

Licensing Division

Staff Report for the Architectural Barriers Advisory Committee Meeting – February 27, 2023

Personnel Update

The Licensing Division has experienced a division reorganization. The manager taking over the licensing of the Register Accessibility Specialist is Yvonne Lopez. It has been a pleasure serving the Architectural Barriers program.

Statistics

Registered Accessibility Specialist

	FY 22	FY 23
New Licenses	28	12
Renewed Licenses	470	169
Total Licensed Population	543	542



Education and Examination Division

Staff Report for the Architectural Barriers Advisory Committee Meeting
February 27, 2023

Statistics

Registered Accessibility Specialist PSI Examinations
(As of December 31st, 2022)

FY2023	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
PASS	2	5	6	13	1	0	0	1	0	0	0	0	0	0	0	0	14
FAIL	4	6	2	12	1	0	0	1	0	0	0	0	0	0	0	0	13
TOTAL	6	11	8	25	2	0	0	2	0	0	0	0	0	0	0	0	27
RATE	33.3%	45.5%	75.0%	52.0%	50.0%	0.0%	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	51.9%
FY2022	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
PASS	0	1	4	5	3	3	2	8	4	2	1	7	2	4	3	9	29
FAIL	3	4	1	8	1	1	1	3	2	1	5	8	2	2	0	4	23
TOTAL	3	5	5	13	4	4	3	11	6	3	6	15	4	6	3	13	52
RATE	0.0%	20.0%	80.0%	38.5%	75.0%	75.0%	66.7%	72.7%	66.7%	66.7%	16.7%	46.7%	50.0%	66.7%	100.0%	69.2%	55.8%

REGISTERED ACCESSIBILITY SPECIALISTS CONTINUING EDUCATION

(AS OF JANUARY 31ST, 2023)

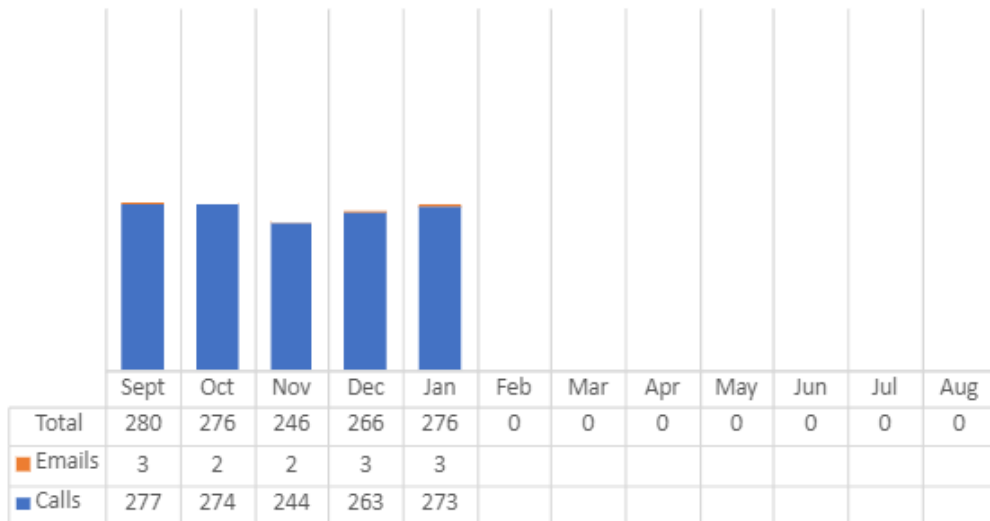
FY 2023	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVAL ISSUED	1	6	2	9	3	5	-	8	-	-	-	-	-	-	-	-	17
TOTAL COURSES	37	39	40	40	43	40	-	40	-	-	-	-	-	-	-	-	40
FY 2022	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVAL ISSUED	1	10	4	15	0	0	1	1	13	2	0	15	2	0	4	6	37
TOTAL COURSES	33	42	45	45	39	35	36	36	45	37	35	35	37	35	37	37	37

