

**IN THE MATTER OF** the *Architects Act*, R.S.O. 1990, c. A.26, as amended (the “**Act**”), and Ontario Regulation 27 under the Act, as amended, (“the **Regulation**”);

**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 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 **G. Duff Ryan, Architect, and Ryan Company Architect Inc., Holder**

|  |   |                                      |
|--|---|--------------------------------------|
| Adam Thom, Member                        | ) |                                      |
|  | ) |                                      |
| Laura Rachlin, Member                    | ) | HEARD THURSDAY, THE 14 <sup>TH</sup> |
|  | ) | DAY OF SEPTEMBER, 2023               |
| Michelle Longlade,                       | ) |                                      |
| Lieutenant Governor in Council Appointee | ) |                                      |

David Outerbridge, Counsel to the Tribunal  
Paul Davis, Counsel to the Association  
G. Duff Ryan, self-represented

**REASONS FOR THE DECISION AND ORDER OF THE DISCIPLINE COMMITTEE**

1. The Discipline Committee of the Ontario Association of Architects met on Thursday, September 14<sup>th</sup>, 2023, to hear and determine allegations of professional misconduct under the Act against G. Duff Ryan (the “**Architect**”), an architect licensed by the Ontario Association of Architects (the “**Association**”) and Ryan Company Architect Inc., a holder of a Certificate of Practice (the “**Holder**,” and referred to collectively with the Architect as the “**Architect/Holder**”).
2. The Notice of Hearing dated September 19, 2022 alleged that the Architect/Holder committed the following acts of professional misconduct:

- 1) he engaged in an act or acts of professional misconduct as defined in s. 42(13) of the Regulation made under the Act in that, in respect of a building project at 5295 Highway 11 North in Orillia (the “**Project**”), he undertook to provide architectural services at a fee that was not fully disclosed, fair, or reasonable;
  - 2) he engaged in an act or acts of professional misconduct as defined in s. 42(52) of the Regulation made under the Act in that, in respect of the Project, he provided architectural services without an express written or oral contract; and
  - 3) he engaged in an act or acts of professional misconduct as defined in s. 42(54) of the Regulation made under the Act in that, in respect of his communications in connection with the Project, he engaged in conduct or an act relevant to the practice of architecture that, having regard to all of the circumstances, would reasonably be regarded by members of the Association as disgraceful, dishonourable, or unprofessional.
3. The Architect/Holder entered a plea of guilty to Charge #2, namely:
- he engaged in an act or acts of professional misconduct as defined in s. 42(52) of the Regulation made under the Act in that, in respect of the Project, he provided architectural services without an express written or oral contract.
4. The Association withdrew the remaining charges (Charges #1 and 3).

## **FACTS**

5. The following agreed facts were submitted by Counsel to the Association and by the Architect/Holder.

## **A. Background**

6. The Architect is a member of the Association. He is principal architect and owner of the Holder. The Architect has personal supervision and direction of the Holder's practice.

## **B. Engagement to provide architectural services on the Project without a contract**

7. In or around December 2017, an individual (the "**Complainant**") retained the Architect/Holder to provide architectural services in respect of the Project.
8. The Complainant and the Architect/Holder did not enter into a written contract in respect of the Project.
9. The Complainant and the Architect/Holder did not agree on a fee or rate for the provision of architectural services on the Project, whether orally or in writing. The Architect/Holder admits that the fee or rate payable for architectural services is a necessary part of any agreement to provide architectural services. The Architect/Holder's evidence would be that the Architect/Holder and the Complainant agreed on a deposit towards architectural services on the Project, but they did not agree to a fee or rate. The Architect/Holder issued no invoices to the Complainant in respect of the Project.
10. The Architect/Holder provided architectural services in respect of the Project. In January 2021, the Architect/Holder submitted a building permit application to the municipality.
11. In February 2021, the Complainant terminated the Architect/Holder. The Architect/Holder withdrew the Architect/Holder's architectural drawings.

## **C. Admission of professional misconduct**

12. On September 19, 2022, the Discipline Committee of the Association issued a Notice of Hearing setting out allegations of professional misconduct against the

Architect/Holder. No other allegations of professional misconduct or incompetence against the Architect/Holder pertaining to the Project were referred to the Discipline Committee, and the Complaints Committee did not issue a caution or make any decision other than to refer the matter to the Discipline Committee. The Association is not advancing any other allegations of professional misconduct or incompetence against the Architect/Holder in relation to the Project.

13. The Architect/Holder admits that, by engaging in the conduct set out above in paragraphs 7-11, the Architect/Holder is guilty of professional misconduct. In particular, the Architect/Holder admits to having provided architectural services without an express written or oral contract, contrary to s. 42(52) of the Regulation, as set out in count 2 of the Notice of Hearing. The Architect/Holder admits no other allegation of professional misconduct in the Notice of Hearing and denies having engaged in any other wrongdoing in relation to the Project. Other than the admission of professional misconduct in count 2 of the Notice of Hearing, the Architect/Holder maintains that he acted appropriately and professionally in connection with the Project.
14. The Architect/Holder understands the allegations and that, by voluntarily admitting the facts herein, the Architect/Holder waives the right to require the Association to provide further proof of the facts.
15. The Architect/Holder has had the opportunity to obtain legal advice with respect to the allegations and admissions, and the Architect/Holder makes these admissions freely, voluntarily, and without duress or compulsion.

