

**IN THE MATTER OF THE *PROFESSIONAL GOVERNANCE ACT, S.B.C.*
2018, CHAPTER 47 (“PGA”)**

And

IN THE MATTER OF PETER HEIDEMA, P.ENG. (NON-PRACTISING)

Engineers and Geoscientists BC File No. T18-028

CONSENT ORDER

Background

1. On November 26, 2020, the Association of Professional Engineers and Geoscientists of the Province of British Columbia, doing business as Engineers and Geoscientists BC, issued a Notice of Inquiry dated November 10, 2020 (the “Notice of Inquiry”) to Peter Heidema, P.Eng. (Non-Practising) (“Mr. Heidema”), pursuant to s. 32 of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the “EGA”).
2. On February 5, 2021, the EGA was repealed and replaced by the PGA. Pursuant to sections 35(2) and 36(1)(b) and (c) of the *Interpretation Act*, R.S.B.C. 1996, c. 238, the proceeding against Mr. Heidema commenced pursuant to the Notice of Inquiry (the “Proceeding”) is continued under and in conformity with the PGA so far as it may be done consistently with the PGA, and the procedure established by the PGA will be followed as far as it can be adapted in the Proceeding.
3. Engineers and Geoscientists BC and Mr. Heidema 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.
4. Mr. Heidema consents to the disposition set out below.

Admissions

Mr. Heidema admits that:

5. He demonstrated unprofessional conduct when he undertook and accepted responsibility for a professional assignment in which he made a recommendation in relation to slope stability at the southern portion of the residential property located at [REDACTED], Campbell River, British Columbia (the “Property”), in circumstances where he was not qualified by

training or experience to fulfil that professional assignment, in particular, he recommended that the existing coniferous and deciduous trees on the slope could be removed, leaving a short stump and the existing root systems intact, to increase the stability of the slope at the rear of the Property and to decrease the likelihood of any surficial land slippages on the face of the slope (the "Slope Stability Recommendation").

6. He demonstrated unprofessional conduct on or about February 27, 2013 when he undertook and accepted responsibility for preparing a geotechnical report confirming the Slope Stability Recommendation and concluding that the Property "remains geotechnical [sic] safe and suitable for the use intended, the construction of a single family residence" (the "**Geotechnical Report**"), in circumstances where he was not qualified by training or experience to fulfil that professional assignment.
7. He demonstrated unprofessional conduct in providing the Slope Stability Recommendation and Geotechnical Report, and in particular by:
 - a. recommending the removal of the trees on the basis that this would increase the stability of the slope which, contradicted the previous geotechnical report dated August 28, 2012 provided by Simpson Geotechnical Ltd. to support an application for a Hazardous Conditions Development Permit (the "**Simpson Geotechnical Report**"). In particular, the Geotechnical Recommendation and Geotechnical Report contradicted the recommendation in the Simpson Geotechnical Report that the existing vegetation on the slope be maintained as a measure to reduce landslide hazard.
8. He demonstrated unprofessional conduct, in providing the Geotechnical Report, which was deficient and not consistent with practice requirements as reflected in the APEGBC Guidelines for Legislated Landslide Assessments for Proposed Residential Developments in BC (the "**APEGBC Guidelines**"), particulars of which include that the Geotechnical Report, in contravention of s. 3.7 and 3.8 of the APEGBC Guidelines:
 - a. fails to define the scope of services requested;
 - b. fails to describe the terrain conditions, slope drainage conditions, soil slippage (surface and deep seated), and development history, which also is in contravention of the Hazard Conditions Development Permit Guidelines in the City of Campbell River Sustainable Official Community Plan Bylaw 3475, 2012, Part V: Development Permit Areas;
 - c. fails to provide an estimate of the risk of a landslide;

