



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

IN THE MATTER OF THE *PROFESSIONAL GOVERNANCE ACT*
S.B.C. 2018, C. 47

AND

IN THE MATTER OF A CONSENT ORDER BETWEEN:

PETER CLEWES ARCHITECT AIBC

AND

THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

CONSENT ORDER

The *Professional Governance Act* (“PGA”) authorizes the AIBC to propose resolution by consent order on matters that may otherwise be dealt with at a discipline Hearing. Section 73 of the *PGA* and current AIBC Bylaws 7.16 through 7.20 provide the specific processes and procedures by which the AIBC and a registrant may reach agreement.

1.0 BACKGROUND AND AGREED FACTS

- 1.1 The parties agree that the relevant facts and circumstances leading to the investigation and this consent order (the “Order”) are set out below.

A. Overview

- 1.2 The AIBC received information about Peter Clewes Architect AIBC concerning the provision of architectural services for a proposed 12-storey office building in Vancouver, BC (the “Project”).
- 1.3 Following a review and consideration of the information, the Investigation Committee (the “Committee”) initiated a complaint in accordance with AIBC Bylaw 6.12.
- 1.4 After considering the outcome of the investigation, the Committee proposed this Order as a resolution to the matter.
- 1.5 The concerns identified in the complaint occurred before the AIBC’s transition to the PGA, therefore references are made to the repealed *Architects Act* (the “Act”) and the former AIBC Bylaws in the Code of Ethics and Professional Conduct (“Code of Ethics”) (effective April 17, 2015, and December 15, 2020).

B. Peter Clewes

- 1.6 Mr. Clewes was first registered as an Architect with the AIBC on July 11, 2017, and has maintained his registration since that time.
- 1.7 Mr. Clewes primarily practices architecture through Architects–Alliance (“AA”), a corporation based in Ontario, that does not have a certificate of practice (“CoP”) with the AIBC.
- 1.8 After receiving notice of this complaint matter, Mr. Clewes applied for a CoP with the AIBC under the name Peter Clewes Architect Limited (“PCAL”). PCAL was issued a CoP on December 15, 2023.

C. The Complaint

- 1.9 In August 2023, the AIBC received information that indicated AA was providing architectural services for the Project and that Mr. Clewes was the architect of record. The source of this information was concerned that AA did not appear to have a CoP.
- 1.10 A review of the Project’s rezoning application booklet confirmed that the proposed development required the services of an Architect, practising through an architectural Firm holding a CoP. Neither Mr. Clewes nor AA had an AIBC CoP at the time the Project’s rezoning application booklet was submitted to the City of Vancouver (the “City”).
- 1.11 Based on the information received a complaint was opened (“Complaint”) in which the AIBC was named as the nominal complainant.

- 1.12 The Committee reviewed the Complaint and Mr. Clewes' response material and decided to initiate an investigation into this matter pursuant to AIBC Bylaw 6.12 and assigned an investigator in accordance with the complaint and investigation processes in part 6.0 of the AIBC Bylaws.

D. The Investigation/Agreed Facts

- 1.13 The investigation involved a review of the Project material, Mr. Clewes' response to the Complaint, as well as his responses to subsequent questions and requests for information. Mr. Clewes also attended an interview with the investigator.
- 1.14 The investigation was conducted in accordance with the requirements and processes stipulated in the *PGA* and the AIBC Bylaws.
- 1.15 The facts in paragraphs 1.16 – 1.25 below are based on the materials obtained during the investigation and agreed to by Mr. Clewes and the Committee.
- 1.16 In response to the Complaint and the allegations, Mr. Clewes acknowledged it was an oversight on his part of not ensuring that he or AA had obtained a CoP prior to his engagement in the Project. He stated that he and his legal counsel were taking steps to rectify this breach.
- 1.17 In his initial response, Mr. Clewes also provided copies of the client-architect agreement dated December 20, 2016, and an additional service work request dated February 20, 2021, and outlined the following Project chronology:
- 1.17.1 May 2017: the initial design draft was submitted to the client.
- 1.17.2 May 2020: AA engaged in consultations with the City planning staff, which resulted in the submission of a rezoning application.
- 1.17.3 November 2022: the City informed AA of the need for a revised building design approach, leading to ongoing redesign and rezoning efforts.
- 1.17.4 June 2023: AA presented the new design to the City Design Review Panel ("DRP").
- 1.17.5 July 2023: AA received recommendations from the City DRP, which have not yet been implemented.
- 1.18 In response to a request for further documents and information, Mr. Clewes' counsel stated that AA was covered by out-of-province professional liability insurance. His counsel also provided an update on the progress of PCAL's registration status with the BC Registry Services.
- 1.19 Mr. Clewes stated that he had started work on the Project during the first week of January 2017.
- 1.20 When asked about the terms in the December 2016 client-architect agreement and the February 2021 additional service work request, Mr. Clewes admitted that the client had not been informed in writing that professional liability insurance was in place for the architectural services to be provided, or that it was available for review upon request, and that neither document had the required compliance clause

