



**TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243**

Board Meeting Minutes for December 8, 2022
First Floor Conference Room 1-A
Davy Crockett Tower

Tennessee Board of Architectural and Engineering Examiners met on December 8, 2022, and the following business was transacted:

BOARD MEMBERS PRESENT: Alton Hethcoat, Robert Campbell, Blair Parker, Frank Wagster, Brian Tibbs, Rob Barrick, Melanie Doss, Rick Thompson, Jason Carder, Ashraf Elsayed

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Glenn Kopchak, Stuart Huffman, Heidi Overstreet, Megan Maleski

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Rick Thompson called the meeting to order at 9:05 am and Director Glenn Kopchak took roll call.

ANNOUNCEMENTS

The board took a moment to thank Dr. Elrod for providing the opportunity to Alton Hethcoat and Director Kopchak to speak to the engineering students at Lipscomb University. In addition, the board thanked Dr. Elrod for showing the educational tools and training environment provided for future engineers.

AGENDA

Blair Parker made a motion to adopt the agenda with several edits. This was seconded by Frank Wagster. The motion passed by unanimous voice vote.

OCTOBER MINUTES

Brian Tibbs made a motion to make three adjustments to the October minutes. The first amendment was to clarify the votes for the Redline Rules, making it clear who voted yay and who voted nay. The second amendment was removing the summary regarding debate of related science under Redline Rules. Lastly, the third amendment proposed was to add the Redline Rules as an appendix. The motion was seconded by Rob Barrick. The motion passed by unanimous voice vote.

PROFESSIONAL SOCIETY REPORTS

Kasey Anderson, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN), reported updates relating 31 different projects were awarded the Engineering in Excellence award. Ms. Anderson also reported updates for her organization to include providing a summary of upcoming events within the engineering community.

Nathan Ridley, from the TN chapter of the American Society of Landscape Architects (ASLA-TN), provided various updates to include upcoming conference events and an annual legislative event on 10 January 2023.

Ashley Cates, Executive Director of the American Institute of Architects (AIA-TN), had no updates.

DIRECTOR'S REPORT

Budget Report

Director Kopchak noted under "Other" in Edison expenses that August and September had a large allocation then a reallocation to fix that error resulting in a deficit in August and large surplus for the following month of September. This was due to a grants expense initially being placed under the wrong budget line item, then corrected. There was also an increase for technology expenses in August due to the upgrade to the cloud and IT related support expenses. Director Kopchak pointed out that other programs noticed the same increase along the same line.

NCEES MBA Committee Meeting

Director Kopchak noted that Ricky Bursi is the newly appointed Emeritus member and currently serves on the NCEES MBA Committee, which has a meeting scheduled for 9 January 2023, at the NCEES Headquarters in Greenville, South Carolina.

This is fully funded by NCEES; however, required board approval. Robert Campbell made a motion to approve. This was seconded by Brian Tibbs. The motion passed by unanimous voice vote.

2023 NCEES Zone Meeting

The 2023 NCEES Zone Meeting is schedule for 27 – 29 April 2023 in Houston, Texas. Three funded delegates are permitted to attend.

Brian Tibbs made a motion to send Rob Barrick, Jason Carder, and Robert Campbell as the three primaries, with Ashraf Elsayed as the alternate. This was seconded by Melanie Doss. The motion passed by unanimous voice vote.

SCNCARB, CIDQ, and ASLA Conference Updates

Rick Thompson discussed the six regions within the NCARB board and how it affects smaller regions and limiting their voice. NCARB is considering restructuring the regions and organizational structure to encourage a more diverse representation.

Melanie Doss provided a summary regarding the CIDQ conference noting that Tennessee is in very good standing. Melanie Doss pointed out that Tennessee is listed as having 373 total active NCIDQ certificate holders, a number that is good, but would like to see increased.

Blair Parker provided a summary regarding the annual ASLA conference in San Francisco, CA. Blair Parker noted that there were several discussions of licensure and how it affects graduates of landscape and architecture. Tennessee is regarded as a well-respected state in terms of good practices and conservatism.

