

## **DISCIPLINE DECISION Mr. Rodney Reynolds**

**IN THE MATTER OF** the Surveyors Act, R.S.O. 1990,  
Chapter S.29, as amended

**AND IN THE MATTER OF** Rodney G. Reynolds, O.L.S.

**AND IN THE MATTER OF** a Disciplinary Hearing  
of the Discipline Committee of the Association of  
Ontario Land Surveyors held in accordance with  
Sections 26 and 27 of the said Act

### Order and Reasons

This Panel of the Discipline Committee convened on October 25, 2017. The Member was represented by Counsel, Tom Tsakopoulos: both the Member and his Counsel were present at the hearing. The Association was represented by Mr. Izaak de Rijcke, Counsel; both Mr. de Rijcke and the Association Registrar, Mr. Bill Buck, were also present. The Panel was assisted by Independent Legal Counsel, Carol Street.

On convening, the Panel was advised that the parties proposed to proceed by way of a guilty plea to all allegations by Mr. Reynolds, O.L.S, followed by a Joint Submission with respect to what the parties jointly proposed was an appropriate penalty for consideration by the Panel. A signed Agreed Statement of Facts setting out the facts in support of the guilty plea, and a signed Joint Submission setting out the proposed penalty were subsequently marked as Exhibits 6 and 7 respectively. Unsigned copies of both documents are appended to this Order as Appendix A and B respectively.

The Panel heard submissions from both Counsel and, after reviewing those submissions and the Agreed Statement of Facts was satisfied that the Member is guilty of the allegations against him as set out in Schedule A to the Notice of Hearing (Exhibit 1). Schedule A is appended to this Order as Appendix C.

The Panel then considered the proposed penalty as set out in the Joint Submission (Exhibit 7). After clarifying the Member's agreement to complete the Survey Law 1 and Survey Law 2 courses and what that entailed, the Panel was satisfied that the proposed penalty was appropriate, reasonable, and in the public interest.

Pursuant to paragraph 9 of the Joint Submission the Member was reprimanded by the Panel. Pursuant to paragraph 12, the allegations forming the charges, and this Order and Decision, including all Appendices, shall be published in the next issue of The Ontario Professional Surveyor magazine and on the public side of the Association website.

This Order may be signed electronically and in counterparts.

Robert Fligg, O.L.S.

Paul Miller, O.L.S.  
Tom Kristjanson, O.L.S.  
Richard Murray, O.L.S.  
Patricia Meehan,  
Lieutenant-Governor Appointee

**Appendix A (Exhibit 6)**

**IN THE MATTER OF** Section 26 of the *Surveyors Act*, R.S.O. 1990, c. S. 29

BETWEEN:

WILLIAM D. BUCK

Registrar of Association  
of Ontario Land Surveyors

-and-

RODNEY REYNOLDS

Member

**IN THE MATTER OF a Disciplinary Hearing of the Discipline Committee of the Association of Ontario Land Surveyors held in accordance with sections 26 and 27 of the said Act.**

**AGREED STATEMENT OF FACTS**

The Association of Ontario Land Surveyors and Mr. Rodney Reynolds, OLS agree that the following facts are true and correct and accurately set out the circumstances leading to the charges and allegations of professional misconduct as alleged by William D. Buck, Registrar, in this proceeding:

1. Mr. Reynolds is licensed as OLS number 1386, and practises cadastral surveying as a sole proprietor under a Certificate of Authorization issued under the *Surveyors Act* from one office at 998 Mosley St., Wasaga Beach, Ontario.
2. Mr. Reynolds has over 43 years of experience as an OLS and has no prior record of a conviction before the Discipline Committee under the *Surveyors Act*.
3. On or about April 14, 2016 the Registrar of the AOLS received a letter from Mr. P. Douglas Reitsma, O.L.S., a consultant to the AOLS Survey Review Department (SRD), reporting that five of Mr. Reynolds' plans that were being examined as part of the current Comprehensive Review of Mr. Reynolds' surveying practice had not been monumented until after they had been signed and certified by Mr. Reynolds as being complete and in compliance with the Acts and Regulations, and furthermore that one such plan that had been examined in the field by SRD had not been monumented, some four months after the date of completion certified on the plan by Mr. Reynolds.
4. On or about April 24, 2017 the Registrar sent a letter to Mr. Reynolds demanding that this practice cease immediately, pending the completion of the final report of the

Comprehensive Review of his practice.