stating that the contract was "in compliance with AIBC Bylaws, including the Code of Ethics and Professional Conduct."

- 1.21 At his interview, Mr. Clewes stated he had previously worked in BC on a project in 2005 with another architect who was registered in BC, and that he had obtained a Temporary Licence. He maintained this AIBC registration for about three to four years and then resigned it due to a lack of work in BC.
- 1.22 Mr. Clewes stated that when the opportunity arose to work on this Project, he assured the client he would reactivate his BC registration. He further stated that he expected his executive assistant to manage the paperwork to reactivate his registration, however, she did not, and he proceeded on the mistaken assumption that his BC registration was in order.
- 1.23 Mr. Clewes is registered in more than five provinces in Canada and also in a few states in the United States, and said he understands that each jurisdiction has different regulations.
- 1.24 During his interview, Mr. Clewes admitted that on December 20, 2016, when the client-architect agreement for the Project was entered, he was not registered as an Architect AIBC and AA did not hold a CoP. Mr. Clewes acknowledged that he required AIBC registration to undertake the Project at the time of the agreement.
- 1.25 Mr. Clewes has not resumed work on the Project due to differences in the client's priorities and schedules, and accordingly, no new agreements have been signed with the client to reflect that PCAL is now the service provider.
- 1.26 Following its review and consideration of the information from the investigation the Committee proposed this Order as a resolution to the matter, pursuant to AIBC Bylaws 6.14.2 and 7.16.

E. Relevant Professional Standards

- 1.27 Under the former *Act*, the AIBC Bylaws in the Code of Ethics established the underlying principles, values, standards, and rules of behaviour for registrants. These Bylaws were supplemented by council rulings, which were binding rules that elaborated on the Bylaws' fundamental statements.
- 1.28 Sections 27(2), 59 and 63 of the *Act*, and former AIBC Bylaw 30.1 council ruling (a) and Bylaw 33.3 from the Code of Ethics effective April 17, 2015, and December 15, 2020; and Bylaw 28.0 council ruling (b) from the Code of Ethics effective December 15, 2020, are relevant to the Complaint about Mr. Clewes.
- 1.29 Sections 27(2), 59 and 63 of the *Act* state:

Certificate of practice

- 27 (2) A person must not practise or offer to practise the profession of architecture unless the person
 - (a) is a holder of a current certificate of practice, or

- (b) practises as authorized by this Act through an architectural firm that is a holder of a current certificate of practice.

Practice of architecture

59 A person is deemed to practise the profession of architecture within the meaning of this Act if the person:

- (a) is engaged in the planning or supervision of the erection or alteration of buildings for the use or occupancy of persons other than himself or herself, or
- (b) by advertisement, sign or statement of any kind, written or oral, alleges or implies that the person is an architect or that the person is, or holds himself or herself out as being, qualified, able or willing to do any act set out in this section.

Further prohibitions

63 (1) Subject to this Act, a person not registered as a member or as an architectural firm must not use or be held out under the title "architect" or any similar title or description or use, and must not advertise or be held out under any name, title, addition or description implying, or likely to lead the public to infer, that a registration under this Act applies.

(2) A person or architectural firm that does not hold a certificate of practice must not be held out or implied to hold a certificate of practice.

(3) A person not licensed under this Act must not be held out or implied to be licensed under this Act.

