



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:

MARC LAMERTON 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*.

On February 10, 2023, the AIBC transitioned to the authority of the *Professional Governance Act*. As part of this transition, the *Architects Act* (*Act*) was repealed, and the bylaws made under the *Act* were replaced with new updated [Bylaws](#). Pursuant to current AIBC Bylaw 7.51, the Consensual Resolution Review Panel may continue to exercise its powers and duties under the repealed *Act* and bylaws, where the respondent has agreed to enter into a Consensual Resolution before the date of transition. Pursuant to AIBC Bylaw 7.52, if this Consensual Resolution does not result in an agreement approved by the Consensual Resolution Review Panel, the matter is referred to Discipline Hearing and must be resolved under the processes established by the *Professional Governance Act* and the current AIBC Bylaws.

## 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 This matter began as a potential complaint regarding Marc Lamerton Architect AIBC with respect to architectural services provided on an eight-unit residential building in Revelstoke, B.C. (the “Project”).
- 1.3 Following its review of Mr. Lamerton’s response to the potential complaint, the AIBC’s Investigation Committee (the “Committee”) initiated a complaint against him in accordance with AIBC Bylaw 37.16(c).
- 1.4 Following its investigation, the Committee recommended that the matter proceed to a disciplinary inquiry for determination of whether Mr. Lamerton breached certain sections of the *Architects Act*, R.S.B.C. 1996, c. 17 (the “*Act*”) or the AIBC Bylaws and the applicable council rulings in the *Code of Ethics and Professional Conduct* (the “*Code of Ethics*”).
- 1.5 Mr. Lamerton chose to pursue a consensual resolution with the AIBC.

### B. Mr. Lamerton

- 1.6 Mr. Lamerton was first registered as an architect with the AIBC on April 7, 2008, and has maintained his registration since that time.
- 1.7 Mr. Lamerton practices architecture through AVEX Architecture Inc. (the “Firm”), a corporation that holds an AIBC certificate of practice issued on September 28, 2016.
- 1.8 Mr. Lamerton is the sole shareholder of the Firm.

### C. The Information Request/Complaint

- 1.9 In December 2021, the AIBC was contacted with regard to a development permit application submitted to the City of Revelstoke (the “City”) that raised the following concerns:
- 1.9.1 the drawings did not have an architect’s seal;
- 1.9.2 the Firm was listed as the ‘Architect Coordinator’;
- 1.9.3 a design firm (“Design Firm”) was identified as holding the copyright to the drawings; and
- 1.9.4 the initials ‘MB’ of the Design Firm, were noted under ‘Design’ on the cover page of the development permit application.

- 1.10 The file was opened as a potential complaint, pursuant to AIBC Bylaw 37.2. The AIBC contacted Mr. Lamerton and requested his response.
- 1.11 At its January 2022 meeting, the Committee considered Mr. Lamerton's response dated January 6, 2022. The Committee reviewed the material before it and determined that there was sufficient basis to initiate a complaint against Mr. Lamerton in accordance with AIBC Bylaw 37.16(c).

