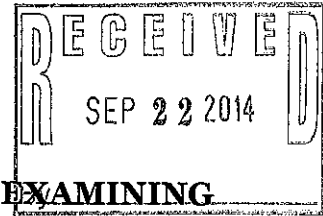


09-18

11/20/14



BEFORE THE ENGINEERING AND LAND SURVEYING EXAMINING BOARD OF THE STATE OF IOWA

IN THE MATTER OF:)
)
 Clarence Carrell, PLS)
 #07575)
)
 Respondent.)
)

CASE NO. 09-18

COMBINED STATEMENT OF CHARGES AND CONSENT TO A DISCIPLINARY CASE

Department of Commerce Professional Licensing Bureau

FILED 11/20/14 (Date)

DELSEB Board of Examiners

Signature, Executive Officer

A. STATEMENT OF CHARGES

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (2013).

2. Respondent is a licensed professional land surveyor in Iowa. The Board issued Respondent his license as a professional land surveyor by comity on March 12, 1975. Respondent's license is currently active and in good standing and will expire December 31, 2014.

3. In August 2009, the Board received a complaint alleging that Respondent failed to adhere to minimum land surveying standards. The Board submitted the resulting materials to a peer review committee. The committee concluded that Respondent failed to adhere to minimum land surveying standards. The Board asked Respondent for additional plats of survey and corner certificates for review. The Board supplied the committee with over 100 additional records to review, as supplied by Respondent. The committee concluded that Respondent's work product revealed patterns of noncompliance, multiple instances of noncompliance, and a mixture of serious and more technical violations of land surveying standards. Respondent made corrections to the plats and the committee has not yet completed its review of the corrections.

4. The peer review reports supplied to Respondent provide the detailed violations. In sum, Respondent was found to have violated laws and rules including, but not limited to, Iowa Code sections 354.4(1), (4), 355.4, 355.6(2)(a), (b), (3), numerous provisions in 355.7, 355.10, 355.11(1); and 193C IAC 6.1(4), (5), 11.2, 11.5(3)-(6).

5. The Board charges Respondent with failure to adhere to minimum land surveying standards, as provided in paragraph 4, as more fully set forth in the peer review reports, and as provided in Iowa Code sections 542B.21(2) and 542B.21(9).

6. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order.

7. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4. Respondent acknowledges that he had an opportunity to consult with legal counsel before signing this Consent Order.

8. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

9. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

10. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2013).

11. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2013). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

12. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand

The Respondent is reprimanded for failure to adhere to minimum land surveying standards.

B. Remedial Action

The Respondent has provided the Board revisions to numerous plats, as outlined in a report by the peer review committee. Because the original peer review committee has not yet reviewed Respondent's corrections, the Board, at the Board's expense, shall retain a new peer reviewer to conduct the review. When the newly retained peer reviewer has completed reviewing the corrections Respondent has previously provided

to the Board, Respondent shall take all steps necessary to make any additional corrections that are required and, once corrected to the peer reviewer's satisfaction (if necessary), to record the corrected plats and associated corner certificates. Given the large number of plats to correct, the Board shall expect respondent to complete this remedial work within 6 months of his receipt of the peer review comments on his proposed corrections.

C. Probation and Desk Review

Respondent's professional land surveyor license is on probation until further order of the Board. While on probation all plats of survey and associated corner certificates are subject to pre-release desk review by an Iowa licensed professional land surveyor in good standing and pre-approved by the Board on the following terms and conditions:

(1) Respondent shall submit for pre-release desk review all surveys and corner certificates he prepares after the date this Consent Order is fully signed until expressly released by the Board.

(2) An executed copy of the agreement shall be submitted to the Board prior to implementation of the agreement. The desk review agreement may be in letter form, but shall attach a copy of this Consent Order.

(3) The reviewing professional land surveyor shall perform a desk review of each plat of survey and corner certificate before the final documents are signed, submitted to the client, and recorded. The review shall be for facial compliance with minimum land surveying standards. The reviewer will not perform field work or warrant the accuracy of Respondent's work product, but will review field notes, calculations and any other documents reasonably needed. The reviewer shall prepare written comments on each survey's compliance with the minimum land surveying standards set forth in Iowa Code chapters 354 and 355.

(4) The reviewer's recommended revisions or corrections, if any, shall be incorporated into each plat of survey and corner certificate prior to releasing the survey to the client or recording the survey with county officials. A copy of the reviewer's comments shall be submitted directly to the Board from the reviewer. The comments do not need to be received by the Board prior to the completion of the survey. Respondent shall submit to the Board within ten days of written request copies of draft and final surveys and certificates which were issued subject to desk review.

(5) Once at least twenty plats of survey with associated corner certificates have been reviewed which qualify as division surveys under Iowa Code section 354.4, and which are not retracement surveys, and a period of at least six months of probation has expired, Respondent may petition the Board for release from this requirement. The

Board shall release Respondent from desk review of surveys if the draft surveys (i.e., those prepared prior to receiving the reviewer's comments) and review comments do not reveal serious deviations from minimum surveying standards. If the draft surveys or review comments do reveal serious deviations from minimum surveying standards, the review process shall continue until further order of the Board. Respondent may petition the Board for release from the desk review process after an additional ten surveys have been reviewed.

(6) This settlement shall not preclude the Board from filing additional charges if one or more of the surveys or corner certificates subject to desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or surveys subject to desk review shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.


(7) Given Respondent's need to secure an approved reviewer to stay in business once this Consent Order is accepted by the Board, the effective date of the desk review portion of the agreement shall be twenty (20) days following the date this Order is signed by the Board.

D Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of land surveying.


AGREED AND ACCEPTED:

The Respondent


Clarence Carrell, PLS

8-22-14
Date

**The Iowa Engineering and Land
Surveying Examining Board**


By: Jerry Shellberg, PE, PLS, Chair

11/20/14
Date