

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BUILDING, DESIGN AND FIRE PROFESSIONALS
JOHN O. PASTORE CENTER, BLDGS 68-69
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND 02920**

<p>IN THE MATTER OF:</p> <p>NARRAGANSETT ENGINEERING, INC., AND KAMAL HINGORANY, PE, PLS,</p> <p>RESPONDENTS.</p>	<p style="text-align:center">DBR No. 18DP003</p>
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CONSENT AGREEMENT

The Department of Business Regulation (“Department”) enters into this Consent Agreement with Narragansett Engineering, Inc. (“the Firm”) and Kamal Hingorany, PE, PLS (collectively “Respondents”) to resolve the above-captioned matter pursuant to its authority under R.I. Gen. Laws § 42-35-9(d) and § 5-84-5.

It is hereby agreed by and between the Department and the Respondents that:

1. Kamal Hingorany has been registered as a Professional Engineer (“PE”) in Rhode Island since 1979, License No. PE.0004089. Kamal Hingorany has also been registered as a Professional Land Surveyor (“PLS”) in Rhode Island since 1995, License No. LS.0001916. Kamal Hingorany is Vice-President of the Firm.
2. Kamal Hingorany serves as the PE in responsible charge of the Firm’s Engineering Certificate of Authorizations (“COA”) (PE.0005130-COA). Kamal Hingorany and Neal Hingorany¹ currently both serve as the PLS in responsible charge of the Firm’s Land Surveying COA (LS.000A38-COA). The Firm had an Architect COA from August 2, 2006, until December 31, 2016 (ARC.0014406-COA), which identified Achla Bahl Madan as the architect in responsible charge (RI License ARC.0001772 in effect from May 31, 2006 to December 31, 2017).
3. The Firm no longer employs an architect and does not employ a landscape architect.

¹ Neal Hingorany, previously a Land Surveyor in Training (RI LSIT 201001), was registered as a PLS effective December 5, 2017 (RI LS.002515). Neal Hingorany is President of the Firm.

4. The Division of Building, Fire and Design Professionals (“Division”) at the Department contains, among other things, the state registration/licensing boards for Architects, Landscape Architects, Professional Engineers and Professional Land Surveyors.
5. On or about March 23, 2016, the Board of Examination and Registration of Architects (“Architect Board”) received an incomplete set of plans dated January 2, 2016, (“January 2016 Plans”) for the renovation of an old mill at 91 Hartford Avenue, Providence, RI 02909, which involved interior rehabilitation and conversion to apartment dwelling units. Notably, the January 2016 Plans did not contain any stamps from an architect. As a result, the Architect Board began an investigation into unlicensed architecture activity by the Firm.
6. During its investigation, the Architect Board referred the Complaint to the Board of Registration for Professional Engineers (“PE Board”) and the Board of Registration for Professional Land Surveyors (“PLS Board”), given that Kamal Hingorany is both a PE and PLS.
7. There is no record of prior disciplinary actions against Kamal Hingorany or the Firm within the Division’s records. However, Kamal Hingorany has previously entered into two consent agreements with the Department of Environmental Management (“DEM”) relative to his license as an ISDS designer.

Applicable Law

8. R.I. Gen. Laws § 5-1-2(5) defines the “practice of architecture” as rendering or offering to render those services, described as follows:
 - (i) Rendering or offering to render services in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within and surrounding the buildings, which have as their principal purpose human occupancy or habitation;
 - (ii) The services referred to in this section include, but are not limited to, planning, providing preliminary studies, designs, drawings, specifications, and other technical submissions, the administration of construction contracts and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects;
 - (iii) The practice of architecture does not include the practice of engineering as defined in § 5-8-2(f)(1), but a registered architect may perform any engineering work that is incidental to the practice of architecture.

