

ARCHITECTS—ENGINEERS—Authority Of Engineer To Stamp And Sign Architectural Drawings For Submission For Building Permits

The stamping and submission of architectural drawings constitutes the practice of architecture, which with some exceptions requires registration with the Washington State Board of Architecture.

The legislature has amended RCW 18.08.410 to remove a formerly-applicable exception under which engineers could stamp architectural drawings. This legislative change revises the conclusion we reached in AGO 1990 No. 9, which we overrule to that limited extent.

March 31, 2021

The Honorable Amy Walen
State Representative, District 48
PO Box 40600
Olympia, WA 98504-0600

Cite As:
AGO 2021 No. 2

Dear Representative Walen:

By letter previously acknowledged, you have requested our opinion on the following question:

May an engineer stamp and sign architectural drawings for submission for building permits?

BRIEF ANSWER

No. Subject to certain exemptions, the stamping and submission of architectural drawings constitutes the practice of architecture that requires registration with the Washington State Board of Architecture. Prior to 2010, there was an exemption to allow engineers to stamp architectural drawings under certain circumstances. Those exemptions were removed in 2010 by Engrossed Substitute S.B. 5529, 61st Leg., Reg. Sess. (Wash. 2010). Thus, now the stamping of architectural drawings by a non-architect is in violation of the Architect's Act and would possibly constitute the unlicensed practice of architecture.

FACTUAL BACKGROUND

In order to receive a permit to build or change certain structures, the building owner is required to submit to local building officials architectural and engineering drawings that have been prepared and stamped by a licensed architect, professional engineer, or both. When and how those drawings are prepared, stamped, and submitted is governed by statute and local building codes.

In 1990, this office issued a formal opinion on the issue of when and how a registered professional architect or professional engineer must sign and stamp a drawing being submitted for building permits. AGO 1990 No. 9. The Opinion correctly noted that the stamping and submission of architectural drawings constitutes the practice of architecture which requires registration as an architect. The Opinion also correctly noted that the law contained exemptions to that requirement. Some of those exemptions allowed engineers to stamp plans and design work created by non-architects. *See* Laws of 1985, ch. 37, § 12 (enacting RCW 18.08.410). However, in 2010, the legislature removed those exemptions. Laws of 2010, ch. 129, § 8 (amending RCW 18.08.410).

Based on your letter it appears that some building officials are still accepting architectural drawings prepared by non-professionals but stamped by engineers even when those drawings are primarily architectural in nature.¹ We also understand that these building officials are doing so in reliance on a 1990 Attorney General Opinion analyzing statutory exemptions to the laws that have since been removed.

ANALYSIS

The profession of architecture is governed by statute, and licenses to practice architecture are issued and regulated by the Washington State Board of Architects. *See* RCW 18.08. The scope of what constitutes the practice of architecture is defined by statute as

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.

RCW 18.08.320(12). Additionally, the laws require that architects sign and seal or stamp each page containing architectural drawings prepared or reviewed by the architect that are submitted in support of an application for a building permit. RCW 18.08.370(2); WAC 308-12-081(1).

It is unlawful to practice architecture without being registered or authorized to practice in the state of Washington. RCW 18.08.310. Engaging in the unlicensed practice of architecture can subject another licensed individual (such as a licensed engineer) to sanctions for unprofessional conduct, RCW 18.235.110, and can subject “any person” to sanctions after the issuance of a cease and desist order, RCW 18.235.150. It is also a misdemeanor to violate any of the provisions

¹ We have identified no statutes, rules, or policies that define when a drawing is primarily architectural or primarily engineering in nature. Rather, local building officials have the authority to determine when a project requires the analysis and drawings of an architect or an engineer and, pursuant to that decision, such drawings must be drafted and stamped by the appropriate professional. The project must then be completed according to those drawings.

of RCW 18.08. RCW 18.08.460(1) (“Any person who violates any provision of this chapter or any rule promulgated under it is guilty of a misdemeanor and may also be subject to a civil penalty in an amount not to exceed one thousand dollars for each offense.”).

