

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**FILE COPY**

STATE OF WISCONSIN

BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS, AND LAND SURVEYORS (LAND SURVEYORS' SECTION)

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IN THE MATTER OF THE REVOCATION OF  
THE CERTIFICATE OF REGISTRATION AS  
A LAND SURVEYOR OF JOSEPH THERIAULT,  
RESPONDENT (S-361)

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

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This action coming on to be heard on the 27th day of April, 1972,  
pursuant to notice duly given, and upon the complaint of the State of Wis-  
consin, Department of Health and Social Services, Division of Health, Bureau  
of Environmental Health, by its employee, G. A. Vander Velden, and the com-  
plainant having appeared by its attorney, Sherwood K. Zink, and the respondent,  
Joseph Theriault, having appeared in person, and by his attorney, Peter P.  
Woboril, Jr., and the Land Surveyors' Section of said Board having heard the  
evidence, and being advised in the premises, makes the following:

FINDINGS OF FACT

1. That Joseph Theriault, of 19440 West Gebhardt Road, Brookfield, Wis-  
consin, was duly registered as a Land Surveyor in the State of Wisconsin,  
under the provisions of Section 443.02, Wis. Stats., at and during the times  
set forth in the complaint, and is so registered at the present time.

2. That G. A. Vander Velden, is employed as Public Health Engineer of  
the Bureau of Environmental Health, Division of Health, Department of Health  
and Social Services, an agency of the State of Wisconsin, and was directed  
by said Bureau to initiate these proceedings, under the provisions of Section  
443.02 (8), Wis. Stats.

3. That the respondent, Joseph Theriault, was retained by the firm of  
Nienow, Landry, Webster and Associates, 850 North Elm Grove Road, Elm Grove,  
Wisconsin, subdividers of a subdivision known as Jericho Acres and located  
in Section 19, Town 5 North, Range 18 East, Town of Mukwonago, Waukesha County,

Wisconsin and of a subdivision known as Jericho Acres West and located in Section 24, Town 5 North, Range 17 East, Town of Eagle, Waukesha County, Wisconsin, to perform soil borings and percolation tests of said subdivisions and to report the results of said soil tests, pursuant to Section H 65.06 of the Wisconsin Administrative Code.

4. That the respondent, Joseph Theriault, performed and reported the aforesaid soil tests.

5. That the respondent, Joseph Theriault, as a registered Land Surveyor, signed and certified to the correctness of the procedures and results of soil test reports for each of the aforesaid subdivisions.

6. That the soil test data contained in the aforesaid reports inaccurately and inadequately portrayed the character of the soil, ground water levels, and existing depths to bedrock.

7. That the soil tests, upon which the soil test reports were based, were not uniformly distributed, and were made by unsatisfactory methods.

8. That said soil test reports were certified by the respondent and were submitted for approval, by the subdivider, pursuant to Sections 236.10 through 236.11 of the Wisconsin Statutes.

#### CONCLUSIONS OF LAW

1. That the certification by the respondent, of inaccurate and inadequate soil test data reports was contrary to the requirements of Section H 65.06 of the Wisconsin Administrative Code in violation of Section A-E 4.06 of the Wisconsin Administrative Code, constituted misconduct as a Land Surveyor, by the respondent, Joseph Theriault.

2. That the failure to uniformly distribute and properly perform soil tests used as the basis for soil test reports, constituted gross negligence as a Land Surveyor, by the respondent, Joseph Theriault.

3. That it is not in the public interest to revoke the certification of the respondent, Joseph Theriault, but that said acts of the respondent are subject to, and deserving of, a suspension of said certificate for a period of two (2) years.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the registration of the respondent, Joseph Theriault, be, and hereby is, suspended for a period of two (2) years for committing acts of misconduct and gross negligence in the practice of Land Surveying, said suspension to be effective 30 days from the service of this Order.

IT IS FURTHER ORDERED, that a copy of these Findings of Fact, Conclusions of Law and Order be served upon the respondent's Attorney by certified mail.

Dated this 3<sup>rd</sup> day of July, 1972.

EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL  
ENGINEERS, DESIGNERS AND LAND SURVEYORS  
(LAND SURVEYORS' SECTION)

(S) Leonard Lampert  
Leonard Lampert, Chairman

(S) Richard Batterman  
Richard Batterman

(S) John Nielsen  
John Nielsen

STATE OF WISCONSIN

BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS, AND LAND SURVEYORS (LAND SURVEYORS' SECTION)

-----  
IN THE MATTER OF THE REVOCATION OF  
THE CERTIFICATE OF REGISTRATION AS  
A LAND SURVEYOR OF JOSEPH THERIAULT,  
RESPONDENT (S-36)

NOTICE OF HEARING

71-11-46

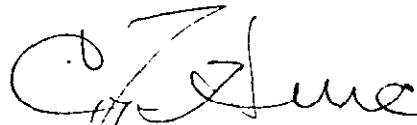
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TO: Joseph Theriault  
19440 W. Gebhardt Rd.  
Brookfield, Wisconsin

PLEASE TAKE NOTICE, That a hearing will be held on the 27th day of  
April, 1972, at 110 North Henry St., Madison, Wisconsin, at 9:30  
o'clock in the forenoon or as soon thereafter as the matter can be heard,  
on the question of whether the certificate of registration as a Land  
Surveyor in the State of Wisconsin, heretofore issued to the above named  
respondent, pursuant to Section 443.02 Wis. Stats., should be revoked  
by the Examining Board of Architects, Professional Engineers, Designers,  
and Land Surveyors ( Land Surveyors' Section ). The issues involved and  
the charges then and there to be considered are set forth in the attached  
Complaint, to which you are required to make answer in writing at least  
twenty (20) days before the date set for said hearing.