1.30 AIBC Bylaw 30.1 and council ruling (a) and Bylaw 33.3 from the AIBC Code of Ethics effective April 17, 2015, and December 15, 2020, are identical and state:

Bylaw 30.1 In practising architecture, an architect shall act with reasonable care and competence, and shall apply the knowledge, skill and judgement, which are ordinarily applied by architects currently practising in the province of British Columbia.

- (a) An architect shall remain informed with respect to the practice of architecture in British Columbia.

Bylaw 33.3 An architect shall comply with the *Architects Act* of British Columbia, the Bylaws under the *Architects Act*, and Council rulings.

1.31 AIBC Bylaw 28.0 and council ruling (b) from the Code of Ethics effective December 15, 2020 state:

Bylaw 28.0 An architect is not permitted to provide architectural services to a client until the following conditions are satisfied:

...

- (b) The client has been advised in writing:
 - (i) whether professional liability insurance is in place in relation to the architectural services to be provided for the commission;
 - (ii) that the professional liability insurance policy in (i) is available for review by the client upon request; and
 - (iii) that the contract “is in compliance with AIBC Bylaws, including the Code of Ethics and Professional Conduct.”

2.0 ADMISSIONS

2.1 Considering the facts agreed to above, Mr. Clewes acknowledges and admits that he contravened:

2.1.1.1 sections 27(2), 59 and 63 of the Act and former AIBC Bylaw 30.1 council ruling (a) and Bylaw 33.3 from the Code of Ethics effective April 17, 2015, and December 15, 2020, by providing architectural services on the Project without being registered as an architect and holding a Certificate of Practice with the AIBC; and

2.1.1.2 AIBC Bylaw 28.0 and council ruling (b) from the Code of Ethics effective December 15, 2020, by providing architectural services to a client without ensuring compliance with the required terms of professional engagement.

3.0 PENALTY ORDER

3.1 The following penalty and terms have been agreed upon by Mr. Clewes and the AIBC:

3.1.1 A reprimand will be recorded against Peter Clewes Architect AIBC;

3.1.2 Mr. Clewes is required to pay a fine in the amount of \$4,000 to the AIBC, within 30 days after this Order has been executed; and

3.1.3 Mr. Clewes is required to attend and complete the AIBC’s “Professional Practice Standards and Ethics” online course at his expense, within 90 days after this Order has been executed. The Director of Professional Conduct and Illegal Practice is authorized to provide a reasonable extension, upon request by Mr. Clewes, if he is unable to complete the course by the prescribed date due to extenuating circumstances.

3.2 Mr. Clewes acknowledges and agrees that failure to complete the requirements in paragraphs 3.1.2 and 3.1.3 above or pay the costs in paragraph 4.1 within the time specified will result in his suspension from the AIBC register.

- 3.3 Mr. Clewes acknowledges and agrees that if he is suspended from the register for failure to complete any of the requirements of this Order, he must do the following within 10 days of being advised in writing by the AIBC of his suspension from the register:
- 3.3.1 Return his professional seal to the AIBC, and if applicable, his digital seal as required by his agreement with Notarius, the Canadian company authorized to issue digital seals to British Columbia architects;
 - 3.3.2 Return his Certificate of Practice for Peter Clewes Architect Limited to the AIBC;
 - 3.3.3 Return any project site signs which identify him and/or Peter Clewes Architect Limited;
 - 3.3.4 Provide the AIBC with a letter of undertaking confirming that he has:
 - a) concluded all architectural business operations under Peter Clewes Architect Limited;
 - b) assigned, with client consent, any ongoing projects under his name to another architect or architectural firm holding a current Certificate of Practice. In this portion of the undertaking letter, Mr. Clewes is to provide the project owner's name, project name and location and the name of the architect or architectural firm assuming responsibility for the project. This list must include all projects undertaken which are not completed;
 - c) informed the appropriate officials and authorities having jurisdiction, in writing, of his and the Peter Clewes Architect Limited's status on any projects submitted for municipal approval as a development permit application, building permit application, subdivision application or any other municipal process. Such notification letters must be copied to the AIBC; and
 - d) confirmed that he will not refer to himself as an architect and that he will not practise architecture or offer to provide architectural services as defined by the *PGA* and the *Architects Regulation*, until such time as he has been returned to the AIBC register.
- 3.4 Mr. Clewes acknowledges and agrees that if he is suspended from the register for failure to complete the requirements of this Order, or if he resigns from the register prior to completing all requirements, he may not apply for reinstatement until he has done so. Upon completion of all outstanding requirements, he may apply for reinstatement and will be subject to all applicable fees and requirements for reinstatement.

