

90-08

CONSENT AGREEMENT

This agreement is entered into this 31st day of January, 1991 by and between the following parties as set forth more fully below.

WITNESSETH

WHEREAS, David T. Zammit (hereinafter ZAMMIT), a citizen of the State of Ohio, was issued a Certificate of Qualification, certificate number 8430, and was registered to practice the profession of architecture by the Ohio Board of Examiners of Architects on April 9, 1987, in accordance with sections 4703.10, 4703.11 and 4703.12 of the Ohio Revised Code (hereinafter O.R.C.); and

WHEREAS, the Ohio Board of Examiners of Architects (hereinafter BOARD), is charged by law with enforcement of Chapter 4703 of the O.R.C., and all the rules promulgated thereunder; and

WHEREAS, O.R.C. 4703.13 requires that any holder of a Certificate of Qualification shall, before or during the month of each December preceding the year the holder desires to continue to practice architecture, make application and submit a renewal fee to the BOARD in order to renew the holder's certificate; and

WHEREAS, ZAMMIT, having renewed his Certificate of Qualification to practice architecture for the year 1988 (i.e. January 1, 1988 - December 31, 1988), failed to make application for renewal or tender the requisite renewal fee, as

required by O.R.C. 4703.13 for the year 1989 (i.e. January 1, 1989 - December 31, 1989), though ZAMMIT allegedly continued to engage in the practice of architecture during this period of non-renewal; and

WHEREAS, on March 19, 1990, ZAMMIT made application for renewal of his Certificate of Qualification and tendered to the BOARD the requisite renewal fees for years 1989 and 1990; and

WHEREAS, pursuant to its statutory authority the BOARD, pursuant to O.R.C. Chapter 119 issued to ZAMMIT on April 16, 1990 a Notice of Opportunity for a Hearing which notified ZAMMIT that it proposed to deny his application for renewal submitted March 19, 1990 for the reason that ZAMMIT had since the expiration of his Certificate of Qualification to practice architecture, allegedly entered into the practice of architecture and held himself out as an architect in violation of O.R.C. Sections 4703.06 and 4703.18(A); and

WHEREAS, various discussions have been held by the representatives of the BOARD and ZAMMIT in an effort to amicably and promptly resolve this disputed matter, thereby avoiding the additional expense of continued litigation, and as a result of the aforesaid discussions and in full recognition of their respective rights, the parties have reached an agreement, memorialized herein:

NOW, THEREFORE, in consideration of the various promises and covenants contained herein the parties agree as follows:

1. The BOARD agrees, upon receipt of ZAMMIT's application

for renewal and applicable renewal fee for year 1991, to grant the renewal of ZAMMIT's Certificate of Qualification to practice architecture for that renewal period. However, this Certificate of Qualification to practice architecture shall be immediately suspended by the BOARD for a period of One Hundred Eighty (180) days, commencing upon the issuance of the renewal of the Certificate of Qualification.

2. ZAMMIT agrees, in accordance with O.R.C. 4703.14, to make application to the BOARD for renewal of his Certificate of Qualification to practice architecture for year 1991 and to tender the requisite renewal fee. ZAMMIT further agrees, that while under the above-stated suspension, not to enter upon or engage in the practice of architecture until such time as he is in compliance with the provisions of O.R.C. 4703.01 to O.R.C. 4703.19, inclusive, with the exception that ZAMMIT will be permitted in accordance with O.R.C. 4703.17 to engage in architectural work as an employee of a registered architect, provided that such work does not include responsible charge of design or of inspection.

3. The BOARD agrees not to proceed with further action against ZAMMIT for any of the conduct described in its April 16, 1990 Notice of Opportunity for a Hearing.

4. ZAMMIT hereby waives all of his rights under O.R.C. Chapter 119, as they relate to matters which are the subject of this CONSENT AGREEMENT and further agrees to waive any and all claims or causes of action he may have against the State of

Ohio, the BOARD, and members, officers, employees and/or agents of either, arising out of the matters which are the subject of this CONSENT AGREEMENT.

5. The BOARD and ZAMMIT acknowledge that the facts upon which this agreement is made may hereafter prove to be other or different from the facts now known or believed to be true. The BOARD and ZAMMIT assume the risk of the facts proving to be different and each party agrees that all terms of this agreement shall be in all respects effective and not subject to termination or rescission by reason of any such difference in facts.

6. The BOARD and ZAMMIT agree and acknowledge that upon the expiration of the above-mentioned suspension, the terms and conditions for recertification shall be in accordance with

O.R.C. 4703.15, *AND THE BOARD SHALL AT THAT TIME RESTORE HIS CERTIFICATE WITH NO FURTHER PAYMENT BY ZAMMIT.*

7. The BOARD and ZAMMIT understand and acknowledge that this CONSENT AGREEMENT:

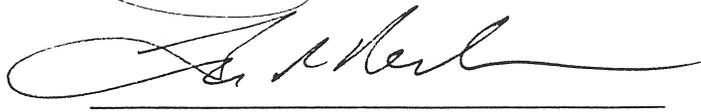
- a. constitutes a lawful order by the BOARD;
- b. contains the entire agreement between the parties, and it is expressly understood that no promises, provisions, terms warranties, conditions or obligations whatever, either express or implied, other than herein set forth, shall be binding on either party;
- c. shall be governed by the laws of the State of Ohio.

This CONSENT AGREEMENT shall take effect when it is subscribed to by the parties and their representatives and upon

ZAMMIT's compliance with the renewal procedures prescribed in provision two (2) as previously set forth herein.



DAVID T. ZAMMIT



FRANK R. RECKER
Attorney for Mr. Zammit



WILLIAM N. WILCOX
Executive Secretary
Ohio Board of Examiners of
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