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EXECUTIVE DIRECTOR

TEXAS BOARD OF PROFESSIONAL ENGINEERS

March 17, 2006

Mr. David Venhuizen P.E.
5803 Gateshead Drive
Austin, TX 78745

Dear Mr. Venhuizen:

RE: Policy Advisory request dated December 8, 2005

Thank you for your policy advisory request regarding engineers and regulations. The Policy Advisory Opinion Committee considered your request at the February 23, 2006, meeting and voted not to accept the request. The Committee felt that the existing statute and rules already address the issue of which rules and regulations an engineer is obligated to follow in a project. Engineers are required by statute to follow the applicable codes and regulations. The following excerpts from the Texas Engineering Practice Act (Act) apply:

§137.59 Engineers' Actions Shall Be Competent

(a) Engineers shall practice only in their areas of competence, in a careful and diligent manner, and in conformance with standards, laws, codes, and rules and regulations applicable to engineering practice.

§137.63 Engineers' Responsibility to the Profession

(a) Engineers shall engage in professional and business activities in an honest and ethical manner. Engineers should strive to promote responsibility, commitment, and ethics both in the education and practice phases of engineering. They should attempt to enhance society's awareness of engineers' responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.

(b) The engineer shall:

- (1) endeavor to meet all of the applicable professional practice requirements of federal, state and local statutes, codes, regulations, rules or ordinances in the performance of engineering services;
- (2) exercise reasonable care or diligence to prevent the engineer's partners, associates, and employees from engaging in conduct which, if done by the engineer, would violate any provision of the Texas Engineering Practice Act, general Board rule, or any of the professional practice requirements of federal, state and local statutes, codes, regulations, rules or ordinances in the performance of engineering services;

Rules 137.51 and 137.55, referenced by the initial request, ethically obligate the engineer to consider the practice of engineering in light of generally accepted engineering principles and to consider and inform in regards to environmental impact of their projects. Rules 137.59 and 137.63 ethically bind the engineer to follow federal, state and local codes in the performance of their job duties.

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The Texas Legislature created the Board in 1937 to license engineers and enforce the Texas Engineering Practice Act (Act). As an agency created by the state Legislature, the TBPE does not have the authority to dictate to the Texas Legislature which regulations and codes are to be followed by professional engineers or whether legislation that allows "grandfathering" provisions will not protect the safety and welfare of the public. The authority of this Board or individual engineers to override local government decisions regarding local codes, regulations, and variances is also not part of the Act.

Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Beebe-Farrow". The signature is stylized with a large initial "D" and a long horizontal stroke extending to the right.

Dale Beebe-Farrow P.E.
Executive Director

DBF:CBP:dpt