IN THE SUPREME COURT OF THE STATE OF OREGON

TWIST ARCHITECTURE & DESIGN, INC., a Washington Professional Corporation, DAVID HANSEN, an individual, and KIRK CALLISON, an individual, Petitioners, Respondents on Review, v. OREGON BOARD OF ARCHITECT EXAMINERS, Respondent, Petitioner on Review.	Board of Architect Examiners No.: 10035 Court of Appeals No.: A152929 Supreme Court No.: S064048

BRIEF ON THE MERITS OF *AMICUS CURIAE* NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS IN SUPPORT OF THE OREGON BOARD OF ARCHITECT EXAMINERS

Petition for review of the decision of the Court of Appeals on appeal from the final order of the Oregon Board of Architect Examiners

Date of Opinion: February 24, 2016
Before Sercombe, Presiding Judge, and Hadlock, Chief Judge, and Tookey, Judge.

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I. INTRODUCTION AND INTEREST OF AMICUS

Much like the practice of law, each state regulates the practice of architecture within its own boundaries. The state licensing boards work closely with one another, particularly through their membership in the National Council of Architectural Registration Boards ("NCARB"), to establish consistent criteria and requirements for licensure and to facilitate the movement of architects between states. NCARB's members include the state architectural licensing boards from all 50 states and the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. In 2015, NCARB issued certificates to more than 39,000 architects nationwide, which allows those architects to apply for reciprocal licensing in other jurisdictions using a simple and streamlined system.

NCARB's mission is to protect the public health, safety, and welfare by leading the regulation of the practice of architecture through the development and application of standards for licensure and credentialing of architects. Among many other initiatives, NCARB develops and recommends procedures and standards for architectural registration; develops and recommends standards for regulating the practice of architecture; provides member boards a process for certifying the qualifications of an architect for registration; represents the interests of member boards before public and private agencies; and develops and administers the test required for licensure, known as the Architectural

Registration Examination ("ARE"). It establishes educational standards for prospective architects, including internship requirements, so that future architects have hands-on learning experiences. NCARB also issues certificates to architects who wish to practice in multiple jurisdictions and provides a simple way for architects to apply for reciprocity between states.

To fulfill its mission, NCARB has developed model legislation to help the states adopt similar standards for what constitutes the "practice of architecture." Although each state's laws vary, NCARB's model legislation defines the "practice of architecture" to include preliminary plans and feasibility studies. That way, work that requires a licensed architect in one state will also require a licensed architect in another state.

NCARB submits this brief *amicus curiae* for three reasons. First, NCARB seeks to provide the Court with information about how preliminary designs and feasibility studies traditionally are considered to be within the scope of the "practice of architecture." Second, NCARB hopes to explain the regulatory system in place for the multijurisdictional practice of architecture—which has been implemented in the State of Oregon—and how that system is undermined when individuals hold themselves out as licensed architects but have not availed themselves of those regulations. Finally, NCARB wishes to underscore the interplay between the unauthorized practice of architecture and

holding oneself out as a "pending" licensee, and discuss how each compounds the harm created by the other.

II. ARGUMENT

The questions presented in this case—(1) whether petitioners (Twist Architecture & Design, and its principals, Hansen and Callison)[1] engaged in the unauthorized "practice of architecture," and (2) whether they unlawfully held themselves out as licensed architects in Oregon—present separate but related issues.

With respect to the first question, NCARB submits that the work performed by petitioners fits squarely within the "practice of architecture" as that term is used and understood throughout the industry. Moreover, state laws, including Oregon's, recognize the broad scope of the practice. Accordingly, this Court should consider the need for uniformity and consistency when it decides this case. The Court of Appeals took a narrow approach, which created a distinction within the practice that simply does not exist in practice.

With respect to the second question, NCARB seeks to explain the simple regulatory system in place for the multijurisdictional practice of architecture, which petitioners in this case short-circuited. And, with respect to them both, NCARB urges that, to the extent that petitioners created the preliminary plans

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[1] The Oregon Board of Architect Examiners ("the Board") refers to Twist, Hansen, and Callison as "petitioners" in its brief on the merits. NCARB will do the same.

while holding themselves out as Oregon architects, petitioners *necessarily* were engaged in the practice of architecture to the potential detriment of their clients and the public.

