**Rel: March 1, 2019**



# ALABAMA COURT OF CIVIL APPEALS

**OCTOBER TERM, 2018-2019**

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**Stoneridge Homes, Inc., and Home Builders Association of Alabama, Inc.**

**v.**

**Alabama State Board for Registration of Architects**

**Appeal from Montgomery Circuit Court**
**(CV-18-900185)**

THOMPSON, Presiding Judge.

Stoneridge Homes, Inc., and Home Builders Association of Alabama, Inc. (hereinafter referred to collectively as "Stoneridge"), appeal from a judgment of the Montgomery

Circuit Court affirming a decision of the Alabama State Board for Registration of Architects ("the board"). In its decision, the board concluded that language in a board regulation was consistent with certain statutory language as to when the services of an architect are required.

The facts in this case are undisputed. In November 2017, Stoneridge Homes submitted an application to the Inspection Department of the City of Huntsville ("the city") seeking a permit to build two buildings, each consisting of ten attached townhouses. The city's chief building inspector denied the application because, among other things, the plans had not been "stamped" or prepared by a registered architect. Stoneridge then filed a petition for a declaratory ruling with the board.

In the petition, Stoneridge contended that, pursuant to § 34-2-32(b), Ala. Code 1975, townhouses were exempt from the requirement that a registered architect prepare plans and specifications for buildings constructed in Alabama. That statute provides, in pertinent part:

> "No person shall be required to register as an architect in order to make plans and specifications for or administer the erection, enlargement, or alteration of any building upon any farm for the use

> of any farmer, irrespective of the cost of such building, or any single family residence building ...."

§ 34-2-32(b)(emphasis added).

Stoneridge argued that the exemptions contained in Regulation 100-X-4-.10, Ala. Admin. Code (State Bd. for Registration of Architects) ("the regulation"), conflicted with the exemptions set forth in § 34-2-32(b). That regulation provides, in pertinent part, that "[a]n architect is not required for design of a detached single-family residence ...." (Emphasis added.) Stoneridge sought a declaration that § 34-2-32(b) permitted the exemption of an architect for the design of any single-family residence building, "whether detached or not," and that the regulation stating that the exemption was applicable only to the design of a "detached single-family residence" was not consistent with the statutory exemption. Stoneridge's position is that a townhouse is a single-family dwelling.

At a specially called meeting of the board on December 20, 2017, Stoneridge presented its arguments regarding the issues presented in its petition. The minutes from that meeting reflected that the regulation had been adopted in

2010. The board's chair, Marzette Fisher, explained that the board's interpretation of single-family residence meant "one dwelling unit." He said that, in his opinion, the ten-unit townhouse structures for which Stoneridge Homes had submitted its application were a multifamily dwellings, not single-family units. He gave an example of a previous denial of a building permit for two buildings containing five townhouses each based on the board's interpretation of its regulations.

According to the board's minutes, during the discussion of the regulation, board member Jim Seay explained that "a single-family residence building is a one-dwelling unit, and [that] adding the word 'detached' in the regulation was to clarify the exemption already provided" in § 34-2-32(b). A second board member, Dan Bennett, also explained that the word "detached" was specifically added to the regulation to avoid ambiguity. In fact, the board members agreed that, even if the word "detached" were removed from the language in the regulation, their interpretation would remain the same--i.e., if two living units are within the same building, then the building is a multifamily dwelling. At the meeting, the board

voted unanimously that the regulation was consistent with § 34-2-32(b).

On January 3, 2018, the board entered a "preliminary decision" determining that the statute and the regulation were consistent. It added, "[t]his preliminary decision is consistent with the Board's long-standing interpretation that a single family residence building is a detached single family residence, and not a multifamily dwelling unit." The board submitted the preliminary decision to the Legal Division of the Legislative Fiscal Office ("the LFO") for an independent review and final decision.

On January 20, 2018, the LFO issued a review determination agreeing with the board's preliminary decision and stating that the language in the regulation "mimics" the language in § 34-2-32(b). The LFO review determination was then submitted to the Joint Committee/Legislative Counsel of the state legislature ("the committee"), as required by § 41-22-22.1, Ala. Code 1975. A final decision had not yet been entered at that point. Nonetheless, on January 31, 2018, Stoneridge filed in the circuit court a notice of appeal and

a complaint for a declaratory judgment seeking the same relief as it had when it filed its petition before the board.

