

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EUGENE KIRCHMAN, R.L.S.
RESPONDENT.

FINAL DECISION
AND ORDER

The parties to this action for the purposes of Wis. Stats. sec. 227.16
are:

Eugene Kirchman, R.L.S.
4416 North 76th Street
Milwaukee, Wisconsin 53218

Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
P. O. Box 8936
Madison, Wisconsin 53708-8936

Department of Regulation & Licensing
Division of Enforcement
P. O. Box 8936
Madison, Wisconsin 53708-8936

A party aggrieved by this decision may petition the Board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The petition in this instance would be captioned with Eugene Kirchman as the respondent.

A party aggrieved by this decision may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings will be held and serving the Board or other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in said petition would be the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

The parties in this matter agree to the terms and conditions of the attached stipulation as the final disposition of this matter, subject to the approval of the Board. The Board 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. Eugene Kirchman was at all times relevant to this complaint, duly licensed as a Land Surveyor in the State of Wisconsin (license #S-254, issued February 1, 1956).
2. On or about May 10, 1979, respondent completed the performance of a land survey for Hans Troppmann, owner of the parcel surveyed; the parcel is known as 2618-20 South 84th Street, West Allis, Wisconsin and is contained in the SW quarter of the NE quarter of Section 9, Township 6 North, Range 6 East in Milwaukee County, Wisconsin.
3. In performing the land surveying described above, respondent failed to meet minimum standards for property surveys in the following respects:
 - a. Respondent failed to make a careful determination of the position of the boundaries in the parcel surveyed, as required by Wis. Adm. Code sec. A-E5.01(3). More specifically, respondent failed to properly establish the position of the north and south boundaries of the parcel by approximately 6 inches.
 - b. Respondent failed to prepare a survey map for the parcel as required by Wis. Adm Code sec. A-E5.01(5).
 - c. Respondent failed to file a copy of this survey with the Register of Deeds as required by Wis. Stats. sec. 59.60(6).
4. As a result of the errors referred to in paragraph 3(a), above, Mr. Troppmann caused a fence to be erected on the northern boundary of his property which encroached approximately three (3) inches on the adjacent land. A law suit resulted from this encroachment.
5. Despite repeated requests that Mr. Troppmann, Mr. Kirchman failed to provide a current survey map of the parcel in question.
6. The Department of Regulation and Licensing, Division of Enforcement addressed inquiries to Mr. Kirchman concerning this matter on August 24, 1981, and September 25, 1981. Respondent failed to make any timely response to these requests for information.

CONCLUSIONS OF LAW

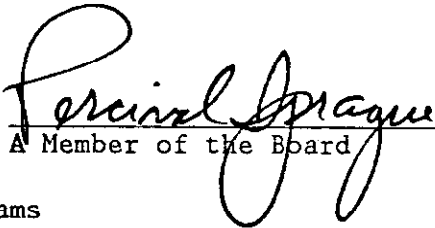
Respondent's conduct, as described above, constitutes negligence, incompetence and misconduct in the practice of land surveying within the meaning of Wis. Stats. sec. 443.12(1) and Wis. Adm. Code sec. A-E4.003(3)(a), 4.01(3) and 4.05(2).

Therefore, it is hereby ORDERED:

The license of Eugene Kirchman to practice land surveying in the State of Wisconsin is suspended for a period of ninety (90) days, to commence on a date 5 days from the signing of this Order.

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

By:


A Member of the Board

1-4-83
Date

SMG:ams
050-854

STATE OF WISCONSIN

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

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

STIPULATION

EUGENE KIRCHMAN, R.L.S., :
RESPONDENT. :

It is hereby stipulated between Eugene Kirchman, R.L.S., personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

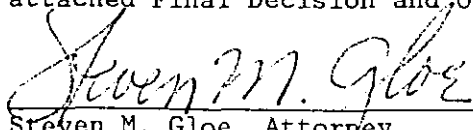
1. This Stipulation shall be submitted to the Land Surveyors' Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors. If the terms of the Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further action.

2. Mr. Kirchman is aware of and understands each of his rights, including: the right to a hearing on allegations against him in which the State has the burden of proving those allegations by clear, satisfactory and convincing 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 rights afforded to Mr. Kirchman under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

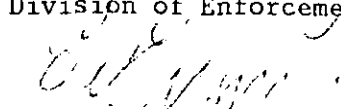
3. Mr. Kirchman freely, voluntarily, and knowingly waives each and every one of the rights set forth in paragraph 2, above.

4. In settlement of this matter, Mr. Kirchman neither admits nor denies the allegations of the Complaint, thereby allowing the Section to make findings consistent with the allegations. Mr. Kirchman feels the expense of continuation of this action outweighs any possible benefits.

5. The undersigned parties therefore agree to the adoption of the attached Final Decision and Order by the Land Surveyors Section.


Steven M. Gloe, Attorney
Division of Enforcement

1 4 / 03
date


Eugene Kirchman, R.L.S., Respondent

12 / 2 / 87
date