



Louisiana Professional Engineering and Land Surveying Board

Received

JAN 27 2012

By LAPELS

Petition for Declaratory Order and Ruling

1. Name of Petitioner: Marc Berard
Address: 117 Iberia Street, New Iberia, LA 70560
Telephone No.: (337) 367-1408
Email: mberard@bhaengineering.com
2. List all statutes, rules or orders of the Board to which this petition relates:
Laws - Chapter 8, Professional Engineering and Professional Land Surveying, Section 701. Public and Private work; application of Provisions, Subsection C.
3. Clearly and concisely state all the facts necessary to show the manner in which the petitioner is aggrieved by the statute, rule or order or by its potential application, or in which the petitioner is uncertain of its effects:
Does the exemption granted by Section 701. C apply to private engineering firms providing mechanical and/or electrical design services and documents to firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the state of Louisiana in the course and scope of the business of said firms or affiliates thereof?
4. Clearly and concisely state the declaratory order or ruling requested by the petitioner:
Should a private firm be sealing mechanical and/or electrical design services documents prepared for firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the State of Louisiana in the course and scope of the business of said firms or affiliates thereof?
5. State whether the petitioner has an application or is involved in a disciplinary or enforcement investigation or proceeding, or in any other matter which is presently pending before or under consideration by the Board. If so, explain in detail:
No
6. State whether the declaratory order or ruling requested by the petitioner relates to, is similar to or is connected with any pending litigation or with any disciplinary or enforcement investigation or proceeding presently pending before or under consideration by the Board. If so, explain in detail:
No

Signature of Petitioner: Marc Berard, P.E. Date: 1/25/2012

LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 Brookline Avenue, Suite 123
Baton Rouge, Louisiana 70809

RULING ON PETITION FOR DECLARATORY ORDER

1.

On or about January 27, 2012, Marc Berard ("Petitioner") filed with the Louisiana Professional Engineering and Land Surveying Board (the "Board") a petition for declaratory order and ruling pursuant to LAC Title 46:LXI§727.

2.

Petitioner seeks a declaratory order as to whether a "private firm" should be "sealing mechanical and/or electrical design services documents prepared for firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the State of Louisiana in the course and scope of the business of said firms or affiliates thereof".

3.

LAC Title 46:LXI§2503(C) requires licensees of the Board to fully comply with the rules of the Board regarding the use of seals (LAC Title 46:LXI§2701).

4.

LAC Title 46:LXI§2701(A)(4)(a), which relates to the sealing of completed work, provides, in pertinent part, as follows:

i. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

(a). In the case of a temporary permit issued to a licensee of another state, territory, or possession of the United States, or the District of Columbia, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

iii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall seal, sign and date the title page or first sheet.

iv. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

(b). In the case of a firm, the licensee in responsible charge shall seal, sign and date the title page or first sheet.

5.

La. R.S. 37:701(C) provides as follows:

This Chapter shall not apply to, affect, interfere with, or in any way regulate employees of firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the state of Louisiana in the course and scope of the business of said firms or affiliates thereof. In the event any of the activities set forth in this Subsection shall fall within the definition of practice of engineering as defined in R.S. 37:682, such activities shall be under the responsible charge of a professional engineer. However, this Subsection shall not apply to persons practicing civil engineering or land surveying, who must at all times comply with the provisions of this Chapter.

ORDER

After due consideration of the petition for declaratory order and ruling filed by Petitioner and after discussion by the Board during its meeting on May 21, 2012:

IT IS THE RULING of the Board that:

6.

Engineering firms which prepare and issue completed engineering documents to “firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting,” in Louisiana are required to ensure that those documents are properly sealed pursuant to the Board’s laws and rules.

THUS DONE at Baton Rouge, Louisiana, on the 21st day of May, 2012.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

By: 
NORMA JEAN MATTEI, Ph.D., P.E., Chairman