



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

**Meeting Minutes for May 20th, 2021
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on May 20th, 2021 in the first-floor conference room of Davy Crockett Tower in Nashville, Tennessee. Michael Schulz called the meeting to order at 9:00 am and the following business was transacted:

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

BOARD MEMBERS ABSENT:

STAFF MEMBERS PRESENT: Michael Schulz, Maria Bush, Stuart Huffman, Morgan Calles, Caleb Darnell, Erica Smith, Carol McGlynn, Alex Martin

NOTICE OF MEETING

Jay Caughman called the meeting to order and then read the notice of meeting into the record as follows: "Notice of the May 20th, 2021 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website."

ROLL CALL

Michael Schulz took roll call; all board members were present.

ADOPT AGENDA

Tim Lingerfelt made a motion to adopt the agenda as is, with the chair having the flexibility to move any items that might be needed to be changed at any time. This was seconded by Jackie Dillehay. This was voted by roll call.

MINUTES

Tim Lingerfelt advised he made revisions and sent them to Michael Schulz.

Tim Lingerfelt made a motion to approve the February minutes as amended. This was seconded by Jackie Dillehay. This was voted by roll call.

ANNOUNCEMENTS

The Board and Assistant Commissioner Alex Martin thanked Mr. Lingerfelt for his years of service and made comments on his service.

Michael Schulz presented Tim Lingerfelt with his certificate commemorating his time on the board and a letter from the governor thanking him for his service with the board.

Jay Caughman introduces new board member Kevin Martin. Kevin Martin advised he has a degree in Chemical Engineering and did that for about 20 years in that industry. Currently flipping houses for the last few years.

EDUCATION REPORT

May 20, 2021- Education Report

Course Provider	Course Number	Course Name	Hours
Halfmoon Education INC	994	Art of Retracement for Surveyors	6

Renewal

Course Provider	Course Name	Course Number
William A. Thompson	Horizontal Curves	666
William A. Thompson	Opus Solutions	667
William A. Thompson	Spiral Curves	669
William A. Thompson	Vertical Curves	675
William A. Thompson	Retracing Surveys	668
William A. Thompson	CAD Drafting 301	664
William A. Thompson	CAD Drafting 201	663
William A. Thompson	Tn State Plane Coordinate System	673
William A. Thompson	Geocaching and Dendrology	660
William A. Thompson	CAD Drafting 101	662
William A. Thompson	Introduction to GPS	661
William A. Thompson	Advanced GPS	659

Jackie Dillehay made a motion to approve the courses as listed. This was second by Tim Lingerfelt. This was voted by roll call.

NEW PROVIDER REQUEST

Dr. Ahmed Elaksher from New Mexico State University presented their program to be approved for Qualifying Education in the state of Tennessee. Dr. Elaksher gave a presentation and the board members questioned him on the program.

Tim Lingerfelt made the motion to approve this program. This was seconded by Jackie Dillehay. This was voted by roll call.

Jackie Vincent from Mckissock for submitted online education for approval. The courses submitted are online (asynchronous) courses. The board had not approved this coursework, and a discussion followed on what type of online courses would be approved. The board does not currently view asynchronous course offerings as interactive enough education.

Michael Schulz advises administrative staff is supportive of online learning when the public is not being harmed by online learning.

LEGAL REPORT

See attached

DIRECTOR'S REPORT

Budget Reports/ Financial Report

Michael Schulz went over the budget.

Active License Count

Approximately 1100 active land Surveyors as of May 20, 2021.

TAPS Conference review/comments

Michael Schulz and Commissioner Alex Martin were able to attend this meeting in Murfreesboro. This was done in person and virtual. Jay Caughman advised TAPS to put on a seminar for training towards the test.

