



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:

NOUSHIN ASHTIANI INTERN 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 As part of this transition, the *Architects Act* (*Act*) was repealed, and the bylaws made under the *Act* were replaced with new updated [Bylaws](#).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AIBC Bylaw 7.51, the Consensual Resolution Review Panel may continue to exercise its powers and duties under the repealed *Act* and bylaws, where the respondent has agreed to enter into a Consensual Resolution before the date of transition.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 about Noushin Ashtiani Intern Architect AIBC with respect to the provision of services on a mixed-use residential building in Colwood, B.C. (the “Project”).
- 1.3 Following its review of Ms. Ashtiani’s response to the potential complaint, the AIBC’s Investigations Committee (the “Committee”) initiated a complaint against Ms. Ashtiani 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 Ms. Ashtiani 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 Ms. Ashtiani chose to pursue a consensual resolution with the AIBC.

B. Ms. Ashtiani

- 1.6 Ms. Ashtiani was first registered as an Intern Architect AIBC on August 11, 2008, and has maintained her registration since that time.
- 1.7 Ms. Ashtiani is also enrolled in the AIBC’s Broadly Experienced Applicant (“BEA”) Program.
- 1.8 Ms. Ashtiani is employed by Parsi Development Ltd. (“Parsi”), a BC registered company that does not hold an AIBC certificate of practice and is not an architectural firm.

C. The Information Request/Complaint

- 1.9 In March 2022, the AIBC was contacted regarding a development permit application for the Project submitted to the City of Colwood (the “City”). The development permit drawings displayed Parsi’s name in the title block; indicated they were drawn by Ms. Ashtiani; and did not have an architect’s seal. No architect of record or registered architectural firm with a certificate of practice was identified in the application materials.
- 1.10 The file was opened as a potential complaint, pursuant to AIBC Bylaw 37.2 and Ms. Ashtiani was requested to provide her response.
- 1.11 At its August 2022 meeting, the Committee considered Ms. Ashtiani’s response dated July 19, 2022. The Committee reviewed the material before it and determined that there was sufficient basis to initiate a complaint against Ms. Ashtiani in accordance with AIBC Bylaw 37.16 (c).

D. The Investigation/Agreed Facts

- 1.12 The investigation involved a review of the material submitted by Ms. Ashtiani, including her response to questions asked by the Committee and a review of the Project material submitted to the City. Ms. Ashtiani also attended an interview with the Committee.
- 1.13 The facts in paragraphs 1.14 – 1.24 below are based on material reviewed during the investigation and agreed to by the AIBC and Ms. Ashtiani.
- 1.14 Ms. Ashtiani stated in response to the complaint that Parsi was the owner and developer for the Project, and that she is an employee of Parsi, which is owned by her husband who is a developer.
- 1.15 She stated to the Committee that Parsi had retained an architect to design the Project and to lead the original development permit process, which resulted in a development permit being issued in 2011. She also stated that she worked under the architect's supervision on the Project until that person retired in 2015. After the permit was obtained in 2011, the Project lay dormant and did not have an architect providing services on it.
- 1.16 In 2021, the local authority contacted Parsi to obtain a statutory right of way ("SRW") over the property that would reduce the Project site by almost a third and required a significant redesign as well as a new rezoning and development permit application.
- 1.17 Ms. Ashtiani stated to the Committee that there was pressure from the local authority to expedite the SRW process and the local authority offered Parsi a rezoning development permit in exchange for the land taken from the Project.
- 1.18 Ms. Ashtiani admitted during the investigation that she performed the Project's redesign and rezoning, and also reduced the unit count and the gross floor area to meet the local authority's requirements so that it could be rezoned for a second time.
- 1.19 Ms. Ashtiani also admitted that she completed the drawings on behalf of Parsi and made the development application to the local authority for the Project in 2022, which is why Parsi's name appears in the title block. She confirmed that no architect was involved in the Project after 2011, which is the reason why the submitted drawings do not identify an architect.
- 1.20 Ms. Ashtiani stated to the Committee that prior to the local authority contacting Parsi in 2021, she had no intention of submitting a development permit. Ms. Ashtiani also stated that when the local authority contacted Parsi in 2021, Parsi made attempts to retain an architect or architectural firm for the Project which it could not do in light of the pandemic and pressure from the local authority to complete the work in a short time frame.
- 1.21 She stated that Parsi has since retained an architectural firm for the Project.
- 1.22 Ms. Ashtiani stated to the Committee during the interview that before Parsi purchases land, she carries out preliminary feasibility designs of potential new projects in BC and other provinces, which allows Parsi to determine the value and profitability of the land. She explained that this process involves her reviewing a local municipality's bylaws to determine if the land is re-zoneable or

subdivisible, as well as providing a conceptual project design to determine how many units can be placed on the land.

