The meeting was called to order at 1:45p.m. in Room 213. Senator Thomas R. C. Wilson was in the chair.

PRESENT: Senator Thomas R.C. Wilson, Chairman
Senator Richard E. Blakemore, Vice Chairman
Senator Don Ashworth
Senator Clifford E. McCorkle
Senator Melvin D. Close
Senator C. Clifton Young
Senator William H. Hernstadt

ABSENT: None

OTHERS PRESENT: See attached Guest List, Page 1A

AB 27 Establishes board to review functions of Nevada industrial commission.

For previous testimony, discussion and action please refer to minutes of April 30, 1979 meeting.

Mr. Ben Dasher, Chairman of the Board, The Universe Life Insurance Company, stated the only difference between Nevada Industrial Commission (NIC) and the Universe Life Insurance Company is the fact that they have competition and must sell their products. He stated he felt communication and education were of tremendous importance, Mr. John Reiser is a highly competent insurance man, but he is an actuary, a professor and a technician; he is not a salesman. He stated Mr. Reiser explained at a previous meeting the overall percentage of returns on investments, Mr. Dasher felt no-one present understood the terminology that Mr. Reiser was trying to offer, except perhaps himself. It is Mr. Dasher's feeling that this kind of communication is not understandable by the public, he felt by taking communications out of the hands of the actuaries and technicians problems would diminish. He continued that whatever governing board is established should be oriented toward the legislature, and the premium payors who are management, and the insureds who are the policy holders, as this would make a basis of a company under conditions that are out in the field. He further stated that advisory boards are good in a private sector for fund raising and for status, but otherwise useless. He strongly advised consideration of a Board of Directors similar to those in private industry and this board should be oriented to make them responsible to the legislature, in a similar way as an ordinary board is responsible to stockholders, and make them responsible to their customers who pay the premium, this is the various employers. He felt this would provide the best possible product and service at the lowest cost to an informed public. It would be the responsibility of the board to insure communication is at a high level. He further stated the best people to have would be those in management positions and who know how to handle problems, and how to obtain advice to solve a problem. He concluded he would highly advise a specialized investment advisory counsel.

AB 27 continued

Senator Blakemore stated basically talking about workmen's compensation the first thing that should be considered is the injured worker.

Mr. Dasher responded that he had no intention of any other thought because in his mind the policy holder in his company is number one.

Senator Hernstadt questioned Mr. Dasher as to when his claimants were unhappy about the way the company treats them, prior to their hiring a lawyer and going to court, if he ever spoke personally to them.

Mr. Dasher responded that he does as claimants, feeling frustrated, call the president of the firm.

Senator Hernstadt stated the reason for his question is that he has many complaints of NIC claimants that no one within the organization will talk to them. He stated that led to picketing. He questioned how Mr. Dasher would advise treating claimants so they do not bother the legislators.

Mr. Dasher stated if he were on the board and realized there were so many dissatisfied claimants he would find out why this existed. The thing to do would be to go to the area of NIC which is not performing, he said, and settle that particular problem.

Senator Young stated differences between private corporations and the government regarding discharge of employees being much easier in private corporations. He further stated the development of a policy requires public notice, formal hearings and this is not required of a corporation. He questioned how often the board would have to meet and whether it would be necessary for a full time responsibility.

Mr. Dasher stated he did not envision it that way, they have set policy and he felt a group of management people, experienced in management do not need that kind of continuous meeting. He said they set policy, remedy situations which exist and not minor things.

Senator Young asked him how large the board should be. To which Mr. Dasher responded between seven to twelve. Senator Young asked if it would be easy to get that type of person who could take that kind of responsibility on the basis of meeting once a month. To which Mr. Dasher stated, " I am constantly amazed by the amount of public service that some very prominent men in our state provide".

Senator Close interceded that the Board of Directors, after receiving the evidence would then have to make a decision. He further stated the board, the committee envisions, would independently search out various problems in NIC that need to be corrected. Mr. Dasher said he realized they needed recommendations or alternatives, not evidence.

AB 27 continued

Senator Close said advice was needed as to how it would work if given the power to mandate certain policies; and those recommended would be made public to the Governor, the committee and NIC.

Mr. Dasher said if you wish to place a board between yourselves and management that you have to give the power for making decisions within the areas of the law regarding public hearings. He does not believe putting a board in an investigative position. He further stated by giving an advisory board additional responsibilities and additional powers the same thing may be accomplished.

Senator Hernstadt posed the possibility if a policy making board were established, with the authority as a board of directors, should they have the right to hire a chief operating officer in which the governor would appoint the board, rather than the commissioners, this board would name the chief operating officer. He questioned whether this would be feasible or whether there should be three commissioners as now exists appointed by the governor. Mr. Dasher felt that the present system serves a necessary function. He said the board should have the ability to pass judgment on the Chief Executive Officer.

Chairman Wilson closed the public hearing on AB 27.

SB 531 Revises certain provisions of law regulating architects.

Mr. Fred Dorio, Secretary-Treasurer of the State Board of Architecture, stated the Board of Architecture highly object to the addition of wording on Line 4 which is under the direct supervision provision as this is very difficult to "police". He further stated that it opens the door to non-registered persons to practice architecture. They urge this verbage be deleted, Page 1, Lines 4 and 5, "under the direct supervision". He said all employees technically working for an architect are drawing buildings, practicing. He further reported on Page 2, Line 2, has drawn mixed emotions and the consensus is the Board is against it, as it opens new doors and they would prefer this be deleted. Senator Close questioned the danger. Mr. Dario responded now there are non-professional people practicing the art of architecture and have a licensee stamp the work.

Senator McCorkle stated that art versus science is pretty important because you cannot compromise the science, it has to be technically correct. Mr. Dorio responded that in architecture the two cannot be separated, it is the engineer, opposed to the individual, who creates both science and art in one structure, one drawing and one designing, they can not be separate so it does not make any difference in whether you are buying the man's art or his science. He said an architect is exempt from the engineering law as engineers are exempt from the architect law.

SB 531 continued

Mr. Dorio said that should the language in line 2 through 10 remain, allowing extra corporations, companies, or non-licensed practitioners they would like to add to line 50 "providing the name of the certificate holder is stated in all such advertisements". Senator Ashworth questioned if the professional architects are not under the professional corporation act, an officer holding stock in the corporation has to be a licensed architect. Mr. Dorio responded that the law is ambiguous and they have been trying to change the language. Senator Ashworth felt there was a present conflict with NRS 78.

Ms. Barbara Reedy, representing the Nevada Society of Architects, said state groups and architectural organizations in the state support the multi-disciplinary approach enabled by this legislation. She stated NRS 89 has a provision regarding a conflict that the section read: "In case of conflict, the provisions of this chapter should apply". She stated the definitaion of an employee in a professional corporation is "a person duly licensed or otherwise legally authorized to render professional services".

Mr. John Hancock, licensed architect in the State of Nevada and instigator of SB 531 stated he had difficulty obtaining a renewal of his architect's license as the state architectural board has a concern with multi-disciplinary approach. He wishes to eliminate any problem when he renews his license.

Senator McCorkle questioned if the law presently prohibits multi-disciplinary approachs. Mr. Hancock replied that he did not believe the law prohibits this type of planning, but the language is vague and needs clarification.

Senator Ashworth questioned if Mr. Hancock's firm, at the present time, is a professional corporation. Mr. Hancock stated they are a general corporation, reviewing the establishment of his corporation. Senator Ashworth responded that the whole purpose of professional corporations is that it does not avoid its liability to the individual as a profession.

Mr. Gary Owens, Attorney for Resource Concepts, Inc, stated a review of Chapters 78 and 89 raise questions Senator Ashworth posed, his group concluded that neither chapter circumscribes creation of a multi-disciplinary corporation. He further stated under Chapter 89 all shareholders and officers would have to be registered architects or engineers, but that there is nothing in the law that prohibits formation of a general law corporation for carrying out this type of business.

Senator Ashworth expressed concern over the limited liability. Following discussion it was decided the language is not clear, and should be amended.

SB 531 continued

Mr. Hancock presented background information for the record regarding SB 531 (Exhibits "A", "B" and "C").

Mr. Owen explained reasons for language on Lines 4 and 5 of Page 1 "or under the direct supervision", suggesting it could be amended to: "a person engaging in architectural work as an employee, or under the direct supervision of a registered architect, or under the direct supervision of a registered architect who is such person's co-employee".

Chairman Wilson closed the public hearing on SB 531.

AB 728 Provides for local authorities to insepct installation and maintenance of mobile homes.

Mr. G. P. Etcheverry, Nevada League of Cities, testified in opposition to AB 728 explaining the bill would give option to local governments to mobile inspections and they do not want that responsibility. He stated the present bill eliminates the fee structure.

Chairman Wilson noted for the record, Assemblyman Jack Jeffrey, Chairman of the Assembly Commerce Committee, sent a note stating AB 728 needs amendments to provide local fees and retain contracts inspectors

Mr. Etcheverry said if SB 173, the manufactured housing division bill passes, it will eliminate the need for AB 728. He further stated Mr. Hank Etchemendy of the City of Reno and Mr. Russ McDonald also oppose the bill.

Chairman Wilson stated that Senator Norman Glaser had been informed that the Elko County Commissioners also oppose the bill.

Mr. Etcheverry explained to Senator Young that the proponant of the bill claimed there had been a problem in waiting for an inspection in Henderson because they had opted to let the state make the inspection, and the state had delayed.

Mr. Barlow White, Mayor, Ely, Nevada, testified in opposition to AB 728.

Mr. Wayne Tetrault, Administrator, Mobile Home Agency, stated SB 173 eliminates the need for AB 728.

Chairman Wilson closed the public hearing on AB 728.

AB 196 Makes changes respecting training and license fees of persons regulated by private investigators licensing board.

For previous testimony and discussion see minutes of April 23, 1979.

AB 196 continued

Mr. Samual McMullen, Deputy Attorney General, explained AB 196 is a Private Investigator's Licensing Board bill. He stated the bill increases license fees from $100 to $125; the Board was $1,000 in debt last year; the increase is needed for institution of investigations for disciplinary actions against licensees on the Board. He concluded the bill provides licensees pay registration fees for their employees, not to exceed $10. He explained to Senator Young that there are about 100 licneses, including multiple, in the state.

