



Published by the Bronx Chapter AIA Publications Committee to highlight activities and information of interest to the Practicing Architect.

Newsletter

Contents

- I Current Activities:
Chapter Meeting November 15, 2018.
- II Related Articles and Education Opportunities
- Green Build University – Stability into Acquisition - CEU
 - HWU Update – Most Popular Courses - CEU
 - HWU Update – Windows in Historical Preservation - CEU
 - Architect Forum – Latest AIA Courses - CEU
- III National AIA – NYSAIA – Bronx Chapter
- National AIA Convention, Las Vegas
June 6-8, 2019
Las Vegas Convention
Las Vegas, Nevada
Link: <http://www.conferenceonarchitecture.com>
 - 2019 Tri-State Design Conference
Albany, New York
October 17-19, 2019
Link: <http://www.aianyc.org>
- IV Next Chapter Meeting is on December 13, 2018 at 12:00pm.
-



November 15, 2018

Meeting Minutes

Meeting began at 12:15pm

Attendees

Bob Esnard
Antonio Freda
Ken Koons, Sr.
Ken Koons, Jr.
Giuliano Penna
Martin Zelnik

Guest

Bill Leon – NanaWall Systems, Inc.

Agenda / Discussion:

1. NanaWall Systems, Inc. representative, Bill Leon, opened the meeting with a presentation on Doors and how they perform/work in walls in various situations. He reviewed the types of doors; sliding, folding and swinging. These types are further defined by the grading of door frames and the best uses for the various types of doors, frames and hardware and their application in residential or commercial situations. Bill demonstrated through videos and pictures how doors can swing to satisfy fire codes and ADA regulations while simultaneously being completely open or closed as needed for specific applications. His talk was illustrated with normal and unique examples of doors, installations, how they are manufactured, their thermal characteristics and how they can be modified to suit various climate and uses.

After his presentation, there was a question and answer period outlining specific door/wall issues members had experienced in the past and current projects. He offered to assist Chapter members to select and specify doors for any of their projects. Bill's contact phone number is 631-912-9780 and email, bill@designsalesassociates.com.

2. The Minutes of the October 25, 2018 meeting were reviewed. Motion for approval was made by Ken Koons Sr., and seconded by Ken Koons Jr., and unanimously accepted.
3. Election of Officers
At the October meeting, the Nominating Committee Chairman Ken Koons, Sr., presented a slate of officers for 2019. The Board discussed the fact that the Chapter needs more/new people to volunteer and to become officers in the next year or two. After a short discussion, Marty Zelnik recommended, and Giuliano Penna seconded, and the slate of officers that was unanimously approved, as follows:
 - Antonio Freda, President
 - Giuliano Penna, Vice President
 - Robert Esnard, Secretary

- Ken Koons Jr, Treasurer
 - Ken Koons Sr, Director
 - Sara Jazayeri, Director
 - Martin Zelnik, Director
 - Richard Stein, Director

4. Meeting Dates

As was discussed in the October and at this November meeting, the time for next month's meeting had to be modified. The December meeting was changed to a luncheon, as our meeting venue could not guarantee that the Chapter could have a room available December evening. However, the restaurant offered the meeting room for a luncheon, on any month, without charge. Unfortunately, modifying the meeting time for the next meeting requires the Chapter to have two luncheon meeting before, we can be back to our alternating, lunch/dinner schedule, which for now is as follows.

December 13, 2018	-	12:00pm
January 17, 2019	-	12:00pm
February 21, 2019	-	6:00pm
March 21, 2019	-	12:00pm
April 18, 2019	-	6:00pm
May 16, 2019	-	12:00pm
June 20, 2019	-	6:00pm

It was also recommended that we research and request members to seek another venue to give the Chapter more flexibility in meeting times and dates.

5. Continuing Education

On November 3rd, Marty Zelnik and Richard Stein hosted a Tour for two HSW Credits, titled, **Fieldston, A Suburb in the City**. This Tour was rescheduled from October 27th due to bad weather. The Tour was a great success with 21 people on the Tour including 11 architects. Marty Zelnik indicated that he and Richard Stein would be willing to try for another Tour, perhaps sometime in the spring or summer of next year. The Chapter formally thanked them both, for coordinating and producing a way to receive 2 HSW Credits, in the most pleasant, possible manner.

