

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920

RECEIVED

AUG 19 2019

IN THE MATTER OF:

PHILIP S. MANCINI JR.
PE, PLS,

RESPONDENT.

Division of Legal Services

DBR No. 19DP001

CONSENT ORDER

It is hereby agreed by and between the Division of Design Professionals of the Rhode Island Department of Business Regulation ("Department"), Board of Registration for Land Surveyors ("Board") and Philip S. Mancini Jr. ("Respondent") as follows:

1. Respondent is a professional land surveyor registered with the Board, license number LS.0001591.
2. At its December 12, 2017 Board meeting, the Board reviewed a land survey prepared and stamped by the Respondent for a certain property located in Narragansett (the "Survey").
3. Upon review, the Board identified several issues with the Survey's compliance to the applicable standards.
4. Upon the Board's request of January 29, 2018, the Respondent submitted a modified Survey to the Board to attempt to address the above-mentioned deficiencies. During the February 13, 2018 Board meeting at which the Respondent appeared, the Board informed the Respondent that his modifications to the Survey were insufficient to bring the Survey into compliance and informed him specifically what needed to be done to bring the Survey into compliance with the applicable standards.
5. The Respondent submitted another modified Survey during the month of June 2018. However, upon review, the Board determined that the Respondent had not followed their detailed instructions and determined the Survey to be noncompliant with current standards and informed the Respondent of the same on July 11, 2018.
6. The Board determined that a number of deficiencies still remained after two versions of the revised Survey were submitted, including but not limited to the following deficiencies:

- A. The Survey lacked sufficient monumenting because it contained boundary points farther than five hundred (500) feet from monumentation.
 - B. The Survey did not include a reference bearing that showed the date of observation.
 - C. The Survey did not include easements of record and usage.
7. The Respondent did not reply to the Board's July 11, 2018 letter requesting the Survey be revised to address the Board's compliance concerns by August 7, 2018. Only after the Board sent another letter on November 7, 2018 did the Respondent respond but said response failed to include a revised Survey to address the compliance concerns. On December 26, 2018, the Board sent the Respondent another letter requesting a revised Survey compliant with the applicable standards be submitted by February 12, 2019. To date, the Respondent has failed to submit a Survey that complies with the applicable standards.
 8. On June 10, 2019, the Director of the Department issued an Order to Show Cause Why Disciplinary Action Should Not be Imposed. A Pre-Hearing Conference was held on July 11, 2019.
 9. This matter is governed by Chapter 5-8.1 of the Rhode Island General Laws entitled "Land Surveyors" and the regulations promulgated by the Department thereunder, 435-RICR-00-00-1, entitled Board of Registration for Professional Land Surveyors (referred to collectively as the Land Surveyor Regulations).
 10. Pursuant to R.I. Gen. Laws § 5-8.1-15, the Department may revoke, suspend, limit the scope of practice, publicly censure, impose a fine up to \$1000 per violation, and/or order attorneys' fees against any holder of a certificate of authorization any of the following causes:
 - A. "Practicing land surveying in this state in violation of the standards of professional conduct established by the board and approved by the director" (R.I. Gen. Laws § 5-8.1-15 (b)(3));
 - B. "[R]ecklessness, gross negligence, misconduct, or incompetence in the practice of land surveying" (R.I. Gen. Laws § 5-8.1-15 (b)(4));
 - C. "Failure to furnish the Department and/or board or any person acting on behalf thereof in a reasonable time such information as may be legally requested by the department and/or board" (R.I. Gen. Laws § 5-8.1-15 (b)(9)).
 11. Section 1.10(c) of the Regulations states, "[i]f jurisdiction exists, the Board shall conduct whatever investigation it deems appropriate, including . . . instruction to respond within such time as the Board determines."
 12. Section 1.8(A)(2) of the Regulations states, "[a]ll persons . . . registered under R.I. Gen. Laws § 5-8.1-1, et seq. are charged with having knowledge of . . . these Rules of Professional Conduct, and shall be deemed to be familiar with their provisions."

13. Section 1.8(B)(2) of the Regulations states, “a registrant shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by Professional Land Surveyors of good standing, practicing in the same locality.”

