



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

**Board Meeting Minutes for April 12, 2018  
First Floor Conference Room (1-B)  
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on April 12, 2018 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Jay Caughman, Board Chairman, 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, Jed McKeehan

**BOARD MEMBER ABSENT:** None.

**STAFF MEMBERS PRESENT:** Glenn Kopchak, Sarah Matthews, Jamye Carney, Robyn Ryan, Carol McGlynn

**ROLL CALL/NOTICE OF MEETING**

Mr. Caughman called the meeting to order, then read the notice of meeting into the record as follows: "Notice of the April 12, 2018 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on April 5, 2018".

**INTRODUCTION OF NEW BOARD MEMBER**

Mr. Caughman welcomed Mr. Jed McKeehan, Public Member, to the board.

**ADOPT AGENDA**

Mr. Caughman asked for flexibility with the day's agenda items, to allow for opportunity to address guests that may be present. Mr. Caughman moved to approve agenda with addendum as stated, and motion passed unanimously.

**MINUTES**

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

## LEGAL REPORT

### 1. 2017073631

**Respondent:**

**License Status:** – ACTIVE, NOT APPLICABLE

**First Licensed:** 7/15/1999

**License Expiration:** 12/31/2019

**Disciplinary History:** 2007 Two Letters of Warning

**Summary:**

Complainant hired Respondent to assist in revision subdivision so that Complainant could secure building permit. Complainant states Respondent promised to assist in the administrative process and the planning commission on a priority basis and Complainant states Complainant paid for the work on the date Complainant met with Respondent. Complainant states that for the month following, Respondent stated that the work had been done and filed with commission, but Complainant states nothing was ever filed, that Respondent stopped communicating with Complainant and has not returned money. Complainant states that Complainant hired another to complete the process but in the meantime Complainant also had to pay for temporary storage due to the delay. Complainant included prints of text messages wherein Respondent stated Respondent had filed documents and the text messages ranged in dates from August to September with no resolutions given.

No response was filed by Respondent.

**RECOMMENDATION: \$1,000 civil penalty for violation of T.C.A. 62-18-116 incompetency or misconduct**

**BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO AUTHORIZE A FORMAL HEARING AND SEND A CONSENT ORDER WITH A \$2000.00 CIVIL PENALTY FOR A PUBLIC STATEMENTS VIOLATION AND A FAILURE TO RESPOND VIOLATION, Rule 080-04-.02(2), and Rule 0820-04--4 as provided by T.C.A. 62-18-116(B).**

### 2. 2017077681

**Respondent:**

**License Status:** – EXPIRED GRACE, NOT APPLICABLE

**First Licensed:** 6/23/2004

**License Expiration:** 12/31/2019

**Disciplinary History:** None

**Summary:**

Complainant states that Complainant had an issue with neighbor and thereafter called Respondent to do a property line survey. Complainant states that respondent said Respondent could not come out for two weeks and Complainant states Complainant gave Respondent dates and times. Complainant states Respondent came to property before Complainant was home and that Respondent talked to neighbor with whom Complainant had issues. Complainant states

Complainant called Respondent the next day and Respondent told Complainant it would be two additional weeks before Respondent could do the survey and suggested that Complainant could hire another. Complainant then called another surveyor who did the survey the next week but that after this, neighbor hired Respondent to survey neighbor's land but that Complainant claims Respondent instead surveyed Complainant's land.

