



the practice of engineering and architecture in the State of Nebraska. The notice also authorized the Respondent to provide architectural and engineering remediation of the Project under Neb. Admin. Code. Title 110, Board Rule 8.4.

5. On November 9, 2022, a Petition for Disciplinary Action was served on Respondent with a Notice of Hearing scheduled for February 16, 2023. The hearing was continued, and Respondent was served an Amended Notice of Hearing on Petition for Disciplinary Action on February 16, 2023, scheduling the hearing on March 16, 2023.

6. The hearing was held on March 16, 2023. A quorum of the Board was present. The Board was represented through counsel, Special Assistant Attorney General Sean Minahan. The Respondent appeared but was not represented at the hearing.

#### **Findings of Fact**

7. Respondent Kenny is the owner the Property and authorized and oversaw Project.

8. Upon the evidence presented, the Project consisted of the renovation of an approximate 4,000 square foot building, classified as Business and Residential occupancy under the State Building Code.

9. On April 28, 2020, Compliance Officer, Amy Habe, submitted correspondence notifying Respondents that the Project may have violated the laws governing the practice of engineering and architecture in the State of Nebraska. At that time, the Board authorized the Respondents to provide architectural and engineering remediation of the Project under Neb. Admin. Code Title 110, Board Rule 8.4.

10. To date, Respondents have failed to provide architectural, or engineering remediation of the Project as governed by Neb. Rev. Code Title 110, Board Rule 8.4.

### **Conclusions of Law**

11. Through his conduct and ownership of the Property, Respondent has been engaged in the practice of architecture and engineering in violation of Neb. Rev. Stat. §81-3441 and §81-3442.

12. Respondent has failed to complete architectural and engineering remediation as required by Board Rule 8.4 (Title 110, Neb. Admin. Code).

13. 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 is subject to disciplinary action.

### **Order**

UPON THE EXECUTION OF THIS ORDER BY EXECUTIVE DIRECTOR JON WILBECK AS AUTHORIZED BY THE BOARD, THE BOARD DOES HEREBY ORDER THE FOLLOWING:

14. Respondent is hereby directed to cease and desist all acts constituting the unlicensed practice of architecture and engineering, including, but not limited to the construction, expansion, remodeling, alteration, renovation, or remediation of the Project unless such construction, remodeling, alteration, renovation, or remediation is designed and supervised by an appropriately state licensed architect.

15. The Board further finds that Respondent'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 Two Thousand Five Hundred Dollars (\$2,500.00) for the unlicensed practice of architecture and engineering as allowed under Neb. Rev. Stat. § 81-3444(1)(e).

16. Due to the mitigating circumstances of Respondent engaging and working with a Nebraska-licensed architect and professional engineer prior to the hearing, the Board defers enforcement of the civil penalty pending the Respondent's submission of a final architectural and engineering remediation plan that sufficiently meets the requirements of Board Rule 8.4 (Title 110, Neb. Admin. Code) within sixty (60) days of this order and the successful completion of remediation of the Project pursuant to plan within sixty (60) days of this order.

17. In the event Respondent fails to provide to the Board a remediation plan that sufficiently meets the requirements of Board Rule 8.4 (Title 110, Neb. Admin. Code) and successfully completes the remediation of the Project pursuant to the plan the Board will order the civil penalties due immediately and take the necessary steps to enforce the civil penalty.

18. In addition, the Board assesses costs of the investigation of this complaint and the costs of these proceedings against Respondent in the following amounts pursuant to documentation supporting said amounts and provided to the Board:

- a. Attorney's Fees:      \$2,660.00
- b. Court Reporter:      \$295.50
- c. Investigative Costs   \$702.09
- d. Total                    \$3,657.59

The assessed costs are not waived and are due within sixty (60) days of Respondent's receipt of this Order.

