

Note from the Attorney General's Office:

1972 Op. Att'y Gen. No. 72-012 was modified
by 2001 Op. Att'y Gen. No. 2001-032.

OPINION NO. 72-012**Syllabus:**

The Board of Building Standards may not by rule require identification of the authors of architectural and engineering drawings by an official seal, in addition to the identification already required by statute.

To: Joe Shump, Director, Dept. of Industrial Relations, Columbus, Ohio
 By: William J. Brown, Attorney General, February 7, 1972

Your predecessor requested my opinion as to whether the Ohio Board of Building Standards may require the seal of an architect or engineer, registered in the State of Ohio, to be affixed to all construction documents submitted for plan approval under the Ohio Building Code.

Chapter 3781, Revised Code, sets out the general provisions relating to building standards. Section 3781.07, Revised Code, which establishes a Board of Building Standards in the Department of Industrial Relations, reads in part as follows:

"There is hereby established in the department of industrial relations a board of building standards consisting of eleven members."

Section 3781.10, Revised Code, which sets out the duties of the Board of Building Standards, reads in part as follows:

"The board of building standards shall:

"(A) Formulate and adopt regulations governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental thereto, the construction of industrialized units, the installation of equipment, the standards or requirements for materials to be used in connection therewith, and sanitation of such buildings. * * *

"* * *

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* * *"

Section 3791.04, Revised Code, authorizes the Board of Building Standards to promulgate rules and regulations governing the submission of such plans and specifications as are mentioned in said Section and the processing of same. However, in adopting such regulations, the Board may not expand the meaning of the statutes beyond their explicit terms. My Opinion No. 71-049, Opinions of the Attorney General for 1971, reads in part as follows:

"* * * [r]egulatory boards can interpret or construe the statutes, but cannot create additional law by adding to or expanding the statutes. A rule of a regulatory board is valid if it is adopted pursuant to a statute and interprets existing statutes. Strain v. Southerton, 148 Ohio St. 153 (1947); Akron and Barberton Belt Rd. Co. v. Public Utilities Commission, 148 Ohio St. 282 (1947); State ex rel. Curtis v. DeCorps, 134 Ohio St. 295 (1938); Coady v. Leonard, 132 Ohio St. 329 (1937). However where a rule of a regulatory board adds to, expands, extends, or improves the provisions of the statute to meet a situation not provided for, it is not valid. Ransom and Randolph Co. v. Evatt; 142 Ohio St. 298 (1944); State ex rel. Foster v. Evatt, 144 Ohio St. 65 (1944);

State ex rel. Homan v. Board of Embalmers and
Funeral Directors of Ohio, 135 Ohio St. 321
(1939)."

Section 4703.12, Revised Code, requires that all architects sign their work. It provides in pertinent part as follows:

"Every holder of such certificate or its renewal shall be required to sign all his drawings as a 'registered architect' together with the serial number of his certificate of qualification to practice."

This Section only requires an architect to sign his work. It does not require that the seal of an architect or engineer, registered in the State of Ohio, be affixed to all construction documents submitted for plan approval. Moreover, Section 4703.18 (B), Revised Code, reads as follows:

"(B) Sections 4703.01 to 4703.19, inclusive, of the Revised Code, shall not prevent persons other than architects from filing application for building permits or obtaining such permits, providing the drawings for such buildings are signed by the authors with their true appellation as engineer, contractor, carpenter, or other appellation, but without the use of any form of the title architect, nor shall it prevent such persons from designing buildings and supervising the construction thereof for their own use."

Persons mentioned in the foregoing obviously do not have seals to meet the requirements of such a rule as is suggested by your letter.

If it is deemed necessary by the Board of Building Standards to require additional identification for persons responsible for authoring architectural and engineering designs and specifications, the Board is required to act as directed in Section 3781.10, supra, which reads in part as follows:

"The board of building standards shall:

"* * * * *"

"(B) Formulate and report to the general assembly such amendments in existing statutes relating to the purposes declared in section 3781.06 of the Revised Code as public health and safety and the development of the arts require and such additional legislation as it recommends with a view to carrying out fully, in statutory form, the purposes declared in such section:

"* * * * *"

In specific answer to the question it is my opinion, and you are so advised, that the Board of Building Standards may not by rule require identification of the authors of architectural and engineering drawings by an official seal, in addition to the identification already required by statute.