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ARIZONA ATTORNEY GENERAL, 1961

Mr. W. T. Hamlyn, Chairman
State Board of Technical Registration
Suite 624, Guaranty Bank Building
3550 North Central Avenue
Phoenix, Arizona

Dear Mr. Hamlyn:

This will acknowledge receipt of your letter dated January 9, 1961, in which you requested an opinion on the following:

"Are city and/or county officials who have the authority to issue or deny permits for building construction obligated and empowered to deny an application for such a permit when the drawings and specifications have been prepared by a person, or persons, not legally qualified to perform such work under the Technical Registration Act (Sec.32)?"

A previous opinion has been rendered on this subject in Attorney General's letter opinion No. 60-80-L. We are in accord with the substance of this opinion, but we do not agree with the supplement thereto.

The applicable statutory provisions are as follows:

"Sec. 32-121 Certificate required for practice of architecture, assaying, engineering, geology or land surveying.

A person desiring to practice the profession of architecture, assaying, engineering, geology, or land surveying shall first secure a certificate of registration and shall comply with all the conditions prescribed in this chapter."

"Sec. 32-141 Firm or corporate practice

No firm or corporation shall engage in the practice of architecture, assaying, geology, engineering or land surveying unless the work is under the full authority and responsible charge of a registrant, who is also a principal of the firm or officer of the corporation. The name of said registrant shall appear whensoever the firm name is used in the professional practice of the firm or corporation."

Originator
A. E. LARSON
I Concur
LEVERANT ROZAR
I Concur
ROBERT W. PICKRELL

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"Sec, 32-145 Violations; penalty

Any person who commits any of the following acts is guilty of a misdemeanor:

1. Practices, offers to practice or by any implication holds himself out as qualified to practice as an architect, assayer, engineer, geologist or land surveyor, who is not registered as provided by this chapter.
2. Advertises or displays a card, sign or other device which may indicate to the public that he is an architect, assayer, engineer, geologist or land surveyor, or is qualified to practice as such, who is not registered as provided by this chapter.
3. Assumes the title of engineer, architect, geologist, assayer or land surveyor, or uses or attempts to use as his own a certificate of registration of another, or uses or attempts to use an expired or revoked certificate of registration.
4. Presents false evidence to the board for the purpose of obtaining a certificate of registration.
5. Otherwise violating any provision of this chapter."

No person should act in such a manner so as to encourage violation of the law. The issuance of building permits where the drawings and specifications have been illegally prepared seems to be encouraging violation of the Technical Registration Act. Denial of permits for the reason that the statute has not been complied with is not placing a duty on such officials to enforce the law. It is only placing a duty on them to carry out their own particular functions in a proper and lawful manner.

When drawings and specifications are required, preparation of such by an unregistered person is the equivalent of no drawings or specifications. The requirement of registration of architects and engineers is for the general protection of the public in assuring that such work is performed by properly qualified persons.

It is, therefore, the opinion of the Attorney General that city and/or county officials who have the authority to issue or deny permits for building construction are obligated and empowered to deny an application for such a permit when the drawings and specifications have been prepared by a person, or persons, not legally qualified to perform such work under the Technical Registration Act.

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I trust this will be of assistance to you.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

ALVIN LARSON
Assistant Attorney General

AL:vbk