



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

AND

IN THE MATTER OF SING-YAU (SIMON) YU, P.ENG.

ENGINEERS AND GEOSCIENTISTS BC FILE NO. T22-039

CITATION

TO: Sing-Yau (Simon) Yu, P.Eng.



TAKE NOTICE that a Panel of the Discipline Committee of the Association of Professional Engineers and Geoscientists of the Province of British Columbia, doing business as Engineers and Geoscientists BC, will meet on a date to be determined for the purpose of conducting a discipline hearing pursuant to the *Professional Governance Act*, S.B.C. 2018, c. 47 (the “PGA”). The *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the “EGA”) was repealed and replaced by the PGA on February 5, 2021. While some of the allegations herein are made under the EGA, the procedures established by the PGA and the current Bylaws of Engineers and Geoscientists BC will be followed as far as they can be adapted to this proceeding.

AND TAKE NOTICE that the allegations against you are that you acted contrary to the PGA and the EGA as follows:

1. You committed professional misconduct contrary to the PGA in relation to the professional engineering services you provided in 2021 in support of a building permit application for an addition to an existing cabin (the “Project”) on a property located at [REDACTED] Cluculz Lake, BC. (the “Property”). In particular:
 - a. Despite not having sufficient geotechnical engineering expertise to provide such a certification, you wrote and authenticated a letter to the Regional District of Bulkley-Nechako dated February 23, 2021 (the “Retaining Wall Letter”) certifying that the

construction of a retaining wall was in “safe service condition ready to receive the roof trusses to form a storage/garage”, “while acting as soil retaining walls” and that you accepted “the concrete block work’s workmanship as a whole”.

- b. The Retaining Wall Letter also fell below the appropriate professional standard required of such a letter by:
 - (i) expressing an opinion that was based on an insufficient investigation and insufficient supporting information;
 - (ii) failing to include information about foundation soils, retained soils, backfill, drainage, earth or lateral pressures, loading effects, stability, cleanouts, or seismic influences;
 - (iii) failing to qualify the opinion in view of the uncertainties, limitations and risks; and
 - (iv) failing to support the opinion with appropriate documentation, drawings or photographs.
- c. Despite not having sufficient geotechnical engineering expertise to provide such a certification, you wrote and authenticated a letter to the Regional District of Bulkley-Nechako dated November 2, 2021 (the “Slope Stability Letter”), certifying that a slope and a soil retaining wall on the Property were stable and safe for long-term occupancy in the Project at the base of the retaining wall.
- d. The Slope Stability Letter ought to have been, but was not, a report prepared to professional geotechnical engineering standards, including not complying with the Association of Professional Engineers of BC *Guidelines for Legislated Landslide Assessments for Proposed Residential Development in British Columbia* (May 2010), contrary to Engineers and Geoscientists BC Bylaw, section 7.3.1, and not being supported by an adequate field investigation or analysis.
- e. You authenticated eight drawings for the Project and thereby took responsibility for the overall design, including both geotechnical and structural aspects, despite those drawings being deficient and failing to comply or substantially comply with the following requirements:
 - (i) they included a design for a “deep foundation” that was not compliant with Part 4 of the British Columbia Building Code 2018 (“BCBC 2018”) because it was not based on a proper subsurface investigation;
 - (ii) they did not include information required in Division C, 2.2.4.3.(1) of BCBC 2018;
 - (iii) they did not include elements required under the *Professional Practice Guidelines: Guidelines for Professional Structural Engineering Services for Part 9 Buildings in British Columbia* (June 2014, Version 3.0), contrary to Engineers and Geoscientists BC Bylaw, section 7.3.1, namely:

- 1. climactic loads;

2. live loads of floors and roof;
 3. dead loads of floors and roof;
 4. dead loads of architectural components;
 5. specifications and standards for sheathing, lumber, fasteners, steel connectors, hold downs and anchor bolts; and
 6. assumed soil bearing capacity.
- f. You authenticated a Schedule B Letter of Assurance dated December 21, 2021, in which you crossed out reference to “geotechnical aspects of deep foundations” despite the foundation for the Project being indicated in the drawings to be a “deep foundation”, under BCBC 2018, contrary to section 7 of the *Guide to the Letters of Assurance in the BC Building Code 2018 and Vancouver Building By-Law 2019* (Version 6.0, October 5, 2021).
 - g. You failed to retain any documentation associated with the Project contrary to Engineers and Geoscientists BC Bylaw, section 7.3.2(1).
2. The conduct set out above in paragraph 1 was also contrary to certain principles of the *Code of Ethics*, attached as Schedule A to the *Bylaws of Engineers and Geoscientists BC*, in particular:
 - a. Principle 1, which requires that registrants must hold paramount the safety, health and welfare of the public, the protection of the environment and the promotion of health and safety in the workplace;
 - b. Principle 2, which requires that registrants practice only in those fields where training and ability make the registrant professionally competent;
 - c. Principle 3, which requires that registrants must have regard for the common law and any applicable enactments, federal enactments or enactments of another province;
 - d. Principle 4, which requires that registrants must have regard for applicable standards, policies, plans and practices established by the government or EGBC;
 - e. Principle 7, which requires registrants to provide professional opinions that distinguish between facts, assumptions and opinions; and
 - f. Principle 12, which requires registrants to undertake work and documentation with due diligence and in accordance with any guidance developed to standardize professional documentation for the applicable profession.
 3. With respect to your conduct in relation to the Project prior to February 5, 2021 (when the *PGA* replaced the *EGA*), you committed unprofessional conduct contrary to the *EGA* when:
 - a. despite not having sufficient geotechnical engineering expertise to provide such advice, you accepted the engagement in relation to the Project notwithstanding that

it required you to inspect, monitor and opine on the stability of a slope and the integrity of a soil retaining wall; and

- b. you failed to keep records of your work on the Project.
- 4. The conduct set out in paragraph 3(a), above, violated Principle 2 of the *Code of Ethics* that were incorporated into the Bylaws of Engineers and Geoscientists BC in force between October 2018 and February 5, 2021, which required registrants to undertake and accept responsibility for professional assignments only when qualified by training or experience.
- 5. The conduct set out in paragraph 3(b), above, violated Bylaw 14(b)(1) of the Bylaws of Engineers and Geoscientists BC as amended October 2018, which required the retention of complete project documentation for ten years.

AND FURTHER TAKE NOTICE that you, Sing-Yau (Simon), P.Eng., have the right, at your own expense, to be represented by counsel at the hearing by the Panel of the Discipline Committee pursuant to section 79 of the *PGA*, and you or your counsel have the full right to cross-examine all witnesses called and to call evidence in defence and reply in answer to the allegations.

AND FURTHER TAKE NOTICE that, pursuant to section 78 of the *PGA*, in the event you fail to attend or remain in attendance at a discipline hearing under section 75 of the *PGA*, the Panel of the Discipline Committee may, if satisfied that you have been notified of the hearing, proceed with the hearing in your absence and make any order that the Panel of the Discipline Committee could have made in your presence.

Dated: September 26, 2024

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