However, RCW 18.08.410 exempts certain activities from the scope of the practice of architecture. Some of those exemptions include design work for structures that will be used for residential buildings of up to four dwelling units, farm buildings, any structure smaller than four thousand square feet. RCW 18.08.410.²

At the time AGO 1990 No. 9 was issued, former RCW 18.08.410 also provided two additional exemptions that allowed engineers to stamp architectural drawings. Under that older version of the law the following activities were not prohibited:

(7) Design-build construction by registered general contractors if the structural design services are performed by a registered engineer;

² As of the date of this opinion, the entirety of RCW 18.08.410 provides:

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;

(2) Drafters, clerks, project managers, superintendents, and other employees of architects from acting under the instructions, control, or supervision of an architect;

(3) The construction, alteration, or supervision of construction of buildings or structures by contractors registered under chapter 18.27 RCW or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors registered under chapter 18.27 RCW from engaging persons who are not architects to observe and supervise construction of a project;

(5) Any person from doing design work including preparing construction contract documents and administration of the construction contract for the erection, enlargement, repair, or alteration of a structure or any appurtenance to a structure regardless of size, if the structure is to be used for a residential building of up to and including four dwelling units or a farm building or is a structure used in connection with or auxiliary to such residential building or farm building such as a garage, barn, shed, or shelter for animals or machinery;

(6) Except as otherwise provided in this section, any person from doing design work including preparing construction contract documents and administering the contract for construction, erection, enlargement, alteration, or repairs of or to a building of any occupancy up to a total building size of four thousand square feet; or

(7) Any person from doing design work, including preparing construction contract documents and administration of the contract, for alteration of or repairs to a building where the project size is not more than four thousand square feet in a building greater than four thousand square feet and when the work contemplated by the design does not affect the life safety or structural systems of the building. The combined square footage of simultaneous projects allowed under this subsection (7) may not exceed four thousand square feet.

ATTORNEY GENERAL OF WASHINGTON

The Honorable Amy Walen

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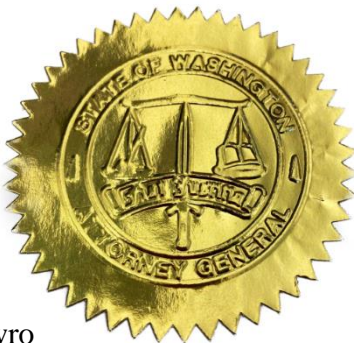
(9) Any person from designing buildings or doing other design work for structures larger than those exempted under subsections (5) and (6) of this section, if the plans, which may include such design work, are stamped by a registered engineer or architect.

Laws of 1985, ch. 37, § 12. However, in 2010, the legislature removed those exemptions and RCW 18.08.410 now reads as quoted in footnote 2.

Current law provides no other exemptions allowing engineers to stamp architectural drawings. *See* RCW 18.08; RCW 18.43. When statutory language is omitted from subsequent versions of the law, courts will assume that the law has changed. *Rhoad v. McLean Trucking Co.*, 102 Wn.2d 422, 427, 686 P.2d 483 (1984) (“We must assume . . . that the Legislature intended to exclude the term and that it meant what it said.” (alteration in original) (quoting *Caplan v. Sullivan*, 37 Wn. App. 289, 292, 679 P.2d 949 (1984))). Moreover, “[a] change in legislative intent is presumed when a material change is made in a statute.” *Darkenwald v. Emp. Sec. Dep’t*, 183 Wn.2d 237, 252, 350 P.3d 647 (2015) (alteration in original) (quoting *Davis v. Dep’t of Licensing*, 137 Wn.2d 957, 967, 977 P.2d 554 (1999)). Thus under current law, a registered engineer may not stamp architectural drawings for submission to building officials for permits and doing so would potentially constitute the unlicensed practice of architecture.

Finally, I note that this Opinion does not completely rescind and replace AGO 1990 No. 9. Rather, it specifically addresses the change in law in 2010 that removed the authority of engineers to stamp architectural drawings. We accordingly overrule AGO 1990 No. 9 only to that extent, but offer no opinion on the other issues in AGO 1990 No. 9. And, moreover, it likely bears repeating for those who rely on AG Opinions that although AG Opinions are afforded “great weight” by courts, *Freeman v. State*, 178 Wn.2d 387, 396, 309 P.3d 437 (2013), they are not controlling authority in those courts. And to the extent they are contradicted by subsequent changes to statutes, the language of the statute will always prevail. Thus, any reader of an AG Opinion would be wise to separately consult the relevant statutes for subsequent changes in the law and to consult an attorney when seeking legal advice.

We trust that the foregoing will be useful to you.



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