Customer Service Division

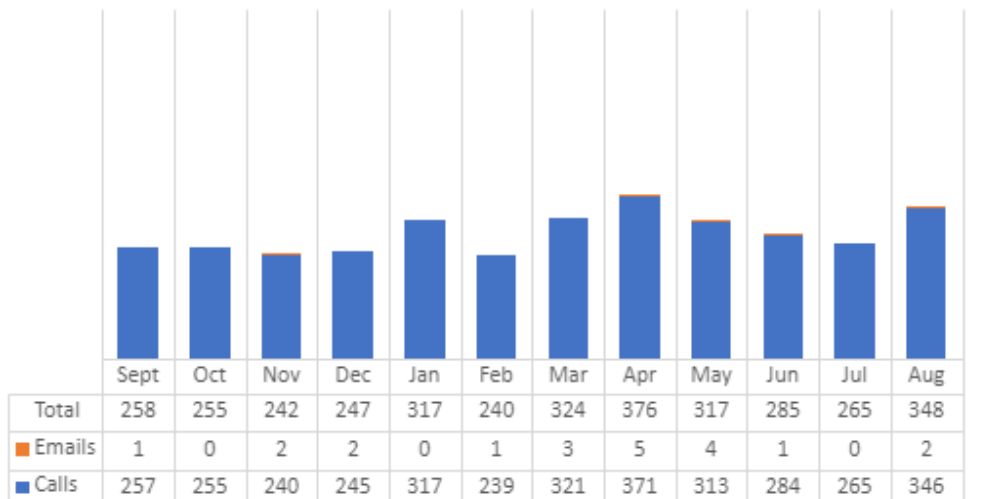
Staff Report for the Architectural Barriers Advisory Committee Meeting - February 27, 2023

Statistics

**ARCHITECTURAL BARRIERS
CUSTOMER SERVICE CONTACTS FISCAL YEAR 2023**



**ARCHITECTURAL BARRIERS
CUSTOMER SERVICE CONTACTS FISCAL YEAR 2022**



Enforcement Division

Staff Report for the Architectural Barriers Advisory Committee Meeting

February 27, 2023

Personnel Updates:

- On February 15, 2022, Robert Nino was promoted to the Investigations Team Lead Supervisor position for the South Region. Robert has worked for TDLR for over 14 years with vast knowledge and experience on case investigations, sting operations and working on very complex cases. Robert also assisted in the training and mentoring on newly hired investigators. Robert has had nearly 38 years of experience as an investigator and auditor with both federal and state government, as well as private industry.
- On May 1, 2022, Jessica Hurtado was promoted to Senior Prosecutor. Jessica has been with TDLR for over 4 years and has experience with a number of our programs including all the Health Related Programs, Transportation Programs, and most recently with our Criminal History Evaluation Team. Prior to joining TDLR, she spent time with the Texas Ethics Commission, Texas Workforce Commission, as well as some time in private practice.
- On May 15, 2022, Jack Phillips was promoted to the Investigations Team Lead Supervisor position for the North Region. Jack has worked for TDLR for over 7 years, previously serving as an Inspector. Jack has served Texans for over 28 years, including working for the Attorney General's and Texas Department of Criminal Justice. Jack is also a proud United States Veteran, serving 6 years in the United States Army and as a Reserve in the Texas National Guard as both a Combat Engineer and a Legal Specialist.
- Two Attorneys, Rachel Seshan and Sara McKinney, were promoted to Attorney III positions to fill the vacancies that were created by the promotions and retirements in the Enforcement Division. Rachel's promotions were effective September 1, 2022, and Sara's promotion was effective September 15, 2022.
- On December 1, 2022, Pedro Perez, Jr., was hired as an Attorney III. He is a graduate of Texas College of Arts and Industries (now Texas A&M University-Kingsville). He attended the University of Texas in Austin for graduate studies, first earning a Master of Public Affairs degree in 1990 and then graduating from the School of Law in 1993. In 1993, Pedro began a nearly 30-year career at the Texas Attorney General's Office. He started off in the Antitrust division before moving to the Consumer Protection division in 1997, where he

stayed until retiring from the OAG in July 2022. Pedro has served as an Assistant Attorney General, a Managing Attorney, a Section Chief for the Complex Litigation section, and a Deputy Chief for his last three years.

