



ENGINEERS &
GEOSCIENTISTS
BRITISH COLUMBIA

**IN THE MATTER OF THE *PROFESSIONAL GOVERNANCE ACT*
S.B.C. 2018, CHAPTER 47**

and

IN THE MATTER OF RICHARD C. BRIMMELL

ENGINEERS AND GEOSCIENTISTS BC FILE NO. T20-047

CONSENT ORDER

Background

1. On January 29, 2022, the registration of Mr. Richard C. Brimmell in the Association of Professional Engineers and Geoscientists of the Province of British Columbia doing business as Engineers and Geoscientists BC was cancelled as a result of Mr. Brimmell's resignation.
2. On September 29, 2022, pursuant to section 66(1) of the *Professional Governance Act*, S.B.C. 2018, c.47 (the "PGA"), the Investigation Subcommittee of Engineers and Geoscientists BC assigned to the file issued an investigation report (the "Report") regarding Mr. Brimmell. The Report was provided to the Investigation Committee pursuant to section 9.7.6(1) of the *Bylaws* of Engineers and Geoscientists BC.
3. On September 29, 2022, the Investigation Committee appointed a Resolution Subcommittee to attempt to resolve this matter by means of a Consent Order.
4. The Investigation Committee and Mr. Brimmell wish to resolve the matter by consent pursuant to section 73(2) of the *PGA* in order to avoid the need for a disciplinary hearing.
5. Mr. Brimmell consents to the disposition set out below.

Legislation

6. On February 5, 2021, the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the “*EGA*”) was repealed and replaced by the *PGA*.
7. The conduct of Mr. Brimmell took place at a time when the *EGA* was in force. As a result, the conduct in question is considered pursuant to sections 30(9)(b) and 30(9)(c) of the *EGA*, and the *Bylaws* and *Code of Ethics* under the *EGA*.
8. Pursuant to sections 35(2) and 36(1)(c) the *Interpretation Act*, R.S.B.C. 1996, c. 238, investigations commenced under the *EGA* carry on procedurally under the *PGA*.

Admissions

9. Mr. Brimmell admits that he demonstrated unprofessional conduct in relation to the design and geotechnical engineering services he provided for boulder retaining walls in a residential subdivision located in Langford, BC (the “Project”), in particular he failed to:
 - a. undertake an adequate design process for the Project including:
 - i. provide specifications for construction of the boulder retaining walls including the boulder orientation requirements, minimum required base width, subgrade preparation, and fill compaction requirements;
 - ii. provide specifications for the materials to be used for the construction of the boulder retaining walls, including provisions for backfill materials, boulder size and shape, and grout infilling specifications;
 - iii. complete the calculations relating to global stability analysis, and seismic stability of the boulder retaining walls;
 - iv. set out the drainage provisions for the boulder retaining walls;
 - v. analyze and adequately assess the risk of failure of the Project;
 - b. sign and date the drawings prepared for the Project; and
 - c. engage an independent reviewer to analyze the design and drawings for the Project.
10. The conduct set out above at paragraph 8 is contrary to Principle 1 of the *Code of Ethics*, as it stood at the time, which required that all members and licensees shall hold paramount the safety, health and welfare of the public, the protections of the environment and promote health and safety within the workplace.

11. The conduct set out at paragraph 8(a) is contrary to Principle 2 of the *Code of Ethics*, as it stood at the time, which required that members and licensees shall undertake and accept responsibility for professional assignments only when qualified by training or experience.
12. The conduct set out at paragraph 8(a) is contrary to Principle 3 of the *Code of Ethics*, as it stood at the time, which required that members and licensees provide an opinion on a professional subject only when it is founded upon adequate knowledge and conviction.
13. The conduct set out above at paragraph 8(a) and (c) is contrary to section 14(b) of the Bylaws of Engineers and Geoscientists which required, that members and licensees shall establish and maintain documented quality management processes for their practices, including:
 - a. regular documented checks of engineering and geoscience work using a written quality control process appropriate to the risk associated with the work; and
 - b. documented independent reviewer of structural designed prior to construction by members or licensees having appropriate experience in design structures of a similar type and scale; and not involved in the preparing the designs.
14. The conduct set out above at paragraphs 8(b) is contrary to section 20(9) of the *EGA* which required that a member receiving a seal or stamp under that section must use it, with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee's professional capacity or that have been prepared and delivered under the member or licensee's direct supervision.