On March 2, 2018, the board filed in the circuit court a motion to dismiss Stoneridge's appeal for lack of subject-matter jurisdiction, asserting that the appeal was premature. In the alternative, the board contended that the appeal was due to be dismissed "based on the well-reasoned action taken by the board." Stoneridge opposed the motion, arguing that the appeal was timely and, further, that the circuit court had independent jurisdiction over the declaratory-judgment action. The circuit court denied the board's motion to dismiss on May 29, 2018.

Meanwhile, on March 22, 2018, the committee issued a written statement approving the board's preliminary decision. In the statement, the committee concluded that its

> "decision conforms with the [LFO's] review wherein it, too, determined that '[t]he language in the [regulation] in question mimics the language in the code almost word for word. The only difference is that the rule refers to a "detached single-family residence" while the code refers to a "single family residence building." We fail to see any discernible difference in these two terms.'"

The board next met on May 22, 2018, at which time it voted unanimously to adopt its preliminary decision as its final

decision. The board's final written decision was issued on May 31, 2018.

On June 19, 2018, Stoneridge filed in the circuit court a supplemental notice of appeal and a complaint for a declaratory judgment. Stoneridge included the board's final decision with the supplemental notice of appeal. On July 3, 2018, the board responded, incorporating by reference the motions it had submitted to that point. The board later argued for a second time that the circuit court did not have subject-matter jurisdiction over the action because, it said, Stoneridge had failed to properly perfect its appeal under the Alabama Administrative Procedure Act (the "AAPA"), § 41-22-1 et seq., Ala. Code 1975.

The circuit court held a hearing on Stoneridge's complaint, after which, on August 8, 2018, it upheld the board's decision to deny Stoneridge's petition for declaratory relief. The circuit court then purported to dismiss the action. Stoneridge timely filed a notice of appeal to the Alabama Supreme Court. That court transferred the appeal to this court pursuant to § 12-3-10, Ala. Code 1975.

Before addressing the merits of Stoneridge's appeal, we first must consider the board's argument that the circuit court lacked subject-matter jurisdiction over this action. Specifically, the board contends that Stoneridge failed to meet the AAPA's requirements for seeking judicial review of the board's decision, as set forth in § 41-22-20(d), Ala. Code 1975. The board asserts that Stoneridge filed its initial notice of appeal before the board had issued a final decision. After the board's final decision was issued on May 31, 2018, Stoneridge filed a supplemental notice of appeal with the circuit court, without first filing a notice of appeal with the board. Therefore, the board argues, because Stoneridge did not file a notice of appeal with the board within 30 days of receipt of the board's final decision, as required by § 41-22-20(d), it failed to file a timely appeal. As a result, the board asserts, the circuit court never obtained subject-matter jurisdiction.

In its reply brief to this court, Stoneridge contends that, because it petitioned for a declaratory ruling from the board, this is not a contested case within the meaning of § 41-22-3(3), Ala. Code 1975. Therefore, Stoneridge argues, it

was required to meet the requirements of § 41-22-11, Ala. Code 1975, which governs the time within which to seek judicial review of declaratory rulings of state agencies.

> "Although the [AAPA] does not specifically define a petition for a declaratory ruling, § 41-22-11(a) addresses petitions for declaratory rulings. That section indicates that a person substantially affected by a rule may petition an agency for a declaratory ruling and that 'an agency may issue a declaratory ruling with respect to the validity of the rule or with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it....' (Emphasis added.) A contested case is, however, defined in the AAPA and is '[a] proceeding, including but not restricted to ratemaking, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.' Ala. Code 1975, § 41-22-3(3) (emphasis added)."

Ex parte Alabama Dep't of Pub. Health, 142 So. 3d 650, 652 (Ala. Civ. App. 2013).

The commentary to § 41-22-11 explains:

> "This section is intended to protect the rights of members of the public by providing a declaratory ruling mechanism by which an agency may, upon petition to the agency, pass on the applicability of an agency rule or of a statute enforceable by the agency or on the meaning and scope of an order of the agency, with respect to the situation or property of the petitioner or petitioners."

