

**IN THE MATTER OF** the *Architects Act*, R.S.O.  
1990, c. A.26

**AND IN THE MATTER OF** the *Statutory Powers  
Procedure Act*, R.S.O. 1990, c. S.22

**AND IN THE MATTER OF** a proceeding before  
the Registration Committee of the Ontario  
Association of Architects pursuant to Section 25  
of the *Architects Act* to hear the proposal of the  
Registrar of the Association to refuse a license to  
**Jason De Brum** as set out in the Notice of  
Hearing dated October 13, 2023 and a license  
and certificate of practice to **Christina Marinos**  
as set out in the amended Notice of Hearing  
dated October 2, 2023,

J. William Birdsell, Councillor (Chair)

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Chris Montgomery, Member

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Julius Horvath, Member

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WEDNESDAY THE 17<sup>TH</sup> DAY  
OF APRIL, 2024

John Terry, Counsel to the Tribunal

Christina Marinos

Jason De Brum

Jimmy Gangadin, Representing Ms. Marinos  
and Mr. De Brum

Rebecca Durcan and Erin MacQuarrie,  
Counsel to the Association

## **DECISION AND ORDER OF THE REGISTRATION COMMITTEE**

This matter coming on for hearing before the Registration Committee on this date via videoconference hosted by Arbitration Place, in which the Registrar served:

1. a Notice of Proposal, dated September 18, 2023 to refuse to issue a Licence or Certificate of Practice to Jason De Brum.
2. a Notice of Proposal, dated August 9, 2023 to refuse to issue a Licence or Certificate of Practice to Christina Marinos.

In the presence of the Registrar of the Association and of Mr. De Brum and Ms. Marinos, and hearing the evidence adduced:

**THE REGISTRATION COMMITTEE** having duly considered all of the information placed before it with respect to the Applicants' applications for a Licence and Certificate of Practice


**HEREWITH DIRECTS** the Registrar to issue:

- a) to Mr. De Brum a Licence, subject to him successfully completed one of the following:
  - a. the Examination for Architects in Canada published by the OAA;
  - b. the Architect Registration Examination of the National Council of Architectural Certification Boards; or
  - c. any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered as a whole, is considered equivalent to one of those examinations, as

approved by the Council;


- b) and to Ms. Marinos a Licence and Certificate of Practice subject to the terms, conditions and limitations set out in Schedule "A".

DATED AT TORONTO THIS 3<sup>rd</sup> DAY OF JULY 2024.



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J. William Birdsell, Councillor (Chair)



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Chris Montgomery, Member

## Appendix “A”

### Applicant’s Terms, Conditions and Limitations

#### Terms, Conditions and Limitations of Licence

1. The Applicants may provide, and personally supervise and direct, architectural services for a building that:
  - a. as constructed, enlarged, or altered, is not more than three storeys in height and not more than 600 square meters in gross area and is used or intended for one or more of the following occupancies:
    - i. Residential;
    - ii. Business;
    - iii. Personal Services;
    - iv. Mercantile;
    - v. Industrial; or
    - vi. a restaurant designed to accommodate not more than 100 persons consuming food or drink;
  - b. is used or intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than four storeys in height;
  - c. is used or intended for residential occupancy, that contains three or more attached dwelling units and as constructed, enlarged, or altered, is not more than four storeys in height and not more than 600 square meters in building area; or
  - d. is excepted by the *Architects Act*, s. 11(3).

2. The Applicants shall ensure that their limited scope of practice is clearly indicated to the public in a manner set out and approved by the Registrar<sup>1</sup> (e.g., website, letterhead, business cards, social media profile).
3. The Applicants may act as the prime consultant for the construction, enlargement, or alteration of any building. However, where the Applicants have agreed to arrange for the provision of architectural services to a member of the public beyond those permitted in Paragraph 1, they must engage a holder of a Certificate of Practice not subject to these Terms, Conditions, and Limitations.

Terms, Conditions and Limitations of Certificate of Practice

4. The Certificate of Practice shall be subject to the same Terms, Conditions, and Limitations as the licence.
5. The Applicants may provide architectural services to the public as a sole proprietor, in a partnership, or through a corporation, providing that the proprietor, partnership, or corporation holds a Certificate of Practice. The Certificate of Practice shall be subject to the limitations of Paragraph 1

The Applicants shall not directly or indirectly own or control more than 49% of the voting shares and value of all the shares of a corporation, or directly or indirectly hold more than 49% of the voting and financial interest of a partnership, to which a Certificate of Practice not subject to the Terms, Limitations, and Conditions of this policy has been issued under Section 146 or 157 of the *Architects Act*.

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<sup>1</sup> Whatever title the Registrar selects should clearly convey the Applicants' limited scope of practice, e.g., "Architect (Limited Scope)", "Limited Scope Architect" or similar.