- 1.23 Ms. Ashtiani stated that Parsi purchases the land after considering the feasibility studies and sketches that she provides, and then retains architects and other professionals for the project.
- 1.24 Ms. Ashtiani was identified as an architect in an on-line article published by a magazine that highlighted the Project as well as other projects that Parsi was developing. After Ms. Ashtiani was notified of the concerns in this complaint matter, she took the necessary steps to contact the magazine and the article has since been removed.
- 1.25 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.
- 1.26 Upon being notified of the recommended charges, Ms. Ashtiani chose to pursue consensual resolution with the AIBC. No notice of inquiry has been issued.

E. Relevant Professional Standards

- 1.27 Sections 27(2), 41(2), 59, 63(2), and 63(3) of the *Act*, AIBC Bylaws 32.2, 32.2.1, and 33.3, and the professional standards in AIBC Bulletin 31 are relevant to the complaint about Ms. Ashtiani.
- 1.28 Section 27(2) of the *Act* states:

Certificate of practice

27 (2) A person must not practise or offer to practise the profession of architecture unless the person

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

- 1.29 Section 41(2) of the *Act* states:

Associate's rights

41 (2) An associate may only practise the profession of architecture as an employee working for and under the supervision of a member of the institute.

- 1.30 Section 59 of the *Act* states:

Practice of architecture

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

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

1.31 Section 63(2) and 63(3) of the *Act* states:

Further prohibitions

- 63 (2)** A person or architectural firm that does not hold a certificate of practice must not be held out or implied to hold a certificate of practice.
- (3) A person not licensed under this Act must not be held out or implied to be licensed under this Act.

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

Bylaw 32.2 An architect shall accurately represent to the public, a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit.

Bylaw 32.2.1 An architect must ensure that all advertising, marketing, and other promotional information is accurate, factual, and not misleading.

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

It is important to note that while the word "architect" is used throughout the Bylaws and this Code for ease of reference, the Bylaws and this Code also apply to architectural firms, licensees and associates of the Institute.

1.33 The relevant professional standards articulated in AIBC Bulletin 31 state:

3.0 Interaction Between the *Architects Act* and the BC Building Code

- 3.1 The *Architects Act*, not the BC Building Code nor Vancouver's Building Bylaw, is the primary source for establishing when an architect must be hired. While they are important documents for regulating the design and construction of buildings, they do not establish or limit which buildings require architects nor the stage at which such services must be retained.
- 3.2 Under the *Act*, an architect must be retained any time architectural services are provided on a building requiring an architect. As soon as planning and design begins on such buildings, an architect is required, including at the (re)zoning and development permit application stage.

2.0 ADMISSIONS

- 2.1 Considering the facts agreed to above, Ms. Ashtiani acknowledges and admits that she:
- 2.1.1 contravened sections 41(2) of the *Act* and AIBC Bylaw 33.3 when she provided professional architectural services for the Project while not employed by an architectural firm or under the supervision of an architect holding a current certificate of practice;
 - 2.1.2 contravened sections 27(2), 59, 63(2) and 63(3) of the *Act* and the professional standards in AIBC Bulletin 31 when she prepared and submitted drawings for the Project to the City for the purpose of obtaining a development permit, while not holding a certificate of practice or working through an architectural firm that is a holder of a current certificate of practice; and
 - 2.1.3 contravened AIBC Bylaw 32.2 and 32.1.1 when she allowed herself to be represented as an architect in print media.