6. BQDA 2018/2019

There was a discussion in terms of the Chapter producing its own Awards and Design Recognition Process instead of continuing with the BQDA process. After weighing the pros and cons, Tony Freda recommended and Ken Koons Sr., seconded that the Bronx Chapter continue its relationship with the Brooklyn and Queens Chapters, to continue with their BQDA Annual process for 2019. It was hoped that Ofe Clarke will continue as the Chapter's very effective representative.

7. Chapter AIA Accreditation

We have contracted Valerie Brown, the staff person for the Westchester AIA Chapter, to assist in our filing for National AIA Accreditation, as she had successfully done three years ago. She discussed the process and what is required and in the next few days will send an outline to our Chapter President and Secretary of what we need to produce. Most of the material required, we hopefully have and only need to create PDF's for submission online to the AIA National Organization. The Chapter membership discussed two Resolutions that have been discussed in the past and which the Chapter conforms to. However, we had not "formally" adopted these policies. They were resolutions concerning

Harassment and Antitrust actions. In each case, National had sent to all Chapters draft resolutions for our consideration.

Harassment

The Chapter does not and has never discriminated or harassed in any way; in terms of sexual, race, religion or ethnic orientation. In fact, the Chapter has tried to be as open and inclusive as possible. After a short discussion, Bob Esnard recommended, and Marty Zelnik seconded the adoption of an Anti-Harassment Resolution which was unanimously approved. **(See Attachment 'A')**

Antitrust

Ken Koons Sr., led a discussion about how our Chapter has discussed the Antitrust issue for architects in the past. Several of the members recalled attending sessions and viewing a video presentation concerning antitrust issues. Architects are not to discuss or compare fee's, discounts, profit margins, allocating markets or price discrimination or how to deal with other businesses without legal advice. Ken Koons Sr., recommended, Tony Freda seconded, and the Board voted unanimously to conform to "The American Institute of Architects Antitrust Compliance Statements and Procedures". **(See Attachment 'B')**

It was agreed by all Chapter members that the Secretary specifically send a copy of the approved Anti-Harassment Procedures and the Antitrust Compliance Statement to all Chapter members for their information.

The meeting was adjourned at 2:25pm.

Next Meeting – The next meeting will be a luncheon meeting at 12:00pm at Artie's Restaurant on December 13, 2018.

ATTACHEMENT 'A'

AIA BRONX CHAPTER HARASSMENT POLICY

Introduction

AIA Bronx Chapter (AIABX) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of **AIABX's** commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all individuals have a legal right to a workplace free from sexual harassment and individuals are urged to report sexual harassment by filing a complaint internally with **AIABX**. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. **AIABX's** policy applies to all employees, applicants for employment, interns, volunteers, contractors and persons conducting business, regardless of immigration status, with **AIABX**. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. **AIABX** will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of **AIABX** who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform the **Secretary, Robert Esnard**, or if you are uncomfortable doing so, contact the **AIABX's** external contact for these matters, **Jonathan Lefkowitz, Esq., Attorney at Law at (646) 216-8380**. All employees, paid interns or non-employees who

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity, criminal history and any other characteristic protected by state and federal law.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject **AIABX** to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. **AIABX**, will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. **AIABX** will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. **AIABX** will provide all employees a complaint form for employees to report harassment and file complaints.
7. **AIABX** staff members are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the **AIABX Secretary, Robert Esnard**.
8. This policy applies to all employees, paid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or

- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. AIABX cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the **Secretary, Robert Esnard** or the **AIABX's** external contact for these matters, **Jonathan Lefkowitz, Esq., Attorney at Law at (646) 216-8380**. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to the **AIABX Secretary, Robert Esnard** or the **AIABX's** external contact for these matters, **Jonathan Lefkowitz, Esq., Attorney at Law at (646) 216-8380**.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is included to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All **AIABX** staff members who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the **Secretary, Robert Esnard** or the **AIABX's** external contact for these matters, **Jonathan Lefkowitz, Esq., Attorney at Law at (646) 216-8380**.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisory staff will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisory staff will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. **AIABX** will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, **AIABX** will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by **AIABX** but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at **AIABX**, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regards to sexual harassment, and protects employees, paid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to **AIABX** does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-6694000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights (40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml) and employees who work in Albany may file complaints with the City of Albany’s Commission on Human Rights (for more information, please go to the Commission’s website: <https://www.albanyny.gov/Government/Departments/HumanResources/CommissiononHumanRights.aspx>).

