

**STATE OF FLORIDA
BOARD OF ARCHITECTURE AND INTERIOR DESIGN**

IN RE: PETITION FOR DECLARATORY STATEMENT BEFORE THE
BOARD OF ARCHITECTURE AND INTERIOR DESIGN

BY: MIGUEL R. RODRIGUEZ, FAIA
RODRIGUEZ ARCHITECTS, INC

DS 2023-042

FINAL ORDER

THIS MATTER came before the Board of Architecture and Interior Design (hereafter “Board”) on January 26, 2024, at a duly-noticed public board meeting held in Fernandina Beach, Florida for consideration of the Petition for Declaratory Statement (hereafter “Petition”) filed on November 17, 2023, by Miguel R. Rodriguez. (hereafter “Petitioner”). The Petitioner was present and not represented by counsel. The Petition was published on February 12, 2024, in Volume 50, Number 29 of the Florida Administrative Register. The Agency did not receive any comments from any interested persons.

QUESTION PRESENTED

1. Petitioner requests that the Board answer the following questions in regards to rule 61G1-16.005(2)(b), Florida Administrative Code:

a. Is it the intent of this rule to require the use of a third-party verification of the licensee’s electronically or digitally applied signature?

b. Define the difference between a “digital” signature and one that is “electronically applied.”

c. May the Petitioner use the verification method provided by the software creating the portable document file (pdf) the sole verification required by 61G1-16.005(2)(b), Florida Administrative Code?

d. If so, when the Petitioner's drawings are signed and sealed by such electronic means are they considered to have been signed and sealed in compliance with the Statutes and Rules without further signature, seal, verification, or other documentation?

FACTUAL FINDINGS

1. The facts considered by the Board are as alleged in the Petition, a copy of which is attached hereto and incorporated by reference, and presented at the meeting, with no further investigation by the Board.

2. Petitioner holds a current active Florida Architecture license #AR10099 and current active Registered Interior Designer license #RID6666.

3. Rule 61G1-16.005(2)(b), Florida Administrative Code, states:

(2) An architect or interior designer utilizing a digital signature to seal construction documents shall assure that the digital signature is:

(a) Unique to the person using it;

(b) Capable of verification;

(c) Under the sole control of the person using it; and

(d) Linked to a document in such a manner that the electronic signature is invalidated if any data in the document are changed.

(Emphasis Added)

CONCLUSIONS OF LAW

4. The Board of Architecture and Interior Design has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

5. The Petitioner is substantially affected, as required by section 120.565, Florida Statutes.

WHEREFORE, the Board hereby issues a declaratory statement as follows:

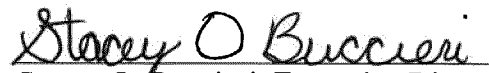
1. The Board answers the question posed in paragraph 1.a. above, that the intent of rule 61G1-16.005(2)(b), Florida Administrative Code, is to **NOT** require the use of a third-party verification of the licensee's electronically or digitally applied signature. The Board states that the signature must be capable of verification inside the native software without use of a third party to verify same.

2. The Board declines to answer the questions posed in paragraphs 1.b. through 1 d. above.

The applicability of this Declaratory Statement is limited to the set of facts incorporated herein.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 19th day of March, 2024.

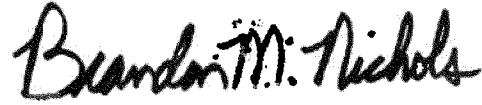

Stacey O. Buccieri, Executive Director
for G. Steven Jernigan, Chair
Board of Architecture and Interior Design

NOTICE OF RIGHT TO JUDICIAL REVIEW

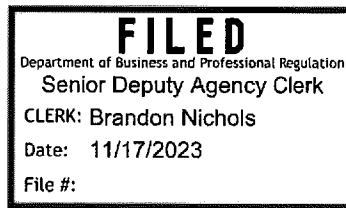
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Certified Mail to Petitioner, **Miguel A. Rodriguez, FAIA,** at 2121 Ponce de Leon Blvd, Suite 1010, Coral Gables, FL 33134; by e-mail to **Timothy Frizzell**, Senior Assistant Attorney General, at timothy.frizzell@myfloridalegal.com; and by hand/interoffice delivery to the **Florida Board of Architecture and Interior Design**, at 2601 Blair Stone Road, Tallahassee, FL 32399, this 26th day of March, 2024.