Chairman Wilson closed the public hearing on AB 196.

AB 617 Specified limit of recovery when two or more policies of casualty insurance are in effect.

MR. James Washams, Director, Department of Commerce, proposed to explain AB 617. He presented, for the record (see Exhibit "D"), two cases before the court, Traveler's Insurance Company vs. Ramiro Lopez; and (see Exhibit "E") William F. Cooke, vs. Safeco Insurance Company of America. He expalined in the Cooke case the Supreme Court stated a provision in an insurance policy is contrary to public policy in Nevada. The effect of this decision is that coverages within an insurance policy can be stacked; he explained if there were two vehicles within one family, insured under two policies, or one policy, with separate premiums, and an accident happens in which the injuries exceed $15,000, the recovery, to the extent of the damages can be made for both cars. He continued that in the Lopez case there were two policies; one a commercial policy, the other a private passenger policy. He explained that the decisions expanded the exposure and whenever benefits are raised the rates go up.

Mr. Wadhams explained the intent of the bill, which may require some amendatory language, is to preclude stacking in multiple situations or policies or coverags designed to cover each vehicle. He explained to Senator McCorkle the two cases presented are representative of stacking decisions and relate to uninsured motorists and no-fault; but the language of the example cases suggests the Supreme Court may go with the bodily injury case, where the liability is stacked. He explained to Senator Blakemore if the bill were amended to its original intent it would allow rates to remain the same, the Cooke case decision would cause rates to go up because of the stacking. To Senator Hernstadts question he stated that as long as a person is aware of the price he should be able to buy whatever coverage he wants.

Mr. Wadhams stated limitation to liability was contrary to public policy and that automobile insurance has traditionally been priced on the basis the insurance attaches to the vehicle; these decisions changed that to attaching the insurance to the driver.

AB 617 continued

Chairman Wilson stated the Supreme Court determines public policy and the legislature's job is to give reasons for public policy.

Mr. Don Heath, Commissioner, Insurance Division, explained that the Supreme Court says the insured is entitled to protection he may reasonably expect for the premiums he pays.

Senator Young referred to a letter from Mr. R. V. Patton, President, California State Automobile Association, (see Exhibit "F") quoting Mr. Wadhams testifying in the Assembly Commerce Committee that stacking would increase premiums from 25 percent to 50 percent. Mr. Wadhams explained there had been testimony from insurers who felt their rates would go that high, but his testimony had not stated rates. He further explained the 15 percent to 25 percent multi-car discount, that families with two or more vehicles enjoy, will disappear. He added because of uncertainty of the court's position on bodily injury, the bodily injury premium will increase a minimum of 10 percent. He continued to say that public policy should allow stacking, but it must be paid for, if individual coverage is bought on two separate vehicles, the stacking situation should not be allowed. He stated in Idaho and Washington, where stacking has been allowed premiums have gone up.

Senator Close observed the Patton letter has stireed up much interest in policyholders and is inaccurate, he stated the committee should know what extra cost has been experienced by other states.

Ms. Margo Piscevich, Attorney, testified in support of AB 617. Explaining some of the history of case law in Nevada she referred to the Cooke, vs. Safeco case for which she acted as Safeco's attorney, the trial judge agreed that the clause was very clear and did preclude double recovery. She further stated for the last 15 to 20 years there has been a history of stacking of insurance policies, because the court said the language was ambiguous and when the language is ambiguous in a contract situation it is construed against the insurer, therefore the insured is allowed to recover twice. She further stated in the Lopez case, the court decision stated the language was not ambiguous. She stated it is against public policy to allow an individual to purchase two kinds of policies or have a situation where stacking is allowed; the policyholder should be entitled to the benefit of the amount paid. She illustrated if there is a situation where one person owns one car and the statutory minimum of $15,000/$30,000 is purchased, that is all they are entitled to receive, if a family has three cars and buys the statutory minimum, according to Nevada public policy and the driver is involved in an accident with an uninsured motorist, or no-fault and $10,000, the driver can then stack and receive $45,000 for uninsured motorist or $30,000 for no-fault. He stated this is the reason for increase in rates. She further

AB 617 continued

stated when rates are made a decrease is given for a second car, because it is assumed that one car will be driven less than the other, and both will not be driven at the same time.

Ms. Piscevich answered Chairman Wilson's question by stating there are not many people buying two policies for one car; the more usual situation is when a policy is purchased to cover one or more vehicles. She explained that if $100,000 for each of three vehicles is boutht, $300,000 limits were not purchased. She said the court does not have before them the information regarding how rates are calculated. She added that up to this time the courts have said if the language is not ambiguous the right to contract prevails.

Upon questioning from Senator Hernstadt Ms. Piscevich stated she was appearing on behalf of Farmers Insurance Exchange, their companies and SAFECO. She said upon calling Washington, she learned the rates had gone up when stacking was not allowed, but not by how much. For example, she stated, Farmers' Insurance in 1978 paid out 26.8 more than they took in premiums for uninsured motorist coverage. She said the total premiums for uninsured motorists was $321,000 and $84,000 more than that paid out. She stated the only areas where a profit was made was in fire, theft and comprehensive, the profit being 11.9 percent for overall coverage.

Mr. Jack C. Cherry, Attorney, representing California State Automobile Association, and the Farmer's Insurance Group, stated premiums will go up if stacking is allowed. He stated when he has an insurance case involving an automobile policy and there is an experienced plaintiff attorney, he has found the opposing attorney will evaluate the case similarly to his evalustion. He also stated an unexperieced insurance attorney will estimate much higher when he sees a stacking situation, this is the reason rates go up. He felt the public should get what it want to buy.

Mr. Peter Chase Neumann, stated he opposes AB 617 and presented prepared testimony (see Exhibit "G"). He explained stacking only affects two coverages, no-fault and uninsured motorists. He said extimates for uninsured motorist premiums will go up 25 percent to 50 percent and will only result in $2 to $4 per year; stating it was his feeling rates would not go up because of stacking as stacking in uninsured motorist policies has been in Nevada since 1970, the companies have not claimed stacking is a reason for rising rates. He stated rarely when a motorist is in a bad accident and is entitled to $15,000 he can get $30,000. He said the real question is whether it is against public policy. He is not of the opinion that people buy policies for the purpose of stacking.

Senator Hernstadt observed, from Mr. Neumann's testominy, the premiums which cover all the auto insurance usually $200 to $300, the uninsured portion is only $10 to $20. Mr. Neumann concurred and said there are statutes in Nevada that state no insurance company or anyone else shall publicize information that is false, deceptive or misleading concerning insurance. He stated there is no case

AB 617 continued

stating bodily injury can be stacked. He agreed with Chairman Wilson in that policy holders should get what they pay for. He stated under insurance is being offered in Nevada, this is the protection needed if badly injured by an insured motorist who has $15,000 limit and a $100,000 injury is incurred.

Mr. Virgil Anderson, American Automobile Association, explained when the letter (Exhibit F) had been sent he, in good faith, thought the figures were accurate. Chairman Wilson observed the letter brought unneeded pressure on the committee and that is not the proper way to proceed. Me asked Mr. Anderson to convey to Mr. Patton the committee displeasure. Mr. Anderson clarified that AAA felt there really is a crisis in Nevada, he agreed to provide Senator McCorkle with an annual statement from AAA. Senator Young suggested AAA send a letter to policyholders explaining the inaccuracies in the previous letter. Mr. Anderson agreed to the suggestion.

Mr. Daryl E. Capurro, representing the Nevada Motor Transport Association, stated a pure stacking situation would be disasterous to the Association and he supports AB 617 with the proposed amendments.

Chairman Wilson closed the public hearing on AB 617.

AB 27 Establishes board to review functions of Nevada Industrial Commission.

For previous testimony, discussion and action please see minutes of meeting of April 30, 1979.

Mr. Claude Evans, Executive Secretary, AFL-CIO, explained he is not testifying as a member of the Labor-Management Board, but as a former Commissioner representing Labor and Management on the NIC. He stated he supports NIC and no one is more cognizant of the problems of injured workers than he is. He said Nevada is one of the best systems in the United States, ranking in the top 10 in benefit structures. He stated the lack of communication between the Commission and the claimants is the claimants blame the Commission for statutes made by the legislature. He stated in dealings with Mr. John Reiser that Mr. Reiser has been fair, honest and decent, but that Mr. Reiser has problems communicating with people. He stated he has no problems with AB 27 and hopes the proposed committee will be responsible and knowledgeable.

In response to Chairman Wilson's question, Mr. Evans stated the board is a good idea and could act as a "buffer" for NIC, it would help with communication problems. He answered Senator Hernstadt that the proposed board should have more authority than just being advisory. He added, in his experience, the cooperation was good between Labor and Management Board and NIC.

AB 27 continued

Mr. Easton Black Blackburn, Safety Director, Titanium Metals, and Member Labor-Management Board, testified in opposition to AB 27. He stated if a board is created, and has responsibility, it should have authority. He expressed concern regarding CPA's becoming involved with basic administration problems.

Mr. Max Blackham, Member of Labor-Management Advisory Board, concurred with previous testimony and suggested a change in current management structure of NIC which would resemble private management board structure. He felt the proposed board should take adjudication process from NIC, this would free the Commissioners for management tasks which, at the present time, they have not the adequate time. He expressed concern in making the new board effective without giving it too much power that would be detrimental. He concluded the board should be confined to management and administrative areas and not jurisdicational, but recommendational to the governor.

Mr. Harold Newston, Member Labor-Management Advisory Board, stated he would support AB 27 with the proposed amendments. He expressed concern with the voting status and stressed the premium dollar not be the primary concern but should be for the benefit of the injured worker. He concurred with Senator Hernstadt that the composition of the employment would not be a good structure to copy.

Mr. Tom Jones, representing the Steelworkers, Ely, Nevada;
Mr. George Ossley, Member Labor Union, Las Vegas, Nevada; and
Mr. Mike Pisanello, representing the Culinary Workers, Las Vegas, Nevada all concurred with Mr. Evans and Mr. Newston's testimony.

Chairman Wilson thanked all those testifying on AB 27 for their advice and stated the bill would be amended with their recommendations taken into consideration.

Chairman Wilson closed the public hearing on AB 27.

