



RO-34

ID# 11738
SG

February 18, 1991

RECEIVED

FEB 22 91

Opinion Committee

The Honorable Dan Morales
Attorney General
Supreme Court Building
Austin, Texas 78701

Dear General Morales:

On behalf of the House Committee on Business and Commerce, I request your opinion in answer to the following question: May the State Board of Registration for Professional Engineers require, as a condition to registration as a professional engineer, that years of experience required for registration be under the supervision of a registered professional engineer?

Eligibility for registration is governed by Section 12(a), Article 3271a, V.T.C.S., which provides in pertinent part:

(a) The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for registration as a professional engineer:

(2) . . . a specific record of at least eight (8) years of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work.

Section 131.81 of the board's rules provides in pertinent part:

The evaluation of the engineering experience claimed by an applicant for registration under the Act, Sec. 12(a) or (b), will include, but not be restricted to, the following.

The Honorable Dan Morales
February 18, 1991
Page 2

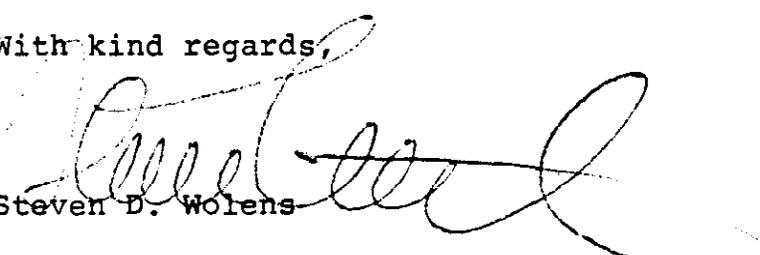
(2) Experience should have been gained by working under the supervision of a registered professional engineer.

(3) Experience not gained by working under the supervision of a professional engineer may be accepted by the board provided a satisfactory explanation is given of the circumstances under which the experience was gained.

It has come to my attention that the board rarely, if ever, accepts any explanation of circumstances that the board finds "satisfactory" to the extent that the board will permit the registration of an engineer, no matter how experienced, who has not been under the supervision of a registered engineer. In effect, despite the board's own rules that say experience "should" have been gained under such supervision, the board applies the rule as if it provided that experience "must" be gained under such supervision. Accordingly, engineers with many years of experience who are owners of their own companies may have to employ a registered engineer to supervise the owner's work for the required period of time. If application of the rule in this manner is within the statutory authority of the board, it appears that it would at least be an abuse of discretion on the part of that board.

Your attention to this request is appreciated.

With kind regards,


Steven D. Wolens

SDW/des