A. The "Practice of Architecture" Includes Preliminary Design Work

Industry practice, education and training requirements, and the ways in which architects interact with other professions all demonstrate that the "practice of architecture" includes preliminary design work.

1. The industry understands that the "practice of architecture" includes preliminary design and planning work.

The American Institute of Architects ("AIA") is one of the leading architecture professional associations that, together with NCARB, helps to set industry standards for licensure and performance of architectural services. According to the AIA, "[a]rchitects do many things in the course of programming, designing, creating documentation, and administering the construction of buildings, and elements of these are shared with other occupations." AIA, *The Architect's Handbook of Professional Practice* at 55 (15th ed 2014) (hereinafter *Architect's Handbook*). In doing so, "architects accept a unique professional responsibility that is not shared with others." *Id.* Thus, when a person or company hires an architect to perform services, that person or company is hiring a person who holds him- or herself out as a licensed professional with fiduciary obligations. A close look at industry

practice, together with the educational requirements for the profession, make clear that the "practice of architecture," throughout the profession, encompasses a broad scope of services.

The AIA explains that architects are involved in a variety of tasks, including "evaluation and planning" as distinct from design. AIA, Identifying Services, *available at* http://howdesignworks.aia.org/identifying.asp (last visited Sept 27, 2016). In describing the types of services architects offer to consumers, the AIA includes an entire category of "evaluation and planning" services that occur before construction designs are prepared. Those services include marketing studies, economic feasibility studies, project financing, site analysis, selection, development planning, and detailed site utility studies. *See* AIA, You & Your Architect: A Guide for A Successful Partnership, at 8 (2010), *available at* http://www.aiamd.org/wp-content/uploads/2012/05/You-Your-Architect.pdf. The AIA further sets forth how architects can best work and contract with clients. It provides that a "contract for preliminary services such as feasibility and conceptual design studies will be most appropriate when a client is not entirely sure of its needs, its desires, or its finances." *Architect's Handbook* at 1049. The AIA defines a feasibility study as a "detailed investigation and analysis conducted to determine the financial, economic, technical, or other advisability of a proposed project." *Id.* at 1125.

2. Educational requirements for the profession demonstrate that preliminary studies are included in the practice of architecture.

Similarly, NCARB views planning and preliminary designs as part of the "practice of architecture," as evidenced by the profession's educational standards, the content of the state licensing exam (the ARE), and the Architect Experience program that NCARB administers for the benefit of the profession.

a. Education Overview

As part of its mission to evaluate the quality of architectural education, NCARB has identified specific tasks that architects, interns, and educators generally cover in the architectural education process. NCARB, 2012 NCARB Practice Analysis of Architecture: Education Report (2013), *available at* http://www.ncarb.org/About-NCARB/~/media/Files/PDF/Special-Paper/2013PA_Education_Report.ashx. Key tasks include the ability conduct what, in essence, is planning or feasibility work: to "[a]nalyze existing site conditions to determine impact on facility layout," and to "[p]repare site analysis diagrams to document existing conditions, features, infrastructure, and regulatory requirements." *Id.* at 17.

b. ARE Examination Topics

The ARE also includes an entire section on "Site Programming and Analysis." The "ARE 5.0 Handbook," which was developed to help students

prepare for the ARE, includes the following planning-related objectives for students preparing to take the exam:

> "**Objective 3.1. Evaluate relevant qualitative and quantitative attributes of a site as they relate to a program.** This objective assesses your ability to analyze a project site relative to the requirements in the program to determine if it is appropriate and feasible for development.
>
> **"Objective 3.2. Synthesize site reports with other documentation and analysis.** In addition to analyzing the attributes of the site, you will also need to review and interpret site documentation such as geotechnical reports, landscape reports, existing conditions, utility surveys, topographic maps, demographics, traffic studies, environmental data, historic reports, and other site related reports. This is used to determine the feasibility of a project and verify the selection of site related consultants needed to execute the project.
>
> **"Objective 3.3. Analyze graphical representations regarding site analysis and site programming.** You must be able to evaluate and understand diagrammatic graphics and how they are used to represent and communicate site conditions, relationships, and program requirements."

