



Responsible, from start to finish

"BUT THE PLANS WERE NOT EVEN USED!"

Are engineers exempted from their professional responsibilities when their plans are not used? Here is a case! where the Professions Tribunal upheld a decision of the OIQ's Disciplinary Council and, consequently, dismissed the respondent's appeal.

THE FACTS

The engineer in this case agreed to design plans and specifications for mechanical and electrical systems in a condominium construction project, and entrusted the entire task

of designing the plans to an experienced technician. Once the plans were ready, they were delivered to the client and submitted to the City so that a building permit could be issued. However, they ended up not being used for the project because another design was selected.

Based on the evidence presented, the OIQ's Disciplinary Council concluded that the engineer did not fulfill his immediate control and supervision obligations, did not know the project's specifications and had encouraged illegal practice of the profession by signing and sealing the plans.

THE DUTY TO INFORM IS THE VERY FOUNDATION OF THE BOND OF TRUST THAT ENGINEERS MUST ESTABLISH WITH THEIR CLIENTS.

The engineer appealed the decision before the Professions Tribunal. His argument: He was innocent because the plans were ultimately not used to build the building, meaning that public safety was not actually threatened.

THE JUDGMENT

The Professions Tribunal considered the signed plans and specifications to be the expression of an opinion on engineering and asserted that all opinions must be based on sufficient knowledge and honest convictions, regardless of whether plans are used to build buildings or not. As a result, it found the engineer guilty of providing an opinion that was not based on sufficient knowledge and honest convictions.

According to the Tribunal, the evidence showed that the engineer allowed a technician to design the electrical systems layout without ensuring the immediate control and supervision of the technician's work. The Tribunal concluded that, in doing so, the engineer had encouraged illegal practice of the profession and committed a derogatory act.

The Tribunal upheld the fines imposed by the Disciplinary Council, which totalled \$4,000, and ordered the engineer to pay costs in the amount of \$2,860.

“MY PARTNER KNOWS WHAT HE’S DOING!”

The engineer² in this case worked with a biologist who completed jobs for isolated dwellings. The biologist met with the clients, visited the sites, performed some tests and prepared the reports and plans for installing septic tanks.

Although the engineer checked the reports and plans before signing and sealing them, the evidence showed that he never visited the sites. The engineer also acknowledged his lack of knowledge in this area, which explained the inaccuracies in the submitted reports, especially regarding the slopes, soil permeability and location of systems.

The Disciplinary Council pointed out the inherent seriousness of the engineer's professional conduct, which it described as negligent, but was pleased that the clients had not been adversely affected.

As a result, the engineer was found guilty, and the Council fined him a total of \$5,000, reprimanded him, and ordered him to pay costs in the amount of \$725.

“MY CLIENT SHOULD HAVE KNOWN!”

The OIQ's syndic admonished an engineer³ for failing to explain to at least two clients the required steps in the project he had accepted, the extent of the work supervision involved and the approximate cost of his services. Surprised by the amounts charged, the clients refused to pay all of the fees and the engineer took them to Small Claims Court.

The Disciplinary Council pointed out that the duty to inform is the very foundation of the bond of trust that engineers must establish with their clients. Accordingly, engineers must inform their clients not only of the required steps, but also their hourly rates. Then, if they realize that the scope of the project exceeds their estimates, they must immediately advise their client. According to the Council, failing to inform your clients constitutes a failure to fulfill your duty to act honestly.

The Disciplinary Council found the respondent guilty, fined him a total of \$2,500, and ordered him to pay costs in the amount of \$495.

1. Professions Tribunal 700-07000047-159, November 8, 2016.

2. Disciplinary Council 22-15-0473, September 30, 2016.

3. Disciplinary Council 22-16-0499, November 17, 2016.

THINGS TO KEEP IN MIND

- Signed plans and specifications constitute an opinion on engineering
- The duty to inform is the very foundation of the bond of trust that engineers must establish with their clients.