**D. The Investigation/Agreed Facts**

- 1.12 The investigation involved a review of the material submitted to the City for the Project, Mr. Lamerton's response to the complaint, as well as his responses to questions asked by the Committee. Mr. Lamerton also attended an interview with the Committee.
- 1.13 The facts in paragraphs 1.14 – 1.35 below are based on material reviewed during the investigation and agreed to by the AIBC and Mr. Lamerton.
- 1.14 Mr. Lamerton's response to the complaint stated that the Project originated in 2018, and that an individual with the initials MB at the Design Firm was hired by the client as the design consultant. He added that the Project was initially contemplated as a single four-plex residential building in a townhome format and the involvement of an architect was not mandated under the *Act*.
- 1.15 Mr. Lamerton reply also stated that during the course of amending the zoning for the Project, the City raised the idea of increasing the development density. The Project design drawings were revised to test the concept of separating the lowest level of each of the townhome units into separate suites. He also stated that it was at this stage MB became aware that the inclusion of secondary suits in the building increased the number of dwelling units from four to eight, thereby requiring the services of a registered architect pursuant to the *Act*.
- 1.16 In January 2020, MB contacted Mr. Lamerton to ask if he would be available to join the Project.
- 1.17 On March 5, 2020, Mr. Lamerton and the client entered into a client-architect agreement to provide architectural services for the Project.
- 1.18 Mr. Lamerton stated during the investigation that he anticipated submitting a development permit application for the Project within a few months of his initial involvement, and agreed with the client that it was appropriate to have MB continue to act as the agent and principal contact for the Project.
- 1.19 Mr. Lamerton's response also stated that although he had little direct contact with City staff, he had regular communication with MB leading up to the development permit application. At that time, Mr. Lamerton's said his involvement included a detailed review of existing drawings prepared by MB, preliminary Building Code analysis, design change requirements and suggestions, and general project coordination.
- 1.20 In reply to the Committee's questions regarding his supervision, oversight, and control of the Project, Mr. Lamerton stated that in addition to e-mails exchanged with MB, he also had approximately 15-20 phone calls with MB throughout the Project. Mr. Lamerton also stated that in

April 2020, he visited Revelstoke twice to view the Project and met with the client and MB, and in summer 2020, visited the site again and introduced himself to staff at the City.

- 1.21 On June 5, 2020, Mr. Lamerton issued drawings with the Firm's title block in support of a development permit application for the Project (the "Initial Drawings"). Mr. Lamerton sealed and signed the Initial Drawings, but did not date them.
- 1.22 Between October 2020 and March 2021, ongoing dialogue between MB and the City took place regarding the removal of all or some of the secondary suites for the Project. During this time, Mr. Lamerton stated that he was in communication with MB at regular intervals and was kept up-to-date on the process.
- 1.23 By e-mail dated July 29, 2021, MB advised Mr. Lamerton that the City was working to re-amend the zoning to fit the revised density proposal which would ensure the Project only had two secondary suites instead of four, for a total of six residential units.
- 1.24 By e-mail dated July 30, 2021, Mr. Lamerton advised MB that he would be on vacation for two weeks in mid-August, but that he could be contacted during that period if required, and he would call MB on his return to the office on August 23, 2021.
- 1.25 On August 15, 2021, MB submitted revised drawings for the development permit application and rezoning application for the Project to the City (the "Revised Drawings"). The title block of the Revised Drawings displayed the Design Firm's name and stated that the Design Firm held the copyright. The Firm's name and Mr. Lamerton's seal were absent from the Revised Drawings.
- 1.26 Mr. Lamerton admitted to the Committee that while he made it clear to MB that the development permit application for the Project needed to be sealed and signed and provided directly by him, he was not as clear that any amended application material would also need to be issued directly by him.
- 1.27 During his interview, Mr. Lamerton stated he was in regular contact with MB and was fully confident in MB's coordination efforts regarding the development permit application for the Project. He added that he provided MB with marked up drawings and a series of notes to indicate the required changes on drawings.
- 1.28 Mr. Lamerton also stated in his interview that he had reviewed the Revised Drawings, before they were sent to the City and the changes involved were minor drawings revisions and he had no additional Building Code concerns. He admitted his error in failing to seal and sign the Revised Drawings.
- 1.29 Mr. Lamerton stated that prior to departing on vacation, he was in contact with MB and was updated on the agreed changes but was not aware that the Revised Drawings constituted an entirely new development permit application which he was required to issue.
- 1.30 During his interview, Mr. Lamerton stated that he called MB within the week of returning from vacation and MB provided him with an update about the Revised Drawings submitted to the City.

