



TENNESSEE BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831

**Board Meeting Minutes for October 26, 2017
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on October 26, 2017 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Caughman called the meeting to order at 9:05 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Jay Caughman, Tim Lingerfelt, Jackie Dillehay

BOARD MEMBERS ABSENT: None.

STAFF MEMBERS PRESENT: Roxana Gumucio, Sarah Mathews, Jamye Carney, Lindsey Shepard.

ROLL CALL/NOTICE OF MEETING/WELCOME

Mr. Caughman called the meeting to order, then read the notice of meeting into the record as follows: "Notice of the October 26, 2017 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on October 19, 2017. Mr. Caughman welcomed all of those in attendance and thanked the support services staff for their continued efforts in providing administrative support. Mr. Caughman then introduced the newest member of the board, Jackie Dillehay. Mr. Dillehay has served a prior term and has now been reappointed to the Board.

Laura Martin, Director of Policy, noted via teleconference that as a part of her new role she will be reviewing anything marked by executive management to ensure that decisions made by the Board are not more restrictive than the laws or rules require.

AGENDA

Mr. Caughman asked for flexibility with the day's agenda items, in order to accommodate those members of the public who were present as well as certain members of the Board and its staff whose schedules prevented them from attending the entire meeting. Mr. Dillehay put forth a motion to allow the agenda items to be moved as needed, which Mr. Lingerfelt seconded. The motion passed unanimously.

PLAQUE PRESENTATION

The Board members presented a plaque of appreciation to Galyon Northcutt for his distinguished service as a former board member.

PUBLIC HEARING

A Rulemaking Hearing regarding a new rule, Rule 0820-03-.11 "Global Position System Surveys" was conducted.

Mr. Lingerfelt put forth a motion to eliminate paragraph (3), which Mr. Dillehay seconded. The motion passed unanimously.

Mr. Lingerfelt put forth a motion to amend paragraph (2)(b) as follows: "Relative positional accuracy or other mathematical expression chosen by the land surveyor;" Mr. Lingerfelt seconded. The motion passed unanimously.

Mr. Dillehay put forth a motion to amend paragraph (2) as follows: "The professional Land Surveyor in responsible charge of the GPS Survey shall note on all prepared documents the following information. When a map or document consists of more than one (1) sheet, only one sheet must contain the notes." Mr. Lingerfelt seconded. The motion passed unanimously.

Mr. Lingerfelt made a motion to close the public comment period, which Mr. Dillehay seconded. The motion passed unanimously.

MINUTES

After a brief review of the minutes from the Board's July meeting, Mr. Lingerfelt noted a misspelling of his name. Mr. Lingerfelt put forth a motion to adopt them as amended with the appropriate edit. Mr. Dillehay seconded, and the motion passed unanimously.

LEGAL REPORT



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
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LEGAL REPORT

TO: Tennessee Board of Examiners for Land Surveyors

FROM: Lindsey Shepard - Assistant General Counsel

DATE: October 26, 2017

RE: Legal Report

- 1. 2017042421**
Respondent:
License: – ACTIVE
First licensed: 7-11-1997
Expires: 12-31-2017
Disciplinary history: None

This case arises out of a consumer complaint alleging unethical business practices. Complainant wrote a \$1,000.00 check to Respondent on April 18, 2017, as a down payment toward surveying of a Tennessee property. After several contract extensions, Complainant fired Respondent and requested a refund on his deposit.

Respondent states that the contract extensions were due to heavy rainfall and subsequent hospitalization. Respondent claims that Complainant was notified of these delays. Respondent has not returned the deposit because he performed substantial work prior to termination, including deed research, site investigations, and identification of perimeter points.

Recommendation: Close, as this matter is best handled in civil court.

DECISION: CONCUR

- 2. 2017038771**
Respondent:
License: – ACTIVE
First licensed: 9-18-1981
Expires: 12-31-2017
Disciplinary history: None

This case originated with the Architects & Engineers Board, who voted to close the complaint with no action. Respondent, a licensed land surveyor, stamped several pages of a site development plan for a car dealership expansion, which included a parking lot and underground detention. The submitted sheets were title sheet, C-1(existing site), C-2(site grading and drainage), C-3(site details), and C-4(storm water management details). The purpose of the submitted sheets was to obtain a grading permit from the city.

