

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING,
LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN**

In the Matter of Professional Engineer License
of Charles Marohn

**CHARLES L. MAROHN, Jr.
DECLARATION**

Charles L. Marohn, Jr., of the City of Brainerd, County of Crow Wing, State of Minnesota,
being first duly sworn, states and testifies as follows:

1. I am the Respondent in the above captioned contested case.
2. I reside at 616 North 4th Street, Brainerd, MN. 56401.
3. Plaintiff Charles L. Marohn, Jr. is a Minnesota licensed professional engineer, an urbanist, a land-use planner, an author, and a public speaker.
4. I earned a bachelor's degree in civil engineering from the University of Minnesota in 1995 and a Masters of Urban and Regional Planning in 2004 from the University of Minnesota.
5. I obtained a license from the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design ("Board") to practice as a professional engineer on February 8, 2000.
6. Shortly after licensure in 2000, I started my own professional planning and engineering firm, Community Growth Institute, LLC. Community Growth Institute, LLC engaged in both professional planning and engineering working exclusively on behalf of local governments. During the next ten years, I found that local governments were spending

monies on infrastructure which were a waste of money and were making the communities those local governments represented poorer.

7. As a result, in 2009, after representing local governments as a practicing professional engineer and land use planner, and experiencing frustration with the amount of taxpayer monies local governments wasted on transportation, infrastructure, and development projects, I founded Strong Towns, a nonprofit corporation based in Minnesota that advocates for, among other reforms, local governments to spend less taxpayer dollars on construction and infrastructure projects. I then proceeded to phase out of private practice and closed Community Growth Institute, LLC in 2012.
8. Strong Towns advocates an approach to urbanism that avoids the construction of unnecessary infrastructure and hence the costs of building and maintaining unnecessary infrastructure.
9. Strong Towns provides education and information to the public, both in and out of Minnesota, in an effort to assist the public in being better advocates for appropriate infrastructure projects in their localities.
10. Strong Towns maintains a website that provides news and commentary related to urbanism, urban planning, land-use planning, and infrastructure projects.
11. I am the author of *Strong Towns: A Bottom-Up Revolution to Rebuild American Prosperity*, published by Wiley & Sons in 2019.
12. In addition, I also am the author of *Confessions of a Recovering Engineer: A Strong Towns Approach to Transportation*, published by Wiley and Sons in 2021.
13. To the best of my knowledge, I am well known and broadly respected throughout the fields of urbanism, planning, and engineering. My work has been broadly cited. In 2017,

I was voted one of the ten “most influential urbanists of all time” by the urbanist website Planetizen.

14. I have not been a practicing engineer since 2012. Since 2012, I have not signed any engineering documents, prepared any plans or specifications requiring licensure, overseen anyone who practices engineering, worked on any engineering projects, or undertaken any professional action that created any threat to the health, safety, and welfare of the public. Further, since 2012, I have not applied for any work as an engineer nor used my credentials to seek work as a professional engineer. The work I am currently engaged in does not require any type of licensure including a professional engineering license.
15. Under Minn. Stat. §326.10, professional engineering licenses expire on June 30th in each even year. After initially obtaining a license, Minnesota licensed professional engineers must renew their professional engineering licenses by June 30th each even year by submitting a renewal application and a \$120 renewal fee. *A copy of the Board’s application form is attached as Exhibit 1.* The Board issues the professional engineering license for a period of two years. During this two-year period, the licensed professional engineer must attend 24 hours of certified continuing education classes including at least two hours in ethics in order to renew the professional engineering license.
16. Prior to June 30, 2016, I applied for renewal of my professional engineering license and the Board issued me a two-year professional engineering license effective July 1, 2016.
17. Because I did not receive any notice reminding me to renew my license prior to June 30, 2018, coupled with me no longer engaging in the practice of professional

engineering, I simply did not remember to renew my professional engineering license on June 30, 2018. As a result, my Minnesota professional engineering license expired on July 1, 2018.