4.0 COSTS

- 4.1 Mr. Clewes agrees to pay costs for this Order, fixed at an amount of \$2,000, payable to the AIBC within 30 days after this Order has been executed.
- 4.2 The parties acknowledge that costs are not intended as a punitive measure reflecting the conduct that is the subject of this Order. The assessment of costs against Mr. Clewes is an acknowledgement of the AIBC's partial costs resulting from the complaint, investigation, and discipline process, and is separate from the agreed-upon penalty.

- 4.3 The parties have referred to the AIBC Bylaws: Schedule S: Costs Administrative Guidelines in agreeing on the amount of costs.

5.0 PUBLICATION

- 5.1 This Order, including the attached penalty schedule must be published by the AIBC on its website, pursuant to Section 73 of the *PGA* and current Bylaw 8.15, and distributed to all AIBC registrants, in a manner that the AIBC deems fit in the public interest.
- 5.2 An explanatory notation of and/or a link to this Order will also be included in the AIBC register pursuant to Bylaw 8.5.8.
- 5.3 In the event Mr. Clewes is suspended from the register for non-compliance with this Order, the AIBC will notify the public, registrants, and other interested parties where appropriate.

6.0 ACKNOWLEDGEMENT

This Order may be executed and delivered in one or more counterparts, whether by facsimile transmission or other electronic means, with the same effect as if all parties had signed and delivered the same document and all counterparts.

Mr. Clewes acknowledges that he has been given adequate opportunity to seek legal or other professional advice with respect to the negotiation, execution and consequences of this Order and has taken such advice or freely elected not to do so.

The facts and terms of this Consent Order are acknowledged and agreed to by Peter Clewes Architect AIBC and the Investigation Committee. The Order was signed on August 19, 2024.

SCHEDULE – REASONS FOR PENALTY

TO

CONSENT ORDER

BETWEEN

PETER CLEWES ARCHITECT AIBC

AND

THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

1.0 REASONS FOR PENALTY

- 1.1 Peter Clewes Architect AIBC and the AIBC agree that, in light of the agreed facts and admissions, the proposed penalty is proportionate, fair, and consistent with the public interest. A detailed analysis follows.

A. The Public Interest and Principles of Sentencing (Sanctions)

- 1.2 Pursuant to Section 73 of the *PGA*, the Investigation Committee may, before the commencement of the discipline hearing, propose, in writing, to the person who is the subject of an investigation that a consent order be made for the voluntary resolution of one or more matters that may otherwise be dealt with at the discipline hearing. Under current Bylaw 7.17, the Investigation Committee makes a final determination as to whether all terms of the consent order have been satisfied.
- 1.3 The role of a reviewing panel was discussed in *Law Society of BC v. Rai*, 2011 LSBC 2. In that case, a panel was considering an agreement between a lawyer and the regulator on agreed facts and discipline action. The panel conducted an analysis of its role in determining whether to accept the agreement as proposed. The discussion in that case is relevant to the AIBC's process. The panel stated:

[6] This proceeding operates (in part) under Rule 4-22 of the Law Society Rules. That provision allows for the Discipline Committee of the Law Society and the Respondent to agree that professional misconduct took place and agree to a specific disciplinary action, including costs. This provision is to facilitate settlements, by providing a degree of certainty. However, the conditional admission provisions have a safeguard. The proposed admission and disciplinary action do not take effect until they are "accepted" by a hearing panel.

[7] The Panel must be satisfied that the proposed admission on the substantive matter is appropriate. In most cases, this will not be a problem. The Panel must also be satisfied that the proposed disciplinary action is "acceptable". What does that mean? This Panel believes that a disciplinary action is acceptable if it is within the range of a fair and reasonable disciplinary action

in all the circumstances. The Panel thus has a limited role. The question the Panel has to ask itself is, not whether it would have imposed exactly the same disciplinary action, but rather, “Is the proposed disciplinary action within the range of a fair and reasonable disciplinary action?”