Mr. George Bennett, Secretary, Nevada State Board of Pharmacy; and Mr. Russell McDonald, representing that Board, explained the following BDR's have been with the bill drafter since early in the session and basically are "house-cleaning bills" and not substantive. Mr. McDonald explained these BDR's pertain to dangerous drugs and procedure.

BDR 40-1961* Amends various statutes regulating controlled substances.

BDR 40-1962** Amends various statutes relating to dangerous drugs, poisons and hypodermic devices.

BDR 54-1963† Proposes various amendments to laws relating to pharmacists and pharmacies.

*SB 563
**SB 564
†SB 565

Senator Ashworth moved for committee introduction for proposed legislation BDR 40-1961, BDR 40-1961 and BDR 54-1963.

Seconded by Senator Young.

Motion Carried (Senators Close and McCorkle absent).

BDR 1946* Authorizes public service commission of Nevada to inspect records and property of affiliates of public utilities.

Senator Young moved for committee introduction for proposed legislation BDR 1946.

Seconded by Senator Hernstadt.

Motion Carried (Senator Close absent).

BDR 54-2033** Provides exception to requirements concerning advance fees.

Senator Young moved for committee introduction for proposed legislation of BDR 54-2033.

Seconded by Senator Hernstadt

Motion Carried (Senator McCorkle opposed;
Senator Close absent).

BDR 32-1806† Relates to motor vehicle fuel taxes, exempting certain mixtures of petroleum and ethinol from those taxes requiring the reporting of sales of the mixtures.

Senator Ashworth moved for committee introduction for proposed legislation of BDR 32-1806.

Senator Young seconded the motion.

Motion carried (Senator McCorkle opposed;
Senator Close absent).

Chairman Wilson adjourned the meeting at 5:45 p.m.

*SB 568
**SB 567
†SB 566

RESPECTFULLY SUBMITTED

Betty L Kalicki

Betty L. Kalicki, Secretary

APPROVED:

Thomas R. C. Wilson, Chairman

SENATE Commerce and Labor COMMITTEE

GUEST LIST

Bill Montgomery Reno NV DATE: Friday, May 4, 1979

NAME	AGENCY OR ORGANIZATION
George Foster	Local 350 Plumbers & Fitters
John Mchain	Resource Concepts Inc., C.C., NV.
Bruce Robb	Nevada Manufactured Housing Assn
Ben Dasher	Universe Life Insurance Co
FRED DORIOT	NEV. STATE BOARD OF ARCHITECTURE
BARBARA REEDY	NEVADA SOCIETY OF ARCHITECTS
JOHN HANCOCK	RESOURCE CONCEPTS
GARY OWEN	OWEN & ROLLSTON
Ken Watson	Employment Security
Evans	Nevada Ins Division
Barbara Bailey	Nev. Trial Lawyers Assn.
LARRY KEES	NEV. INDEPENDENT INSURANCE AGENTS
G P Etcheverry	NEV LEAGUE OF CITIES
Hank Etcheverry	City of Reno
Joe Etcheverry	CALIFSTATE A.A., FARMERS INS., Auto Club of So CALIF
[illegible]	AAA
[illegible]	AAA
CLAUDE EVANS	AFL-C.I.O
Harold Knudson	SHEET METAL LOCAL #26 RENO
[illegible]	[illegible]
[illegible]	PRIVATE INVESTIGATOR'S LICENSING BD.
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSN.
[illegible]	N.T.C.A.
STAN WARREN	NEVADA BELL
JACK KENNEY	SO NV HOME BUILDERS

Dick Garrod — Farmers Ins Group - 1620
MARGO PISCEVICH — ATTORNEY
JOHN MADOLE — ASSOCIATED GENERAL CONTRACTORS

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document J330
Revised July 1, 1978

Code of Ethics and Professional Conduct

PREAMBLE

This code, which applies to Institute members' professional activities wherever they occur, is comprised of three kinds of statements: canons, ethical standards, and rules of conduct. The canons are broad principles of conduct. The ethical standards, more specific, are both goals toward which members should aspire and guidelines for professional performance and behavior. The rules of conduct are mandatory, and their violation is subject to disciplinary action by The Institute.

1. Members of The American Institute of Architects should serve and promote the public interest in improving the human environment.

E.S. 1.1 Members should respect the natural environment while striving to improve the built environment and the nation's quality of life.

E.S. 1.2 Members should help to conserve natural resources and the heritage of the past.

E.S. 1.3 Members should seek continually to raise the standards of aesthetic excellence, architectural education, research, training and practice.

E.S. 1.4 Members should promote allied arts and contribute to the knowledge and capability of the building industry as a whole.

E.S. 1.5 Members should seek opportunities to be of service in civic affairs.

E.S. 1.6 Members should be involved, as citizens and professionals, in matters of policy and planning related to settlement and growth.

2. Members of The American Institute of Architects should communicate with the public, including potential clients, in a professional manner.

E.S. 2.1 Members should work to improve public understanding of architecture and of the functions and responsibilities of architects.

E.S. 2.2 Members should strive to make clear to the client public that the primary considerations in selection of architects should be ability and competence to provide the services required.

E.S. 2.3 Members should not compromise the quality or adequacy of the services to be provided in establishing compensation.

E.S. 2.4 Members should provide the public with information on the availability of architectural services.

R. 201 Members shall not make exaggerated, misleading, deceptive or false statements or claims about their professional qualifications, experience or performance in their brochures, correspondence, listings, advertisements or other communications.

R. 202 Members may produce brochures, pamphlets or newsletters describing their experience and capabilities for distribution to those potential clients whom they can identify by name and position.

R. 203 Members may identify themselves as architects and members of AIA in or on business cards and stationery, temporary job signs at construction sites, building plaques, architectural books and publications, architectural documents, office identification signs, building directories, and similar professional notices.

R. 204 Members may purchase dignified advertisements and listings only in newspapers, periodicals, directories or other publications, indicating firm name, address, telephone number, staff, descriptions of fields of practice in which qualified, and availability and cost of basic services. Such advertisements shall adhere to the standards stated in R. 201 and shall not include testimonials, photographs or comparative references to other architects.

5. Members of The American Institute of Architects should pursue their professional activities with honesty and fairness.

E.S. 5.1 Members should conduct themselves in a professional manner to inspire the confidence, respect and trust of their clients and of the public.

R. 501 Members shall conform to all laws relating to their profession and shall not engage in any conduct involving fraud, deceit, misrepresentation or dishonesty in their professional or business activity.

R. 502 Members may use a representative in seeking work from a prospective client provided that:

a. The agreement to do so is made in writing before the representative begins solicitation of the work.

b. The representative's compensation is based entirely on work to be performed and does not in any way constitute a bribe.

c. The representative agrees to represent only one firm in search of a particular project.

d. The representative at all times accurately represents the architect's experience and capabilities.

e. The representative discloses the relationship to the prospective client.

f. The member takes full responsibility for the acts of the representative and in particular for full compliance with this code.

g. The representative, by reason of his or her position, is not a direct participant in the award of the commission.

6. Members of The American Institute of Architects should maintain the integrity and high standards of the architectural profession.

E.S. 6.1 Members should strive to maintain and improve their professional knowledge and competence through participation in continuing education and other professional development programs.

E.S. 6.2 Members should refrain from illegal and immoral conduct and should reveal voluntarily to the proper officials all unprivileged knowledge of the conduct of members which they believe to be in violation of this code.

R. 601 Members may make contributions of professional services, sponsorship, time or money for the public good, in compliance with applicable laws and this code.

R. 602 Members shall preserve the confidence of their clients except in matters of legal violations.

R. 603 Members shall preserve the confidence of their employees or employers except in matters of legal or ethical violations.

R. 604 Members shall not knowingly make false statements about the professional work of other architects nor maliciously injure or attempt to injure their prospects or practice.

R. 605 Members shall not attempt to obtain, offer to undertake or accept a commission for which they know another legally qualified individual or firm has been selected or employed until they have evidence that the selection, employment or agreement has been terminated and they have given the prior individual or firm written notice that they are so doing.

R. 606 Members shall neither contribute nor promise to contribute directly or indirectly, any gift, compensation or other valuable consideration in order to retain or obtain work or employment or to reward anyone for the award of work or employment except as allowed by this code.

R. 607 Members making a political contribution shall do so in compliance with applicable laws.

FINAL STATEMENT

The enumeration of particular duties and the proscription of certain conduct in this code does not negate the existence of other obligations logically flowing from such principles. Conduct proscribed as unethical shall be construed to include such lesser offenses as attempted misconduct and aiding-and-abetting of misconduct.

Members employed by organizations which act contrary to this code are themselves in violation if the violation occurs within their area of responsibility for policy or practice. However, members shall not knowingly practice with or be employed by others who act contrary to this code in the normal course of business.

Members who violate the Rules of Conduct contained in this code shall be subject to discipline by The Institute in proportion to the seriousness of the violation. The Board of Directors of The Institute, or its delegated agent, shall have the sole power of interpreting these canons, ethical standards and rules of conduct; its decisions shall be final, subject to the provisions of the Bylaws. AIA component organizations do not have authority to make binding interpretations, clarifications or additions to this code.

Members having information or documents relevant to any charge or investigation of alleged unprofessional conduct shall testify or produce such documents at any hearing of the National Judicial Committee when so required.

SELECTED RELEVANT BYLAW PROVISIONS

Chapter XIV, Article 1, Section 1 (c):

c Violations.

c-1 Any deviation by a member or associate member from the Rules of Conduct contained in the Code of Ethics and Professional Conduct or from any of the published interpretations supplementary thereto, or any action by a member that is detrimental to the best interests of the profession and The Institute shall be deemed to be unprofessional conduct on the member's part and *ipso facto* such member shall be subject to discipline by The Institute.

R. 205 Members shall neither publicly endorse a building product or service, nor permit the use of their names or photographs to imply such endorsement. However, they may be identified with any building, building product or system designed or developed by them, so long as they have not purchased such identification.

R. 206 Members shall neither solicit nor permit others to solicit in their names advertisements for any publication presenting their work.

R. 207 Members, when being considered with other architects for a commission, shall not offer or provide free design sketches, models or other architectural services, except through design competitions. Premature design solutions may deceive the client in evaluating the capabilities of the architect.

R. 208 Members may participate in an architectural design competition only when sufficient information concerning the project and the client has been provided to make possible an adequate design solution. AIA Document J332, "Guidelines for Architectural Design Competitions" is recommended for such use.

