

MAINE STATE LEGISLATURE

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April 21, 1976

John H. Leasure, Chairman

Board for Registration of
Architects

David Roseman, Assistant

Attorney General

Liability Insurance for Board Members

In your letter to me of March 3, 1976, you have raised certain questions concerning the legal liability of individual members of the Board for Registration of Architects. I understand your first question to be whether the State provides insurance protection for individual board members. The answer is negative.

I understand your second question to be whether the Board for Registration of Architects may purchase liability insurance for individual board members. In an Opinion of the Attorney General's Office dated October 16, 1975, this Office stated in applicable part that ". . . it is our opinion that State funds should not be used to purchase . . . [liability or indemnification] insurance, unless the Legislature decides to do so." There is no express legislative authorization for the Board of Registration of Architects to purchase liability insurance and, thus, such insurance may not properly be purchased by the Board. See also January 10, 1975, Opinion of the Attorney General's Office.

However, it is a general rule of law that a public officer (such as a member of the Board of Architects) has immunity from personal liability for errors of judgment or decision, when he is acting within the scope of his authority, in a quasi-judicial or discretionary capacity, in good faith and without malice or corruption. See Peterson v. George, 96 N.W.2d 627 (Nebraska, 1959); Stabitz v. Mahoney, 134 A.2d 71 (Conn., 1957).

Please feel free to contact me if you have additional questions.

DAVID ROSEMAN
Assistant Attorney General

DR:mfe