[8] This approach... protects the public by ensuring that the proposed disciplinary action is within the range of fair and reasonable disciplinary actions. In other words, a degree of deference should be given to the parties to craft a disciplinary action. However, if the disciplinary action is outside of the range of what is fair and reasonable in the circumstances, then the Panel should reject the proposed disciplinary action in the public interest.

[Emphasis added]

- 1.4 As stated above in *Rai*, it is important to note that there will be a *range* of fair and reasonable outcomes in any particular file. The complexity of sentencing does not admit to only one appropriate outcome.
- 1.5 This principle was well-articulated in the case of *Peet v. The Law Society of Saskatchewan*, 2014 SKCA 109 where the Chief Justice wrote for a unanimous panel of the Court of Appeal:

[84] All of this is significant because sentencing of any sort, including sentencing for professional misconduct, is a difficult business. There is no single “right answer”. This is so because the sentencing authority must consider, balance, and reconcile a number of different considerations...
- 1.6 The parties submit that the penalty proposed in this case appropriately balances the mitigating and aggravating factors, and is consistent with previous decisions and the public interest in professional discipline matters.

B. *Ogilvie* Factors

- 1.7 In determining an appropriate penalty, professional regulatory bodies in British Columbia have often referred to the factors considered in the case of *Law Society of British Columbia v. Ogilvie* [1999] LSBC 17 (known as the “*Ogilvie* Factors”).
- 1.8 This involves an assessment of whether the *Ogilvie* Factors apply and if so, whether they are aggravating or mitigating. The *Ogilvie* Factors include the following:
 - (a) the nature and gravity of the conduct proven [or admitted];
 - (b) the age and experience of the respondent;
 - (c) the previous character of the respondent, including details of prior discipline;
 - (d) the impact upon the victim;
 - (e) the advantage gained, or to be gained, by the respondent;
 - (f) the number of times the offending conduct occurred;
 - (g) whether the respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances;

- (h) the possibility of remediating or rehabilitating the respondent;
 - (i) the impact upon the respondent of criminal or other sanctions or penalties;
 - (j) the impact of the proposed penalty on the respondent;
 - (k) the need for specific and general deterrence;
 - (l) the need to ensure the public's confidence in the integrity of the profession; and
 - (m) the range of penalties in similar cases.
- 1.9 The *Ogilvie* Factors were subsequently consolidated and streamlined in the case of *Edward Dent (Re)*, 2016 LSBC 5. In that case, the hearing panel acknowledged that the *Ogilvie* Factors are not all applicable in every case, and will overlap in many cases.
- 1.10 The panel in *Dent* consolidated the *Ogilvie* Factors into four broad categories:
- (a) Nature, gravity and consequences of conduct;
 - (b) Character and professional conduct record of the respondent;
 - (c) Acknowledgment of the misconduct and remedial action; and
 - (d) Public confidence in the profession, including public confidence in the disciplinary process.
- 1.11 Since the decision was issued in *Dent*, the consolidated framework (informed by the complete list from *Ogilvie*) has become the preferred approach in Law Society disciplinary proceedings. However, the jurisprudence acknowledges that the simplified approach may not be appropriate in every case. For example, the Law Society returned to the full *Ogilvie* analysis in a case that was “very difficult” [and] “unlike any previous discipline hearing”: *Sabota (Re)*, 2017 LSBC 18.
- 1.12 The parties agree that the consolidated *Ogilvie* Factors are appropriate in this case. They are reviewed in detail below.
- (a) The nature, gravity and consequences of the conduct**
- 1.13 Mr. Clewes provided architectural services on a project without being registered as an architect and without holding a current certificate of practice with the AIBC. The requirement for a certificate of practice was stated unambiguously in the *Act*. Mr. Clewes had previously worked in BC and was aware of the requirement to be registered and have a certificate of practice.
- 1.14 From the AIBC's perspective, the allegations and admissions made by Mr. Clewes are of a reasonably serious nature as the breach relates to a fundamental aspect of the practice of architecture: that only qualified persons who are registered as architects and who have been issued a certificate of practice or Temporary Licence by the AIBC may provide architectural services in BC.
- 1.15 Mr. Clewes also began providing architectural services to a client without ensuring compliance with the required terms of professional engagement. The failure to include the required professional liability insurance advisory and compliance statement in the client-architect agreement is concerning since the requirement for a client-architect agreement with the appropriate clauses is implemented in the public interest, and compliance is expected by the AIBC, the profession, and the public.

