4. The Petitioner completed the course requirements for the BS Arch degree from CCNY, but did not attempt or complete the course requirements for the fifth year which results in the B. Arch from CCNY. The fifth year of a five-year program leading to a professional degree in architecture is an important part of the educational process which results in the synthesis of all the undergraduate work which is done in the first four years. This importance is recognized by CCNY which in its catalogue noted that it is only "with this degree [the bachelor of architecture, that] the student may begin the internship required for admission to the examination for licensure as a registered architect."

5. It is in the fifth year of a five-year professional degree program, that a student usually (via a thesis requirement) develops an architectural program and completes the design of a structure from concept to completion. It is this requirement that allows the faculty to measure an individual's capacity to become a practicing architect. The Petitioner completed none of the fifth year requirements at CCNY.

6. After the Petitioner graduated from CCNY he moved to the State of Florida and began working at an architectural firm. He considered applying to sit for the licensure examination in the State of Florida in the early 1980's; however, he determined that he would not be eligible to sit for the examination since he did not have a five-year professional degree in architecture.

7. As a result, the Petitioner determined to apply to New York under the provisions of that state's licensure laws. He was accepted to sit for the examination in New York pursuant to his combination of education and experience, and was licensed after completing all parts of the exam in 1992.

8. The Petitioner was authorized to sit for the examination in New York as a result of New York's statutes and rules which permit a combination of education and experience to be used to form the basis for entry to the licensure examination. The State of New York has confirmed this method by which the Petitioner was authorized to sit for the examination and ultimately licensed within New York by a document sent to the Florida Board of Architecture and Interior Design verifying the Petitioner's licensure in that state and the manner by which that licensure occurred.

9. Since 1979 the Florida Board of Architecture and Interior Design has interpreted the provisions of Chapter 481.209, Florida Statutes, relating to entry to the licensure examination to mandate that a professional degree in architecture from an accredited school or college of architecture approved by NAAB is required. The only proviso is that applicants from an unaccredited school or college of architecture must meet standards which are equivalent to NAAB. These standards have been set forth by Board Rule 61G1-13.003, F.A.C., which mandates a five-year professional degree in architecture.

10. Neither the Board of Architecture and Interior Design nor the Department of Business and Professional Regulation have compiled a subject matter index as mandated by Section 120.53, Florida Statutes.

11. No evidence has been adduced to show that the Board has taken a position contrary to its established position that a professional degree in architecture is required by the provisions of Section 481.209, Florida Statutes, prior to licensure in the State of Florida.

12. The Board did produce information relevant to past Board actions on applications either for licensure by endorsement or to sit for the examination, which shows that the Board has consistently denied such applications if a professional degree from an accredited school or college of architecture, or an equivalent degree from an unaccredited school or college of architecture, or an equivalent degree from an unaccredited school or college of architecture was not present in the applicant's educational background.

#### CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this proceeding. Section 120.57(1), Florida Statutes.

14. Section 481.209, Florida Statutes, reads as follows, in pertinent part:

(1) A person desiring to be licensed as a registered architect shall apply to the department to take the licensure examination. The department shall administer the licensure examination to each applicant who the board certifies:

\* \* \*

(b)1. Has successfully completed all architectural curriculum courses required by and is a graduate of a school or college of architecture accredited by the National Architectural Accreditation Board; or  
2. Is a graduate of an approved architectural curriculum, evidenced by a degree from an unaccredited school or college of architecture approved by the board. The board shall adopt rules providing for the review and approval of unaccredited schools and colleges of architecture and courses of architectural study based on a review and inspection by the board of the curriculum of accredited schools and colleges of architecture in the United States, including those schools and colleges accredited by the National Architectural Accreditation Board; and  
(c) Beginning on October 1, 1989, has completed, prior to examination, 1 year of the internship experience required by s. 481.211(1).

15. Section 481.211, Florida Statutes, reads as follows:

(1) An applicant for licensure as a registered architect shall complete, prior to licensure, an internship of diversified architectural experience approved by the board in the design and construction of structures which have as their principal purpose human habitation or use. The internship shall be for a period of:

(a) Three years for an applicant holding the degree of Bachelor of Architecture; or

(b) Two years for an applicant holding the professional degree of Master of Architecture.

(2) Beginning on October 1, 1989, each applicant for licensure shall complete 1 year of the internship experience required by this section subsequent to graduation from a school or college of architecture as defined in s. 481.209(1).