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J. William Birdsell, Councillor (Chair) )

Julius Horvath, Member )

Chris Montgomery, Member )

WEDNESDAY THE 17<sup>TH</sup> DAY OF  
APRIL, 2024

John Terry, Counsel to the Tribunal

Christina Marinos

Jason De Brum

Jimmy Gangadin, Representing Ms. Marinos  
and Mr. De Brum

Rebecca Durcan and Erin MacQuarrie,  
Counsel to the Association

## **REASONS FOR THE DECISION AND ORDER OF THE REGISTRATION COMMITTEE**

The Registration Committee of the Ontario Association of Architects (the “OAA”) met on this date via videoconference hosted by Arbitration Place, for the purpose of hearing the proposal of the Registrar of the Association to refuse to issue to Jason De Brum and Christina Marinos (collectively, the “Applicants”) licences and, in the case of Ms. Marinos, a certificate of practice.

After the commencement of the hearing, Julius Horvath, one of the Committee members, advised the parties that he would be unable to continue. The parties agreed that the remaining members of the Committee, Mr. Birdsell and Mr. Montgomery, could complete the hearing pursuant to section 33(2) of the Architects Act (the “Act”) and section 4.4(1) of the Statutory Powers Procedure Act

### **FACTS**

As described in greater detail below, each of the Applicants obtained a Licensed Technologist OAA designation from the OAA, both of which were held until May 10, 2023, when that that licence was subsequently voided upon the dissolution of the OAA’s former Licensed Technologist OAA Program.

There were two Agreed Statements of Facts (ASOF), each dated April 10, 2024, submitted into evidence, one with respect to Mr. De Brum’s application and another with respect to Ms. Marinos’ application. The background facts set out in these Reasons for Decision

reproduce and/or summarize relevant facts from the ASOFs, supplemented by additional evidence introduced at the hearing.

As described in greater detail below, each of the Applicants was educated and trained in architectural technology in Ontario and provided related services. In addition:

- a) Mr. De Brum obtained a Licensed Technologist OAA designation from the OAA in November 2020; and
- b) Ms. Marinos obtained a Licensed Technologist OAA designation from the OAA on June 21, 2022.

### **OAA's Former Licensed Technologist OAA Program**

In May 2003, the OAA founded a program for architectural technology college graduates which continued until May 2023. In 2003, the initial iteration of the technology program was created by the OAA in partnership with the Ontario Association of Certified Engineering Technicians and Technologists (the "OACETT"). Between 2003 and 2010, the technology program was administered by the Ontario Association for Applied Architectural Sciences (the "OAAAS"), a not-for-profit organization owned equally by the OAA and the OACETT. In 2011, the OAA assumed full ownership of the OAAAS. In 2022, the OAA brought the technology program in-house and administered it directly until May 2023.<sup>1</sup>

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<sup>1</sup> ASOF, paragraphs 6-9.



Applicants to the technology program were required to meet education, experience and examination requirements which included tendering documentation about their education, recording their experience hours, completing a qualifying examination, and participating in the OAA's Admission Course. Upon successful completion of the program, applicants received certification and were referred to the OAA's Office of the Registrar to apply for licensure as "Licensed Technologists OAA."<sup>2</sup>

The Licensed Technologist OAA licensing structure was created by the OAA in 2010 via Council policy.<sup>3</sup> That policy purported to do certain things, including:

- a) Authorizing the Registrar to issue licences to Licensed Technologists OAA pursuant to subsection 13(1) of the *Act*;
- b) Exempting Licensed Technologists OAA from the required academic and experience requirements set out in the *General Regulation*, RRO 1990, Reg 27, made under the *Act* (the "*Regulation*");
- c) Specifying terms, conditions and limitations to be placed on both the licence and certificate of practice of Licensed Technologists OAA, restricting their scope of practice;
- d) Authorizing Licensed Technologists OAA to engage in certain specified acts within the practice of architecture, including to provide, personally supervise and direct architectural services for a building that:
  - a. as constructed, enlarged, or altered, is not more than three storeys in height and not more than 600 square metres in gross area and is used or intended for one or more of the following occupancies: 1. Residential; 2. Business; 3.

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<sup>2</sup> ASOF, paragraphs 10-11.

<sup>3</sup> ASOF, Tab J.

