

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

Department of Business Regulation
Legal Section

APR 11 2019

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IN THE MATTER OF: :
 :
MATTHEW MCGEORGE, :
 :
RESPONDENT. :

DBR NO. 18DP006

CONSENT AGREEMENT

The Board of Registration for Professional Land Surveyors (“PLS Board”) and the Board of Examination and Registration of Architects (“Architect Board”) (collectively “the Boards”), which are part of the Division of Building, Design and Fire Professionals at the Department of Business Regulation (“Department”), enter into this Consent Agreement with Matthew McGeorge (“Respondent”) 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 Boards and the Respondent that:

1. Respondent has been registered as an architect in Rhode Island since 2006, License No. ARC.0003343.
2. McGeorge Architecture Interiors, LLC, (“firm”) has had a Certificate of Authorization (LLC74-COA) since 2010, which permits it to practice or offer to practice architecture as a firm in Rhode Island.
3. Neither Respondent nor his firm are registered to practice land surveying in the state of Rhode Island.

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4. On or about April 29, 2014, Respondent filed an administrative subdivision application with the Town of East Greenwich ("Town") which included a plan ("Subject Plan") to document the conveyance of part of Respondent's Neighbor's property to Respondent and his spouse. The investigation revealed that:

- a. Respondent contacted a Professional Land Surveyor who had prepared a survey in 2010 for Respondent's Neighbor's lot. Respondent asked this Professional Land Surveyor if he could use his Neighbor's 2010 survey for his administrative subdivision application. The Professional Land Surveyor clearly stated in writing to Respondent that Respondent could not use the Professional Land Surveyor's work and why that 2010 survey was insufficient for the purposes of the administrative subdivision application. The Professional Land Surveyor offered to provide a quote of the costs to prepare the survey necessary for the administrative subdivision.
- b. Respondent did not hire this Professional Land Surveyor nor any other professional land surveyor to prepare the survey of the lots involved in his application for an administrative subdivision.
- c. Nevertheless, Respondent identified this same Professional Land Surveyor on the administrative subdivision application form.
- d. Respondent prepared the Subject Plan himself and included the Professional Land Surveyor's 2010 survey of his Neighbor's parcel as an exhibit. The Subject Plan also contained Respondent's firm's architectural title block and the copy of the Subject Plan provided to the PLS Board was stamped and signed by Respondent with his architect stamp.

5. The PLS Board received a copy of the Subject Plan as a complaint alleging that Respondent performed unlicensed land surveyor work. The PLS Board notified the Architect Board that it was investigating one of its registrants for unlicensed land surveying activity.

6. Respondent attended the PLS Board meeting on September 11, 2018. After reviewing Respondent's statements and all information gathered in the investigation, the PLS Board concluded that the sole deed recorded on September 23, 2014, and the accompanying Subject Plan were insufficient to document the change in boundary lines resulting from the transfer of part of

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the Neighbors' parcel to Respondent and his spouse. Accordingly, on November 1, 2018, the PLS

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Board asked Respondent to take the following actions:

- a. Retain a licensed professional land surveyor to conduct and prepare an administrative subdivision survey to be submitted to the Town and notify the PLS Board of the name of that surveyor within 30 days.
- b. Have the land surveyor prepare descriptions for three (3) deeds:
 - (1) The parcel to be conveyed by the Neighbors to Respondent and his spouse;
 - (2) A new description of Respondent's parcel; and
 - (3) A new description of the Neighbors' parcel, if necessary.
- c. Have an attorney put these descriptions into deed form for recording at the appropriate time.
- d. Submit the plan and deeds to the PLS Board for review.

7. The Architect Board reviewed the complaint information forwarded from the PLS Board and met with Respondent at their November 19, 2018 meeting to discuss: 1) why he used the Surveyor's plans when he was expressly told not to; and 2) why he stamped the plans with his architect stamp when the work did not involve architecture.

8. Respondent timely complied with the PLS Board's request and hired a professional land surveyor to prepare the requested documents.

9. On March 12, 2019, the PLS Board reviewed Respondent's submission of the requested administrative subdivision and deeds. The PLS Board found all documents to be satisfactory and directed Respondent to record everything with the Town. The PLS Board requested that Respondent submit copies of the recorded deeds and plan to the PLS Board by June 1, 2019.

10. 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

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grades of streets and for the preparation of maps, record plats, field note records and property descriptions that represent these surveys.

11. 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.

12. R.I. Gen. Laws § 45-23-32(1) defines “Administrative Subdivision” as: “Re-subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of streets. The re-subdivision only involves divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.”

13. R.I. Gen. Laws § 5-84-5(a) provides: “In addition to any other provision of law, if a person or business practices or offers to practice architecture, engineering, land surveying, or landscape architecture in the state without being registered or authorized to practice as required by law, the boards within the division may recommend that the director of the department of business regulation issue an order imposing a fine.”

