



Washington State Senate

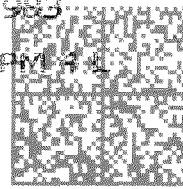
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Senator Jim Honeyford

15th Legislative District

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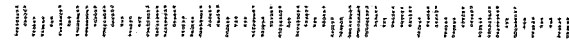
The Honorable Robert W. Ferguson
Attorney General
1125 Washington Street SE
Olympia, WA 98504

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ATTORNEY GENERAL
OF WASHINGTON

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Washington State Senate

Senator Jim Honeyford
15th Legislative District

Eastern Yakima County
Including the towns of:
Buena Glead Grandview
Granger Mabton Moxee
Selah Sunnyside Toppenish
Union Gap Wapato
Yakima and Zillah

May 26, 2021

The Honorable Robert W. Ferguson
Attorney General
1125 Washington Street SE
Olympia, WA 98504

Dear Attorney General Ferguson,

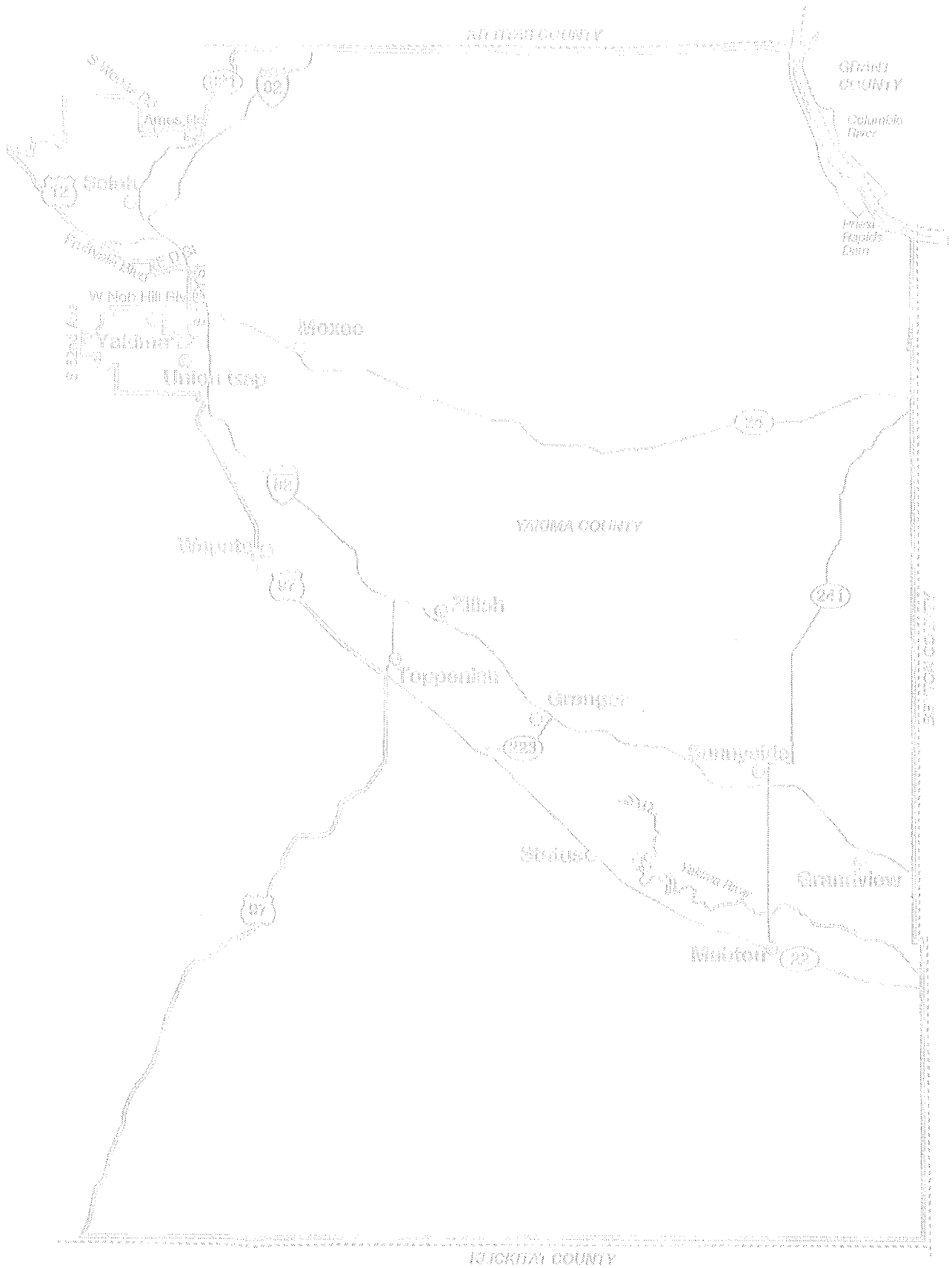
As you know, RCW 18.08.410 exempts certain activities from the practice of architecture, including activities that fall under the umbrella of the practice of engineering, as well as design work for certain residential buildings, farm buildings, and buildings smaller than four thousand square feet. I write to you to request a formal Attorney General's Opinion to seek clarification on the application of RCW 18.08.410 as it relates to design documents created by engineers.