5. The Comprehensive Review report of Mr. Reynolds's practice indicated numerous instances of non-compliance with the standards, regulations and other applicable rules for surveys, such that the average number of demerit points per plan for the seven plans reviewed was 40.4, which exceeded the threshold of 25 points per plan, after which Survey Review Department policy requires that the member be referred to the Registrar.
6. The report of Mr. Reynolds's Comprehensive Review indicated many serious deficiencies, including the following:
  - i. In all of the seven files examined there was insufficient documentation to confirm that a thorough search of the records of other survey firms had been carried out for the subject and the adjacent properties, contrary to Section 8(a) of O. Reg. 216/10 of the *Surveyors Act*;
  - ii. The field notes for all of the seven files reviewed contained serious omissions of the information required to illustrate everything found, observed and done in the field, contrary to Section 15 of O. Reg. 216/10 of the *Surveyors Act*;
  - iii. In six of the seven files reviewed the field notes indicated that the survey monuments had not been planted as of the date of completion of the survey that was stated in the Surveyor's Certificate signed by Mr. Reynolds;
  - iv. In one of the seven files reviewed, the Survey Review Department field examination, which took place approximately four months after the date of completion of the survey certified by Mr. Reynolds on the plan, found no evidence that the monuments illustrated on the plan as having been planted by Mr. Reynolds had yet been planted.
  - v. Three of the seven files reviewed contained drawings that were entitled as Building Location Surveys, however, there are no provisions in Regulation for the use of this term and these plans should have been labeled as Plan of Survey or Surveyor's Real Property Report;
  - vi. None of the seven files reviewed contained sufficient documentation regarding the member's communication with his client, contrary to Sections 3 and 4 of O. Reg. 216/10 of the *Surveyors Act*;
  - vii. Four of the seven plans reviewed did not contain any field data or calculations to support the methodology for the integration of those surveys;
7. The Registrar considered that the deficiencies noted in Mr. Reynolds' Comprehensive Review Report were of such a serious nature that they warranted a referral to the Complaints Committee of the AOLS in accordance with Section 40(8) of Regulation 1026 of the *Surveyors Act*;
8. The Complaints Committee's Decision of April 27, 2016 required that Mr. Reynolds submit a Memorandum of Understanding stating that he would henceforth comply with the Code of Ethics and Standards of Practice of Professional Land Surveying, as well as requiring him to undergo another Comprehensive Review in approximately one year.

9. On May 17, 2016 Mr. Reynolds submitted such a Memorandum of Understanding and on June 24, 2016 he submitted additional information that had been omitted from his May 17, 2016 submission.
10. On or about February 2, 2017 the final report of the referral review of Mr. Reynolds' practice was provided to the Complaints Committee.
11. On March 13, 2017 the Complaints Committee issued a final decision, which referred Mr. Reynolds to Council;
12. The Reasons section of the Complaints Committee decision stated that Mr. Reynolds was still practicing to a standard below what is expected of a professional surveyor, noting that there had been no significant improvement in his field notes, minimal improvement in his reports to clients and poor field procedures, particularly in boundary retracement.
13. Mr. Reynolds failed to comply with the *Code of Ethics* of the AOLS in that he has repeatedly failed to abide by the standards of practice which is contrary to Section 33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
14. Mr. Reynolds failed to comply with the *Code of Ethics* of the AOLS in that he signed survey plans which did not comply with all relevant legislative requirements and all standards of the Association, which is contrary to Section 33(2)(f) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
15. Mr. Reynolds has committed acts of professional misconduct as defined by Sections 35(1), 35(2), 35(3) and 35(21) of Regulation 1026, R.R.O. 1990, as amended of the *Surveyors Act*.

Dated this 25th day of October, 2017.

**Appendix B (Exhibit 7)**

IN THE MATTER OF the *Surveyors Act*, R.S.O. 1990, Chapter S.29, as revised

AND IN THE MATTER OF Rodney G. Reynolds, O.L.S.

AND IN THE MATTER OF a Disciplinary Hearing of the Discipline Committee of the Association of Ontario Land Surveyors held in accordance with sections 26 and 27 of the said *Act*.

