



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

**Board Meeting Minutes for October 25, 2018  
First Floor Conference Room (1-B)  
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on October 25, 2018 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Tim Lingerfelt, Board Chairman, called the meeting to order at 9:00 a.m. and the following business was transacted:

**BOARD MEMBERS PRESENT:** Jay Caughman, Tim Lingerfelt, Jackie Dillehay, Jed McKeehan

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Ashley Geno, Tony Glandorf, Jamye Carney

**ROLL CALL/NOTICE OF MEETING**

Mr. Lingerfelt called the meeting to order and then read the notice of meeting into the record as follows: "Notice of the October 25, 2018 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on October 18, 2018". Director Gumucio took roll call noting all board members as present.

**ADOPT AGENDA**

Mr. Lingerfelt requested to allow the Tennessee Association of Professional Surveyors (TAPS) to make their presentation after the review and approval of the July 2018 minutes. Mr. Dillehay motioned to approve the agenda with addendum as stated, Mr. McKeehan seconded the motion, and the motion passed unanimously.

**MINUTES**

After a brief review of the minutes from the Board's July meeting, Mr. Dillehay put forth a motion to adopt them as written. Mr. McKeehan seconded the motion, and the motion passed unanimously.

**TAPS APPEARANCE BEFORE THE BOARD**

Mr. Jimmy Cleveland appeared before the board to present three (3) concerns for the BOE:

- 1) BOE will no longer be approving classes or seminars that do not have pre-approved status and a CER number.

- 2) The delay between submission of an application for a CER number and the final approval.
- 3) Rumor regarding the approval of classes, seminars or presentations that are not pre-approved.

Mr. Cleveland was informed by the board members and Director Gumucio that all topics of concern that he has presented to the board will be discussed during New Business as annotated on the agenda. Mr. Lingerfelt informed Mr. Cleveland that the state of Tennessee is changing its processes in regards to PDH submissions, licensing requirements and auditing. Mr. Lingerfelt invited Mr. Cleveland to stay for the board meeting as these items will be addressed later in the meeting, or he could watch the meeting livestream on the internet.

Mr. Cleveland then introduced the new incoming TAPS President, Mr. John Winter. Mr. Winter introduced himself to the board and brought up a concern regarding the delay of course approvals. Director Gumucio informed Mr. Winter that this item is also on the agenda and will be discussed later in the meeting.

### **NEW ATTORNEY INTRODUCTION**

Mr. Tony Glandorf, Chief Legal Counsel, introduced Ms. Ashley Geno to the board members as the new Land Surveyor Board Staff Attorney.

### **EDUCATION REPORT**

Mr. Caughman made a motion to approve the education report as written, Mr. Dillehay seconded this motion, and the motion passed unanimously.

### **LEGAL REPORT (*Presented by Ashley Geno*)**

#### 1. 2018042101

Respondent:

License Status: – ACTIVE, NOT APPLICABLE

First Licensed: 10/28/1978

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant alleges that the survey they received does not meet the minimum State requirements.

The Respondent responded to the complaint and states that he regrettably failed to include several state minimum requirements on the survey. Respondent states that the failure to list these requirements was an error on his part and was not intentional. He lists the missing requirements as:

- 1) 0820-03.06 (3)
- 2) 0820-03.06 (9)
- 3) 0820-03-07 (1)(b)(5)
- 4) 0820-03-.07 (1) (d) Bearing missing along north line
- 5) 0820-03-.07 (1) (j)

Respondent further states that the survey met the accuracy requirements for a Category II survey.

Recommendation: Letter of warning.

**BOARD DECISION: Table and send out for expert review.**

2. 2018046201

Respondent:

License Status: – ACTIVE, NOT APPLICABLE

First Licensed: 7/15/1998

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant alleges that he hired Respondent to complete a survey for an out of town property. Complainant further alleges that the check for the survey was cashed, but the Respondent never sent the survey. Complainant alleges to have made multiple attempts to contact the Respondent and has not received a response.

Respondent responded to the complaint and states that he was contacted by the Complainant to complete the survey. Respondent states that it is customary at his company to ask for pre-payment when conducting out of town surveys so he asked Complainant to send pre-payment, which Respondent states Complainant agreed to. Respondent states that he mistakenly did not schedule the survey. Respondent also states that due to being on vacation, he was not able to listen to Complainant's voicemails until after he returned from vacation. Respondent indicates that his company is a small one made up of only his spouse and two full time field employees.

