



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

IN THE MATTER OF THE *ARCHITECTS ACT*
R.S.B.C. 1996 C. 17 AS AMENDED

AND

IN THE MATTER OF A CONSENSUAL
RESOLUTION BETWEEN:

GAIR H. WILLIAMSON ARCHITECT AIBC

AND

THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

CONSENSUAL RESOLUTION AGREEMENT

The *Architects Act* authorizes the AIBC to attempt resolution of disciplinary matters by way of consensual resolution. AIBC Bylaws 36.0 through 36.22 provide the specific processes and procedures by which the AIBC and a member or other registrant may reach agreement on a complaint that would otherwise proceed to a hearing and decision at a disciplinary inquiry.

All consensual resolution agreements must be approved by the consensual resolution review panel before they are effective. By statute, this panel must have regard to the public interest when deciding whether to approve a consensual resolution agreement. An approved consensual resolution agreement has the same effect as an order made by a disciplinary committee under the *Architects Act*.

1.0 BACKGROUND AND AGREED FACTS

1.1 The parties agree that the relevant facts and circumstances leading to the investigation and this consensual resolution agreement (the “Agreement”) are set out below.

A. Overview

1.2 The AIBC’s Investigation Committee (the “Committee”) conducted an investigation into a complaint about Gair H. Williamson Architect AIBC in relation to non-compliance with the AIBC’s Continuing Education System (“CES”) requirements for the period ending September 30, 2020.

1.3 Following its investigation, the Committee recommended that the matter proceed to a disciplinary inquiry for determination of whether Mr. Williamson breached certain sections of the *Architects Act*, R.S.B.C. 1996, c. 17 (the “*Act*”), the AIBC Bylaws and the applicable council rulings in the Code of Ethics and Professional Conduct (the “Code of Ethics”), and council rules in AIBC Bulletin 80.

1.4 Mr. Williamson chose to pursue a consensual resolution agreement.

B. Background – AIBC Continuing Education System

1.5 In 2001, members of the AIBC voted to adopt Bylaw 30.2, which became effective as of July 2001, and established the requirements for architects to undertake and report on continuing professional education.

1.6 AIBC Council thereafter formally adopted CES, which is administered by the AIBC’s Professional Services department.

1.7 Bulletin 80 establishes that CES requirements apply to registered architects, and architectural technologists (“CES Participants”) registered with the AIBC.

1.8 The requirements for CES are formalized in the AIBC Bylaws and AIBC Bulletin 80: *Mandatory Continuing Education System* (CES). Typically, CES requirements for AIBC registrants follow a two-year reporting period which runs from July 1 to June 30 of the second following year.

1.9 As part of response to the COVID-19 pandemic, the deadline to comply with the CES requirements for the reporting period July 1, 2018 to June 30, 2020, was extended to September 30, 2020, (the “Fourteenth Reporting Period”).

1.10 All CES Participants were notified of the deadline extension on March 26, 2020. CES Participants were also notified that a grace period would not be provided to earn and report deficient learning units given the deadline extension for the Fourteenth Reporting Period.

1.11 CES Participants were required to earn and report 36 learning units (“LUs”), including a minimum of 16 “Core” LUs, by September 30, 2020. Each LU represents one hour of eligible educational activity.

- 1.12 CES Participants who failed to earn and report the required LUs by the September 30, 2020, extended deadline were assessed an administrative fine mandated by AIBC Council and subject to a complaint of unprofessional conduct. For the Fourteenth Reporting Period, the fine amount for Architects AIBC was \$1,048.95.
- 1.13 CES Participants were notified that if they failed to earn and report the required LUs and/or failed to make the fine payment by December 31, 2020, they could be subject to further penalties through the professional conduct process.