- On January 15, 2023, Dax Garvin, was hired as an Attorney II. He is a graduate of UT – Tyler, where he graduated with a degree in Criminal Justice. He then attended the Texas Tech School of Law in Lubbock where he earned a Juris Doctorate in 2002. After obtaining his law degree later that year, Dax began his legal career as an Assistant County Attorney in Williamson County for a year before becoming a Junior Associate Attorney at Wright & Greenhill, PC in Austin where he performed a range of litigation and discovery work. Dax then served the state as a Deputy Sheriff in Williamson County for three years, work which involved patrolling, investigating, collecting evidence, and interrogating suspects. In 2008, Dax opened a solo law practice where he has represented both criminal and family law clients for most of the past 14 years. Dax has considerable experience in both agreed and contested hearings, jury and bench trials, and all aspects of the development and resolution of criminal cases. In addition, Dax recently worked at the Office of the Texas Attorney General in Temple focused on child support and related issues.

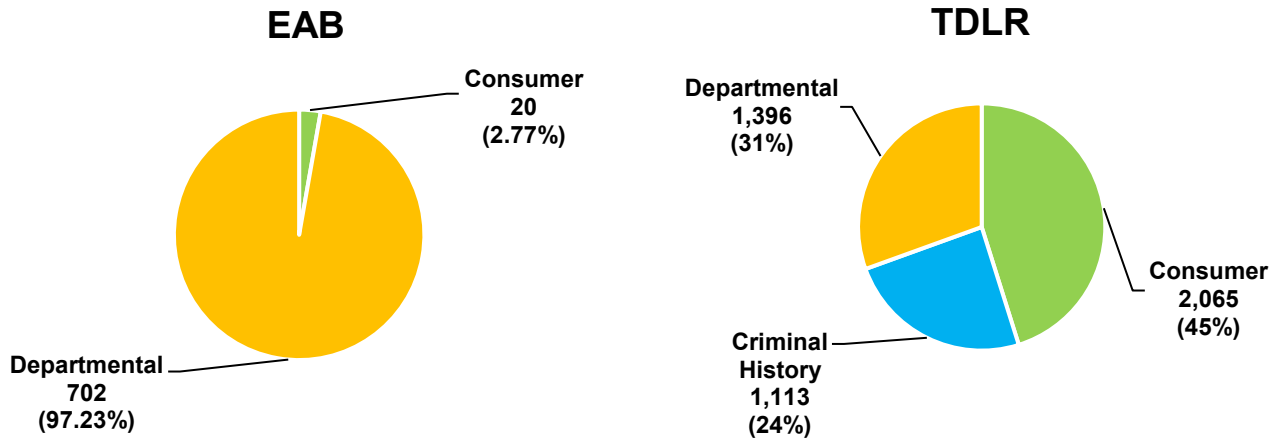
Statistics:

Shown below are the Complaints Received, Enforcement Performance Measures and Key Statistics for the Architectural Barriers program (EAB) and for all TDLR programs combined for **Fiscal Year 2023 through December of 2022:**

Complaints Received by Source	EAB	TDLR
Consumer	41	4,382
Departmental	703	1,110
Criminal History	26	25,848
Total Complaints Received	770	31,340

Key Statistics	EAB	TDLR
Cases opened	722	4,574
Cases closed	162	3,404
Average time to close (days)	103.13	205.88
% of cases resolved within 6 months	83.33%	56.96%
% of cases resulting in disciplinary action	8.02%	14.37%
Cases Pending at end of December of 2022	693	7,803