- Personal services; 4. Mercantile; 5. Industrial; or 6. a restaurant designed to accommodate not more than 100 persons consuming food or drink;
- b. is used or intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than four storeys in height;
  - c. is used or intended for residential occupancy, which contains three or more attached dwelling units and as constructed, enlarged, or altered, is not more than four storeys in height and not more than six hundred square metres in building area;
  - d. is excepted by section 11(3) of the *Act*; and
- e) Authorizing Licensed Technologists OAA to apply for a certificate of practice subject to the same terms, conditions, and limitations as the licence and in accordance with the following:
- a. The Licensed Technologist OAA may provide architectural services to the public as a sole proprietor, in a partnership, or through a corporation, providing that the proprietor, partnership, or corporation holds a certificate of practice. The certificate of practice shall be subject to the limitations of the licence.
  - b. The Licensed Technologist OAA shall not directly or indirectly own or control more than 49% of the voting shares and value of all the shares of a corporation, or directly or indirectly hold more than 49% of the voting and financial interest of a partnership, to which a certificate of practice not subject

to the terms, limitations, and conditions of this policy has been issued under sections 14 or 15 of the *Act*.<sup>4</sup>

### **Dissolution of the Licensed Technologist OAA Program**

In December 2022, the Association of Architectural Technologists of Ontario (the “AATO”) brought an application to the Ontario Superior Court of Justice for an injunction challenging the OAA’s authority to issue licences and certificates of practice to individuals under the Council policy. In particular, the AATO asserted that the OAA’s authority to issue licences and certificates of practice was limited to the powers set out in the *Act* and *Regulation* and could not be expanded by policy.<sup>5</sup>

On May 10, 2023, the Ontario Superior Court ordered on consent, among other things, that:

- a) the OAA has no lawful authority to issue licences or certificates of practice based on the policy or similar policy not set out in a regulation under the *Act*, including the licences and certificates of practice described as “Licensed Technologist OAA” or “Licensed Architectural Technologist OAA;”
- b) any licences or certificates of practice issued by the OAA based on the policy or similar policy not set out in a regulation under the *Act*, including the licences and certificates of practice described as “Licensed Technologist OAA” or “Licensed Architectural Technologist OAA,” are void *ab initio* and of no force and effect; and

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<sup>4</sup> ASOF, paragraph 13.

<sup>5</sup> ASOFs paragraphs 15-16.

- c) the OAA is prohibited from issuing licences or certificates of practice based on the policy or similar policy not set out in a regulation under the *Act*, including the licences and certificates of practice described as “Licensed Technologist OAA” or “Licensed Architectural Technologist OAA.”<sup>6</sup>

As a result of the above-noted order, the Licensed Technologist OAA designations held by the Applicants and certificate of practice held by one of them were voided on May 10, 2023.<sup>7</sup>

### **Mr. De Brum’s Application for a Licence**

On or about September 8, 2023, the Registrar of the OAA (the “Registrar”) received an application<sup>8</sup> from Mr. De Brum to be licenced as an Architect under section 13 of the *Act*. Mr. De Brum submitted a revised application<sup>9</sup> on or about September 12, 2023, which corrected minor errors in the first application but otherwise included the same information.

The application demonstrates that Mr. De Brum was educated and trained in architectural technology in Ontario. Among other things he:

- a) graduated with a diploma, 3-year Architectural Technology Co-op Program, Sheridan College, 2004;
- b) completed the MMHA OBC Exams, BCIN Qualifications, 2005/06;

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<sup>6</sup> ASOF, paragraph 17.

<sup>7</sup> ASOF, paragraph 18.

<sup>8</sup> ASOF, paragraph 2

<sup>9</sup> ASOF, paragraph 2

- c) obtained the designation of Applied Science Technologist, via OACETT, having completed the OACETT Professional Practice Exam in 2007 prior to joining the OAAAS;
- d) gained 5580 hours of work experience in the specified categories under the responsible control or personal supervision and direction of a person licensed to engage in the practice of architecture in Ontario, prior to the implementation of the new Program Guide;
- e) gained 940 hours in Ontario within the three years prior to applying for licensure in 2021 and was under the personal supervision and direction of a person licensed to engage in the practice of architecture in Ontario;
- f) was Chair, Sheridan College Program Advisory Committee, Architectural Technician/Technology programs, from 2011 to 2014, for four consecutive committees;
- g) was an Instructor, Sheridan College, Studio 6 'Adaptive Re-Use' – 3rd Year Architectural Technology in 2011 and 2012;
- h) attended the OAA Admission Course, Fall Session 2018;
- i) passed the Licensed Technologist OAA examination in November 2020;
- j) graduated from the Master of Architecture program with Distinction at the Boston Architectural College in December 2023;
- k) worked as the following at [REDACTED]:
  - Senior Associate (2019-2023)
  - Associate / Senior Project Manager (2012-2018)
  - Project Manager (2010-2012)
  - Intermediate Technologist (2008-2010)
  - Junior Technologist (2004-2008)

- l) worked as the following at [REDACTED]:
- Managing Partner 2023-2024

On or about September 18, 2023, the Registrar proposed to refuse Mr. De Brum's application for a licence pursuant to section 25(1)(a) of the *Act*.<sup>10</sup>

As explained in the Registrar's Notice of Proposal and Reasons for Decision,<sup>11</sup> the Registrar determined that Mr. De Brum had completed the Admission Course offered by the OAA, but had not met the requisite educational, experience and examination requirements.

