

Date: January 23, 2019

Case No.: 18-011-RDO

IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, AND IN THE MATTER OF THE CONDUCT OF [PROFESSIONAL MEMBER], P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Professional Member], P.Eng. (“the Member”).

The investigation was conducted with respect to a complaint initiated by [the Complainant], P.Eng., who submitted a complaint dated April 11, 2018 (“the Complaint”).

A. BACKGROUND

The investigation related to an allegation that the Member engaged in unprofessional conduct and/or unskilled practice of the profession with respect to the Member’s field review of a laminated veneer lumber (LVL) beam installed in a residential property in Calgary, Alberta.

B. THE COMPLAINT

The Investigative Committee investigated the allegation outlined in the Complaint: whether the Member failed to conduct a proper field review of a LVL beam, pursuant to the City of Calgary permitting requirements.

C. AGREED STATEMENT OF FACTS

Background

1. The Member graduated in 1999 with a bachelor of engineering degree in civil engineering.
2. The Member is employed on a full-time basis as a structural engineer.
3. The Member agreed to a friend’s request to conduct a field review. The friend was selling a home in Calgary, Alberta, in June 2016. The friend had completed extensive renovations to the home, including removing a loadbearing wall in the living room and replacing it with an LVL beam (“the beam”).
4. The Member was told by the friend that he had not obtained a building permit and was now required to do so pursuant to a condition of sale.
5. The Member was told by the friend that the City of Calgary required a professional engineer to take responsibility for the design of the beam to issue a retrospective building permit.
6. The Member authenticated a letter entitled *Site Report*, which implied that the Member had conducted a field review and inspection of the beam and its related components, such as posts, joists, and footings. Additionally, the Member’s site report stated that the beam consisted of three laminated piles.
7. The Member’s site report stated that the Member had no concerns with the beam.
8. In February 2018, the Complainant discovered cracks forming in the ceiling of the home where the beam had been installed.
9. The Complainant’s insurance company hired a forensic engineering firm to assess the structural integrity of the beam.
10. The forensic engineering firm discovered that there were deficiencies with the beam; namely, the beam had not been properly glued or nailed, and the ceiling joists that had been cut to accommodate the beam had not been properly connected to the beam.
11. The Complainant was forced to move his family out of the home to ensure their safety while a temporary load bearing wall was installed.
12. The Member attended the home on June 3, 2016, and met with the friend. The Member noted that all renovation work completed by the friend was obscured by finishes.
13. The friend provided the Member with a hand-drawn sketch showing the location of the beam.

Facts Relating to the Allegation: Whether the Member failed to conduct a proper field review of a laminated wood, structural beam, pursuant to the City of Calgary permitting requirements.

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14. The friend provided the Member with a printout of the beam design report from the supplier.
15. The Member did not enter the attic to verify the beam size and its installation. The Member relied upon details provided by the friend for the site report and trusted that the friend had properly installed the beam.
16. The Member misinterpreted the role as design review rather than inspection.
17. The Member did not intentionally misrepresent the involvement or level of review as noted in the site report.
18. The Member's friend did not advise the Member of the conditions for the issuance of the building permit, namely, "a field review bearing the seal of a registered professional engineer for the as-built structure at the framing inspection."
19. The forensic engineering report showed that the beam consisted of two individual plies and not three as documented by the Member in the site report. Additionally, the forensic engineering report showed that the beam plies had not been properly glued or nailed together, and that some of the ceiling joists had not been properly connected to the beam.
20. The Member failed to comply with the *2014 Alberta Building Code*, which states:

"Field review means a review of the work to which a project relates at the project site, and at locations where building components are fabricated for use at the project site."

Pursuant to Division C, Part 2, Administrative Provisions, Section 2.4 Professional Design and Review, Sub-Section 2.4.2 Professional Involvement, and Sub-Section 2.4.2.1 (9):

If the size or complexity of a project may give rise to special safety concerns, the authority having jurisdiction may require:

- a) that all or part of the plans and specifications of a building be imprinted with a stamp or seal by
 - i) a registered engineering professional where engineering work is involved,

- ii) a registered architectural professional where architectural work is involved, or
 - iii) both a registered engineering professional and registered architectural professional, and
- b) that field reviews during construction of a building be performed by
- i) a registered engineering professional where engineering work is involved,
 - ii) a registered architectural professional where architectural work is involved, or
 - iii) both a registered engineering professional and registered architectural professional.

D. CONDUCT

21. The Member freely and voluntarily admits that:
 - a. At all relevant times the Member was a Member of APEGA and was thus bound by the *Engineering and Geoscience Professions Act* ("the Act") and the *APEGA Code of Ethics*.
 - b. The Member acknowledged that the Member breached the *2014 Alberta Building Code* by failing to perform an adequate field review.
22. The Member acknowledges that the conduct described above constitutes unprofessional conduct and unskilled practice as defined in Section 44(1) of the Act:

Any conduct of a professional member, licensee, permit holder, certificate holder or member-in-training that in the opinion of the Discipline committee or the Appeal Board,

 - a) *is detrimental to the best interests of the public,*
 - b) *contravenes a code of ethics of the profession as established under the regulations,*
 - c) *harms or tends to harm the standing of the profession generally,*
 - d) *displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or*
 - e) *displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of the profession,*

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whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

23. The Member acknowledges that the conduct described above breaches *Code of Ethics Rules of Conduct #1, #2, and #4*, which state:
1. *Professional engineers and geoscientists shall, in their areas of practice, hold paramount the health, safety and welfare of the public and have regard for the environment.*
 2. *Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.*
 4. *Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.*

E. RECOMMENDED ORDERS

24. On the recommendation of the Investigative Committee, and by agreement of the Member, and following a discussion and review with the Discipline Committee Case Manager, the following recommended orders are issued pursuant to Section 52 of the Act:

1. The Member will receive a letter of reprimand, a copy of which will be maintained permanently in the Member's registration file and be considered at any future date by APEGA.
2. The Member will be assessed, and pay, a fine of \$3,500, pursuant to Section 64(1)(b) of the Act, within 60 days from the date this order is approved by the Discipline Committee Case Manager. If the fine is not paid within 60 days from the date this order is approved, the Member shall be suspended from the practice of engineering until the fine is paid.
3. In order to remedy technical gaps in the Member's understanding of residential construction, the Member shall successfully complete the following within one year from the

date that this order is approved by the Discipline Committee Case Manager:

Introduction to the Safety Codes System in Alberta, offered through the Safety Codes Council of Alberta.

Building Codes, offered through the Professional Home Builders Institute.

If there are extenuating circumstances, the Member may apply to the Director, Enforcement, for an extension prior to the deadline. Any extension will be granted within the sole discretion of the Director, Enforcement. If the above noted courses are not successfully completed within one year, the Member shall be suspended from the practice of engineering until the above courses are successfully completed.

4. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Member.

The publication of the Member's name is not required in this instance to protect the public interest.

Signed,

[PROFESSIONAL MEMBER], P.ENG.

ALLAN YUCOCO, P.L.(ENG.)

Panel Chair, APEGA Investigative Committee

JEFFREY PIEPER, P.ENG.

Case Manager, APEGA Discipline Committee

Date: January 23, 2019