In its petition, Stoneridge sought a ruling on the meaning and/or applicability of the regulation to this matter. Specifically, Stoneridge sought a determination as to whether the board's regulation providing that "[a]n architect is not required for design of a detached single-family residence ...." conflicted with § 34-2-32(b), which provides that an architect is not required to make plans and specifications for "any single family residence building." We agree with Stoneridge that its petition is properly characterized as one seeking a declaratory ruling and not as a contested case.

> "Section 41-22-11(b) provides that, when a petition for a declaratory ruling is filed with an administrative agency pursuant to § 41-22-11(a), '[f]ailure of the agency to issue a declaratory ruling on the merits within 45 days of the request for such ruling shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.'"

Ex parte RCHP-Florence, LLC, 155 So. 3d 1005, 1009 (Ala. Civ. App. 2013). The time in which to appeal from such a denial cannot be extended, even by agreement of the parties. Id. at 1009-10. This court has held unequivocally that "if an administrative agency does not issue an express ruling in response to a § 41-22-11(a) petition within 45 days, the petition is denied on the merits by operation of law, and that

denial is subject to judicial review." Id. at 1010. See also Alabama State Pers. Bd. v. Brashears, 575 So. 2d 1149, 1150-51 (Ala. Civ. App. 1991).

Here, Stoneridge filed its petition for a declaratory ruling on November 22, 2017. The board had 45 days from that date to issue a decision on the petition. Although the board had issued its preliminary decision, it had not issued its final decision within the time required. Therefore, Stoneridge's petition for a declaratory ruling was deemed denied on January 6, 2018. Pursuant to § 41-22-20(d), Stoneridge then had 30 days from that date in which to appeal the board's decision. Stoneridge timely filed its notice of appeal and a complaint for a declaratory judgment on January 31, 2018. Accordingly, the circuit court had subject-matter jurisdiction over the appeal.

We turn now to the merits of Stoneridge's appeal of the circuit court's decision. Stoneridge contends that the circuit court erred in finding that the language in the regulation is consistent with the language in § 32-2-32(b). In its complaint to the circuit court, Stoneridge purported to appeal from the board's decision and to seek a declaratory ruling

regarding the applicability of the regulation. In its brief on appeal, Stoneridge does not address the applicability of the AAPA to the circuit court's review of the board's decision and treats the appeal to this court as though this court is reviewing only the propriety of the board's declaratory ruling, i.e., it argues that we are to apply a de novo standard of review to this matter. The law provides otherwise, however.

In Ex parte RCHP-Florence, LLC, supra, this court considered the standard of review applicable when a party has sought both judicial review of a decision of a state agency and a declaratory ruling from the circuit court, among other things. This court concluded that RCHP-Florence's previous election to seek a declaratory ruling from a state agency pursuant to § 41-22-11(a) precluded its seeking a declaratory ruling regarding the same issue by the circuit court pursuant to § 41-22-10, Ala. Code 1975, which allows a party to seek a declaratory ruling regarding the validity or applicability of a rule or regulation directly from the Montgomery Circuit Court. This court explained that

> "if a petitioner whose § 41-22-11(a) petition has been denied is not allowed to circumvent the

> judicial-review process, in which the circuit court must apply the standard of review specified in § 41-22-20(k), [Ala. Code 1975,] by seeking a new declaratory ruling regarding the same issue by the circuit court pursuant to § 41-22-10, he, she, or it should not be allowed to do so by seeking a new adjudication of the same issue by the circuit court pursuant to the Declaratory Judgment Act or § 22-21-276(a)[, Ala. Code 1975]. Cf. Alabama Pub. Serv. Comm'n v. AAA Motor Lines, Inc., 272 Ala. 362, 369, 131 So. 2d 172, 177 (1961). In AAA Motor Lines, the supreme court acknowledged the rule that 'an action for declaratory judgment cannot be made a substitute for appeal' and stated that '[i]f the rule were otherwise, a declaratory proceeding would lie to determine whether a prior declaratory proceeding was erroneous, and there would be no end to that kind of litigation.' Id."

Ex parte RCHP-Florence, LLC, 155 So. 3d at 1018. Accordingly, this court held, the circuit court did not have jurisdiction to consider the request for a declaratory ruling and was restricted to performing a judicial review of the agency decision pursuant to § 41-22-20(k), Ala. Code 1975.

Section 41-22-11(b), a subdivision of the statute allowing for declaratory rulings from state agencies, provides, in pertinent part:

> "A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by a court in a proper proceeding. Such rulings are subject to review in the Circuit Court of Montgomery County ... in the manner provided in Section 41-22-20 for the review of decisions in contested cases."