NCEES Southern Zone Meeting Attendance

Tim Lingerfelt advised the Northeast Zone is going to have their meeting virtual. There is a new Southern Zone Vice President Andy Zoutewelle from North Carolina. New Assistant Vice President Bobby Balli from Texas, will begin after the August Annual Meeting in New Orleans. Three people from the Land Surveyor board can go and have everything paid for by NCEES. Michael Schulz advised that between this board and the Engineers Board that Michael Schulz and the program attorney Maria Bush should attend. Also, with the request that Maria Bush be including in this meeting as past as of the Land Surveyor board. The board members agree Maria Bush should go. No vote was given.

Emeritus status with NCEES for Tim Lingerfelt

Tim Lingerfelt advises that the only way he can get emeritus status with NCEES is if the board requests this. This would need to be sent in early July due to the committee selections. The board has requested for this to be done.

Break for 10 Minutes

Question Received by the Board

Looking for clarification that involves Drone work. The caller has a small construction business and is a licensed Engineer. In the process of getting a General Contractors' license as well. He has been researching drone verification. Completed his property line and compared it to the county side. He has since been asked by a couple of neighbors to do this for their property. Wanting to know if this is something, he could do without being licensed as a Land Surveyor.

Jay Caughman advised anything with property lines is the responsibility of a Land Surveyor. Only Land Surveyors can determine property lines.

Jackie Dillehay advised this would give the misconception that you will be providing the landowner with a survey and a legal document even if you have it in the contract.

Tim Lingerfelt describes the document that is produced by the state of Tennessee for the property assessors. With this work you are wanting to complete with boundary lines, financial gain, this would be against our rules.

OLD BUSINESS

Board Meeting PDH credit

Tim Lingerfelt continued the discussion on PDH credit. Clarification on how to obtain PDH acknowledgement for virtual board meetings was discussed.

The proposed rule and technical standard changes

Jay Caughman stated he has requested other board members look into making substantial changes to the technical standards. The board will soon provide staff with a redline version of requested changes in this regard.

New Business

Potential Elimination for the Tennessee State Specific Exam

The board brought up the possibility of eliminating the TN State Specific Exam. The board discussed the repercussions eliminating the exam may have to the industry. The board also discussed utilizing NCEES records.

Continue Education

If someone is audited for continued education, they must provide proof of the course.

Jay Caughman wants to possibly eliminate the education preapproval process and have the registrants responsible for their courses. Jackie Dillehay thinks this will be a good thing in the future. His concern is if the registrant feels like this is a good course, but the board does not agree. Tim Lingerfelt feels like we should go away from pre-approval education. Also, advises we can approve vendors only with a fee, and whatever courses the vendor approves we will accept any education from them.

PDH HOURS FOR ATTENDANCE

Jay Caughman made a motion to award the Board 2 PDH hours for the day's meeting.

ADJOURNMENT

There being no other new business, Tim Lingerfelt made a motion to adjourn. The meeting was adjourned at 11:21 am.



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

TO: Tennessee Board of Examiners for Land Surveyors
FROM: Erica Smith – Associate General Counsel
DATE: May 20, 2021 SUR Legal Report
RE: May Legal Report

1. 2020094761

Respondent:
License Status: License # ACTIVE
First Licensed: 2/27/1997
License Expiration: 12/31/2021
Disciplinary History: None

Summary: Complainant takes issue with a survey completed by Respondent in 2001. Complainant alleges the placement of a monument is off by approximately 1.5 degrees. Complainant is the owner of one of six tracts and had contacted Respondent in 2018 about this issue. Complainant told Respondent that their neighbor had a survey performed by another surveyor and the line between them did not match, and Complainant wanted to know why.

Respondent states they conducted a boundary survey of a 249.37-acre farm in the mountains and divided it into six tracts, performing it with a Total Station using magnetic north. Respondent traversed approximately 14,526 feet and had an error of closure of 1.35 feet. The interior angles between Respondent's survey and the neighbor's survey only differ by 4 minutes and 45 seconds. Respondent researched and then contacted Complainant, attempting to explain the difference between grid and magnetic north several times. After retrieving the plat from the survey of the neighbor's property and matching it with Respondent's 2001 plat, it was confirmed that it was just a difference in Norths.

