

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL GEOLOGISTS, PROFESSIONAL ENGINEERS, DESIGNERS AND
LAND SURVEYORS, LAND SURVEYOR SECTION

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
GREGG E. MILLER,	:	94 LSR 001
RESPONDENT.	:	LS9804161LSR

The parties to this action for the purposes of Wis. Stats., sec. 227.53 are:

Gregg E. Miller
Land Surveys Limited
101 Shuman Street
Verona, WI 53593

Examining Board of Architects, Landscape Architects,
Professional Geologists, Professional Engineers, Designers
and Land Surveyors, Land Surveyor Section
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Land Surveyors Section. The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gregg E. Miller (D.O.B 07/05/50) d/b/a Land Surveys Ltd., is duly licensed as a land surveyor in the State of Wisconsin (license #1600). This license was first granted on October 8, 1980.
2. Respondent's most recent address on file with the Wisconsin Department of Regulation and Licensing is 2816 White Crossing Road, Verona, Wisconsin 53593.

3. On or about May 25, 1993, Respondent completed a property survey and prepared a Plat of Survey for Royce Gilberts of a parcel of land located in Sections 31 and 32, Township 5 N, Range 6 E, Township of Perry, Dane County, Wisconsin.

4. Respondent failed to obtain a written waiver from Mr. Gilberts or any owner of the land excluding the survey referred to in paragraph three (3) above from the requirements of Wis. Admin. Code, A-E-Ch. 7.

5. In performing the land survey and preparing the plat of survey referred to in paragraph three (3) above, Respondent failed to meet the minimum standards as set forth in Chapter A-E 7, Wis. Admin. Code, in the following respects:

a) The map failed to show and describe the monumentation necessary for the location of the parcel and indicate whether such monuments were found or placed in compliance with sec. A-E 7.05(4), Wis. Admin. Code.

b) The Respondent failed to timely file U.S. public land survey monument records in compliance with sec. A-E 7.08(1), Wis. Admin. Code:

5. The Respondent admits that he had not prepared his property survey to conform with the land survey requirements of Chapter A-E 7, Wis. Admin. Code, minimum standards for property surveys.

6. Respondent states that subsequent to November 13, 1997, he has prepared and filed all required U.S. public land survey monument records, and that his survey is now in compliance with chapter A-E 7, Wis. Admin. Code.

7. Respondent agrees that a REPRIMAND of his license is an appropriate resolution of this disciplinary proceeding.

CONCLUSION OF LAW

1. The Land Surveyor Section has jurisdiction in this matter pursuant to Wis. Stats., section 443.12.

2. Respondent's conduct as set forth above in paragraph five (5) was conduct contrary to Wis. Stats., sec. 443.12(1) and Wis. Admin. Code, sec. A-E 8.03(3)(a), (b) and (c) and Respondent is therefore, subject to disciplinary action, by the Wisconsin Land Surveyors Section.

3. Respondent's subsequent remedial action taken to correct the deficiencies of his survey in compliance with chapter A-E 7, Wis. Admin. Code is an appropriate basis for the modification of the discipline recommended by the Land Surveyor Section in this proceeding.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached stipulation is accepted.

IT IS FURTHER ORDERED that the license of the Respondent, Gregg E. Miller, license #1600, is hereby REPRIMANDED.

IT IS FURTHER ORDERED, that investigative file 94 LSR 001 be, and hereby is, closed.

EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL GEOLOGISTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS;
LAND SURVEYOR SECTION

By: David M. Schroy
A Member of the Section

04-16-98
Date

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STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL GEOLOGISTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND
SURVEYORS, LAND SURVEYOR SECTION

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	94 LSR 001
	:	
	:	
GREGG E. MILLER,	:	
RESPONDENT.	:	

It is hereby stipulated between Gregg E. Miller, personally on his own behalf and Roger R. Hall, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into in resolution of the pending proceedings concerning Respondent's license. The Stipulation and Order shall be presented directly to the Land Surveyor Section for its consideration for adoption.
2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Land Surveyor Section. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Land Surveyor Section's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Land Surveyor Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Land Surveyor Section, the parties agreed not to contend that the Section has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney for the Division of Enforcement and the member of the Land Surveyor Section assigned as an advisor in this investigation may appear before the Land Surveyor Section for the purpose of speaking in support of this agreement and answering questions that the members of the Section may have in connection with their deliberations on the Stipulation.

7. The Division of Enforcement joins Gregg E. Miller in recommending the Land Surveyor Section adopt this Stipulation and issue the attached Final Decision and Order.



Gregg E. Miller

3-24-98

Date



Roger R. Hall, Attorney
Division of Enforcement

Date

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NOTICE OF RIGHTS OF APPEAL

TO: GREGG E MILLER

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 4/22/98 Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN LAND SURVEYOR SECTION OF THE EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS PROFESSIONAL GEOLOGISTS, PROFESSIONAL ENGINEERS, DESIGNERS AND
LAND SURVEYORS

1400 East Washington Avenue

P.O. Box 8935

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