In Alabama Department of Transportation v. Lee Outdoor Advertising, LLC, [Ms. 2170774, Oct. 26, 2018] ___ So. 3d ___, ___ (Ala. Civ. App. 2018), this court wrote:

> "Under the AAPA,
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> "'judicial review by circuit courts of decisions of administrative agencies is (1) subject to the presumption that the agency has acted correctly and (2) limited to the record made before an administrative agency, see Ala. Code 1975, § 41-22-20(i), (j), and (k); moreover, subsequent appellate review under the AAPA likewise is subject to the same scope and standards. See Alabama Dep't of Youth Servs. v. State Pers. Bd., 7 So. 3d 380, 384 (Ala. Civ. App. 2008).'
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> "Taylor v. Harvey, 257 So. 3d 869, 871-72 (Ala. Civ. App. 2017)."

Section 41-22-20(k), Ala. Code 1975, provides:

> "Except where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute. The court may affirm the agency action or remand the case to the agency for taking additional testimony and evidence or for further proceedings. The court may reverse or modify the decision or grant other appropriate relief from the agency action, equitable or legal, including declaratory relief, if the court finds that the agency action is due to be set aside or modified under standards set forth in appeal or review statutes applicable to that agency or if substantial rights of the petitioner have been

prejudiced because the agency action is any one or more of the following:

> "(1) In violation of constitutional or statutory provisions;
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> "(2) In excess of the statutory authority of the agency;
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> "(3) In violation of any pertinent agency rule;
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> "(4) Made upon unlawful procedure;
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> "(5) Affected by other error of law;
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> "(6) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
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> "(7) Unreasonable, arbitrary, or capricious, or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion."

In Alabama State Personnel Board v. Dueitt, 50 So. 3d 480, 482 (Ala. Civ. App. 2010), this court set forth the standard by which this court reviews agency decisions.

> "The standard of appellate review to be applied by the circuit courts and by this court in reviewing the decisions of administrative agencies is the same. See Alabama Dep't of Youth Servs. v. State Pers. Bd., 7 So. 3d 380, 384 (Ala. Civ. App. 2008). That prevailing standard is deferential toward the decision of the agency:
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> "'Judicial review of an agency's administrative decision is limited to determining whether the decision is

> supported by substantial evidence, whether the agency's actions were reasonable, and whether its actions were within its statutory and constitutional powers .... Judicial review is also limited by the presumption of correctness which attaches to a decision by an administrative agency.'

"Alabama Medicaid Agency v. Peoples, 549 So. 2d 504, 506 (Ala. Civ. App. 1989). Also, the Alabama Administrative Procedure Act provides that,

> "'[e]xcept where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute.'

"Ala. Code 1975, § 41-22-20(k). 'Neither this court nor the trial court may substitute its judgment for that of the administrative agency.' Alabama Renal Stone Inst., Inc. v. Alabama Statewide Health Coordinating Council, 628 So. 2d 821, 823 (Ala. Civ. App. 1993). 'This holds true even in cases where the testimony is generalized, the evidence is meager, and reasonable minds might differ as to the correct result.' Health Care Auth. of Huntsville v. State Health Planning Agency, 549 So. 2d 973, 975 (Ala. Civ. App. 1989).

"Further, this court does not apply a presumption of correctness to a circuit court's judgment entered on review of an administrative agency's decision 'because the circuit court is in no better position to review an agency's decision than this court.' Alabama Bd. of Nursing v. Peterson, 976 So. 2d 1028, 1033 (Ala. Civ. App. 2007). Finally, in order for the Board's decision to uphold the termination of an employee to warrant

> affirmance, that decision would have to be supported by 'substantial evidence,' which in an administrative context is 'relevant evidence that a reasonable mind would view as sufficient to support the determination.' Ex parte Personnel Bd. of Jefferson County, 648 So. 2d 593, 594 (Ala. Civ. App. 1994)."

To resolve the issue on appeal, i.e., whether the regulation and § 34-2-32(b) are consistent, we look to the rules of statutory construction.

