

BEFORE THE NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

IN THE MATTER OF:	)	CASE NO. EA 16.02
NEBRASKA BOARD OF ENGINEERS	)	
AND ARCHITECTS;	)	
	)	
Petitioner,	)	
	)	
vs.	)	ORDER OF
	)	DISCIPLINARY ACTION
ASOCIACION GNOSTICA DE	)	
ESTUDIOS DE ANTROPOLOGIA Y	)	
CIENAS A.C. INC.,	)	
	)	
Respondent.	)	

This matter comes on for hearing on May 20, 2016. Testimony was heard and evidence was received. Based on the testimony and evidence received, the Nebraska Board of Engineers and Architects (the Board) finds and rules as follows:

**The Parties**

1. Respondent, Asociacion Gnostica De Estudios De Antropologia Y Cienas A.C. Inc., (Respondent AGEACAC), is an entity who owns real property and buildings at 2051 23<sup>rd</sup> Road, Dwight, Nebraska 68635-3052 (the "Property").
2. The Board of Engineers and Architects was created to administer the Engineers and Architects Regulation Act, Neb.Rev.Stat. §§81-3401 to 81-3455.

**The Hearing**

3. On or about March 18, 2016, Petitioner received notice from the Nebraska State Fire Marshal's Office that Respondent had modified the existing home on the Property, had constructed several other buildings and were in the process of building additional structures on the property.

4. On or about April 18, 2016, counsel for the Board provided a Petition and Notice to Respondent AGEACAC, that a hearing would be held before the Board to address the Board's concern that Respondents were practicing architecture and engineering without a license.

5. The hearing was held on May 20, 2016. A quorum of the Board was present. The Board was represented through counsel, Special Assistant Attorney General Sean Minahan. Miquel Torres and Veronica Gutierrez appeared on behalf of AGEACAC. Brandon Lubke appeared on behalf of the Nebraska State Fire Marshal.

#### **Findings of Fact**

6. Respondent AGEACAC has remodeled or constructed the following buildings on the Property:

- a. Main house/Office – Lodging and Rooming Houses (“Building A”)
- b. Small White Building (“Building B”)
- c. West Dorm Building/Assembly (“Building C”)
- d. East Meeting/Assembly Building (“Building D”)
- e. Connection between Buildings C and D

6. Respondent AGEACAC has also begun the initial phases of constructing the following buildings on the Property:

- a. Proposed New Meditation Building (“Building E”)
- b. Proposed New Library (“Building F”)

7. Respondent AGEACAC has also planned to construct an addition onto the northwest end of Building C.

8. Upon inspection on January 7, 2016 and March 16, 2016, the Nebraska State Fire Marshal found numerous life safety code violations within Buildings A, B, C and D and the Connection between Buildings C and D.

9. Respondent AGEACAC has provided the Nebraska State Fire Marshal with a proposed Work Schedule to remediate the violations found by the State Fire Marshal. According to the State Fire Marshal, the proposed Work Schedules were not adequate to properly remediate the violations.

10. The design and construction, remodeling, alteration, or renovation of Buildings A, C, D and the Connection between Buildings C and D constitutes the practices of architecture and engineering, are subject to the Engineers and Architects Regulation Act, and do not fall under the exemptions of §§81-3449 and 81-3453.

11. The design and construction of Proposed Buildings E, and F, and the proposed Addition to Building C constitutes the practice of architecture and engineering, are subject to the Engineers and Architects Regulation Act and do not fall under the exemptions of §§81-3449 and 81-3453.

12. Respondent AGEACAC has also conducted site work and grading on the Property in constructing Buildings C, and D, and the proposed Buildings E and F.

13. Respondent AGEACAC does not hold an architectural or engineering license in the State of Nebraska as required under Neb.Rev.Stat. §81-3441.

14. Respondent AGEACAC does not hold a Certificate of Authorization as required under Neb. Rev. Stat. § 81-3446(2).

15. Respondent AGEACAC purchased the property and constructed the buildings for the purpose of lodging members and holding meetings for members of its organization.

