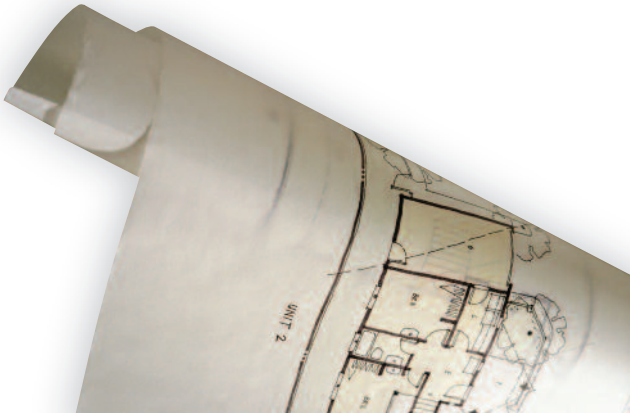
A Consumer's Guide to

The Design Professions

The Tennessee Board of Architectural and Engineering Examiners

To safeguard life, health, and property
and to promote the public welfare.

Revised 2013



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INTRODUCTION

Citizens and visitors of the State of Tennessee live and work in an environment which is largely man-made. Tennessee law recognizes the need "to safeguard life, health and property, and to promote public welfare" in that environment by ensuring that design professionals—architects, engineers, landscape architects, and registered interior designers—who shape that environment are properly qualified. Through the State Board of Architectural and Engineering Examiners, the State sets standards for the education, experience, and performance of those who wish to practice these professions. Because the purpose of the Board is to ensure the health, safety and welfare of all Tennesseans, it does not as a general rule regulate fees charged by design professionals, nor does it resolve contract disputes or other matters for which the civil court system is the proper forum.

Consumers throughout the state—individuals, businesses, and governmental entities—who wish to have buildings or other structures designed or building sites planned, frequently hire design professionals to plan, design, and observe the construction of these projects. In Tennessee, over 20,000 design professionals are licensed by the Tennessee Board of Architectural and Engineering Examiners.

Because of the complex and technical nature of design work, it is not unusual for questions to arise from the consumer and the design professional about specifications, schedules, budgets, and the quality of the proposed work. The Tennessee Board of Architectural and Engineering Examiners hopes that this *Consumer's Guide to the Design Professions* will help you decide when it is appropriate and necessary to hire a design professional. This guide contains information on the projects that require and that do not require a design professional, how to find and select a design professional, and what the written agreement between you and the design professional should contain at a minimum. If you find that you have an unresolvable problem with the design professional even after following the information in this guide, instructions for filing a complaint are included in this guide. Usually, by carefully planning and thoroughly discussing your project beforehand with the design professional(s), you will avoid having to take this step.

Tennessee law does not specifically define the "practice" of architecture, engineering, or landscape architecture because some practice areas overlap among the respective professions; however, under Tennessee law, a person is construed to practice (or offer to practice) architectural, engineering, and landscape architectural services, who, by verbal claim, sign, advertisement, letterhead, card, or in any other way, represents themselves to be an architect, engineer, or landscape architect with or without qualifying adjective, or through the use of some other title implies that the person is an architect, engineer, or landscape architect. Any person who uses the title of architect, engineer, or landscape architect, or advertises to provide architectural, engineering, or landscape architectural services in Tennessee, must be appropriately licensed by the Tennessee Board of Architectural and Engineering Examiners. [Tennessee Code Annotated (T.C.A.) § 62-2-105(c)] In order to use the title "registered interior designer" the

individual must have met the requirements for education, experience, and examination, and be registered by the Tennessee Board of Architectural and Engineering Examiners. Design professionals are required by law and the Board's Rules of Professional Conduct to practice in their areas of competency based upon their education or experience.

This guide is intended to provide an overview and background information only of the design professions, and does not attempt to address all issues concerning the practice of the regulated professions. Many of the descriptions of the general duties of the registered design professionals that follow in this guide should be considered general examples and were compiled from many published sources. This document shall not be interpreted as a definition of any specific practice or profession, and the possibility that the qualifications of registered design professionals or the practice areas of design professionals may overlap should be recognized and considered when consulting this guide. Tennessee's law, rules of professional conduct, and the Board's policies are based on the qualifications and competency of the particular design professional for a specific project.

Unless a Tennessee law, rule, or board policy is specifically cited, this guide is merely a compilation of general statements of guidance obtained from a number of sources, including professional societies, other consumer guides, and other state boards. For information specifically related to the practice of architecture, engineering, landscape architecture, or interior design in Tennessee, you should contact the Tennessee Board of Architectural and Engineering Examiners regarding your questions or concerns. Where a law, rule or policy is cited, the consumer should be sure to check appropriate sources for any amendments to such law, rule or policy. The purpose of this guide is to promote consumer education, but it is in no manner a legal document nor is it a statement (except where specifically cited) of applicable law, rule or policy. As such, this document shall have no effect in any legal proceeding.

