



STATE OF TENNESSEE
BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-3611

January 22-23, 2015 Minutes
Sixth Floor Conference Room (6 A-B), Davy Crockett Tower

Day 1 January 22, 2015:

The Board of Examiners for Land Surveyors met in Nashville, Tennessee at the Davy Crockett Tower in Room 6 A-B. Mr. Galyon Northcutt, Chairman, called the meeting to order at 9:00 a.m. and the following business was transacted.

BOARD MEMBERS PRESENT

Tim Lingerfelt
Galyon Northcutt
Jay Caughman
Sue Braly

GUESTS

Jimmy Cleveland
Mike Roberts
Shon Keeton
Jeremy Moore

STAFF MEMBERS PRESENT

Donna Moulder, Nikole Avers, Anthony Glandorf, Josh Kilgore, Jennaca Smith, and Eman Youssef.

Chairman Northcutt read the public meeting statement into the record, indicating that the agenda was posted to the Land Surveyor website on January 14, 2015.

ADOPT AGENDA

Vote: Mr. Caughman made the motion to accept the agenda with no amendment. It was seconded by Mr. Lingerfelt. The motion carried unopposed.

Tim Lingerfelt then made a motion to accept Roberts Rules of Order. Jay Caughman seconded the motion. The motion carried unopposed.

MINUTES

The minutes of the previous meeting held on October 23, 2014 were reviewed.

Vote: Mr. Caughman made a motion to approve the minutes as written. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

LEGAL REPORT

1. Complaint #201402934 –

This complaint was filed by a consumer who alleged that the Respondent did not use the deed, and the survey came up short on three sides. Complainant submitted three deeds, which used the same legal description. Respondent states that the survey prepared was fairly straightforward, and the property is bounded on the west and north by highways. Respondent

included copies of TDOT right of way plans. Respondent states he found and used existing monumentation at three of his four corners and set the fourth corner at the intersection of the east right of way line of one highway and the south right of way line at the other highway. Respondent states both right of way lines were monumented, and Respondent checked the existing monumentation with other iron rods found at adjoining corners. Respondent states that the deed Complainant referenced included a typo taken from tax assessor information, but the referenced has been corrected on the drawing, and Respondent used the current deed to prepare the survey. Respondent also attached the current deed. Respondent states that holding the deed distances from existing iron rods at the property's southwest and northeast corners and running along the highway right of way lines would extend the property well into the two respective right of ways. Respondent is confident that the survey is correct and that the deed description, which didn't close, is incorrect.

The complaint and response were forwarded to an expert reviewer who obtained a plat which joins the Complainant's property to the south and a deed which joins the Complainant's property to the east. The reviewer states, "After comparing said plat and deed to the respondent's survey, I find that all three are consistent with each other. The plat, the Respondent's survey and the deed furnished by the Complainant all refer to an old axle. This is very consistent...although there appears to be a large difference in the frontage of both highways which I cannot explain, based on my findings the adjacent properties plat and deed fix the locations to the south and east, therefore the road length cannot be increased onto said properties. I can see no problems with the survey. It appears that the Respondent used good judgment for his survey."

Recommendation: Close with no further action.

Vote: Mr. Caughman made the motion to accept counsel's recommendation to close with no further action. This was seconded by Mr. Mr. Lingerfelt. The motion carried unopposed.

2. Complaint #2014002597 –

This complaint was filed by a consumer concerning a boundary dispute. Respondent, along with two others were retained by a title company to survey a five acre tract of land. Complainant states the survey was not available for viewing when the property was conveyed. Complainant states that the tract of land was a portion of a property that belonged to Complainant and one other individual. Complainant states that Respondent was given strict orders to stay within the boundary lines of the property that the five acre tract of land was being taken from because it was the subject of a 2002 property dispute. Complainant alleges that Respondent disregarded the tax maps and recorded deeds in favor of undocumented pins and monuments. Complainant states Respondent was told that an iron pin was used to locate an adjacent owners' property, but there is no deed description verifying the iron pin used was at the boundary line of the adjacent owner's property. Complainant states that Respondent created a 6.41 acre tract of land rather than 5 acres. Complainant further states that Respondent was ordered pursuant to the 2002 property dispute to disclose the results of the survey before it was recorded, but Respondent did not. Complainant states that Respondent's survey is being used in the property dispute matter in favor of the adjacent owners.

