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Sept
1979
FILE COPY

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

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
DENNIS STELLA (S-1352),	:	
RESPONDENT	:	

The State of Wisconsin, Examining Board of Architects, Professional Engineers, Designers and Land Surveyors (Land Surveyors Section), having considered the above entitled matter and having reviewed the record and the proposed decision of the Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Examining Board of Architects, Professional Engineers, Designers and Land Surveyors (Land Surveyors Section) In The Matter of Disciplinary Proceedings Against Dennis Stella (S-1352), Respondent. Let a copy of this order be served on the Respondent by certified mail.

Dated this 9th day of October, 1979.

Percival Sprague

pc862-456

OCT 29 1979

STATE OF WISCONSIN
BEFORE THE
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	PROPOSED DECISION
DENNIS STELLA (S-1352),	:	
RESPONDENT	:	

A hearing was held in the above entitled matter on July 11, 1979 in the County Board Room of the Oneida County Courthouse in Rhinelander, Wisconsin, commencing at 1:00 p.m.

Appearing at the hearing were Wayne Austin, attorney for the complainant, Room 166, 1400 East Washington Avenue, Madison, Wisconsin 53702 and Dennis Stella, 14 Cherry Street, Rhinelander, Wisconsin 54501 who appeared in person without an attorney.

Based on the record, the examiner recommends that the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors (Land Surveyor Section) make as its final decision in this matter, the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Dennis L. Stella, (hereinafter, Stella) whose address is 14 Cherry Street, Rhinelander, Wisconsin 54501, is licensed to practice as a land surveyor in the State of Wisconsin (license #S-1352, issued August 25, 1976) pursuant to the provisions of Chapter 443, Wis. Stats.
2. In the fall of 1977, as part of his land surveying practice, Stella was retained by Louis H. Detienne, who resides at Star Route 2, Box 136, Rhinelander, Wisconsin 54501, to perform a land survey and to prepare a certified survey map of part of Government Lot 4, Section 8, Township 36 North, Range 8 East, Town of Crescent, Oneida County, Wisconsin.
3. Stella prepared a survey map dated January 25, 1978 showing the land surveying work he did for Detienne. The survey map was recorded on March 28, 1978 as a certified survey map in Volume II of "Survey Maps" on pages 541-54A and 54B in the Office of the Register of Deeds for Oneida County. A copy of the certified survey map recorded is attached to these findings as Exhibit A. Detienne paid Stella \$1,053.25 on April 10, 1978 for the certified survey map.
4. In May or June, 1978 Detienne, the owner of the property surveyed, and Allan W. Alvin entered into an agreement for the sale to Alvin of lot 4 as shown on Exhibit A. Alvin presented the survey map, Exhibit A, with an abstract of title furnished by Detienne, to the

Oneida Abstract Company for the purpose of obtaining title insurance to the property. Oneida Abstract Company refused to issue title insurance and stated that the legal description of the property was in error.

5. In July, 1978 Detienne contacted John Vanney, Planning and Zoning Administrator for Oneida County. Vanney wrote a letter dated July 10, 1978 to Stella ordering that the survey be corrected. A copy of Vanney's letter is attached to these findings as Exhibit B.

6. After Detienne learned of deficiencies in the survey map prepared by Stella, he telephoned Stella who indicated that if he had made a mistake he would correct it by the end of the month. Shortly thereafter Stella indicated that Detienne would have to find somebody else. Detienne continued to seek Stella's help and called Stella four or five times altogether.

7. By a letter dated October 30, 1978 Stella indicated to Detienne, as follows: "This letter is in regards to a certified survey map we have done on your property. There seems to be some question as to how to resolve the mistakes on it. I am future looking into the matter and will have a solution in the near future. The map and survey will be corrected at no cost to you. Thank you for your patient (sic)."

8. Between September 13, 1978 and October 30, 1978 Detienne retained Genisot and Associates to correct the certified survey map prepared by Stella. Genisot and Associates, Inc., by Robert Bandow, Registered Land Surveyor, prepared and on December 12, 1979 recorded a certified survey map in Volume 3 of Survey Maps on page 669-669A in the Office of the Register of Deeds for Oneida County. A copy of the Genisot map is attached to these findings as Exhibit C. On December 12, 1978, Detienne paid Genisot and Associates \$860.20 for the certified survey map.

CONCLUSIONS OF LAW

1. In the performance of the survey for Lewis H. Detienne and in the preparation of a certified survey map showing the results of that land survey, a copy of which is attached to the findings as Exhibit A, Respondent Stella failed to meet lawful standards for land surveying work and the preparation of certified survey maps set forth in s. 236.34, Wis. Stats. and Chapter A-E 5, Wisconsin Administrative Code in the following respects:

(a) Stella failed to place monuments marking the corners of all parcels as required by s. 236.15(1)(d), Stats., and by s. A-E 5.01(3), Wis. Adm. Code and more particularly, Stella did not place monuments at curve points marked "B", "E", "F", "G", "H", "I", and the three meander corners along the southern boundary line of parcel "2."

