

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;
PROFESSIONAL ENGINEERS SECTION

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
BRUCE JOHN NOVELEN, P.E., :
RESPONDENT. :

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

Bruce John Novelen
Route 1, Box 901
Laurinberg, NC 28352

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

Department of Regulation & 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 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 Stipulation and makes the following:

FINDINGS OF FACT

1. Bruce John Novelen, Respondent herein, currently holds a certificate of registration to practice as a professional engineer in the State of Wisconsin. His certificate bears number 21996 and was issued November 19, 1982.
2. Respondent's date of birth is February 18, 1955 and current address is Route 1, Box 901, Laurinburg, North Carolina 28352.
3. On October 9, 1986, the North Carolina State Board of Registration for Professional Engineers and Land Surveyors filed a Decision and Order in its disciplinary case against Respondent.

. 4. The North Carolina Board ordered that Respondent be reprimanded and ordered that Respondent pay a fine of \$300.00. Said Decision and Order is attached as Exhibit A.

5. The North Carolina State Board made, in part, the following conclusion:

"On July 2, 1986, a notarized written complaint was filed with the Board by Mr. Wright T. Dixon, Board Counsel, and the resulting investigation determined that Bruce J. Novelen, did affix his seal and signature to plans entitled PROPOSED WOODRUN WATERLINE, STEWARTSVILLE TOWNSHIP, SCOTLAND CO., N.C., which plans were not prepared by Mr. Novelen nor were they prepared under his responsible charge and direct supervision."

CONCLUSIONS OF LAW

1. The Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stats. sec. 443.11.

2. The Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. Respondent engaged in misconduct contrary to Wis. Stats. sec. 443.11(1)(e) and Wis. Adm. Code sec. A&E 4.003(3)(a), now renumbered sec. A&E 8.03(3)(a), and is subject to discipline in that Respondent has violated North Carolina law, the State of North Carolina has reprimanded Respondent, and Respondent has been ordered to pay a \$300.00 fine.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

That the Stipulation of the parties, attached hereto, is accepted.

IT IS FURTHER ORDERED:

That Bruce John Novelen, P.E., is reprimanded.

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

BY: 

A Member of the Board

Date 9-25-87

SS:cld
146-884

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section.

The date of mailing of this decision is September 28, 1987.

WLD:dms
886-490

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of.

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly as may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s 227.48. If a rehearing is requested under s 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.

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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
BRUCE JOHN NOVELEN, P.E., :
RESPONDENT. :

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation of Bruce John Novelen's certificate of registration by the Division of Enforcement (case file 87 A&E 22). Mr. Novelen consents to the resolution of this investigation by stipulation and without the issuance of a formal disciplinary complaint and hearing.
2. The Respondent understands by signing this Stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the State has the burden of proving the 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 own behalf and to compel their attendance by subpoena, the right to testify in his own behalf, 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. The Respondent admits the allegations and statements found in the attached Final Decision and Order.
4. The Respondent and the Complainant urge the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section to adopt this Stipulation and the attached Final Decision and Order in this matter.
5. If the terms of this Stipulation and attached Final Decision and Order are not acceptable to the Board, then none of the parties shall be bound by any of the terms.
6. The attached Findings of Fact, Conclusions of Law, Final Decision and Order may be made and entered in this matter by the Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section, without prior notice to any party.
7. All parties agree that Counsel for the Department of Regulation & Licensing, Division of Enforcement and the Board Advisor appointed in this matter may appear before the Wisconsin Examining Board of Architects,

Professional Engineers, Designers and Land Surveyors; Professional Engineers Section, to argue in favor of acceptance of this stipulation and the entry of the attached Findings of Fact, Conclusions of Law, Final Decision and Order.

8. That this agreement in no way prejudices the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section, from any further action against Respondent based on any acts not stated in the present Findings of Fact which might be violative of the Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section, Statutes and Rules.

9. That if this Stipulation is adopted by the Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; Professional Engineers Section, the attached Order shall become effective as stated in the order.

