



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

**Board Meeting Minutes for May 2, 2019
First Floor Conference Room (1-B)
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on May 2, 2019 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, Jed McKeehan

BOARD MEMBERS ABSENT: Jackie Dillehay

STAFF MEMBERS PRESENT: Roxana Gumucio, Ashley Van Klein, Jamye Carney

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 May 2, 2019 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on April 24, 2019".

ADOPT AGENDA

Mr. Caughman made a motion to adopt the agenda as written, but to allow for flexibility. This was seconded by Mr. McKeehan, and the motion passed unanimously.

MINUTES

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

ROLL CALL

Director Gumucio took roll call noting those board members who were present and who were absent.

APPEARING BEFORE THE BOARD

Mr. Joshua Craig appeared before the board for an application review / approval. The board approved that Mr. Craig be allowed to take the state test.

Mr. Joshua Miller appeared before the board for an application review / approval. The board approved that Mr. Miller be allowed to take the state test.

Mr. John Winter (President of TAPS) appeared before the board to discuss and clarify questions regarding land surveying policies and practices. There were no items that were discussed which were actionable or required a vote.

**Mr. Mario Forte and Mr. William Thompson were scheduled to appear before the board, but did not show-up nor were their issues discussed.*

The board took a 5 minute break and reconvened at 10:20 a.m.

EDUCATION REPORT

Mr. Caughman made a motion to approve the education report as written, which was seconded by Mr. McKeehan. The motion passed unanimously.

<u>COURSE</u>	<u>COURSE PROVIDER</u>	<u>BOARD APPROVED/DENIED PDH's</u>
"Ethics as it relates to LS Part I"	Surveying & Mapping-Society of GA	Approved 1.0
"1923 Birdseye Survey of the Grand Canyon"	PLSO Annual Meeting-Professional Land Surveyors of Ohio	Denied
"Dam Instrumentation Surveys"	PLSO Annual Meeting-Professional Land Surveyors of Ohio	Approved 2.0
"FEMA and the Surveyor"	PLSO Annual Meeting-Professional Land Surveyors of Ohio	Approved 7.0
"Isreal Ludlow, Deputy Surveyor of the Territory NW of the river Ohio"	PLSO Annual Meeting-Professional Land Surveyors of Ohio	Approved 1.5
"Professional Ethics & The Surveyor"	PLSO Annual Meeting-Professional Land Surveyors of Ohio	Approved 2.0
"Surveying for Multimodal Transportation Systems"	Ragan-Smith Associates	Approved 1.0
"Understanding Foundation Flood Vents and TEMA's Technical Bulletin1"	Floodproofing-Michael Carter	Approved 1.0
"Land Use and Zoning From Start to Finish"	NBI, Inc	Approved 1.0
"The Original Survey-Why You Need It and How to Get It"	Surveyors Educational Seminars-Wilson	Approved 8.0
"Ethics, Professional and the Courts"	Surveyors Educational Seminars-Wilson	Approved 2.0
"Making Tracks – Railroad Problems"	Surveyors Educational Seminars-Wilson	Approved 6.0
"Brown's Dilemma I"	Lucas & Company, LLC	Approved 1.5
"Clark III"	Lucas & Company, LLC	Approved 1.5
"Expert Witness XVIII"	Lucas & Company, LLC	Approved 1.5
"Principals & Practices I"	Lucas & Company, LLC	Approved 1.5

LEGAL REPORT (Presented by Ashley Van Klein)

1. 2018084431
Respondent:
License Status: – ACTIVE, NOT APPLICABLE
First Licensed: 10/29/1993
License Expiration: 12/31/2019
Disciplinary History: None

Summary: This is a consumer complaint alleging the Respondent removed stakes during a land survey and was negligent in performing the survey.

In response to these allegations, the Respondent indicated the consumer changed the scope of work over the course of the project, which created some confusion between the parties. He denied any intentional misconduct and indicated he tried to provide the consumer with the professional services she was expecting.

This case was sent for an investigation and review. The reviewer found no violations of the laws or rules, no incompetence, no conflict of interest, and no misconduct. The reviewer, however, did note that he believed the misunderstanding between the parties could have been avoided if there had been written agreement or contract.