Specifically, the Registrar determined that the Mr. De Brum had not:

- a) completed a degree in architecture from a post-secondary institution, or completed the Royal Architecture Institute Syllabus;
- b) received a Certificate of Certification issued by the Canadian Architectural Certification Board;
- c) successfully completed one of the following:
  - a. the Examination for Architects in Canada published by the OAA;
  - b. the Architect Registration Examination of the National Council of Architectural Certification Boards;
  - c. any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered

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<sup>10</sup> ASOF, paragraph 4.

<sup>11</sup> ASOF, Tab G.

as a whole, is considered equivalent to one of those examinations, as approved by the Council;

- d) completed a total of 3,720 hours of experience that meets the requirements of the Intern Architect Program published by the OAA, which must include:
- a. at least 940 hours of experience in Ontario under the personal supervision and direction of a person licensed to engage in the practice of architecture in Ontario, which must be completed within the three years before the date on which the person applies for the licence, and
  - b. at least 2,780 additional hours of experience under the personal supervision and direction of a person authorized to engage in the practice of architecture.<sup>12</sup>

### **Christina Marinos' Application for a Licence and Certificate of Practice**

On or about August 1, 2023, the Registrar of the OAA (the "Registrar") received from Ms. Marinos an application to be licenced as an Architect<sup>13</sup> and an application for a certificate of practice from Ms. Marinos for her corporation, Christina Marinos Designs Inc., under section 13 of the *Act*. Ms. Marinos submitted revised applications<sup>14</sup> on or about August 2 and 3, 2023, which corrected minor errors in the first application but otherwise included the same information.

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<sup>12</sup> ASOF, paragraph 4.

<sup>13</sup> ASOF, paragraph 2.

<sup>14</sup> ASOF, paragraph 2.

The application demonstrates that Ms. Marinos was educated and trained in architectural technology in Ontario. Among other things she:

- a) graduated from a three (3) year Architectural Technology Program or approved educational equivalent George Brown College, 2016;
- b) gained 5580 hours of work experience in the specific categories as set out in the OAA Technology Program Guide;
- c) completed 940 hours of ERB experience as set out in the currency requirement of the OAA Technology Program Guide;
- d) successfully completed the OAA Admission Course in 2021;
- e) passed the Licensed Technologist OAA examination June 21, 2022;
- f) completed BCIN for House 2012 & Small Buildings 2012;
- g) is currently enrolled in the Master of Architecture Degree at the Boston Architectural College;
- h) from September 2022 to present has worked as a Professor/Instructor at George Brown College (Casa Loma Campus) in Toronto, Ontario and is responsible for ARCH Studio Courses and CADE Revit Course;
- i) from July 2019 to present has worked as Owner/Principal/Licensed Technologist OAA (Former) at Christina Marinos Designs in Toronto, Ontario;
- j) from February 2017 to October 2021 worked as Intern Technologist at [REDACTED] Ontario;
- k) from May 2016 to February 2017 worked as Design Coordinator/Project Coordinator at [REDACTED] Ontario;
- l) from June 2013 to February 2016 worked as a Junior Designer (Part Time & Co-op Term) at [REDACTED], Ontario.



On or about August 9, 2023, the Registrar proposed to refuse the Ms. Marinos' application for a licence pursuant to section 25(1)(a) of the *Act*.<sup>15</sup>

As explained in the Registrar's Notice of Proposal and Reasons for Decision,<sup>16</sup> the Registrar determined that Ms. Marinos had completed the Admission Course offered by the OAA, but had not met the requisite educational, experience and examination requirements.

Specifically, the Registrar determined that Ms. Marinos had not:

- a) completed a degree in architecture from a post-secondary institution, or completed the Royal Architecture Institute Syllabus;
- b) received a Certificate of Certification issued by the Canadian Architectural Certification Board;
- c) successfully completed one of the following:
  - a. the Examination for Architects in Canada published by the OAA;
  - b. the Architect Registration Examination of the National Council of Architectural Certification Boards;
  - c. any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered as a whole, is considered equivalent to one of those examinations, as approved by the Council;

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<sup>15</sup> ASOF, paragraph 4.

<sup>16</sup> ASOF, Tab B.

- d) completed a total of 3,720 hours of experience that meets the requirements of the Intern Architect Program published by the OAA, which must include:
- a. at least 940 hours of experience in Ontario under the personal supervision and direction of a person licensed to engage in the practice of architecture in Ontario, which must be completed within the three years before the date on which the person applies for the licence, and
  - b. at least 2,780 additional hours of experience under the personal supervision and direction of a person authorized to engage in the practice of architecture.<sup>17</sup>

With respect to the application for a certificate of practice, the Registrar determined that the primary function of Christina Marinos Designs Inc. is to engage in the practice of architecture. However, the ownership and control of the corporation is neither held nor directed by a member of the Ontario Association of Architects, nor a member of the Association of Professional Engineers of Ontario as required by the issuance of a certificate of practice to a corporation. The Registrar noted that Ms. Marinos currently meets the requirements set out at section 34(a)(i) of the *Act* to be insured against professional liability by an insurance corporation referred to in subsection 2(5) of the *Act*.