Agency Clerk's Office



**Petition for Declaratory Statement
Before The Board of Architecture and Interior Design**

Petitioner: Miguel A. Rodriguez FAIA Florida License: AR 10099
Rodriguez Architects, Inc.
2121 Ponce de Leon Blvd., Suite 1010
Coral Gables, FL 33134
Tel.: (305) 448-3373, ext. 202
Fax.: (305) 48-3374
Email: miker@rodriguezarchitects.com

DS 2023-042

Rule: 61G1-16.005 Procedures for Signing and Sealing Electronically Transmitted Plan, Specifications, Report or Other Documents.

Miguel A Rodriguez, Licensed Architect Number AR10099, and Registered Interior Designer Number 6666, files this Petition for Declaratory Statement pursuant to Section 120.565, Florida Statutes and Rule 28-105.002, Florida Administrative Code. As grounds therefore, Petitioner states:

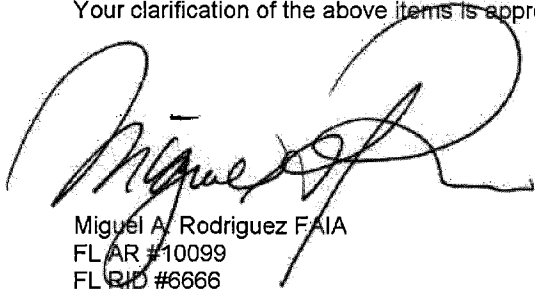
1. Mr Rodriguez is requesting that the Board of Architecture and Interior Design clarify the rules governing the use of electronic or digital signatures on documents including Plans, Specifications, Reports or Other Documents, and
2. That the Board declare that the Rules concerning Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents, do not require architects or interior designers submitting such documents to use third-party certification of their signature on such documents.
3. Mr Rodriguez is a licensed architect and registered interior designer pursuant to Section 481.213(1), FS.
4. Mr Rodriguez is authorized under Section 481.221(2) and (3), FS, respectively to sign and seal all architectural or interior design drawings, plans, specifications or reports they prepared or issued and filed for public record, which may in some instances be submitted for issuance of building permits by electronic means.
5. In the course of the practice of his profession, Mr Rodriguez is regularly required to submit documents to agencies authorized to issue building permits, using electronic means of transmission.
6. In these capacities, Mr Rodriguez is a person that is substantially affected by the lack of clarity in the referenced rules.
7. Rule 61G1-16.005 Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents, sets forth requirements which must be followed by licensed architects and registered interior designers when submitting such documents electronically.
8. Rule 61G1-16.005, in pertinent part, states:
 - (2) *An architect or interior designer utilizing a digital signature to seal construction documents shall assure that the digital signature is:*
 - (a) *Unique to the person using it;*
 - (b) *Capable of verification;*
 - (c) *Under the sole control of the person using it; and*
 - (d) *Linked to a document in such a manner that the electronic signature is invalidated if any data in the document are changed.*
 - (3) *Each electronically signed file shall have an authentication code defined as a message digest described in Federal Information Processing Standard Publication 180-4 "Secure Hash Standard," March 2012, which is hereby adopted and incorporated by reference by the Board and can be obtained from <http://www.flrules.org/Gateway/reference.asp?No=Ref-01340> or the internet website: <http://csrc.nist.gov/publications/fips/fips180-4/fips-180-4.pdf>.*

9. Rule 61G1-16.005 (2)(b) is ambiguous because it fails to adequately define the means by which "verification," may be achieved. Specifically, whether it is sufficient for the software used to create the document can provide sufficient verification or if other third-party certification tools are required.
10. Rule 61G1-16.005 (2)(b) is also ambiguous because it fails to uniquely define and distinguish between a document which is "digitally signed," and one which is "electronically signed."

WHEREFORE, Petitioner requests that the Board of Architecture and Interior Design issue a Final Order determining the answer to the following questions:

- A. Is it the intent of this rule to require the use of a third-party verification of the licensee's electronically or digitally applied signature?
- B. Define the difference between a "digital" signature and one that is "electronically applied."
 - o Is a digital signature one which is applied by the creating software using a defined key or code generated by the document's originating software?
 - o In contrast, is an electronic signature one which is directly applied by the licensee, on the computer, using tools available for such purposes?
- C. May I use the verification method provided by the software creating the portable document file (pdf) the sole verification required by 61G1-16.005 (2)(b)?
- D. If so, when my drawings are signed and sealed by such electronic means are they considered to have been signed and sealed in compliance with the Statutes and Rules without further signature, seal, verification, or other documentation?

Your clarification of the above items is appreciated. Respectfully re-submitted this 17th day of November 2023.



Miguel A. Rodriguez F.A.I.A.
FL AR #10099
FL RID #6666