14. Section 1.8(C) of the Regulations provides:

(1) “Registrants shall approve, seal and certify only those plats, documents, and reports that conform to current land surveying standards adopted by this Board, which safeguard life, health, and property, and to promote the public welfare.”

(5) “Application of the seal and signature indicates acceptance of responsibility by the registrant sealing said documents for all work shown thereon unless clearly indicated in writing on each sheet.”

(6) “The failure to conform to the above requirements shall constitute the failure to seal a document.”

15. The following specific technical rules apply to the deficiencies in the Survey outlined above:

A. Section 1.9.2(A)(4)(b)(1): “[m]onuments shall be established at no less than seventy percent (70%) of all corners in the boundary which define a deflection angle that exceeds sixty degrees (60°), and no point on a boundary shall be located more than five hundred (500) feet from a monument.”

B. Section 1.9.7(A)(4): “[w]henver a plan for any type of survey is prepared, it shall include the following . . . North arrow and notation as to its reference . . . shall be shown on each sheet. Magnetic bearings shall show the date observation.”

16. Section 1.9.7(A)(6): “[w]henver a plan for any type of survey is prepared, it shall include the following . . . [s]treets, roads, easements of record and/or usage . . . [r]eferences to State Highway Plats shall be included, where applicable.”

C. Section 1.9.7(B)(1): “when a plan for a Boundary Survey is prepared, it shall include the following . . . [a]ll pertinent bearings or angles, linear dimensions and areas shall be indicated to the accuracy of the measurements observed. At least one course of the survey shall be represented with a bearing referenced to the meridian.”

D. Section 1.9.7(B)(9): “[m]onumentation of the parcel being surveyed and monumentation of public ways that provide useful reference orientation shall be indicated. External reference monumentation utilized in conducting the survey shall be indicated. Monument notations shall include the character, type, and condition of the monument and shall indicate whether the monument was “found” or “set.” If known, the origin of found monuments shall be shown.”

E. Section 1.9.7(C)(2): “[a]ll plans, reports, or other products prepared by the PLS shall bear a certification which complies with the following . . . [i]nset as applicable: Data Accumulation Survey.”

17. To effect a timely and amicable resolution of this matter without an administrative hearing, the Respondent agrees to pay a fine of \$500 payable to “General Treasurer, State of Rhode Island” on the date of this Agreement.

18. Respondent voluntarily waives his right to an administrative hearing pursuant to R.I. Gen. Laws § 5-84-5 and § 5-8.1-15 and further waive any right to appeal to Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*

19. If Respondent fails to abide by the requirements of this Consent Agreement, the Board and/or the Department may initiate further administrative proceedings against the Respondents.

For the Board:



Signature

Date: 6 AUG 2019

Michael J. McCormick, PLS
Board Chair

For the Respondent:



Signature

Date: 8/8/2019

Philip S. Mancini Jr.

RECOMMENDED BY:



Signature

Date: 8/26/19

Catherine R. Warren, Esq.
Hearing Officer

ORDER

I have read the Final Consent Order in the above captioned matter and I hereby take the following action:

Approve

Reject

Dated: 9/3/19



Elizabeth M. Tanner, Esq. DBR Director

NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12

THIS ORDER CONSTITUTES A FINAL ACTION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL AGENCY ACTIONS ARE GENERALLY APPEALABLE TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT IS HEREBY NOTIFIED THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, ANY SUCH RIGHT OF APPEAL HAS BEEN WAIVED.

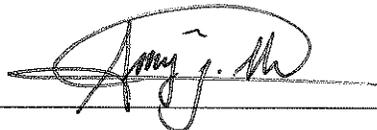
CERTIFICATION

I hereby certify on this 3rd day of September 2019, that a copy of this Consent Order was sent by first class mail, postage prepaid, to:

Frank Mastrati, Jr., Esq.
McDonald, Ferdinandi & Mastrati
1441 Park Ave
Cranston, RI 02920

AND BY E-MAIL TO:

1. Respondent's Counsel, Frank Mastrati, Jr., Esq., fmastrati@fmlplaw.com
2. Catherine Warren, Esq., Hearing Officer
3. Jovonna Bennett, PLS Board Administrator
4. Amy Stewart, DBR Senior Legal Counsel



A handwritten signature in cursive script, appearing to read "Amy J. Stewart", is written over a horizontal line.