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STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

July 22, 2020

Via Electronic Mail

Ginger Hahn
[REDACTED]

**Re: Open Meeting Law Complaint, Nevada State Board of
Architecture, Interior Design and Residential Design,
Attorney General File No. 13897-307**

Dear Ms. Hahn:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging the Nevada State Board of Architecture, Interior Design and Residential Design (Board) violated the Nevada Open Meeting Law (OML) by discussing your professional competence during a Board meeting on June 6, 2018, without providing notice to you as required by NRS 241.033.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (NRS) 241.037; NRS 241.039; NRS 241.040.

FACTUAL BACKGROUND

The Board is a "public body" as defined in NRS 241.015(4) and subject to the OML. The Complaint alleges the Board discussed your professional competence during its meeting on June 6, 2018, without providing you notice that such discussion would occur in violation of NRS 241.033.

The Board's agenda for its June 6, 2018, meeting included the following items:

8. *Consideration and potential action regarding pay recommendations for board staff. Note: The Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion may involve a staff member's character, alleged misconduct, professional competence, or similar items [*For Possible Action*]

13. Registered Design Report
 - A. FYI: Q Connection 2nd Quarter 2018
 - B. FYI: CIDQ Board of Directors- Now Accepting Applications

17. Public Information Report

In addressing agenda item 13.B., Board member Ann Fleming mentioned an email she received from you regarding a press release and inquired whether the press release was ever issued. Executive Director, Monica Harrison, responded to Ms. Fleming's inquiry by stating that she recalls having conversations with you, but is unsure of specifics. No discussion related to your character or professional competence ensued.

During the discussion of agenda item 17, Ms. Harrison provided information related to Board newsletters. In providing this information, Ms. Harrison made several comments related to your professional competence and character. At no time during the presentation of agenda item 17 did the Board discuss or request information related to your professional competence or character.

After addressing agenda item 18, the Board went into a closed session to discuss agenda item 8. The Board did not record the closed session. However, an investigation into this matter revealed that no discussion regarding you occurred during the closed session.

DISCUSSION AND LEGAL ANALYSIS

The OML, as comprised by Chapter 241 of the NRS, applies to meetings of public bodies and it requires that the actions of public bodies "be taken openly and that their deliberations be conducted openly." NRS 241.010(1); see *McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).

The OML requires written personal notice when a public body "consider[s] the character, alleged misconduct, professional competence, or physical or mental health of any person." NRS 241.033(1). The written notice must include the time and place of the meeting, and the public body must receive proof of service of the notice. *Id.* This notice requirement applies whether the public meeting will be open or closed.

Here, the Board did not initiate or entertain discussion concerning your professional competence or character during the meeting held on June 6, 2018. Any

statements regarding your professional competence or character were made by Ms. Harrison, who is not a member of the Board. While Board member Fleming did mention your name during discussion of agenda item 13.B., it was a casual and tangential reference to an email you sent to her about a press release, and not to consider your character or professional competence. The remarks by Ms. Harrison, while unfortunate, did not amount to a meeting of the Board to consider your character or professional competence. Therefore, because the Board did not consider your character or professional competence, they did not violate the OML by not providing you with written notice of the meeting pursuant to NRS 241.033.¹

Additionally, because the Board did not consider your character or professional competence during the closed session discussion for agenda item 8, they did not violate the OML by not providing you with written notice of the meeting pursuant to NRS 241.033.

CONCLUSION

Upon review of your Complaint and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General

By: /s/ Tiffany E. Breinig
TIFFANY E. BREINIG
Deputy Attorney General

TEB:mam

cc: Louis Ling, Counsel

Nevada State Board of Architecture, Interior Design and Residential
Design

¹ The OAG investigation also received a written waiver of NRS 241.033 executed by you several weeks prior to the meeting.

Ginger Hahn
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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of August, 2020, I emailed the foregoing letter to the following:

Ginger Hahn


And I mailed the foregoing letter by depositing a copy of the same in the U.S. mail, addressed, postage prepaid to the following:

Louis Ling, Esq.
Nevada State Board of Architecture, Interior
Design and Residential Design
2080 E. Flamingo Rd., Unit 120
Las Vegas, NV 89119

/s/ Debra Turman
Employee of the State of Nevada Office
Of the Attorney General