### **Additional Evidence Adduced by Mr. De Brum at the Hearing**

In addition to the information in the ASOF, the Committee heard evidence from Mr. Brum and a colleague at the hearing.

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<sup>17</sup> ASOF, paragraph 5.

Mr. De Brum testified about the course work he had completed to obtain his Master of Architecture at Boston Architectural College in December 2023, described and presented the Committee with drawings of work he had done on an urban bank for [REDACTED] and retirement residences for [REDACTED], and presented various supportive letters from colleagues with whom he had worked. He clarified that he was seeking full licensure as an architect rather than a licence with conditions. He testified that he had now fulfilled the education requirement for licensure as a result of obtaining his Master of Architecture and receiving the required certification from the Canadian Architectural Certification Board. He stated that in his opinion he had effectively fulfilled the experience requirement as a result of 20 years of working under and with architects, doing work that was in practice the same as the work that an intern architect would do, and so should be exempted from the experience requirements for licensure. In addition, he stated that in his view the licensed technologist examinations he had written and passed were a distilled version of the examinations required for licensure as an architect so he should be exempted from the examination requirements as well.

The Committee also heard testimony from [REDACTED], an Ontario architect who testified that he had worked with Mr. De Brum on two projects over the last ten years. He stated that in his opinion Mr. De Brum functions at a higher level than many of the architects [REDACTED] [REDACTED] employed and he would rank him in the top 5 or 6 people with whom he has worked over his 45-year career as an architect.

## **Additional Evidence Adduced by Ms. Marinos at the Hearing**

In addition to the information in the ASOF, Ms. Marinos testified about her experience as an architectural technologist for eight years, her decision to enroll in 2023 in the Boston Architectural College Master of Architecture program, the nature of her studies and her expected graduation date in 2025. She also shared with the Committee letters of recommendation she had received and examples of her work. She stated that she understood she could not satisfy the education requirement for licensure until she graduated in 2025 but requested that she be granted in the interim a licence with terms, conditions and limitations.

## **THE PARTIES' SUBMISSIONS**

The Committee heard submissions from counsel for the Registrar on the scope of the Committee's exemption powers, and from Mr. Gangadin on behalf of Mr. De Brum and Ms. Marinos as to why the Committee should exercise its discretion to exempt them from the relevant licensing requirements.

### **The Association's Submissions**

At the outset of her submissions, counsel for the Association described the provisions of the *Architects Act* that set out the academic, experience and examination requirements for a person to be licenced as an architect and a corporation to be issued a certificate of practice. She noted that section 25(8) of the *Act* provides that the Committee may exempt any of the

licensing requirements set out in the *Act* and *Regulation* if it concludes that it is appropriate to do so.

Counsel for the Association reviewed two decisions of the Health Professions Appeal and Review Board<sup>18</sup> which speak to the ability of registration committees to exempt licensing requirements, and the factors committees should consider in exercising their exemption powers. She noted that while the cases were neither factually similar to the Applicant's circumstances nor binding on the panel, they offered principles articulated by other registration committees which the Committee might find useful. First, Counsel for the Association observed that the onus is always on an applicant to meet the registration requirements and does not rest with the regulator to prove they do not. Second, she submitted that in granting a license, the relevant regulator is verifying to the public that the individual has demonstrated that they meet the standards of the profession as set by the college.<sup>19</sup> Counsel for the Association submitted that exemptions can and should be granted – and there are no requirements that have been flagged in the *Act* or *Regulation* as non-exemptible – but only if they are appropriate. Third, Counsel for the Association noted that exemptions are warranted where an applicant meets the spirit of a registration requirement though not the specific requirement itself.<sup>20</sup> She submitted that to grant an exemption the Committee will want some evidence that the intent, the pith and substance of the legislative and regulatory requirements have been met, albeit in an alternative way.

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<sup>18</sup> *Keen v College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario*, 2021 CanLII 108446 (ON HPARB); *CLC v College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario*, 2019 CanLII 24916 (ON HPARB)

<sup>19</sup> *Keen*, para. 49. See also *CLC*, paras. 26-27, 52.

<sup>20</sup> *Keen*, para. 56.