R. 209 Members participating in any architectural exhibition for which a charge is made to offset the expenses of the exhibition and/or subsequent publication may do so only when the exhibition is approved by the AIA or an appropriate AIA component.

3. Members of The American Institute of Architects should uphold all human rights.

E.S. 3.1 Members should provide their associates and employees with a suitable working environment, compensate them fairly, and facilitate their professional development.

R. 301 Members shall not discriminate against any business associate, employee, employer, or applicant because of race, religion, sex, national origin, age or handicap.

R. 302 Members shall recognize and respect the professional contributions of their employees and business associates.

4. Members of The American Institute of Architects should serve their clients competently and exercise unprejudiced professional judgment on their behalf.

E.S. 4.1 Members should undertake only that work which they are competent to perform by reason of training, education, experience or association with other professionals.

E.S. 4.2 In the performance of professional services, members should not allow their own financial or other interests to affect the exercise of independent professional judgment on behalf of their clients.

R. 401 Members shall represent truthfully to their clients, prospective clients or employers their professional qualifications.

R. 402 Members shall not neglect assignments entrusted to them.

R. 403 Members may engage in construction management as professionals for professional compensation.

R. 404 Members engaging as professional consultants in design/construction activities involving contractual relationships in which they are not directly employed by the owner, shall exercise professional judgment without partiality to the interests of any affected parties.

R. 405 Members participating as principals in design/construction activities involving contractual relationships where compensation is affected by profit or loss on labor and materials furnished in the building process, shall do so subject to the following conditions:

a. That the owner receive a full and timely written disclosure of the existence of the member's conflict of interest and the elements of this Code of Ethics and Professional Conduct governing such conflict. Full disclosure shall include notice that the member's compensation will be affected by profit or loss on labor and materials furnished on the advice of the member and that the owner may wish to obtain independent professional advice.

b. That such disclosure shall not relieve the member of the responsibility for the exercise of professional judgment without partiality to the interests of any affected parties.

c. That during the course of the design/construction process the terms of construction subcontracts and any other cost data shall be available for the owner's review.

d. That during the course of the design/construction process the owner shall be fully informed of the cost and other consequences of any proposed change or substitution and shall approve such change or substitution.

R. 406 Members participating as principals or employees in building contracting activities not including the design of buildings, or members employed in any other aspect of the commerce or industry of building construction shall do so subject to the following conditions:

a. That they comply with all relevant provisions of this code.

b. That references to professional training, credentials or AIA membership shall not be used by members, their employers or employees to imply a professional relationship or otherwise mislead owners or the public.

c. That the professional authority and responsibility of the design architect be respected.

R. 407 Members shall not have any significant financial or other interest, or accept any contribution or gift, not subject to the safeguards in R. 405, if these would reasonably appear to compromise the members' professional judgment or prevent members from serving the best interest of their clients.

AIA Document J330 • Code of Ethics and Professional Conduct • Revised July 1, 1978 • © 1978 (Last previous edition was the July 1, 1977 revision.) THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 New York Avenue, N.W., Washington, D.C. 20006

Chapter XIV, Article 1, Section 3:

Section 3. Formal Charges of Unprofessional Conduct.

a Complainant. It shall be the duty of every member and associate member and of every chapter of The Institute to bring to the attention of the Secretary and be willing to offer testimony in support of every case of alleged unprofessional conduct of which they are cognizant; any legally constituted state board that registers architects or issues licenses to them may bring to the attention of the Secretary any case of alleged unprofessional conduct of a member or associate member of The Institute of which such board is cognizant.

Chapter XIV, Article 5, Section 1:

Section 1. Charges Privileged.

Every formal charge of unprofessional conduct shall be privileged. Except as noted in this Article, all charges, proceedings, evidence, data, notices, transcripts and any other matters relating to the charges shall be confidential. The same qualifications shall apply to any material coming before a chapter governing body or committee in any matter, formal or informal, of alleged unprofessional conduct.

In unusual situations the President of The Institute (or the Secretary in the absence of the President) may determine, after consideration of all the circumstances, that the best interests of the profession, or The Institute, or one of its component bodies require the authorization of release of sufficient information concerning a case to meet the situation.

Exhibit B

An architect tells his colleagues how to make the most of the soil map

Site Evaluation and the Soil Survey

BY JOHN R. QUAY

A NEW site-evaluation tool is available to architects, site planners and urban planners interested in refining their technique in this important area of responsibility. It is the detailed soil map with soil interpretations for urban uses. The soil maps with interpretations are prepared mainly by soil scientists of the US Department of Agriculture, Soil Conservation Service, in response to public demand.

Agricultural agencies have been making inventories of the nation's soils for over sixty years, recording their findings on soil maps and interpreting them for farmers and ranchers. It is now realized that the same basic physical and chemical properties of the soil that influence their use for crops, pasture and woodland also determine their adaptability for different kinds of urban uses.

In the past, soil scientists have been concerned mainly with the effect of soil properties on crop production and gave little thought to the effect of different kinds of soil on basements or septic-system leaching fields. With urban-use interpretations, present-day soil maps can indicate the suitability of any segment of any parcel of land for both corn and houses, oats and roads, strawberries and ponds.

For persons charged with making on-the-spot land-use decisions as well as those engaged in long-range planning, urban-use interpretations of soil maps represent a definite technological advance. Unlike most such advances, the benefits come without direct cost to the architect or planner. The National Cooperative Soil Survey is conducted by the Soil Conservation Service in cooperation with other Federal, state and local agencies and is supported in the main by Federal funds.

Where an urban planning project requires the completion of extensive surveys within a relatively short period of time, local organizations may need to share the costs of the surveys.

Many of today's architectural commissions involve not only the design and construction of individual buildings but a complex arrangement of main and auxiliary structures with their required services. Some of these installations are above ground and clearly visible. However, there is a marked tendency among today's designers to conceal or camouflage required mechanical services. Thus, many of these services are placed underground. Of course, everything installed above ground later gains support either on or in the soil.

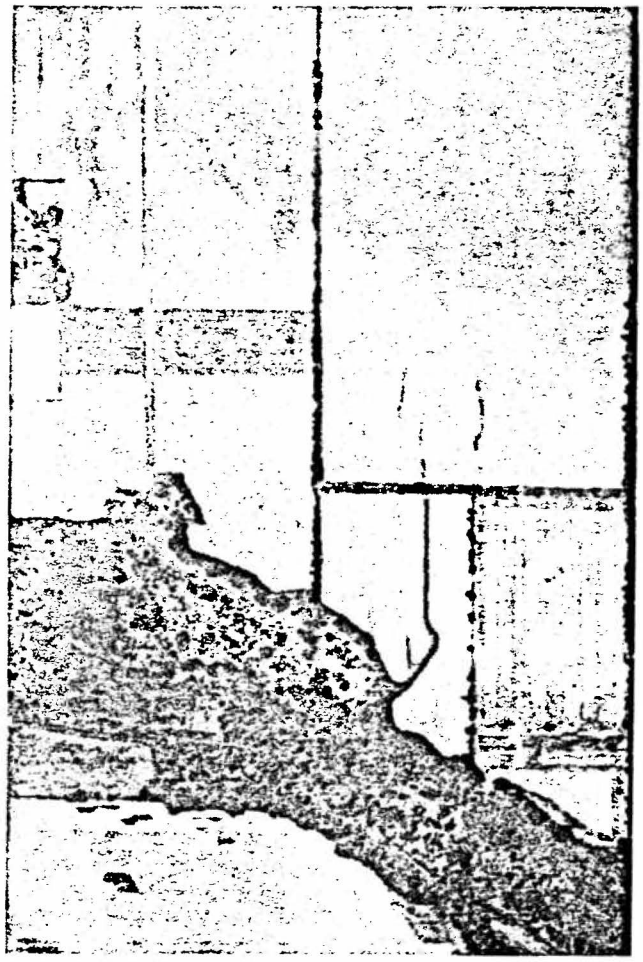
Slippage, depth to rock, depth to water table, bearing strength, frost heave, flooding hazard, corrosion potential—these are a few of the many conditions that affect the design, construction and cost of buildings and accessory structures. The soil survey not only shows where these items are problems but also rates their severity.

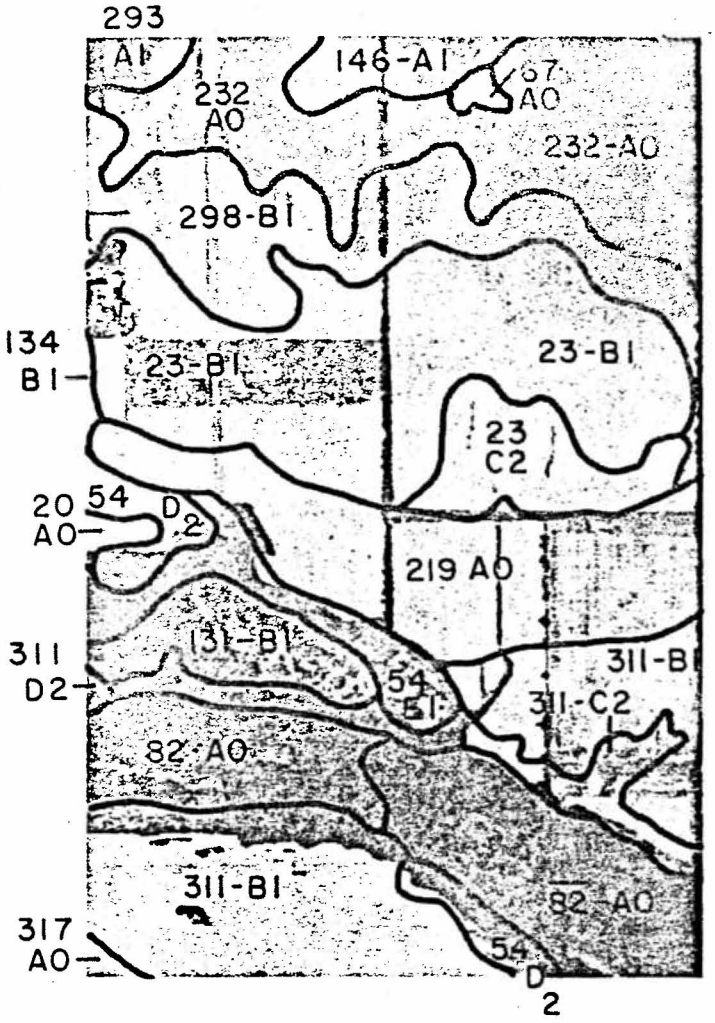
When viewed on any given day, environmental conditions can be misleading. This is particularly true with water in and on the soil. For example, evidence of good surface drainage might not reveal a problem of flash floods. Water tables fluctuate and can be altered by ditch construction located away from the site or by tile installations not known to be present. Because the soil survey emphasizes environmental conditions throughout all four seasons and not just a condition that existed on one date, the designer is able to get from it a realistic evaluation of the range of difficulty that can be expected. Where controlled stream gauge recordings have not been made, soil survey facts can be used as a substitute. Even where flood records have been kept, the soil map will supplement these records by showing the areas subject to flooding and by indicating depressional or other areas not on main drainage channels which are nevertheless subject to varying degrees of flooding or wetness.

