

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER DENYING
	:	PETITION FOR REHEARING
	:	PURSUANT TO WIS. STAT. § 227.49(1)
MICHAEL KOTLAREK	:	
RESPONDENT	:	ORDER 0803128

Division of Hearings and Appeals Case No. SPS-13-0025
Division of Legal Services and Compliance Case File No. 12 LSR 001

TO: Michael Kotlarek
N80W28352 Keesus Rd
Hartland, WI 53029

PROCEDURAL HISTORY

The disciplinary proceedings in the above matter were initiated upon the filing of a Complaint by the Division of Legal Services and Compliance on June 14, 2013. On December 4, 2013, a Class 2 hearing, as defined by Wis. Stat. § 227.01(3) (b) was held in this matter.

On March 25, 2014, the Land Surveyor Section (Section) of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors issued a Final Decision and Order with Variance finding Michael Kotlarek (Respondent) guilty of unprofessional conduct and imposing discipline pursuant to Wis. Stat. § 443.12(1) in the form of a reprimand and limitations on Respondent's license to practice as a land surveyor in the state of Wisconsin.

By a Petition for Rehearing postmarked by the United State Postal Service on April 15, 2014, Respondent requested a rehearing of the above matter pursuant to Wis. Stat. § 227.49(1). Actual receipt of the petition by the Department of Safety and Professional Services cannot be definitely documented and it is possible the letter requesting rehearing was received within the statutory deadline. The Section therefore took jurisdiction to decide the petition.

On May 16, 2014, the Section considered Respondent's Petition for Rehearing and the Reply to the Petition filed on behalf of the Department of Safety and Professional Services, Division of Legal Services and Compliance by Attorney Sarah Norberg. The Section determined that Respondent failed to assert a material error of law or fact by the Section in the March 25, 2014 Final Decision and Order with Variance, which is required for a rehearing under Wis. Stat. §§ 227.49 (3) (a) and (b). Additionally, there was no showing by Respondent of the discovery of new evidence sufficiently strong to reverse or modify the Final Decision and Order with

Variance, and which could not have been previously discovered by due diligence, as otherwise required by Wis. Stat. §§ 227.49 (3) (c). The Section therefore makes the following:

ORDER

IT IS HEREBY ORDERED that the Petition for Rehearing of the Disciplinary Proceedings in DLSC Case Number 12 LSR 001 is DENIED.

This Order is effective on the date signed, as shown below.

Daniel Fedderly
Member

Date: 5/20/14

LAND SURVEYOR SECTION OF THE EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND
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