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**STATE OF WISCONSIN
BEFORE THE LAND SURVEYOR SECTION OF THE EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, ENGINEERS, DESIGNERS AND LAND SURVEYORS**

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LUTHER J. HOFFMANN,
RESPONDENT.

:
:
:
:
:

FINAL DECISION
AND ORDER
LS0411301LSR

Division of Enforcement Case ## 01 LSR 020, 01 LR 025, 02 LSR 008, 02 LSR 009, 04 LSR 004, 06 LSR 003

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Luther J. Hoffmann
W1834 Beech Drive
Pulaski, WI 54162

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Land Surveyor Section
Examining Board of Architects, Landscape Architects, Engineers, Designers and Land Surveyors
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The Division of Enforcement filed a formal complaint in this matter on November 30, 2004. A number of prehearing conferences were held; the parties arrived at a tentative settlement that went before the Section at the February 2006 meeting. The Section did not approve the settlement as drafted. Several more prehearing conferences were held and a hearing was scheduled for May 24 and 25, 2007. The parties continued to negotiate and agreed on a revised settlement on May 22, 2007.

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Land Surveyor Section of the Examining Board of Architects, Landscape Architects, Engineers, Designers and Land Surveyors. The Section has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. The Respondent is Luther J. Hoffmann (born May 25, 1963) and is licensed as a land surveyor in the State of Wisconsin under license # 2254.
2. Respondent's most recent address on file with the Department of Regulation and Licensing is W1834 Beech Drive, Pulaski, Wisconsin 54162.
3. At all times relevant to this action, Respondent was working as land surveyor in and about Brown County, Wisconsin.
4. Respondent admits no wrongdoing in preparation and filing of the surveys cited in paragraphs 5, 10 and 14, but desires to settle this matter.

The Halbrook Survey

5. On or about July 6, 1995, Respondent produced a survey map of property located in Section 24, Township 22 North, Range 19 East, Town of Rockland, Brown County, for property identified on the map as the Halbrook property.
6. The map did not contain a certification that the survey was correct to the best of the Respondent's knowledge and belief.

7. The map represented that Respondent, or persons working at his direction, set certain monuments to determine the location of the parcel when in fact the represented monuments were not set.
8. The map represented that the Respondent, or persons working at his direction, tied the boundaries of the parcel to a government monument at the southeast corner of Section 24 and to a government monument at the south quarter corner of section 24. Those monuments had in fact been destroyed, and Respondent did not replace the destroyed monuments.
9. On November 7, 2001, the Division of Enforcement (DOE) received from the Brown County surveyor a written complaint alleging that Respondent had failed to file the Halbrook survey with the county surveyor within 60 days after producing the map, as required by Wis. Stat. § 59.45 (1) (b)

The Hart Road Survey

10. On or about February 5, 2000, Respondent produced a survey map of property located in Section 28, Township 21 North, Range 20 East, Town of Holland, Brown County, for property identified on the map as Hart Road. Respondent prepared the map at the request of he Town of Holland, which was considering widening the road.
11. The map does not contain a statement that the Respondent and his client agreed to exclude the work from the requirements of Wis. Adm. Code chapter A-E 7.
12. The map does not contain any information showing the relationship of the map to previously recorded surveys and conveyances of the land.
13. On December 13, 2001, DOE received from the Brown County surveyor a written complaint alleging that Respondent had failed to file the Hart Road survey with the county surveyor within 60 days after producing the map, as required by Wis. Stat. § 59.45 (1) (b).

The Kelnhofer Survey

14. On or about November 28, 2001, the Respondent produced a survey map of property located in Section 1, Township 24 North, Range 21 East, Town of Scott, Brown County, for property identified on the map as the Kelnhofer property.
15. On June 1, 2002, DOE received from the Brown County surveyor a written complaint alleging that Respondent had failed to file the Kelnhofer property survey with the county surveyor within 60 days after producing the map, as required by Wis. Stat. § 59.45 (1) (b).