July 21, 1987
Date

Sherry Steffel
Sherry Steffel, Attorney
Division of Enforcement

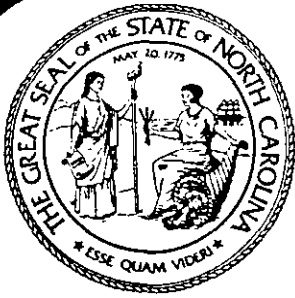
Aug 21, 1987
Date

Bruce John Novelen
Bruce John Novelen, Respondent

9-25-87
Date

Edward P. Cranley
A Member of the Board

SS:lm1
086-786



NORTH CAROLINA
STATE BOARD OF REGISTRATION
FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

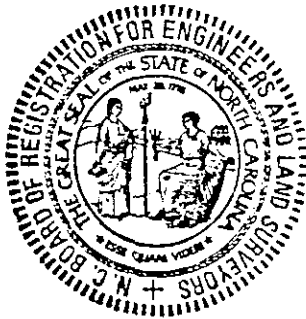
3620 SIX FORKS ROAD
RALEIGH, N.C. 27609

(919) 781-9499
(919) 781-9547

June 25, 1987

TO WHOM IT MAY CONCERN:

The undersigned, Executive Secretary for the North Carolina State Board of Registration, hereby certifies the attached documents to include NOTICE OF CONTEMPLATED BOARD ACTION and DECISION AND ORDER, are true and accurate copies of actions taken by the Board as to case number V86-116, Bruce J. Novelen, PE.



Montgomery T. Speir

Montgomery T. Speir
Executive Secretary

EXHIBIT A

STATE OF NORTH CAROLINA
WAKE COUNTY

NORTH CAROLINA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

IN THE MATTER OF:

Bruce J. Novelen
PE No. 11496

NOTICE OF CONTEMPLATED BOARD
ACTION UNDER SECTION .1403,
CHAPTER 56, TITLE 21, NORTH
CAROLINA ADMINISTRATIVE CODE

NOW COMES the North Carolina State Board of Registration for Professional Engineers and Land Surveyors (hereinafter Board) and gives this Notice pursuant to the provisions of Chapter 150B and Chapter 89C-21 of the General Statutes and Sections .1402 and .1403, Chapter 56, Title 21 of the North Carolina Administrative Code (21 NCAC 56) as follows:

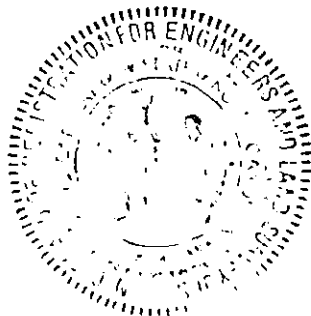
1. That the Board has sufficient evidence supporting a charge of misconduct which if not rebutted or explained will justify the Board in taking action against Mr. Bruce J. Novelen as set out in Board Regulations (Section .1402, 21 NCAC 56), a copy of which is appended hereto.
2. The general nature of the evidence upon which said action will be taken, unless rebutted or explained, is as follows:

On July 2, 1986, a notarized written complaint was filed with the Board by Mr. Wright T. Dixon, Board Counsel, and the resulting investigation determined that Bruce J. Novelen did affix his seal and signature to plans entitled PROPOSED WOODRUN WATERLINE, STEWARTSVILLE TOWNSHIP, SCOTLAND CO., N. C., which plans were not prepared by Mr. Novelen nor were they prepared under his responsible charge and direct supervision.

THEREFORE, the Board hereby notifies Bruce J. Novelen, under the provisions of its regulations, Section .1403, 21 NCAC 56, Chapter 150B of the General Statutes, and G. S. 89C-21, that unless said Bruce J. Novelen, within twenty (20) days after service of this notice, deposits in the mail a registered letter addressed to this Board and containing a request for a hearing, the Board will take action and issue a reprimand and levy a fine of \$300.00 for the violation set out above; and said Bruce J. Novelen is hereby notified that under the provisions of the law hereinabove cited, such action by the Board will be final and not subject to judicial review.

Take notice further that any hearing conducted will be in accordance with the Board Regulations (attached), and within the provisions of G. S. 89C-21 and Chapter 150B of the General Statutes.

This 22nd day of September 1986



NORTH CAROLINA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

BY:

Howard M. Loughlin
Howard M. Loughlin
Chairman

Enclosures

CERTIFIED MAIL - Return Receipt Requested

EXTRACT
Chapter 56, Title 21
North Carolina Administrative Code
(21 NCAC 56)

* * * * *

.1402 OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE HEARING

Every licensee or applicant for a license shall be afforded notice and an opportunity to be heard on any action, the effect of which would be:

- (1) to deny permission to take an examination for licensing for which application has been duly made, or
- (2) to deny a license based on comity, or
- (3) to deny a license after an applicant has taken and passed an examination, or
- (4) to require re-examination for licensing, or
- (5) to withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee, or
- (6) to suspend a license, or
- (7) to revoke a license, or
- (8) to levy a fine, or
- (9) to issue a reprimand.