(b) Stella failed to completely describe all monuments placed or set as required by s. 236.20(2)(b), Stats., and by s. A-E 5.01(5)(d), Wis. Adm. Code, and more specifically, the legend on the Stella map does not describe the size by length and diameter for weight by pounds per lineal foot of the iron monuments found or set.

(c) Stella failed to describe the parcel surveyed as being located in government lot 4, as required by s. A-E 5.01(4), Wis. Adm. Code.

(d) The closed traverses of lots "(1)" and "(3)" and of the town road as shown on Stella's certified survey map have latitude and departure closure ratios greater than 1 in 3,000, contrary to s. A-E 5.01(6)(d), Wis. Adm. Code.

(e) The State of Wisconsin Highway Commission right-of-way map shows a circular curve for the highway boundary for that portion of State Highway "8" which adjoins the property included in Stella's certified survey map. Stella surveyed and mapped the boundary of State Highway "8" as a curve A-B, a straight line and then a curve C-D. In failing to reconcile the survey that Stella did for Lewis H. Detienne with the State Highway Commission right-of-way map with respect to the boundary between State Highway "8" and the property included in the certified survey map, Stella failed to acquire data necessary to retrace record title boundaries and failed to make a careful determination of the position of the boundaries of the parcels being surveyed, as required by s. A-E 5.01(3), Wis. Adm. Code.

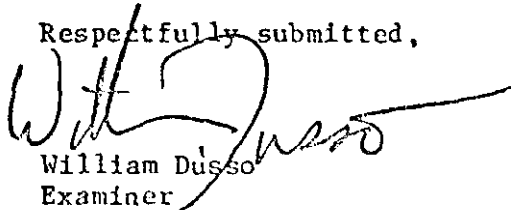
2. Stella's failure to correct the certified survey map as requested by his client and Oneida County Zoning Administrator between July 10, 1978 and October 30, 1978 constitutes misconduct in the practice of land surveying within the meaning of that term as it is used in s. 443.02(8)(a), Wis. Stats.

ORDER

NOW THEREFORE it is ordered that the Certificate of Registration to Practice Land Surveying #S-1352 issued to Dennis Stella, shall be and hereby is, suspended for a period of six months, said suspension to commence on November 1, 1979 and that at the termination of said suspension period, the Certificate of Registration shall be returned to the Respondent without further application.

Dated this 8th day of October, 1979.

Respectfully submitted,


William Dusso
Examiner

374-318

OCT 29 1979

HODAG SOIL TESTING

Post Office • Rhinelander, Wisconsin 54501 • Phone 362-4307

April 28, 1979

State of Wisconsin

Before the State of
Wisconsin, Examining
Board of Architects,
Professional Engineers,
Designer And Land
Surveyors.

In the Matter of Disciplinary
Proceedings against
Dennis L. Stella S-1352
Respondent

Answer to Complaint
in Matter of
Disciplinary Proceedings.

TO: Mr. Wayne R. Austin, Attorney
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, Wisconsin 53702

Dear Mr. Austin:

I, Dennis L. Stella, Respondent, as and for an answer to the allegations set for in a complaint by the Wisconsin Examining Board of Architects, Professional Engineers, Designers, and Land Surveyors of the 11th day of April, 1979, does hereby answer the allegations made against him:

1. Admits that he conducted a certified survey at Mr. Lewis Detienne, residing at Star Route 2, Box 136, Rhinelander, Wisconsin, 54501, in the location specified.
2. Denies that any parts of the survey done by him were done in an incompetent manner or that he was grossly negligent for any matter adversely affecting Mr. Detienne's property.
3. Alleges that all work done by him was done in compliance with the standards existing for licensed land surveyors at the time in which they were done and that all survey work made by him was in compliance with the standards existing for land surveying at the time in which they were done.

Wherefore, I demand that the said complaint be dismissed.

Sincerely,

Dennis L. Stella

Dennis L. Stella

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

DENNIS STELLA (S-1352) :
RESPONDENT :

NOTICE OF HEARING

TO: Dennis Stella
14 Cherry Street
Rhineland, Wisconsin 54501

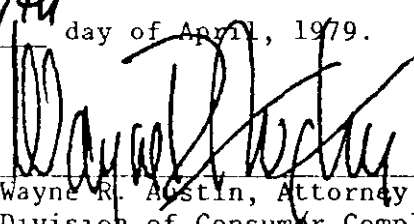
Please take notice that a hearing constituting a class 2 proceeding as defined in Sec. 227.01(2)(b), Wis. Stats., will be held on the 11th day of July, 1979, at 9:00 o'clock a.m., or as soon thereafter as the matter may be reached, in Room 179A, at 1400 East Washington Avenue, Madison, Wisconsin, on the question of whether the license heretofore issued to the above-named respondent pursuant to section 443.02, Wis. Stats., should be suspended or revoked, the above-named respondent should be reprimanded or whether such license should be limited.