Respondent contacted Complainant and informed them that they found state plane cords on the neighbor's plat at the major corners to confirm Respondent's assumption. The neighbor's surveyor also cited finding Respondent's pins in place. The distances were in line with Respondent's survey and the only difference was a slight difference in bearing, the difference between magnetic and state plane grid north. Respondent had several more conversations with Complainant attempting to explain again that the pins are the corners and there is no problem with the title. Respondent sent Complainant all the paperwork they had on this work that was over 17 years old at the time and answered all questions timely and truthfully. Respondent thought Complainant understood that their pins were their corners and were very surprised at this complaint. Respondent noted that the company they work for was established in 1966 and they value customer service as their number one priority, as it took much time to pull everything back out and refresh their memory to assist Complainant. Respondent does not know what else they could have done to handle this situation any better.

An expert review was conducted. The expert concludes there are no violations regarding the survey. The expert notes that the Respondent tried to explain that the newer survey had a bearing basis of State Grid (GPS) and not magnetic, and states that the issue Complainant has is a common misunderstanding among the general public. Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: CONCUR

2. 2021012891
Respondent:
License Status: License ACTIVE
First Licensed: 7/15/1998
License Expiration: 12/31/2021
Disciplinary History: None

Summary: Complainant alleges there is a discrepancy in a recorded plat of a survey conducted by Respondent. Complainant states the plat Respondent sent to them was correct in showing "lot 8" and "lot 9" but the recorded plat shows both lots numbered as "lot 8."

Respondent had already spoken with Complainant at the time this complaint was filed and had explained that they were working on rectifying the Scriber's error. Respondent completed the plat correction in the time period they told all persons involved (buyer and Respondent seller and their agents) that it would take. Respondent feels this complaint was filed in an effort to force them to push the plat correction to the front of their workload and/or for spiteful measures because Complainant did not understand that it time to complete. Complainant confirmed the issue has been resolved and asked to rescind the complaint.

There is no evidence of any violations and Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: CONCUR

3. 2021009651

Respondent:

License Status: License ACTIVE

First Licensed: 4/16/1994

License Expiration: 12/31/2021

Disciplinary History: 2010 Civil Penalty; 2013 Consent Order

Summary: Complainant purchased property from a seller and takes issue with the survey Respondent conducted for the seller. Complainant alleges they were told there was no legal description for the land they were purchasing, and a survey was needed. Complainant began looking into Respondent's survey and compared it to the survey on the Tax Record of the MLS. Complainant sought the advice of an attorney who specializes in surveys, deeds and titles. The attorney retrieved the past legal records for the land they now owned, along with the land surrounding it which had been broken up from 95 acres, to a 92.3-acre tract and the remaining 2.7 acres which Complainant purchased. Complainant purchased 2.7 acres from the seller but was told 24 hours prior to closing, that the survey came out to 2.5 acres instead of the 2.7 acres they contracted to purchase. The attorney stated that there were significant changes in the measurements of the original property from the 1974 legal description when compared to the survey performed by Respondent. Complainant alleges there are 28.82 feet of land missing along the front of their property from East to West. Complainant alleges there are 24 feet off the West side of the property, 27 feet off the East boundary and 10 feet off the back of the property; these subtractions from Complainant's land as noted in Respondent's survey conflict with the measurements from the legal description from 1974. The attorney was allegedly surprised by the statement that Respondent put on the survey and legal description in three places which read, "This survey is subject to adjoining landowners agreeing to property lines as called for in this survey." It is also on the Deed. The attorney stated they had never seen a statement like this on any survey and it was "suspect." The attorney suggested the best way to handle this situation was to write up a quit claim deed and have the seller sign it. This would return the property Complainant owned to the 2.7 acres which they paid for. The seller's estate attorney told them they did not need to sign it and they never did. After exhausting the quit claim route, Complainant decided to meet with Respondent to get their explanations for the discrepancies on the survey they conducted. Complainant alleges Respondent had a short conversation with them and further declined a meeting to discuss the matter without permission from the seller. The following day, the adjacent landowner came to Complainant's home for a visit. They had never met before, but the neighbor seemed sympathetic about Complainant's concern regarding the questionable boundaries in Respondent's survey. Complainant assumed Respondent must have spoken to the neighbor about the concerns because Complainant had never spoken to the neighbor about it. They walked along the Complainant's side of the fence between the properties and Complainant pointed out where the property lines had been changed. The neighbor allegedly agreed with