A registered design professional promotes the health, safety, and welfare of the public by planning and designing buildings, structures, and the spaces within and surrounding such buildings and structures, that:

- Minimize the risk of injury to persons and property, and comply with all applicable building and life safety codes;
- Are durable, environmentally friendly, cost-effective, and conserve resources;
- Are aesthetically appealing;
- Function properly in all relevant respects; and
- Enhance the public's overall sense of well-being, harmony and community, and integrate effectively with the surrounding environment.

ARCHITECTURAL SERVICES

Architects are involved with the design, construction, enlargement or alteration of a building or group of buildings and the space within and the site surrounding such buildings, which have as their principal purpose human occupancy or habitation. The services referred to include pre-design services, programming, planning, design drawings, specifications and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects. Most architects provide the services listed under the following categories--architectural, landscape architectural, and interior design services.

An architect is concerned with the basic concepts of the full spectrum of design considerations. Listed below are examples of matters architects typically address:

- Program and planning
- Site layout and site drawings (e.g., parking, zoning requirements, grading, building layout)
- Overall design of buildings and related sites
- Building classification (e.g., occupancy, type of construction)
- Building circulation and exiting (e.g., stairway, exit width, travel distances, corridors)
- Life safety considerations of building components (e.g., requirements for sprinklers, fire ratings, fire walls, separations, fire alarms, smoke control)
- Preparing working drawings and specifications for all aspects of a building shell and the interior
- Interior space planning
- Interior and exterior finish materials (e.g., durability, function, aesthetics, fire ratings)
- Environmental impacts (e.g., sound attenuation, quality of living, impact on natural surroundings)
- Barrier free design and accessibility requirements
- Overall project coordination
- Construction administration

ENGINEERING SERVICES

The engineering profession utilizes the knowledge of the mathematical and natural sciences gained by study, experience, and practice to apply with judgment the development of ways to utilize economically the materials and forces of nature for the benefit of mankind. Engineers apply their education and skills to the design and analysis of buildings; communication systems; electrical and power distribution systems; heating, ventilation and air conditioning (HVAC) systems; plumbing systems; fire protection systems; bridges; dams; roads; drainage systems; wastewater treatment systems; erosion control; machinery; soil analysis; and many other products and systems.

In Tennessee, engineers are not registered by a specific discipline such as "civil engineer," "mechanical engineer," "electrical engineer," "structural engineer," etc. Engineers are required to perform their services in their area(s) of competence based on education or experience.

Engineers are concerned with the planning, analysis, and design of a wide variety of building systems. Listed below are examples of matters engineers typically address:

- Structural systems (e.g., framing, structural connections, foundations)
- Electrical systems (e.g., power distribution, lighting, security, fire alarm and smoke detection)
- Mechanical systems (e.g., plumbing, water distribution systems, HVAC, fire protection systems)
- Soils analysis (e.g., soils reports, soil stabilization, geotechnical investigations)
- Civil works (e.g., site work, site drainage, grading, utilities, circulation)
- Coordination of engineering works (e.g., power stations, dams, bridges, water treatment facilities)
- Barrier free design and accessibility requirements
- Environmental systems, impact studies, improvements and assessments
- Overall project coordination
- Construction administration

LANDSCAPE ARCHITECTURAL SERVICES

Landscape architecture is the art and science of analysis, planning, design, management, preservation, rehabilitation, and integration of the man-made environment with the natural environment. The scope of the profession includes site planning, garden design, environmental restoration, town or urban planning, park and recreation planning, regional planning, and historic preservation. Design services usually include such items as planting, paving, outdoor lighting styles and concepts, outdoor recreational facilities, small nonhabitable structures, signage, site furnishings, fountains, irrigation, grading, drainage, erosion control measures, and other similar work. Practitioners share a commitment of achieving a balance between preservation, use and management of the country's resources.

A landscape architect is concerned with the planning and analysis of a wide variety of site conditions, landforms, structures, and systems concerned with the full spectrum of landscape architectural conditions. Listed below are examples of matters landscape architects typically address:

- Site layout and site drawings (e.g., parking, zoning requirements, grading, landscaping, site layout, structure locations, site drainage)
- Aesthetics and overall project design
- Site structures classification (e.g., shade structures, provided such structures are not fully enclosed except for prefabricated and kit facilities such as restrooms; open landscape retaining walls; fences; playground structures)
- Site circulation and access (e.g., walkways, travel distances, and other access requirements)
- Life safety considerations (e.g., requirements for outdoor recreational facilities, playground structures, shade structures, water distribution for potable and landscape uses, fencing)
- Plant material analysis (e.g., plant material for condition hardy species, form, color, water usage, health, anti-allergy selection species, and accessibility.)
- Finish materials (e.g., durability, function, aesthetics)
- Environmental impacts (e.g., water conservation, land use consideration, natural resource analysis, aesthetic analysis, revegetation and reclamation, plant selection, sound attenuation, quality of life, impact on natural and built surroundings)
- Barrier free design and accessibility requirements (e.g., play structures, site structures, site access, facility access)
- Overall project coordination
- Interior and exterior landscape design (e.g., planting design, irrigation design, circulation, fountains and pedestrian assembly areas)
- Outdoor assembly (e.g., sports fields, parks, trails, shelters, spectator spaces, playgrounds)

INTERIOR DESIGN SERVICES

Interior designers and architects, who are registered with the Tennessee Board of Architectural and Engineering Examiners, may use the title "Registered Interior Designer." The interior design registration law is a “title act.”