- 1.31 Mr. Lamerton admitted that it did not occur to him, even after speaking with MB, that the Revised Drawings replaced the Initial Drawings that he had sealed and signed and that a mistake had been made, requiring him to immediately contact the City.
- 1.32 Mr. Lamerton also stated during his interview that MB prepared the Revised Drawings using the Design Firm's software which is why his Firm's name was not included in the title block.
- 1.33 Mr. Lamerton stated to the Committee that in his experience, when any kind of omission or irregularity occurred with regard to an application, the authority having jurisdiction was usually in contact to have the oversight corrected. However, in this case the City did not contact him, MB or the client.
- 1.34 During his interview, Mr. Lamerton stated that changes to the Project occurred during a busy time coinciding with his vacation which resulted in the oversight. He acknowledges that this is not an excuse and that he is responsible.
- 1.35 Mr. Lamerton acknowledged that it was his responsibility to ensure that any new drawings submitted to the City were required to have been produced in the same manner as the original documents.
- 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 Upon being notified of the recommended charges, Mr. Lamerton chose to pursue consensual resolution with the AIBC. No notice of inquiry has been issued.

#### **E. Relevant Professional Standards**

- 1.38 Section 77 of the Act, AIBC Bylaw 34.2, AIBC Bylaw 34.1 and council ruling (b), AIBC Bylaw 33.3, and the professional standards in AIBC Bulletin 61 are relevant to the complaint against Mr. Lamerton.
- 1.39 Section 77 (1) of the *Act* states:

#### **Architect's seal**

- 77 (1) An architect must apply a seal, with signature and date, to letters of assurance, certificates, drawings and specifications prepared by or under the architect's supervision, direction or control if the architect practises architecture
- (a) as a member of the institute holding a current certificate of practice,
  - (b) as a sole proprietor or partner of an architectural firm, or
  - (c) on behalf of an architectural corporation as a continuing employee or shareholder of the corporation.

1.40 The relevant AIBC Bylaws and associated council rulings in the Code of Ethics state:

**Bylaw 34.2** An Architect shall seal the architect’s work in accordance with the requirements of the Architects Act of British Columbia and the Bylaws and Council rulings.

**Bylaw 34.1** Each office maintained for offering architectural service to the public shall have an architect who has direct knowledge and supervisory control of the services.

...

(b) Proposals of service; agreements; assurances; certifications; official submissions to authorities having jurisdiction; and other representations on behalf of an architectural firm or certificate of practice holder must be made by an architect.

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

1.41 The relevant professional standards articulated in AIBC Bulletin 61 state:

## 2.0 Definition of seal

**2.1** “Seal” is the word used in the Architects Act and AIBC documents. It is used to refer to either the traditional embossed seal or the inked ‘stamp’, as well as the use of an electronic seal (see AIBC Bulletin 60). Descriptions in this bulletin relating to “sealing” documents are shorthand and include the expectation, discussed in more detail below, that the application of an architect’s seal will include the architect’s signature and date.

...

## 4.2 Documents and Instruments of Service that Must be Sealed

Section 77(1) of the Architects Act establishes the documents that require the application of a seal by the architect who prepared them or who provided supervision, direction or control of their preparation. **Note that it is not relevant to an architect’s statutory and professional conduct obligations whether an authority (or client) has a seal requirement or expectation that differs from the obligations outlined below.** For example, it is not acceptable to dispense with the sealing requirements merely because, for example, a particular authority does not require development permit drawings to be sealed, whether that “requirement” derives from advice, policy or customary practice. The proper use of an architect’s seal is a matter for the *Architects Act* and AIBC professional standards such as Bylaw 34.2, Council rulings thereto and this bulletin, not expectations established by local governments, clients or third parties.

4.3 The following documents must be sealed:

...

### **Drawings**

All drawings issued by an architect for approval by an authority or for reliance by a client or third party, including the general public, must be sealed. This includes drawings submitted for rezoning, development permit (including such processes as “development permission”, “preliminary plan approval”, etc.), design panel review, community presentation, building permit, tender, construction (working) drawings, addenda and drawings accompanying change orders, change directives and site instructions. Drawings submitted for amendments to applications must also be sealed.

...

[Emphasis added]

## **2.0 ADMISSIONS**

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

2.1.1 contravened section 77(1) of the *Act*, AIBC Bylaws 33.3 and 34.2, and the professional standards in AIBC Bulletin 61, when he did not insert the date on the seal that he applied to the Project drawings submitted to the City on June 5, 2020; and when he did not apply his seal with signature and date to the material submitted to the City on August 15, 2021, in support of the revised development permit and rezoning application for the Project; and

2.1.2 contravened AIBC Bylaw 34.1 and council ruling (b) when he failed to have adequate supervision, direction, or control of services of the Project as demonstrated by staff at the Design Firm who made official submissions to an authority having jurisdiction without his direct knowledge.

