

Rep Stoltze  
Co-Chair House Finance

Re: HB 85, AELS Sunset  
Subj: Testimony in Support

Rep. Stoltze, Rep. Hawker and committee members

I, Paul Whipple, a registered land surveyor am the Vice President of the Bering Straits Regional Housing Authority based in Nome.

I am offering my personal testimony in support of HB 85 and do requested that the committee adopt two amendments to the bill.

A) Landscape Architects – currently the bill does not extend the position of the Landscape Architectural representative. I believe it important to the public that the specialized unique knowledge and experiences of a Landscape Architect be an integral part of the AELS Board. The highly specializes experiences of a Landscape Architect are needed by the board to fully deliberate the issues that come before it.

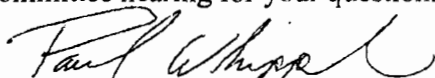
I suggest that the language contained in SB 114, as a minimum, be incorporated.

B) Prohibit the Altering of Sealed Documents – I encourage the committee to adopt the statute amendment offered by the AELS .

This has been a long festering issue that has plagued all design professions and frequently presents public safety concerns. It is this potential harm to the public that I offer my own personal experience. Prior to working for the Housing Authority I was the General Manager of a Design firm. Approximately 3 years ago a former client altered the Architectural Floor Plans of an 8-plex Apartment Bldg so that he could build it in a different location. Additionally he modified the drawings to relocate a couple of walls and to build a plumbing chase. This may not seem to be a big deal to the casual observer except it did create numerous violations of the fire code. Had my Architect not received a call from a subcontractor bidding the project we may never have become aware of the issues and the project could have been built as altered.

In all reality this amendment will not stop the practice but, together with public education, can prevent some of it from happening.

I appreciate this opportunity to testify and will make myself available during the committee hearing for your questions.



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**Position paper**  
**REASONING FOR PROPOSED AMENDMENT TO AELS**  
**LANGUAGE**

**Gary LoRusso**  
**Registered Land Surveyor - Alaska**  
**Licensed Land Surveyor - New Hampshire**  
**Associate Real Estate Broker - Alaska**

The public relies on the documents produced by Architects, Engineers and Land Surveyors authorized to practice by Alaska Statute. These documents are typically the biggest protection that the public has when involved in Real Estate transactions. The documents used in Real Estate transactions are generally in the form of a graphic representation of structures and/or land boundaries and will include important sets of data that delineate building setbacks, structural and fire safety requirements, land boundaries, locations of public facilities, easements, waste water facilities, drinking water facilities and more. As the cost of real estate increases and the cost to correct or retrofit deficient items increases the likelihood of alteration to these documents has likewise increased. This is a serious violation of the intent of the licensing statutes, the intent being the protection of the public.

In reviewing the existing statutes it is clear that the authors intended to prevent the alteration of documents that are sealed by an Architect, Engineer or Land Surveyor. The authors made it unlawful for any registrant to alter a document created by another registrant. It would be very unusual for registrants to alter each others documents, however, it is unlawful and it should remain unlawful. What the authors failed to consider was the alteration of sealed documents by the people most likely to do so, the person who willfully changes important data on a sealed drawing in order to facilitate a real estate transaction by deceiving the parties involved. This has become a reality more and more and is a larger problem than most people realize. Currently, as the statute is written it is not unlawful for any member of the general public to alter documents created by a registrant authorized under Alaska law to create those drawings.

We have been made increasingly aware of instances where documents have been altered in order to facilitate a real estate

transaction . Examples have been:

- Moving the graphic location of a well out of an easement so as to deceive the lender, purchaser and regulatory authority that the location is in compliance with regulations and law.
- Moving the graphic location of a well away from a septic system so as to deceive the lender, purchaser and regulatory authority that the location is in compliance with regulations and law.
- Changing the distance(s) from structures to property lines so as to deceive the lender, purchaser and regulatory authority that the structure is in compliance with setback regulations.
- Changing ( erasing) objects or data on drawings in order to deceive the lender, purchaser and regulatory authority that the non-compliant item(s) does not exist.
- Essential life/safety items have been deleted or altered in order to deceive the purchaser, lender and regulatory authority that all is in compliance.
- Changes are made to structures and the drawings are changed to reflect the layman's interpretations of the location of those changes. Those altered drawings are then submitted to the lender, purchaser and/or regulatory authority as fact complete with the seal of the unsuspecting Architect, Engineer or Land Surveyor.