Complainant and said, “this is wrong, we need to do something about this.” Complainant claims they were supposed to meet up to work this issue out, but the neighbor delayed the arranged meeting and sounded “nervous” about it. Complainant began thinking Respondent was now surveying the neighbor’s property as a way to collude together in taking land from Complainant and formally recording it as the neighbor’s property. Complainant claims the neighbor and Respondent were in the process of taking Complainant’s land to record it as the neighbor’s land.

Respondent states that this survey was conducted for the seller and it clearly states on the survey that one must have written permission to use the survey; Complainant was never given permission to use this survey. Respondent would have been happy to discuss everything with Complainant but is bound by the code and confidentiality requirements. Respondent had gone over everything with their client before completing the survey and informed them that the physical evidence on the property that is called for in the deed does not match the measurements in the deed. When Respondent began the survey, the seller informed them that there had been a boundary line dispute on the east boundary and that is when the markers on that side were set. Respondent explained they would need a copy of the final decision on the dispute but never received any information and it is not mentioned in any of the current deeds or tax cards. The original 95-acre deed calls for distances in poles, no bearings and an area by estimation, and does not say it was surveyed. The 92.3-acre deed and its survey has lines in poles with no bearings matching the 95 acre deed then changes to having bearings and distances in feet around the remaining lands with houses. Respondent questions how you can calculate an accurate area with no bearings. When Complainant contacted Respondent, they explained to them that they were not the client and the client would need to give permission for Respondent to discuss the survey. Respondent never heard back from the Complainant about this or received further information until this complaint was filed. Respondent put the note concerning adjoining landowners on the survey to protect themselves and the public. Respondent felt if they simply told their client there is a problem, then nothing will be done about it and it may not be communicated to the attorneys or buyers. Respondent does not understand why the deed was written and Complainant closed on and purchased the property with this problem. Respondent provided all field notes, coordinates, surveys and deeds used.

An expert review was conducted. The expert finds no violations and states the Respondent properly notified the parties who were to use the survey information to close on the sale of the property, noting the survey was done for the seller, not the Complainant. Further, the expert states it was appropriate to state that the survey was subject to adjoining landowners agreeing to property lines as called for in the survey and it is unfortunate no agreement was made between landowners. Counsel feels this is more of an issue between the Complainant and the seller of the property. Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: CONCUR

4. 2021023221
Respondent:
License Status: License ACTIVE
First Licensed: 10/30/1987
License Expiration: 12/31/2021
Disciplinary History: None

Summary: Complainant alleges “shoddy work” by the Respondent claiming they did not match the bearings and distances found in their deed. Complainant hired Respondent’s firm in March 2018 to divide a lot they had purchased jointly with a neighbor. Upon completion of the survey, Complainant decided to have Respondent’s firm locate two missing pins on adjoining land that disappeared over the last 40 years since it was last surveyed in 1980 when Complainant purchased it. The property had been previously surveyed in 1978 when the original 170-acre farm was subdivided. After the pins were set, Complainant called to complain that something did not look right, and the measurements were off.