Counsel for the Association also briefly reviewed two previous decisions of the Committee which she noted are not binding on this panel. In one, a Decision and Order dated November 2, 2023, the Committee concluded that it was not prepared to exempt the relevant licensing requirements based on the information the applicant had proffered and the Committee’s interpretation of section 25(8) of the *Act*.<sup>21</sup> In another, a Decision and Order dated February 29, 2024, the Committee determined that section 25(8) of the *Act* permitted it to grant an exemption and order with terms, conditions and limitations (“TCLs”) and decided that the Applicants had met the spirit and intention of the educational and training requirements. The Committee in that case exercised its power to grant an exemption and order with TCLs that were substantially similar to the TCLs under the Licensed Technologist OAA Licence.<sup>22</sup> The Committee directed the Registrar to come up with a title that satisfactorily communicated to the public the limitation that the Registration Committee was imposing on these licences.

Counsel for the Association noted that Mr. De Brum’s situation had changed since his application, *i.e.*, he now met the education requirement – so the Committee would have to determine if it is prepared to exempt him from the remaining requirements and, if so, if it believes it is necessary to attach any terms, conditions and limitations, or identify any additional examinations or training that are required. Because Ms. Marinos had not yet completed her Master of Architecture, her situation had not changed since the date of her application to the Registrar.

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<sup>21</sup> Decision and Order of the Registration Committee and Reasons for Decision dated November 2, 2023 (redacted)

<sup>22</sup> Decision and Order of the Registration Committee and Reasons for Decision dated February 29, 2024 (redacted)

Finally, counsel for the Association noted that the OAA has been working to implement a legislative solution to the dissolution of the Licensed Technologist OAA program and that, while the proposed amendments to the *Act* have been passed by the Legislature, they have not yet been implemented, meaning they do not yet have the force of law.

### **The Applicants' Submissions**

Mr. Gangadin for the Applicants emphasized that both Mr. De Brum and Mr. Marinos had met all the OAA requirements to be licenced as technologists and had been in good standing when they lost their ability to practice due to a challenge from a third-party group and through no fault of their own.

Mr. Gangadin confirmed that Mr. Brum is asking that his 20 years of working in the industry as a technologist count for something and that, having now fulfilled the education requirement, he be exempted from the hours and examination requirements.

Mr. Gangadin clarified that Ms. Marinos is asking for the same result as the Registration Committee's February 29, 2024 decision referred to above, in which case the Committee exercised its power to grant an exemption and order with TCLs that were substantially similar to the TCLs under the Licensed Technologist OAA Licence. He also asked that the Tribunal address the situation that will likely arise in May 2025, when Ms. Marinos is expected to complete her Master of Architecture and clarify whether – having then met the education component – she would be required to complete the intern hours or examination requirements.

## **ANALYSIS**

### **Mr. De Brum's application**

Having carefully considered Mr. De Brum's evidence, including his testimony, the testimony of ██████ the ASOF, and the project drawings and references filed by Mr. De Brum, and the parties' submission, the Committee is satisfied that Mr. De Brum has now met the academic requirements and should be exempted from the experience requirements. The Committee directs the Registrar to issue a license to Mr. De Brum subject to him successfully completing the examination requirements for the licence.

The evidence demonstrates, and the Association does not dispute, that while Mr. De Brum had not met the academic requirements at the time he made his application to the Registrar, he has now met those requirements by completing of his Master of Architecture Degree and obtaining a Certificate of Certification issued by the Canadian Architectural Certification Board.

With respect to the experience requirement, it is clear from Mr. De Brum's unchallenged evidence, which the Committee accepts, that he has worked under the direct control and personal supervision of a person authorized to engage in the practice of architecture for far more than the 3,720 hours required by intern architects. The Committee was particularly impressed by the evidence of ██████ and reference letters of other architects that show the high level at which Mr. De Brum has operated and his commitment to the field of architecture over the past 20 years. In addition, there is no evidence of any complaints or disciplinary issues. As a result, the Committee is of the view that it is appropriate and in



the public interest in this circumstance to exempt Mr. De Brum from the requirement that he complete an additional 3,720 hours under the OAA's Intern Architect Program in order to be licensed.

That leaves only the examination requirement, which the Committee finds Mr. De Brum must complete before his licence can come into effect. To fulfill this requirement, he must successfully complete one of the following:

- a) the Examination for Architects in Canada published by the OAA;
- b) the Architect Registration Examination of the National Council of Architectural Certification Boards; or
- c) any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered as a whole, is considered equivalent to one of those examinations, as approved by the Council.

### **Ms. Marinos**

The Committee has also carefully considered Ms. Marinos' evidence, including her testimony, the ASOF, her references and project drawings, and her and the Association's submissions. In the Committee's view, Ms. Marinos' circumstances are similar to other applicants who have recently been granted limited licences by the Registration Committee. The Committee is satisfied that it is appropriate to exempt the Applicant from the academic and experience requirements set out in the Regulation and to direct the Registrar to issue a

license and certificate of practice subject to the terms, conditions and limitations set out in **Schedule “A”**.