I have recently been contacted by constituents concerned that some jurisdictions have required complete sets of design documents created by engineers for work unrelated to residential buildings, farm buildings, and buildings smaller than four thousand square feet to be stamped by an architect. While it is true that a design document will not always fall under the residential, farm, or four thousand square feet exemptions, there is overlap between these documents created in the practice of engineering and those created in the practice of architecture.

Since these professional activities overlap, there may be instances where a design document prepared entirely by an engineer for a non-agriculture and non-residential building that exceeds four thousand square feet could fall under the practice of engineering and be exempted from chapter 18.08 RCW. Recognition of these instances will ensure the practice of engineering continues to be exempted from chapter 18.08 RCW, clearly delineate the appropriate professional stamp required for design documents, and provide uniformity across all jurisdictions.

Background:

Prior to 2010, RCW 18.08.410 provided exemptions to the practice of architecture that allowed engineers to stamp design work created by non-architects and to support design-build construction by general contractors when the structural design services were performed by an engineer. Those exemptions were removed by the legislature through Engrossed Substitute Senate Bill 5529 (Wash. 2010).



15th Legislative District

On March 31, 2021, your office issued AGO 2021 No. 2 which addressed whether an engineer may stamp and sign architectural drawings for submission to local building officials for permitting purposes. The opinion provided that the stamping of architectural drawings constitutes the practice of architecture, that stamping such drawings is a violation of the Architect's Act, and such an action could constitute the unlicensed practice of architecture. What the opinion did not provide, though, is guidance on how to distinguish between design work that is primarily architectural and design work that is primarily engineering.

Analysis:

The practice of architecture in Washington State is governed by chapter 18.08 RCW. As defined by RCW 18.08.320(12) the practice of architecture means:

" . . . the rendering of any service or related work requiring architectural education, training, and experience, **in connection with the art and science of building design** for construction of any structure or grouping of structures and the use of space within and surrounding the structures **or the design for construction of alterations or additions to the structures**, including but not specifically limited to predesign services, schematic design, design development, preparation of construction contract documents, and administration of the construction contract." [Emphasis added]

RCW 18.08.410 goes on to exempt certain activities from chapter 18.08 RCW, such as design work for residential buildings with up to four dwelling units (RCW 18.08.410(5)), farm buildings (RCW 18.08.410(5)), and buildings not exceeding four thousand square feet (RCW 18.08.410(6)). RCW 18.08.410 also exempts activities that fall under the practice of engineering and reads, in part:

"This chapter shall not affect or prevent:

(1) The practice of naval architecture, landscape architecture as authorized in chapter 18.96 RCW, **engineering as authorized in chapter 18.43 RCW**, or the provision of space planning or interior design services not affecting public health or safety; . . ." [Emphasis added]

The practice of engineering is defined in RCW 18.43.020(8) as:

" . . . any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, **design, and supervision of construction for the purpose of assuring compliance with specifications and design**, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects." [Emphasis added]

The main issue presented in this request is to clarify when design work amounts to the practice of engineering exempted from chapter 18.08 RCW and when design work amounts to the practice of architecture.

Both the practice of architecture and the practice of engineering include design work in their respective definitions. With respect to the distinction between design documents that are primarily engineering and design documents that are primarily architectural, there does not appear to be a statute that defines when a design document amounts to architectural or engineering work. Similarly, WAC 308-12-340, which clarifies some of the RCW 18.08.410 exemptions, does not provide information related to the practice of engineering exemption in RCW 18.08.410(1). As stated in AGO 2021 No. 2, the determination of when a project requires architectural work or engineering work, and who must stamp that work, rests with local building officials. Without further direction it appears that the determination of whether design work is primarily architectural or primarily engineering varies across a slew of controlling local jurisdictions, which creates a statewide patchwork of potentially contradictory stances.

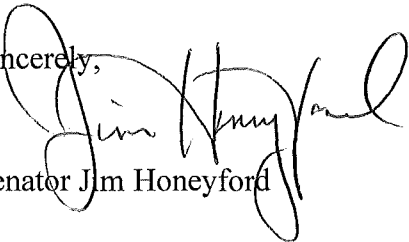
Questions:

In light of the facts and analysis provided above, I respectfully request that your office issue a formal opinion on the two following questions:

1. When would a complete set of design documents created by an engineer for a non-agriculture and non-residential building that exceeds four thousand square feet amount to the practice of engineering as authorized in 18.43 RCW?
2. If the complete set of design documents is considered the practice of engineering as authorized by 18.43 RCW would those documents fall under the exemption to architectural licensing provided in RCW 18.08.410(1)?

I appreciate your time and consideration to this matter.

Sincerely,


Senator Jim Honeyford