

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 the Rules of Practice
and Procedure of the Discipline Committee of the
Ontario Association of Architects made pursuant
to Section 25(1) of the *Statutory Powers
Procedure Act* respecting written hearings to
determine allegations of professional misconduct
arising out of non-compliance with the
Association's Mandatory Continuing Education
Program;

AND IN THE MATTER OF a proceeding before
the Discipline Committee of the Ontario
Association of Architects pursuant to Sections 34
and 35 of The *Architects Act* to hear and
determine allegations of professional misconduct
against **John Clinckett, Architect**

James Hargreaves, Member)
)
Adam Thom, Member) THURSDAY, 8TH DAY OF
) SEPTEMBER, 2022
Michelle Longlade, Lieutenant Governor Appointee)

REASONS FOR THE DECISION AND ORDER OF THE DISCIPLINE COMMITTEE

The Discipline Committee of the Ontario Association of Architects (Association) met on Thursday, September 8, 2022 to determine allegations of professional misconduct against John Clinckett, a Member of the Association.

The evidence at this written hearing consisted of documents submitted by the Association and written submissions from the Association. There were no submissions from the Member.

The Complaints Committee referred this matter to the Discipline Committee to conduct a hearing to determine an allegation of professional misconduct on the part of the Member by reason of their non-compliance with the mandatory Continuing Education Program (2018 – 2020) set out in Section 54 of Regulation 27 under *the Architects Act*.

It was alleged that John Clinckett committed the following act of professional misconduct, as set out in the revised Notice of Hearing dated July 25, 2022:

That in the period July 1, 2018 to December 31, 2020, (2018 – 2020 Cycle), the Member failed to complete and record the required number of hours in Continuing Education Program activities consisting of courses of study, seminars, workshops, self-directed learning and professional activities approved by Council contrary to Section 54(3) of the Regulation made under the *Architects Act*.

The Notice of Hearing advised the Member of the manner in which the hearing would be conducted and of the Rules of Practice and Procedure of the Discipline Committee with respect to a written hearing. The Member was also advised that they could make submission to the Committee to hold an oral or electronic hearing dependent on the Member providing good reason to do so.

FACTS

On January 1, 1999, the Association initiated a mandatory Continuing Education Program (hereinafter referred to as the Program).

The authority for the Program is set out in Section 54 of Regulation 27 under the *Architects Act* as amended, and requires that all Members “spend 70 hours in continuing education activities approved by Council” within each two (2) year Cycle of the Program. The activities are comprised of structured and unstructured learning. The requirement includes both attending and reporting of educational activities. In addition, a minimum of 25 hours must be in the structured learning category. Member licences with Terms, Conditions, and Limitations may be subject to different reporting limits and requirements as set by OAA Council Policy.

To assist Members in meeting the requirements of the Program, the Association continued its information strategy throughout the 2018 – 2020 Cycle. The information strategy includes but is not limited to advising all Members through the website, the Association’s electronic newsletter, and direct email about the importance of compliance and the available continuing education activities. Continuing education reporting is done through the online portal for Members. There are staff available during regular office hours to assist in the assessment of learning hours and help access the reporting portal.

Structured continuing education activities were organized for each of the Association’s annual conferences held during the 2018 – 2020 Cycle.

For all Members, and particularly for those Members who did not have the opportunity or perhaps could not afford to attend the annual conferences, there are links on the OAA website to continuing education modules where the full complement of hours can be accessed remotely by downloading articles, by ordering workbooks or by completing an online course. Continuing education opportunities that are provided by local societies, practices and other jurisdiction's official providers may also count towards the Ontario requirements.

Each Member was personally contacted by letters and e-mail and encouraged to complete the 2018 – 2020 Cycle Program requirements.

FINDINGS

The Discipline Committee made the following finding, based on the facts and evidence presented:

THIS COMMITTEE FINDS that John Clinckett is guilty of professional misconduct in that the Member during the period July 1, 2018 to December 31, 2020, failed to complete and record the required number of hours in the Association's mandatory Continuing Education Program (2018 – 2020 Cycle), consisting of courses of study, seminars, workshops, self-directed learning and professional activities approved by Council contrary to Section 54(3) of the Regulation made under the *Architects Act*.

PENALTY

Completion of the Continuing Education Program requirements is a statutory obligation for all Members of the Association. The Committee was unanimous in its opinion that the Program is an extremely important initiative of the Association and that failure to meet its requirements is sufficiently serious to warrant a reprimand, with the reprimand being placed on the Register, that the Member be suspended for one (1) month and that the suspension be recorded on the Register; that the Decision and Order of the Discipline Committee, and the Reasons therefor, be published in an official publication of the Association, including the name of the Member; that the Member complete the Continuing Education Program requirements of the 2018 – 2020 Cycle within the one (1) month period of the suspension; that in the event that the Continuing Education Program requirements of the 2018 – 2020 Cycle are not completed within one (1) month, the suspension of the Member's Licence will continue to October 17, 2024, a maximum of twenty-four (24) months, after which, if the requirements have not been completed, the Member's Licence will automatically be revoked; and that the Member pay a portion of the costs of these proceedings hereby fixed at \$750.00 on or before October 17, 2022.

Failure to pay the costs by October 17, 2022 will result in the suspension of the Member's Licence until the costs of the proceedings have been paid in full but the suspension is not to exceed twenty-four months. If the costs are not paid by October 17, 2024, the Member Licence will be automatically revoked.

DATED AT TORONTO THIS 8th DAY OF SEPTEMBER, 2022



James Hargreaves, Member



Adam Thom, Member



Michelle Longlade, Lieutenant Governor in Council
Appointee