C. Gair H. Williamson

- 1.14 Mr. Williamson was first registered as an architect with the AIBC on November 12, 2002.
- 1.15 Mr. Williamson was removed from the register in March 2020 for failing to pay his annual fees. Mr. Williamson was reinstated on April 27, 2020, and has maintained his registration ever since.
- 1.16 Mr. Williamson practices architecture through Gair Williamson Architect Inc., a corporation which holds a certificate of practice.

D. The Complaint

- 1.17 In April 2021, the AIBC's Professional Services department submitted a complaint with respect to CES Participants who failed to comply with their continuing education requirements in accordance with Bylaw 30.2 and AIBC Bulletin 80. This included Mr. Williamson.
- 1.18 The complaint was provided to Mr. Williamson for his response, and the Committee initiated an investigation.

E. The Investigation/Agreed Facts

- 1.19 The investigation involved a review of the material provided by the AIBC's Professional Services department and the response submitted by Mr. Williamson. The agreed facts in paragraphs 1.20 - 1.39 below are based on material reviewed during the investigation.
- 1.20 All AIBC registrants receive regular updates and reminders about approaching CES deadlines from the Institute. In particular, during the last year of the Fourteenth Reporting Period, the AIBC regularly communicated with CES Participants regarding the approaching CES deadline.
- 1.21 Beginning in July 2019, seven reminders were published on the AIBC's website and distributed to CES Participants through the AIBC's newsletter, *AIBC Connected*.
- 1.22 As part of the AIBC's response to COVID-19, a targeted *AIBC Notice* was sent to all CES Participants in March 2020, advising of the CES deadline extension until September 30, 2020.

- 1.23 A further targeted *AIBC Notice* was sent to all CES Participants on September 9, 2020, three weeks before the extended deadline.
- 1.24 As the extended deadline approached, additional personalized email messages were sent to all non-compliant CES Participants through the registrant database, with a breakdown of their currently recorded LUs and their outstanding LUs. These personalized email messages were sent at regular intervals in March, July, September and November 2020.
- 1.25 Further personalized email messages were sent to all non-compliant CES Participants from the AIBC's Professional Services department in September 2020, one week before the extended deadline and twice in December 2020.
- 1.26 In recognition that many in-person learning activities had been cancelled in response to the COVID-19 pandemic, the AIBC's Professional Services department assembled supplementary resources and programming to assist CES Participants in meeting their CES requirements. Included in these resources were lists of online learning activities, and complimentary summer and fall online professional development series.
- 1.27 These resources were shared with CES Participants through the *AIBC Connected* newsletter; *AIBC Notices*, personalized email messages; and on the AIBC website.
- 1.28 Mr. Williamson did not earn and report the requisite LUs (including 16 Core LUs) prior to the September 30, 2020, deadline extension.
- 1.29 Having missed the September 30, 2020, extended deadline, Mr. Williamson was issued the council-imposed fine and was subject to a professional conduct complaint.
- 1.30 Mr. Williamson was advised that in order to avoid incurring further penalty through the professional conduct process, he was required to earn and report all outstanding LUs and pay the council-imposed fine by December 30, 2020. Mr. Williamson failed to do either and remained non-compliant.
- 1.31 In April 2021, a complaint about the non-compliant CES Participants was submitted by the AIBC's Professional Services Department. This included Mr. Williamson. While Mr. Williamson subsequently became LU compliant as of April 29, 2021, the council-imposed fine remains unpaid.
- 1.32 On June 7, 2021, Mr. Williamson received notice of the complaint.
- 1.33 In response to the complaint, Mr. Williamson stated he was shocked to receive a telephone call from staff at the AIBC at the end of November 2020 and learn that he was not CES compliant for the Fourteenth Reporting Period, because he believed that he had one year left to earn and report his LUs. He stated that at this time his major projects were on hold and he had to lay off all his team members but one, and find more economical premises.
- 1.34 He added that he attended a meeting in London and while there became ill and remained ill for another three weeks after he returned to B.C.