A registered interior designer may provide plans and specifications in connection with reflected ceiling plans, space utilization not affecting life safety, furnishings, or the fabrication of non-structural elements within the interior spaces of buildings.

Registered Interior Designers enhance the performance and efficiency of interior spaces by:

- Consulting and programming to determine the client's needs, goals, and safety requirements;
- Formulating preliminary design concepts that are appropriate, functional, and aesthetic;
- Preparing working drawings and specifications for finishes, reflected ceiling plans, furnishings, fixtures, space plans and non-load bearing interior construction;
- Collaborating with licensed practitioners who offer professional services in the architectural and engineering areas including mechanical, electrical, plumbing, and load-bearing design as required for regulatory approval; and
- Preparing and administering bids and contract documents for interior finishes, furnishings and fixtures.

Registered Interior Designers include in their planning the important aspects of the public’s health, safety, and welfare by applying knowledge of:

- Fire safety of fabrics, carpet and wall coverings; i.e., flame spread ratings and fire rating classification of materials;
- Indoor air quality;
- Acoustics and sound transmission;
- Design for special needs populations;
- Product quality, durability, and safety;
- Lighting concepts and styles;
- Appropriate color theory application;
- Design of ergonomic workspaces;
- Ingress and egress requirements;
- State and local codes and standards; and
- Environmentally friendly products.

FIRM DISCLOSURES

A corporation, partnership, or firm offering architectural, engineering, or landscape architectural services to the public may engage in the practice of architecture, engineering, or landscape architecture in Tennessee, provided that at least one (1) of the principals (an individual capable of making independent design decisions) or officers of such corporation, partnership, or firm is in responsible charge of such practice and maintains active Tennessee registration as an architect, engineer, or landscape architect, provided firm disclosures are filed with the Tennessee Board of Architectural and Engineering Examiners. [T.C.A. § 62-2-601]

Corporations, partnerships, and firms maintaining any place of business within Tennessee for the purpose of providing or offering to provide architectural, engineering, or landscape architectural design to the public shall have, in responsible charge of such service at any and each place of business, a resident registered architect, engineer, or landscape architect. [T.C.A. § 62-2-602]

A corporation, partnership, or firm may use the title "registered interior designer" provided that at least one of the principals or officers of such corporation, partnership or firm is in responsible charge of such practice and is registered as a "registered interior designer" under the provisions of the registration law for registered interior designers.

WHEN DO I NEED TO HIRE A DESIGN PROFESSIONAL?

It is unlawful for anyone other than a registered design professional to prepare plans and specifications for any building project of 5,000 square feet or more in total gross area or over two (2) stories in height unless exempted by law [T.C.A. § 62-2-102]; however, building officials may require that architectural, engineering, and landscape architectural plans be submitted for building permit issuance for buildings less than 5,000 square feet. Assembly, educational and institutional occupancies always require the use of registered design professionals regardless of the size or scope of a project.

Occupancy Types Requiring a Design Professional

(Architect, Engineer, Landscape Architect)

Tennessee law (T.C.A. § 62-2-102) requires the use of a registered design professional to prepare plans and specifications for the following occupancies as defined in the 1985 edition of the Standard Building Code:

- **Assembly Occupancies (A):** buildings or structures, or any portion thereof, for the gathering of persons for purposes such as civic, social, or religious functions or for recreation, food or drink consumption, or awaiting transportation. A registered design professional is required for this type of occupancy regardless of the size of the facility. Examples include: amusement park buildings; auditoriums; churches, synagogues,

mosques; dance halls; motion picture theaters; museums; passenger depots; public assembly halls; and restaurants which accommodate 100 or more people, or that have a stage, provide dancing or entertainment features.

- **Business Occupancies (B):** use of a building or structure, or any portion thereof, for office, professional, or service transactions including normal accessory storage and the keeping of records or accounts. A registered design professional is required if the building or structure is over two stories in height or 5,000 square feet or more in total gross area. Examples include: office buildings; service stations; bowling alleys; greenhouses; banks; libraries (other than school); restaurants, and dry cleaning establishments.

- **Educational Occupancies (E):** use of a building or structure, or any portion thereof, for the gathering together of persons for the purpose of instruction. A registered design professional is required for this type of occupancy regardless of the size of the facility. Examples include: public and private schools; colleges; universities, and academies.