**Source of cases opened
for Fiscal Year 2023 through December of 2022**



Case Outcomes	EAB	TDLR
Commission Orders	0	6
Default Orders	1	163
Agreed Orders	12	292
Penalties Assessed	\$17,500.00	\$1,015,525.00
Penalties Collected	\$15,500.00	\$423,880.00
Licenses Revoked (Disciplinary)	0	18
Licenses Suspended	0	2
Licenses Denied/Revoked (Criminal History)	0	41
Cease & Desist Orders	0	4
Informally Resolved	140	2,915

**Top EAB Alleged Violations at Opening
for Fiscal Year 2023 through December of 2022**

Alleged Violation:	Count
Owner no project inspection for TAS within 1-year	673
Owner violated TAS	44
Owner no plans for construction	2
Owner failed to submit verification	1
RAS engaged in dishonesty or fraud	1
Failed to pay dishonored check	1

EAB Violations Resulting in Disciplinary Action for Fiscal Year 2023 through December of 2022

Violation:	Count
Owner no project inspection for TAS within 1-year	12
Owner violated TAS	1

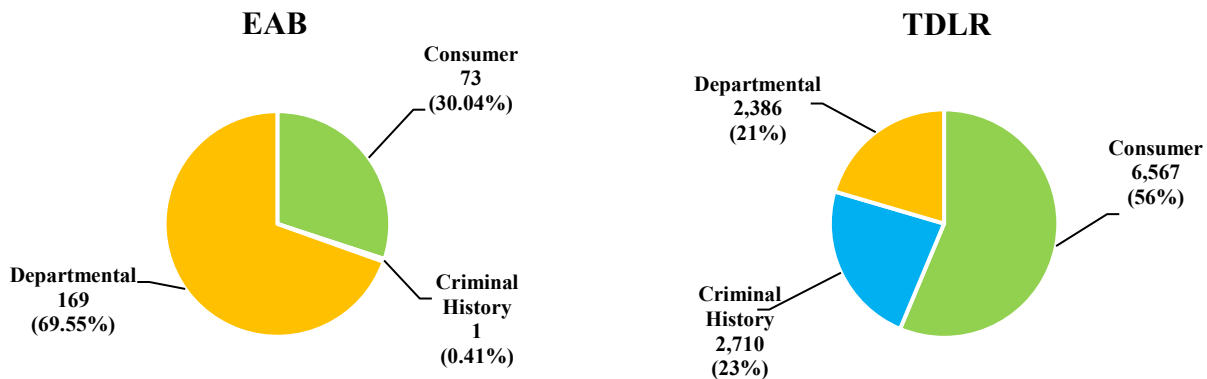
Statistics Fiscal Year 2022:

Shown below are the Complaints Received, Enforcement Performance Measures and Key Statistics for the Architectural Barriers program (EAB) program and for all TDLR programs combined for **Fiscal Year 2022:**

Complaints Received by Source	EAB	TDLR
Consumer complaints	103	14,098
Department initiated complaints	169	2,368
Criminal History Records reviewed for licensure	23	48,488
Total Complaints Received	8,766	64,954

Key Statistic	EAB	TDLR
Cases opened	243	11,663
Cases closed	209	11,754
Average time to close (days)	197.47	215.79
% of cases resolved within 6 months	62.20%	57.64%
% of cases resulting in disciplinary action	14.35%	10.81%
Cases pending at the end of Fiscal Year 2021	133	6,540

Source of Cases Opened Fiscal Year 2022



Case Outcomes	EAB	TDLR
Commission Orders	0	27
Default Orders	6	384
Agreed Orders	26	749
Penalties Assessed	\$42,000.00	\$2,588,310.00
Penalties Collected	\$29,500.00	\$1,322,419.50
Licenses Revoked (Disciplinary)	1	50
Licenses Suspended	0	4
Licenses Denied/Revoked (Criminal History)	0	182
Cease & Desist Orders	0	17
Informally Resolved	177	7,108