(b) Character and professional conduct record of the respondent

- 1.16 Mr. Clewes is 69 years old. Other than his registration as a temporary licensee in 2002, he was first registered as an architect with the AIBC on July 11, 2017, and has maintained his registration since that time.
- 1.17 Mr. Clewes does not have a professional conduct record with the AIBC, which is a neutral factor.

(c) Acknowledgement of the misconduct and remedial action

- 1.18 Mr. Clewes has been cooperative, candid, and forthcoming with information candid in the course of the investigation.
- 1.19 After the Complaint was brought to Mr. Clewes's attention, he acknowledged that he had started providing services on the Project before he was registered as an Architect AIBC and without a certificate of practice. He also admitted that he did not advise the client in writing whether professional liability insurance was in place in relation to the architectural services to be provided or that it was available for review upon request. Additionally, he admitted the client-architect agreement did not include the required compliance clause.
- 1.20 As an experienced architect registered in multiple jurisdictions in Canada and the USA, Mr. Clewes is expected to have been fully informed about the AIBC practice requirements before providing architectural services in BC. He acknowledged that all jurisdictions have different requirements, and mistakenly relied on a member of his staff to ensure he was in compliance in BC.
- 1.21 Mr. Clewes benefited from being hired to work in BC on the Project when he was not registered as an architect and did not obtain a Temporary Licence. This is an aggravating factor.
- 1.22 Mr. Clewes' participation in the complaint, investigation, and discipline process indicates that he has acknowledged his misconduct. This acknowledgment suggests that the concerns arising in this matter have been brought to his attention in a meaningful way. His acknowledgment and participation in the Order process are mitigating factors.
- 1.23 The misconduct does not appear to have caused direct harm to any party involved in the Project, which is also a mitigating factor.
- 1.24 It is of note that Mr. Clewes has taken action and obtained an AIBC Certificate of Practice for PCAL.

(d) Public confidence in the profession, including public confidence in the disciplinary process

- 1.25 This involves an analysis of whether there is sufficient specific or general deterrence in the proposed discipline action, whether the proposed discipline action upholds the public's confidence in the AIBC's ability to regulate its members in the public interest, and whether the proposed discipline action is appropriate when compared to similar cases.

- 1.26 'Specific deterrence' means deterring the respondent from repeating the conduct in question. In this case, Mr. Clewes has engaged in a meaningful exchange with the AIBC to gain an understanding of the issues resulting in this Order; and the parties are of the view that the combination of the investigation and discipline process, and the penalty, should deter Mr. Clewes from non-compliance in the future.
- 1.27 'General deterrence' is a sentencing objective promoting reduction of improper conduct in the community by the example, message, or influence established by the penalty in the present matter. The proposed penalties in this Order will serve to caution and remind registrants of the importance of ensuring that they have complied with the Professional Standards in the AIBC Bylaws, Schedule A: Code of Ethics and Professional Standards, when accepting, and prior to starting work on a new commission.
- 1.28 The public has the right to expect that AIBC registrants will know and comply with all applicable professional standards. The public also has the right to expect that the AIBC will address instances of misconduct by its registrants through a process that is fair, proportionate, and consistent.
- 1.29 While no two files are identical, the following AIBC precedent demonstrates the penalties and sanctions that have been imposed in a file where similar conduct was at issue. Precedents which are most similar to the one at hand is summarized below.

