

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

AND IN THE MATTER OF Guido Consoli, 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

SUMMARY OF THE DECISION OF THE DISCIPLINE PANEL

A discipline hearing into allegations of misconduct by Guido Consoli, O.L.S., proceeded before a Panel of the Discipline Committee on January 27, 2020. The Association and Mr. Consoli jointly advised the Panel that Mr. Consoli was prepared to plead guilty to certain allegations; the parties had prepared an Agreed Statement of Facts as well as a Joint Submission on Order with respect to the penalty they proposed the Panel should accept.

The Statement of Facts provided facts regarding the complaint made by the Registrar, Kevin Wahba, O.L.S. Those facts can be summarized as follows.

The Facts

The allegations against Mr. Consoli raised concerns about a conflict of interest. Mr. Consoli had sold his surveying practice to another surveyor after which he became an employee of his former firm. He asked his employer to prepare a draft reference plan for a property in which he and his son had an interest. He then had involvement in the preparation of the plan. The draft reference plan was completed by his employer firm and an invoice was issued to Mr. Consoli. It was not paid. Thereafter, Mr. Consoli became employed by a different surveying firm and deposited a reference plan on title, which reference plan was compiled using the draft reference plan prepared by his former employer. His former employer complained to the AOLS. Mr. Consoli was also involved in the development of two adjacent properties including providing advice on

surveying and development needs and in negotiating the scope and costs of surveying work on his own behalf and on behalf of other owners or agents of owners: in summary he acted as facilitator, planner, and land agent with respect to these properties at the same time that he was an employee of the surveyor/complainant. Mr. Consoli made a number of disparaging comments about his former employer as the relationship between them worsened.

Mr. Consoli entered a guilty plea to various subsections of professional misconduct as set out in Regulation 1026 and specified in the allegations. The Panel was provided with an agreed statement of facts and heard submissions from both parties setting out the facts as summarized above. It found insufficient evidence to make a finding of guilt with respect to two subsections of Regulation 1026 and those two subsections were withdrawn by the AOLS. The Panel was satisfied that on the facts provided Mr. Consoli was guilty of the remaining subsections of that Regulation as set out in the allegations and accepted his guilty plea on those allegations. (He was found guilty of contravening sections 33(2)(a), 35(1)(3)(10)(11) and (21) of Regulation 1026.)

Mr. Consoli's guilty plea

Mr. Consoli was found to have breached Sections 33(2)(a), 35(1)(3)(10)(11) and (21) of the Surveyors Act, R.R.O. 1990, Regulation 1026.

On the basis of the agreed facts the Panel accepted Mr. Consoli's guilty plea.

Penalty

The Panel was then provided with a Joint Submission setting out the penalty the parties jointly proposed to the Panel. The Panel accepted the terms of the Joint Submission. The penalty imposed by the Panel was:

- A reprimand, to be recorded in the register;

- A suspension of 6 months, to be deferred provided Mr. Consoli complies fully with all provisions ordered as set out in the Joint Submission and provided Mr. Consoli is not the subject of another finding by the Discipline Committee in respect of conduct that occurs with the next 12 months;
- Mr. Consoli shall successfully complete the York University course on professional ethics for professional engineers (or an alternative approved by the Registrar) at his own cost by Jan. 15, 2021;
- Costs of the discipline hearing in the amount of \$8,000 to be paid in no more than 8 equal instalments;
- Publication of a summary of the decision and reasons in the Quarterly, in InSight, and on the AOLS website.