- **Factory-Industrial Occupancies (F):** use of a building or structure, or any portion thereof, for assembling, disassembling, repairing, fabricating, finishing, manufacturing, packaging or processing operations but does not include buildings used principally for any purpose involving highly combustible, flammable, or explosive products or materials. A registered design professional is required for those buildings or structures which are over two stories in height or 5,000 square feet or more in total gross area. Examples include: manufacturing plants, factories, assembly plants, processing plants, and mills.

- **Hazardous Occupancies (H):** principal use of a building or structure, or any portion thereof, that involves highly combustible materials or flammable materials, or explosive materials that have inherent characteristics that constitute a high fire hazard. A registered design professional is required if the building or structure is over two stories in height or 5,000 square feet or more in total gross area. Examples include: dry cleaning establishments, explosive manufacturing, grain elevators, paint or solvent manufacturing, pyroxylin plastic manufacturing, sodium nitrate or ammonium nitrate, storage of combustible film, and tank farms used to store flammable liquids or cases.

- **Institutional Occupancies (I):** A registered design professional is required for this type of occupancy regardless of the size of the facility:

  - **unrestrained occupancy**—use of a building or structure, or any portion thereof, for the purpose of providing medical care and sleeping facilities for four or more persons who are mostly incapable of self-preservation because of physical or mental disability; examples include: hospitals, nursing homes, mental institutions (restrained and unrestrained), and nursery facilities providing full time 24-hour care for persons under six years of age.

  - **restrained occupancy**—use of a building or structure, or any portion thereof, for the purpose of providing sleeping facilities for four or more persons who are confined or housed under some degree of restraint or security; examples include: jails, detention

centers, correctional institutions, reformatories, pre-release centers, and other residential-restrained care facilities.

- **Mercantile Occupancies (M):** use of a building or structure, or any portion thereof, for the display and sale of merchandise. A registered design professional is required if the building or structure is more than two stories in height or 5,000 square feet or more in total gross area. Examples include: shopping malls, stores, shops, and markets.

- **Residential Occupancies (R):** use of a building or structure, or any portion thereof, for sleeping accommodations not classified as institutional occupancies. A registered design professional is required if the building or structure is intended to house more than two families and is more than two stories in height or 5,000 square feet or more in total gross area. Examples include: multiple dwellings (more than two families), hotels and motels, dormitories, lodging houses, and convents and monasteries.

- **Storage Occupancies (S):** principal use of a building or structure, or any portion thereof, for storage that is not classified as hazardous, or for the purpose of sheltering animals. A registered design professional is required if the building or structure is more than two stories in height or 5,000 square feet or more in total gross area. Examples include: aircraft hangars, garages, warehouses, storage buildings, freight depots, and automobile parking structures.

Exempt Structures

Tennessee law (T.C.A. § 62-2-102) provides that the following buildings or parts of buildings do not require the use of a design professional:

- one-family and two-family dwellings and domestic outbuildings appurtenant thereto;
- farm buildings not designed or intended for human occupancy; and
- structures classified as business, factory-industrial, hazardous, mercantile, residential, and storage occupancies, as such occupancies are defined in the 1985 Standard Building Code, that are less than three (3) stories in height and less than five thousand square feet (5,000 sq. ft.) in total gross area.
- signs that do not exceed either of the following limits (unless failure of the support system for the sign is likely to cause harm to people or property):

  (i) Any portion of the sign is twenty feet (20') or more above the ground level; or

  (ii) Any portion of the sign is fifteen feet (15') or more above the ground level, if the sign has more than one hundred twenty square feet (120 sq. ft.) in total sign face area.

Before you hire someone to design or build a new structure or alter an existing structure, consult with the local building official in your city or county building department and/or the State Fire Marshal's Office. The building official can advise you if your project requires a registered architect or engineer to design and submit plans and specifications for the project and if a licensed contractor is required. In deciding whether you need a registered design professional, the building official will consider existing state laws as well as public health, safety, and welfare.

Public Works Projects

Public works projects involving architecture, engineering or landscape architecture by the State, any city, county, town, village, or other political subdivision of the State must have plans, specifications, and estimates prepared by Tennessee registered design professionals when (T.C.A. § 62-2-107):

- they are greater than $25,000 (contemplated expenditure for complete project, except state park maintenance projects described below), or
- alter the structural, mechanical, or electrical system of the project.

There is an exemption for public works projects located in a state park if the project meets the following conditions:

1) The contemplated expenditure for the complete project does not exceed $100,000 in value and the work is defined solely as maintenance under the policy and procedures of the State Building Commission, or
2) If the project is located in a state park and existing plans are used which have been designed and sealed by a registered architect, engineer, or landscape architect and a registered architect, engineer, or landscape architect reviews such plans for compliance with all applicable codes and standards and appropriateness for the site conditions of the project, makes changes if required, and seals the plans in accordance with state law.