NCARB, ARE 5.0 Handbook at 61 ("Site Analysis & Programming"), *available at* http://www.ncarb. org/ARE/~/media/Files/PDF/ARE-Exam-Guides/ARE5-Handbook.pdf. The sample questions provided in the ARE 5.0 Handbook only further demonstrate the substantial degree to which site-selection and planning skills are encompassed within the "practice of architecture." *See, e.g.*, *id.* at 62.

c. Architect Experience Program

Finally, as part of the path to licensure, architects must obtain on-the-job experience akin to an apprenticeship or internship. *See* OAR § 806-010-0020(1)(b). NCARB developed and administers a program to facilitate that process. NCARB's program includes 260 hours of "programming and analysis," which hours must cover planning and other preliminary work similar to that which petitioners performed in this case. Licensure candidates must, for instance:

- determine the impact of applicable zoning and development ordinances to determine project constraints;
- analyze existing site conditions to determine impact on facility layout;
- evaluate results of feasibility studies to determine a project's financial viability;
- determine the impact of environmental, zoning, and other regulations on site;
- prepare diagrams illustrating spatial relationships and functional adjacencies;
- prepare site analysis diagrams to document existing conditions, features, infrastructure, and regulatory requirements;
- assist an owner in preparing building plans;
- develop a conceptual budget;
- gather information about a client's vision, goals, budget, and schedule to validate a project scope and program;
- evaluate opportunities and constraints of alternative sites;
- determine the impact of existing transportation infrastructure on site, and;
- review legal documents related to a site to determine project constraints.

In other words, the ARE contemplates that various planning-related tasks are included within the "practice of architecture."

3. The broad nature of the "practice of architecture" includes work with professionals in other disciplines.

To be sure, all of this is not to say that only architects may engage in this kind of planning work. "Architects practice in a broader context of related and allied professions. There are corresponding exemptions in the regulation of other professions, just as architectural licensing laws have exemptions for others to engage in aspects of practice that might fall under the definition of the practice of architecture." *Architect's Handbook* at 60. Thus, for example, engineers are allowed to engage in certain activities that would otherwise constitute the practice of architecture while architects may, in certain circumstances, engage in certain limited engineering work. *See id*. at 55. But it is not the case that, because of the ability to practice across disciplines, planning is not within the traditional scope of the "practice of architecture."

It is also NCARB's experience that non-licensees, when working as part of a design team, may perform planning and feasibility work. But a licensed architect must still review the studies, ensure that they are adequate and appropriate, and, once they are finalized, present them to the client. Thus, in the end, it is only licensed architects who may hold themselves out to a client or the public as qualified to engage in the "practice of architecture."

This broad, cross-disciplinary nature of the "practice of architecture" does not unduly restrict activities by others. Several examples help to demonstrate this:

- A developer may sketch his own ideas and take them to an architect to create more detailed feasibility studies.
- A builder may sketch an idea for an addition to a commercial building, which the owner may take to an architect for further development.
- A land-use lawyer may provide a legal opinion for a developer addressing appropriate uses of land. That opinion may include a sketch of the property to show the setbacks, building type, and other basic information derived from zoning and other land-use regulations.

These examples demonstrate ways in which one might distinguish certain types of conduct from the "practice of architecture." First, none of the examples is used to decide whether to build a building, sign pre-leases, or construct the building itself; thus, none is consider the "practice of architecture." Second, each requires an intervening act *by an architect* to create the documents that will be used to decide whether to build the building or to create construction-ready plans. Third, none of the drawings described includes a statement or logo suggesting that the drawing was prepared by an architect.

B. Considerations of Uniformity and Consistency Should Guide the Court's Decision

1. States around the country, including Oregon, have regulatory schemes that account for the broad scope of the "practice of architecture."

Consistent with industry practice, most states have adopted definitions for the "practice of architecture" that include preliminary design work.

Under Oregon law, for instance, the "practice of architecture" means "the planning, designing or supervising of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings." ORS 671.010(6) (2013). Likewise, the Board, pursuant to its delegated authority under chapter 671, promulgated regulations that broadly define the practice. Those regulations provide that the "practice of architecture" "include[s] all analysis, calculations, research, graphic presentation, literary expression, and advice essential to the preparation of necessary documents for the design and construction of buildings, structures and their related environment whether interior or exterior." OAR § 806-010-0075(1). They further explain that "[t]he planning and designing of a building commences with the initial client/architect contact and progresses logically through the development of the construction documents." OAR § 806-010-0120. The regulations clarify that "[p]lanning and designing a building includes, but is not limited to, the determination of design objectives, space requirements, space relationships, systems, flexibility/expansibility and site requirements." OAR §

806-010-0120(1). "The planning and designing of the building culminates in the development of the construction documents." OAR § 806-010-0120(2).