Respondent states he offered Complainant two options. He could reschedule the survey after he returned from vacation or Respondent could reimburse his money upon return from vacation. Respondent states that Complainant asked that the money be reimbursed and that he did so.

There has been no rebuttal from the Complainant to suggest that the money was not returned.

Recommendation: Letter of warning.

**BOARD DECISION: Dismiss.**

3. 2018056691

Respondent:

License Status: – ACTIVE, NOT APPLICABLE

First Licensed: 4/13/1984

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant alleges that there were material discrepancies in the survey completed by Respondent. Complainant alleges that had the survey been executed correctly, the property boundaries would have changed and this would have allowed Complainant to gain more land. Complainant alleges that this gain of property would have taken property from a person that Respondent knows, and they allege that Respondent should have disclosed this conflict of interest.

Complainant also alleges that the measurements on the deed are incorrect in that the actual physical measurements on the ground were not the same and that a septic tank's associated drain field must be located on the same property, which it isn't.

Complainant states that Respondent refused to acknowledge the mistakes on the survey. Complainant further states that they contacted Respondent to return and to finish the job and correct their mistake, which Complainant states that Respondent has refused to do. As Complainant was planning on building a house, Complainant hired another surveying company to complete the survey. Complainant is requesting that Respondent refund the money paid for the initial survey.

Respondent responded to the complaint and states that when the crew was sent out it was determined that there were not enough physical monuments available to verify the accurate location of the original property lines or corners. Respondent states that Complainant was contacted and told the situation and that a full boundary survey would be necessary in order to authenticate the original property corners and eventually stake the property lines. Respondent states that Complainant accepted this proposal and that Respondent performed a boundary survey and staked the property lines. Respondent states that a Boundary Retracement plat was created on March 1, 2018.

Respondent further states that when performing a survey if a physical monument is missing and/or poorly deed reference description is inadequate, additional surveying of the surrounding area (neighboring parcels) and/or deed research is performed. Respondent states that this helps to avoid potential overlap or underlap of parcels concerned.

Respondent states that in the course of performing the survey, they located existing iron stakes on two of the adjacent properties. Respondent states that Complainant measured the stakes of one of the adjacent properties and claim that there is an additional sixty-four (64) feet which exists between Complainant's land and an adjacent property.

Respondent denies the claim made by Complainant and stands by the findings.

This complaint was sent for expert review and the expert reviewer could not find any violations of rules or laws by the Respondent.

Recommendation: Dismiss.

**BOARD DECISION: Approved.**

4. 2018054071

Respondent:

License Status: – EXPIRED – NOT APPLICABLE

First Licensed: 1/26/1999

License Expiration: 12/31/2015

Disciplinary History: None

Summary:

Complainant appeared before the Board at the July 2018 meeting and stated that he had spoken with a member of the Board staff and found out that his license had expired. According to Board staff records, Respondent failed to renew his license by December 31, 2015. The Board approved opening this administrative complaint due to potential unlicensed activity.

Respondent responded to the complaint and stated that he didn't find out his license was expired until he appeared before the Board in July 2018. Respondent states in his response that he does not plan to continue surveying until this matter has been resolved and his license has been resolved.

This matter was sent for investigation to determine how many surveys, if any, were performed by Respondent during the period of being unlicensed. The investigator was unable to determine if Respondent has completed any surveys since the license expired in 2015. The Respondent denies completing any survey work and states that the license was expired due to an error by the board staff.

Recommendation: Letter of Instruction.

**BOARD DECISION: Letter consistent with previous letters sent.**

5. 2018054081

Respondent:

License Status: – Expired, NOT APPLICABLE

First Licensed: 4/15/1984

License Expiration: 12/31/2015

Disciplinary History: None

Summary:

Complainant appeared before the Board at the July 2018 meeting and stated that he had spoken with a member of the Board staff and found out that his license had expired. According to Board staff records, Respondent failed to renew his license by December 31, 2015. The Board approved opening this administrative complaint due to potential unlicensed activity.

This matter was sent for investigation to determine how many surveys, if any, were performed by Respondent during the period the license expired. The investigator contacted both the Respondent and Respondent's most recent employer. Both deny

that Respondent completed any surveys during the time that Respondent's license has been expired.

Recommendation: Letter of Instruction.

BOARD DECISION: **Letter consistent with previous letters sent.**

6. 2018054091

Respondent:

License Status: - Expired, NOT APPLICABLE

First Licensed: 7/02/2008

License Expiration: 12/31/2015

Disciplinary History: None

Summary:

Complainant appeared before the Board at the July 2018 meeting and stated that he had spoken with a member of the Board staff and found out that his license had expired. According to Board staff records, Respondent failed to renew his license by December 31, 2015. The Board approved opening this administrative complaint due to potential unlicensed activity.