- 1.35 Mr. Williamson also explained that at one point during the reporting period, a close friend was terminally ill and Mr. Williamson spent most of his time with him in hospital. In February 2021, Mr. Williamson moved offices which kept him preoccupied and busy. His reply also stated that since that time, he began to earn LUs and was now compliant. He requested that the Committee waive his fine due to his circumstances.
- 1.36 Following its review of the material gathered during the investigation, the Committee decided to recommend charges for determination at an inquiry by a disciplinary committee.
- 1.37 The AIBC proposed that an attempt be made to resolve the matter by consensual resolution, pursuant to AIBC Bylaw 36.1. Consensual resolution discussions were initially unsuccessful.
- 1.38 A notice of inquiry was issued, and a disciplinary hearing was scheduled for May 5 and 6, 2022.
- 1.39 In April 2022, Mr. Williamson re-entered into consensual resolution discussions with the AIBC, and has agreed to a consensual resolution on the basis set out in this Agreement.

F. Relevant Professional Standards

- 1.40 AIBC Bylaw 30.2 and council rules in Bulletin 80 are relevant to the complaint against Mr. Williamson.
- 1.41 AIBC Bylaw 30.2 states:

Bylaw 30.2 **In order to better serve the public, and in keeping with the architect’s declaration set out in Bylaw 9.0 and the obligation of the architect set out in Bylaw 30.1, an architect shall undertake continuing education and shall report on that continuing education to the Institute, in accordance with the rules for mandatory continuing education established by Council.**

Refer to Bulletin 80 for Council rules relating to compliance

- 1.42 The relevant sections of AIBC Bulletin 80 with accompanying council rules state:
- 2.1 CES Participants are designated as architects and architectural technologists registered with the AIBC. As of July 1, 2020, and thereafter, the CES Participants category includes Intern Architects AIBC. All CES Participants must satisfy the requirements of the mandatory CES as per Bylaw 30.2. **Rule 1**
- ...
- 3.16 A reporting period is two years long and runs from July 1 to June 30, on the even years. **Rule 11**
- 3.17 The minimum number of LUs that must be earned and reported by the end of each reporting period is 36, of which a minimum of 16 must be Core LUs. **Rule 12**
- ...

6.0 Consequences for CES Bylaw Non-Compliance and Authority

- 6.1 CES Participants will be deemed non-compliant should they fail to meet their CES obligations, as set out in these rules, namely CES Rule 12 and 13.
- 6.2 A non-compliant CES Participant will be required to pay an AIBC Council-mandated fine, as set out in Bulletin 1, *and* to earn and report the deficient LUs no later than September 30 after the end of the reporting period. **Rule 27***
- 6.3 Should a CES Participant remain non-compliant beyond September 30, a complaint of unprofessional conduct against the member will be made to the director of professional conduct. This may result in disciplinary action, to and including suspension and/or removal from the register **Rule 28**

* The date for the reporting period ending 2020 was amended in light of the pandemic

2.0 ADMISSIONS

- 2.1 Mr. Williamson acknowledges and admits that he contravened AIBC Bylaw 30.2 and the rules established by council in AIBC Bulletin 80 by failing to earn and report the requisite LUs and failing to pay the council-mandated fine by the specified deadline.

3.0 PENALTY AGREEMENT

- 3.1 The following penalty and terms have been agreed upon by Mr. Williamson and the AIBC:
 - 3.1.1 A reprimand to be recorded against Mr. Williamson Architect AIBC;
 - 3.1.2 Mr. Williamson will pay the outstanding council-mandated fine in the amount of \$1,048.95 within 30 days after approval of this Agreement by the consensual resolution review panel;
 - 3.1.3 Mr. Williamson shall be suspended from practice for one month, to take effect 15 days after the date of notification to Mr. Williamson of this Agreement being approved by the Consensual Resolution Review Panel (the “Period of Suspension”);
 - 3.1.3.1 Mr. Williamson acknowledges and agrees that during the Period of Suspension, he is deemed not to be a member of the AIBC and deemed not to be the holder of a certificate of practice, and as a result his firm will be inactive. Mr. Williamson acknowledges and agrees that he will notify all clients, contractors, authorities having jurisdiction, or any other person having material interest in any ongoing project for which he is engaged, that he is prohibited from practicing architecture during the Period of Suspension.
 - 3.1.3.2 Prior to the Period of Suspension, Mr. Williamson acknowledges and agrees that he will notify Intern Architects AIBC whom he mentors or supervises that he will be prohibited from mentoring or supervising them during the Period of Suspension.