History Note: Statutory Authority G.S. 89C-10; 89C-21;
89C-22; 150A-3; 150A-23;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. January 1, 1982.

.1403 NOTICE OF CONTEMPLATED BOARD ACTION; REQUEST FOR HEARING

(a) * * *

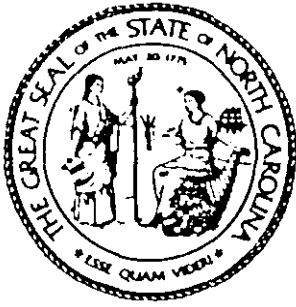
(b) When the board contemplates taking any action, other than a formal hearing under Section .1300, of a type specified in Subdivisions (3), (4), (5), (6), (7), (8), or (9) of Rule .1402 of this Section, it shall give to the licensee a written notice containing a statement:

- (1) that the board has sufficient evidence which, if not rebutted or explained, will justify the board in taking the contemplated action;
- (2) indicating the general nature of the evidence; and
- (3) that unless the licensee or applicant within 20 days after service of said notice deposits in the mail a certified letter addressed to the board and containing a request for a hearing, the board will take the contemplated action and that failure to inform the board of a desire for a hearing will be deemed a waiver of a right to a hearing.

(c) If the licensee or applicant does not mail a request for a hearing within the time and in the manner required by this Section, the board may take the action contemplated in the notice.

History Note: Statutory Authority G.S. 89C-10; 89C-21 through 89C-23; 150A-3; 150A-23;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. December 1, 1984; January 1, 1982.

* * * * *



NORTH CAROLINA
STATE BOARD OF REGISTRATION
FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

October 9, 1986

3620 SIX FORKS ROAD
RALEIGH NC 27609

(919) 781 9499
(919) 781 9547

HOWARD M LOUGHLIN RLS
CHAIRMAN

GUY H CHEEK PE
VICE CHAIRMAN

GILBERT R ALLIGOOD PE, RLS
SECRETARY

LARRY D. BARNETT PUBLIC MEMBER
RONALD H CARPENTER RLS
CHARLES B LANGSTON PUBLIC MEMBER
BOBBY M LONG RLS
JAMES N POOLE PE
DANA H RUCKER PE, RLS

MONTGOMERY T SPEIR
EXECUTIVE SECRETARY

Mr. Bruce J. Novelen
Route 1, Box 901
Laurinburg, North Carolina 28352

Re: DECISION AND ORDER
Case No. V86-116

Dear Mr. Novelen:

Pursuant to the provisions of G. S. 1508 and Chapter 89C-21 of the General Statutes and Sections .1402 and .1403, Chapter 56, Title 21 of the North Carolina Administrative Code, by NOTICE dated September 12, 1986, you were notified that the Board has sufficient evidence which supports a charge of misconduct which, if not rebutted within twenty (20) days after receipt of NOTICE, will justify the Board in issuing a reprimand and levying a fine of \$300.00.

The general nature of the evidence upon which the Board based its action was as follows:

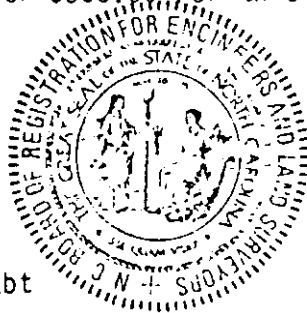
On July 2, 1986, a notarized written complaint was filed with the Board by Mr. Wright T. Dixon, Board Counsel, and the resulting investigation determined that Bruce J. Novelen did affix his seal and signature to plans entitled PROPOSED WOODRUN WATERLINE, STEWARTSVILLE TOWNSHIP, SCOTLAND CO., N. C., which plans were not prepared by Mr. Novelen nor were they prepared under his responsible charge and direct supervision.

Since twenty (20) days have lapsed since receipt of the Board NOTICE by you on September 17, 1986, the Board, by

Page 2

Mr. Bruce J. Novelen
October 9, 1986

their DECISION AND ORDER, hereby reprimands you and levies a fine of \$300.00 for this unprofessional act.



HML/abt

For the Board,

Howard M. Loughlin
Chairman

CERTIFIED MAIL - Return Receipt Requested