As a preliminary matter, the Committee agrees with the interpretation of section 25(8) of the *Act* set out in the Decision and Order of the Registration Committee and Reasons for Decision dated February 29, 2024 (redacted). Specifically, the Committee agrees that the *Act* permits the Committee to utilize both the exemption power set out in section 25(8)(b)(ii) and the power to impose terms, conditions, and limitations pursuant to section 25(8)(c)(iii), substantially for the reasons set out in the February 29<sup>th</sup> decision. For ease of reference, we have reproduced the relevant paragraphs from the Analysis section of the February 29<sup>th</sup> decision in **Schedule “B”** and adopt that analysis as our own.

The evidence demonstrates that Ms. Marinos has significant and relevant education and experience. She completed a three-year degree in Architectural Technology in 2016 and is currently enrolled in the Master of Architecture program at the Boston Architectural College as described above. From September 2022 to present she has worked as a Professor/Instructor at [REDACTED] Ontario and is responsible for ARCH Studio Courses and CADE Revit Course.

In terms of qualifications, among other things, Ms. Marinos gained 5580 hours of work experience in the specific categories as set out in the OAA Technology Program Guide, completed 940 hours of ERB experience as set out in the currency requirement of the OAA Technology Program Guide, successfully completed the OAA Admission Course in 2021, passed the Licensed Technologist OAA examination June 21, 2022, and completed BCIN for House 2012 & Small Buildings 2012. She has had no discipline or complaints brought

against her, fulfilled all continuing education requirements, paid all fees, and held the required professional liability insurance during that time. She has not exceeded her previously defined scope of practice and has worked with a licensed architect holder of a certificate of practice whenever a project required one. The committee has no reason to believe that Ms. Marinos would not continue to do so going forward.

Based on the evidence, the Committee finds it is appropriate to direct the Registrar to issue a license and certificate of practice with terms, conditions, and limitations. Ms. Marinos has been providing architectural services to the public under her previous limited license and limited certificate of practice without complaints or disciplinary issues and was in good standing up to the date her license and certificate of practice were declared void. The Committee is of the view that Ms. Marinos will engage in the practice of architecture with competence and integrity within the limits of architectural practice she is permitted to perform. Issuing a license and certificate of practice with terms, conditions and limitations would allow Ms. Marinos to continue to provide the same architectural services to the public she provided prior to May 2023, and not issuing her such a licence would neither serve nor protect the public interest.

Given Ms. Marinos' experience, education, and long history of service without complaints or disciplinary issues, the Committee finds that the terms, limitations, and conditions set out in Appendix "A" are necessary and appropriate to serve and protect the public interest. Ms. Marinos will be required to meet the full Continuing Education requirements and pay all fees at the rate of full scope practicing members and corresponding certificates of practice. If, in the future, a different class of licence and/or certificate of practice becomes available through regulation or legislative amendment, Ms. Marinos may elect to maintain the licence and certificate of practice resulting from this decision or to apply for new designations.

The Committee applauds Ms. Marinos' initiative in pursuing her Master in Architecture degree. She can pursue a full architectural licence once she completes the education, experience and examination requirements for licence.

**ORDER**

**THE REGISTRATION COMMITTEE** having duly considered all the information placed before it with respect to Mr. De Brum's application for a licence and Ms. Marinos's applications for a Licence and Certificate of Practice **HEREWITH DIRECTS** the Registrar to issue:

- a) to Mr. De Brum a Licence, subject to him successfully completed one of the following:
  - a. the Examination for Architects in Canada published by the OAA;
  - b. the Architect Registration Examination of the National Council of Architectural Certification Boards; or
  - c. any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered as a whole, is considered equivalent to one of those examinations, as approved by the Council; and
- b) to Ms. Marinos a Licence and Certificate of Practice subject to the terms, conditions and limitations set out in Schedule "A".

DATED AT TORONTO THIS 3<sup>rd</sup> DAY OF JULY 2024

  
\_\_\_\_\_  
J. William Birdsell, Councillor (Chair)

\_\_\_\_\_  
Chris Montgomery, Member

**ORDER**

**THE REGISTRATION COMMITTEE** having duly considered all the information placed before it with respect to Mr. De Brum’s application for a licence and Ms. Marinos’s applications for a Licence and Certificate of Practice **HEREWITH DIRECTS** the Registrar to issue:

- a) to Mr. De Brum a Licence, subject to him successfully completed one of the following:
  - a. the Examination for Architects in Canada published by the OAA;
  - b. the Architect Registration Examination of the National Council of Architectural Certification Boards; or
  - c. any combination of the components of the Examination for Architects in Canada published by the OAA and of the Architect Registration Examination of the National Council of Architectural Registration Boards that, considered as a whole, is considered equivalent to one of those examinations, as approved by the Council; and
- b) to Ms. Marinos a Licence and Certificate of Practice subject to the terms, conditions and limitations set out in Schedule “A”.