> "It is this Court's responsibility to give effect to the legislative intent whenever that intent is manifested. State v. Union Tank Car Co., 281 Ala. 246, 248, 201 So. 2d 402, 403 (1967). When interpreting a statute, this Court must read the statute as a whole because statutory language depends on context; we will presume that the Legislature knew the meaning of the words it used when it enacted the statute. Ex parte Jackson, 614 So. 2d 405, 406-07 (Ala. 1993). Additionally, when a term is not defined in a statute, the commonly accepted definition of the term should be applied. Republic Steel Corp. v. Horn, 268 Ala. 279, 281, 105 So. 2d 446, 447 (1958). Furthermore, we must give the words in a statute their plain, ordinary, and commonly understood meaning, and where plain language is used we must interpret it to mean exactly what it says. Ex parte Shelby County Health Care Auth., 850 So. 2d 332 (Ala. 2002)."

Bean Dredging, L.L.C. v. Alabama Dep't of Revenue, 855 So. 2d 513, 517 (Ala. 2003).

In this case, the regulation provides that "[a]n architect is not required for design of a detached single-

family residence ...." The statute, § 34-2-32(b), provides that an architect is not required to make plans and specifications for "any single family residence building." Stoneridge argues that, by including the requirement that a single-family residence be "detached," the board has improperly created a "subcategory" inconsistent with the statute.

The chapter of the Alabama Code governing architects and the scope of the practice of architecture, of which § 34-2-32 is a part, does not define a "single family residence building." The plain meaning of the phrase "single family residence building" contemplates a structure in which one family would reside, that is, a single-family dwelling. Stoneridge submitted plans for two buildings, each consisting of ten attached townhouses. A single ten-unit building contemplates ten families dwelling in that single building. We agree with the board's conclusion that, if two or more dwellings are joined in a building, the building becomes a multifamily dwelling. Thus, a "single family residence building," as described in § 34-2-32(b), is, by necessity, a detached single-family residence, as stated in the regulation.

It is worth noting that, although their opinions are not authority for this position, the LFO and the committee reached the same conclusion.

In light of our standard of review and the record before us, we conclude that the circuit court properly upheld the board's decision determining that the regulation and § 34-2-32(b) are consistent. Therefore, the judgment of the circuit court upholding that decision is affirmed.

AFFIRMED.

Moore, Donaldson, and Hanson, JJ., concur.

Edwards, J., concurs in the result, with writing.

EDWARDS, Judge, concurring in the result.

Although I agree with the main opinion's decision to affirm the judgment of the Montgomery Circuit Court ("the circuit court"), which affirmed the decision of the Alabama State Board for Registration of Architects ("the board"), I do so for different reasons than those expressed in the main opinion.

Stoneridge Homes, Inc., sought to construct two buildings, each containing 10 townhouse units. When Stoneridge Homes' building permit was denied based on the failure to have utilized a registered architect to draw the plans for the buildings, Stoneridge Homes and Home Builders Association of Alabama, Inc. (hereinafter referred to collectively as "Stoneridge"), sought, pursuant to Ala. Code 1975, § 41-22-11(a), a declaratory ruling from the board regarding whether certain language contained in Ala. Admin. Code (State Bd. For Registration of Architects), Rule 100-X-4-.10, conflicts with Ala. Code 1975, § 34-2-32(b).

Section 34-2-32(b) exempts from the requirement that a registered architect prepare plans and specifications, among other buildings, "any single family residence building." The

legislature has defined "single family" or "residence" in Title 34, Chapter 2, Article 2, of which § 34-2-32 is a part; the term "building" is defined as "[a] structure consisting of foundation, walls, or supports and roof, with or without related components, systems, or other parts comprising a completed building ready for occupancy." Ala. Code 1975, § 34-2-30(2). Rule 100-X-4-.10 couches the exemption in the following terms: "An architect is not required for design of a detached single-family residence ...."

Stoneridge contends that, by using the term "detached" to modify "single-family residence," Rule 100-X-4-.10 created "a subcategory that is inconsistent with" the statute, or, in other words, that the term "detached single-family residence" has a different and narrower meaning than the term "single family residence building." According to Stoneridge, under § 34-2-32(b), Stoneridge Homes is not required to use an architect to draw the plans for its 10-unit townhouse buildings because those buildings will contain attached single-family dwellings. However, because the board has improperly included the term "detached" in the rule, Stoneridge argues, the board is impermissibly requiring the

services of an architect to plan the townhouse buildings, because the 10 single-family townhouses in each building are attached.