Top EAB Alleged Violations at Opening for Fiscal Year 2022

Alleged Violation:	Count
Owner did not have project inspected for TAS within 1-year	158
Owner violated TAS	67
RAS failed to comply with procedures	7
Owner did not have plans for construction	7
RAS performed in negligent manner	2
RAS failed to timely provide records	2
RAS failed to comply with Act, Rules, or TAS	1
Criminal history	1
Owner no plan review or project fees	1
Failed to pay dishonored check	1

EAB Violations Resulting in Disciplinary Action for Fiscal Year 2022

Violation	Count
Owner did not have project inspected for TAS within 1-year	27
RAS failed to comply with procedures	2
RAS failed to timely provide records	2
RAS engaged in dishonesty or fraud	1

Case Highlights:

- **Red River Decker Hills LLC, Case No. EAB20220012483**

On August 2, 2022, Deputy Executive Director David Gonzales acting for the Executive Director signed an Agreed Order that finalized the settlement agreement between the Department and Respondent Red River Decker Hills LLC. This negotiated settlement agreement was for 2 cases, this one and EAB20220012331, wherein the Red River company accepted the Department's determination of violations of the law in Red River's failure to obtain a final inspection by a registered accessibility specialist for 2 separate projects. Red River agreed to pay administrative penalty of \$750 for each case, which was paid in full.

- **Abril Parra, Case No. EAB20220005242**

On April 21, 2022, Deputy Executive Director David Gonzales acting for the Executive Director signed an Agreed Order that finalized the settlement agreement between the Department and Respondent Abril Parra. The Order found that Ms. Parra, a Registered Accessibility Specialist, failed to comply with RAS procedure. She failed to submit project files for multiple projects to the Department. Ms. Parra was assessed a penalty of \$1,000 and has paid the fine in full.

- **Michael J Schimmer, Case No. EAB20210003265**

A Default Order against Respondent Michael Schimmer, a Registered Accessibility Specialist, was signed and issued by Deputy Executive Director David Gonzales for the Executive Director on May 26, 2022. The Order found violated the RAS code of conduct when he accepted payment to review a project and failed to complete the work or refund the payment, or even respond to client communications. Mr. Schimmer failed to timely sign and return the settlement agreement sent to him as part of the Notice of Alleged Violation and as a result, a Default Order in the amount of \$2,500 was entered against him. His Registered Accessibility Specialist licensed was also revoked. Partial payment of the fines has been paid.

- **POP HOLDINGS LP, Case No. EAB20210015285**

On April 28, 2022, POP Holdings LP had a Default Order signed against it by Deputy Executive Director David Gonzales for the Executive Director. The Order found the owner, POP Holdings, registered their project in Greenville, but did not complete the TAS inspection thus violating Elimination of Architectural Barriers Law and Rules. The company failed to timely sign and return the settlement agreement sent to him as part of the Notice of Alleged Violation resulting in a Default Order entered against it. The penalty of \$2,000 was ordered and is in the collection process.

- **Michael A Ray, Case No. EAB20210001255**

On July 7, 2022, a Default Order against Michael Ray was signed Deputy Executive Director David Gonzales for the Executive Director. The Order found that Mr. Ray, a Registered Accessibility Specialist, failed to comply with RAS procedure by not timely submitting project files to the Department. The Order also found that Mr. Ray failed to make records available to the Department as required by Elimination of Architectural Barriers Rules. Mr. Ray was assessed a penalty of \$2,000 and a 6-month probation of his RAS license.

Regulatory Program Management

Staff Report for the Elimination of Architectural Barriers

February 27, 2023

Personnel Update

On December 31, 2021, Mr. Norman Kieke retired from TDLR after many years of service in the program as team lead. His position was replaced by Mr. Jonathan Sparks and a promotion for Ms. Ginna Harris to a Program Specialist 1 positions. On August 31, 2022, Mr. Stuart Strnad resigned from TDLR. The program was then shifted over to the Business Safety Section that is managed by Ms. Delisa Hamilton. Ms. Hamilton came over from the Enforcement division. On December 15, 2022, Ms. Thy Nguyen transferred to IT division, leaving a position open in the program that has not yet been posted or filled.