Qualifications-Based Selection

Design professionals for public projects in Tennessee are not selected through the competitive bid process, but are chosen through qualifications-based selection, meaning that the contract is awarded based on recognized competence and integrity. In the procurement of architectural and engineering services, the selection committee/procurement official:

- may seek qualifications and experience data from any firm or firms licensed in Tennessee and interview such firms;
- shall evaluate statements of qualifications and experience data regarding the procurement of architectural and engineering services, and shall conduct discussions with such firm or firms regarding the furnishing of required services and base selection on the firm deemed to be qualified to provide the services required; and
- shall negotiate a contract with the qualified firm for architectural and engineering services at compensation which the selection committee/procurement official determines to be fair and reasonable to the government and in making such determination, the selection committee/procurement official shall take into account the estimated value of the services to be rendered, the scope of work, complexity and professional nature thereof. [T.C.A. § 12-4-107]

Registrants of the Board may be subject to discipline if they submit competitive bids for public projects [Rule 0120-02-.02(6)].

DESIGN BUILD PROJECTS

Design Build is a building process whereby one firm provides both the design and construction services to property owners or developers. This process does not circumvent and must not be used to circumvent the laws requiring architectural and engineering plans for new construction or remodeling of structures requiring plans and specifications by design professionals. Contractors, without in-house registered architects, engineers, or landscape architects, offering “design/build” services are not authorized to perform actual architectural, engineering, or landscape architectural services. Such professional services must be performed by duly qualified registrants of the Board of Architectural and Engineering Examiners in conformity with the provisions of T.C.A., Title 62, Chapter 2, and the Board’s Rules of Professional Conduct.

Contractors may offer “design/build” services to the public without having to comply with the firm disclosure and supervision requirements of T.C.A., Title 62, Chapter 2, Part 6, provided no “architectural,” “engineering,” or "landscape architectural" services are offered in-house.

The design team should be in place at the time the contractor is presenting the desire to provide design build services or responding to prospective proposals. Members of the design team should be included in any meeting with clients in which the project is discussed. Any plans, specifications, and/or reports which are part of a proposal, and all subsequent construction documents, shall be prepared and sealed by the architect, engineer, or landscape architect having responsible charge of the project.

BASIC CRITERIA

Prior to selecting your design professional, develop basic criteria for your project to help communicate your needs to the professional being considered. The basic criteria for your project should include, but not necessarily be limited to:

- the services you expect the design professional to perform;
- the size, appearance, functional, and any special requirements of your building or project;
- what you intend to spend for design fees and construction, if known;
- what materials you wish to use;
- how the project will be financed;
- anticipated starting and completion dates of your project; and
- how you intend to construct the project.

FINDING AND SELECTING A DESIGN PROFESSIONAL

Obtain the names of design professionals from more than one source. Ask for recommendations from someone you know who has worked with a design professional. Look in the yellow pages of the telephone directory under "Architects," "Engineers," "Landscape Architects," and "Interior Designers" for individuals and firms.

Contact several design professionals before making your final choice. When dealing with the construction and remodeling of buildings, the general practice is for the architect to obtain the services of an engineer, landscape architect, and/or interior designer depending on the specific needs of the project. Unless you are absolutely satisfied with one referral from a reliable source, you will now need to determine which design professional from the list you have compiled will be able to provide the services you need and at a reasonable cost.

The Tennessee Board of Architectural and Engineering Examiners does not maintain a referral service and cannot recommend a design professional. Consumers may call the Board Office or search the licensee roster that is available on the Board's website for questions about the registration status of any design professional.

Request for Information

You should request information on qualifications and experience from several design professionals. After reviewing their qualifications, interview three or four of them to determine their understanding of your project and their compatibility in working with you. During the selection process, you may want to ask some or all of the following questions:

General Information:

- Do you have a valid Tennessee architect, engineering, landscape architect, or registered interior designer license? If so, what is your registration number?
- Do you carry professional liability insurance? If so, what type(s) and what amount?
- How long have you been in business?
- How many persons are employed by your firm?
- What percentage of your practice involves the project or type of structure I intend to build or undertake?

Experience:

- Have you recently designed the type of project or structure I intend to build or undertake?

- May I see examples of your work that are similar to my project (sketches, photos, plans)?
- May I have the names, addresses, and telephone numbers of the clients whose projects you are using for these examples?
- What was the actual construction or project cost versus budgeted cost for these projects?

Services:

- What services did you provide for these clients during the design, bidding, and construction phases?
- What services do you propose to provide for my project during each of these phases?
- Who will provide these services: you or your employees?

Fees:

- What will the fee schedule be? How will your fees for my project be determined and what services do the fees cover?
- If other design professionals are necessary for my project, are their fees included in your basic fee?
- What additional costs (e.g., permit and other governmental fees) or services (e.g., time spent obtaining necessary permits and other approvals) do you anticipate for my project?
- How do you establish your fees for additional services and reimbursable expenses?
- Will there be a charge for redesign if it is necessary to meet the construction budget? How are additional charges computed for design changes requested by me?

Time:

- Can you meet my proposed schedule?

