

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
MICHAEL H. VANHENKELUM	:	
RESPONDENT.	:	0003881

Division of Legal Services and Compliance Case No. 12 LSR 003

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

Michael H. VanHenkelum
1942 Mitten Ct.
East Troy, WI 53120

Professional Land Surveyor Section of the Examining Board of Architects, Landscape
Architects, Professional Engineers, Designers, and Professional Land Surveyors
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Professional Land Surveyor Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors (Section). The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Michael H. VanHenkelum (dob January 22, 1984) is licensed in the State of Wisconsin as a Professional Land Surveyor, having license number 2875-8, first issued on March 7, 2008 and current through January 31, 2016. Michael H. VanHenkelum's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1942 Mitten Ct., East Troy, WI 53120.

2. In November 2010, Respondent prepared two surveys of adjacent properties in Buffalo and Trempealeau Counties.

3. The County Surveyor for Buffalo and Trempealeau Counties (County Surveyor) reviewed Respondent's surveys upon filing and found the following discrepancies:

- a. The surveys excluded required land surveying work but Respondent did not include a note stating the parties had agreed to exclude the work. [A-E 7.01(2)(a).]
- b. Respondent delineated the property boundaries, at least partly, according to existing fence lines rather than according to the records of the register of deeds. [A-E 7.03.]
- c. The written descriptions included on the maps described the property's boundaries as having straight lines. However, the map showed the property boundaries followed an irregular road, which was not straight for over 4,700 feet. [A-E 7.04.]
- d. Numerous Public Land System Survey (PLSS) corner identifier labels required for parcel determination were incorrect. [A-E 7.05(4).]

4. On or about November 24, 2010, the County Surveyor for Buffalo and Trempealeau Counties (County Surveyor) contacted Respondent to request revised surveys to address the above noted discrepancies.

5. In December 2010 and January 2011, Respondent submitted sets of revised surveys, which contained only minimal revisions and did not correct the above noted discrepancies.

6. On or about January 13, 2011, the County Surveyor filed a complaint with the Standards Review Group of the Wisconsin Society of Land Surveyors.

7. On March 9, 2011, the Standards Review Group wrote to Respondent stating it found the surveys contained the following discrepancies:

- a. Respondent delineated the property boundaries according to existing fence lines rather than according to the records of the register of deeds. As a result, the lines as drawn encroached upon the adjacent property. [A-E 7.03.]
- b. The header descriptions falsely indicated the surveys were of the whole quarter-quarter sections. The surveys were actually only to the fence lines. [A-E 7.04.]
- c. The legal descriptions were not complete or accurate. For example, both the description heading and the metes and bounds description of one of the maps were incomplete. [A-E 7.04.]

d. Respondent was aware the County was remonumenting some of the PLSS corners but failed to utilize the remonumented corners for his final locations. [A-E 7.04.]

e. The unit identification of the scale was incorrect on both maps. [A-E 7.05(1).]

f. The surveys did not show the exact length and bearings of the boundaries because Respondent provided no dimensions to the corners used and did not show how the deeded boundaries compared to the local fence lines. [A-E 7.05(3).]

g. The bearings were not expressed with reference to an identifiable line of the public land survey. [A-E 7.05(2).]

8. In August 2011, Respondent submitted an additional set of revised surveys. However, the surveys did not contain the requested revisions or correct the above noted discrepancies.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Professional Land Surveyors Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors has jurisdiction to act in this matter pursuant to Wis. Stat. § 443.12, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.01(2)(a) by excluding required land surveying work without including a note which stated that an agreement to exclude required work had been made and the names of the parties making the agreement.

3. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.03 by failing to make a property survey in accordance with the records of the register of deeds as nearly as practicable.

4. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.04 by failing to provide complete descriptions defining land boundaries that provided unequivocal identification of lines or boundaries.

5. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.05(1) by failing to draw maps to a convenient scale.

6. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.05(2) by failing to express bearings with reference to a magnetic, true or other identifiable line of the public land survey.

7. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.05(3) by failing to show the exact length and bearing of the boundaries of the parcels surveyed.

8. By the conduct described in the Findings of Fact, Michael H. VanHenkelum violated Wis. Admin. Code § A-E 7.05(4) by failing to describe all monuments used for determining the location of the parcel and show by bearing and distance their relationship to the surveyed parcel and indicate whether such monuments were found or placed.

9. As a result of the above violations, Respondent Michael H. VanHenkelum is subject to discipline pursuant to Wis. Stat. § 443.12.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Michael H. VanHenkelum is REPRIMANDED.
3. The Land Surveyor license issued to Michael H. VanHenkelum (license number 2875-8) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent shall successfully complete ten (10) hours of education to be chosen from the following topics: boundaries and monuments, legal descriptions and Wisconsin mapping standards. The course(s) shall be offered by a provider pre-approved by the Board or its designee, and Respondent shall take and pass any exam(s) offered for the course(s).
 - b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Section or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - c. This limitation shall be removed from Respondent's license after satisfying the Section or its designee that Respondent has successfully completed all of the ordered education.
4. Within 90 days from the date of this Order, Respondent Michael H. VanHenkelum shall pay half of the COSTS of this matter in the amount of \$490.
5. Requests for approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. 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 timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 2875-8) may, in the discretion of the Section or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of the costs and completion of the education.

7. This Order is effective on the date of its signing.

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

by:


A Member of the Section

4-9-2015
Date

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL H. VANHENKELUM,
RESPONDENT.

:
:
:
:
:

STIPULATION

0003881

Division of Legal Services and Compliance Case No. 12 LSR 003

Respondent Michael H. VanHenkelum and the Division of Legal Services and Compliance,
Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the
Division of Legal Services and Compliance. Respondent consents to the resolution of this
investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily
and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has
the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by
subpoena;
- the right to testify on Respondent's 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 Respondent under the United States Constitution,
the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code,
and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has
been provided an opportunity to obtain legal counsel before signing this Stipulation.

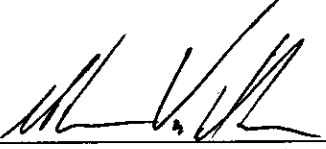
4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Professional Land Surveyor Section of the Examining Board of Architects, Landscape
Architects, Professional Engineers, Designers, and Professional Land Surveyors (Section). The
parties to the Stipulation consent to the entry of the attached Final Decision and Order without
further notice, pleading, appearance or consent of the parties. Respondent waives all rights to
any appeal of the Section's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Section, the parties agree not to contend that the Section has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Section adopt this Stipulation, the Section's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

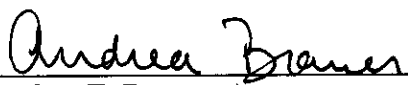
8. The Division of Legal Services and Compliance joins Respondent in recommending the Section adopt this Stipulation and issue the attached Final Decision and Order.



Michael H. VanHenkelum, Respondent
1942 Mitten Ct.
East Troy, WI 53120
License no. 2875-8

2/5/2015

Date



Andrea E. Brauer, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

2/9/2015

Date