

## COMPLAINTS COMMITTEE: VOLUNTARY UNDERTAKING UNDER SUBSECTION 24(2)(C) OF THE *PROFESSIONAL ENGINEERS ACT*

In the matter of a complaint regarding the actions and conduct of Victor A. Korotky, P.Eng., a member of the Association of Professional Engineers of Ontario, and Korotky, Victor Andrew, o/a Vicor Engineering, a holder of a certificate of authorization.

### BACKGROUND

It is alleged that:

1. In or about 2012, a contractor commenced construction of a single-family dwelling that he owned.
2. During the construction process, a building inspector conducted routine inspection visits at various stages of construction and identified several non-conformance items and requested an engineering report from the contractor/home owner. Vicor Engineering (Vicor) was verbally retained by the contractor to conduct site inspections of these items and to provide inspection reports to the city confirming the adequacy of the elements as constructed.
3. Vicor prepared site inspection reports as described above. They were signed and sealed by Victor A. Korotky, P.Eng. (Korotky). Reportedly, Vicor and Korotky relied on photographs from the contractor as the basis of their inspections.
4. At all material times, Vicor held a certificate of authorization (C of A) and Korotky was the designated individual taking responsibility for engineering services provided under the C of A.
5. Over time, cracks started to develop in the basement walk-out retaining wall. With time, the cracks increased in size and the retaining wall moved laterally and became structurally unstable.
6. On July 13, 2015, the city issued an "Order to Remedy Unsafe Building." The subsequent homeowner engaged an engineer and a contractor to redesign and to rebuild the retaining wall.
7. During the retaining wall demolition, it was revealed that the wall was constructed of 8" concrete block, without vertical or horizontal reinforcement. However, the approved Permit Drawings specified that the retaining wall was to be constructed as 8" concrete block, reinforced with 20m rebars vertically at 48" c/c (revised by the city reviewer to 25m rebars vertically at 24" c/c) and continuous horizontal 15m rebars along the top of the wall.
8. In an April 27, 2012, Vicor report, signed and sealed by Korotky, it was stated that the reinforcement of the 8" walk-out retaining wall was reviewed by Korotky and found to be satisfactory. Korotky did not see the wall reinforcement on site as constructed and instead prepared the report based on the photo showing the wall and its reinforcement.
9. In Vicor reports of April 16, 2012, and April 27, 2012, signed and sealed by Korotky, it was stated that the contractor noted that the foundation walls were constructed with a smooth surface with no voids and therefore parging was not required. However, the Ontario Building Code required parging.
10. In an April 27, 2012, Vicor report, signed and sealed by Korotky, it was stated that based on photos provided by the contractor, 15m reinforcing bars were included in the construction of a 10" foundation wall and this reinforcing is structurally adequate. However, no spacing of the reinforcing was indicated.

### THE COMPLAINT

11. The complaint raised issues concerning the accuracy of statements in reports that confirmed the adequacy of as constructed elements and included reinforcement of the 8" walk-out retaining wall.
12. The Complaints Committee (committee) received a candid and contrite response to the complaint in which the respondents stated that they should have been present during earlier stages of construction to verify reinforcement as per the drawings and erred by relying upon photos taken by the contractor. The respondents expressed remorse for the impact on the current owner of the home.

### THE CONSIDERATION OF THE COMPLAINTS COMMITTEE

13. The committee considered the complaints on February 14, 2018, and June 27, 2018.
14. The committee was concerned that statements made regarding structural adequacy and building code compliance may not have been based on sound engineering science or first-hand reviews of the work.
15. The committee considered the responses received from the respondents, and carefully considered the issues raised in this matter. The committee considered whether a referral to the Discipline Committee was warranted in all the circumstances, and whether it was in the interest of the public and the profession to proceed with the matter. The committee decided that if its concerns were addressed through certain proactive remedial efforts on the part of the respondents, as well as publication of a summary of this matter, that the public interest issues raised by the complaint would be addressed.

### VOLUNTARY UNDERTAKING

16. Korotky voluntarily undertook that he will prepare a written agreement/contract for every retainer to inspect construction or a part of construction clearly stipulating that he will not provide a Certification Letter unless he will be able to personally inspect the work to satisfy himself that the element is constructed in accordance with approved drawings.
17. Korotky voluntarily undertook to write and pass the Professional Practice Examination within two years.
18. Korotky and Vicor voluntarily agreed that a summary of this matter and the Voluntary Undertaking would be published in PEO's Gazette with names.
19. The Voluntary Undertaking described above was accepted by the committee as a dispositive measure, and pursuant to its powers under section 24(2)(c) of the act, the committee decided that this matter would not be referred to the Discipline Committee.