18. I was not become aware that my professional engineering license had lapsed until June 9, 2020 when another employee of Strong Towns, Michelle Erfurt, informed me that the Board's website indicated that mine had expired. On that same day, I submitted an application to reinstate my license.
19. Presumably because licensed professional engineers frequently fail to renew their professional engineering licenses in a timely manner, the Minnesota State Legislature enacted a specific statutory provision providing for professional engineers to reinstate their licenses. Minn. Stat. §326.10 subd. 9 specifically provides:

A licensee or certificate holder whose license or certificate has expired may reinstate the expired license or certificate by satisfying all prior continuing education requirements to a maximum of 48 professional development hours, by paying all of the renewal fees due for all prior renewal periods that the license or certificate was expired and the current renewal period, and paying a delayed renewal fee in the amount set by the board.

20. Because I had simply not remembered to renew my license on June 30, 2018, but otherwise believed that I had renewed my license, I had completed all of the 48 continuing professional development hours for the 2016-2020 period in order to have a professional engineering license renewed. In addition, because I had to renew my professional engineering license three weeks later by June 30, 2020, while I was applying for reinstatement, I also simultaneously submitted my renewal application for the years 2020-2022. Once again, because I had simply not remembered that I had failed to renew my license on June 30, 2018, but otherwise believed that I had renewed my license, I had completed all of my 24 continuing professional development hours

for the 2018-2020 period as well. In submitting my application to reinstate my professional engineering license, I also paid all fees and late fees due. As a result, the Board reinstated my professional engineering license for 2018-2020 and issued a renewal license for 2020-2022 on or about June 19, 2020.

21. Between July 1, 2018 and today, I have not worked as a professional engineer, did not oversee anyone working as a professional engineer, did not sign any documents nor have any involvement with any project requiring licensure, and did not solicit any work or represent myself as a professional engineer in order to gain employment or practice engineering.
22. On March 5, 2020, an individual named David D. Dixon filed a complaint with the Board against me based exclusively on my not having a license from July 1, 2018 through March 5, 2020. Based on information I gathered from the internet, I believe that David D. Dixon is an engineer living in Box Elder, South Dakota. I have given talks in South Dakota on behalf of Strong Towns making arguments some professional engineers may perceive as against the economic interests of engineers.
23. Despite the fact that the Board had received notification of the Complaint on March 5, 2020, the Board failed to notify me of the Complaint until July 24, 2020 – more than one month after the Board had renewed my professional engineering license.
24. *A copy of David Dixon's complaint, together with the accompanying documents that the Board sent to me, is attached as Exhibit 2.*
25. The complaint specifically states that it was submitted as retaliation for my political advocacy—and thus for protected First Amendment activity:
 - a. The complainant introduces the complaint by explaining that the complainant became interested in my licensure history as a result of reading an article I

authored and posted on Strong Towns website entitled “Four Ways Traffic Engineers Thwart Public Will”;

- b. Complainant states in the article I asserted that my professional engineering license had been challenged because of my political advocacy;
 - c. Complainant then states he was “curious” about my alleged assertion and, as a result, complainant undertook complainant’s own investigation of my claims by investigating my licensure history on the Board’s website;
 - d. Complainant then states that “Mr. Marohn talks about being a policy expert, the type that reads law and ordinances,” and that I must thus have known that describing myself as a professional engineer was illegal;
 - e. The complainant concludes the complaint by asking the Board “to send a clear message that frauds of this sort will not be tolerated,” even though the complainant offers no evidence that I realized that my license had expired;
 - f. The complainant never even mentioned the possibility that I did not realize that my license had lapsed;
 - g. The Complainant failed to specify in any way that I had practiced engineering without a license; and
 - h. Rather, the entire complaint was that I had identified myself as a “professional engineer” in my biography on Strong Towns website, in publications and at speaking engagements.
26. Pursuant to Minn. Stat. §326.111, the Board must establish a complaint committee to investigate complaints made to the Board (“Complaint Committee”). In their July 24, 2020 letter (Exhibit 2), the Complaint Committee requested that I respond to four questions: (i) copies of documents showing positions I held in Minnesota from July 1, 2018 to June 17, 2020; (ii) a listing of all Minnesota projects I worked on, along with the total hours worked, from July 1, 2018 to June 17, 2020; (iii) a listing of all plans I signed as a Minnesota professional engineer from July 1, 2018 to June 17, 2020; and (iv) a statement of all steps I took to “rectify the matter” once I became aware that my license had expired. The Complaint Committee’s initial letter properly focused on whether I had

engaged in any professional engineering services during the period where my license had lapsed.