3.0 PENALTY AGREEMENT

- 3.1 The following penalty and terms have been agreed upon by Ms. Ashtiani and the AIBC:
- 3.1.1 A reprimand will be recorded against Noushin Ashtiani Intern Architect AIBC;
 - 3.1.2 Ms. Ashtiani 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 Ms. Ashtiani 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 her 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 Ms. Ashtiani, if she is unable to complete such course(s) by the prescribed date due to restrictions imposed by the current pandemic.
- 3.2 Ms. Ashtiani 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 her removal from the register of the AIBC.
- 3.3 Ms. Ashtiani acknowledges and agrees that if she is removed from the register for failure to complete any of the requirements of this Agreement, she must within 10 days of being advised in writing by the AIBC of her removal from the register, satisfy the standard professional requirements and obligations relating to her removal.
- 3.4 In the event of a removal from the register arising out of this Agreement, the AIBC may publish a Notice of Suspension and notify registrants and other parties as it deems appropriate.
- 3.5 Ms. Ashtiani acknowledges and agrees that if she is removed from the register for failure to complete the requirements of this Agreement, or if she resigns from the register prior to completing all requirements, she may not apply for reinstatement until she has done so. Upon completion of all outstanding requirements, she may apply for reinstatement and will be subject to all applicable fees and requirements for reinstatement.

4.0 COSTS

- 4.1 Ms. Ashtiani 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 Ms. Ashtiani 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 in a form established by the AIBC, including website publication and distribution to all registrants of the AIBC.
- 5.2 In the event Ms. Ashtiani is removed from the register for non-compliance with this Agreement, the AIBC may notify registrants and other interested parties as it deems 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.

Ms. Ashtiani acknowledges that she 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 Noushin Ashtiani Intern 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

NOUSHIN ASHTIANI INTERN ARCHITECT AIBC
AND
THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

1.0 REASONS FOR PENALTY

- 1.1 Noushin Ashtiani 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 Ms. Ashtiani engaged in the unauthorized practice of architecture on the Project beyond the scope of her legal authority and registration as an Intern Architect AIBC and allowed herself to be misrepresented as an architect in a published article. This is reasonably serious conduct.
- 1.15 Ms. Ashtiani understood the Project required the services of an architect and originally worked under the supervision of an architect on the same Project in 2011. Ms. Ashtiani was aware the services of an architect were still required when the Project was revitalized in 2022, since she stated Parsi attempted to retain an architect at that time.
- 1.16 Notwithstanding the difficulties Parsi encountered in securing an architect in 2021, Ms. Ashtiani ought to have known that she was not able to provide architectural services on the Project as an

Intern Architect AIBC and was not permitted to make submissions to the City in the absence of a certificate of practice.

- 1.17 The pressures and stresses which registrants face, whether from clients, local authorities or other professionals, is not an unusual occurrence when working on projects, but is not an excuse for registrants to deviate from their professional obligations. The fact that an architect has since been retained for the Project is a mitigating factor.
- 1.18 Ms. Ashtiani also admitted that she carries out preliminary feasibility designs of potential new projects to allow Parsi to determine the value and profitability of the land before determining whether to purchase it. The process of reviewing a local municipality's bylaws to determine if the land is re-zoneable or subdivisible, as well as providing a conceptual project design to determine how many units can be placed on the land is a further example of her engaging in unauthorized practice of architecture. This is an aggravating factor.
- 1.19 The fact that Parsi retains architects and other professionals for the project if it purchases the land after considering the feasibility studies and sketches she provides, is a mitigating factor.
- 1.20 Ms. Ashtiani also acknowledged that she was in breach of the *Act* and Bylaws when she was misrepresented as an architect in a print article about the Project. She took prompt steps to contact the author and ask for a correction.
- 1.21 There does not appear to be harm caused to any party as a result of the misconduct which is a mitigating factor. However, there appears to be a significant advantage gained by Ms. Ashtiani's employer, Parsi, which is owned by her husband, by her engaging in unauthorized practice, which is an aggravating factor.

(b) Character and professional conduct record of the respondent

- 1.22 Ms. Ashtiani is 51 years old. She has been registered as an intern architect with the AIBC since August 2008, and is also enrolled in the BEA program.
- 1.23 Ms. Ashtiani does not have a professional conduct record with the AIBC.