Respondent states their professional association with Complainant began in 2012 and the firm has performed 3-4 surveying jobs for them, including the 2019 property line survey at issue. Respondent completed a redivision of a lot in a subdivision for Complainant and they conveyed part of that lot to an adjoining property owner after recordation of the plat. Nine months later, Complainant contacted the firm to re-establish the common boundary line with the neighbor so a new fence could be built on the property line to replace the existing meandering fence. Respondent told Complainant they would need to survey the entire property unless Complainant could show them an existing undisputed monument on each end of the property line to be re-established. Respondent’s field crew met Complainant at the property and were shown an existing 3/8” iron pin and a 28” walnut tree. Complainant declared these were undisputed property corners. During the field work, Respondent’s crew located a 1/2” iron pipe at the northeast corner of a connected lot, along with the tree and existing meandering fence. No other monuments were found along the line to be re-established. During the next few weeks, Respondent’s firm performed deed research and office calculations to determine the location of the common boundary line. Respondent provided the pertinent information regarding these calculations and research which led to their decision on where to set pins and wooden stakes on-line between corners. Complainant then came to the firm and told Respondent they were upset about the distances and locations of certain markers set. Respondent explained everything in detail to Complainant, describing that the old plat and deed failed to close mathematically by 53 feet and 20 feet respectively, and the field distance between the existing 3/8” iron pin and walnut tree was shorter than the record distance by more than 23 feet. Complainant wanted Respondent to use the deed distances and basically set a marker at the arc intersect. Respondent explained to Complainant that the pins were set at a location that could be defended in court, if necessary, providing further technical detail about deed angles and the resulting angle being within 1 degree of the deed angle. Respondent mailed an invoice for the work performed to Complainant at the hourly rate quoted and did not invoice for all the discussion time. Complainant paid the invoice in March 2019, and over a year later, demanded a reimbursement in full. It was not until one year after that this complaint was filed and Respondent was notified of it.

An expert review was conducted, and the expert concludes that Complainant seems to have a misunderstanding because they saw calls that differ from their deed. Respondent's survey states that the north basis was "reconciled" with a specific recorded subdivision plat. The expert found no violations by Respondent and further notes that distances almost always differ, to some degree, when compared to old deeds. Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: CONCUR

5. 2021026551

Respondent:

License Status: License ACTIVE

First Licensed: 6/24/2015

License Expiration: 12/31/2021

Disciplinary History: None

Summary: Complainant hired Respondent to complete a survey in result of a boundary line dispute with their neighbor. Complainant lives in a duplex and they own their side of the property, and the neighbor owns their side of the property. Complainant needed Respondent to mark the property separated by the common wall of the duplex. Complainant takes issue with the outcome of the survey and the line that was staked. Complainant alleges Respondent placed stakes that do not line up and that go through their kitchen and living room. Complainant filed this complaint to contest the survey despite being advised to hire a real estate attorney to handle the situation.

Respondent explained in detail how they performed the work and provided the deed, recorded subdivision plat, prior survey, their plot points showing found points, calculated points and stake out points, sketch of duplex with measurements and two pictures showing the stakes set. Complainant argued that the line runs through their kitchen and living room, so Respondent came back out to help them understand that was not the case. Respondent explained that without standing directly on the line, they would not be able to see the three stakes in a straight line and there would be a skewed view from their window making it look like they did not line up. Respondent tried to get Complainant to step into the backyard to look down the line toward the house so they could visualize where the property line runs into the duplex, but they would not. Complainant argued that from the window, the stakes are not in a line. From the window, approximately two feet from the party wall, only two of the three stakes were visible due to the porch. Respondent then took their tape measure and verified the line was correct, trying to explain it to Complainant. Respondent states that Complainant could not understand or accept that the line did not run through their kitchen or living room despite Respondent's attempt to explain that this was not the case. Respondent feels if Complainant would have simply walked to the rear of the lot, they would see the straight line of stakes instead of looking from an angle through their window.

An expert review was conducted, and no violations were found. Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: CONCUR