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

ATTACHEMENT 'B'

AIA BRONX CHAPTER ANTITRUST COMPLIANCE POLICY

Adopted November 2018

**THE AMERICAN INSTITUTE OF ARCHITECTS
ANTITRUST COMPLIANCE STATEMENT AND
PROCEDURES**

September 2002

Table of Contents

I.	Introduction	3
II.	The Antitrust Laws: A Basic Framework.....	3
III.	Possible Antitrust Violations to Avoid.....	3
	1. Agreements That Restrain Competition— Section 1 of the Sherman Act	3
	2. Some Troublesome Agreements.....	4
	3. Other Types of Agreements That Also May Raise Concerns Under the Antitrust Laws.....	5
	4. Other Conduct That May Violate the Antitrust Laws Even Without an Agreement of Any Type.....	6
IV.	Antitrust Matters of Particular Interest to Trade Associations	7
V.	Some Practical Guidelines on Preventing Problems at Meetings, in Records, and in Contacts with Others.....	8
VI.	Responsibility for Compliance, Monitoring and Enforcement.....	10
VII.	Conclusion	11
	Attachment A	Back Cover

I. INTRODUCTION

It is the practice of The American Institute of Architects ("the Institute" or "the AIA") and its members to comply strictly with all laws, including federal and state antitrust laws that apply to AIA operations and activities. Compliance with the letter and spirit of the antitrust laws is an important goal of the AIA, and is essential to maintaining the Institute's reputation for the highest standards of ethical conduct.

The procedures discussed below update the AIA's continuing antitrust compliance program and are to be observed by each of you—AIA officers and employees, AIA members, and other persons—who may be involved in any way in the AIA's operations and activities. While the AIA General Counsel's Office has been assigned to oversee the AIA's antitrust compliance program, the program cannot work unless each of us does our part.

II. THE ANTITRUST LAWS: A BASIC FRAMEWORK

Antitrust laws are designed to promote vigorous and fair competition, and to provide American consumers with the best combination of price and quality. These procedures focus mainly on the federal antitrust and trade regulation laws created by the Sherman Act, Clayton Act, Robinson-Patman Act and Federal Trade Commission Act. Most states and the District of Columbia have their own antitrust laws, which frequently (although not always) parallel **the** federal laws.

The U.S. Department of Justice is authorized to prosecute Sherman Act violators as criminal felons, who may be severely fined and, in the case of individuals, imprisoned. In addition, the Justice Department, state attorneys general and private parties may bring civil suits and recover three times (treble) their actual damages, court costs and (in private suits) their attorneys' fees from corporations and individuals who have violated the federal antitrust laws. The Federal Trade Commission has its own statutory authority to enforce antitrust laws through civil and administrative proceedings.

III. POSSIBLE ANTITRUST VIOLATIONS TO AVOID

1. Agreements That Restrain Competition—Section 1 of the Sherman Act

The most common antitrust violations of which you should be aware fall within Section 1 of the Sherman Act. They result from agreements—typically with competitors, customers or suppliers—that unreasonably restrain competition. Thus, the antitrust laws prohibit the AIA and its members from *agreeing* to do certain things that they could legally do if they acted *independently*.

Any type of agreement, understanding or arrangement between competitors, whether written or oral, formal or informal, express or implied, that limits competition is subject to antitrust scrutiny. Moreover, any attempt to reach such an agreement may be unlawful, even if it is unsuccessful.

2. Some Troublesome Agreements

The courts have found that certain types of agreements always (or almost always) violate the antitrust laws. They include agreements of the kinds discussed here.

