

STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH

Richard Bruce, S.S.I.  
License No. 002531  
638 Danbury Road  
Wilton, Connecticut 06897

Petition No. 951204-033-010

**FINAL DECISION**

***Procedural Background***

On August 11, 1997, the Commissioner of Public Health appointed this Hearing Officer to hear this case and to issue a final order upon the conclusion of the hearing.

On July 21, 1997, the Department of Public Health (hereinafter "the Department") brought a Statement of Charges against Richard Bruce, Subsurface Sewage Installer (hereinafter "respondent"). The Statement of Charges alleged that respondent violated Connecticut General Statutes §20-341f(d)(2) and/or (3), taken in conjunction with Connecticut Public Health Code Regulations §§19-13-B103c(a), (c) and/or (f), 19-13-B103d(a), (b) and/or (e)(3), and/or 19-13-B103e, and Technical Standards II, VII and/or VIII. Dept. Exh. 1.

Prior to the initiation of the instant charges, the Department offered respondent an opportunity to attend a compliance conference. Tr. pp. 17-18.

On September 5, 1997, respondent submitted an Answer to the Statement of Charges, which was orally amended on October 6, 1997. Tr. pp. 19-21.

The administrative hearing was held on October 6, 1997, to adjudicate respondent's case. The hearing was conducted in accordance with Chapter 54 of the Connecticut General Statutes; and §19-2a-1, *et seq.* of the Regulations of Connecticut State Agencies. Respondent appeared with counsel, Attorney Steven Berg. Attorney Gareth Bye represented the Department. Respondent admitted the allegations in the Statement of Charges. The parties agreed to terms of probation to resolve this matter, and

further agreed that a civil penalty should be imposed, but left the amount to the discretion of the Hearing Officer.

The Final Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law, and final order.

***Statement of Charges and Answer***

1. In paragraph 1, the Department alleged that respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut subsurface sewage disposal system installer license number 002531. Dept. Exh. 1. Respondent admitted this allegation. Tr. p. 19.
2. In paragraph 2, the Department alleged that at all times in question, respondent owned and/or co-owned a subsurface sewage installation company, Al Dexter Septic and Drainage Systems, Inc. (hereinafter "Dexter"). Dept. Exh. 1. Respondent admitted this allegation. Tr. p. 19.
3. In paragraph 3a, the Department alleged that during August of 1995, respondent installed a septic tank on his property at 638 Danbury Road, Wilton, Connecticut (hereinafter "the property"), within 50 feet of an open water course without obtaining prior approval or an installation permit from the Wilton Health Department and Inland Wetlands Commission. Dept. Exh. 1. Respondent admitted this allegation. Tr. p. 20.
4. In paragraph 3b, the Department alleged that during August of 1995, respondent had a plan in place for the property to install twelve inch leaching galleries within 50 feet of an open watercourse. Dept. Exh. 1. Respondent denied this allegation. Tr. p. 20.
5. In paragraph 3c, the Department alleged that during August of 1995, respondent failed to conduct soil testing or site investigation on the property to determine the suitability of the existing soil for a leaching system. Dept. Exh. 1. Respondent admitted this allegation. Tr. p. 20.
6. In paragraph 3d, the Department alleged that during August of 1995, respondent failed to notify the Wilton Health Department 24 hours prior to the installation of the septic tank on the property. Dept. Exh. 1. Respondent admitted this allegation. Tr. p. 20.
7. In paragraph 4, the Department alleged the above described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes §20-

341f(d)(2) and/or (3), taken in conjunction with Connecticut Public Health Code Regulations §§19-13-B103c(a), (c) and/or (f), 19-13-B103d(a), (b) and/or (e)(3), and/or 19-13-B103e, and Technical Standards II, VII and/or VIII. Dept. Exh. 1. Respondent admitted this allegation for the purpose of this case. Tr. p. 21.

***Findings of Fact***

1. Respondent admits that there are sufficient facts to constitute grounds for a disciplinary action pursuant to Connecticut General Statutes §20-341f(d)(2) and/or (3).
2. The Department and respondent agree that respondent's license shall be on probation for two years, with the following terms: (1) respondent will concurrently provide the Department with a copy of the notice that he submits to the local health authority for any work he performs on the installation, improvement or modification of a subsurface sewage system; (2) respondent will notify the Department of any business address change; (3) respondent will notify the Department of a change in the ownership of his business, Al Dexter Septic and Drainage Systems, Inc.; and, (4) respondent will pay a civil fine, the amount determined by the Hearing Officer. Tr. pp. 21-23.

***Discussion and Conclusions of Law***

The Department argued that, given the nature of the allegations, this is a serious matter, and the civil penalty should send a message to the subsurface sewage disposal industry that the Department of Public Health will not tolerate such conduct.

Respondent argued that the civil fine should be based on the particular circumstances of this case. He claimed that a truck accidentally ran over a cesspool on respondent's property which caused the cesspool to cave in. Respondent reacted in haste and installed a tank without notifying and getting permission from the Wilton Health Department and Inlands Wetlands Commission. Someone notified the Wilton Health Department after the installation, before respondent had an opportunity to do so.

Based on the Statement of Charges, the arguments presented by the parties, and a review of the record, an appropriate civil penalty is \$ 300.00.

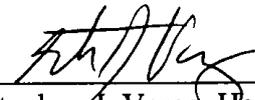
**Order**

Pursuant to Connecticut General Statutes §20-341f(d)(2) and/or (3) and §19a-17:

1. Respondent shall pay a civil penalty of three hundred dollars (\$300.00) by certified or cashiers check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check and shall be paid no later than thirty (30) days from the receipt of this Final Decision.
2. Respondent's license number 002531 to practice as a subsurface sewage disposal system installer in Connecticut is placed on probation for two (2) years, under the following terms and conditions:
  - a. Respondent will concurrently provide the Department with a copy of the notice that he submits to the local health authority for any work he performs on the installation, improvement or modification of a subsurface sewage system;
  - b. Respondent will notify the Department of any business address change;
  - c. Respondent will notify the Department of a change in the ownership of his business, Al Dexter Septic and Drainage Systems, Inc.; and
3. All correspondence shall be sent to:

Frank Schaub, Supervising Sanitary Engineer  
Department of Public Health  
410 Capitol Avenue, MS #51SEW  
P.O. Box 340308  
Hartford, Connecticut 06134-0308

12/29/97  
Date

  
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Stephen J. Varga, Hearing Officer