DATED AT TORONTO THIS 3<sup>rd</sup> DAY OF JULY 2024

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J. William Birdsell, Councillor (Chair)



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Chris Montgomery, Member

**Schedule "A"**  
**Applicant's Terms, Conditions and Limitations**

Terms, Conditions and Limitations of Licence

1. The Applicant may provide, and personally supervise and direct, architectural services for a building that:
  - a. as constructed, enlarged, or altered, is not more than three storeys in height and not more than 600 square meters in gross area and is used or intended for one or more of the following occupancies:
    - i. Residential;
    - ii. Business;
    - iii. Personal Services;
    - iv. Mercantile;
    - v. Industrial; or
    - vi. a restaurant designed to accommodate not more than 100 persons consuming food or drink;
  - b. is used or intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than four storeys in height;
  - c. is used or intended for residential occupancy, that contains three or more attached dwelling units and as constructed, enlarged, or altered, is not more than four storeys in height and not more than 600 square meters in building area; or
  - d. is excepted by the *Architects Act*, s. 11(3).

2. The Applicant shall ensure that his limited scope of practice is clearly indicated to the public in a manner set out and approved by the Registrar<sup>23</sup> (e.g., website, letterhead, business cards, social media profile).
3. The Applicant may act as the prime consultant for the construction, enlargement, or alteration of any building. However, where the Applicant has agreed to arrange for the provision of architectural services to a member of the public beyond those permitted in Paragraph 1, he must engage a holder of a Certificate of Practice not subject to these Terms, Conditions, and Limitations.

#### Terms, Conditions and Limitations of Certificate of Practice

4. The Certificate of Practice shall be subject to the same Terms, Conditions, and Limitations as the licence.
5. The Applicant may provide architectural services to the public as a sole proprietor, in a partnership, or through a corporation, providing that the proprietor, partnership, or corporation holds a Certificate of Practice. The Certificate of Practice shall be subject to the limitations of Paragraph 1.
6. The Applicant shall not directly or indirectly own or control more than 49% of the voting shares and value of all the shares of a corporation, or directly or indirectly hold more than 49% of the voting and financial interest of a partnership, to which a Certificate of Practice not subject to the Terms, Limitations, and Conditions of this policy has been issued under Section 146 or 157 of the *Architects Act*.

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<sup>23</sup> Whatever title the Registrar selects should clearly convey the Applicant's limited scope of practice, e.g., "Architect (Limited Scope)", "Limited Scope Architect" or similar.



**Schedule “B”**

**Analysis of section 25(8) from the Decision and Order of the Registration Committee and Reasons for Decision dated February 29, 2024 (redacted)**

Section 25(8) of the Act provides, in relevant part [emphasis added]:

Powers of Registration Committee

(8) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order,

...

(b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,

...

(ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of architecture with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be; **or**

(c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of architecture with competence and integrity,

...

(iii) direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

The Committee is aware of its obligation to read the words of the *Act* in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, its object, and the intention of parliament, and in a way that does not produce absurd consequences. The Committee is also aware from reviewing the authorities and submissions on this issue that “or” may be read exclusively, in the sense of permitting only one option or another, or inclusively, in the sense of permitting several options. The authorities cited above explain this concept in different ways. These passages from the Ontario Court of Appeal’s decision in *Rooney v. ArcelorMittal S.A.*, 2016 ONCA 630 are particularly useful to illustrate this point:

*[46] As Ruth Sullivan explains, in ordinary usage, "or" can be either inclusive (A or B or both) or exclusive (A or B, but not both), and it is up to the reader to decide which one the writer intended: Sullivan, at 4.97. In other words, the default plain meaning of "or" is not exclusive.*

*[47] In Garner's Modern American Usage, 3rd ed. (New York: Oxford University Press, 2009), Bryan Garner goes further, arguing that the default plain meaning of "or" is actually inclusive. In lamenting the popularity of what he regards as the unnecessary legal phrase "and/or", Garner explains, at pp. 45-46: "If you are offered a coffee or tea, you may pick either (or in this case, neither), or you may for whatever reason order both. This is the ordinary sense of the word, understood by*

*everyone and universally accommodated by the simple or." Garner advises that, if a writer intends to use the exclusive "or", he or she should make this intention explicit.*

The Committee finds that the word "or" between subparagraphs (b) and (c) of section 25(8) of the *Act* is to be read inclusively rather than exclusively. Therefore, in circumstances where the Committee determines that it is appropriate to "*exempt the applicant from any of the requirements of this Act and the regulations*" (section 25(8)(b)(ii)), it may direct the Registrar "*to issue a licence, certificate of practice or temporary licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies*" (section 25(8)(c)(iii)).

Read together, subparagraphs (b) and (c) of section 25(8) of the *Act* permit the Committee to exempt an applicant from any of the requirements of the *Act* and regulations "*where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of architecture with competence and integrity*" (section 25(8)(b)(ii)), and to impose such terms, conditions and limitations as are necessary to ensure that they do so (section 25(8)(c)(iii)).