Recommendation: Close.

BOARD DECISION: The Board approved this recommendation.

2. 2019010571
Respondent:
License Status: – ACTIVE, NOT APPLICABLE
First Licensed: 7/10/1997
License Expiration: 12/31/2019
Disciplinary History: None

Summary: This is a consumer complaint alleging the Respondent's survey was in error because it did not match the county tax map records. In response, the Respondent indicated the tax office had an error in their mapping. The Respondent also provided a copy of a letter from the county tax office stating that the error in mapping was due to the tax office placing the parcel in the wrong location.

This case was sent for an investigation and review. The reviewer found no violations of the laws or rules, no incompetence, no conflict of interest, and no misconduct.

Recommendation: Close.

BOARD DECISION: The Board approved this recommendation.

Re-presents

3. 20150215801

Respondent:

License Status: - ACTIVE, NOT APPLICABLE

First Licensed: 4/25/1980

License Expiration: 12/31/2019

Disciplinary History: 2007 Consent Order, 2011 Consent Order, 2011 Consent Order

*This complaint was filed by a consumer and alleged that the respondent inserted an easement into a legal description and survey that he knew was false because he created it as part of scheme to sell lots on false pretenses. The complaint alleges that the respondent along with the owner of an adjacent property worked together to erase an easement that had been granted in perpetuity, once in 1999 and again in 2015. This easement shall be called **X Lane**. The complainant who is a realtor caught this mistake in the 1999 survey and questioned the respondent before the sale of land. The respondent allegedly threatened to draw a road through the middle of the property for sale if he didn't back down. IN the 2015 survey the easement was completely erased. The respondent and the other land owner suggested the respondent buy a tract of land so as to have road access, despite the easement that should have been available to him. The respondent has never replied to the department regarding this complaint.*

This complaint was sent to an expert reviewer along with all maps, deeds, contracts and photos provided by the complainant. The reviewers overall conclusion was that the Surveyor had violated standards of practice and exhibited a clear lack of general surveying knowledge/law. He found him to be overall, incompetent.

Specific violations included:

Monumentation

Violation by ignoring call for X Lane (Critical Monument Location) and indicating a 24" Red oak tree for a 10" Gum tree (called out in deed). No evidence provided by surveyor, about any marking located on 24" red oak tree given credence for using the red oak vs locating a.:Gum tree that would be larger diameter now closer to X Lane. X lane location verified by Reviewer based upon review or USGS Maps dated 1936 and 1950 copies attached.

Incompetence

- 1. Original deed description calls for property to edge of Y River-Survey signed and dated by Respondent (not signed) appears to indicate the center of Y River. No text call indicating whether line is centerline of river or edge of river as called for in deed.*
- 2. Surveyor attempted to place property lines on ground using exact distances called for in deed apparently not considering the differences of old surveying methods as compared present day surveying technology.*
- 3. Existing X Lane (Critical Monument Location) ignored easily verified by examining USGS maps. Ignoring calls in deed for X Lane and Named trees indicate lack of surveying law knowledge or incompetence. Concur with Respondent property should border road known as X Road by deed.*

4. *Moving property line from X Road location land locks Complainant's property.*
5. *No response about complaint provided by surveyor. Indication of incompetence not willing to defend his actions.*

Accuracy Of Survey

Survey states a Category 1 Survey and that the ratio of precision of the unadjusted survey as 1:10,000. This is a direct violation of Standards of Practice. Impossible to be exactly 1:10,000. He must show precision of unadjusted survey.

Seals

1. *(Three Surveys provided by Complainant do not bear the registrant's seal required by TCA 62-18-119.*
- (8) *Three surveys bearing the same date each different without a revision note.*

Recommendation: Authorize for formal hearing. Allow authority to settle by consent order assessing Revocation.

Board Decision: Concur.

New Information:

The Respondent is 75 years old and has informed Counsel that he is retired. Respondent has also been diagnosed with cancer which he is being treated for.