- 3.1.3.3 During the Period of Suspension, Mr. Williamson must not do any act that is associated with the practice of architecture, including promoting or identifying himself as an architect or his firm as an architectural firm, or providing any form of architectural services on any new or ongoing project. Mr. Williamson understands that if he commits any prohibited act during the Period of Suspension, he is subject to professional conduct and/or illegal practice proceedings.
- 3.2 Mr. Williamson acknowledges and agrees that failure to complete the requirement in paragraph 3.1.2 within the time specified will result in his removal from the register of the AIBC.
- 3.3 Mr. Williamson acknowledges and agrees that upon being removed from the register for failure to complete any of the requirements of this Agreement, he must do the following within 10 days of being advised in writing by the AIBC of his removal 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 to the AIBC;
- 3.3.3 Return any project site signs under his firm name to the AIBC;
- 3.3.4 Provide the AIBC with a letter of undertaking indicating that he and his firm have;
- a) Concluded all architectural business operations under his firm name;
 - b) Assigned, with client consent, any ongoing projects under his firm name to another architectural firm holding a current certificate of practice. In this portion of the undertaking letter, Mr. Williamson is to provide the project owner's name, project name and location and the name of the 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/his firm'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;
 - d) Removed project site signs which identified him or his firm or, alternatively, amended such project signs by removing his/his firm's identity;
 - e) Notified Intern Architects AIBC whom he mentors or supervises that he is prohibited from mentoring or supervising them; and
 - f) Confirmed that he will not refer to himself as an architect and that he will not practice architecture or offer to provide architectural services as defined by the *Architects Act*, until such time as he has been returned to the AIBC register.

3.4 Mr. Williamson acknowledges and agrees that if he is removed from the register for failure to complete the requirements of this Agreement, 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 as stated in AIBC Bulletin 2.

4.0 COSTS

4.1 Mr. Williamson agrees to pay costs for this consensual resolution, fixed at an amount of \$2,500, payable to the AIBC within 30 days following approval of this Agreement by the consensual resolution review panel.

4.2 The parties acknowledge that costs are not intended as a punitive measure reflecting the conduct that is the subject of this Agreement. The assessment of costs against Mr. Williamson is an acknowledgement of the AIBC's partial costs resulting from the consensual resolution process.

4.3 The parties have referred to the AIBC's Consensual Resolution Costs Guidelines in agreeing on the amount of costs.

5.0 PUBLICATION

5.1 This Agreement, including the attached Schedule, shall be published in a form established by the AIBC, in keeping with AIBC Bylaws, including website publication and distribution to all registrants of the AIBC.

6.0 ACKNOWLEDGEMENT

This Consensual Resolution Agreement 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. Williamson 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 Agreement and has taken such advice or freely elected not to do so.

The facts and terms of this Consensual Resolution Agreement are acknowledged and agreed to by Gair H. Williamson Architect AIBC and the AIBC, represented by Mark Vernon, CPA, CA, CPA (IL), CEO.