As values increase or decrease, or, as the economy weakens or strengthens the temptation and likelihood of alterations increases. With our present state of technology it has become increasingly difficult to recognize an alteration when it does occur. The transactions will occur and the unsuspecting purchaser, lender or regulatory authority will not become aware until many years later when new documents are produced and the problem that was "addressed" by alteration then becomes apparent. The cost to correct deficiencies is then born by the unsuspecting public as the perpetrator of the alteration is long gone.

We need to prevent the alteration of sealed documents. The change to the regulations as proposed will provide the legal basis to uphold what the creation of licensing statutes is intended to provide, the protection of the public.

TO: Representative Stoltze  
Co-Chair, House Finance  
ATTN: John Coan  
SUBJ: HB85 written testimony

7 April, 2009

For the record, my name is Boyd J. Brownfield. I am a Professional Engineer and serve as the Chairman, Board of Registration for Architects, Engineers and Land Surveyors (BRAELS) as well as the profession of Landscape Architects which is presently assigned to BRAELS in a temporary, non-voting status.

First, it is my pleasure to offer the following testimony to the House Finance Committee regarding HB 85. I do so in behalf of BRAELS regarding several subjects that are important to the board and essential to the overall success of our statutory charge.

I have reviewed the original bill (sunset extension) and fully concur with the proposed extension of the board to the year 2017.

As chairman I was an addressee in both the draft and the final Legislative Audits. BRAELS concurred with the three final findings and recommendations. I submitted prepared remarks pledging the full support of our board. Recommendation #3 has already been fulfilled by the Office of the Governor. The board now has a full compliment of sitting members.

As previously noted, the profession of Landscape Architects is presently assigned to BRAELS in a temporary, non-voting status. BRAELS supports the continued inclusion of the temporary, non-voting Landscape Architect seat on the board and its inclusion in HB 85.

In addition to the above, BRAELS respectfully requests that proposed statute language prohibiting the alteration of sealed drawings under certain circumstances also be included in HB 85.

The proposed language is the subject of the enclosed Briefing Paper prepared by Mr. Harley Hightower, a member of BRAELS (see enclosure #1).

I have also prepared additional testimony in support of the proposed language for your further consideration (see enclosure #2).

Both Mr. Hightower and myself will be attending the April 8, HFIN Hearing, 1:30p via teleconference. I can be reached at (907) 277-0069 and Mr. Hightower at (907) 644-0798. We will be using the (H)FIN teleconference number 1-(888) 295-4546.

In behalf of the BRAELS, I respectfully request that the HFIN committee give favorable consideration to these important issues.

  
Boyd J. Brownfield, PE, Chairman

**STATE OF ALASKA  
BOARD OF REGISTRATION  
FOR ARCHITECTS, ENGINEERS, AND LAND SURVEYORS (AELS)**

**BRIEFING PAPER  
ALTERATIONS OF DOCUMENTS BY UNAUTHORIZED PERSONS**

Within the State of Alaska there is common practice where documents prepared and sealed by design professionals are altered by unauthorized individuals. An example of this practice occurs frequently whereby an agency requires an as-built drawing of a site prior to issuance of a permit and requires the drawing to be sealed by a land surveyor. Subsequently changes are made to sites and/or structures to reflect the layman's interpretation of the location of the changes and requirements. The altered drawings are then re-submitted to the authority having jurisdiction, a lender, and/or a purchaser as fact complete with the seal of an unsuspecting design professional.

The consequences of alterations of documents by non-registrants are costly and misleading to the general public who rely on these documents for the protection of health, safety, and welfare. Examples of issues created by unauthorized alterations of sealed documents include:

- Altering dimensions indicating distance(s) from structures to property line(s).
- Altering documents by deleting objects or data on drawings that may be non-compliant.
- Essential life/safety issues altered to indicate that a non-compliant condition is compliant.
- Altering the graphic location of a water well to show a proper separation from a septic system or utility easement.