Failure to obtain a certificate of practice prior to offering and providing architectural services in BC

- 1.30 In File 22.12, an intern architect provided professional architectural services for a project while not employed by an architectural firm or under the supervision of an architect holding a current certificate of practice. The intern architect prepared and submitted drawings for a project to the authority having jurisdiction for the purpose of obtaining a development permit, while not holding a certificate of practice or working through an architectural firm that was a holder of a current certificate of practice; and allowed herself to be represented as an architect in print media. The intern architect did not have a previous professional conduct record, acknowledged her errors, and was cooperative and candid in the course of the investigation. The complaint was resolved by consensual resolution agreement with the following penalty: a reprimand, \$4,000 fine, and completion of the AIBC's 'Ethics, Act and Bylaws' course.
- 1.31 In File 19.05, the architect failed to obtain a certificate of practice prior to offering and providing architectural services in BC; entered into a client architect agreement that did not contain the required compliance statement; applied his seal to drawings bearing the title block of an entity that did not hold a certificate of practice; and applied, or allowed to be applied, an image of his seal to drawings prepared by him or under his supervision, direction or control. The architect did not have a previous professional conduct record, acknowledged the misconduct, and was cooperative and candid in the course of the investigation. The complaint was resolved by consensual resolution agreement with the following penalty: a reprimand, \$3,500 fine, and completion of the AIBC's 'Ethics, Act and Bylaws' course.

Failure to provide written notification to the client as to whether professional liability insurance held and under what terms; and failure to provide the required compliance statement

- 1.32 In File 20.19, the architect provided architectural services prior to being retained through a proper written agreement executed prior to commencing services; failed to provide written notification to the client as to whether or not professional liability insurance was held and under what terms; and failed to provide the required compliance statement about AIBC Bylaws. The architect did not have a previous professional conduct record, recognized and acknowledged his failure, and was cooperative and candid in the course of the investigation. The complaint was resolved by a consensual resolution agreement with the following penalty: a reprimand, and \$1,000 fine.
- 1.33 In File 15.04, the sole issue was providing architectural services without having a written client-architect agreement in place prior to commencing services. Consequently, the architect failed to provide written notification to the client as to whether professional liability insurance was held and under what terms; and also failed to provide the required compliance with AIBC Bylaws statement. The architect took full responsibility for the complaint, acknowledged that he had acted unprofessionally and was fully cooperative throughout the process. The architect also had no prior professional conduct record. The matter was resolved by consensual resolution in which there was a reprimand, \$1,000 fine and publication.
- 1.34 Mr. Clewes' matter is similar to File 19.05, with the distinction that the seal matter was not an issue in his case. A further distinguishing factor in Mr. Clewes' matter from that in Files 20.19 and 15.04 in which the architects did not execute a client-architect agreement, is that Mr. Clewes did execute a client-architect agreement, albeit after he started working on the Project. In light of these distinguishing factors, and Mr. Clewes taking prompt accountability, and corrective action to obtain registration in BC, it is submitted that the penalty is appropriate.
- 1.35 As noted in *Peet* above, there will rarely, if ever, be only one single appropriate outcome in a professional discipline file.
- 1.36 Mr. Clewes and the AIBC submit that, based on the cases above, and upon a careful review of the consolidated *Ogilvie* Factors, the penalty is fair and consistent with the range of sanctions that have been imposed for similar conduct in the past.

2.0 PUBLICATION

- 2.1 This Order will be published as required by the *PGA* and the current AIBC Bylaws, including website publication, distribution to registrants of the AIBC, and inclusion on the register.
- 2.2 Publication helps fulfill the important transparency expectation that the public has of professional regulators and enhances the public's confidence in the integrity of the profession as a self-regulated entity. Publication to registrants acts as a further deterrent and as an educational message with respect to ethical and professional conduct matters.

3.0 ACKNOWLEDGEMENT

This Schedule may be executed and delivered in one or more counterparts, whether by facsimile transmission or other electronic means, with the same effect as if all parties had signed and delivered the same document and all counterparts.

Mr. Clewes acknowledges that he has been given adequate opportunity to seek legal or other professional advice with respect to the negotiation, execution and consequences of this Schedule and has taken such advice or freely elected not to do so.

The facts and terms of this Schedule – Reasons for Penalty to Consent Order are acknowledged and agreed to by Peter Clewes Architect AIBC and the Investigation Committee.

For further information on the AIBC's discipline process, please contact the Professional Conduct and Illegal Practice department at complaints@aibc.ca.