**JOINT SUBMISSION TO DISCIPLINE COMMITTEE  
ON CONSENT OF ALL PARTIES**

The Association of Ontario Land Surveyors (the “Association”) and the Member, Rodney Reynolds, O.L.S. (the “Member”), make joint submission to this panel of the Discipline Committee under the *Surveyors Act* in respect of this matter by asking the Discipline Committee to issue a consent Order on the following terms:

1. The Member pleads guilty to the charges and allegations of professional misconduct against the Member (the “Charges”) as alleged.
2. The Member’s Licence and Certificate of Authorization shall be suspended for a period of 18 months from October 25, 2017, such suspension to be deferred for a period of 18 months.
3. The Association will appoint a monitor, as a representative of the Registrar, who will meet with Mr. Reynolds as often as s/he considers necessary to effectively review and monitor the whole of Mr. Reynolds’ practice during the 18 months of deferred suspension;
4. Although the appointed monitor will be directed to monitor the whole of Mr. Reynolds’ practice, particular attention will be given by the monitor to the adequacy of research, field notes, reports to clients, field procedures and boundary retracement.
5. The appointed monitor will prepare and provide to the Registrar quarterly reports of his/her observations and conclusions regarding the manner in which Mr. Reynolds is conducting his practice with particular emphasis on the matters referred to in Paragraph 4 above.
6. The Registrar will in turn provide quarterly reports to Council of the Association as to whether all of the conditions set out in the Discipline Committee decision in this matter are being met, including the payment obligation set out in paragraph 10 below.
7. The Association will invoice Mr. Reynolds for the cost of the monitor and Mr. Reynolds will be responsible for payment of these costs within 30 days of being invoiced.

8. Mr. Reynolds will, at his expense, successfully complete the next available Survey Law 1 and Survey Law 2 courses, which are offered by distance learning through York University.
9. Mr. Reynolds shall be reprimanded and the reprimand will be recorded on the Register of the Association.
10. Mr. Reynolds will pay to the Association, for its costs, fixed in the sum of \$11,000.00, including HST, within 30 days of October 25, 2017.
11. Should Council conclude that there has been any failure on Mr. Reynolds' part to comply with any of the terms of this Decision and Order during the 18 months deferred suspension, Council will in writing direct the Registrar to notify him that the deferral of his suspension is revoked; that the suspension will come into effect immediately; and that it will apply thereafter to the remainder of the original term of 18 months.
12. The allegations forming the Charges, as well as the Order or Decision of the Discipline Committee, shall be published in the next issue of The Ontario Professional Surveyor magazine and shall be posted on the public side of the Association website.
13. The terms of this Joint Submission are fair and reasonable and protect the public interest.
14. The Member acknowledges having been advised to obtain and has had the benefit of independent legal advice, or, has voluntarily declined to obtain same.
15. This Joint Submission and agreement thereto by the Member may be set up as a complete bar and answer by the Association to any appeal or judicial review of the Order or Decision of the Discipline Committee resulting therefrom.

DATED this 18th day of August, 2017.

**Appendix C**

## **SCHEDULE "A"**

### **ALLEGATIONS OF PROFESSIONAL MISCONDUCT**

<b>CANADA</b>	)	<b>IN THE MATTER OF the <i>Surveyors Act</i></b>
	)	<b>R.S.O. 1990, Chapter S.29, as revised.</b>
	)	
<b>PROVINCE OF</b>	)	<b>AND IN THE MATTER OF Rodney G. Reynolds, O.L.S.</b>
	)	
<b>ONTARIO</b>	)	<b>AND IN THE MATTER OF a Disciplinary Hearing of the</b>
	)	<b>Discipline Committee of the Association of Ontario Land</b>

) **Surveyors held in accordance with sections 26 and 27 of**  
) **the said Act.**

**I, WILLIAM D. BUCK, O.L.S., C.L.S., P. ENG.,** of the City of Markham, in the Region of York, am the Registrar of the Association of Ontario Land Surveyors.