Approved by the Consensual Resolution Review Panel on May 13, 2022

**SCHEDULE – REASONS FOR PENALTY
TO
CONSENSUAL RESOLUTION AGREEMENT
BETWEEN**

**GAIR H. WILLIAMSON ARCHITECT AIBC
AND
THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA**

1.0 REASONS FOR PENALTY

1.1 Mr. Williamson 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 Consensual resolution of AIBC disciplinary matters operates pursuant to section 51.1 of the *Architects Act* and AIBC Bylaws 36.0 through 36.22. The proposed admissions and disciplinary action do not take effect unless the Agreement is approved by the consensual resolution review panel.

1.3 Under the process established by the *Act*, the consensual resolution review panel has a very important task: to review proposed disciplinary agreements in the public interest.

1.4 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 disciplinary 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]

1.5 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.

1.6 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...

1.7 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 disciplinary matters.

B. Ogilvie Factors

1.8 In determining an appropriate penalty, professional regulatory bodies in B.C. 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”).

1.9 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;
- (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.
- 1.10 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.
- 1.11 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.
- 1.12 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. The AIBC has also employed it in a recent case that was novel and complex.
- 1.13 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**
- 1.14 The AIBC's CES program, which has been in place since 2001, is a foundational professional practice expectation. Indeed, it is explicitly referenced in the declaration that every person seeking registration as an architect must subscribe to.
- 1.15 The importance of continuing education requirements in the regulated professions, and the need for compliance with them, was discussed by the Supreme Court of Canada in the case of *Green v. Law Society of Manitoba*, 2017 SCC 20.

1.16 In *Green*, a lawyer was challenging his suspension for non-compliance with the Law Society's mandatory continuing education requirements. He was unsuccessful. On behalf of the majority of the Court, Justice Wagner (as he then was) stated:

The Law Society is required by statute to protect members of the public who seek to obtain legal services by establishing and enforcing educational standards for practising lawyers. CPD [continuing professional development] programs serve this public interest and enhance confidence in the legal profession by requiring lawyers to participate, on an ongoing basis, in activities that enhance their skills, integrity and professionalism. CPD programs have in fact become an essential aspect of professional education in Canada.

...

To ensure that those standards have an effect, the Law Society must establish consequences for those who fail to adhere to them. As a practical matter, an unenforced educational standard is not a standard at all, but is merely aspirational.

1.17 Similar reasoning applies to the AIBC and its CES program.

1.18 The AIBC's Professional Services Department devotes extensive time and effort to communicating with CES Participants to promote compliance. A CES participant who was non-compliant during the Fourteenth Reporting Period would have received no less than **fifteen** separate communications reminding them of the need to earn and report their LUs and pay the council-mandated fine.

1.19 CES has been a requirement for all architects in British Columbia for more than twenty years, and this requirement has been in place for Mr. Williamson's entire career as an architect in British Columbia. This requirement is thoroughly communicated to registrants. It is foundational to the public's confidence in the profession. There is simply no excuse for non-compliance. For the public to have confidence in the profession and in the AIBC's ability to regulate the profession, timely and complete compliance is required.

1.20 Correspondingly, as stated in *Green*, non-compliance must have consequences. The AIBC, through the council rules established in Bulletin 80, has established a framework whereby the consequences escalate depending on the type of non-compliance. In a typical reporting period, CES Participants who fail to meet the June 30 deadline receive a fine and a three-month extension to achieve compliance. If either of those requirements is not fulfilled, a professional conduct investigation follows.

1.21 In light of the pandemic during the Fourteenth Reporting period, CES Participants who were not in compliance by the extended deadline of September 30, 2020 received a fine and were subject to a professional conduct complaint. CES Participants who did not earn and report the required LUs and/or pay the council mandated fine by December 31, 2020, were subject to further penalties through the conduct process.

- 1.22 In this case, Mr. Williamson was not LU compliant by the deadline and was assessed a fine. Mr. Williamson did not become LU compliant until April 29, 2021, well after the September 30 deadline. Mr. Williamson's fine payment remains outstanding.
- 1.23 Non-compliance with this foundational requirement of all registrants is simply unacceptable, and constitutes serious misconduct.