Price-fixing and bid-rigging agreements. Any agreement between competitors on prices charged to others for products or services violates the antitrust laws. Every direct price-fixing agreement is illegal, whether it is meant to raise, lower or just stabilize prices. Agreements may be illegal as well even if they only indirectly affect prices because they involve such things as discounts, promotional allowances, standardization of customer or delivery services, or uniform credit terms and billing practices. It is also illegal for competitors to agree on the prices they will *pay* for products or services sold by other persons, or to engage in collusive bidding practices (or "bid rigging").

Agreements to allocate markets, customers, territories or products. It is illegal for competitors to agree to divide or allocate customers or territories. An agreement among competitors is also illegal if it provides that they will refrain from selling a certain product generally, or in any geographic territory or to any category of customer.

Group boycotts and collective refusals to deal. Agreements among independent concerns that they will boycott or refuse to buy from particular suppliers or sell to particular customers are generally prohibited by the antitrust laws. This does not necessarily preclude sharing certain information about a supplier or customer (*e.g.*, concerning its credit history) so long as there is no discussion on whether to deal with it.

•

Agreements to control production. Agreements among competitors to increase or restrict services or production levels are always problematic under the antitrust laws. The same is true of agreements among competitors to limit the quality of production, restrict the products or services sold to a particular customer, refrain from introducing new products and services or eliminating old ones, or accelerate the introduction or withdrawal of a product or service.

Tying Arrangements. A "tie-in" or "tying" arrangement permits a buyer to purchase one (tying) product or service only if it agrees to buy a second, distinct (tied) product or service from the seller. These types of agreements should be avoided.

ACTIVITIES THAT ILLEGALLY RESTRAIN COMPETITION

- **AIA operations and activities must not be used to reach or further agreements among members (or other persons) in any of the following areas:**
 - 0 **The AIA's or members' prices for products or services**
 - 0 **Allocations of markets, customers, territories or products**
 - 0 **Collective refusals to deal with anyone**
 - 0 **Limitations on production**
 - 0 **Tying arrangements**
- **To avoid even the appearance of impropriety, the subjects indicated above must not be discussed or addressed in the course of any AIA-related operations, events or other activities *without the prior approval of counsel.***

3. Other Types of Agreements That Also May Raise Concerns Under the Antitrust Laws

Here are some examples—though not a complete list—of agreements whose legality depends on the circumstances involved.

Exclusive Dealing. Exclusive dealing arrangements come in various forms. Some might require a customer to sell exclusively the products of a particular company or coerce a supplier into refusing to sell to its customer's competitors. Others might compel a customer to purchase all of its requirements for a particular product or service from a single supplier.

Reciprocity. In a reciprocal dealing arrangement, a customer makes purchases from a supplier only on the condition that the supplier will buy products or services from the customer. Such reciprocal arrangements are particularly troublesome when they are openly or implicitly coerced.

Product standardization. Competitors may create lawful agreements to establish industry product standards. Those agreements may cause problems under the antitrust laws, however, if they have an anticompetitive effect (*e.g.*, where standardization makes it easier for competitors to set common prices).

Resale price agreements. An agreement between a seller and a customer on the price at which the customer will resell a product is frequently problematic. The seller may, however, suggest a resale price so long as it is completely clear that the customer is free to accept or reject the suggestion, and will not be penalized if it decides to disregard the suggestion.

**ACTIVITIES THAT ALSO MAY BE ILLEGAL,
DEPENDING ON THE CIRCUMSTANCES**

- **AIA operations and activities must not be used to reach or further agreements among members (or other persons) in any of the following areas without the prior approval of counsel:**
 - 0 **Exclusive dealing arrangements**
 - 0 **Reciprocal sales and purchase arrangements**
 - 0 **Product standardization**
 - 0 **The prices at which products or services should be resold**
- **To avoid even the appearance of impropriety, the subjects indicated above must not be discussed or addressed in the course of any AIA-related operations, events or other activities without the prior approval of counsel.**

4. Other Conduct That May Violate the Antitrust Laws Even Without an Agreement of Any Type

You should also be aware of antitrust law violations that may take place even where there is no agreement among competitors or anyone else. The most common violations of that type are briefly discussed here.

