

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

L. PETER WOLF, P.E. and
WICK BUILDING SYSTEMS, INC.,
RESPONDENTS

:
:
FINAL DECISION AND ORDER
LS8605293A&E
:

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

L. Peter Wolf
4766 Highway KP
Route 2
Cross Plains, WI 53528

Wick Building Systems, Inc
6417 Odana Road
P.O. Box 8310
Madison, WI 53708

Examining Board of Architects,
Professional Engineers,
Designers and Land Surveyors
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 rights of a party aggrieved by this decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

The parties in this matter have agreed 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 hereby ORDERS:

Subject to the terms and conditions set forth in the stipulation attached to this order and incorporated by reference herein, these proceedings (Case No. LS8605293A&E) are hereby DISMISSED WITHOUT PREJUDICE.

This dismissal shall become effective upon notification by the Division of Enforcement at a regularly scheduled meeting of the Board that the terms of paragraph 3(a) of the stipulation have been met. If the Division of Enforcement cannot provide timely notification of compliance, this order of dismissal shall become null and void, and the matter shall be returned to the hearing examiner for further proceedings.

IT IS FURTHER ORDERED that if within six months from the date of dismissal of these proceedings no violations are cited in the state of Wisconsin against Wick Building Systems, Inc. for conduct violative of the terms of the memorandum of understanding referred to in paragraph 3 of the stipulation, the dismissal this action shall be WITH PREJUDICE.

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

PROFESSIONAL ENGINEERS SECTION

By: Edward P. Cranley
A Member of the Board

5.27.88
Date

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

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

L. PETER WOLF, P.E. and
WICK BUILDING SYSTEMS, INC.,
RESPONDENTS

STIPULATION

WHEREAS, the Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors commenced a disciplinary proceeding against L. Peter Wolf, P.E. on or about May 30, 1986, alleging, inter alia, improprieties relating to the submission of plans to the Wisconsin Department of Industry, Labor and Human Relations Bureau of Buildings and Structures;

WHEREAS, L. Peter Wolf, P.E. answered the complaint responding to the claims made against him and requesting that the Board withdraw and dismiss its complaint;

WHEREAS, the parties hereto wish to avoid further litigation and proceedings herein; the parties further agree and stipulate that the giving of consideration pursuant to the terms of this Stipulation and agreement does not constitute any admission of liability by L. Peter Wolf, P.E. or Wick Building Systems, Inc.;

NOW, THEREFORE, it is hereby stipulated between L. Peter Wolf, P.E. and Wick Building Systems by their undersigned representatives; and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This stipulation and the attached Final Decision and Order shall be presented directly to the Engineers Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors for its approval and adoption in resolution of the above-captioned proceedings.

2. The undersigned respondents are represented by counsel and acknowledge that they have been fully advised of their rights in this proceeding; They further acknowledge that they have been fully advised of the consequences of signing this agreement.

3. The respondents agree to the adoption of the attached Final Decision and Order by the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors dismissing the pending action (Case No. LS8605293A&E), subject to the following conditions:

a. Within forty-five (45) days from the date of this order, Wick Building Systems, Inc., with the assistance, cooperation, and participation of the State of Wisconsin shall present to the Department of Regulation and Licensing Division of Enforcement a memorandum of understanding on the responsibility of a design professional to report a non-compliant structure.

The memorandum of understanding shall be developed by a panel of four (4) design professionals; two members of the panel shall be named by Wick Systems, Inc., and two (2) shall be named by the Board. Wick shall be responsible for reimbursement (if any) of the panel members it designates. Wick may designate no more than one (1) of its employees as a panel member, and the Board may designate no more than one (1) of its members to the panel. It is anticipated that at least one individual from the Department of Industry, Labor and Human Relations Bureau of Buildings and Structures will serve on the committee as a Board designee. All members of the panel shall be licensed design professionals in the state of Wisconsin.

The specific issue that the panel shall address is as follows:

A design professional enters negotiations to work on an existing structure and submits plans to DILHR for approval as a part of those negotiations while under the understanding that a contractual relationship would ensue. What is the obligation of the professional towards DILHR

- i. if the existing structure contains code violations, and
- ii. the contractual relationship does not materialize.

In the event that the panel is unable to reach a consensus opinion, the panel shall submit a majority report together with dissenting views. Wick Building Systems shall execute the memorandum of understanding in compliance with the majority report.

b. The Board shall DISMISS the pending disciplinary proceedings upon receipt of written assurances from Wick Building Systems, Inc that it shall comply with the panel recommendations in the state of Wisconsin. This dismissal shall be WITHOUT PREJUDICE.

If within six months from the date of dismissal of the above-captioned pending action, no citations are issued in the state of Wisconsin which subsequently result in a finding of violation against Wick Building Systems, Inc. for conduct violative of the memorandum of understanding, the dismissal shall become WITH PREJUDICE. Upon proof of a violation that occurred within this six month period, the Division of Enforcement may, at its option, reopen the pending proceedings at the point that they are now, i.e., with complainant's Motion for Summary Judgment and Motion to Strike Affirmative Defenses before the hearing examiner.

c. Wick Building Systems, Inc. shall pay to the Department of Regulation and Licensing costs in the amount of one thousand, eight hundred dollars (\$1,800.00). This amount shall be paid to the Department within five (5) days of written notification to Wick Building Systems, Inc, (c/o Attorney Robert S. Soskin, 1800 Meritor Tower, 444 Cedar, St Paul, MN 55101) that the dismissal of this proceeding is with prejudice, pursuant to the terms of paragraph b, above.

4. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Hearing Examiner for further proceedings.

5. If the Board accepts the terms of this Stipulation, 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.

6. The Division of Enforcement joins L. Peter Wolf and Wick Building Systems, Inc. in recommending the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors adopt this Stipulation and issue the attached Final Decision and Order.

Wick Building Systems, Inc.

By: O. Lynn Bybee
O. Lynn/Bybee


4-20-88
Date

L. Peter Wolf
L. Peter Wolf, P.E.


4-20-88
Date

R. Bruce Griffin
R. Bruce Griffin,
Attorney for respondents

4/22/88
Date


Robert B. Soskin, of
Winthrop & Weinstein,
Attorneys for respondents

4/25/88
Date


Steven M. Gloc, Attorney
Division of Enforcement

4/26/88
Date

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.

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

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.

The date of mailing of this decision is June 1, 1988.

WLD:dms
886-490