Respondent states Respondent was contacted by Complainant and stated that Respondent had other projects but next day Respondent was in vicinity of Complainant's property and stopped to review the project and found monument along the road, and decided to establish control points later. When leaving, Respondent states neighbor stopped and asked what Respondent was doing and Respondent stated that Complainant had requested a survey of boundary line. That evening Respondent states Complainant called and inquired why Respondent did not tell Complainant that Respondent was coming to property and Respondent explained as stated above. Respondent states Complainant was very disappointed that Respondent had spoken to neighbor and told Respondent that Respondent was not to talk to neighbor while working for Complainant. Respondent states Respondent told Complainant that Respondent always attempts to speak to adjoining property owners when there are boundary contentions and that Respondent had found the original surveyor of the subdivision. Respondent told Complainant that to retrace and examine existing evidence can take several days. Complainant wanted the project to be done quickly and Respondent again suggested that Complainant might find a surveyor who could complete in Complainant's time frame and Complainant called two days later to inform Respondent that another surveyor had been hired. About two weeks later, neighbor called and stated issues were beginning to show up on neighbor's property. Respondent arranged to meet neighbor and neighbor pointed out marked rebars that appeared to be set on a line at various locations on property. Respondent suggested that the bars might be traverse control points and not necessarily indicating a boundary line and suggested that neighbor speak with surveyor hired by Complainant and that neighbor might eventually have to request a boundary retracement for own benefit. A few days later, neighbor called and asked Respondent to examine boundary line and as Respondent had done with Complainant, Respondent told neighbor that there was an original survey and that it might take several days to retrace and examine. Respondent states Respondent started boundary retracement survey and found another survey for a lot and used this boundary survey together with the other found survey. Respondent states that Complainant was at front corner of dividing line and told Respondent that Complainant's survey was correct and the court would agree with but Respondent asked for patience as Respondent believed Respondent might find evidence that would benefit both. Respondent states Respondent completed survey and suggested to neighbor that neighbor record survey as Complainant had recorded separate survey.

In rebuttal, Complainant states Respondent did not survey neighbor's property but did survey Complainant's.

The issue here seems to be that Respondent was somehow in violation of guidelines when hired by neighbor to do boundary survey. There is nothing to suggest that the survey was violating Complainant's property rights.

**RECOMMENDATION: DISMISS**

**BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A LETTER OF INSTRUCTION TO RESPONDENT Regarding Rule 0820-04-.05 CONFLICTS OF INTEREST.**

**3. 2018002171**

**Respondent:**

**License Status: – EXPIRED GRACE, NOT APPLICABLE**

**First Licensed: 10/26/1984**

**License Expiration: 12/31/2019**

**Disciplinary History: None**

**Summary:**

Complainant states neighbor hired Respondent company to survey neighbor property. Complainant states that an unmarked jeep was running through Complainant's yard and by Complainant's barn and that Complainant's spouse ordered the jeep off the property. The three men identified themselves as surveyors with Respondent's company. Complainant states Complainant called Respondent about the unauthorized trespassing and that Respondent rudely told Complainant that surveyors had every right to be on property. Complainant states Complainant requested legal reference that allowed unidentified car with three unknown men to drive through Complainant's landscaped garden as Complainant found this unacceptable. Complainant states Respondent then stated that Respondent would get a police escort if Complainant threatened crew and that Respondent then shouted "shut up" and slammed down the phone.

Respondent states that a crew had been dispatched to do a survey at a remote wooded site and that site had a private road running through site. Respondent states crew parked work truck on an intersecting dirt road near southern end of subject property. At the end of day, crew was approached by man who stated he lived on adjoining property and asked what crew was doing. Crew explained that the neighbors land was being surveyed and that at time Crew parked car, Crew was not certain on whose land they were parked only that appeared to provide nearest access. Respondent states Crew apologized and when leaving, saw Complainant come out of house but there was no discussion. Respondent states that later that day, client called to say Complainant had called client very upset that Crew had been all over property and around barn. Respondent states Respondent told client that on return to office Respondent would contact Complainant. In call with Complainant, respondent states that Complainant said Crew had trespassed and Respondent told Complainant that it was not trespass as it was a legal activity. Respondent states Complainant told Respondent that Complainant wished Complainant had a gun when Complainant saw Crew and Respondent told Complainant that statement sounded like a threat. Respondent states Complainant said it was a threat. Respondent then told Complainant that Crew would have to return with police escort and that Crew had right to cross properties pursuant to TCA 62-18-124. Respondent states Complainant asked Respondent to send this to Complainant and Respondent told Complainant that Complainant could ask police when they showed up or that Complainant could

due her own homework. Respondent states that if Complainant would send threat in writing, Respondent would send copy of law. Respondent states that a man then joined conversation and said “shut up and I’ll tell you what happened” to which Respondent said “you shut up” and hung up the phone. Respondent contacted police to arrange an escort to allow Crew to finish the job and states Respondent was encouraged to file a report regarding the threat to shoot Crew. Respondent states that Crew did not observe a garden or landscaping over which Crew drove.

In rebuttal, Complainant states Complainant is offended at the characterization of garden as dirt road. Complainant states that Complainant is concerned about wild allegations of gun violence and suggested that Respondent may not be suited to work as surveyor.