Other states similarly have included preliminary studies within their respective definitions of the "practice of architecture." California, for example, includes within its definition both "[i]nvestigation, evaluation, consultation, and advice," and "[p]lanning, schematic and preliminary studies, designs, working drawings, and specifications." Cal. Bus. & Prof. Code § 5500.1(b). Similarly, Washington specifies that the practice of architecture includes "predesign services, schematic design, design development, preparation of construction contract documents, and administration of the construction contract." Wash. Rev. Code § 18.08.320(12). Another four states include activities such as preparing, planning, providing studies, and conducting feasibility studies. A complete list of states that include "preliminary studies" and other preparatory or feasibility study work within their definition of the "practice of architecture" is attached as Appendix 1 at the end of this brief.

2. Considerations of uniformity and consistency should guide this Court's analysis.

Recognizing how other states treat the practice of architecture is important, because state boards across the country have worked to harmonize the regulatory framework, through their membership in NCARB, to help facilitate the practice or architecture industrywide, create clear legal standards, and protect the public.

Consistent definitions of the "practice of architecture" is important for two reasons. First, consistency protects consumers. It makes it is easier for people to know what work may be done only by an architect in each state. Thus, a developer working in multiple states knows that he or she needs a licensed architect to provide a particular service, regardless of the state in which the work is being done.

Second, consistent rules allow architects to move from one state to another and know what services they may perform in those states. When states have similar rules, an architect in one state will know that he or she needs to become licensed in another state to do certain types of work for a client in that other state. NCARB works to facilitate ease of reciprocity between states, and having consistent definitions from state to state makes it even easier for architects to have a multi-jurisdictional practice.

C. The Court of Appeals' Approach Unnaturally Segments Planning Work From the "Practice Of Architecture"

The Court of Appeals ignored this multijurisdictional, broad approach by holding that the "practice of architecture necessitates the planning or preparing of work for use in actual construction, rather than planning for a building in the abstract." *Twist Architecture & Design, Inc. v. Ore. Bd. of Architect Examiners*, 276 Or App 557, 567, 369 P3d 409 (2016).

In *Twist*, the Court of Appeals noted that the work at issue was done for the purpose of "determin[ing] if construction was even feasible, given, among

other things, the layout of the properties, access to existing roads, and the ratio of parking spots to buildings." *Id.* It further observed that, in its view, the activities did not relate to the "erection, enlargement, or alteration" of a building, did not "contemplat[e the] constructi[on of] any buildings," and "provided no building design, *i.e.*, specifications to facilitate the construction of any particular building." *Id.* at 567-68. Because, according to the court, the "practice of architecture" does not "encompass activities not undertaken to facilitate the actual 'erection, enlargement, or alteration' of any building," the court reversed the Board's determination.

That analysis is incorrect, as it attempts to draw a distinction within the "practice of architecture" that simply does not exist in the industry or in practice. Indeed, that the developer in *Twist* hired someone *who he thought was an architect* demonstrates that the preliminary planning work for which the developer retained petitioners is part of the broad scope of an architect's work.

Two hypotheticals provide additional guidance on this point:

> **Scenario 1:** The feasibility study is used as the basis for developing more detailed construction plans. (No such plans were completed in *Twist* because of the economic downturn.) It is obvious that the preliminary plans formed the first step in the design and development process. They were encompassed in the "practice of architecture."
>
> **Scenario 2:** The developer is successful in marketing the building based on the study. The developer then discovers that no such building was possible when construction plans were being drawn, because the plans did not account for setbacks, parking spaces, or zoning. The building as conceived cannot be built—indeed, no

> development is built because the economics of the site no longer make sense. Clearly the planning and feasibility studies were the first phase in the design process. If the developer had the feasibility study done or reviewed by an architect, then it is much less likely that this scenario plays out, because the person doing or overseeing the work has the requisite training and experience as determined by the state board.

The distinction the Court of Appeals drew in *Twist*—between activities "for use in actual construction" and those for "determin[ing] if construction [is] feasible"—does not comport with how Oregon law defines the "practice of architecture." Nor does it match industry practice or the approach that most states take in regulating the practice of architecture.