The Romuald Survey

16. On or about May 3, 2000, the Respondent produced a survey map of property located in Section 13, Township 25 North, Range 22 East, Brown County, for property identified as Survey #99.1018.1.
17. The length of the north boundary as shown on the map did not agree with the length of that boundary as stated in the surveyor's certificate.
18. The length of the east boundary as shown on the map did not agree with the length of that boundary as stated in the surveyor's certificate.
19. The length of the south boundary as shown on the map did not agree with the length of that boundary as stated in the surveyor's certificate.
20. The length of the west boundary as shown on the map did not agree with the length of that boundary as stated in the surveyor's certificate.
21. The area of the parcel in square feet as shown on the map did not agree with the area of the parcel in square feet as stated in the surveyor's certificate.
22. The area of the parcel in acres as shown on the map did not agree with the area of the parcel in acres as stated in the

surveyor's certificate.

23. There was no information on the map itself identifying the person for whom the survey was made, although an owner's certification on an attached page named Arnold C. Romuald as the owner.
24. The distance shown on the map from the monument at the southeast corner of Section 13, Township 25 North, Range 22 East, to the point of beginning for the parcel did not agree with the distance between the same two points that was stated in the surveyor's certificate.
25. On June 15, 2002, the Respondent filed a Surveyor's Affidavit correcting the errors on the map.

The Hidden Creek Subdivision Plat

26. On or about March 13, 2006, Respondent submitted a preliminary map for the Hidden Creek subdivision to Brown County for review.
27. On or about March 28, 2006, Patrick Ford, Survey Coordinator for Brown County, reviewed the Hidden Creek map.
28. Mr. Ford found that there was a 300' error in closure on the boundary of the subdivision.
29. Mr. Ford found that 18 lots and two outlots in the subdivision did not close within required tolerances.
30. Mr. Ford found that lot 24 closed within the required tolerance only when corrected curve data was substituted.
31. Mr. Ford found that the computed square foot area shown for lots 50 and 51 differed from his calculations by more than the amount allowed by the Wisconsin Platting Manual.
32. Mr. Ford found that numerous block distances did not equal the total distance shown.
33. Mr. Ford found that total distances were missing from the east line of the plat.
34. Mr. Ford found that the distance on the northeasterly line of lot 46 was incorrect.
35. Mr. Ford found that the distances on the line between Lots 40 and 41 and Outlot 2 did not work out.
36. The map did not show previously recorded bearings and lengths.
37. Tangent bearings on C99, C105 and C126 were incorrect.
38. Chord bearings and delta angles on C150 and C151 were incorrect.
39. The sum of the delta angles for C124 and C125 did not equal C126.
40. The sum of the delta angles for C212 through C 216 did not equal C211.
41. Mr. Ford found that the final tangent bearing for C212 through 216 is different from the total of the intermediate delta angles.
42. Mr. Ford found errors in the names and lines of adjoining subdivisions.
43. The distance in the 13th call of the metes and bounds description was wrong.
44. Respondent made corrections and resubmitted the plat to Mr. Ford for review.
45. Mr. Ford reviewed the resubmitted plat on May 5, 2006.
46. Mr. Ford found that the sum of the delta angles for C124 and C125 still did not equal C126.
47. Mr. Ford found that the total distances still were not shown on the east line of the plat.