The EAB Program Specialists continue to perform project audits for required paperwork, respond to technical inquiries received, and assist other divisions with technical items related to the program.

Statistics

2022 FY (September 1, 2021 – August 31, 2022)

Number of projects registered in TABS – 25,691

Number of plan reviews completed – 22,892

Number of inspections completed – 15,819

Number of closures processed – 13,841

Number of variances processed – 165

Techinfo email responses sent – 20,232

Notice of overdue plan review & inspection sent – 2,179

Notice of overdue inspection sent – 7,727

Failure to make corrections sent – 3,311

2023 FY (September 1, 2022 – January 31, 2023)

Number of projects registered in TABS – 9,841

Number of plan reviews completed – 9,004

Number of inspections completed – 7,164

Number of closures processed – 5,987

Number of variances processed – 66

Techinfo email responses sent – 9,369

Notice of overdue plan review & inspection sent – 944

Notice of overdue inspection sent – 3,624

Failure to make corrections sent – 1,549

Current Projects

The EAB team has been working with the advisory board technical workgroup and other stakeholder groups to review and research items and suggestions for the 2023 TAS update. The project was started publicly last year and we hope to complete the process within this calendar year. We have been working with other TDLR divisions and our General Counsel to complete a clean up of the Texas Administrative Code Chapter 68. In addition, the EAB team continues to work with our IT department in correcting program glitches as well as update some development items within the Texas Architectural Barriers online System (TABS).

Some other items that have been keeping the Program Specialists busy is a large push to reach out to more building/facility owners regarding overdue plan reviews, inspections, or corrections. While recent increases in construction costs have put several construction projects on hold for extended periods of time we have found this a perfect time to reach out to some of those older project owners to give them a push to get overdue items taken care of. We have also started reaching out to some local municipalities to train and discuss requirements of TDLR project registration prior to local building permitting.

Finally, we are happy to announce that TDLR staff have been working tirelessly to scan in all remaining physical files that we had in house into TABS. Once complete this will save staff time and money from having to locate and mail out physical files that remain in our possession.

Outreach

2022 FY (September 1, 2021 – August 31, 2022)

11/1-3/21 BPI central – taught 3 courses (Applying TAS, Understanding TAS, 2-day Academy)

11/17/21 TXDOT landscape architects training – PROWAG versus TAS requirements

1/26-27/22 APA annual conference – TDLR and TAS updates

3/7-9/22 BPI south – taught 3 courses (Applying TAS, Understanding TAS, 2-day Academy)

3/23/22 GCPD webinar – TDLR and TAS updates

5/6/22 APA quarterly presentation – TDLR and TAS updates

6/14 & 16/22 APA virtual 2-day Academy

7/11-14/22 BPI north – taught 4 courses (Applying TAS, Understanding TAS, 2-day Academy, RAS introduction)

8/18/22 1st municipality training, Martindale

2023 FY (September 1, 2022 – January 31, 2023)

9/8-10/22 AIA chapter of Lower Rio Grande – TDLR and TAS updates

9/9/22 APA quarterly presentation – Owners, agents and more

10/25 & 27/22 APA virtual 2-day Academy

11/14-16/22 BPI central – taught 3 courses (Applying TAS, Understanding TAS, 2-day Academy)

11/15/22 AIA chapter Corpus Christi – TDLR and TAS updates

1/25-27/23 APA annual conference – taught 2 courses (Outdoor Developed Areas and TDLR and TAS updates), was also part of a panel discussion that included TBAE and TBPELS regarding responsibilities for licensees

Elimination of Architectural Barriers – Past 6 Months

Over the past 6 months (from August 15, 2022 – February 14, 2023), the Architectural Barriers program website had **235,512 views** – an average of 1280 per day.

82 percent of those visitors accessed your site from a desktop computer, while 17 percent did so from a smart phone and 1 percent from a tablet.

Top reasons for visiting the site...

1. 2012 Texas Accessibility Standards (TAS) Online
2. Forms
3. Frequently Asked Questions
4. Disabled Parking Placards
5. Laws and Rules