(b) Character and professional conduct record of the respondent

- 1.24 Mr. Williamson is 70 years old and has been registered with the AIBC for 19 years. He is a senior architect who is well aware of CES requirements and has participated in the last 12 consecutive reporting periods.
- 1.25 Mr. Williamson has a professional conduct record with the AIBC related to non-compliance with Bylaw 30.2 for three earlier reporting periods. In each instance, Mr. Williamson entered into a consensual resolution agreement with the AIBC, which provided as follows:
- 1.25.1 For failing to earn and report the requisite LUs and pay the council mandated fine by the required deadline in the Second Reporting Period (January 1, 2003 to June 30, 2004). Mr. Williamson received a reprimand and his agreement was published and distributed to members of the AIBC.
- 1.25.2 For failing to earn and report the requisite LUs and pay the council mandated fine by the required deadline in the Third Reporting Period (July 1, 2004 to June 30, 2005), Mr. Williamson received a reprimand, a \$1,000 fine, and his agreement was published and distributed to members of the AIBC.
- 1.25.3 For failing to earn and report the requisite LUs and pay the council mandated fine by the required deadline in the Fourth Reporting Period (July 1, 2005, to June 30, 2006), Mr. Williamson received a reprimand, a \$1,500 fine, his agreement was published on the AIBC web site.
- 1.26 Mr. Williamson also has a disciplinary record in AIBC File 08.15 related to providing architectural services prior to having a client-architect agreement in breach of Bylaw 34.10 and council rulings (d), (e) and (f). Mr. Williamson received a reprimand, a \$1,500 fine, and his agreement was published and distributed to members of the AIBC.
- 1.27 Mr. Williamson's professional conduct record, particularly as it relates to his three past instances of non-compliance with the AIBC's CES requirements, is an aggravating factor.

(c) Acknowledgement of the misconduct and remedial action

- 1.28 Upon notification of the complaint, Mr. Williamson did not initially acknowledge that he was in non-compliance with his CES obligations. However, Mr. Williamson did subsequently accept that he was non-compliant and that the responsibility for this rests with him.

- 1.29 While Mr. Williamson did not take corrective action to pay the council-imposed fine which still remains unpaid, he did complete the required number of LUs before the conclusion of the investigation.
- 1.30 Ultimately, by entering into this Agreement, Mr. Williamson has acknowledged that he has committed a disciplinary violation.

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

- 1.31 This involves an analysis of whether there is sufficient specific or general deterrence in the proposed disciplinary action, whether the proposed disciplinary action upholds the public's confidence in the AIBC's ability to regulate its members in the public interest, and whether the proposed disciplinary action is appropriate when compared to similar cases.
- 1.32 'Specific deterrence' means deterring the respondent from repeating the conduct in question. Mr. Williamson's professional conduct record reflects a pattern of failing to comply with CES requirements and weighs in favour of a disciplinary action at the higher end of the applicable range as a matter of specific deterrence.
- 1.33 '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. General deterrence is important for CES files. The CES requirements apply to all architects and architectural technologists in BC. The CES rules are not mere suggestions. There is simply no excuse for non-compliance, and responding to non-compliance absorbs significant AIBC time and resources. The profession must understand that non-compliance will result in sanctions, and repeat non-compliance will result in increasingly serious sanctions.
- 1.34 The public has the right to expect that architects will know and comply with all applicable professional standards, and demonstrate that they have undertaken educational programming to remain current in accordance with established deadlines and procedures. The public also has the right to expect that the AIBC will address instances of misconduct by its members through a process that is fair, proportionate, and consistent.
- 1.35 While no two files are identical, the penalties for non-compliance with CES requirements have been relatively consistent in past reporting periods, with the severity of the penalty increasing with the number of breaches of Bylaw 30.2. Typical penalties for breaches of Bylaw 30.2 have been:
- 1.35.1 First breach: reprimand (see, for example, AIBC file 17.01, a grouped file of non-compliant CES Participants from the Twelfth Reporting Period, where registrants who were not CES compliant for the first time received a reprimand);
- 1.35.2 Second breach: reprimand and fine (see, for example, AIBC file 18.18, where the registrant who was not CES compliant for the second time received a reprimand and a \$1,000 fine); and