27. After receiving a copy of the complaint from the Complaint Committee, I responded to the Complaint Committee's letter four days later by sending the Complaint Committee a July 28, 2020 letter. *A copy of my July 28, 2020 letter is attached as Exhibit 3.*
28. In my July 28, 2020 response, I first confirmed that I did not engage in any professional engineering work from July 1, 2018 to June 17, 2020. Therefore, I informed the Complaint Committee that there were no engineering projects I worked on or plans I signed from July 1, 2018 to June 17, 2020.
29. The Complaint Committee responded to me in a letter dated November 3, 2020 along with a proposed stipulation and order. *A copy of the Complaint Committee's November 3, 2020 letter and proposed stipulation and order is attached as Exhibit 4.*
30. In its November 3, 2020 letter and stipulation, the Complaint Committee shifted its focus from any professional engineering work I had performed to simply whether I had referred to myself as a professional engineer in any circumstances. The Complaint Committee asserted that it had "determined" I had violated Minn. Stat. §326.02, subd. 1 and 3 and Minnesota Rules 1805.0200 subps 1 (B), 2, and subp. 4 (C) and that the Complaint Committee would recommend disciplinary action by the Board. Minn. Stat. §326.02 subd. 1 and 3 prohibit a person from providing professional engineering services in Minnesota without a professional engineering license. In addition, these subdivisions also prohibit a person from referring to himself as a professional engineer. In its November 3, 2020 letter, the Complaint Committee interpreted these sections as prohibiting a person from referring to himself as a professional engineer to the public in

any circumstances – even those unrelated to professional engineering. In other words, according to the Complaint Committee, a person would violate these subdivisions if a person referred to himself as a professional engineer at a public gathering completely unrelated to providing any engineering services. Moreover, Minnesota Rule §1800.0200 subps 1 (B), 2, and subp. 4 (C) prohibit licensees from being “[un]truthful in all professional documents;” making “a false statement or fail to disclose a material fact requested in connection with an application for certification, licensure, or renewal in this state or any other state;” or “engag[ing] in conduct involving dishonesty, fraud, deceit, or misrepresentation”

31. As explained in the November 3, 2020 letter, the Complaint Committee proposed that I sign—and agree to—the proposed stipulation and order as an alternative to the Board issuing an Order against me.
32. In its proposed stipulation, the Complaint Committee demanded that I agree that I violated Minn. Stat. §326.02, subd. 1 and 3 solely by “using the title professional engineer on [my] website, in publications, and in biographies for speaking engagements.” Furthermore, the Complaint Committee demanded that I stipulate that I violated Minnesota Rules 1805.0200 subps 1 (B), 2, and subp. 4 (C) by “engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation” when I completed my reinstatement and renewal applications set forth above. These applications required me to certify:

I have not represented myself as an architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or certified interior designer, without proper licensure or certification, either verbally or on any printed matter, in the State of Minnesota, nor will I do so until such time as my license or certificate has been issued by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design;

33. I interpreted this certification to mean that I had not represented myself as a professional engineer in connection with providing, or offering to provide, professional engineering services in Minnesota as opposed to engaging in public advocacy speech. The Complaint Committee asserted that I would have violated this certification if I represented myself as a professional engineer on the website of the non-profit corporation I founded, Strong Towns.
34. Finally, the stipulation specifically provided that I agree that I had made a false statement of fact on the renewal application. In addition, the stipulation provided that I would agree to a reprimand and censure, pay a \$1,500 civil penalty and agree to take two hours of ethics classes.
35. I responded to the Complaint Committee in a November 17, 2020 letter. *A copy of my November 17, 2020 letter is attached as Exhibit 5.* In my November 17, 2020 letter, I again acknowledged that my professional engineering license had lapsed. However, I would not agree to any stipulation finding that I engaged in any type of fraud, dishonesty or misrepresentation based on me stating I was a professional engineer in situations which did not involve providing or offering to provide professional engineering services. I proposed modifications to the findings of fact to show that I renewed my lapsed license before being made aware of David D. Dixon's complaint.
36. The Complaint Committee responded to my November 17, 2020 letter by a December 17, 2020 letter. *A copy of the Complaint Committee's December 17, 2020 letter is attached as Exhibit 6.* Along with the December 17, 2020 letter, the Complaint Committee enclosed a revised stipulation in which the Complaint Committee increased the sanctions on me by now demanding I stipulate that I engaged in "conduct involving dishonesty or

misrepresentation by claiming to be a licensed professional engineer while my license was expired.” Once again, the Complaint Committee demanded that I agree to a reprimand and censure and a \$1,500 civil penalty.