Monopolization. The law of monopolization (including attempts to monopolize and agreements to monopolize) is extremely complicated. Basically, when any enterprise enjoys a strong market position for a particular product, it should be concerned about questions of monopolization. The law of monopolization often comes into play in mergers or acquisitions for companies that actually compete or could compete with each other. No enterprise should take actions that might be viewed as evidence of intent to acquire or maintain monopoly power in a particular market, to drive a particular competitor out of business, or to prevent somebody from entering the market.

Price Discrimination. The Robinson-Patman Act and some state antitrust laws restrict a seller from charging different prices for its goods to competing customers at the same point in time. Those laws also forbid sellers in certain circumstances to discriminate when they offer promotional materials, services or other inducements to individual customers in an effort to have the customers engage in in-house promotions or advertising. Buyers are in turn prohibited from knowingly inducing or receiving a discriminatory price, promotional allowance, or service. These general prohibitions have a number of exceptions, which are too complex to be discussed here.

Unfair Competition. The Federal Trade Commission Act (also called the "FTC Act") prohibits all "unfair methods of competition" and "unfair or deceptive acts or practices." The FTC Act covers antitrust violations like those discussed above, but also forbids conduct that falls short of those violations. The FTC Act prohibits all forms of deceptive or misleading advertising and trade practices, such as disparaging a competitor's product, harassing a customer or competitor, and stealing trade secrets and customer lists.

Contact legal counsel for advice in any situations that may involve:

0 Attempts to eliminate competition

0 Price discrimination

0 Advertising of products or services

0 Potentially unfair business practices (e.g., acquiring customer lists)

IV. ANTITRUST MATTERS OF PARTICULAR INTEREST TO PROFESSIONAL SOCIETIES

A number of antitrust cases against professional societies and trade associations have focused on situations that go to the heart of what those organizations are about.

Membership. Because a professional society or a trade association by its very nature provides certain commercial and other benefits to its members, the denial of membership to qualified competitors of the members could violate antitrust laws. Membership should be open to all who satisfy basic membership requirements, and any decision to deny membership or expel a member should be reviewed with counsel. All persons in any class of membership should have an equal opportunity to participate *in AIA* activities and benefits. In addition, certain programs and activities may need to be opened to non-members if their exclusion would put them at an unreasonable competitive disadvantage to members.

Collection and Dissemination of Data. Statistical data may obviously be compiled for legitimate purposes. Statistical information also may cause problems from an antitrust standpoint, however, if their use somehow harms competition. This might happen, for instance, if statements in AIA publications were to suggest what production, price, or specific market demand should or would be in the future. Broadly speaking, the farther removed the data are from prices and costs, the less company-specific they are, the more historical they are, and the wider their public dissemination is, the less likely it is that they will raise antitrust problems. As a general rule, particular market-sensitive data supplied by individual members should never be discussed or disseminated beyond the AIA without advice of counsel.

Codes, Standards and Certification Programs. Reasonable industry codes, standards and certification programs may promote quite valid interests, including the protection of safety, health and the environment and the maintenance of high standards of ethics and conduct. You should nonetheless be alert for anticompetitive effects that a particular standard may have. For example, a product standard that is unreasonably biased in favor of one manufacturer's product at the expense of another's may raise significant antitrust problems. Care should therefore be used

both in creating and applying codes, standards and certification criteria, and in influencing other organizations as they do so.

Marketing and Communications. Like the other activities discussed above, marketing and communications serve valid interests, but can raise antitrust problems under some circumstances. Be careful that all advertising, announcements, and other communications that might affect competition are accurate, and are *in* no way deceptive or misleading. Cooperative advertising programs may be suspect if they discriminate and benefit certain members at the expense of their competitors.

Government Relations. There is a constitutional right to petition legislatures and government agencies for action, and, if properly undertaken, such activity is not subject to the antitrust laws. The right to petition, however, does not provide unlimited antitrust protection. If the activity in question is not really designed to achieve government action but rather amounts to a sham used to injure competition, for example, it may raise serious antitrust problems. Moreover, activity is not immunized from the antitrust laws simply because a government representative encourages and happens to participate in it.