Making the Final Decision

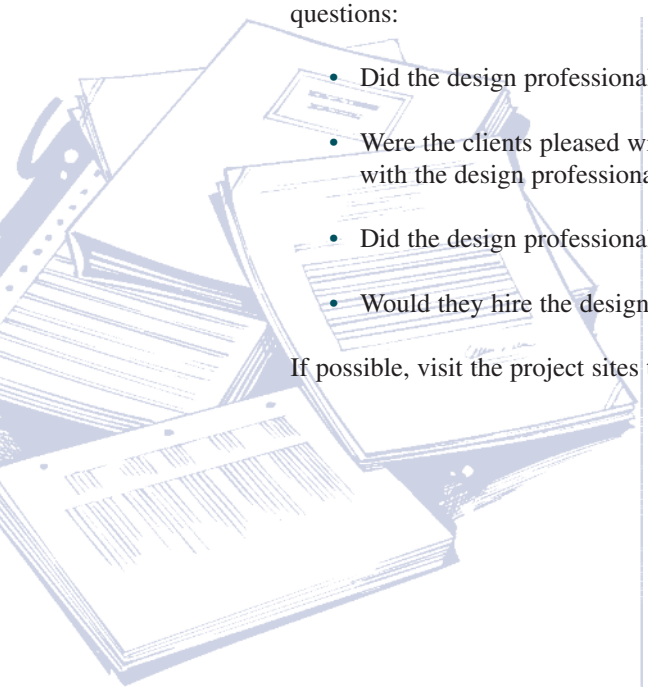
Contact the Tennessee Board of Architectural and Engineering Examiners to:

- Verify the registration status of the design professionals you interviewed. Although the design professional may

display certificates indicating that they are registered by the state, these certificates may be invalid if the individual has not renewed their licenses, has had his or her privilege to practice suspended, or his or her license has been revoked. To assist consumers in determining whether a design professional is registered in the State of Tennessee, the Board maintains a roster on its website for each profession regulated by the Board as well as a listing of firms duly qualified to practice architecture, engineering, or landscape architecture in the State.

- Determine whether any complaints have been filed against the design professional. The fact that a complaint may have been filed against the design professional is not, without Board action, a determination of the truth of any facts alleged in such complaint.

Check the references that each design professional has given you and ask the following questions:



- Did the design professional adhere to required schedules and budgets?
- Were the clients pleased with the design professional's work and their working relationship with the design professional?
- Did the design professional listen to the clients' concerns and attempt to resolve them?
- Would they hire the design professional again?

If possible, visit the project sites the design professionals have used as examples of their work.

THE AGREEMENT FOR DESIGN SERVICES

Once you have decided on a design professional for your project, execute a written contract prior to the beginning of any work. Many design professionals prepare their own agreements, use a standard contract developed by their respective professional organizations, or have them prepared by an attorney.

The agreement for design services is a legal document that binds you and the design professional to certain obligations for the life of the project and, in some cases, beyond project completion. It should include the specific services you and the design professional have agreed upon and the conditions under which these services are to be rendered; otherwise, issues could arise that may be both expensive and time-consuming to resolve.

Review the agreement carefully; you have the right to question and change the terms of the agreement before signing it. Have your legal counsel review the agreement before you sign it. Retain an original copy of the signed agreement. It is both your responsibility and the design professional's to understand and follow the agreement. Do not make agreements with other design professionals regarding your project without first notifying the design professional with whom you have the primary agreement. Communications concerning design or contract changes or clarifications should always be in writing.

Recommended Items for the Written Contract

The following is a list of items commonly found in standard contracts for design services:

- A description of services to be provided by the design professional to the client;
- A description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties;
- The name, address, and license number of the design professional and the name and address of the client;
- A description of the procedure that the design professional and the client will use to accommodate additional services;
- A description of the procedure to be used by either party to terminate the contract;
- The title and address of the project;
- At what phases of the design professional's work your approval must be given before he or she proceeds to the next phase;
- The construction or project budget and what items it includes;

- An itemized listing of the design professional's basic services;
- A clarification of who pays the consultant fees if other design professionals are required, and in the case of engineering services, which disciplines were represented by these consultants;
- A clarification of the reimbursable costs that are not included in the basic fee;
- A clarification of what services constitute additional costs;
- A clarification of whose approval is required before these additional costs are incurred;
- A schedule of when and in what amounts payments are due;
- How construction observation/administration services will be provided;
- The amount of the retainer fee and how/when/where it will be applied;
- How final payment is computed if the agreement is terminated;
- A procedure for handling disputes between the parties should the need arise (for example, arbitration or mediation);
- A clarification of who owns the project documents; and
- A clarification of who is responsible for keeping project account records and when they may be reviewed.

Keeping Records

The written agreement should not be the only document you keep. You should also keep:

- A written record of all verbal communication with the design professional that relates to the project. Do not assume the design professional will interpret everything you discuss with him or her the same way you do. When you have a meeting or discussion with the design professional about your project, write the design professional a memo confirming your understanding of that meeting or discussion. These memos can help to prevent misunderstandings from occurring and may prove invaluable should a problem or dispute occur. Include the date and time of your conversation in the memo, as well as the date you write it.