Disposition

15. By consent, this Consent Order is made pursuant to section 73 of the *PGA*.
16. Mr. Brimmell's registration in Engineers and Geoscientists BC is cancelled.
17. If at any time Mr. Brimmell wishes to be re-registered with Engineers and Geoscientists BC:
 - a. he must as a condition of such application provide written notice to Engineers and Geoscientists BC that he has at his own expense:
 - a. Completed and passed the Engineers and Geoscientists BC Professional Practice Examination;
 - b. Completed the Professional Engineering and Geoscience in BC Online Seminar; and

- b. he must comply with all requirements of the Credentials Committee of Engineers and Geoscientists BC and all Bylaws, policies, and guidelines respecting registration and competency.
18. If Mr. Brimmell successfully re-registers with Engineers and Geoscientists BC at any time in the future, he agrees that any retaining wall design¹ or slope stability assessments prepared by him must be subject to a peer review, pursuant to the *Discipline Committee Order Peer Review Policy* of Engineers and Geoscientists BC, as may be amended or revised from time to time (the “Peer Review”), subject to the following conditions:
 - a. the peer reviewer must be a professional engineer who is a registrant of Engineers and Geoscientists BC and who is approved in writing by the Registrar of Engineers and Geoscientist BC (the “Approved Peer Reviewer”);
 - b. the Peer Review will continue for a minimum period of twelve months and the Approved Peer Reviewer must review a minimum of six projects, whichever comes later (the “Peer Review Period”);
 - c. following the Peer Review Period, the Approved Peer Reviewer will provide Engineers and Geoscientist BC with confirmation in writing that Mr. Brimmell has completed the Peer Review process and that, in the opinion of the Approved Peer Reviewer, Mr. Brimmell has demonstrated competence such that he should be permitted to prepare retaining wall designs or slope stability assessments without oversight;
 - d. following the Peer Review Period, if the opinion of the Approved Peer Reviewer is that Mr. Brimmell has not demonstrated competence such that he should be permitted to prepare retaining wall designs or slope stability assessments without oversight and requires further peer review, the Peer Review Period must continue for an additional six-month period, or the completion of two additional projects whichever comes later (the “Extended Peer Review”), following which the Approved Peer Reviewer must provide confirmation in writing that Mr. Brimmell has completed the Extended Peer Review and has demonstrated competence such that he should be permitted to prepare retaining wall designs or slope stability assessments without oversight; and
 - e. Mr. Brimmell will pay the costs associated with the Peer Review.
19. Mr. Brimmell will pay \$5,000 to Engineers and Geoscientists BC contemporaneous with the execution of this Consent Order as a contribution towards the legal and investigative costs incurred in this matter.

¹ As defined in the Retaining Wall Design, Professional Practice Guidelines of Engineers and Geoscientists BC, Version 1.1 or as may amended or revised from time to time.

Consequences of the Consent Order

20. The full text of this Consent Order will be published on the website of Engineers and Geoscientists BC, and a summary will be published in print and electronic publications, including in public communications.
21. This Consent Order has the same force and effect as an Order made under section 75 of the *PGA*.
22. Mr. Brimmell agrees that Engineers and Geoscientists BC has recommended that he receive independent legal advice regarding this Consent Order and that Engineers and Geoscientists BC has given him the opportunity to obtain independent legal advice.
23. Mr. Brimmell and Engineers and Geoscientists BC agree that this Consent Order may be executed in counterparts and delivered as an electronic document.

This Consent Order is approved and accepted by Mr. Brimmell and the Investigation Committee this 8th day of December, 2022.

<original signed by>

Richard C. Brimmell

Payal Punjabi

Name of Witness

<original signed by>

Signature of Witness

The Investigation Committee of the Association
of Professional Engineers and Geoscientists
of the Province of British Columbia

<original signed by>

Per: Peter Helland, P.Eng.
Chair, Investigation Committee