This matter was sent for investigation to determine how many surveys, if any, were performed by Respondent during the period of being unlicensed. The investigative report determined that the Respondent owns his own engineering company and is fully licensed as an engineer. Respondent initially contacted the state via emails to see if he could obtain a waiver for the educational/testing requirements to renew his surveyor's license.

Respondent planned on renewing his surveyor's license just so that he would have it. Respondent does plan on completing the surveyor's application by the end of the year and would still like to be licensed as a surveyor, as well as being licensed as an engineer.

Respondent hires licensed land surveyors to complete any surveys needed and doesn't own any surveying equipment. Based on the investigator's report, Respondent has not completed any surveys while being unlicensed.

Recommendation: Letter of Instruction.

BOARD DECISION: **Letter consistent with previous letters sent.**

***The board broke for a ten (10) minute break***

**APPEARING BEFORE THE BOARD**

There were no appearances made before the board members.

## DIRECTOR'S REPORT

### **Budget**

Director Gumucio provided a detailed accounting of revenue and expenditures for July and August 2018, and explained the factors influencing the trends reflected in both the renewal cycle and fiscal quarter. Director Gumucio informed the board that the budget is currently in a deficit due to licensure numbers currently down and not being within a renewal period. Director Gumucio explained that actions are being taken to balance out the budget, such as restrictions on travel costs, until the next renewal allowing the budget to balance back out. The closing fiscal financials will be complete and made available during the board meeting.

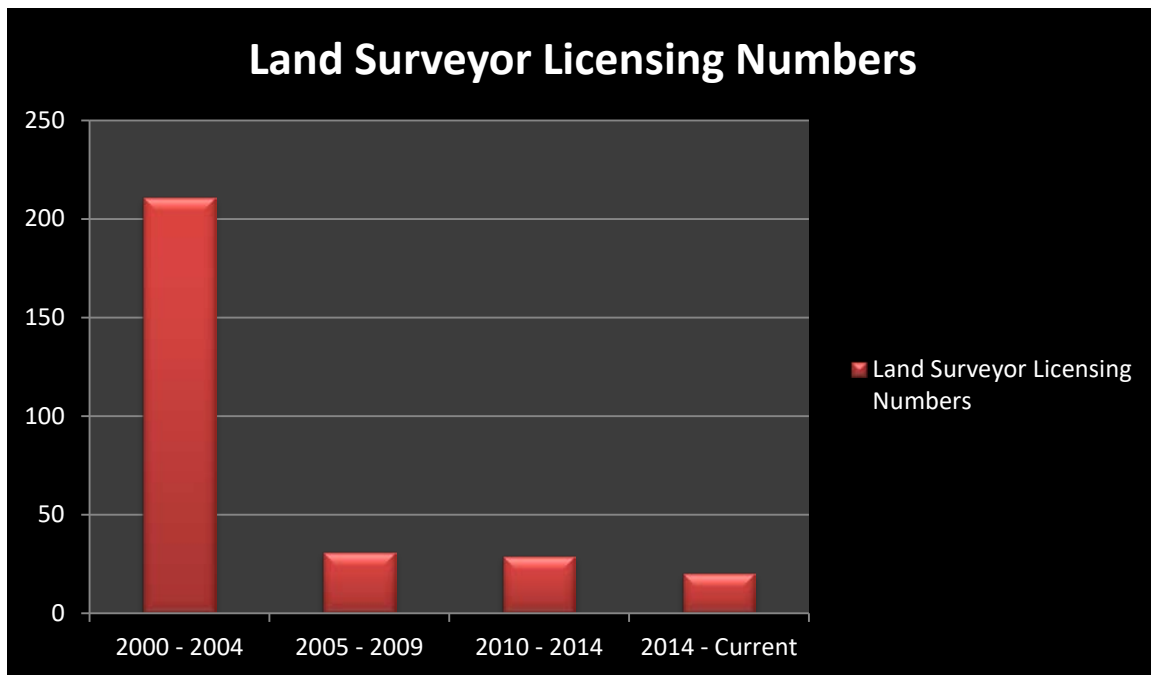
### **Complaint and Licensing Numbers**

Current Complaint Numbers:

Administrative Complaints	6 (discussed during legal report)
Formal Hearing	2
<b>Total</b>	<b>8</b>

Licensing Numbers:

On September 19, 2017, 1,133 licensing reminders were sent out to active licensees. Of those 1,133 active licensees, 1,070 renewed their license. Director Gumucio provided statistics of licensing numbers in increments of 5 years, covering 2000 to current:



### **PSI Exam Development**

On November 7<sup>th</sup> and 8<sup>th</sup> 2018, five (5) subject matter experts and PSI staff will be meeting together to develop questions for the exam. Ashley Geno and her supervisor will be assisting by writing questions specific to the Laws and Rules part of the exam.