Most architects, planners and designers would agree that not all land is suitable for building purposes and that some of the urban landscape should be retained in a natural or semi-natural state. However, in the past it has been extremely difficult to distinguish between those areas best suited for development and those that are only marginal or poorly suited.

The tendency to ignore soil conditions is pronounced in areas where the record of land ownership is based on a grid survey system and where there is not enough variation in topography to force the designer to take site differences into consideration. It must also be admitted that in some cases the architect-client relationship favors the traditional treatment of land as if it were a homogeneous material with no interrelationships with other environmental factors.

Few metropolitan areas present uniform soil conditions. For this reason, there are both problems and opportunities for the architect whose project allows some flexibility in land-use and structure arrangement. Imaginative site planning can sometimes turn apparent liabilities into assets. The architect has a responsibility to investigate soil conditions before embarking on the design phase of his work so





The soil survey map shows kind of soil, steepness of slope, and degree of erosion. For example, in the designation "23-B1," the soil-type is indicated by (23), steepness of slope by (B), and degree of erosion by (1). Soil-type indicators are given in map key. Degree of erosion and slope in percent are as follows:

DEGREE OF EROSION

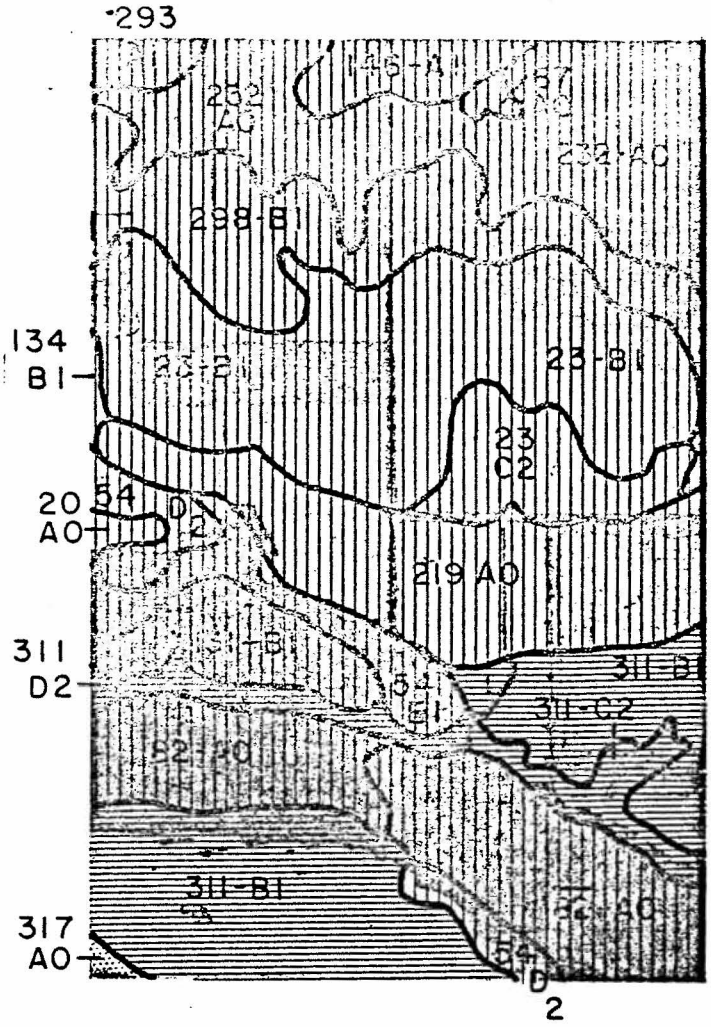
+	DEPOSITION
0	NO EROSION
1	SLIGHT EROSION 7–14" TOPSOIL REMAINING
2	MODERATE EROSION 3–7" TOPSOIL REMAINING
3	SEVERE EROSION LESS THAN 3" TOPSOIL REMAINING
4	VERY SEVERE EROSION – GULLIED
5	DESTROYED LAND

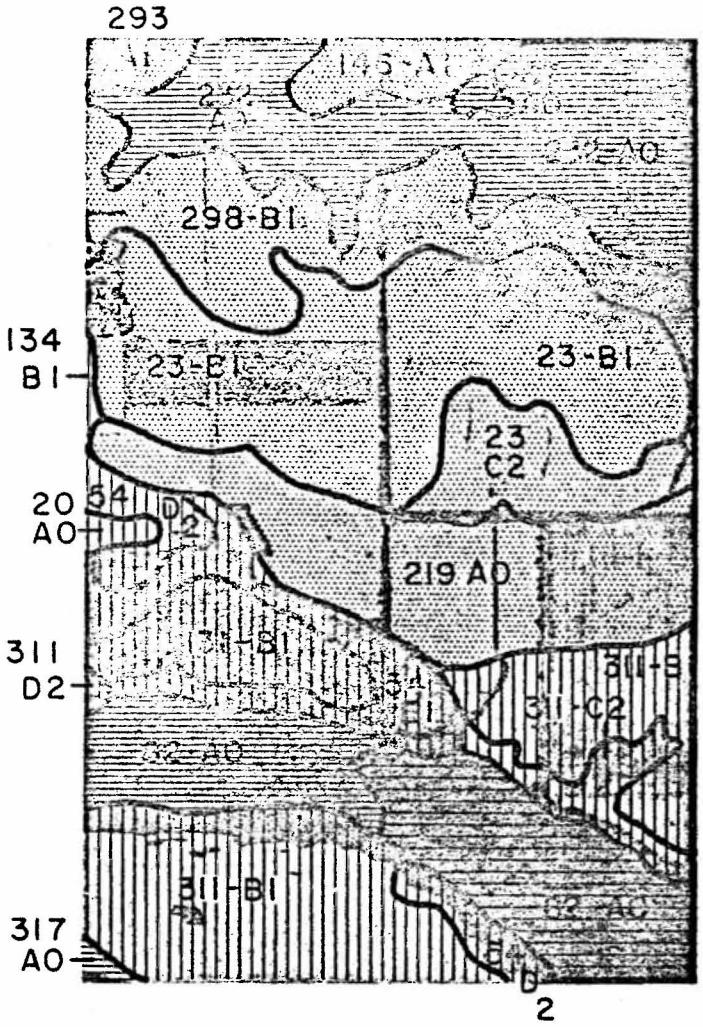
SLOPE IN PERCENT

A	0–1 1/2	E	12–18
B	1 1/2–4	F	18–30
C	4–7	G	30 PLUS
D	7–12		

SOIL SURVEY MAP

20	WOODLAND FINE SANDY LOAM
23	BLOUNT SILT LOAM
54	PLAINFIELD SAND
67	HARPSTER SILTY CLAY LOAM
82	MILLINGTON LOAM BOTTOM
146	ELLIOTT SILT LOAM
131	ALVIN FINE SANDY LOAM
134	CAMDEN SILT LOAM
219	MILLBROOK SILT LOAM
232	ASHKUM SILTY CLAY LOAM
293	ANDRES SILT LOAM
298	BEECHER SILT LOAM
311	RITCHEY SILT LOAM
315	CHANNAHON SILT LOAM
317	MILLSDALE SILTY CLAY LOAM
330	PEOTONE SILTY CLAY LOAM