Because this court must construe the statute to determine whether Stoneridge is correct, I am guided by several principles regarding statutory construction in appeals from agency decisions.

> "'[I]t is well established that in interpreting a statute, a court accepts an administrative interpretation of the statute by the agency charged with its administration, if the interpretation is reasonable. Alabama Metallurgical Corp. v. Alabama Public Service Commission, 441 So. 2d 565 (Ala. 1983). Absent a compelling reason not to do so, a court will give great weight to an agency's interpretations of a statute and will consider them persuasive. Moody v. Ingram, 361 So. 2d 513 (Ala. 1978).'
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> "Ex parte State Dep't of Revenue, 683 So. 2d [980,] 983 [(Ala. 1996)]. See also State v. Pettaway, 794 So. 2d 1153, 1157 (Ala. Civ. App. 2001) ('[I]t is well established that in interpreting a statute, a court accepts an administrative interpretation of the statute by the agency charged with its administration, if that interpretation is reasonable.'). 'The fundamental rule of statutory construction is to ascertain and give effect to the intent of the legislature in enacting the statute.' IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992). When possible, the legislature's intent in enacting the statute should be discerned from the language of the statute. Perry

> v. City of Birmingham, 906 So. 2d 174, 176 (Ala. 2005)."

Attorneys Ins. Mut. of Alabama, Inc. v. Alabama Dep't of Ins., 64 So. 3d 1, 14 (Ala. Civ. App. 2010).

The board contends that the language of the statute and the rule do not conflict. Members of the board explained that the use of the word "detached" was merely intended to clarify the language of the statute, which exempts one from utilizing the services of an architect when constructing "any single family residence building." That is, the board reads the exemption in § 34-2-32(b) as not requiring the services of an architect to draw the plans for a building -- "[a] structure consisting of foundation, walls, or supports and roof" -- that houses a "single family residence." Such a construction does not permit a building housing more than one single-family residence to be exempted from utilizing the services of an architect.

The board's construction of the language of § 34-2-32(b) is reasonable, especially in light of the purpose of the entire statutory scheme, which is, in part, to protect the public health, safety, and welfare. See Ala. Code 1975, § 34-2-31; see also State ex rel. Attorney General v. Spann, 270

Ala. 396, 399, 118 So. 2d 740, 742 (1959) (determining an amendment to Ala. Code 1940, Tit. 46, § 9 (Recomp. 1958), the predecessor statute to § 34-2-32(b), to be constitutional). At the time Spann was decided, the predecessor statute to § 34-2-32(b), Ala. Code 1940 (Recomp. 1958), Tit. 46, § 9, provided an exemption from the use of an architect to construct "any one- or two-family residence building, costing less than $10,000.00." I find the discussion in Spann regarding that particular exemption particularly relevant to my conclusion that the board's construction of the current statute is reasonable and entitled to deference:

> "It is our judgment that the legislature had the right and power to determine from the kind of building and its use, whether protection of the public requires that the plans and specifications therefor be prepared by a registered, licensed architect. A small building comparatively simple in design and structure and to be used by comparatively few people, for example a one or two family dwelling, might with reason be considered and in fact was considered by the legislature in a class which does not require the expert services of an architect. It seems to us that this is within the inherent power and authority of the legislature. The fact that a residence could be built for $10,000 or less would practically insure both smallness, simplicity and use by a few people and the combination would certainly form a basis upon which the legislature could classify these comparatively cheap and small family units as buildings which do

> not require that their plans and specifications be drawn by a registered and licensed architect."

Spann, 270 Ala. at 399, 118 So. 2d at 742. In 1967, the legislature amended Title 46, § 9, and eliminated the language excepting a "two-family residence building, costing less than $10,000.00" and reworded the pertinent exception as "any single family residence building." Act No. 67-419, Ala. Acts 1967. Our legislature recodified Ala. Code 1940 (Recomp. 1958), Tit. 46, § 9, as Ala. Code 1975, § 34-2-2, and subsequently replaced § 34-2-2 with § 34-2-32(b). Throughout those actions, however, the legislature retained the exemption for "any single family residence building," indicating, to me, that the board has properly construed the language of the current statute to limit the exemption to buildings housing a single-family residence and not multiple single-family residences.

Therefore, because I would affirm the judgment of the circuit court based on the application of the above-discussed principles, I concur in the result.