V. SOME PRACTICAL GUIDELINES ON PREVENTING PROBLEMS AT MEETINGS, IN RECORDS, AND IN CONTACTS WITH OTHERS

Meetings, communications and contacts that touch on antitrust matters present special challenges. A simple example will illustrate this. Suppose that competitors were to discuss their prices at a meeting or in a document, and that their prices increased shortly afterward. A jury might view this as evidence that their discussions led to an agreement on pricing, and thus violated the antitrust laws. In a case like that, the mere *appearance* of illegality—even when the parties may *in fact* have done nothing wrong—can cause serious problems. The guidelines that follow are designed to help you not only comply with the antitrust laws, but also avoid even the appearance of impropriety.

Meetings. AIA meetings regularly bring together members and others who are potential or actual competitors. It is therefore important that certain ground rules be followed to eliminate any suspicion that a particular meeting might be used for anticompetitive purposes:

- 0 Do* prepare an agenda, and have AIA counsel review it before the meeting.
- 0 Do* provide a copy of "**The American Institute of Architects: Antitrust Compliance Guidelines**" to every participant at the meeting.
- 0 Do* have an AIA staff member attend the meeting.
- 0 Do* invite legal counsel to attend if the meeting might involve matters having to do with competition.
- 0 Do* follow the agenda *at* your meeting, with departures from the agenda only if counsel approves.
- 0 Do* keep accurate minutes, and have counsel review them before they are put into final form and circulated.

0 Do not discuss any subjects that might raise antitrust concerns (including prices, market allocations, refusals to deal, and the like) unless you have received specific clearance from counsel in advance. If somebody begins discussing a sensitive subject, **do not allow the discussion to continue**. If the discussion does continue, **do not allow the meeting to continue**.

When members get together and talk before or after formal meetings, there should be no discussions that raise antitrust concerns even in such informal settings.

Records. When we talk about "records," we are referring to any of the various communications people record in some tangible form every day—in documents, e-mail, videotapes, audio recordings (such as voice mail), and the like. These "records" are sometimes inaccurate, often less precise or artful than we would like, and all too frequently subject to misinterpretation. You should prepare every record with the thought that it might someday have to be produced to government officials or plaintiffs' lawyers, who will interpret your language in the worst possible way. The following guidelines may help you avoid problems in matters involving competition:

0 Do avoid creating unnecessary records.

0 Do use language that is clear, simple and accurate.

0 Do avoid language that might be misinterpreted to suggest that the AIA condones or is involved in any anticompetitive behavior.

0 Do, as much as possible, limit yourself to facts and avoid offering opinions.

0 Do not use joking or aggressive language (*e.g.*, "let's kill our competitors").

0 Do not use language that might arouse suspicion (*e.g.*, "For limited distribution" or "Destroy after reading").

0 Do not speculate about the legality of specific conduct.

0 Do not violate the AIA's record management policy when deciding how to handle, maintain or dispose of any record.

0 Do not hesitate to consult counsel about any non-routine correspondence requesting an AIA member to participate in projects or programs, submit data for such activities, or otherwise join other members in AIA actions.

Outside contacts. Whenever you have contact with outside parties on antitrust matters, always keep in mind that even completely innocent behavior may be misinterpreted. If a government representative, a private attorney or investigator, or any other outside person contacts you for information that might relate in some way to antitrust subjects, tell that person that you are not authorized to provide the information but will have an authorized person respond. You should then immediately contact legal counsel.

VI. RESPONSIBILITY FOR COMPLIANCE, MONITORING AND ENFORCEMENT

Responsibility for Antitrust Compliance. While the General Counsel's Office will provide guidance on antitrust matters, furnish training as appropriate, and answer questions, it is ultimately your responsibility to assure that your actions with the AIA comply with the antitrust laws. You are expected to avoid all discussions and activities which may involve improper subject matter or procedures—and this includes such things as agreeing on prices, on how to allocate markets or customers, on placing limits on production, and on refusing to deal with certain suppliers or customers—and to avoid even the appearance of impropriety.

