



Mr. Dietz's email, stating that he found nothing of this unethical or unprofessional and offering to have an "off the record" meeting with him to discuss the situation.

- g) On or about May 4, 2011 Mr. Dietz called the Registrar to discuss the above described email exchange with Mr. Houghton. The Registrar advised Mr. Dietz that the correct protocol would be for him to file a formal complaint under the *Surveyors Act* against Mr. Houghton.
  - h) On May 5, 2011 the Registrar received a formal written complaint from Mr. Dietz alleging that Mr. Houghton had committed an act of professional misconduct.
  - i) The Complaints Committee considered submissions made by both Mr. Dietz and Mr. Houghton and in a written Decision issued on July 4, 2011 directed that Mr. Houghton be referred to Council with a recommendation that he be referred to the Discipline Committee on grounds that he had committed acts of professional misconduct, as defined under Section 35 of the *Surveyors Act*.
3. A member has a statutory duty to share surveyor's field notes for a "reasonable fee" under the *Surveys Act*. The conduct of the member in seeking the monetary payments demanded are far and above what most members of the profession would consider fair and reasonable.
  4. It is alleged that the member has committed an act of professional misconduct as defined by Section 35(5) of Regulation 1026, R.R.O. 1990, as amended of the *Surveyors Act* in that he counseled a fellow member to

collude with him in modifying the results of a competitive tendering process by the City of St. Thomas, which is contrary to Section 33(2)(a) of Regulation 1026.

5. It is alleged that the member has committed an act of professional misconduct as defined by Section 35(16) of Regulation 1026, R.R.O. 1990, as amended of the *Surveyors Act* in that he attempted to solicit work from another member when he knew that this work had already been awarded to that member.
6. It is alleged that the member has attempted to extract money from a professional colleague as a basis of securing a tender awarded by the City of St. Thomas to that professional colleague (Mr. Dietz's firm), which was more competitive than the submitted by the member, which is contrary to Sections 35(17) and 35(21) of Regulation 1026.
7. It is alleged that the member has committed acts of professional misconduct as defined by Section 35(21) of Regulation 1026, R.R.O. 1990, as amended of the *Surveyors Act* in that his actions would be reasonably be regarded by members as dishonourable or unprofessional.
8. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he failed to conduct his professional affairs in such a manner as to maintain public confidence and trust in the profession, and in a dishonourable manner, all of which is contrary to Section 33(2)(a) 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.

Dated at Toronto, Ontario, this 9th day of August, 2011.

## DISCIPLINE DECISION

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

AND IN THE MATTER OF Ward Houghton, 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 March 23<sup>rd</sup>, 2012. The Member had retained Mr. Tracey Warne, Q.C. and both Mr. Houghton, O.L.S. and Mr. Warne, Q.C. were present. The Association was represented by Mr. Robert Fenn, Counsel; both Mr. Fenn and the Association Registrar, Mr. Bill Buck, were also present. The panel was assisted by counsel, Carol Street.

On convening, the panel was presented with a Joint

Submission and Undertaking as a proposed resolution of the matter.

The proposed Joint Submission, as originally signed by both Mr. Houghton, O.L.S., and Mr. Buck, O.L.S., C.L.S., was marked as Exhibit 5 at the hearing. A copy of the Joint Submission, as presented to the panel, is attached to this Order and Decision as Appendix A.

*cont'd on page 30*

Pursuant to paragraph 4 of the proposed Joint Submission, the parties had not come to any agreement as to whether or not a fine should be imposed on the Member, and if so, the amount of that fine. Mr. Fenn on behalf of the Association submitted that a fine in the amount of \$5,000 (the maximum fine available under section 26(4)(h) of the *Surveyors Act*. Counsel for the Member submitted that in all the circumstances the panel should not impose a fine in any amount.

After hearing submissions, the panel recessed and considered the Joint Submission.

The panel accepted the Joint Submission. Pursuant to paragraph 2 of the Joint Submission the Member was reprimanded by the Lieutenant-Governor in Council representative, Mr. Eric Bundgard. With respect to the fine requested by the Association, the panel concluded that a fine was appropriate in the circumstances. A fine in the amount of \$2,500 was

imposed. The Member was given 6 months from the date of the hearing to pay the said fine.