The reviewer who completed the original expert review for this matter is no longer performing expert services for this Department. Therefore, Counsel sent this matter to a new expert who reviewed this matter and provided a new expert review. Additionally, the Respondent was never provided a chance to respond to this matter until recently. Respondent provided a response immediately upon Counsel's request and his response was provided to the expert reviewer.

The new expert provided a land surveying review report after reviewing the documents related to this matter. The expert noted that although the Complainant seemed to have several good points in his argument, the Respondent provided explanations in his response that were believable to the new expert. The expert prepared an overlay of Respondent's survey with the 1950 USGS Map. The overlay reasonably lines up with Respondent's survey but the expert cannot render an opinion on this alone and states that the Complainant must get the property surveyed again in order to get a clear view of any discrepancies alleged. The expert is unable to form an opinion without a new survey and we cannot use the prior expert review if Respondent were to contest this matter further.

No complaints have been filed against the Respondent since this 2015 complaint at issue. Considering the Respondent's age and health, the lack of an expert opinion without a new survey and the age of this complaint, Counsel recommends discussing this matter considering the fact that we do not have enough evidence at this point to move forward with a revocation. We can discuss the possibility of requiring the Complainant to get a new survey if the Board wishes to proceed with a revocation.

New Recommendation: Discuss

New Board Decision: The Board requested that legal send this matter to another expert to be reviewed.

LEGISLATIVE UPDATE – INFORMATIONAL ONLY (Presented by Ashley Van Klein)

Mrs. Van Klein provided status updates to the following House Bills: HB621, HB304, HB699, and HB997. There were no actionable items or votes required.

DIRECTOR'S REPORT

Budget

Director Gumucio provided a detailed accounting of revenue and expenditures for the current fiscal status. Director Gumucio explained that there were bigger than normal costbacks resulting in the current fiscal health, noting that this was to be expected due to recent costbacks and travel fees.

Licensing and PSI Numbers

Director Gumucio provided an update on the current Land Surveyor licensing numbers citing the information below:

General Statistics:	
Total Number of Active Land Surveyors:	1,100
Number with TN Residence:	748
Those over the age of 55:	613
Over the age of 60:	434

New Initial Licenses	
2015	18
2016	40
2017	13
2018	20

PSI Information for 2017 & 2018	
Total Number Submitted for TS Exam	37
Total Number with Passing Scores	30
Total Number with Failing Scores	7
Percentage of candidates that passed	81%

The board broke for lunch and returned at 11:30 a.m. and returned at 12:30 p.m.

NEW BUSINESS

65 year old CE Exemption

The board members discussed the request of an individual over the age of 65 and currently retired who inquired about having their license reinstated. The board requested that the individual submit a formal request in writing regarding obtaining his licensure again.

Comity Applicants – Expedite Process

The board members discussed further developing and improving the process for comity applicants and had discussion in regards to accepting reciprocity applications or continue to have applicants adhere to Tennessee state standards. The board decided that further discussion was needed and is to be discussed at the next board meeting.

Application Review Process

The board members and Director Gumucio discussed the application review process and ideas pertaining to what information the board members actually need to review. In particular, Director Gumucio proposed that the board members solely focus on the plats and descriptions, while the staff focuses on the education, references, and other applicable documents within the Land Surveyor application. The board decided to continue the discussion at the next board meeting.

NCEES CPU Registry

Chairman Lingerfelt provided information in regards to the NCEES CPU Registry noting that licensees can submit their CE / training certificates on the website and further request that the registry forward their CE to a state in which they are licensed as proof of CE. The NCEES CPU Registry also serves as a location for licensees to maintain their records.

NCEES Southern Zone Meeting – Boise, Idaho

Chairman Lingerfelt informed / reminded the board members that the NCEES Southern Zone Meeting is coming up, May 16 – 18, 2019 in Boise, Idaho. Chairman Lingerfelt noted that Mr. Caughman, Mr. Dillehay, Mrs. Van Klein, along with himself will be in attendance. This meeting will be done in conjunction with the western association.

APPLICATION REVIEWS

****Mr. McKeegan exited the meeting during application reviews****

<u>Name</u>	<u>Board Decision</u>
Caleb J. Smith	Approved
Cody J. Vitkus	Deferred – due to lack of experience

ADJOURNMENT

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