The legal authority and jurisdiction under which the hearing is to be held is set forth in Chapter 443, Wis. Stats., and Chapter RL2, Wis. Adm. Code.

The matters asserted and the charges then and there to be considered are as set forth in the attached complaint to which you are required to make answer in writing within twenty (20) days from the date of service of the complaint. The hearing examiner designated to preside over the matter pursuant to Sec. 227.09(2), Wis. Stats. and Sec. RL 2.10, Wis. Adm. Code, is William L. Dusso, Department of Regulation and Licensing, 1400 East Washington Avenue, Madison, Wisconsin 53702. You shall file your answer with the examiner at the address indicated, a copy of said answer with the Board and a copy with complainant's attorney, Wayne R. Austin, Division of Consumer Complaints, 1400 East Washington Avenue, Madison, Wisconsin 53702 (telephone 608-2661815). If you fail to file an answer within such time, or if you fail to appear at the time set for hearing, a default judgment may be entered, and your license revoked, suspended, or other disciplinary action taken upon proof of such default.

If you are represented by counsel, the counsel is requested to file a notice of appearance with the Board forthwith.

Dated at Madison, Wisconsin this 11th day of April, 1979.


Wayne R. Austin, Attorney
Division of Consumer Complaints

(d) The closed traverses of lots 1 and 3 and of the town road, depicted on Respondent's survey map, have latitude and departure closure ratios greater than 1 in 3,000, in violation of s. 443.02(6)(d), Wis. Adm. Code.

(e) Respondent failed to acquire data necessary to retrace record title boundaries, and failed to make a careful determination of the position of the boundaries of the parcels being surveyed, as required by s. A-E 5.01(3), Wis. Adm. Code.

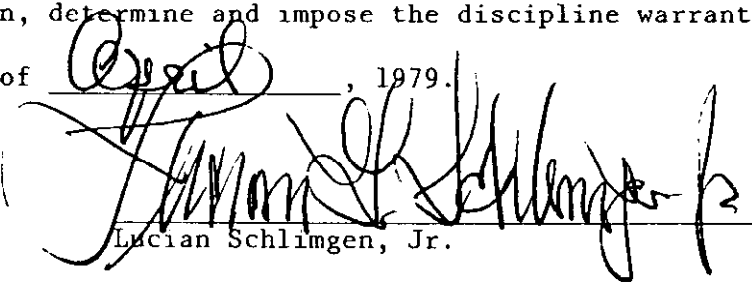
6. That the intended purpose of the survey and of the certified survey map described in paragraph no. 3, above, was to convey the parcels surveyed and depicted; and that failure of said survey and map to conform to the statutory and regulatory standards detailed in paragraph no. 5, above, rendered said survey and map useless for their intended purpose.

7. That Respondent failed and refused to correct the deficiencies in the survey and certified survey map detailed in paragraph no. 5, above, and that said failure and refusal resulted in the necessity to retain a second surveyor and to perform a second survey.

8. That Respondent's failure to meet statutory and regulatory requirements in performing the survey and in producing the certified survey map, as detailed in paragraph no. 5, above, and Respondent's failure and refusal to correct said survey and map, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

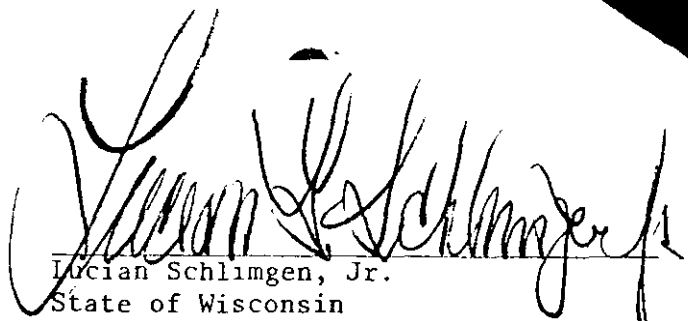
WHEREFORE, the Complainant demands that the Board hear evidence relevant to the matters recited herein, determine and impose the discipline warranted.

Dated this 11th day of April, 1979.


Lucian Schlimgen, Jr.

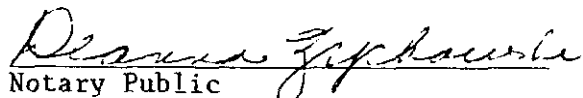
STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Lucian Schlimgen, Jr., being first duly sworn on oath deposes and says that he is Executive Secretary for the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, State of Wisconsin, and that he has read the foregoing Complaint and knows the contents thereof and that the same is true to his own knowledge, except as to those matters therein stated on information and belief and as to such matters, he believes them to be true.



Lucian Schlimgen, Jr.
State of Wisconsin
Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, Wisconsin 53702

Subscribed and sworn to before me this 11th day of April, 1979.



Notary Public

My Commission ~~is permanent~~ expires 12-19-80

Wayne R. Austin
Attorney for Complainant
1400 East Washington Avenue, Room 166
Madison, Wisconsin 53702