- 1.35.3 Third breach: reprimand and increased fine (see, for example, AIBC file 06.11, a grouped file of non-compliant CES Participants from the Fourth Reporting Period, where a registrant who was not CES compliant for the third time received a reprimand and an increased fine in the amount of \$1,500).
- 1.35.4 Fourth breach: reprimand, fine and suspension (see, for example AIBC file 17.01, a grouped file of non-compliant CES Participants from the Twelfth Reporting Period, where a registrant who was not CES compliant for the fourth time received a reprimand, and a one-month suspension of registration and certificate of practice).
- 1.36 In AIBC File 03.14, a Disciplinary Hearing was held on August 31, 2005, regarding a registrant's non-compliance with CES for the First Reporting Period and for failing to pay the council mandated fine.
- 1.37 During the hearing, the Disciplinary Committee heard evidence that the registrant admitted he was aware of his non-compliance but that he was "too busy" to comply. The Disciplinary Committee decision dated September 28, 2005, determined that the registrant's conduct constituted unprofessional conduct and that his explanation "is not an acceptable professional excuse of his conduct."
- 1.38 The Penalty Order, imposed a suspension, effective two weeks from the date of the Order, that would last until the registrant earned and reported the requisite learning units for the First Reporting Period and paid the related fines. The Penalty Order required that during the suspension, the registrant's name and firm be removed from the register for the period of suspension and that the registrant return his seal and Certificate of Practice. Notice of the registrant's suspension was published and the registrant was also required to pay costs for holding the hearing.
- 1.39 In reaching its decision on penalty, the Disciplinary Committee was of the view the misconduct was significant and was concerned the registrant continued to disregard his obligations even after being given numerous opportunities to address his non-compliance. The Committee also expanded on its view of the member's excuse being that he was too busy, writing:
- The Committee finds this excuse an affront to the other members of the Institute who, despite maintaining busy practices and personal lives, have made the effort to comply with the mandatory continuing education requirements in compliance with their professional obligations.
- 1.40 The Disciplinary Committee in the above hearing also issued comments regarding the range of penalties available and noted that a reprimand would not be meaningful as the registrant had ignored all communications regarding his professional status and obligations. An imposition of a fine did also not seem appropriate because fines already imposed in the case remained unpaid. Its view was that of the remaining options authorized by section 50(3) of the *Act* (suspension, removal from the register or cancellation of licence), suspension was "the least onerous and the most appropriate."
- 1.41 Mr. Williamson and the AIBC submit that, based on the penalty review above, and upon a careful review of the consolidated *Ogilvie* Factors, the proposed penalty is fair and consistent with the range

of sanctions that have been imposed for similar conduct in the past. The proposed penalty, particularly the suspension, will enhance the public's confidence in the integrity of the profession. The public has the right to expect that a professional architect will comply with practice, professional development and professional conduct obligations, including CES. The public would expect that a pattern of non-compliance with a professional standard related to education would be addressed with progressive measures, to and including suspension from practice.

2.0 PUBLICATION

- 2.1 This Agreement will be published as required by AIBC Bylaws, including website publication and distribution to members and other registrants of the AIBC.
- 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 members and other 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. Williamson 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 Consensual Resolution Agreement are acknowledged and agreed to by Gair H. Williamson Architect AIBC and the AIBC, represented by Mark Vernon, CPA, CA, CPA (IL), CEO.

For further information on the AIBC's consensual resolution process, please contact Meagan Sands, Paralegal, Professional Conduct and Illegal Practice at msands@aibc.ca.