## **3.0 PENALTY AGREEMENT**

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

3.1.1 A reprimand will be recorded against Marc Lamerton Architect AIBC;

3.1.2 Mr. Lamerton is required to pay a fine in the amount of \$4,000.00 to the AIBC, within 30 days after the approval of this Agreement by the Consensual Resolution Review Panel; and

3.1.3 Mr. Lamerton is required to attend and complete an education program or programs (agreed to in advance by the AIBC) that cover substantially similar material to the AIBC’s course “Ethics, Act and Bylaws”, at his expense, no later than March 31, 2024. The Director of Professional Conduct and Illegal Practice is authorized to provide a reasonable extension,

upon request by Mr. Lamerton, if he is unable to complete such course(s) by the prescribed date due to extenuating circumstances.

- 3.2 Mr. Lamerton acknowledges and agrees that failure to complete the requirement in paragraph 3.1.2 to 3.1.3 above within the time specified will result in his removal from the register of the AIBC.
- 3.3 Mr. Lamerton acknowledges and agrees that if he is 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 the Firm's certificate of practice to the AIBC;
  - 3.3.3 Remove any project site signs under his or the Firm's name; and
  - 3.3.4 Provide the AIBC with a letter of undertaking confirming that he and the Firm have;
    - a) concluded all architectural business operations under his or the Firm's name;
    - b) assigned, with client consent, any ongoing projects under the Firm's name to another architectural firm holding a current certificate of practice. In this portion of the undertaking letter, Mr. Lamerton 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 or the 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) 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 *Architects Act*, *Professional Governance Act* and its regulations, until such time as he has been returned to the AIBC register.
- 3.4 Mr. Lamerton 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.

#### 4.0 COSTS

- 4.1 Mr. Lamerton agrees to pay costs for this consensual resolution, fixed at an amount of \$1,000, 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 payable by Mr. Lamerton is an acknowledgement of the AIBC's partial costs resulting from the consensual resolution process, and is separate from the agreed-upon penalty.
- 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, must be published by the AIBC including website publication and distribution to all registrants of the AIBC, in a manner that the AIBC deems fit in the public interest.
- 5.2 In the event Mr. Lamerton is removed from the register for non-compliance with this Agreement, the AIBC must notify the public, registrants, and other interested parties where appropriate.

#### 6.0 ACKNOWLEDGEMENT

**This 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. Lamerton 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.

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

*Approved by the Consensual Resolution Review Panel on December 7, 2023.*

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

MARC LAMERTON ARCHITECT AIBC  
AND  
THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

**1.0 REASONS FOR PENALTY**

1.1 Marc Lamerton 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 Mr. Lamerton has admitted to not applying his seal correctly on two separate occasions for this Project; once when he did not enter the date on the seal he applied to the Initial Drawings and again when he omitted to apply his seal with signature and date to the Revised Drawings submitted to the City.
- 1.15 He has also admitted that he did not adequately supervise, direct, or control staff at the Design Firm who submitted Revised Drawings to the City, without his seal and signature and without his knowledge.
- 1.16 Overall, this is moderately serious conduct.
- 1.17 The correct use of an architect's seal is a fundamental professional obligation and the expectations the AIBC has of its registrants with respect to the use of their professional seals, in the public interest, has been long-established in the *Act* and the AIBC Bylaws.