Dated at Madison, Wisconsin, this 7th day of March, 1972.

EXAMINING BOARD OF ARCHITECTS,  
PROFESSIONAL ENGINEERS, DESIGNERS  
AND LAND SURVEYORS  
( LAND SURVEYORS' SECTION )

By

  
C.F. Hurc, Secretary

Complainant's Attorney:

Sherwood K. Zink  
110 N. Henry St.  
Madison, Wisconsin 53703

STATE OF WISCONSIN

BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS, AND LAND SURVEYORS (LAND SURVEYORS' SECTION)

Rec'd & Filed  
February 18, 1972  
C. J. Lunde

IN THE MATTER OF THE REVOCATION OF  
THE CERTIFICATE OF REGISTRATION AS  
A LAND SURVEYOR OF JOSEPH THERIAULT,  
RESPONDENT (S-361)

COMPLAINT

The State of Wisconsin Department of Health and Social Services, Division of Health, Bureau of Environmental Health, by its employee, G.A. Vander Velden, complains against the respondent, Joseph Theriault, and alleges:

1. On information and belief, that Joseph Theriault, of 19440 West Gebhardt Road, Brookfield, Wisconsin, is duly registered by the Examining Board of Architects, Professional Engineers, Designers, and Land Surveyors under the provisions of Section 443.02, Wis. Stats., as a Land Surveyor, Certificate Number (S-361).

2. That G.A. Vander Velden is employed as Public Health Engineer of the Bureau of Environmental Health, Division of Health, Department of Health and Social Services, an agency of the State of Wisconsin, and has been directed by said Bureau to initiate these proceedings to revoke the certificate of registration as a Land Surveyor of said Joseph Theriault, under the provisions of Section 443.02 (8), Wis. Stats.

3. On information and belief, that sometime prior to April 18, 1970, the respondent, Joseph Theriault, was retained by the firm of Nienow, Landry, Webster and Associates, 850 North Elm Grove Road, Elm Grove, Wisconsin, subdividers of a subdivision to be known as Jericho Acres West and located in Section 24, Town 5 North, Range 17 East, Town of Eagle, Waukesha County, Wisconsin, to perform soil borings and percolation tests of said subdivision and to report the results of said soils tests pursuant to Section H 65.06 of the Wisconsin Administrative Code.

FILED IN REC'D 4218

4. On information and belief, that sometime prior to March 7, 1970, Joseph Theriault, was retained by the firm of Nienow, Landry, Webster and Associates, 850 North Elm Grove Road, Elm Grove, Wisconsin, subdividers of a subdivision to be known as Jericho Acres and located in Section 19, Town 5 North, Range 18 East, Town of Mukuonago, Waukesha County, Wisconsin, to perform soil borings and percolation tests of said subdivision and to report the results of said soils tests pursuant to Section H 65.06 of the Wisconsin Administrative Code.

5. That the respondent, Joseph Theriault, signed and certified to the correctness of the procedure and results of a report of soil tests for each of the aforesaid subdivisions.

6. That, contrary to the requirements of Section H 65.06 of the Wisconsin Administrative Code, the soil test data contained in the aforesaid reports inaccurately portrayed depth to bedrock and high ground water levels and was not based upon accurate field tests.

7. That said soil test reports were submitted for approval, pursuant to Sections 236.10 through 236.11 of the Wisconsin Statutes.

8. That the preparation of, and submission of, inaccurate soil test data contrary to the requirements of Section H 65.06 of the Wisconsin Administrative Code, is a violation of Section A-E 4.06 of the Wisconsin Administrative Code and constitutes misconduct, gross negligence, and incompetency in the practice of Land Surveying, on the part of the respondent, Joseph Theriault.

WHEREFORE, the complainant prays that the certificate of registration as a Land Surveyor, of the respondent, Joseph Theriault, be revoked, pursuant to the authority vested in the Examining Board by Sec. 443.02 (8), of the Wisconsin Statutes.

STATE OF WISCONSIN DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES, DIVISION OF HEALTH,  
BUREAU OF ENVIRONMENTAL HEALTH

By Gregory A. Vander Velden  
G.A. Vander Velden, Public Health Engineer

STATE OF WISCONSIN )  
COUNTY OF DANE } SS.

G.A. Vander Velden, being first duly sworn, on oath deposes and says that he is an employee of the Bureau of Environmental Health, Division of Health of the Department of Health and Social Services of the State of Wisconsin, and is duly authorized to make this verification, that he has read the foregoing Complaint and knows the contents thereof, that the same is true to his own knowledge, except as to those matters alleged on information and belief, and as to those matters, he believes it to be true.

Gregory A Vander Velden  
G.A. Vander Velden  
Public Health Engineer

Subscribed and sworn to before me  
this 15 day of February, 1972.

Quentin G Mercer  
Notary Public, Dane County, Wis.  
My Commission Expires 11/4/73.