1. The Council of the Association of Ontario Land Surveyors (AOLS) pursuant to Section 25(7)(a) of the *Surveyors Act*, by a Motion dated May 9, 2017, directed that Mr. Rodney G. Reynolds be referred to the Discipline Committee.
2. It is alleged that Rodney G. Reynolds, O.L.S. (herein referred to as “Mr. Reynolds”), in his personal capacity, and as the official representative for the firm Rodney G. Reynolds, Ontario Land Surveyor is guilty of professional misconduct within the meaning of Section 35 of Regulation 1026, R.R.O. 1990, as amended.
3. The particulars of the allegations in paragraph 2 above are as follows:
  - (a) On or about April 14, 2016 the Registrar of the AOLS received a letter from Mr. P. Douglas Reitsma, O.L.S., a consultant to the AOLS Survey Review Department (SRD), reporting that five of Mr. Reynolds’ plans that were being examined as part of the current Comprehensive Review of Mr. Reynolds’s surveying practice had not been monumented until after they had been signed and certified by Mr. Reynolds as being complete and in compliance with the Acts and Regulations, and furthermore that one such plan that had been examined in the field by SRD had not been monumented, some four months after the date of completion certified on the plan by Mr. Reynolds.
  - (b) On or about April 24, 2017 the Registrar sent a letter to Mr. Reynolds demanding that this practice cease immediately, pending the completion of the final report of the Comprehensive Review of his practice.
  - (c) The Comprehensive Review report of Mr. Reynolds’s practice indicated numerous instances of non-compliance with the standards, regulations and other applicable rules for surveys, such that the average number of demerit points per plan for the seven plans reviewed was 40.4, which exceeded the threshold of 25 points per plan, after which Survey Review Department policy requires that the member be referred to the Registrar.
  - (d) The report of Mr. Reynolds’s Comprehensive Review indicated many serious deficiencies, including the following:
    - (i) In all of the seven files examined there was insufficient documentation to confirm that a thorough search of the records of other survey firms had been carried out for the subject and the adjacent properties, contrary to Section 8(a) of O. Reg. 216/10 of the *Surveyors Act*;
    - (ii) The field notes for all of the seven files reviewed contained serious omissions of the information required to illustrate everything found, observed and done in the field, contrary to Section 15 of O. Reg. 216/10 of the *Surveyors Act*;

- (iii) In six of the seven files reviewed the field notes indicated that the survey monuments had not been planted as of the date of completion of the survey that was stated in the Surveyor's Certificate signed by Mr. Reynolds;
  - (iv) In one of the seven files reviewed, the Survey Review Department field examination, which took place approximately four months after the date of completion of the survey certified by Mr. Mansfield on the plan, found no evidence that the monuments illustrated on the plan as having been planted by Mr. Reynolds had yet been planted.
  - (v) Three of the seven files reviewed contained drawings that were entitled as Building Location Surveys, however, there are no provisions in Regulation for the use of this term and these plans should have been labeled as Plan of Survey or Surveyor's Real Property Report;
  - (vi) None of the seven files reviewed contained sufficient documentation regarding the member's communication with his client, contrary to Sections 3 and 4 of O. Reg. 216/10 of the *Surveyors Act*;
  - (vii) Four of the seven plans reviewed did not contain any field data or calculations to support the methodology for the integration of those surveys;
  - (e) The Registrar considered that the deficiencies noted in Mr. Reynolds' Comprehensive Review Report were of such a serious nature that they warranted a referral to the Complaints Committee of the AOLS in accordance with Section 40(8) of Regulation 1026 of the *Surveyors Act*;
  - (f) The Complaints Committee's Decision of April 27, 2016 required that Mr. Reynolds submit a Memorandum of Understanding stating that he would henceforth comply with the Code of Ethics and Standards of Practice of Professional Land Surveying, as well as requiring him to undergo another Comprehensive Review in approximately one year.
  - (g) On May 17, 2016 Mr. Reynolds submitted such a Memorandum of Understanding and on June 24, 2016 he submitted additional information that had been omitted from his May 17, 2016 submission.
  - (h) On or about February 2, 2017 the final report of the referral review of Mr. Reynolds' practice was provide to the Complaints Committee.
  - (i) On March 13, 2017 the Complaints Committee issued a final decision, which referred Mr. Reynolds to Council;
  - (j) The Reasons section of the Complaints Committee decision stated that Mr. Reynolds was still practicing to a standard below what is expected of a professional surveyor, noting that there had been no significant improvement in his field notes, minimal improvement in his reports to clients and poor field procedures, particularly in boundary retracement.
5. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he has repeatedly failed to abide by the standards of practice which is contrary to Section

33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.

6. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he signed survey plans which did not comply with all relevant legislative requirements and all standards of the Association, which is contrary to Section 33(2)(f) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
7. It is alleged that the member has committed acts of professional misconduct as defined by Sections 35(1), 35(2), 35(3) and 35(21) of Regulation 1026, R.R.O. 1990, as amended of the *Surveyors Act*.

Dated at Toronto, Ontario, this 27th day of June, 2017.