16. Respondent AGEACAC is funded by donations and the buildings were remodeled or constructed solely by the work of volunteers.

17. Respondent AGEACAC has expressed a sincere desire to work with the Board or any other government agency to come in compliance with whatever statutes and regulations govern the remodel or remediation of violations on the existing buildings and any additional work on the proposed buildings or additions; including the engagement of licensed architects and professional engineers to oversee any remediation or construction.

18. On May 17, 2016, Respondent AGEACAC contracted with a Nebraska licensed architect to oversee the remediation of violations on the existing buildings and construction of the addition onto Building C.

#### **Conclusions of Law**

19. Through its conduct, Respondent AGEACAC has been engaged in the practice of architecture and engineering in violation of § 81-3441.

20. The practice of architecture and engineering without a license is a violation of the Engineers and Architects Regulation Act, Neb. Rev. Stat. § 82-3401 to 81-3455, and Respondent AGEACAC and is subject to disciplinary action.

#### **Order**

21. Respondent AGEACAC is hereby directed to cease and desist all acts constituting the unlicensed practice of architecture and engineering, including, but not limited to the construction, remodeling, alteration, renovation, or remediation of any buildings on the Property unless such construction, remodeling, alteration, renovation, or remediation is designed and supervised by the appropriately state licensed architect or professional engineer.

22. The Board further finds that Respondent AGEACAC's practice of architecture and engineering without a license or without proper authorization is a substantial risk to the life, health and property of the public and hereby imposes a civil penalty of \$10,000.00 as allowed under Neb. Rev. Stat. § 81-3444(1)(e).

23. Due to the mitigating circumstances above, the Board defers enforcement of the civil penalty for a period of 12 months while Respondent AGEACAC performs the following:

a. Contracts with licensed architects and professional engineers to design and supervise any construction, remodeling, alteration, renovation, or remediation on the Property;

b. Grants a Board designee access to the Property and any licensed architects and professional engineers who contract with Respondent AGEACAC to design and supervise any construction, remodeling, alteration, renovation, or remediation on the Property;

c. Appears at requested Board meetings accompanied by any licensed architects and professional engineers who contract with Respondent AGEACAC to design and supervise any construction, remodeling, alteration, renovation, or remediation on the Property to update the Board on the progress of any construction, remodeling, alteration, renovation, or remediation on the Property; and

d. Provides the Board with any requested documents as to any construction, remodeling, alteration, renovation, or remediation on the Property and to support the Respondent AGEACAC's compliance with Engineers and Architects Regulation Act.

e. Provides the Board notice of any contract with any licensed architect and professional engineer who are hired to design and supervise any construction, remodeling, alteration, renovation, or remediation on the Property no later than 15 days from date of contracting with the licensed architect or professional engineer.

f. Provides notice of this Order to any licensed architect and professional engineer contracted to work on the Property no later than 15 days from the effective date of this Order or 15 days from date of contracting with the licensed architect or professional engineer, whichever date is later.

24. Upon completion of the 12 month period the Board shall meet again to determine Respondent AGEACAC's compliance with the Board's Order and may waive any civil penalty only upon Respondent AGEACAC's complete compliance.

25. In the event Respondent AGEACAC's remediation, remodel, or construction on the property is not complete by the end of the 12 month period the Board shall review Respondent AGEACAC's efforts to come in compliance with the Engineers and Architects Regulation Act. In the event the Board is satisfied with Respondent AGEACAC's efforts, the Board shall continue to defer the civil penalty for another period, the length of which is determined by the Board. In the event the Board is not satisfied with Respondent AGEACAC's efforts, the Board will order the civil penalty due immediately and take the necessary steps to enforce the civil penalty.

Dated: June 14, 2016.

THE NEBRASKA BOARD OF ENGINEERS  
AND ARCHITECTS, Petitioner

By: \_\_\_\_\_



Its: Chairperson