9. R.I. Gen. Laws § 5-1-7 provides that no individual or firm shall “practice or offer to practice architecture in this state” unless that person or firm holds a valid registration/COA issued pursuant to Chapter 5-1 or is specifically exempted from holding a registration/COA.
10. For Architects, R.I. Gen. Laws § 5-1-12(a) and § 1.7(A) of the Architect Regulation, 415-RICR-00-00-1, set forth the rules for the application of the stamp/seal and signature. Digital stamps, signatures and dating is permitted. “The architect shall use or electronically submit the seal only if in responsible control of the project.” Architect Regulation § 1.7(A)(4).
11. R.I. Gen. Laws § 5-1-14(2) provides that nothing in Chapter 5-1 of the Rhode Island General Laws shall be construed to prohibit: “[a] registered professional engineer doing architectural work as may be incident to the practice of his or her engineering profession, not to exceed thirty-five thousand (35,000) cubic feet of enclosed space, provided all drawings for that construction are signed by the author of the drawing with his or her true appellation as a ‘registered professional engineer’ without the use in any form of the title ‘architect’.”
12. R.I. Gen. Laws § 5-1-15.1(c) provides, in relevant part, that a firm may practice architecture through one or more registered architects “provided that the registered architect or architects are in direct control of the practice or exercise responsible control of all personnel who act in behalf of the firm in professional and technical matters; and provided, that the firm has been issued a certificate of authorization by [the Architect] board.”
13. R.I. Gen. Laws § 5-8.1-2(11) defines the “practice of land surveying” as:

[A]ny service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to perform the act of measuring and locating lines, angles, elevations, natural and manmade features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and their subdivisions, including the topography, alignment, and grades of streets and for the preparation of maps, record plats, field note records and property descriptions that represent these surveys.
14. For Professional Land Surveyors, R.I. Gen. Laws § 5-8.1-12(a) and §§ 1.6 & 1.8 of the Rules and Regulations for Professional and Surveying, 435-RICR-00-00-1 (PLS

Regulation), set forth the rules of the use of the seal/stamp. "Stamp" means "the instrument used to apply a seal evidencing registration of a Professional Land Surveyor."

15. The PLS Regulation sets forth the following requirements for use of seal/stamp:
 - a. § 1.6(A)(2) – "A digital facsimile of the seal may be used in lieu of the hand stamp."
 - b. § 1.6(A)(3) – "The seal shall be applied on documents so as to produce legible reproduction on all copies or prints made from the documents. After application of the seal, the Professional Land Surveyor's name shall be hand signed in ink across the imprinted seal, and dated below the seal. Electronic signature and dating is not permitted."
 - c. § 1.6(A)(4) – "The Professional Land Surveyor shall imprint the seal only if in responsible control of the project."
 - d. § 1.8(C)(2) of the PLS Regulation states:

The application of a Professional Land Surveyor's seal shall indicate that the registrant has exercised direct control and personal supervision over the work to which the seal is affixed. Therefore, no registrant shall affix a name, seal, or certification to a plat, drawing, specification, design, or other work constituting the Practice of Land Surveying which has been prepared by an unregistered or uncertified person or firm unless such work was performed under the direct control and supervision of the Professional Land Surveyor.

16. § 1.9 of the PLS Regulation sets forth the procedural and technical standards for surveying in Rhode Island. In particular, § 1.9.7 of the PLS Regulation sets forth the plan requirements for all types of surveys.

17. R.I. Gen. Laws § 5-8-2(f) defines the "practice of engineering" as:

Any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to services or creative work such as consultation, investigation, evaluation surveys, planning and design of engineering systems, and the supervision of construction for the purpose of assuring compliance with specifications; and embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects in which the public welfare or the safeguarding of life, health, or property is concerned.

18. R.I. Gen. Laws § 5-8-14 and § 1.5(F) of the Rules and Regulations for Professional Engineering, 430-RICR-00-00-1 (PE Regulation) set forth the rules for the use of the seal/stamp for professional engineers. Unlike professional land surveyors, professional engineers may use both electronic stamp/seal and signatures. However, § 1.5(F)(2) of the PE Regulation states: "It is incumbent on the Professional Engineer to ensure their electronic signatures and seals are properly encoded to avoid misuse by other than the licensed engineer."
19. R.I. Gen. Laws § 5-84-5(a) & (b) provides that the Director of the Department may impose a fine of up to two thousand five hundred dollars (\$2,500) for each offense of unregistered activity under the jurisdiction of architecture, engineering, land surveying and/or landscape architecture.
20. R.I. Gen. Laws § 5-84-6, provides that the Director of the Department has authority to order a person or entity to cease and desist any unregistered activity under the jurisdiction of professional engineering, professional land surveying, architecture, and/or landscape architecture.