Communicating Antitrust Statement and Procedures. The General Counsel's Office and AIA Human Resources will distribute a copy of these procedures to each AIA officer and employee. AIA Component Relations and AIA Membership Services will assist in providing copies of these procedures to AIA components and to members whose responsibilities with the Institute might require knowledge of the antitrust laws. You should promptly sign and return the acknowledgment in the attached form (Attachment A).

Communicating the AIA's Antitrust Compliance Statement and Procedures. The General Counsel's Office, in conjunction with AIA Human Resources and others, will make presentations as appropriate on compliance with the antitrust laws to the Institute's employees and to AIA components and members to the extent their activities might bear on the AIA's compliance with the antitrust laws. In addition, all AIA officers and employees and AIA members are encouraged to contact the General Counsel's Office at any time with questions they may have concerning antitrust compliance.

Compliance Monitoring and Enforcement. The General Counsel's Office and AIA Human Resources will monitor and audit AIA operations and activities as appropriate to help ensure compliance with these procedures and the antitrust laws in general. They will also promptly investigate any conduct that is reported or otherwise suspected to violate the antitrust laws. Any such violations may result in immediate disciplinary action, up to and including termination of membership or (for AIA employees) employment.

The AIA recognizes that its own employees are an important source of information about possible antitrust violations in connection with the AIA's activities. It therefore requires that employees promptly report any suspected violations of the antitrust laws. Such reports may be made anonymously. Only persons with a need to know about such reports will be advised of them. Intimidating, retaliating against or imposing any form of retribution on any employee for reporting suspected violations of the antitrust laws may result in disciplinary action, including possible termination of membership or employment, as the case may be.

VII. CONCLUSION

If you have a question about whether any of the AIA's operations or activities may violate the antitrust laws, contact the General Counsel's Office. We look forward to working with you to assure that the AIA, its officers and employees, and its members strictly comply with both the letter and the spirit of those laws in all of our activities with the AIA

The American Institute of
Architects General Counsel's
Office 1735 New York Avenue,
NW Washington, DC 20006
202/626-7300 September 2002



Integrating Sustainability into Acquisitions Due Diligence

 *AIA: 1 LU/HSW, GBCI: 1 CE Hour*

[Register](#)



Delivering Standardized LCAs from Existing Design Data

 *LEED: 1 GREEN, AIA: 1 LU/HSW, GBCI: 1 CE Hour, LEED: 1 AP BD+C*

[Register](#)



Farming the Fifth Facade: Designing Urban Food Production (Outdoor)

 *AIA: 1 LU/HSW, GBCI: 1 CE Hour*

[Register](#)



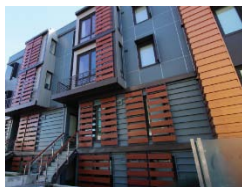
Acoustics Demystified: Green

Building Acoustics in LEED v4



LEED: 1 GREEN, AIA: 1
LU/HSW, GBCI: 1 CE Hour,
LEED: 1 AP BD+C

Register



Exploring Multifamily Design that Engages Millennials



AIA: 1 LU

Register



High Performance Coatings for Industrial and Decorative Floors



AIA: 1 LU

Register



The Benefits of Radiant Gas Heat Fireplaces



IDCEC: .1 CEU HSW,
AIA: 1 LU/HSW

Register



Specifying Luxury Vinyl Flooring in Environmentally Conscious Design



IDCEC: .1 CEU, AIA: 1 LU

Register



Benefits of High-Performance Windows in Historic Preservation and Renovation

AIA: 1 LU/HSW

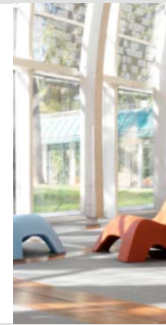
[Learn More](#)



Evolution of Glass and Performance Coatings

AIA: 1 LU/HSW

[Learn More](#)



An Introduction to Electrochromic Glass: What It is and How It Works

AIA: 1 LU

[Learn More](#)