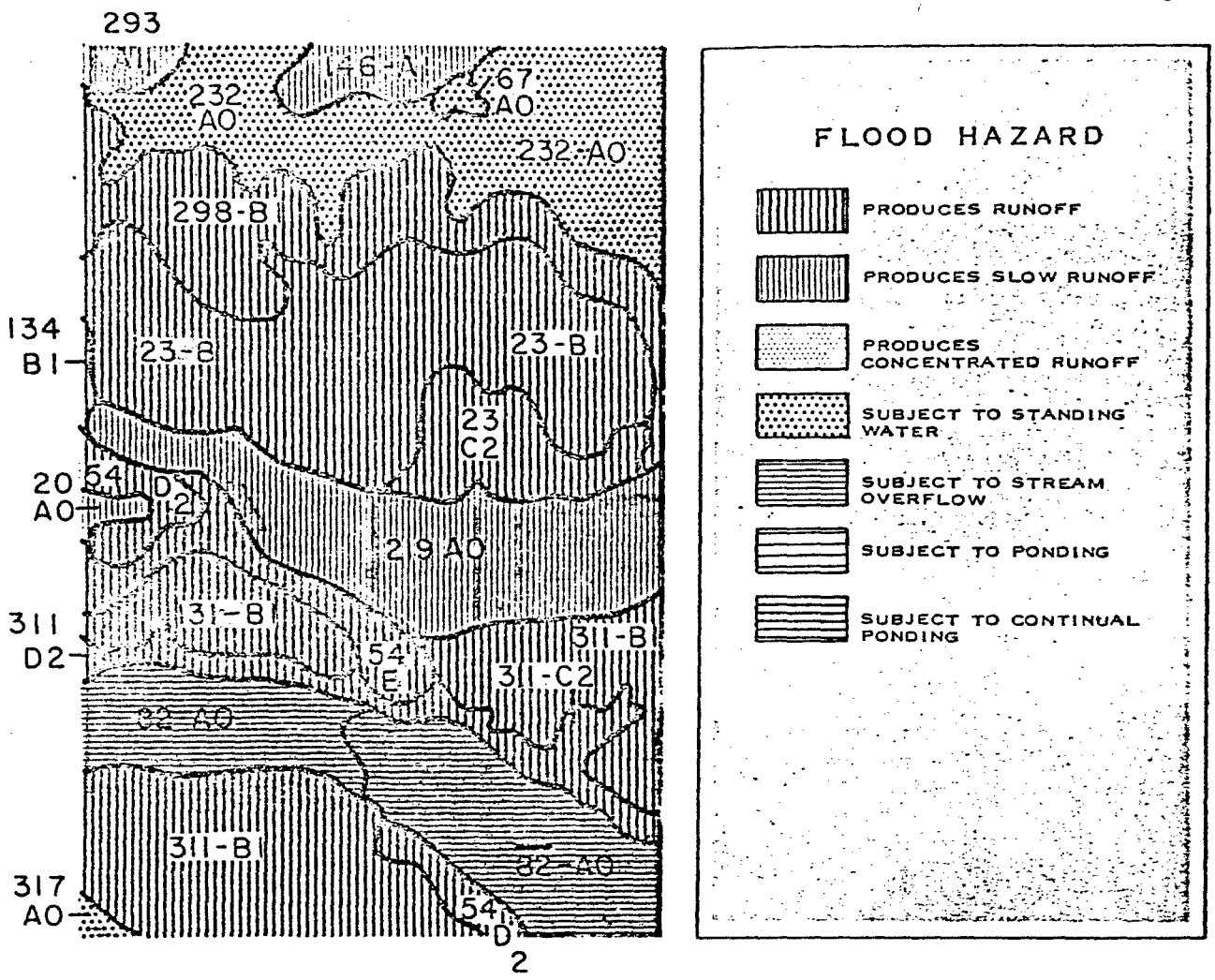


DEPTH TO ROCK

- 55" + BELOW SURFACE
- 36"–55" BELOW SURFACE
- 20"–36" BELOW SURFACE
- 10"–20" BELOW SURFACE
- LESS THAN 10" BELOW SURFACE

DEPTH TO WATER TABLE

- 3' –0" + BELOW SURFACE
- 1' –0" TO 3' –0" BELOW SURFACE
- SEASONALLY LESS 1' –0" BELOW SURFACE
- PERENNIALLY LESS 1' –0" BELOW SURFACE
- CONTINUALLY LESS 1' –0" BELOW SURFACE



that he can advise his client of the alternatives. Obviously an industrial client with requirements for underground liquid storage tanks should know when selecting a site how close he will be to bedrock and the usual elevation of the water table. He should also be informed about conditions that will present costly construction or maintenance problems. Detailed soil surveys will provide the answers. Even when there is no alternative to the use of an unfavorable site, the soil survey can indicate areas where inherent problems will be least severe.

Sanitary waste disposal is another soil-related problem that the soil map can shed some light on. Any facility designed to dispose of liquid waste through a subsurface leaching system is going to be greatly affected by the nature of soils through which the effluent must pass. Soils that have high water tables, slow percolation rates, or are subject to periodic inundation from surface runoff are certain to present operational problems.

The list of difficulties that can be averted or lessened goes on and on. Roads or driveways planned to traverse areas with soils having high shrink-swell properties and high frost heave characteristics can be expected to have a short life or higher-than-average maintenance costs. Native and foreign plants used in landscaping are often doomed to failure from the start by reliance on the "green thumb" rather than knowledge of the soil.

The accompanying soil map is a sample taken from Wesley township in Will County, Illinois, just southwest of the city of Chicago. It has been interpreted to show, 1) depth to rock, 2) depth to water table, 3) frost heave, 4) percolation rate and 5) flooding hazard. These are but a few of the more than 75 interpretations that it is possible to make from one soil map. Of these 75 interpretations there are possibly 15 or 20 that would be of special interest and value to the architect on any single project. Relative importance depends on the type of project and the kind of soil in the area under consideration. Soil slippage, for example, is not the problem in Florida that it is in Seattle.

Some of the more common interpretations that can be made from one soil map, in addition to the above, are: landscape slope; engineering soil classification (AASHO and Unified); mechanical analysis; soil corrosion characteristics; erosion hazard; surface water runoff characteristics; tree, shrub and grass planting guides; sand and gravel sources; depth of topsoil; soil compaction characteristics; soil slippage; suitability for pond or lake sites; and bearing strength for lightly loaded structures.

Another excellent feature of the modern soil map is that it is made directly on a scaled aerial photograph. This greatly simplifies the designer's task of locating the different soils areas either in the field or on the drafting board.

Evaluation of site suitability can be based on scientific data, not guesswork, thereby aiding the architect or planner in arriving at a more factual, creative design. Thus, for the first time in the history of architecture and urban planning, site development can be put on a truly scientific basis. Gray zones of understanding and judgment disappear and are being replaced by the fine lines of the soil map. ■

RESOURCE CONCEPTS INC.
PLANNING • ENGINEERING
ARCHITECTURE
340 N. MINNESOTA ST. • CARSON CITY, NEVADA 89701 • (702) 883-1600

January 22, 1979

Nevada State Architectural Board
2133 Industrial Road
Las Vegas, Nevada 89102

SUBJECT: John Hancock
Architectural Registration Card

Gentlemen:

I am writing in response to two telephone conversations with the Board's secretary. The first on Monday, January 14th and the second on Friday, January 19th. During the first conversation, I notified your secretary that I had not received my registration renewal card, but that my check had been cashed. I was informed that a number of the cards had not been mailed, but that the secretary would check to see what had happened to my card and would notify me.

On Friday I again called to see if progress had been made on my renewal card. Your secretary indicated to me that my license was renewed, however, there was a problem with the information card that I completed. I was told that the Board has a problem with my being a partner in Resource Concepts, Inc.

When our firm incorporated, we did so after checking with the Attorney General's office in relation to their interpretation of Nevada State Law. It is my understanding that the Attorney General's Office interprets the law to allow architects to form partnerships or corporations with other professionals.

Beyond this legal point, I am strongly of the opinion that what I am doing is in agreement with the architectural code of ethics, the A.I.A., and overall professional practice.

Let me again outline for you my background and the organization of my firm. I am a fourth generation native Nevadan who left the state to attend college and gain experience in order to return to Nevada with expertise. I have earned a Bachelor's Degree in architecture and a Master's Degree in Urban Planning from the University of Washington at great personal expense. After graduation I worked for highly qualified firms in the Seattle area, with excellent reputations, to gain the experience that I needed. I have returned to Nevada to put this education and experience to work and intend to do so.

EXHIBIT C

I am an architect and urban planner. I practice both professions in my new firm. The planning division of my firm requires knowledge of soils, water quality, plant materials, water supply systems, traffic, housing, etc. That is why two of my partners are civil engineers and a third is an environmentalist, a plant material-soils expert. The environmentalist is a necessary part of our team on water quality studies, slope stabilization studies, water impoundment studies, farm and ranch planning, etc.

The architectural division of my firm is completely handled by myself with the following sub consultants: Stan Hansen, Structural Engineer, JBA, mechanical and electrical engineers. These sub consultants are not a part of our firm, but are consultants to us.

Our operation is in conformance with the A.I.A. code of ethics, especially the code that stresses architectural compatibility with the natural environment. Also, the A.I.A. publishes articles and books lauding the team approach. Architectural Schools throughout this nation are stressing the team approach. Resource Concepts, Inc. is a multi-disciplinary team.

I have discussed my firm's approach with architectural professors, with other architects, with planners, and with Nevada Legislators. All have responded with disbelief that Resource Concepts, Inc.'s operation should be a problem to the Architectural Board. They recognize the obvious advantages to the client as well as the professional.

Your secretary has indicated that my license has been renewed, but that you are reluctant to sign my card. She indicated that you are attempting to change state legislation so that I cannot be a part of a multi-disciplinary team.

As a result of this letter, I hope that you better understand and agree with the operation of my firm. I will be waiting to receive acknowledgement of my license renewal from you. However, if I do not receive formal notification of license renewal by February 2nd, I will be forced to turn this matter over to my attorney.

Hopefully, we can avoid this, and the Board, as well as myself, can focus on stressing and acting in positive ways to improve design within Nevada.

Cordially,

John L. Hancock
Architect

JLH:db

RESOURCE CONCEPTS INC.

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM F. COOKE, APPELLANT, *v.* SAFECO INSURANCE COMPANY OF AMERICA, A CORPORATION, RESPONDENT.

No. 10692

December 20, 1978

Appeal from summary judgment; Second Judicial District Court, Washoe County; Peter Breen, Judge.

Reversed and remanded.

Peter Chase Neumann, Reno, for Appellant.

Hibbs and Newton, and *Frank H. Roberts,* Reno, for Respondent.

OPINION

Per Curiam:

Appellant's wife was severely injured in an automobile accident in November, 1976, and as a result of those injuries, she died. Appellant claims to have incurred medical expenses in excess of $23,000.00 on account of his wife's injuries.

Pursuant to the no-fault provisions of an automobile insurance policy covering appellant's two vehicles, respondent paid basic reparation benefits of $10,000.00.

Appellant contends respondent owes an additional $10,000.00 in basic reparation benefits because the policy insured two vehicles and charged a separate premium for each. Respondent on the other hand argues a limits of liability clause precludes this type of "stacking" of no-fault coverage.[1] We disagree.

In Travelers Insurance Co. v. Lopez, 93 Nev. 463, 567 P.2d 471 (1977), we held that the Nevada Motor Vehicle Insurance Act, Chapter 698, NRS, did not preclude stacking two or more obligations to pay basic reparation benefits where two policies insuring the same vehicle were on the same level of priority, but

[1]A provision of respondent's Nevada Basic Reparation Benefits Endorsement reads as follows:

f. LIMITS OF LIABILITY

Regardless of the number of persons insured, policies or bonds applicable, claims made, or insured motor vehicles to which this coverage applies, the company's liability for all basic reparation benefits with respect to bodily injury sustained by any one eligible insured person in any one motor vehicle accident shall not exceed $10,000.00 in the aggregate.