In the first submittal, the engineer only stamped the title sheet and the surveyor stamped C-1, C-2, C-3 and C-4. The surveyor later admitted those sheets were stamped by mistake in haste to submit plans for a permit. In the second submittal, the engineer and surveyor stamped the title sheet, the surveyor stamped C-1, the surveyor and engineer stamped C-2, the surveyor stamped C-3, and the engineer stamped C-4.

C-1 and C-2 depict maps showing the boundaries, topography, and drainage of the construction site. They are within the scope of the practice of land surveying.

C-3 is potentially outside the scope of land surveying. It is a collection of sketches of “site details” not yet constructed, including grass seeding mixtures, pavement composition, silt fence detail, storm sewer manhole, and “typical gravity retaining wall.” Respondent claims that the site details were for information purposes only, and that no design parameters were shown or implied.

C-4 is almost certainly outside the scope of land surveying. It depicts product specifications and designs for storm water management, including the underground detention plan. It even includes the type of storm sewer lid to be used.

Upon expert review, the following violations were identified --

- Violations observed in C-1, which is considered a topographic survey
 - Rule 0820-03-.07(2)(a) – no descriptive location or vicinity map,
 - Rule 0820-03-.07(2)(b) – no arrow showing which direction is north
 - Rule 0820-03-.07(2)(l) – no project benchmark
- General violations
 - Rule 0820-04-.08(5) – sheets with dual seals do not contain designation of the specific subject matter for which each is responsible
 - Rule 0820-04-.08(6) – stamp on C-4 outside surveyor’s area of competence

Respondent admits that he initially stamped C-4 in error. This was corrected during the second submission of plans. Respondent claims that sheets C-1 through C-3 were within his areas of competence. Respondent has been a licensed land surveyor since 1981 with most of his work in the civil engineering field. Respondent denies any attempt to deceive. This is his first complaint before the Board.

Recommendation: \$250.00 civil penalty, with formal charges authorized, for violation of Rule 0820-03-.07 and Rule 0820-04-.08

DECISION: Close with Letter of Instruction.

3. 2017041881

Respondent:

License: - ACTIVE

First licensed: 12-21-2019

Expires: 7-12-2000

Disciplinary history: None

Complainant is a property owner whose land borders property surveyed by Respondent. Respondent refused to give Complainant the results of the survey. Respondent did give Complainant information on three points that may be on his property. Complainant disagrees with Respondent’s calculations for those three points.

Upon expert review, the following violations were observed:

- Rule 0820-03-.07(H)(6) [Monumentation] – Two points noted on survey dated 11-7-2016 indicate “point not set” in fence line on possible line with Tower’s line. Unless impossible to set corners, must be set at change in directions
- Rule 0820-04-.04(1) [Public Statements] – Surveyors have duty to be completely objective and include all relevant and pertinent information in reports. Survey drawing did not provide sufficient information on face of survey for accepting fence line as boundary line. Surveyor also ignored a survey conducted on Complainant’s property in 1992 by an engineer.
- Rule 0820-04-.04(3) [Public Statements] – Surveyors have duty to express professional opinion publicly only when it is founded upon adequate knowledge. Respondent accepted fence line without following a clear decision-making process. Prior deed used trees as points, not fence.
- Rule 0820-03-.05(3) [Accuracy of Survey] – Certification does not show “actual” ratio of precision of the unadjusted survey. Instead, certification states 1:5000+

Recommendation: \$400.00 civil penalty, with formal charges authorized, for violations of Rule 0820-03-.07(H)(6), Rule 0820-04-.04(1), Rule 0820-04-.04(3), and Rule 0820-03-.05(3).

