



Paul R. LePage
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

RECEIVED FEB 26 2016

Anne L. Head
Commissioner

February 25, 2016

Senator Roger Katz, Senate Chair
Representative Chuck Kruger, House Chair
Government Oversight Committee
82 State House Station
Augusta, Maine 04333

Dear Senator Katz and Representative Kruger:

Thank you for your February 12th letter requesting my review of all disciplinary actions taken by the Board of Professional Land Surveyors between 2012 and 2015.

The Board of Professional Land Surveyors is one of thirty-seven licensing boards and programs within the DPFRO Office of Professional and Occupational Regulation (OPOR). Each board or program has an assigned Assistant Attorney General who provides legal advice during board meetings on matters of legal interpretation of statutes and rules, and who represents the State when a complaint matter can only be resolved through the adjudicatory hearing process.

Each licensing board is expected to conform to the Administrative Complaint Process adopted by OPOR for resolving complaints against licensees. Further, each board is required by law to comply with Maine Administrative Procedure Act provisions when preparing for and conducting adjudicatory hearings.

Licensing board members are appointed by the Chief Executive because they possess special expertise and experience in the profession they are charged to regulate. Members, sitting as a board, are expected to exercise independent statutory authority when making decisions about when to impose discipline and the specific sanctions that may be warranted.

Each complaint matter handled by the Board of Professional Land Surveyors contains unique facts and circumstances. Board members are expected to understand and apply the applicable statute and rules to the facts and circumstances. Boards may impose discipline only if it is determined that the alleged conduct of a licensee constitutes a violation of board law or rule. If a violation is found to have occurred, the Board has broad authority to determine the level of appropriate discipline.

The Legislature has traditionally established state licensing boards as the sole state entities with independent decision making authority with regard to licensing and disciplinary matters

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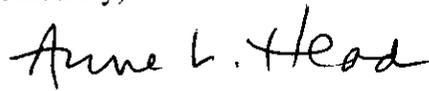
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involving applicants for licensure and licensees.

Although state licensing boards in the Department are Executive Branch agencies, neither the Chief Executive nor a commissioner has statutory authority to interfere with board decisions. 10 MRS § 8002. Given that I do not have expertise or experience in the profession of land surveying, it would be inappropriate for me to attempt to evaluate whether this or any board has considered the correct facts and circumstances in a given case.

I can certainly indicate that I am not aware of any deviation from either the Administrative Complaint Process or the Maine Administrative Procedure Act by the Board of Professional Land Surveyors at any time during the period between 2012 and 2015. Because I do not have authority over decisions made by boards, and lack expertise in land surveying, I am not able to assist the Committee as requested. If I can provide information or assist in another way, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Anne L. Head". The signature is written in black ink and is positioned below the word "Sincerely,".

Anne L. Head