The practice of alterations of documents by unauthorized persons may deceive lenders, purchasers, and/or regulatory agencies and conceal conditions that violate codes and standards. In addition to this practice creating hazards to the health, safety, and welfare of the public a condition is created that exposes unsuspecting registrants to liability and/or legal fees.

The AELS Board, which is charged with protecting the health, safety, and welfare of the public, has become increasingly aware of the problems associated with unauthorized alterations to sealed documents. The issue persists. Therefore the AELS Board recommends the adoption of **Sec. 08.48.281 Prohibited practice** and **Sec. 08.48.291 Violations and penalties**, as revised by the AELS Board as a resolution to this health, safety, welfare issue. The proposed recommended statutes are revised and included hereafter.

**Sec. 08.48.281 Prohibited practice.** (a) A person may not practice or offer to practice the profession of architecture, engineering, land surveying, or landscape architecture in the state, or use in connection with the person's name or otherwise assume or advertise a title or description tending to convey the impression that the person is an architect, an engineer, a land surveyor, or a landscape architect unless the person has been registered under the provisions of this chapter or is a person to whom these provisions do not apply, or, in the case of a corporation, limited liability company, or limited liability partnership, unless it has been authorized under this chapter.

(b) Notwithstanding (a) of this section, this chapter does not prohibit the practice of landscape architecture by a person who is not registered to practice landscape architecture if the services being performed by the person are within the scope of practice authorized by another license that is held by the person.

(c) It is unlawful for any person not registered under this chapter to alter, or contribute to the altering of, any document that has been sealed by a registrant authorized under this chapter.

**Sec. 08.48.291. Violations and penalties.** A person who practices or offers to practice architecture, engineering, land surveying, or landscape architecture in the state without being registered or authorized to practice in accordance with the provisions of this chapter, or a person not registered under this chapter who alters or contributes to the altering of any document that has been sealed by a registrant authorized under this chapter, or a person presenting or attempting to use the certificate or the seal of another, or a person who gives false or forged evidence of any kind to the board or to a member of the board in obtaining or attempting to obtain a certificate, or a person who impersonates a registrant, or a person who uses or attempts to use an expired or revoked or nonexistent certificate, knowing of the certificate's status, or a person who falsely claims to be registered and authorized to practice under this chapter, or a person who violates any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both.

Note: Text in red indicates additions to existing statute.

ENCLOSURE #1

TESTIMONY  
Alteration of Alaska Statute, Sec. 8.48.281 and Sec. 8.48.291  
(by Boyd Brownfield, PE)

It is becoming more and more a common practice that government agencies at all levels and private institutions such as banking and loan institutions, owners and contractors who are non-registrants, to informally alter existing documents previously sealed by a professional registrant. Most frequently alterations involve existing boundary and as-built surveys as well as architectural and design drawings. The non-registrants freely alter the original work to meet new or revised concepts/projects. The altered documents are ultimately used in conjunction with financial or construction applications.

As an example, the alteration of an as-built for a building application was made by a non-registrant with the assistance of an agency. It was subsequently disclosed that the altered documents created a zoning encroachment which clearly impacted the interests of the affected public.

In another, an existing as-built was altered to accommodate a real estate transaction. Later during construction it was discovered that an existing septic system was encroaching on a neighboring property. The initial reaction was to lay blame on the registrant who sealed the original as-built. Upon further investigation it was found that one of the individuals involved in the real estate transaction had used "white-out" to mask the problem.

In the past, the board has attempted to curtail such activities through formal correspondence but have been largely challenged and/or ignored by the respondent. While our statutes governing the conduct of professional registrants are clearly addressed, we contribute the lack of conformance by non-registered participants to be partially a lack of clarity within our statutes.

The continued practice of non-registrants informally altering sealed documents clearly represents a potential threat to the health, safety and welfare of our general public.

The board, therefore, feels strongly that the present language of Sec 8.48.281 and Sec 8.48.291 lacks due clarity to sanctions prohibiting non-registered persons from altering, or contributing to the altering of documents previously sealed by proper registrants.

It is with this background that the AELS Board seeks a change to Sec. 08.48.281 and Sec. 08.48.291 to add language as reflected in the AELS Board Briefing Paper entitled, **"ALTERATIONS OF DOCUMENTS BY UNAUTHORIZED PERSONS"**.

**ENCLOSURE #2**