D. Holding Oneself Out As a "Pending" Licensee Should Not Be Permissible Unless an Application Is Actually Pending

The Board found that petitioners had committed three violations of Oregon law by holding themselves out as architects:

(1) Using the Twist logo on the materials it prepared because the logo contains the word "Architecture";

(2) Callison's holding himself out as pending licensee in Oregon when his application was not actually pending; and

(3) Hansen's holding himself out as pending licensee in Oregon when his application was not actually pending.

The Court of Appeals reversed with respect to all three. With respect to (2) and (3), the court found that the "statement that Callison and Hansen had pending Oregon licenses did not indicate, or tend to indicate, that they were Oregon architects or practicing architecture in Oregon." *Twist*, 276 Or App at 571. The court found that "the term 'pending' indicated that licensure was imminent,"

but held that "pending" "was not akin to a statement that they were *presently* licensed to practice architecture in Oregon." *Id*. That holding is inconsistent with, and undermines, the role that state licensing procedures play in the regulation of the profession.

Architect licensing is an important part of NCARB's role in the profession. As is explained above, NCARB works with the states to develop licensing requirements, including through its model legislation; administers the ARE, which is required by all states before an architect may be licensed; and develops and maintains the architectural experience program, which is the on-the-job practice required before licensure. In addition, NCARB helps to facilitate and streamline multijurisdictional practice for architects. NCARB urges the Court to consider carefully whether Callison and Hansen should have been allowed to market themselves as pending licensees when neither had taken any steps to become licensed in Oregon and Hansen was not a licensed architect in any jurisdiction.

1. An overview of state licensing procedures.

Through NCARB, the states have helped to maintain consistency in the regulation of the practice by developing rules that are similar across jurisdictions. As is the case in Oregon, licensure generally requires a degree from an accredited school, on-the-job training through the Architect Experience Program, and successful completion of the ARE. Although some practice acts

vary, and other states provide additional routes that allow for apprenticeship training in lieu of a degree, the education, experience, and exam approach is consistent across most states.

NCARB has also helped the states to develop a simple approach to reciprocal licensure, so that architects can maintain multistate practices. Once a person is licensed in one state, he or she can obtain a license in another state through the NCARB certification process. Thus, once an individual has obtained a degree from an accredited school, completed the Architect Experience Program (which is, in essence, a period of apprenticeship), successfully completed the ARE, and obtained a license in at least one state, the architect may apply to NCARB for certification. *See* NCARB, Standard Path to Certification, *available at* http://www.ncarb.org/Certification-and-Reciprocity/Standard-Path-to-Certification.aspx (last visited Oct 5, 2016). Once certified, a person can apply for reciprocal licensing in another jurisdiction. *See* NCARB, Reciprocity Overview, *available at* http://www.ncarb.org/Certification-and-Reciprocity/Standard-Path-to-Certification.aspx (last visited Oct 5, 2016).

Under Oregon law, an out-of-state architect may apply for a license based either on (1) an NCARB certificate or (2) a finding by the Board that the applicant has been licensed in a jurisdiction that has "qualifications and licensing examinations substantially similar to those required." ORS

671.065(1). Individuals who meet these "requirements for certification" may practice in Oregon before the certificate of registration is issued. The statute, however, imposes certain additional steps that must be followed before doing so. Specifically, the architect must "advis[e] the prospective client and the board in writing" that the architect is availing him or herself of this option. In addition, the architect must "submi[t] an application for registration in this state." ORS 671.065(2). Finally, the statute provides that "[t]he person may use the title of 'Architect' while offering to render architectural services, but may not represent that the person is qualified to practice" under the statute. *Id.*

2. Neither Callison nor Hansen had taken any steps to become licensed in Oregon.

Both Callison and Hansen noted on their web biographies that they were "Licensed in the State of Oregon (Pending)." Based on Oregon's system of reciprocal licensure, this phrase suggested that each (1) was licensed to practice in another state, and (2) had taken some steps to avail himself of the process for licensure in Oregon. Neither was true with respect to Hansen. And, although Callison was licensed out of state, he had taken no steps toward licensure in Oregon.