Designing with Intent: Upselling Through Client Education

AIA: 1 LU

[Learn More](#)



<https://www.architect-forum.com/eblast/AFlogo-whiteNL.png>" style="outline: none; text-decoration: none; display: block; clear: none; float: none; margin-left: auto; margin-right: auto; display: none; mso-hide: none;" width="200">

AIA ONLINE CONTINUING EDUCATION

HSW and ADA credits available

Automated Vehicular Gate Systems: For System Design and Compliance to Safety Standards

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/AutoGate/AutoGate3.jpg>" style="outline: none; text-decoration: none; display: block; clear: none; float: none; margin-left: auto; margin-right: auto; display: none; mso-hide: none;" align="center" width="600">

Course No: AG3203-W | Narration: No | AutoGate, Inc.

Present a familiarization with an understanding of UL 325 and ASTM F2200 applicable to automated vehicular gate systems. This course will educate specifiers to safety standards in the interest of client safety and liability associated with automated vehicular gate systems.

LEARN MORE

Combat Mold, Improve Indoor Air Quality and Specify MgO Products

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/DragonBoardUSA/dragonboard.jpg>" style="outline: none; text-decoration: none; display: block; clear: none; float: none; margin-left: auto; margin-right: auto; display: none; mso-hide: none;" align="center" width="600">

Course No: DB0602-W | Narration: No | DragonBoard USA

Provides an overview of Indoor Air Quality, along with a discussion on IAQ health issues associated with Mold and mildew. This program looks at the causes of Mold and Fungus in today's structures and examines how specifying MgO products is an alternative solution to dealing with Mold and Fungus.

LEARN MORE

Pedestrian and Facility Safety Guarding

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/IdealShield/removablelockingbollards/idealshield2.jpg>" style="outline: none; text-decoration: none; display: block;clear:none;float:none;margin-left:auto;margin-right:auto;display:none;mso-hide: none;" align="center" width="600">

Course No: IS0502-W | Narration: No | Videos: Yes | IdealShield

This course provides a comprehensive overview of the variety of guarding products available for use in and around facilities to ensure the safety of pedestrians, valuable machinery, and equipment. This program also reviews applications, installation, and common product finishes which will assist in making the right decisions for your clients.

LEARN MORE

Accessibility, Safety & Platform Lifts and Elevators v2

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/GaraventaLift/GaraventaLift-Upper-Canada.jpg>" style="outline: none; text-decoration: none; display: block;clear:none;float:none;margin-left:auto;margin-right:auto;display:none;mso-hide: none;" align="center" width="600">

Course No: GL1402-W | 1 hr HSW/ADA | Garaventa Lift

We recognize the importance of elevators and lifts in today's design industry. Lifts and elevators can be an extraordinary feature added to a home or building that will enhance the life quality and safety of the end user. In this program the learner will learn about the requirements for platform lifts, the different types of lifts, and basic product design. Will also gain an understanding of code compliance issues, and how to solve accessibility problems, and solutions for evacuation for persons with disabilities.

LEARN MORE

Operable Glass Wall Systems in Green Design I

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/NanaWallSystems/NanaWall3.jpg>" style="display: block; clear: none; float: none; margin-left: auto; margin-right: auto; display: none; align="center" width="600">

Course No: NAN0802-W | 1 hr HSW | NanaWall Systems Inc.

Provides an overview of the characteristics of large opening glass walls and how they contribute to good indoor a program will also discuss valuable green building design in relation to large operable openings; such as daylight efficiency, and design.

LEARN MORE

Sustainable Design Through EIFS: When To Use It

<https://www.architect-forum.com/CCLmsAIAceus-newsletters/Energex/Energex.jpg>" style="display: block; clear: none; float: none; margin-left: auto; margin-right: auto; display: none; align="center" width="600">

Course No: EW0704-W | 1 hr HSW | energex®

In this program we will discuss the differences between EIFS and Stucco and also the compositions and types of EIFS today and why EIFS has gone through growing pains in the construction industry. At the conclusion of this program to understand the benefits, applications and performance of an EIFS system.

LEARN MORE