- d. fails to provide an estimate of the associated residual risks if the recommendations are implemented;
 - e. fails to consider the potential impacts of a landslide; and
 - f. fails to address the limitations and qualifications of the assessment and report, assumptions, error limits and uncertainties.
9. The conduct set out above at paragraphs 5-8 is contrary to Principle 1 of the Engineers and Geoscientists BC *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 protection of the environment and promote health and safety within the workplace.
10. The conduct set out above at paragraphs 5-8 is contrary to Principle 2 of the Engineers and Geoscientists BC *Code of Ethics* as it stood at the time, which required that all members and licensees shall undertake and accept responsibility for professional assignments only when qualified by training or experience.
11. The conduct set out above at paragraphs 5-8 is contrary to Principle 3 of the Engineers and Geoscientists BC *Code of Ethics* as it stood at the time, which required that all members and licensees provide an opinion on a professional subject only when it is founded upon adequate knowledge and honest conviction.

Disposition

The following conditions are imposed on Mr. Heidema's registration:

12. Mr. Heidema's registration in Engineers and Geoscientists BC is cancelled effective the date of this Order (the "Cancellation Date") and Mr. Heidema agrees not to re-apply for registration for a period of one year after the Cancellation Date.
13. If Mr. Heidema wishes to re-apply for registration, he must first:
- a. Provide written notice to Engineers and Geoscientists BC that he has completed and passed the Engineers and Geoscientists BC Professional Practice Examination, at his own expense; and
 - b. Provide written notice to Engineers and Geoscientists BC that he has completed the Professional Engineering and Geoscience in BC Online Seminar, at his own expense.

14. Should Mr. Heidema's registration be reinstated, any geotechnical engineering work undertaken by Mr. Heidema must be peer reviewed pursuant to the Engineers and Geoscientists BC *Discipline Committee Order Peer Review Policy*, by a peer reviewer approved by the Engineers and Geoscientists BC Registrar (the "Peer Reviewer") as follows:
 - a. The peer review must continue for a minimum of one year from the date a peer reviewer is approved by the Engineers and Geoscientists BC Registrar (the "Peer Review Period");
 - b. The costs of the peer review, if any, shall be borne by Mr. Heidema;
 - c. The Peer Reviewer shall report in writing to the Engineers and Geoscientists BC Registrar every six months during the Peer Review Period on the performance of Mr. Heidema; and
 - d. Following the Peer Review Period, Mr. Heidema shall obtain an opinion from the Peer Reviewer that Mr. Heidema is competent to undertake geotechnical work and provide that opinion to the Engineers and Geoscientists BC Registrar. If the opinion of the Peer Reviewer is that Mr. Heidema requires further peer review, the Peer Review Period shall continue for a period of an additional six months.
15. Mr. Heidema shall pay \$4,000 toward the Engineers and Geoscientists BC legal costs within 30 days of the date of this Consent Order.
16. In the event that Mr. Heidema fails to comply with any of the terms of this Consent Order, his registration in Engineers and Geoscientists BC will be suspended until every default has been remedied in accordance with the terms of the Consent Order.

Consequences of the Consent Order

17. The full text or a summary of this Consent Order will be published by the Engineers and Geoscientists BC in print and electronic publications including on the Engineers and Geoscientists BC website.
18. This Consent Order has the same force and effect as an Order made under section 75 of the PGA.
19. Mr. Heidema agrees that Engineers and Geoscientists BC has advised him that he should receive independent legal advice regarding this Consent Order and that Engineers and Geoscientists BC has given him the time necessary to get said independent legal advice.

20. Engineers and Geoscientists BC and Mr. Heidema 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. Heidema and the members of the Discipline Committee Review Panel this 19th day of April, 2021.

Maxime LaFlour

Witness Name

<original signed by>

Peter Heidema, P.Eng. (Non-Practising)

<original signed>

Witness Signature

<original signed by>

Upul Atukorala, P.Eng.
Member, Discipline Resolution Panel

<original signed by>

Roz Nielsen, P.Eng.
Member, Discipline Resolution Panel

<original signed by>

Thomas Morrison, P.Eng. (Non-Practising)
Member, Discipline Resolution Panel

<original signed by>

Pierre Gallant, Architect AIBC
Member, Discipline Resolution Panel