- Written memos or notes to yourself about the progress of the project. Photographs taken at regular intervals (with notes as to the dates that the photos are taken) can be very useful in establishing a historical record of the project. Carefully evaluate each phase of the work. Make sure the design professional knows your written approval is necessary before proceeding to the next phase of work.

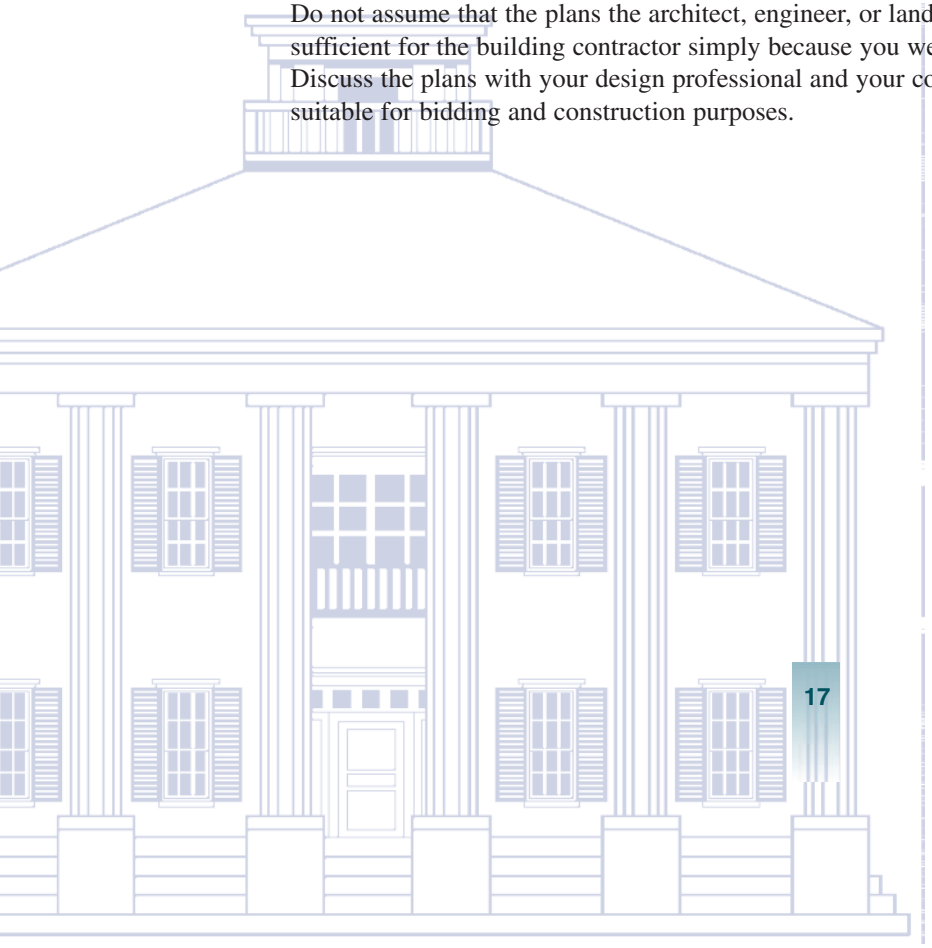
- Detailed invoices showing the date and amount of each payment you make. Require the design professional to obtain your written approval before additional costs are incurred.

Make sure that you receive a copy of all documents you sign, and keep a copy of all documents you give to the design professional.

Construction Hints

You should carefully consider any decision to build your own structure, especially if you are not experienced in construction. Most building projects will require that a licensed contractor be used if the building or structure is for public use (other than one's own personal use), in which case, the construction work should be performed by a contractor licensed by the **Tennessee State Board for Licensing Contractors.** Therefore, it is important for you to ensure that the construction documents (building plans and specifications) you received from the design professionals are complete enough for you to obtain bids from one or more contractor(s), as well as complete enough for the contractor to construct your project. The plans you receive from the architect, engineer, and/or landscape architect are required by Tennessee State Law and the Board's Rules of Professional Conduct to bear the seal, signature, and date of signature of the design professional responsible for preparing the plans or under whose responsible charge (supervision) the plans were prepared.

Do not assume that the plans the architect, engineer, or landscape architect gives you are sufficient for the building contractor simply because you were able to obtain a building permit. Discuss the plans with your design professional and your contractor to ensure that they are suitable for bidding and construction purposes.



IN THE EVENT OF A NATURAL OR MAN-MADE DISASTER

When responding to advertisements or solicitations offering architectural or engineering services, disaster victims should verify whether the person offering services has a valid license. Only persons licensed by the Tennessee Board of Architectural and Engineering Examiners may call themselves architects and engineers and provide architectural or engineering services.