### ***Review of Qualifying Educational Courses (Ref: Mr. William Willhite)***

Mr. Willhite contacted the board requesting a review of his education and experience identify the correct pathway for him to take in order to obtain a Land Surveyor license. After review of his education, it was determined by the board that Mr. Willhite falls under Category C, which consists of having 36 hours of surveying course credits and the proper amount of experience. Given his current education, Mr. Willhite needs to complete 25 more hours of land surveyor courses. The board offered to review his course descriptions prior to taking the classes, ensuring that Mr. Willhite is taking the correct classes to complete his pathway.

### **NEW BUSINESS**

#### ***Letter to TDEC: Graphic Scale***

Mr. Lingerfelt brought up the discussion of scales and if any other board members are having issues using the 100 scale. No other issues were identified; however, Mr. Lingerfelt requested that Mr. Caughman reach out to TAPS for their input on the use of the size 100 graphic scale.

#### ***Firm Registration***

Mr. Lingerfelt noted that he has been seeing firm registrations included in the application review files. Mr. Lingerfelt stated that these firm registrations are not required and not needed in the application. Director Gumucio confirmed that they are not required in the applicant's file.

Mr. Lingerfelt also discussed the Firm Disclosure Rule, relating that Land Surveyor licensees need to be updating their files to reflect current firm registrations. Mr. Lingerfelt suggested that with the 2019 renewal notice, that a reminder be included for licensees to have updated firm registrations on file.

#### ***2019 Renewal Process***

##### Update Form for PDH Attestation (Form IN-1781)

The board discussed the use and overall requirements of this form. After discussion, it was determined that this form would be useful for future auditing purposes, given the upcoming changes for Land Surveyor renewals and audits in 2019. The form will be available if licensees use it to track their information. It was agreed upon that the date of birth and social security number portions of the form could be removed.

##### Percentage for Audit / Audit procedure, time limits and non-compliance

Mr. Lingerfelt brought up questions concerning carry-over of education during renewal cycles for licensees. Director Gumucio explained to the board that when a licensee renews their license, they will be attesting that their education requirements are complete as required by TN statute and rules, and if the licensee uses any carry-over, then he or she must be able to show that they did not use that carry-over in the previous renewal cycle. Director Gumucio further informed the board that it is at their discretion as to the percentage of licensees that they would like audited. Other programs have historically selected a random sampling of either five percent (5%) or ten percent (10%) of their total licensee pool per renewal cycle.



***The board broke for lunch at 12:00 pm for one (1) hour***

Percentage for Audit / Audit procedure, time limits and non-compliance continued

Mr. Lingerfelt asked Director Gumucio what the process would be if someone was found to have a violation during an audit, at which time Director Gumucio explained that a board complaint would be opened.

***Course Approval Advisory Board: Role and Timing***

The board identified a trend noting that course approvals from the education panel or education review board's members (3 members total) have not been timely in their response, and the approval time return is quite varied. The board agreed that once two (2) approvals have been received, this would be sufficient to have a course approval. The board further agreed that it would be appropriate to request from the education panel that they have a response back within thirty (30) days of receiving a course approval request. Finally, the board requested that they be kept updated on course approvals.

**APPLICATION REVIEWS**

<b><u>Name</u></b>	<b><u>Board Decision</u></b>
Christopher Lee Cole	Approved
Joshua Burch Craig	Deferred (letter will be sent to Mr. Craig with recommendation)
James M. Powers	Approved
Nathan J. Hart	Deferred (letter will be sent to Mr. Hart with recommendation)

Mr. Caughman made a statement regarding the completion of applications stating that licensees need to follow all instructions carefully and to review their applications prior to submitting them.

**ADJOURNMENT**

Mr. Caughman made a motion to award the board four (4.0) PDH hours for the day's meeting. This was seconded by Mr. McKeehan, and the motion passed unanimously. There being no other new business, Mr. Lingerfelt adjourned the meeting at 2:00 p.m.