Exhibit D

that the [redacted]ly precluded recovery for the same items of damage. [redacted]icies issued to Lopez provided for payment of basic reparation benefits of $10,000.00 and both contained "other insurance" clauses purporting to limit the maximum amount recoverable from all sources to $10,000.00. Lopez was involved in an accident with an uninsured motorist and incurred medical expenses in excess of $20,000.00. Travelers denied liability on the ground that the insured had already received benefits of $10,000.00 from Ambassador Insurance Co., Lopez' other insurer. We had little difficulty in declaring the "other insurance" clause null and void.[2] Travelers was required to pay $10,000.00 under the basic reparations provision of its policy.

Respondent attempts to distinguish *Lopez* on the grounds that (1) the "limitation of liability" clause herein involved is valid, and (2) the separate premiums Cooke paid were for no-fault coverage on two separate vehicles. These distinctions do not require a contrary result. Compare, Travelers Indem. Co. v. Wolfson, 348 S.2d 661 (Fla.App. 1977); Chappelear v. Allstate Ins. Co., 347 S.2d 477 (Fla.App. 1977); and Fla. Stat. Ann. 627-736 which specifically limits the maximum amount of no-fault benefits recoverable to $5,000.00.

Here, appellant paid two premiums for two separate no-fault coverages. The public policy of this state prevents the insurance company from limiting its liability to a single recovery under such circumstances. Allstate Insurance Co. v. Maglish, 94 Nev. ....., Ad. Op. 200, 586 P.2d 313 (1978); Travelers Insurance Co. v. Lopez, *supra*. The insured is entitled to the protection he may reasonably expect for the premiums he pays.

Recently, in Allstate Insurance Co. v. Maglish, *supra*, we permitted stacking of *uninsured motorist* coverage where a single policy insured two vehicles. Separate premiums were charged for the coverage and we declared the liability limiting clause in that case contrary to public policy.[3] Respondent offers no compelling reason why the same result should not obtain in the instant case regarding no-fault coverage. *See also,*

[2]The Court held:

Accordingly, the better view favors [Lopez'] position that an insured is entitled to payment in full up to the policy limit with respect to each policy under which coverage is afforded, and that 'other insurance' clauses and similar clauses which purport to limit liability are void. [Citations omitted.] Travelers Insurance Co. v. Lopez, *supra*, 93 Nev. at 468.

[3]The clause provided:

The limit of liability stated in the declarations as applicable to 'each person' is the limit of Allstate's liability for all damages . . . suffered by one person as the result of any one accident and, . . . the limit of liability stated in the declarations as applicable to 'each accident' is the total limit of Allstate's liability for all damages . . . sustained by one or more persons as the result of any one accident.

State Farm Mut. Auto. Ins. v. Hinkel, 87 Nev. 478, [redacted] 1151 (1971); United Services Auto. Ass'n v. Dokter, 86 Nev. 917, 478 P.2d 583 (1970).

Accordingly, we reverse the summary judgment and remand to the district court for further proceedings consistent with our opinion.

BATJER, C. J.
MOWBRAY, J.
THOMPSON, J.
GUNDERSON, J.
MANOUKIAN, J.

NOTE—These printed advance opinions are mailed out immediately as a service to members of the bench and bar. They are subject to modification or withdrawal possibly resulting from petitions for rehearing. Any such action taken by the court will be noted on subsequent advance sheets.

This opinion is subject to formal revision before publication in the preliminary print of the Pacific Reports. Readers are requested to notify the Clerk, Supreme Court of Nevada, Carson City, Nevada 89710, of any typographical or other formal errors in order that corrections may be made before the preliminary print goes to press.

C. R. DAVENPORT, *Clerk.*

SPO, CARSON CITY, NEVADA, 1978

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRAVELERS INSURANCE COMPANY, APPELLANT,
v. RAMIRO LOPEZ, RESPONDENT.

No. 9398

August 17, 1977

Appeal from order granting summary judgment, Eighth Judicial District, Clark County; Thomas J. O'Donnell, Judge.

Affirmed.

Thorndal & Liles, Ltd., and *Leland Eugene Backus*, Las Vegas, for Appellant.

Patrick J. Fitzgibbons and *M. Douglas Whitney*, Las Vegas, for Respondent.

OPINION

By the Court, MANOUKIAN, J.:

This is an appeal from an order granting summary judgment in an action for declaratory relief. Following judgment in the court below, appellant, Travelers Insurance Company, was ordered to pay to respondent, Ramiro Lopez, $10,000 under the basic reparation benefits clause contained in the policy of insurance issued by Travelers to Lopez.

The facts are undisputed. On July 12, 1974, respondent insured was seriously injured when his automobile collided with that of an uninsured motorist. His personal automobile being operated by him at the time of the accident was insured by both Ambassador Insurance Company and Travelers. Both policies of insurance contained the standard reparation benefits endorsement as mandated by Chapter 698 of the Nevada Revised Statutes. Both basic reparation benefits endorsements contained "other insurance" clauses stating that the maximum amount recoverable by Lopez under both policies is the amount that would have been payable under the provisions of the insurance policy providing the highest dollar limit. In this case, neither insurance carrier provided a higher limit or added reparation benefits, but both companies provided a limit of $10,000. The Ambassador policy was issued on the accident vehicle. The Travelers policy insured three of respondent's vehicles under a commercial policy and also covered "all

Exhibit E

1933

owned vehicles." The parties have stipulated that the various medical expenses incurred by respondent exceeded $20,000. Ambassador has paid to respondent the $10,000 limit on its policy under the basic reparation benefits provision and is not a party to these proceedings. Travelers has consistently maintained that it has no obligation to pay the insured under the basic reparation benefits endorsement of its comprehensive policy, due to the $10,000 payment by Ambassador.

Appellant has raised the following issues for our determination. (1) Whether the provisions of the Nevada Motor Vehicle Insurance Act, Nevada Revised Statutes Chapter 698, preclude the stacking of two or more obligations to pay basic reparation benefits; and (2) What is the effect to be given the "other insurance" clause contained in Travelers' basic reparation benefits endorsement? We turn to resolve these questions.

1. Resolution of the first issue involves the interpretation of Chapter 698 of the Nevada Revised Statutes known as the Nevada Motor Vehicle Insurance Act, adopted by the Nevada Legislature in 1973 to implement Nevada's no-fault insurance scheme. The Act reveals that the Legislature intended to provide for the payment of certain benefits referred to as basic reparation benefits, excluding harm to property (NRS 698.040), in an amount not to exceed $10,000 per person per accident for such damages as loss of income, funeral benefits, medical costs and survivor benefits (NRS 698.070). Every policy of insurance issued in this State, except for those policies which provide coverage only for liability in excess of required minimum tort liability coverages, includes basic reparation benefits coverage (NRS 698.200), and these benefits are payable without regard to fault (NRS 698.250).

Appellant contends that NRS 698.070 read in conjunction with the definition of the basic reparation benefits contained in NRS 698.040 and the provisions of NRS 698.260(4) limit the recovery of basic reparation benefits under all applicable policies of insurance to $10,000.

NRS 698.260 is the section of the Motor Vehicle Insurance Act which provides basic reparation insureds with guidance as to which obligor he must look to for recovery of his first party benefits. Since both Ambassador and Travelers are considered respondent's insurer under our statutory scheme, a question arises as to what the respective obligations of each insurer are when multiple coverages are available. Generally, when there are two or more obligations to pay basic reparation benefits to a person injured while operating or occupying a motor vehicle, the insurers will fall into different categories set forth in NRS 698.260(1), and that subsection specifically designates which insurer must be looked to in order to seek

recovery. Subsection (1) indicates that the injured person's claim is to be made to "his insurer", and if he does not have his own insurance "to the insurer of the owner of the motor vehicle", and if neither of the above are insured to "the insurer of the operator of the motor vehicle." It is apparent that conflicts arise under this priority scheme when two or more insurers can be considered as primary obligors under these categories. Appellant posits how this conflict can be resolved, contending that the Nevada Legislature anticipated this dilemma and resolved it by adding subsection (4) to NRS 698.260. NRS 698.260(4) provides:

> If two or more obligations to pay basic reparation benefits are applicable to any injury under the priorities set out in this section, *benefits are payable only once* and the reparation obligor against whom a claim is asserted shall process and pay the claim as if wholly responsible. (Court's emphasis.)

It is Travelers' contention that the "payable only once" language precludes a basic reparation insured from receiving any payments above the $10,000 figure mentioned in NRS 698.070. Respondent contends that NRS 698.260(4) only precludes double recovery for the same items of damage. We are constrained to agree with respondent.

Appellant admits that both it and Ambassador can be considered to be respondent's insurer, and, therefore, are first in order of priority pursuant to NRS 698.260(1)(a). Subsection (4) of NRS 698.260 refers specifically to our type factual setting arising when "two or more obligations to pay basic reparation benefits are applicable to an injury *under the priorities set out in this section.*" (Court's emphasis.) A reasonable interpretation of this language, when read in light of the provisions of subsection (1) of NRS 698.260, is that the Legislature intended to limit the payment of basic reparation benefits to a single level of priority rather than to preclude the "stacking" or "pyramiding" of insurance policies.

Additionally, recognizing that all policies of insurance issued in the State of Nevada must provide for basic reparation benefits (NRS 698.200) and accepting our interpretation of NRS 698.260(4), we perceive NRS 698.460 as supporting the proposition that an insurer must pay basic reparation benefits without regard to payments made from other sources of insurance of the same priority.

Legislative intent supportive of our determination is further reflected in that provision is made to the end that insurers can provide "additional optional coverage for added reparation benefits." NRS 698.360. This section has a chilling effect on

EXHIBIT 3

1034

Travelers' contention that it was the intent of the Legislature to limit the recovery of basic reparation damages to $10,000 per accident. Although *arguendo*, the additional reparation benefits contemplated by NRS 698.360 are to be provided only upon the payment of higher corresponding premiums, there is nothing preventing the securing of additional reparation benefits through the purchase of a separate policy of insurance providing for the same basic reparation benefits. Nowhere in our legislation is there evidence that the $10,000 minimum basic reparation benefits need be purchased from the same insurer. Had the Legislature intended a different result, it would have so provided.

We conclude by holding that there exists no legislative prohibition against the "stacking" of insurance policies when both insurers are at the same level of priority, as is the case here. There are public policy and other considerations which support this conclusion. For example, the insured Lopez, paid premiums on two policies of insurance covering the same vehicle. Both policies of insurance provided for the payment of basic reparation benefits. Injuries and expenses sustained by the insured are in excess of $20,000. Requiring the payment by Travelers of the policy limit would not result in a windfall to Lopez, nor would it result in any prejudice to the insurance company, in that the insurance company has accepted the payment of premiums and has, in effect, assumed the risk that injury to the insured may occur. The premiums collected by Travelers are deemed to have comprehended this potential.