- 1.18 An architect's seal is a representation to the public that the architect who applies the seal is taking responsibility for the document to which it is applied and that the document was prepared by that architect or under their direct supervision, direction, or control. The seal is a solemn confirmation that a qualified architect is aware of the relevant considerations that went into the drawing such that in the architect's opinion, the document can be relied upon and used by others for the purposes intended.
- 1.19 The *Act* specifically requires the application of the architect's signature and the date to the seal. The *Act* also identifies the instruments of service that require the application of a seal by the architect who prepared them or who provided supervision, direction, or control of their preparation. These documents include drawings and specifications as well as letters of assurance and certificates.
- 1.20 The public is entitled to expect that services offered and provided by an architect's office are supervised and controlled by an architect. In this case, the Design Firm submitted the Revised Drawings to the City not only without Mr. Lamerton's seal, signature and date, but also without his knowledge, which raises concerns about his supervision, oversight and control of the Project. The title block for the Revised Drawings contained the Design Firm's name instead of Mr. Lamerton's Firm name, which could result in public confusion as it suggests it was legally entitled to provide architectural services.
- 1.21 Mr. Lamerton's admission that he did not take corrective action even after he was made aware the Design Firm had submitted the Revised Drawings to the City, is an aggravating factor. However, the Project was not delayed and the client was not harmed as a result of his conduct, which is a mitigating factor.

**(b) Character and professional conduct record of the respondent**

- 1.22 Mr. Lamerton is 50 years old. He has been registered as an architect with the AIBC since April 2008.
- 1.23 Mr. Lamerton does not have a professional conduct record with the AIBC.

**(c) Acknowledgement of the misconduct and remedial action**

- 1.24 Mr. Lamerton has been cooperative and candid in the course of the investigation.
- 1.25 Mr. Lamerton acknowledged his errors in not correctly applying his seal to the Initial Drawings and the Revised Drawings, as well as his oversight in not having control and oversight of the Project by not making it clear to MB and the Design Firm that all submissions to the City required his knowledge and had to be made by him.
- 1.26 Once the complaint was brought to his attention, Mr. Lamerton recognized and acknowledged that it was his responsibility to ensure that all drawings submitted to the City were undertaken with his knowledge and properly sealed, signed and dated by him. He further acknowledged that once he was made aware the Revised Drawings had been submitted improperly, he should have taken corrective action.

1.27 Mr. Lamerton's participation in the consensual resolution process and admission 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.

1.28 His acknowledgment and participation in the consensual resolution process are mitigating factors.

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

1.29 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

1.30 'Specific deterrence' means deterring the respondent from repeating the conduct in question. In this case, Mr. Lamerton has engaged in a meaningful exchange with the AIBC and has expressed an understanding of the issues, recognized and admitted his misconduct, which has resulted in this consensual resolution agreement, so that he is unlikely to repeat them.

1.31 '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 Agreement will serve to caution and remind architects of the importance of sealing documents, maintaining direct knowledge and supervisory control of architectural services, and the importance of including a statement of the firm's right to practice architecture, in compliance with the *Act*, the AIBC Bylaws, and council rulings.

1.32 The public has the right to expect that architects 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 members through a process that is fair, proportionate, and consistent.

1.33 While no two files are identical, the following AIBC precedents demonstrate the penalties and sanctions that have been imposed in files where similar conduct was at issue.

1.34 Precedent files relating to improper application of an architect's seal are typically accompanied by other contraventions of the *Act* or Bylaws. The penalty is an aggregate of all the contraventions at issue in the file. The files which are most similar to the ones at hand are summarized below.

*Failure to apply seal*

1.35 In AIBC File 18.04, the architect's firm submitted his unsealed drawings to the authority having jurisdiction. When brought to the architect's attention, he acknowledged his error and stated he would ensure future compliance with the requirement to seal development permit drawings. Additional charges included entering a client-architect agreement without the required compliance statement and failing to include a statement of his firm's right to practice architecture on an instrument of service. The architect was professional and forthright in his responses and had no

professional conduct record. The complaint was resolved by reprimand, a \$1,500 fine, and completing the Ethics, Act and Bylaws course.

