

**MARYLAND STATE BOARD
OF ARCHITECTS**

vs.

**MICHAEL DANLADI,
RESPONDENT**

*** BEFORE THE
* MARYLAND STATE BOARD OF
* ARCHITECTS
* OAH No. DLR-ART-52-16-28644
* AGENCY NO. 16-AR-13**

* * * * *

OPINION AND FINAL ORDER

This matter came before the State Board of Architects (the "Board") for argument on exceptions filed by the Respondent, Michael Danladi (the "Respondent"), to the Board's Proposed Order of July 11, 2017. On March 17, 2017, the Administrative Law Judge (hereinafter referred to as "ALJ") filed a Proposed Decision and Proposed Order. The ALJ concluded that the Respondent was guilty of violating Sections 3-601 through 3-604 of the Business Occupations and Professions Article, Annotated Code of Maryland (2010 Repl. Volume, 2017 Supp.). Furthermore, for these violations, the ALJ recommended a fine of Seven Thousand Five Hundred Dollars (\$7500) in accordance with provisions of Section 3-605 of the Business Occupations and Professions Article, Annotated Code of Maryland (2010 Repl. Volume, 2017 Supp.).

On July 17, 2017, the Board issued a Proposed Order which adopted the ALJ's Recommended Findings of Fact, Conclusions of Law, and recommended fine, without modification. The Respondent filed exceptions to the Proposed Order.

The hearing on the exceptions (the "Exceptions Hearing") before the Board was scheduled for and conducted on December 20, 2017. The Respondent was not represented by counsel, even though he was advised of his right to counsel. The presenter of evidence on behalf of the State was Andrew Brouwer, Assistant Attorney General. Milena Trust, Assistant Attorney General, served as counsel to the Board. The proceedings were electronically recorded.

SUMMARY OF THE EVIDENCE

The State offered five exhibits, all of which were accepted without objections. The Respondent did not offer any exhibits. No party to the proceeding has filed a transcript of the testimony of the hearing held before the ALJ.

DISCUSSION

The Board carefully considered the Respondent's argument and the response to it by the State, as well as the record below and the evidence presented at the Exceptions Hearing. As

stated earlier, the Board adopted in its Proposed Order the ALJ's Recommended Findings of Fact, Conclusions of Law, and recommended fine, without modification. However, the Board wants to note two important points which became evident as a result of the Exceptions Hearing.

In his testimony the Respondent repeatedly attempted to introduce evidence that was not part of the ALJ's Recommended Decision. On numerous occasions during the Exceptions Hearing, the Respondent was advised that absent of the transcript, such evidence may not be received by the Board. In addition, the Respondent tried to refer to a letter dated November 11, 2017, to the Board by Mr. Richard Ituah, ostensibly the Respondent's partner. The Board received the letter on December 12, 2017. Besides the fact that the letter was not even submitted by the party to the proceedings, the Respondent failed to apply to introduce this potentially new evidence at least 15 days before the scheduled hearing, as mandated by the Code of Maryland Regulations ("COMAR") 09.01.03.09L. Additionally, COMAR 09.01.03.09K explicitly prohibits a party's opportunity to introduce new evidence at an exception hearing "unless the party seeking to introduce it demonstrates to the satisfaction of the administrative unit that the new evidence: (1) is relevant and material; (2) was not discovered before the ALJ hearing; and (3) could not have been discovered before the ALJ hearing with the exercise of due diligence." The hearing before the ALJ took place on February 1, 2017. The Board understands that the Respondent's witness, due to medical circumstances, was not available to be at the hearing before the ALJ. However, the Respondent had plenty of time to make an attempt to present the evidence from Mr. Ituah expeditiously after that. The Respondent was advised by the Board in the Exception Hearing notice of an opportunity and time line to file a written request to present new evidence at least 15 days before the Exceptions Hearing. Yet, the Respondent failed to do that since the letter from Mr. Ituah was received by the Board only 8 days before the date of the hearing. Therefore, the new evidence not only was not submitted in a timely fashion, but also was attempted to be proffered by someone who is not a party to the proceedings.

The second point that the Board would like to discuss is the issue of fine. The Respondent argued that the fine of \$7500 was excessive. He alleged that he does not have the ability to pay the fine now that his "business" is shut down. The Board certainly understands the Respondent's argument. Yet, when issuing the Proposed Order, the ALJ went through the required consideration of four statutory factors: (1) the seriousness of the violation; (2) the harm caused by the violation; (3) the good faith of the violator, and (4) any history of previous violations by the violator. Section 3-605 (b) of the Business Occupations and Professions Article, Annotated Code of Maryland (2010 Repl. Volume, 2017 Supp.). The ALJ looked to all these factors in arriving at the appropriate penalty. The record is replete with the Respondent's evidence of violations. In addition, the Respondent never contacted the Board to see if he and the Board could reach a consent arrangement with regard to the fine, thereby saving the Board the time and expense of the hearing. The Board is authorized to impose a penalty not exceeding \$5,000.00 for each violation. The Respondent was found to be responsible for four violations.

Considering all the factors and the totality of circumstances, it is the Board's conclusion that the fine that was imposed is reasonable.

Therefore, having read and considered the Respondent's arguments, the documentary evidence contained in the record, the ALJ's Recommended Decision, and the Board's Proposed Order, it is this 24th day of January, 2018, **ORDERED:**

- A. That the Findings of Fact and Conclusion of Law of the ALJ are **AFFIRMED**;
- B. That Respondent, Michael Danladi, violated Business Occupations and Professions Article, Ann. Code of Maryland (2010 Repl. Vol., 2017 Supp.), Sections 3- 601 through 3-604;
- C. That Respondent, Michael Danladi pays the fine of Seven Thousand Five Hundred Dollars (\$7,500) within sixty (60) days of the date of the receipt of this Final Order;
- D. That the Board may take whatever action it deems appropriate to ensure the payment of the fine; and
- E. That the records and files of the Board reflect this Opinion and Final Order.

Signatures on File