LEGAL

Legal Report (presented by Stuart Huffman)

1. 2022035571

First Licensed: 02/25/1984

Expiration: 07/31/2024

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant is the city engineer that reviewed site plans for traffic and stormwater drafted by Respondent. Respondent submitted the stamped site plans on 8/9/2022 but the license expired on 7/31/2022. Respondent also alleges that the city requested that a Land Disturbance Permit (LDP) be obtained after work began again at the site. Respondent submitted various items on 12/21/21, 4/12/22, and 5/2/22. The submittals were reviewed using the standard LDP Site Plan checklist and found numerous items were not addressed. The plans were missing typical features such as a legend and details. Few, if any, erosion prevention and sediment control (EPSC) items were shown and several proposed contours did not connect to existing contours. City comments were e-mailed to Respondent on 5/23/22. Respondent made a second submittal on 8/16/22 and few, if any, of the comments were addressed. Other revisions were made which were not related to the comments but did not apply to EPSC. A retaining wall was proposed off the property that appears to be a railroad right-of-way with no reference of obtaining a ROW or easement. The city believes that the submitted plans do not offer enough detail to be constructible and do not meet the standard of care.

Further, it is alleged that the Respondent's LLC firm has not filed a firm disclosure.

Respondent believes the standard of care allegations are a matter of opinion and that the Complainant has disagreed with numerous other Engineer's plans in the past. Respondent started his renewal in June because his expiration date was 7/31/2022. He does admit that his renewal payment was late and that he did submit plans on 8/9/2022 while the renewal was in process and license recently expired. Payment for the renewal was not received until 8/26/2022. Respondent also states that TDEC approved the SWPPP that Complainant alleges had errors and all appropriate items were addressed.

Reviewed by Board member: Alton Hethcoat

Mitigating Factors:

Aggravating Factors: Submitted plans on an expired license.

Recommendation: Authorize a civil penalty of \$750.00 for practicing on an expired license and

pass the Laws and Rules Exam. Further, instruct Respondent to file a Firm Disclosure within 30 days.

Board Decision: Investigate further and re-present complaint at the February 2023 meeting.

2. 2022039581

First Licensed: 07/19/2000

Expiration: 07/31/2024

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant alleges that Respondent stamped a report that was prepared by an individual that is not a licensed engineer. Respondent also allegedly did not visit the site to collect information regarding a property loss claim. No engineering work was completed by Respondent.

Respondent states in a detailed explanation that he acted as responsible charge over the assignment and during the entire project.

After review, it was determined that the Respondent was acting as responsible charge over the individual consultant and therefore no violations were found. The report was requested to Respondent's employer and assigned to the Respondent, the Respondent supervised the work and established the scope of the project, and Respondent reviewed the report, made revisions to technical portions, before submitting with his stamp. Further, there is no requirement that the responsible charge visit the site.

There was an allegation that the individual consultant that prepared the original report was not a licensed engineer. The individual is a licensed engineer in the states of Alabama, Florida, and Mississippi. It is recommended that a Letter of Instruction be sent to Respondent requesting that if any other reports are drafted by this individual, that it be made known on future reports that this individual is not licensed in Tennessee to avoid any confusion.

Reviewed by Board member: Robert Campbell

Mitigating Factors: No violations found.

Aggravating Factors:

Recommendation: Issue Letter of Instruction regarding individual's licensure and Close.

Board Decision: Concur.

3. 2022042101

First Licensed: 08/23/2018

Expiration: N/A

Type of License: Engineer Intern

History (5 yrs.): None.

Complainant states that Respondent passed the exam and changed their credentials to Professional Engineer but has not had enough time to apply for licensure.

Respondent received notification that they passed the PE Exam on October 5th. Respondent updated the LinkedIn page showing PE because they were excited about passing. The next day a complaint was filed against Respondent because of using PE instead of Intern status. Respondent immediately revised the LinkedIn page back to Intern on October 6th.