Respondent states that Respondent and affiliates were hired to survey off a tract of land to be not less than five acres for the purpose to secure a loan for a mobile home. Respondent states that Complainant and the other owner filed a quit claim deed for the land. Respondent states that he does not have control over what happens at a real estate closing but would have provided the survey to the Complainant if requested. Respondent further states that he researched the property deed and cannot find any reason to reference any prior deeds since they are all included in the current deed. Respondent denies Complainant's statement that the

survey did not reference any points from the original property and gave several examples of reference to the original deed. Respondent further states that Complainant's claims regarding the adjoining properties are false and states that the deeds referenced in the complaint give more credibility to Respondent's survey, in that the newer survey matches the old calls on that deed very closely.

Complainant submitted additional information stating that the complaint is not regarding how accurate the measurements were, but that Respondent disregarded Complainant's request to stay within the boundary lines of the property, and the tract of land was larger than the required five acres.

The complaint and response were forwarded to an expert, who concluded that the allegations do not fall within the scope of the laws and rules, but the expert reviewed the survey for standard violations. The expert states, "This is a case where the Complainant is very unhappy with the results of the survey. The Complainant sent in a large amount of documentation to help back up their claim, however, the Respondent, in my opinion, did a good job in answering all of the issues of concern....The complaint has no merit. The Complainant should obtain the services of another surveyor and then pursue remedy in chancery court."

Recommendation: Close with no further action.

Vote: Mr. Caughman made the motion to accept counsel's recommendation to close with no further action. This was seconded by Ms. Braly. The motion carried with one abstention.

3. Complaint #201402595 –

A complaint was filed by a consumer alleging that Respondent did not apply the relevant requirements of law for adequate evidence as defined in the practice of land surveying in TENN. CODE ANN. § 62-18-102(3). Complainant alleges that Respondent ignored every historical map, tax map, NAPP map, soil bank map and deed description. Complainant further alleges that Respondent ignored old monuments such as oak trees and fence lines and utilized new fences and placed new pins to monument trees that Respondent's client cut down. Complainant states that the new property line established cuts through Complainant's driveway. Complainant alleges that Respondent did not take any of the original deeds into consideration and only used the most recent deeds. This property is the subject of a 2002 property dispute and is the same property referenced in the previous complaint 20140025971.

Respondent states that Respondent has been a surveyor for twenty-five (25) years in the area, and this is the first complaint accusing Respondent of being biased toward Respondent's client. Respondent acknowledges there have been four (4) different surveyors that have attempted to retrace the boundary lines of the property, and Respondent believes Complainant has been in disagreement with each survey although they generally run along an apparent old road bed. Respondent states he established the line based on Complainant's deed descriptions along with existing boundary monumentation found on Complainant's property, as called for in Complainant's deed. Respondent states he researched Complainant's deed back to the 1960's and Respondent's client's deed back to the 1920's. Respondent states there appears to be a significant error in Respondent's client's deed description when aligned with the existing monumentation at two sides of the property, which is why Respondent used Complainant's deed to establish the line. Respondent states that Respondent gave testimony at a court hearing, and it is obvious that Complainant does not agree with the survey but will not hire another surveyor for an opinion.

The complaint and response were forwarded to an expert review, who concluded, "In the reviewers opinion Surveyor did not conduct a retracement survey of subject property per original

survey boundary described in deeds. In reviewer's opinion surveyor ignored monument evidence stated in original survey and based his survey upon prior surveys that also ignored monuments called out in deeds. Booth road is shown as dedicated right of way maintained by County. Road is being maintained by County however no evidence of dedication to county by deed or maps. A prior surveyor indicates Booth Road as a right of way not part of property surveyed (deed calls for centerline of road). Evidence presented by Complainant indicates fence lines used as evidence by Surveyor while original survey does not call out fence. This is area of concern for complainant-the line in the northwest direction from Smith 1 acre parcel. Old deed calls for distance and direction from a point in a branch (creek) to corner with one acre parcel. Surveyor indicating a fence with a turn in direction. Establishing property corners, surveyor converted pole distances directly to feet without accounting for precision and accuracy of original survey. Northern property line, in reviewer's opinion, has been re traced property with monumentation provided." Further, regarding competency, the expert concluded, "In providing services, the registrant shall take into account all applicable laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and Regulations. Registrant not knowledgeable about retracing original surveys."

Recommendation: Authorize a formal hearing with authority to settle via Consent Order for a civil penalty in the amount of Five Hundred Dollars (\$500) in violation of TENN. CODE ANN. § 62-18-116(a)(1)(B), Rule 0820-4-.03, and referencing TENN. CODE ANN. § 62-18-102(3).

