

Board decision summary – Complaint C130

Grounds for discipline

On 12 October 2023, the Board found there were grounds for disciplining an architect under section 25 of the Registered Architects Act 2005 (the Act), following an investigation of a complaint made to the NZRAB by a Council officer.

The architect was found to have breached Rule 49 (Skill, care, and diligence) of the Registered Architects Rules 2006 (the Rules) and/or section 25(1)(c) of the Act, having practised as a registered architect in a negligent or incompetent manner in respect of the following issues:

- Assisting the client to proceed with building work while knowing that no building consent had been approved for the building work.
- Failing to advise the client that they were not able to proceed, knowing that the client had commenced building work.
- Failing to advise the Council immediately that they were aware that the building work had commenced.

The Board agreed that a competent architect would understand when a building consent was required and the implications of not obtaining consent, when required by law. The Board's view was that the architect should have known the architectural work would require their client to obtain a building consent before construction commenced, and with that knowledge they should not have participated in the setting up of the siteworks. Not only should they have known it was their client's responsibility to acquire a building consent, but they had a professional responsibility to provide their client with explicit advice that construction cannot proceed until they had obtained a building consent. Further, once the architect became aware that building had started without a building consent, they had a professional responsibility to explain the potential consequences to their client.

Penalty

In determining the penalty, the Board emphasised the architect's error as both unprofessional and significant. Despite knowing that a building consent was necessary before commencing any building work, the architect aided the client in preparing the site for construction without the required consent. Further, when they became aware that building work had commenced, they did not promptly inform the Council. The Board accepted this was an isolated incident and acknowledged the architect's subsequent collaboration with both the Council and the client to rectify the situation.

On 8 February 2024, the Board made the following orders under section 26 of the Act, that the architect be:

- Censured
- Fined \$1,500
- Required to pay 100% of the costs of, and incidental to, the Board's investigation of the complaint.

The Board directed that an anonymised summary of the Board decision be published on the NZRAB website. The Board agreed that it was not in the public interest to publicly notify the action against the architect beyond what is required under section 21(1)(a)(iii) of the Act.