Requirements for Reconstruction

Individuals are advised to contact their local building officials for clarification of the requirements for repair or construction of their project. It may not be possible to recreate the home or business as it existed before the disaster because they were designed years ago to conform to building codes that have been changed. In some instances, substantial design or redesign work may be necessary to meet current code requirements.

Immunity Following Emergencies

Tennessee has a Good Samaritan law for registered architects and engineers who, at the request of a public safety official (chief law enforcement officer in a city or county, a law enforcement officer acting at the specific direction of the chief law enforcement officer, or the director or such director's assistants of the designated emergency management agency) provide safety inspection services, without compensation or expectation of compensation, at the scene of a declared national, state, or local natural or man-made emergency. This law gives the "good Samaritan" architects and engineers who provide these services immunity from liability for an inspection that occurs within 90 days of the emergency. [T.C.A. § 62-2-109]

WHEN A PROBLEM OCCURS WITH YOUR PROJECT

You, the consumer, have a right to receive careful and professional service from the design professional(s) you have hired. Even if you have read and followed this guide and have done everything possible to prevent problems, you may feel that you have a complaint about your design professional. What should you do?

If a problem or dispute arises between you and the design professional, arrange a meeting with the design professional to discuss the problem thoroughly and calmly. Review the written agreement and other relevant documentation with the design professional. If you and your design professional are still unable to resolve the problem, you may wish to consider other forms of dispute resolution such as mediation, arbitration, or other legal action. You may also call or write the Tennessee Board of Architectural and Engineering Examiners regarding your complaint; however, before contacting the Board, be sure it is a licensure and not a contractual problem. Also note that the Board cannot recover or order the refund of any money or property to which you may be entitled. You should consult with your own attorney about a lawsuit in these matters.

What Constitutes a Complaint?

The Board has the power, duty, and authority to investigate alleged violations of Tennessee law, and is also given specific authority to receive and investigate complaints against its licensees and to discipline violators accordingly. Do not hesitate to call or write the Tennessee Board of Architectural and Engineering Examiners about any questions or concerns you may have. The Board may take disciplinary action against design professionals for:

- Fraud in obtaining a license;
- Impersonation or use of an assumed or corporate name;
- Unlicensed practice and aiding unlicensed practice;
- Signing others' plans not prepared under their responsible charge (supervision) or permitting the misuse of their name;
- Conflicts of interest;
- Fraud in the practice of architecture, engineering, or landscape architecture;
- Negligence, misconduct, incompetency or recklessness.

Disciplinary actions may include: revocation, suspension, or probation of certificates of registration, civil penalties, and/or referral to local district attorneys for criminal prosecution. The Board may also investigate complaints about unlicensed practice involving projects not exempted by state law.

How to File a Complaint

A complaint form can be obtained by contacting the Board office or by downloading it from the Board's website. In filling out the form, be sure to fully describe your complaint and return it to the Board office with any evidence to support your complaint. It would also be helpful to submit copies of all documentation, including pictures that you believe will substantiate your complaint. Keep the originals of these documents, as well as a copy of your complaint letter. Be sure to include your name, address, and telephone number so the Board may contact you if more information is required. You have the right to remain anonymous if you so choose by requesting it at the time you file your complaint. However, anonymity may add some difficulty or may prevent the Board from fully investigating your complaint and/or prosecuting the case. The Tennessee Public Records Act (T.C.A. § 10-7-504) makes most records maintained in the Board office open to the public; the Board may be required by law to make public any document you submit.

How Will the Board Respond?

Complaints are reviewed when they are received, and, depending upon the nature of the complaint, investigated. You may be asked to provide more information before your complaint can be processed. A letter to both you and the design professional is sent out within three (3) days of receipt of your complaint. The letter to the design professional requests that they respond with an explanation of his or her side of the situation. Before complaints are officially closed, they are reviewed by our legal counsel and the Board. You will be notified of the actions taken regarding your complaint. Each complaint filed with the Board is considered on its own merits to determine appropriate action, which may range from dismissal to investigation to informal action to formal disciplinary action. If the Board conducts a formal hearing in the matter, you may be subpoenaed to testify.

ABOUT THE TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS

The Tennessee General Assembly created the Board of Architectural and Engineering Examiners in 1921 to safeguard life, health, and property and to promote the public welfare. The Board is charged with establishing minimum registration standards for architects, engineers, landscape architects, and registered interior designers, and regulating the practice of architecture, engineering, and landscape architecture, and the use of the title "registered interior designer" in the State of Tennessee.

The Board is comprised of three architects, three engineers, one landscape architect, one registered interior designer, one public member, and three non-voting associate engineers from across the state. The Board usually meets six times a year and at such other times as deemed necessary. The administrative functions of the Board are overseen by the Executive Director and the Board staff.

The Board may be contacted at the following address:

Tennessee Board of Architectural and Engineering Examiners
500 James Robertson Parkway
Nashville, Tennessee 37243-1142
615-741-3221 or 800-256-5758
www.tn.gov/regboards/ae
E-mail: ce.aeboard@tn.gov