With respect to Hansen, the Court of Appeals' opinion notes that "Hansen was not licensed in any state" and that he "had not taken any steps to apply for licensure." *Twist*, 276 Or App at 560-61. From that statement, it is not clear whether Hansen had satisfied *any* of the three requirements for

becoming an architect: (1) education, (2) experience, or (3) examination. Thus, his statement that his license in Oregon was pending could be akin to a first-year law student saying that he is a "lawyer licensed in Oregon, pending." This Court likely would not countenance such a statement. Moreover, such a statement is affirmatively misleading to the public, particularly if the public knows the process for licensure (as an experienced developer might), because it suggests that Hansen is further down the path toward licensure than he really was, and that he was licensed in at least one jurisdiction.

Callison, by contrast, was licensed in Washington. He had prepared, but "never submitted * * * to the board," the materials for a reciprocal license in Oregon. *Id.* at 561. Once again, this Court likely would not permit an out-of-state lawyer to file papers with the word "pending" by her name if that lawyer had not submitted an application for admission to the state bar.

NCARB has worked together with the profession to make the multijurisdictional practice of architecture simple for architects with geographically broad practices. Because that is so, however, an architect who holds him- or herself out as "pending" licensure in another jurisdiction grossly misleads the public to believe that he or she is much closer to licensure than may be the case. NCARB submits that both Hansen and Callison were holding themselves out as architects, whose full licensure was imminent, and therefore violated the Oregon law.

E. The Two Violations Are Closely Related

As explained earlier, each of the two issues discussed above describes conduct that independently violates Oregon law. They are also closely related, however. When Twist completed the preliminary studies, it did so using the word "architects" on its documents. It invoiced for "professional services." As the AIA explains, "if a non-architect is holding out as an architect while advertising for the designing of" of a building that does not require an architect, that individual "will likely be found in violation." *Architect's Handbook* at 60. Here, petitioners described themselves as licensed architects. In other words, it is clear in this case that the developers who retained Twist hired *architects* to perform what they considered to be *architectural* services.

If Twist had done the feasibility study and asked an architect licensed in Oregon to review the study before it was presented to the client, Twist may not have been engaged in the "practice of architecture." Relatedly, had Twist been licensed in Oregon, it could have done the work itself and presented it to the client. Ultimately, because Twist did the work, included its name and logo—which conveyed that it was an "architect"—and gave it to the client, it held itself out as an architect and was therefore engaged in the "practice of architecture."

Similarly, had Twist held itself out as a *consultant*, or not claimed to be a licensed *architect*, then Twist may have a more compelling case that it was not

engaged in the "practice of architecture." In such a scenario, the developer would have known that it was hiring a firm that was not engaged in the practice of architecture. In other words, no member of the public would have been entitled to rely on Twist to provide architectural services performed by licensed architects.

An analogy may help prove this point as well. If, for instance, a person asks a friend, who happens to own a business, for a sample contract, that person has no reason to believe that the friend is an attorney or practicing law; thus, the person has no reason to rely on the sample contract as one might rely on a contract drafted by a licensed attorney. To the contrary, if the person hires an attorney to provide a contract (or even asks an attorney to provide one off the shelf), an expectation arises that the legal services provided were performed by someone licensed to practice law. There, as here, the act of holding oneself out as a licensed professional weighs heavily in the determination of whether the conduct at issue fell within the scope of that profession.

III. CONCLUSION

This Court should reverse the decision of the Court of Appeals and conclude that petitioners were engaged in the unauthorized practice of architecture when they prepared the preliminary design studies. In addition, the Court should find that Hansen and Callison violated Oregon law by holding themselves out as architects licensed in this state.

Respectfully submitted this 5th day of October, 2016.

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CERTIFICATE OF COMPLIANCE

I certify that (1) this brief complies with the word-count limitation in ORAP 5.05(2)(b) and (2) the word count of this brief (as described in ORAP 5.05(2)(a)) is 4,714 words.

I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required in ORAP 5.05(2)(d).

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that I filed the foregoing **BRIEF ON THE MERITS OF *AMICUS CURIAE* NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARD IN SUPPORT OF PETITION FOR REVIEW OF THE OREGON BOARD OF ARCHITECT EXAMINERS** on October 5, 2016, by causing it to be electronically filed on that date with the Appellate Court Administrator through the appellate eFiling system.

I further certify that I served the foregoing document on the following persons on October 5, 2016 through the use of the electronic service function:

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