Results of the Investigation

21. The investigations by the Architect Board and PLS Board revealed:
 - a. The January 2016 Plans submitted by Respondents' client to the City of Providence ("City") did not contain a stamp from a registered architect despite being required for architectural design for a commercial building.
 - b. Subsequent sets of architectural plans for the 91 Hartford Ave project submitted to the City were co-stamped with Kamal Hingorany's PE stamp and Ms. Madan's Massachusetts Architect stamp, without specific explanations as to what work was completed by each individual within their area of expertise.
 - c. Respondents failed to recognize that Ms. Madan's Massachusetts Architect stamp was applied to plans submitted to the Architect Board and City officials.
 - d. Respondents statements to the Architect Board indicated that Neal Hingorany had the most knowledge of the architectural work and building code review, followed by Kamal Hingorany, and lastly Ms. Madan, the architect.
 - e. There are multiple versions of survey plans related to the 91 Hartford Ave Project:
 - (1) A sheet titled "Concept Layout Plan" dated 01/01/16 and submitted to the City (City Plan Approval Stamp dated 10/31/16), contains Kamal Hingorany's PLS Stamp, digital signature and a Class I certification.

Respondents stated that they were unaware that their client submitted this survey to the City until the record was produced during the instant matter. This plan includes a striping layout for proposed parking spaces which encroaches on the existing right of way easement and a few ADA improvements within the striped parking area.

- (2) Respondents submitted a plan with sheet title "Existing Survey Plan" as Exhibit A to the PLS Board. This version contains Kamal Hingorany's PLS Stamp and digital signature, an additional "DRAFT FOR REVIEW" notation over the stamp and signature, and an altered classification from Class I to IV. Respondents stated that they were unable to find sufficient survey monumentation for a Class I metes and bounds survey and note in this plan that "all information is approximate." This plan does not include the striping layout for proposed parking spaces. The reference to the easement book and page in the text of the plan is missing the number "780" which appears in the other versions of the plan described herein.
- (3) Respondents submitted a plan with sheet title "Concept Layout Plan" as Exhibit B to the PLS Board, dated 05/01/16 with Kamal Hingorany's PE Stamp, signature, which is most similar to plan described above in ¶ 22(e)(1). Exhibit B contains surveying elements but fails to identify the land survey that the information was sourced from and does not contain a PLS stamp. This plan also includes proposed "parking layout for striping only" and a few ADA improvements within the striped parking area. A similar version of Exhibit B with the PE Stamp was submitted to the City on or about 06/01/2016.
- (4) Respondents submitted a plan with sheet title "Concept Parking Plan Rev. 1" as Exhibit C to the PLS Board. It contains Neal Hingorany's stamp, digital signature and date of 09/05/18, listing updated canopy calculations in the description of revisions. It is identified as a "Compilation Plan Class IV."

22. It is the Department's position that:

- a. Respondents failed to comply with the applicable stamp/seal/signature statutes and regulations for PE, PLS and Architects by prematurely stamping, signing and dating incomplete plans, by not conspicuously indicating draft documents (i.e. "not for construction"), by digitally signing and dating PLS plans, and by using a Massachusetts architect registration stamp on plans for a project located in Rhode Island.

- b. Respondents failed to exercise control over their professional work product by giving these improperly labeled plans/surveys to their client, who submitted the plans/surveys to the City.
- c. Respondents engaged in the practice of architecture without a registration by preparing and stamping plans prior to January 2017, when Ms. Madan, the architect employed by the firm, was not acting in responsible charge of the project as required. This project primarily involved architectural work for a building that exceeded 35,000 cubic feet, and therefore, the engineering exception in R.I. Gen. Laws § 5-1-14 does not apply.
- d. Kamal Hingorany's 01/01/16 survey plan failed to conform to the Procedural and Technical Standards for the Practice of Land Surveying² in effect at the time for the preparation of a stamped Class 1 survey plan including, but not limited to, the plan requirements set forth in § 3.02(C)(1)(e), (g), (h), (j), (k), (l), (n), (o), (q) and (u).