There does not appear to be violation of the laws for land surveyors but does appear to be a difficult situation that might have been better handled.

**RECOMMENDATION: DISMISS**

**BOARD DECISION: CONCUR**

**4. 2018002331**

**Respondent:**

**License Status: - ACTIVE, NOT APPLICABLE**

**First Licensed: 7/17/2003**

**License Expiration: 12/31/2019**

**Disciplinary History: None**

**Summary:**

Complainant states that Complainant needed a survey on property and was referred to a Respondent below. Complainant states that Respondent below stated that lots were on the local county planning commission agenda for December but when Complainant attended Complainant discovered lots were on the November agenda but that applicant had requested deferral. Complainant states that the December meeting was not a planning meeting, Respondent below was not a licensed surveyor and Respondent’s name was on paperwork. Complainant states that final plat dimensions were off several feet and do not match Complainant’s final plat or deed.

Respondent states Respondent below contacted Respondent about helping sub divide property and that Respondent agreed to prepare the plat. Respondent states that plat was drawn per instructions received and that soil work had to be done, county environmentalist had to review and approve and the plat did come up on the agenda of the planning commission in December although all final revisions had not been made so it was deferred to next meeting. That day, Respondent states Complainant contacted Respondent regarding the meeting the night before but Respondent states Complainant was at a board of zoning appeals meeting, not a planning commission meeting which was scheduled for following Tuesday. Respondent states planning director told Complainant that Respondent had deferred project and that Complainant had been communicating with Respondent below and had not heard Respondent’s name until seeing the plat with

Respondent's name. Respondent told Complainant that Respondent had agreed to help Respondent below and that Respondent was a licensed surveyor. Respondent states that Respondent was not involved in the initial meetings between owner, real estate agent, and Respondent below when they attempted to work out details on how to divide, and costs. The project was then put back on agenda for December as Complainant was upset that the project would take another month to complete. After setting the final property pins on the three lots, Respondent contacted Complainant and told Complainant the corners were staked and asked to be paid. Complainant contacted Respondent later that day to say pins were set wrong. Respondent then rechecked all calculations and deeds and did not find any errors. Complainant told Respondent that a driveway on the east end of property was on Complainant's property but Respondent states this is not possible according to Complainant's deed. Respondent states Respondent explained this in email to Complainant but did not hear back from Complainant nor and had not been paid as of date of this response.

Complainant updated complaint to say that the pin was in place when property purchase in 1993 and Complainant told Respondent that second surveyor had verbally reported to Complainant that the existing pin was correct and that driveway was on property. Second surveyor then completed report and confirmed driveway was not on Complainant's property and that the existing pin referred to by second surveyor was not the existing pin honored by previous owner and Complainant since 1993. Complainant then states that Complainant was satisfied that the driveway was not a mistake created by Respondent and Complainant wanted to withdraw complaint.

**RECOMMENDATION: DISMISS**

**BOARD DECISION: CONCUR**

**5. 2018002271**

**Respondent:**

**License Status: App. Denied, NOT APPLICABLE (UNLICENSED)**

**First Licensed: 8/19/1998**

**License Expiration: 7/15/2003**

**Disciplinary History: None**

Complainant is same as above and states that Complainant was referred to Respondent and did not know that Respondent was not a licensed surveyor.

This complaint was sent only to one address and that mail was returned in January with statement that Respondent had not lived at that address for 14 years. A new copy was sent on April 5, 2018 but as evidenced by the information from above Respondent, it does not appear that this Respondent was acting in any way as a licensee.

**RECOMMENDATION: Dismiss**

**BOARD DECISION: CONCUR**

### **STATUS OF GPS RULES**

Ms. Mathews notified the Board that the amendment to Rule 0820-03-.11 voted on by the Board at the end of last year has since gone into effect as of April 11, 2018.

### **LEGISLATIVE UPDATE**

Ms. Mathews provided a summary of HB2248/SB2465 referred to as the "Fresh Start Act" which generally speaking will not allow for denying an applicant for licensure due to a felony unrelated to the license for which the applicant applied.

Ms. Mathews also provided an update on HB2537/SB2458 referred to as the "Apprenticeship Bill" which allows Boards to create apprenticeship programs.