48. Mr. Ford found that the sum of the arc distances for C124 and C125 did not equal C126.

CONCLUSIONS OF LAW

1. The Land Surveyor Section of the Examining Board of Architects, Landscape Architects, Engineers, Designers and Land Surveyors has jurisdiction to act in this matter pursuant to Wis. Stat. § 443.12, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44 (5).
2. The Respondent, by virtue of the items cited in paragraphs 6 through 8 above, violated Wis. Stat. §§ 236.21 (1) and 236.34 (1) (d) and Wis. Admin. Code §§ A-E 7.05 (4) and (6), 7.08 (1) (c), 8.06 (1) and (2) and 8.09 (1).
3. The Respondent, by virtue of the items cited in paragraphs 11 and 12 above, violated Wis. Admin. Code §§ A-E 7.01 (2) (a), 7.03, 7.05 (3), 8.06 (1) and (2) and 8.09 (1).
4. The Respondent, by virtue of the items cited in paragraphs 17 through 24 above, violated Wis. Stat. § 236.34 (1) (d) and Wis. Admin. Code §§ A-E 7.05 (3) and (5), 7.06, 8.06 (1) and (2) and 8.09 (1).
5. The Respondent, by virtue of the facts cited in paragraphs 9, 13, and 15 violated Wis. Admin. Code § A-E 8.09 (1).
6. The Respondent, by virtue of the facts cited in paragraphs 26 through 48 violated Wis. Stats. §§ 236.15 (2), 236.20 (2), and 236.34 (1) (b) and Wis. Admin. Code §§ A-E 7.06 (2) through (4), 8.06 (1), and 8.09 (1).
7. The Respondent, by virtue of the items cited above, has demonstrated gross negligence in the practice of land surveying, contrary to Wis. Stat. § 443.12 (1)

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent Luther J. Hoffmann shall successfully complete six (6) semester credits of education in land surveying at an accredited institution of higher learning by August 1, 2008. Successful completion is defined receiving the grade of C or above in each course attempted. Respondent must submit to the Department Monitor by August 31, 2008, proof of successful completion in the form of verification from the institution providing the education. Respondent shall obtain pre-approval of one or more courses from the assigned case advisor before he takes the courses in fulfillment of this requirement.
2. The Wisconsin Land Surveyor Registration of Respondent Luther J. Hoffmann is hereby LIMITED for the period from September 1, 2007, through August 31, 2008, as follows:
 - a. Respondent shall practice land surveying, as the term is defined in Wis. Stats. §443.01(4), only under the direct supervision of another land surveyor licensed to practice in Wisconsin. This supervision shall be accomplished through Respondent's submitting all surveys to the Land Subdivision Plat Review Program in the Wisconsin Department of Administration (hereafter Program) for review.
 - b. Respondent is prohibited from providing any plans, drawings, survey maps, plats, or tie sheets for land surveying to anyone without first having had a representative of Program initial and date each page of any such document. A representative of Program shall initial and date each plan, drawing, survey map, plat, or tie sheet only after Program has determined that the document being reviewed fully complies with all state laws and administrative rules relating to the practice of land surveying in the State of Wisconsin.
 - c. Program shall report to the Section in writing on a quarterly basis regarding Respondent's performance. The report shall be received by the Department Monitor within 30 days of the end of the quarter and shall include information regarding the percentage of surveys on which Program found errors, the types of errors found, and Program's recommendation for further education or supervision.
3. Respondent shall be responsible for all costs and expenses incurred for compliance with the terms of this Order.
4. The terms and conditions of this Order may only be modified by further written Order of the Land Surveyor Section of the

Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors.

5. If the Section receives two or more quarterly reports indicating that the percentage of surveys on which Respondent has made errors exceeds ten percent (10%), the Section may require the Respondent and a representative of Program to appear personally before the Section to discuss Respondent's performance. At the conclusion of that meeting, the Section may modify the terms and conditions of this Order if the Section in its sole discretion concludes that protection of the public requires additional limitations.
6. Respondent may petition in writing for modification or removal of the limitations at any time after March 1, 2008, providing that he has met all education requirements and there are no unsatisfactory reports from Program.
7. On or before August 30, 2008, Respondent shall pay to the Department \$3,000.00 toward the costs of this proceeding, pursuant to Wis. Stat. § 440.22. More than one payment may be made. Checks should be made payable to the Wisconsin Department of Regulation and Licensing and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P. O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
FAX (608) 266-2264

8. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Section in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to submit timely any payment of the costs as ordered, or fails to comply with the ordered continuing education, Respondent's registration (#2254-08) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
9. Division of Enforcement cases 01 LSR 020, 01 LR 025, 02 LSR 008, 02 LSR 009, 04 LSR 004, and 06 LSR 003 are hereby closed.
10. This Order is effective on the date of its signing.

By: Ricky Van Goethem
A Member of the Section

7/31/2007
Date