2. We now turn to the second question, specifically, the effect to be given the "other insurance" clause of the Travelers insurance policy.

The Travelers' Basic Reparation Benefits Endorsement—Nevada, Symbol FF–388, part I, § E(6), p. 5, provides:

> Non-duplication of Benefits—Other Insurance—No eligible insured person shall recover *duplicate benefits for the same elements of loss* under this or any similar automobile insurance, including self-insurance. In the event the eligible insured person has other similar automobile insurance including self-insurance available and applicable to the accident, the maximum recovery under all such insurance shall not exceed the amount which would have been payable under the provisions of the insurance providing the highest dollar limit, and The Travelers shall not be liable for the greater proportion of any loss to which this coverage bears to the sum of the applicable limits of liability of this coverage and such other insurance.

The trial court interpreted this language and similar language contained in the policy of insurance issued by Ambassador to mean "that the insured shall not collect twice for the same medical bills", noting that such was not the case here since the damages incurred by respondent exceeded the limitations of the combined limits of both policies. Appellant asserts the policy defense that, considering the other insurance available and paid to respondent, it has no duty to pay him. If correct, the clause would constitute a complete defense to the action.

In United Services Auto. Ass'n. v. Dokter, 86 Nev. 917, 478 P.2d 583 (1970), we dealt with the interpretation of an "other insurance" clause contained in two policies issued by the same insurance company. There, this Court held that the purpose of the "other insurance" clause was twofold, "to prorate the loss and to fix the limit thereof." *Id.* at 920, 478 P.2d at 584. This Court then referred to the cases concerned with multiple policies written by different insurers, stating that they were significantly distinguished from the *Dokter* facts. We went on to find the language to be ambiguous and concluded that it was inappropriate to apply the "other insurance" clause to limit recovery when the same insurance company issued both policies because the insured would not reasonably anticipate the construction urged in light of the purpose of the "other insurance" clause. Here, the clause is not ambiguous, and although the facts in *Dokter* and the instant fact "distinctions are significant," *id.* at 919, 478 P.2d at 584, we are not inclined to depart from the result reached therein.

The case now before us is one of first impression in Nevada. Travelers, by its "other insurance" clause, sought to defer or limit its liability if other insurance is available to pay part or all of its insured's loss. In Werley v. United Services Auto. Ass'n., 498 P.2d 112 (Alaska 1972), the court relied heavily on the Oregon decision in Lamb-Weston, Inc. v. Oregon Auto. Ins. Co., 341 P.2d 110 (Or. 1959), and held that the "other insurance" clause contained in one policy of insurance was null and void when it conflicts with a similar clause contained in another policy of insurance. We adopt the Oregon or "Lamb-Weston" rule of insurance law concerning conflicting "other insurance" clauses.

Appellant contends that the *Werley* decision should not be applied to the "other insurance" clause contained in the Travelers policy because it was almost identical to the clause contained in the Ambassador policy. If, however, both clauses were held to apply, the situation could arise where both companies disclaimed liability, relying on the provisions of the

EXHIBIT E

1635

"other insurance" clause, thus resulting in inevitable unnecessary litigation. Circularity was one of the major concerns of both the *Werley* and *Lamb-Weston* courts.

We additionally find the "Lamb-Weston" rule to be more valid for the reasons that it avoids arbitrariness in the selection of conflicting clauses and giving effect to it, it discourages litigation between insurers, and it does provide a basis for a uniformity of result. Werley v. United Services Auto. Ass'n., 498 P.2d 112 (Alaska 1972).

Accordingly, the better view favors respondent's position that an insured is entitled to payment in full up to the policy limit, with respect to each policy under which coverage is afforded, and that "other insurance" clauses and similar clauses which purport to limit liability are void. Geyer v. Reserve Insurance Company, 447 P.2d 556 (Ariz. 1968); Sparling v. Allstate Insurance Company, 439 P.2d 616 (Or. 1968); Sellers v. United States Fidelity and Guaranty Company, 185 So.2d 689 (Fla. 1966); Bryant v. State Farm Mutual Auto. Ins. Co., 140 S.E.2d 817 (Va. 1965).

"The original reason for 'other insurance' clauses was to prevent overinsurance and double recovery under property and fire insurance policies. But since there is a greatly diminished risk of fraudulent claims under an automobile liability insurance policy, this original purpose of 'other insurance' clauses is of only limited importance." Werley v. United Services Auto. Ass'n., 498 P.2d 112, 116–117 (Alaska 1972). "Other insurance" clauses "function solely to reduce or eliminate the insurer's loss in the event of concurrent coverage of the same risk."[1] If there ever was a strong rationale for the the use of "other insurance" clauses it has, on facts such as those presently before us, substantially evaporated.

We affirm the summary judgment and hold that the actual damages sustained by respondent are recoverable to the full extent of the combined limits of both policies.

BATJER, C. J., and MOWBRAY, THOMPSON, and GUNDERSON, JJ., concur.

---

[1]Note, Concurrent Coverage in Automobile Liability Insurance, 65 Colum.L.Rev. 319, 320 (1965).

SPO, CARSON CITY, NEVADA, 1977

Exhibit F

F

California State Automobile Association

SERVING THE MOTORIST SINCE 1900

150 VAN NESS AVENUE • SAN FRANCISCO
CALIFORNIA • 94101

EXECUTIVE OFFICES

April 24, 1979

TO: All Members of the Nevada Division,
California State Automobile Association

NEVADA MOTORISTS FACE "HEFTY" PREMIUM INCREASE

Car owners in Nevada face a serious crisis in the cost and availability of automobile insurance unless positive and immediate action is taken by the Legislature to eliminate the court ordered "stacking" of certain coverages for multi-car families. Stacking means that if you insure two cars, your level of Bodily Injury, Personal Income Protection and Uninsured Motorists coverage is double that of a single car coverage, triple in the case of ownership of three cars, etc.

Your premiums are presently based on the amount of coverage that you selected for each car, and includes a 15% reduction in the premium for the second and subsequent cars. However, if the Legislature does not act to change the ruling, this discount can no longer be offered, and increased premiums of a yet undetermined amount will be necessary.

Assembly Bill 617, which is supported by your Association, and the Nevada Department of Insurance, and others, offers a realistic solution to this problem by eliminating "stacking." Mr. James Wadhams, Nevada Director of Commerce, in his testimony supporting AB 617, testified that "stacking, unless corrected, can result in an increase in premiums of between 25% and 50% for the Nevada car owner."

Your Association needs your support of AB 617 to prevent this unwarranted increase in your insurance premiums.

Please call or write your Assemblyman AND State Senator immediately and advise them that you support AB 617 and urge them to do the same.

You can telephone your message toll free by calling 1-800-992-0973, or mail your letter c/o Legislative Building, Carson City, Nevada 89701.

R. V. Patton
President

RVP:mec

1637

Exhibit G

Barbara Bailey, Executive Director
100 North Arlington, Reno, Nevada 89501, Phone [702] 786-1858

May 4, 1979

Hon. Thomas C. Wilson, Chairman
Senate Commerce Committee
Nevada State Legislature
Carson City, NV.

Re: A.B. 617 (Anti-Stacking Bill)

Dear Sen. Wilson and Senators:

Nevada Trial Lawyers Association strongly opposes A.B. 617 upon the following grounds:

a. It destroys the valuable right you and your constituents now have to "stack" your paid-for auto insurance coverages;

b. It is totally unnecessary, because the auto insurance industry is very healthy, financially, despite "stacking" decisions going back to 1970 in Nevada, and the early 60's in other states;

c. The legislature has been bombarded with letters and phone calls from Nevadans who were persuaded to support A.B. 617, based upon deceptive and misleading information supplied to approximately 40,000 Nevadans by an auto insurer known as "CALIFORNIA STATE AUTO ASSOCIATION."

d. This misleading and deceptive information - sent to each of its insureds in Nevada by CSAA, states there is a "crisis" in the auto insurance industry because of "stacking;" this is false.

e. IN fact, NTLA's check with the California INsurance Commissioner reveals the following, concerning CSAA's financial condition, as of the 1978 financial statement filed by it under California's reporting law:

* * * * * * * * *

1978 PREMIUMS CHARGED BY CSAA FOR AUTO INSURANCE:	$ 192.5 MILLION
1978 LOSSES (CLAIMS) PAID BY CSAA:	$ 77.8 MILLION

N.T.L.A. feels that an underwriting pay-out of 40%, leaving in excess of nearly $115 MILLION for the year 1978, to pay its overhead, is hardly a "crisis."

f. Even more revealing is the fact that CSAA paid out next-to-nothing for no-fault claims in 1978. (No-fault and Uninsured Motorist claims are the only thing which are affected by "stacking" rights of Nevadans.

For these and other reasons, NTLA urges defeat of A.B.617, which was ill-conceived and based upon totally misleading information.

PREMIUMS CHARGED BY CSAA FOR 1978: $ 192.5 MILLION

LOSSES PAID BY CSAA FOR 1978: $ 77.8 MILLION

NO-FAULT LOSSES PAID BY CSAA FOR 1978: $50.7 thousand

NEVADA PREMIUMS CHARGED BY CSAA 1978: $ 8.9 MILLION

NEVADA LOSSES PAID BY CSAA FOR 1978: 4.7 MILLION

ASSETS OF PROPERTY & LIABILITY INSURANCE COMPANIES:

1953 - $ 17.9 BILLION
1977 - $ 135.1 BILLION

POLICYHOLDERS SURPLUS (SUM REMAINING AFTER ALL LIABILITIES ARE DEDUCTED FROM ALL ASSETS, AND INCLUDING "SPECIAL VOLUNTARY RESERVES):

1953 - $ 6.5 BILLION
1977- $ 37.3 BILLION

UNDERWRITING GAINS OR LOSSES (NOT INCLUDING PROFITS ON INVESTMENTS) OF PROPERTY & CASUALTY INSURANCE INDUSTRY:

1953 - $ 438.8 MILLION GAIN
1977 - $ 1.1 BILLION GAIN