16. Section 481.213(3), Florida Statutes, reads as follows:

(3) The board shall certify as qualified for a license by endorsement as an architect or as an interior designer an applicant who:

(a) Qualifies to take the prescribed licensure examination, and has passed the prescribed licensure examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209 for architects or interior designers, as applicable, and has satisfied the internship requirements set forth in s. 481.211 for architects;

(b) Holds a valid license to practice architecture or to use the title "interior designer," as applicable, issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria which existed in this state at the time the license was issued; or

(c) Has passed the prescribed licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States. For the purposes of this paragraph, any applicant licensed in another state or jurisdiction after June 30, 1984, must also hold a degree in architecture and such degree shall be equivalent to that required in s. 481.209(1)(b).

17. The Rules adopted by the Board of Architecture and Interior Design include the following at Rule 61G1-13.003(2), Florida Administrative Code:

(2) An applicant must have obtained a first professional degree from an approved program of study of five years or more.

[Emphasis added.]

18. The Petitioner argues that he is entitled to the licensure he seeks because he is "a graduate of school or college of architecture accredited by the Nation Architectural Accreditation Board" within the literal language of Section 481.209(1)(b)1, Florida Statutes. The Board has taken a different view of the quoted language and has, through rulemaking, interpreted the quoted languages as requiring graduation "from an approved program of study of five years or more." While reasonable men might differ as to whether the Board's interpretation of the subject statutory language is the best interpretation of that language, the Board's choice in this regard appears to be a reasonable interpretation well within the permissible scope of the Board's discretion. Such being the case, the subject statutory language must be applied as interpreted by the Board, rather than in the literal manner proposed by the Petitioner. When the statute is applied in a manner consistent with Rule 61G1-13.003(2), Florida Administrative Code, the Petitioner's application must be denied because he does not have the required professional degree "from an approved program of study of five years or more."

19. Relying on *Gessler v. Department of Business and Professional Regulation*, 18 F.L.W. 2076 (Fla. 4th DCA, September 22, 1993), the Petitioner also asserts that he is entitled to the license he seeks because of the Board's failure to index its order and rules. Nothing in *Gessler*, supra, requires or authorizes such a remedy.

#### RECOMMENDATION

On the basis of all the foregoing, it is RECOMMENDED that the Board of Architecture and Interior Design issue a final order in this cause denying the Petitioner's application.

DONE and ENTERED this 11th day of May 1994 at Tallahassee, Florida.

---

MICHAEL M. PARRISH  
Hearing Officer  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-1550  
(904) 488-9675

Filed with the Clerk of the  
Division of Administrative Hearings  
this 11th day of May 1994.

#### APPENDIX

The following are the specific rulings on all proposed findings of fact submitted by all parties.

Findings proposed by Petitioner:

The findings addressed immediately below are the four paragraphs following the caption "FINDINGS OF FACT" at pages 11 and 12 of the Petitioner's proposed recommended order. No effort has been made to make specific rulings on other factual assertions that appear throughout other portions of the Petitioner's proposed recommended order in conjunction with arguments and conclusions of law.

Paragraph A: Accepted up to the first comma. The remainder is rejected as contrary to the greater weight of the evidence.

Paragraph B: Accepted up to the first use of the word "architect." The remainder is rejected as contrary to the greater weight of the evidence.

Paragraph C: Rejected as constituting argument or proposed conclusion of law, rather than proposed findings of fact. And, in any event, the argument lacks merit.

Paragraph D: First sentence rejected as constituting argument or conclusion of law, rather than proposed finding of fact. Second sentence rejected as contrary to the greater weight of the evidence.

Findings proposed by Respondent:

All findings of fact proposed by the Respondent have been accepted, with the exception of the last paragraph of same. The last paragraph proposed by the Respondent is rejected as constituting subordinate and unnecessary details.

COPIES FURNISHED:

Joseph Paglino, Esquire  
11601 Biscayne Boulevard, Suite 301  
Miami, Florida 33181

John J. Rimes, III, Esquire  
Assistant Attorney General  
Department of Legal Affairs  
The Capitol, LL 04  
Tallahassee, Florida 32399-1050

Angel Gonzalez, Executive Director  
Architecture & Interior Design  
Department of Business and  
Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0792

Jack McRay, Acting General Counsel  
Department of Business and  
Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0792

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to this Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.