14. R.I. Gen. Laws § 5-84-5(b) provides that: “A fine ordered under this section may not exceed two thousand five hundred dollars (\$2,500) for each offense.”

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15. The Architect Board Regulation, 415-RICR-00-00-1, sets forth the standards of Professional Conduct in § 1.12(E). Section 1.12(E)(6) provides: “A registered architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.”

16. R.I. Gen. Laws § 5-1-13(a) authorizes the Director of the Department to discipline an architect’s registration, including by not limited to imposition of an administrative fine (up to \$1000 for each violation), public censure, reprimand, censure in writing, suspension or revocation for any of the reasons listed in R.I. Gen. Laws § 5-1-13(b), which include

- a. § 5-1-13(b)(6): “violation of any of the provisions of this chapter or chapter 5-84.”
- b. § 5-1-13(b)(11): “In conjunction with any violation of subdivisions (1) – (9) of this subsection, any other conduct injurious to the reputation of the architectural profession.”

17. The PLS Board’s position is that the preparation of survey plans for an administrative subdivision constituted the unlicensed practice of land surveying in the state of Rhode Island in violation of R.I. Gen. Laws § 5-84-5(a).

18. The Architect Board’s position is that:

- a. Respondent’s work on the Subject Plan for his administrative subdivision application did not involve the “practice of architecture” as defined in R.I. Gen. Laws § 5-1-2.
- b. Respondent violated § 1.12(E)(6) of the Architect Regulation by knowingly using another allied professional’s work in spite of an explicit written direction that he did not have permission use that work in his administrative subdivision application.
- c. Respondent violated § 1.12(E)(6) of the Architect Regulation by listing another allied professional as the Professional Land Surveyor on his administrative subdivision application without that person’s permission and without hiring that person to do the required survey work.
- d. Respondent’s unlicensed land surveyor activity under R.I. Gen. Laws § 5-84-5 and associated ethical breaches in violation of the Architect Regulation, constitute conduct that is injurious to the reputation of the architectural profession.

19. To affect a timely and amicable resolution of this matter without an administrative hearing, the parties agree as follows:

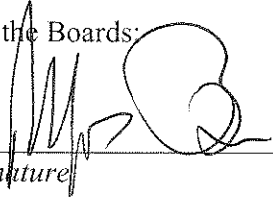
- a. Respondent shall immediately cease and desist from any and all unlicensed practice of land surveying in the state of Rhode Island.
- b. Respondent shall pay a fine of two thousand dollars (\$ 2,000.00) payable to “General Treasurer, State of Rhode Island” on the date of this Agreement.
- c. Respondent shall comply with all PLS Board requests by June 1, 2019.
- d. Respondent agrees to complete eight (8) Continuing Education Hours in the area of Ethics through an AIA or NCARB course and provide proof of completion to the Architect Board by December 31, 2019.
- e. Respondent shall review and comply with all applicable ethics and professional conduct requirements as a Rhode Island Registered Architect (R.I. Gen. Laws Chapter 5-1 and any regulations promulgated thereunder).
- f. Respondent shall not use his municipal position in the Town to seek special treatment for himself or his clients.

20. By agreeing to enter into this Consent Agreement, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

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

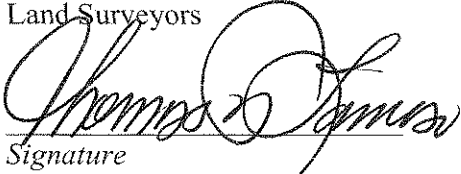
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For the Boards:


Signature

Date: April 12, 2019

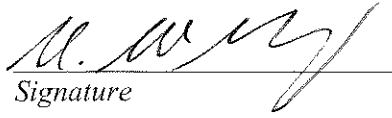
Mark D. Boyer, PLS
Secretary
Board of Registration for Professional
Land Surveyors


Signature

Date: 04.12.19

Thomas D. Lonardo, NCARB
Chair
Board of Examination
and Registration of Architects

For the Respondent:


Signature

Date: 04.08.2019

Matthew McGeorge
Respondent


CERTIFICATION

I hereby certify on this 16th day of April, that a copy of the within Consent Agreement was sent by first class mail, postage prepaid, to:

Matthew McGeorge
McGeorge Architecture Interiors, LLC
18 Fifth Ave
East Greenwich, RI 02818

AND BY E-MAIL TO:

1. Matthew McGeorge, Matthew@mcgeorgeai.com
2. Donna Costantino, DBR Associate Director
3. Dawne Broadfield, DBR Architect Board Executive
4. Jovonna Edwards, DBR PLS Board Executive
5. Amy Stewart, Esq., DBR Senior Legal Counsel


Signature