The panel has therefore accepted the Joint Submission between the Member and the Association, in the form attached hereto as Appendix A, with a fine in the amount of \$2,500 to be paid within 6 months of March 23<sup>rd</sup>, 2012 and hereby issues its Order to that effect.

This Order may be signed in counterparts.

Oral Decision given March 23<sup>rd</sup>, 2012.

Steve Gossling, O.L.S.

Tom Packowski, O.L.S.

Rick Miller, O.L.S.

Dan Quinlan, O.L.S.

Eric Bundgard, Lieutenant-Governor Appointee

## APPENDIX A

### JOINT SUBMISSION TO DISCIPLINE PANEL ON CONSENT OF ALL PARTIES

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 July 17, 2011, directed the Discipline Committee to hold a hearing in respect of allegations of professional misconduct against Ward I. Houghton, O.L.S.

The Association of Ontario Land Surveyors (the "Association") and the Member, Ward Houghton, O.L.S. (the "Member"), make joint submission to the Discipline Panel under the *Surveyors Act* in respect of this matter by asking the Discipline Panel to issue a consent Order on the following terms:

1. The Member pleads guilty to a charge and allegation of professional misconduct against the Member (the "Charges") in that the Member sent an inappropriately worded e-mail to a fellow Member suggesting that the fellow Member withdraw his bid and that they work together on a project.
2. The Member shall be reprimanded and the reprimand will not be recorded on the Register of the Association.
3. The Member pays to the Association, within ninety (90) days of March 22, 2012, the sum of \$9,500.00 for costs.
4. The Association believes that this is an appropriate case for a fine in the amount of \$5,000.00. The Member disagrees. The parties agree that the amount of the fine and whether such fine is applicable or warranted in the circumstances of this case shall be decided by the Discipline Panel. The Association and the Member shall be entitled to make submissions as to the amount and the applicability of such fine.
5. The Member shall be required to successfully pass a

course in professional ethics at a College or University level on or before March 22, 2013, such course to be pre-approved by the Registrar of the Association.

6. During the period from March 22, 2012 to March 22, 2013, the Association shall be entitled, in its sole discretion, to send a monitor, who shall be a licensed Member, to review and monitor the business practices of the Member.
7. In consideration of the Association's acceptance of this Joint Submission the member will provide an undertaking to the Registrar in the format attached hereto as Schedule A regarding his future conduct regarding survey research.
8. The Order or Decision of the Discipline Panel shall be published, with names, in the next issue of The Ontario Professional Surveyor magazine and shall be posted on the public side of the AOLS website.
9. The terms of this Joint Submission are fair and reasonable and protect the public interest.
10. The Member acknowledges having been advised to obtain and has had the benefit of independent legal advice, or, has voluntarily declined to obtain same.
11. 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 Panel resulting therefrom.

DATED at Toronto, Ontario, this 22nd day of March, 2012.

# SCHEDULE A

## UNDERTAKING

FROM: Ward Houghton, O.L.S. (the “Member”)

TO: William D. Buck, O.L.S., C.L.S. (the “Registrar”)  
Registrar of Association of Ontario Land Surveyors

In consideration of the terms agreed to in a Joint Submission entered into between the Member and the Registrar for purposes of disposing of the charges and allegations laid before the Discipline Committee of the Association of Ontario Land Surveyors, and other good and valuable consideration, the parties agree as follows:

1. The member will cooperate with his fellow members by exhibiting or giving a copy of his regular field notes to any surveyor who asks for same for a reasonable charge.

2. If, for any reason, the Member does not comply with the terms of the Order and this Undertaking, then this matter shall be referred back to the Discipline Committee.

3. This Undertaking is binding on the successors of the parties hereto.

Dated at Toronto this 22nd day of March, 2012.

*AOLS 17th ANNUAL “GEOMATICS PICNIC”*

*Innovations in Geomatics Expo*

September, 2012