Vote: After discussion, Mr. Lingerfelt made the motion to amend counsel's recommendation to authorize a consent order for \$1,000 and 8 PDHs in boundary retracement course. This was seconded by Mr. Caughman. The motion carried unopposed.

DIRECTOR'S REPORT

Legislative Update – No new legislation at the current time

On the individual course approval requests, the board voted as follows:

January 2015 Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Approved	Denied
John Hood, #1838	University of TN, TDEC & TDOT	Design Principles for Erosion Prevention & Sediment Control for Construction Sites, Level II EPSC Workshop 2014	16	Approved only 2 hours	
Thomas A. Young, #2265	Florida Surveying & Mapping Society	Land Tenure & Cadastral Systems	10	Approved	
Clifford Nail, #1794	PDH Express	Single Beam Acoustic Depth Measurement Techniques	8		Denied
		Positioning Techniques for Offshore Engineering Surveys	8		
Matthew Lindvall, #2847	NC Geodetic Survey & NC Emergency Mgmt	Unmanned Aircraft Systems (UAS) Forum (UAS-001) Training	3	Approved	
Anthony Suttle, #2676	NC Geodetic Survey & NC Emergency Mgmt	Unmanned Aircraft Systems (UAS) Forum (UAS-001) Training	3	Approved	

Kenneth Beckwith, #2083	AR Society of Professional Surveyors	Title Problems Caused by Legal Descriptions	4	Approved only 14.5	
		Vendor Showcase	1		
		Dykes vs. Arnold; A Discussion of Unwritten Property Rights	3.5		
		Annual Membership Meeting	1		
		Water Boundaries	3		
		Water Boundaries	4		
Quenton Pulliam, #2346	Tennessee State University	Freshman English I	3*		Denied
		Pre-Calculus	3*		
		Freshman English II	3*		
William C. White	CEU Suite	TN Rules of Professional Conduct	2		Denied

Vote: Mr. Northcutt made a motion to accept the education recommendations. This was seconded by Mr. Caughman. The vote carried unanimously.

Vote on whom to send to the NCEES Sothern Zone meeting in Scottsdale, AZ on May 14-16, 2015.

Vote: Ms. Braly made a motion to send Mr. Lingerfelt and Mr. Northcutt to the NCEES Southern Zone meeting in Scottsdale, AZ. This was seconded by Mr. Caughman. The vote carried unanimously.

Budget Presentation-Deputy Commissioner Bill Giannini and Assistant Commissioner Brian McCormack.

The board members signed the PLS wall certificates.

The board members signed 2015 Conflict of Interest statement.

Day Two: January 23, 2015 –

The Board of Examiners for Land Surveyors met on Friday, January 23, 2015 in Nashville, Tennessee at the Davy Crockett Tower in Room 6 A-B. Chairman Galyon Northcutt called the meeting to order at 9:08 a.m. and the following business was transacted.

FS & PLS APPLICATION REVIEWS

The following applications were reviewed and approved:

Brent R. Bailey (PLSIT)
Phillip D. Hocking (PLSIT)
John L. Kelsey (PLSIT)
Robert L. Lanier (PLSIT)
Jacob A. Luke (PLSIT)
Kevin J. May (PLSIT)
Jeremy B. Moore (PLSIT)
Melissa A. Portell (PLSIT)

Jason Michael Barry
Daniel Andrew Curry
Matthew Joseph Dawson
Michael Ray Geiger
Kurt Roger Rardin
Ryan Lee Richardson
Shane David Snoderly
Matthew David Strickler

Jeremy Guy Smith (PLSIT)
Derrick Scott Story (PLSIT)

Phillip Matthew Wilson
Christopher Dean Hoglund
Danny Arnold Long
David McKinney
Terry Lee Rowe, Jr.
Kimberly D. Solitro.
Derek Scott Wagner
Everette Dean West IV
Christopher Mark Young

The following applications were reviewed and were **denied**:

Justin Parrish – does not have two (2) years progressive practical experience after passing the FS exam per TCA 62-18-109 (1)(b)(2)(E)(i)

Adam Leftwich – plats submitted were incomplete

BOARD MEETING PDHS

Vote: Mr. Lingerfelt made a motion to allow the board members seven (7) PDH hours for the two day board meeting. The motion was seconded by Jay Caughman. The vote carried unanimously.

There being no further business, Mr. Lingerfelt made a motion to adjourn the meeting. This was seconded by Mr. Caughman. The motion carried unopposed

Chairman Northcutt then adjourned the second day's meeting at 11:59 a.m.