***D. Previous caution by Complaints Committee and findings of professional misconduct by Discipline Committee***

16. On April 13, 2010, the Complaints Committee referred allegations of professional misconduct relating to the Architect/Holder to the Discipline Committee. In addition to the referral, the Complaints Committee issued a written caution to the Architect/Holder. Among other things, the Committee cautioned the Architect/Holder about “the lack of a defined scope of services presented to the clients” and directed

the Architect/Holder in the future to “[c]omplete a detailed scope of work and ensure you have an agreed contract to perform same.”

17. On November 24, 2010, the Discipline Committee found the Architect/Holder guilty of professional misconduct in respect of matters referred by the Complaints Committee on April 13, 2010. The Discipline Committee made findings of professional misconduct against the Architect/Holder for:

- 1) having a conflict of interest by performing both architectural services and project management services on a building project without disclosure in the contract documents, contrary to ss. 42(16) and 43(1)(c) of the Regulation; and
- 2) aiding and abetting contravention of the *Construction Lien Act*, contrary to s. 42(4) of the Regulation.

18. The Discipline Committee imposed the following penalty in respect of the findings of professional misconduct:

- 1) the licence of the Architect and certificate of practice of the Holder were suspended for 30 days commencing December 15, 2010;
- 2) the Architect/Holder was ordered to pay the Association’s costs of the proceeding in the amount of \$4,500 over a specified period;
- 3) failure by the Architect/Holder to comply with the payment terms would result in automatic suspension of the licence of the Architect and certificate of practice of the Holder; and
- 4) the Decision, Order, and Reasons of the Discipline Committee were published in an official publication of the Association, including the names of the Architect and the Holder, and were recorded on the register of the Association.

## **FINDINGS**

19. The Discipline Committee accepts the agreed facts.
20. The Discipline Committee makes the following findings, based on the evidence and the facts presented:

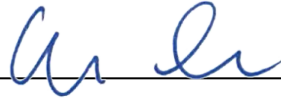
**THIS COMMITTEE FINDS** that G. Duff Ryan and Ryan Company Architect Inc. are guilty of professional misconduct in that, in respect of the Project, they provided architectural services without an express written or oral contract contrary to s. 42(52) of the Regulation.

## **PENALTY**

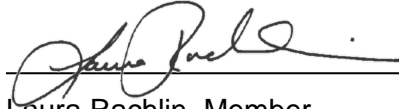
21. The parties made a joint submission as to penalty.
22. The Discipline Committee considered all the evidence submitted, the joint submission, the fact that there was a joint submission as to penalty, and the supplementary oral submissions of counsel for the Association, which the Committee was advised were provided on behalf of both the Association and the Architect/Holder.
23. In determining the appropriate penalty, consideration was given to the nature of the offence committed, protection of the public, reformation of the Architect/Holder and the deterrence of the Architect/Holder and others.
24. The Discipline Committee weighed whether the penalty proposed in the joint submission is sufficiently strong to serve the public interest, by acting as a deterrent to the Architect/Holder and others. The Committee was particularly focused on the fact that the Architect/Holder had previously been cautioned by the Complaints Committee relating to similar misconduct, and the Architect/Holder has also separately been convicted of professional misconduct by the Discipline Committee of the Association relating to different misconduct involving conflict of interest and non-compliance with the *Construction Lien Act* (as it then was).

25. The Discipline Committee recognizes that it should generally defer to a joint submission on penalty unless imposing the proposed penalty would bring the administration of justice into disrepute or is otherwise contrary to the public interest. While the Committee considers the proposed penalty to be at the lighter end of what constitutes a reasonable range of penalties for a case of this type, the Committee has concluded that it should nonetheless accept the joint submission as to penalty and impose the penalty proposed.
26. The Discipline Committee imposes the following penalty against the Architect/Holder
1. **THIS COMMITTEE ORDERS** that the Architect/Holder is hereby reprimanded, and the reprimand shall be recorded in the register of the Association.
  2. **THIS COMMITTEE ORDERS** that the Licence and Certificate of Practice of the Architect/Holder are hereby suspended for a period of fifteen (15) days commencing thirty (30) days after the date of this Committee's Decision and Order.
  3. **THIS COMMITTEE ORDERS** that the Architect/Holder pay to the Ontario Association of Architects a portion of the costs of these proceedings, which are hereby fixed at the total amount of \$2,250.00 inclusive of HST, with \$250 payable within five (5) business days after the date of this Committee's Decision and Order, and \$500 payable on the first business day of the month for each of the next four months thereafter.
  4. **THIS COMMITTEE ORDERS** that, should the Architect/Holder fail to make any of the payments required under paragraph 3, the Architect's Licence and the Holder's Certificate of Practice shall automatically be suspended until such time as the payment(s) are made.
  5. **THIS COMMITTEE ORDERS** that the Decision and Order of the Discipline Committee, and the Reasons therefor, be published in an official publication of the Association and on the website of the Association, including the name of the Architect/Holder, and the finding of professional misconduct shall be recorded in the Register of the Association.

DATED AT TORONTO THIS 22DAY of SEPTEMBER, 2023



Adam Thom, Member



Laura Rachlin, Member



Michelle Longlade, Lieutenant Governor in  
Council Appointee