Reviewed by Board member: Alton Hethcoat

Mitigating Factors: No intent of violating rules; appellation was used less than 24 hours

Aggravating Factors:

Recommendation: Issue Letter of Warning.

Board Decision: Issue Letter of Instruction.

4. 2022043841

First Licensed: N/A (Unlicensed)

Expiration: N/A

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant states that Respondent personally built a pole barn building for the purposes of using for a venue space on their personal property. No building permits were issued, no certificate of occupancy issued, and Complainant is concerned with the architectural and engineering requirements not being performed properly. Complainant alleges that the county has filed a lawsuit and injunction against Respondent for code violations.

Research online revealed that the Respondent claims the barn was used for daughter's wedding and later storage. However, Respondent has been trying to rezone the property to move forward with an entertainment venue with much difficulty. The Respondent was represented by a licensed engineering consulting firm, but the local zoning board and appeals board have continuously denied any requests due to code violations and lack of permits.

Reviewed by Board member: Ash Elsayed

Mitigating Factors: Barn personally built on private property by Respondent

Aggravating Factors:

Recommendation: Close.

Board Decision: Concur.

5. 2022037591

First Licensed: 01/27/1994

Expiration: 01/31/2024

Type of License: Interior Designer

History (5 yrs.): None.

Respondent was selected in an audit and on 5/16/2022 and stated she had not completed the required CEUs even though the previous year her renewal paperwork showed "yes" as to the question if all CEUs were completed.

Respondent stated she was in the process of completing the required CEUs however on 11/7/2021 she was attacked by a dog and suffered a heart attack. Respondent is suffering from PTSD and receiving therapy/treatment. Due to her condition, Respondent has placed her ASID membership to inactive which is retroactive for her requirement to complete any remaining 2021 CEUs.

Respondent is requesting her TN registration be placed in inactive status until her treatment and condition is better. Respondent will need to sign and notarize the inactive status affidavit.

Reviewed by Board member: Melanie Doss

Mitigating Factors: Suffered heart attack; Suffering PTSD from dog attack

Aggravating Factors:

Recommendation: Place registration to inactive status.

Board Decision: Concur.

6. 2022036291

First Licensed: N/A

Expiration: N/A

Type of License: Architectural Firm

History (5 yrs.): None.

An anonymous complaint alleges Respondent has committed violations of the federal copyright laws against a third-party firm. Complainant included an article about a lawsuit that alleges Respondent co-opted a third-party design after completion of schematics, worked with the client to terminate the third-party firm without paying fees, violated copyright laws, and interfered with the firm's business.

Respondent denies all allegations and explains that the third-party firm and Respondent settled the lawsuit two years ago. The third-party firm designed a preliminary design with simple sketches and exterior renderings to be used in marketing and development of the project. The client had no intention of hiring the third-party firm as architect of record and instead intended Respondent to be architect of record. Respondent and the third-party firm collaborated for a while until the client terminated the third-party firm's services. A lawsuit was filed by the third-party for copyright

infringement and breach of contract. It was determined, out of court, that no copyright infringement was made, and the parties settled the lawsuit by reflecting the joint development of the design, adding the third-party firm to the design sheets.

After review, there were no violations found to have been committed by Respondent.

Reviewed by Board member: Frank Wagster

Mitigating Factors: Matter resolved by agreement; Any violations were not under Board's jurisdiction

Aggravating Factors:

Recommendation: Close.

Board Decision: Concur.

Disciplinary History:

Stuart Huffman proposed to the board members that complaints forwarded to legal due to having a history of disciplinary action that resulted in revocation or voluntary surrender in other states, or a Letter of Caution be limited to those within the preceding five years. Rob Barrick made a motion to further discuss the proposal with additional language provided by legal at the next meeting. This was seconded by Brian Tibbs. The motion passed by unanimous voice vote.

ADJOURNMENT

There being no new business, Rick Thompson adjourned the meeting at 10:44 a.m.