### **NCEES / SOUTHERN ZONE MEETING UPDATES**

NCEES CEO Jerry Carter and Northeast Zone Vice President Paul Tyrell provided a report on the structure of the NCEES surveying task force and updates on the upcoming Southern Zone NCEES conference. They further indicated that the Principles and Practice of Surveying (PS) exam & Bylaws may soon change.

### **EDUCATION REPORT**

Ms. Carney presented the members with a copy of the newly formatted list of approved education providers and courses since the last meeting. The new courses that have been reviewed and approved were from SurveyPDU, Nettleman Land Consultants, Inc. and Brad Tyson Thomas. The newly approved courses For SurveyPDU had been designated approved CER numbers and populated to the website on proper approval from the education reviewers. Prior to the Legal Report, Mr. Lingerfelt motioned to approve all of the courses listed, save the Nettleman and Thomas courses, which Mr. Dillehay seconded. Motion passed by unanimous voice vote.

Mr. Dillehay motioned to approve the Nettleman Land Consultants, Inc. course for 4.0 PDH's instead of the requested 8.0 PDH's, which Mr. Lingerfelt seconded. Motioned passed by majority vote with Mr. Caughman voting "no". Mr. McKeegan motioned to deny the Brad Tyson Thomas courses for a CER number, however, approved the instructor for personal PDH credit for teaching the course. Mr. Dillehay seconded, and the motion passed by unanimous voice vote.

### **DIRECTOR'S REPORT**

Director Kopchak provided a detailed accounting of revenue and expenditures and explained the factors influencing the trends reflected in both the renewal cycle and fiscal quarter. Director Kopchak explained that spike in January expenditures was due to quarterly billing by services rendered by information services and due to an invoice submitted by the vendor PSI for testing consultation.

### ***NCEES Annual Meeting: August 15-18, 2018***

Mr. Lingerfelt motioned to approve Mr. Caughman, Mr. Dillehay, Director Kopchak, and Ms. Mathews to attend the annual meeting. Mr. McKeegan seconded, and the motion passed by unanimous voice vote.

### **PSI UPDATE**

Computer-Based Testing (CBT) vendor, PSI, went live in offering the Tennessee Specifics of Land Surveying" (TS) exam on September 11, 2017. Since then, about fifteen (15) individuals have taken the test. Director Gumucio informed the Board at the last meeting that PSI would like to review the TS exam in June with a small group (one board member and four (4) experts to write questions) of subject matter experts (SME's). In preparation for the June TS exam review, PSI is further conducting a webinar on May 14<sup>th</sup> in order to provide an item writing training session for the expert panel assembled.

### **2017 Renewal Status**

This being the renewal cycle for all registrants, Director Kopchak provided a status update. At the time of the update, there was still eight-nine (89) still pending who had yet to renew. One remaining notice letter will be sent to those registrants. After the expired grace period comes to an end on 12/31/2018, any remaining registrants who failed to renew will have expired and must re-test and reapply.

### **APPLICATION PROCESS: APPROVALS, DENIALS, AND DEFERRALS**

In regards to the part of the application process that requires Board member review, Director Kopchak outlined the process as follows:

- Applications are reviewed via a shared site.
- Two members must approve for applicant to be put to test.
- If one defers, it goes to the third board member in the industry.
- If two defer, it is presented at the meeting.
- One deferral and two approvals means the applicant is approved to test based on the statute.
- A denial (with the explanation) will likely receive a second denial and therefore a letter with the supporting document from the two members denying the application. In the event there is a denial and an approval, that would have to go to the board as well but is very unlikely to occur based on previous history.

### **APPLICATION REVIEWS**

It was determined that statute provides Mr. McKeehan with the authority to receive and review applications for approval.

### **NEW BUSINESS**

A sample plat will be available on the website when it has been submitted by Mr. Caughman showing the new GPS rules.

Mr. Dillehay requested that the statutes and rules be available during meetings for the board members.

Mr. Lingerfelt reiterated that Firm Disclosure is required for all Initial applications. Mr. Lingerfelt further expounded that if a licensed Land Surveyor changes employment, the registrant must submit an updated Firm Disclosure form.

**JOINT MEETING**

Mr. Robert Campbell opened the discussion with the topic of Qualifications-Based Selection (QBS) and reiterated the Board of Architectural and Engineering Examiners interest in monitoring licensee compliance with the QBS provision of the Brooks Act as established by the United States Congress.

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 2:00 p.m.