(c) Acknowledgement of the misconduct and remedial action

- 1.24 Ms. Ashtiani has been cooperative and candid in the course of the investigation.
- 1.25 She acknowledged that by making preparing and making submissions to the City on the Project while not employed by or under the supervision of an architect with a certificate of practice, as well as providing feasibility studies on other projects for Parsi, she engaged in the practice of architecture beyond the scope of her legal authority and in contravention of the *Act* and Bylaws. She has also accepted responsibility and taken corrective action of the misrepresentations made in print media by a third party.

- 1.26 Ms. Ashtiani's participation in the consensual resolution process and admissions indicate that she has acknowledged her misconduct. This acknowledgment suggests that the concerns arising in this matter have been brought to her attention in a meaningful way.
- 1.27 Both her acknowledgment and participation in the consensual resolution process are mitigating factors.

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

- 1.28 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.
- 1.29 'Specific deterrence' means deterring the respondent from repeating the conduct in question. In this case, Ms. Ashtiani has engaged in a meaningful exchange with the AIBC to gain an understanding of the issues resulting in this consensual resolution agreement so that they do not occur again.
- 1.30 '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 registrants not to provide services beyond the scope of their legal authority and registration with the AIBC and to be cognizant and correct misrepresentations made about their titles.
- 1.31 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 registrants through a process that is fair, proportionate, and consistent.
- 1.32 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.
- 1.33 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.
- 1.34 In File 07.03, the respondent, an intern architect, initially provided architectural services on a project that he mistakenly thought did not require an architect. As the project progressed the client requested changes to the project, which the respondent recognized would require the services of an architect. The respondent informed the client of the need for an architect who chose not to hire one, and work continued with the respondent. Two engineers retained on the project sealed and signed architectural drawings as well as architectural Letters of Assurance as part of the building permit application. The respondent also promoted on their website that they were able to provide architectural services and included information about projects which appeared to require the services of an architect or architectural firm, but none was listed or given credit. The matter was resolved by consensual resolution agreement with the respondent admitting that they were in breach of ss. 27 and

63 of the *Act* and Bylaws 32.2 and 33.3. The agreed upon penalty was a reprimand and completing the Ethics, Act and Bylaws course.

- 1.35 In File 08.13, the respondent, an Architect AIBC, provided architectural services on a project that was issued a development permit. Subsequently, the respondent changed his registration status to an associate category and closed his firm. About a decade later, the respondent revitalized the project and wrote to the local authority to obtain a new development permit by identifying themselves as an architect. The respondent was under the impression that since the earlier development permit had been issued under their design, they were not in contravention of the *Act*. The respondent overlooked the fact that using their old title block that identified them as an architect was not accurate. The respondent withdrew their re-application from the local authority and took the necessary steps to retain a registered architect for the project. The matter went to hearing by joint submission in which the respondent admitted that they: prepared and submitted development permit drawings for the project to the local authority without holding a certificate of practice or working through an architectural firm that is the holder of a certificate of practice; provided architectural services for the project while not employed by or under the supervision of an architect; and misrepresented themselves as an architect, contrary to ss. 27(2) and 41(2) of the *Act* and Bylaws 32.2 and 33.3. The penalty order imposed was a reprimand, fine of \$1,500, and completion of the Ethics, Act and Bylaws course.
- 1.36 The conduct in files 07.03 and 08.13 only concern one project in which the respondent engaged in unauthorized practice that was beyond the scope of their registration with the AIBC, while in Ms. Ashtiani's case, it was the Project, as well as other projects Parsi was considering purchasing. It is also a distinguishing factor that since her developer husband is the owner of Parsi, she would have gained financial benefits from her misconduct.
- 1.37 It is submitted that the penalty in this case is proportional to the seriousness of the misconduct and degree of responsibility on Ms. Ashtiani to ensure her compliance with her obligations as an intern architect with the institute. The basis for an increase in the amount of the fine is in keeping with changing expectations of the public stemming from evolving contemporary values in society over the last 15 years when the precedent files occurred.
- 1.38 For the reasons above, it is submitted that the higher financial penalty agreed upon is appropriate.
- 1.39 As noted in *Peet* above, there will rarely, if ever, be only one single appropriate outcome in a professional disciplinary file.
- 1.40 Ms. Ashtiani 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, including website publication for a period of six months 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 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.

Ms. Ashtiani acknowledges that she 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 Noushin Ashtiani Intern 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@aicbc.ca.