37. At this point, I hired an attorney, Kristine Kubes, to represent me. Ms. Kubes initially sent a December 31, 2020 letter to the Complaint Committee requesting until January 19, 2021 to respond to the Complaint Committee’s December 17, 2020 letter. On January 19, 2021, Ms. Kubes sent the Complaint Committee a January 19, 2021 letter responding to the Complaint Committee’s December 17, 2020 letter. *A copy of Ms. Kubes January 19, 2021 letter is attached as Exhibit 7.* In her letter, Ms. Kubes analyzes the issues and explains to the Complaint Committee that under Minnesota law I did not commit any type of “fraud” or “dishonesty” which would require me to have intended to engage in the fraud or dishonesty. Ms. Kubes letter further cited other disciplinary actions the Board has taken when professionals fail to timely renewal their license applications. In those instances, the Board did not demand that the professionals stipulate they engaged in fraud even though those professionals were practicing in their licensed profession and their actions did potentially threaten the public health safety and welfare.
38. In response to Ms. Kube’s January 19, 2021 letter, the Complaint Committee sent Ms. Kubes a February 17, 2021 letter inviting Ms. Kubes and myself to attend a conference before the Complaint Committee on March 10, 2021 via a remote video meeting over the internet. *A copy of the Board’s February 17, 2021 letter is attached as Exhibit 8.* During this conference meeting:
- a. The Complaint Committee chair, Keith Rapp, stated he was concerned over reference to my engineering credentials during my public speaking appearances, specifically “Tedx, “The American Conservative”, and “Talks on Google.”

- b. Paul Vogel, a member of the Complaint Committee, stated his concern that people listening to me speak during my public advocacy may rely more on what I am advocating based on my biography stating I am a professional engineer.
 - c. Eric Friske, a member of the Complaint Committee, questioned me about how credentials are represented in a spoken podcast format.
39. At this remote conference, there were no representations or allegations that I engaged in any engineering work, or offering to engage in any engineering work, during the period my professional engineering license had lapsed.
40. After the conference, the Complaint Committee sent Ms. Kubes a March 17, 2021 letter containing another draft stipulation. *A copy of the Complaint Committee's March 17, 2021 letter and proposed Stipulation are attached as Exhibit 9.* The updated stipulated order contained findings that omitted key facts in a way that was prejudicial to me and maintains assertions that I agree that I made an “untruthful statement,” a “false statement,” and engaged in “conduct involving misrepresentation.”
41. Ms. Kubes responded to the Complaint Committee in a March 23, 2021 letter. *A copy of Ms. Kubes' March 23, 2021 letter is attached as Exhibit 10.* Ms. Kubes once again reiterated that I would not agree to any stipulation stating that I engaged in any type of dishonesty or misrepresentation. Ms. Kubes indicated that I would sign a stipulated order acknowledging the use of the term “professional engineer” in my biography during the lapse in licensure and agree to a reprimand and a \$500 civil penalty if the Board will remove assertions that I made an “untruthful statement,” a “false statement,” and engaged in “conduct involving misrepresentation” and if the Board will update the findings of fact to indicate that I had applied for and received renewal of my professional engineering license prior to being notified of the complaint from David Dixon.
42. The Complaint Committee responded in an April 20, 2021 letter. *A copy of the*

Complaint Committee's April 20, 2021 letter is attached as Exhibit 11. In the April 20, 2021 letter, the Complaint Committee rejected all changes to the proposed stipulated order that were I requested. The letter threatened that the further action against me if I did not agree to sign the order.

43. Pursuant to Minn. Stat. §358.116 and Minn. Gen. R. Prac. 14.04 (d), I declare, under penalty of perjury, and to the best of my knowledge, everything I state in this Declaration is true and correct.

DATED: January 21, 2022.

s/Charles L. Marohn, Jr.
Charles L. Marohn, Jr.