Conditions

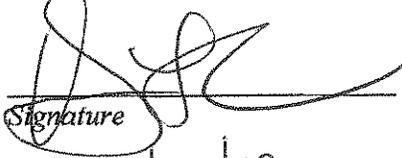
23. To affect a timely and amicable resolution of this matter without an administrative hearing, the parties agree as follows:
- a. Kamal Hingorany shall correct the deficiencies in his original survey plan with PLS stamp dated 01/01/16, that was approved by the City on October 31, 2016, by conducting any necessary additional field work/research and preparing a Class 1 survey plan of the 91 Hartford Ave project, whether or not the work is paid for by Respondents' client. The Class 1 survey must comply with the current PLS Regulation requirements set forth in § 1.9 of the PLS Regulation. The survey plan must be submitted to the PLS Board for review within ninety (90) days of the signing of this Consent Agreement by all parties.
 - b. Respondents shall pay an administrative penalty of one-thousand dollars (\$1,000) for the use of digital signatures and digital dates on the PLS stamped survey plans and for prematurely applying PLS stamps, signatures and certifications to draft plans.
 - c. Respondents shall pay an administrative penalty of three-thousand dollars (\$3,000) for unlicensed architecture activity.

² The November 25, 2015 amendment to the Professional Land Surveyor Regulation incorporated the Procedural and Technical standards for the Practice of Land Surveying, Effective April 1, 1994, as Appendix A. The 1994 Procedural and Technical Standards applied to all projects completed prior to or in effect on January 1, 2016. They were phased out and replaced by section 9 of the Regulation during a six-month transition period in 2016. That version of the Regulation and Appendix A can be found here:
<https://risos-apa-production-public.s3.amazonaws.com/SBRPLS/8305.pdf>

- d. Respondents will implement new office procedures to ensure that:
 - (1) Stamps, signatures and dates are only applied by the person in responsible charge in accordance with the applicable laws and regulations for professional engineers and professional land surveyors.
 - (2) All drafts are conspicuously labeled and do not contain any stamps, seals or signatures.
 - (3) All final survey plans are stamped and certified by the PLS in responsible charge of the project.
 - (4) The correct stamp matching the name, profession and state of registration of the person in responsible charge is applied to all final plans.
 - e. Respondents will cease and desist from the unlicensed practice of architecture.
 - f. Respondents will not engage in professions for which the firm and its principals are not registered.
 - g. Respondents acknowledge that it is their responsibility as professional land surveyors, and Kamal Hingorany's responsibility as a professional engineer to ensure that all work conforms to the applicable laws, codes and professional standards irrespective of municipal standards or requirements.
24. The Department and Respondents agree that this Consent Agreement and its terms represent the final determination of this matter.
 25. *Waiver of Hearing and Appeal.* By agreeing to enter into this Consent Agreement, Respondents knowingly and voluntarily waive any right to an administrative hearing and waive any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.
 26. *Enforcement.* If Respondents fail to comply with any term or condition of this Consent Agreement within any applicable time period set forth herein, Respondents will be in violation hereunder and the Department shall be entitled to immediately take enforcement or other action in accordance with applicable law.
 27. *Compliance; Laws.* Compliance with the terms of this Consent Agreement does not relieve Respondents of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.
 28. *Notification to NCEES and NCARB.* This Consent Agreement will be reported to the National Council of Examiners for Engineers and Surveyors (NCEES) for the PLS related

violations and to the National Council of Architectural Registration Boards (NCARB) for the unlicensed practice of architecture.

For the Department:


Signature

Date: 9/24/19

Donna L. Costantino, MBA
Associate Director

For the Respondents:


Signature

Date: 9-17-19

Kamal Hingorany, PE, PLS
Vice-President,
Narragansett Engineering, Inc.


Signature

Date: 9/18/19

Kenneth R. Tremblay, Esq.
Counsel for Respondents

CERTIFICATION

I hereby certify on this 25th day of Sept. 2019, that a copy of the within Consent Agreement was sent by first class mail, postage prepaid, to:

Kenneth R. Tremblay, Esq.
181 Chase Rd
PO Box 52
Portsmouth, RI 02871

AND BY E-MAIL TO:

1. Kenneth R. Tremblay, Esq., ken@legal.necoxmail.com
2. Donna Costantino, DBR Associate Director
3. Dawne Broadfield, DBR Architect Board Executive
4. Jovonna Bennett, DBR PLS Board Executive
5. Virginia Porter, DBR PE Board Executive
6. Amy Stewart, Esq., DBR Senior Legal Counsel



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