DECISION: Close

- **NOTE:** *The Board wanted more information. Galyon Northcutt, a licensed land surveyor and former member of the Board, offered to review the case as an additional expert. Upon Mr. Northcutt presenting an anonymous summary of his findings, the Board voted to close.*

4. **2017055341**
Respondent:
License: – ACTIVE
First licensed: 1-22-1988
Expires: 12-31-2017
Disciplinary history: None

This case arises out of a consumer complaint alleging Respondent failed to timely stake the boundaries of his property. Complainant's title company requested that Respondent survey the property in late June 2017. The property is located in a platted but undeveloped area. Respondent delivered the survey to the title company on June 28, 2017, but he told the company the pins were not yet set. Respondent then began setting pins. During which, he located one pin. Respondent completed a revised survey showing the located and new pins on August 21, 2017.

Respondent claims that the complexities of site access, practically non-existent monumentation, and undeveloped nature of the property added substantially to his delay. Respondent was further delayed due to the recent Gatlinburg fires. Respondent has offered Complainant a refund.

Recommendation: Close

DECISION: Close

5. **2017041941**
Respondent:
License: – ACTIVE
First licensed: 12-15-2016
Expires: 12-31-2017
Disciplinary history: None

This case arises out of a consumer complaint disputing the accuracy of his neighbor's boundary survey. Specifically, Complainant alleges that Respondent placed and then re-set markers several times. Respondent stated that is common practice for surveyors, during the course of a survey and after finding all relevant field evidence and monumentation, to try and set any unfound monumentation base on information found in the recorded deeds.

Complainant also alleges Respondent removed a marker from 1988. Respondent states that he called Complainant upon learning of this allegation. Respondent discovered that one of his crew members had in fact moved a 1988 marker. Apparently the crew member mistakenly pulled Complainant's iron rod corner while re-setting Respondent's pins. Respondent personally apologized to the Complainant and has taken further measures to ensure such error does not happen again.

Our expert reviewer reviewed the extensive documentation provided by Respondent and found his explanations to be plausible and reasonable.

Recommendation: Letter of Warning for Rule 0820-03-.08 (The marking of lines between corners is not a requirement of a General Property Survey; however, if needed, contracted or requested, the marking shall be the responsibility of the registered Land Surveyor who performs the survey.)

DECISION: Close

EDUCATION REPORT

The Board reviewed the latest courses recommended for approval by their education panel. Mr. Lingerfelt made a motion to accept the advisory education panel or education review board's recommendation and approve the courses as presented. Mr. Dillehay seconded. The motion passed unanimously.

DIRECTOR'S REPORT

Director Gumucio provided the Board with a detailed accounting of budget revenue and expenditures, to include line item and trend analysis. Director Gumucio spent some time focusing on "Administrative Cost Backs", in particular, which include the Board's share of the liquidation of all administrative cost backs from all the programs. The share is determined by licensing count, number of complaints, and budget plan. Director Gumucio further noted that this fiscal year reflects a net deficit; however, next year is a renewal year which will cover current this fiscal year's deficit and should trend towards a continued surplus in the overall budget.

Director Gumucio updated the Board regarding this year's renewal cycle and detailed administrative support's efforts in improving the process through technological advancements and by increasing the lead times for submissions by early notice.

Director Gumucio announced that PSI will be the testing vendor effective December 1, 2017. She also mentioned that the "National Council of Examiners for Engineering and Surveying" (NCEES) have offered to come to the next board meeting on January 25, 2018, to provide further information regarding their facilitation of the "Fundamentals of Surveying" (FS) exam.

NEW BUSINESS

Lance Lanier was approved to take both the "Principles and Practices of Land Surveying" (PS) and "Tennessee Specifics of Land Surveying" (TS) exams.

Director Gumucio reported that licensees now have the ability to print a duplicate license direct from the website. She also noted that there are no updates regarding filling the vacant public member position.

The Board indicated that many of the plats submitted for review are rejected for similar errors. The Board stated that they would provide an example plat that is acceptable and meets all Tennessee standards of review to be made available on the website for reference. Once received, Director Gumucio will forward the plat to legal for their review and approval for placement on the website.

The Board expressed their interest in moving to an 18x24 PDF plat, rather than a CAD file, for review of all future plats.

The Board awarded itself four (4.0) PDH hours for the day's meeting. There being no other new business, Mr. Caughman adjourned the meeting at 2:43 p.m.