- 1.36 In AIBC File 20.03, the architect submitted unsealed drawings in support of a development permit application to the authority having jurisdiction. When this was brought to the architect's attention, he took prompt and corrective action and submitted sealed drawings. Additional charges that were included related to the architect's failure to attend a formal presentation in front of the authority having jurisdiction. The architect was professional and forthright in his responses and a senior member for the profession and had no professional conduct record. The complaint was resolved by consensual resolution agreement which included a reprimand, a \$2,000 fine, and completing the Ethics, Act and Bylaws course.
- 1.37 In AIBC File 18.14, the authority having jurisdiction noted that the architect did not apply his seal to architectural drawings and letter of assurances submitted for a building permit application. Instead, a professional engineer's seal was affixed to the documents. When brought to the architect's attention, he resubmitted the documents with his seal and signature but failed to apply the date to his seal. The architect acknowledged his error and stated he would ensure future compliance with the seal requirement. Additional charges included submitting architectural documents bearing the professional seal of a person not registered to practice architecture in support of a building permit application. The architect was professional and cooperative and a senior member for the profession without a professional conduct record. The complaint was resolved by consensual resolution agreement which included a reprimand, a \$3,500 fine, and completion of the Ethics, Act and Bylaws course.
- 1.38 All the above precedent files, in addition to including other charges, were based on one occurrence of the architect failing to properly apply their seal to instruments of service submitted to the authority having jurisdiction. In this case, there were two separate instances during the course of the Project whereby Mr. Lamerton did not correctly apply his seal to instruments of service that required his seal and support a higher penalty for the seal misconduct, notwithstanding the additional charges.

*Failure to have direct knowledge and supervisory control of services*

- 1.39 In AIBC File No. 15.18, the architect failed to demonstrate adequate supervision, direction or control of architectural services for the project by allowing his designer partner to execute the agreement for architectural services. The architect admitted never meeting the client and not conducting any site reviews for the project. He also failed to apply his seal to drawings submitted to the authority having jurisdiction. Additional charges included failing to enter a client-architect agreement, failing to provide written notification to the client as to whether or not professional liability insurance was held, failing to provide the required compliance statement about AIBC bylaws and failing to communicate and keep the client reasonably informed during the course of the project. The architect was a senior member of the profession with a past professional conduct record. The complaint was resolved by consensual resolution agreement which included a reprimand, a \$5,500 fine, attending an Oral Conduct Review, and completing the Ethics, Act and Bylaws course.

- 1.40 In AIBC File Nos. 15.02/16.02, the architect allowed a non-BC registered architect to prepare and provide a proposal for architectural services and failed to demonstrate adequate supervision, direction or control of the architectural services for a project. Additional charges included failing to obtain a certificate of practice for his firm prior to offering or providing architectural services, failing to enter a client-architect agreement before commencing work, failing to provide written notification to the client as to whether or not professional liability insurance was held, and failing to provide the required compliance statement about AIBC bylaws. The architect was a senior member of the profession and had no professional conduct record. The complaint was resolved by consensual resolution agreement which included a reprimand, a \$5,500 fine, attending an Oral Conduct Review, and completing the Ethics, Act and Bylaws course.
- 1.41 It is submitted that the conduct in the above cases regarding supervision, direction, or control is more egregious than Mr. Lamerton's case, where he failed to inform the Design Firm that any and all subsequent Project submissions to the local authority had to be made by him. In this case the Design Firm did not engage, on Mr. Lamerton's behalf, in preparing a proposal for architectural services or executing such an agreement. Accordingly, it is submitted that the agreed penalty is proportional to the level of misconduct and degree of responsibility to ensure Mr. Lamerton's future compliance with his obligations as a registered architect.
- 1.42 As noted in *Peet* above, there will rarely, if ever, be only one single appropriate outcome in a professional disciplinary file.
- 1.43 Mr. Lamerton and the AIBC submit that, based on the cases above, and upon a careful review of the consolidated *Ogilvie* Factors, the proposed penalty is reasonable, fair, and consistent with the range of sanctions that have been imposed for similar conduct in the past.

## 2.0 PUBLICATION

- 2.1 This Agreement will be published as required by AIBC Bylaws, including website publication and distribution to 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. Lamerton 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.

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*The facts and terms of this Schedule – Reasons for Penalty to Consensual Resolution Agreement are acknowledged and agreed to by Marc Lamerton Architect AIBC and the AIBC, represented by Mark Vernon, CPA, CA, CPA (IL), CEO.*

*For further information on the AIBC's discipline process, please contact the Professional Conduct and Illegal Practice department at [complaints@aibc.ca](mailto:complaints@aibc.ca).*