



**BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-2241**

**Meeting Minutes for August 10, 2023
Eleventh Floor Conference Rm
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on August 10, 2023, and the following business was transacted:

BOARD MEMBERS PRESENT: Jay Caughman, Jackie Dillehay, Gary Clark, Kevin Martin

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Glenn Kopchak, Heidi Overstreet, Alexandria Griffey, Phillip Allocco, Erica Smith, Stuart Huffman

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Gary Clark called the meeting to order at 9:00 am and Director Glenn Kopchak took roll call.

AGENDA

Jay Caughman made a motion to adopt the agenda. This was seconded by Kevin Martin. The motion passed by unanimous voice vote.

MINUTES

Jay Caughman made a motion to adopt the May minutes. This was seconded by Jackie Dillehay. The motion passed by unanimous voice vote.

PROFESSIONAL SOCIETY REPORT

Jimmy Cleveland, Tennessee Association of Professional Surveyors (TAPS), gave a brief update to the board about the Spring 2024 Conference. Mr. Cleveland reported that TAPS is interested in allowing experience to be considered prior to passing the Fundamentals in Surveying (FS) exam and further acknowledge that this would require a change in statute.

EDUCATION REPORT

Course Provider	Course Number	Course Name	Hours
LUCAS & COMPANY, LLC	1171	Deed Interpretation VI	1.5
LUCAS & COMPANY, LLC	1172	Boundary Establishment IX	1.5
LUCAS & COMPANY, LLC	1173	Government Surveys II	1.5
Surveypdu.com	1174	Aerial Surveying	3
LUCAS & COMPANY, LLC	1175	Government Surveys III	1.5
Southern Instruments & Software	1176	Carlson Software Training Workshop	5
Tennessee Association of Professional Surveyors	1177	Ethical Considerations In Consumer Relations	2
Tennessee Association of Professional Surveyors	1178	Starting and Operating a Survey Business	4
Tennessee Association of Professional Surveyors	1179	Educating and Training Survey Technicians	4
Tennessee Association of Professional Surveyors	1180	Subdivision Design Concepts	2
Tennessee Association of Professional Surveyors	1181	Relative Positional Precision Explained in Everyday Language	6
Tennessee Association of Professional Surveyors	931	Dendrology	8

Tennessee Association of Professional Surveyors	1182	BOE Meeting – TAPS 2024	2
Tennessee Association of Professional Surveyors	1183	Current State of Drone Surveying	2
Tennessee Association of Professional Surveyors	1184	Picking the Right Drone for Surveying	4
Tennessee Association of Professional Surveyors	1185	TAPS Membership Meeting – TAPS 2024	3

Jay Caughman made a motion to approve all courses listed on the education report. This was seconded by Kevin Martin. The motion passed by unanimous voice vote.

DIRECTOR’S REPORT

Budget Report

Director Glenn Kopchak reported that things were trending as expected, and reminded the board that the program is currently in a non-renewal period, which will run a deficit through the end of the calendar year.

Plat Requirement Instructions

Jay Caughman made a motion to revise the Plat requirements instructions. This was seconded by Jackie Dillehay. The motion passed by unanimous voice vote.

The board broke for a 10-minute recess

PUBLIC COMMENT PERIOD RELATED TO ITEMS ON THE AGENDA

Mr. & Mrs. Baldwin Presented to the board their concerns of surveying project conducted in 1988, on their property relating to a right-of-way. Mr. & Mrs. Baldwin understood that due to the time passed, assistance from the board was not possible, but wanted to share their experience to prevent future incidents. The board did confirm that due to the length of time between the survey and now, and the deceased status of the surveyor, that this is out of the board’s jurisdiction.

Howard & Mitchell Dawson stated that they are in support of the effort by TAPS to allow experience to be considered prior to passing the Fundamentals in Surveying (FS) exam and further iterated that their voice in support be annotated.

LEGAL

Legal Report (Presented by: Erica Smith)

1. 2023013521
Respondent:
License Status: ACTIVE
First Licensed: 1/18/2001 Expires: 12/31/2023
Disciplinary History: None

Respondent completed a boundary survey for a property in 2014 for 2.3 acres. This property was sold in 2021 and Respondent completed a new boundary survey for the land. This time, Respondent stated the land was 5 acres instead of 2.3 acres. Complainant owns property adjoining the land at issue and alleges Respondent has given away 2.7 acres of their land considering this difference in acreage.

Respondent attempted to explain the difference in the two surveys he performed. Respondent states he staked the first survey based on the adjoining deed, due to the vagueness of the subject deed. Respondent did not realize the adjoiner's deed, which overlapped into the subject deed, was the junior conveyance at the time of the first survey. When recognizing the subject deed was senior, Respondent decided he should have staked 5 acres as called for in the subject deed and began working on revising the first survey. Complainant hired a surveyor to survey their adjoining land who used the boundary line from Respondent's 2014 survey, which was incorrect. Respondent has since revised the 2014 survey to show 5 acres.

An expert review was conducted of both the 2014 survey and the 2021 survey completed by Respondent. The expert opined that Respondent did not engage in sufficient research when completing the first survey in 2014. However, the statute of limitations and repose prohibits a complaint from being pursued against the original 2014 survey despite obvious issues with it. However, the expert also found violations with the newer, 2021 survey, which include the following:

1. The boundary incorrectly is drawn; boundary is not a closed survey; does not close by .09 feet +/- This violates Rule 0820-03-.06 (Maps and Mapping).
2. The survey indicates a ratio of precision of the unadjusted survey is 1:5,000. However, Respondent provided coordinate data indicating an unadjusted ratio showing he used a precision of 1:12,672. The actual unadjusted ratio of precision used must be shown. This violates Rule 0820-03-.07 (Survey Types and Requirements).

3. Respondent did not include a statement that the survey was done in compliance with the current Tennessee Minimum Standards of Practice.
4. The material and size of the monument found or set was not indicated on the survey. This violates Rule 0820-03-.07 (Survey Types and Requirements).

Counsel recommends requiring Respondent to take a course (or courses) to assist him in understanding the importance of getting the technical aspects of his land surveys correct.

RECOMMENDATION: Require continuing education course(s) related to the violations of Rule 0820-03-.06, .07 and the Tennessee Minimum Standards of Practice

BOARD DECISION: Close with letter of instruction and requirement for Respondent to send in two (2) survey plats to the Board within the next 12 months to be audited for compliance.

2. 2023019221

Respondent:

License Status: IN TRAINING

Original Date: 6/20/2008

Disciplinary History: None

Complainant is a real estate broker/landowner and Respondent is a land surveyor in training. Respondent assisted in completing a survey in November 2017 on a parcel of land adjacent to Complainant's residential parcel of land. Complainant states there is a section of land between her land and the adjacent parcel which is not found on any survey. Complainant alleges Respondent was supposed to make a correction to the survey and has failed to do so. Complainant further alleges that a corner pin is missing. Complainant alleges Respondent was supposed to have put this survey pin back in its original place. Complainant sent a letter to Respondent about this issue and has requested Respondent to move the survey pin and a fence to the correct locations.

Respondent denies Complainant notified them about the gap of land until this complaint was filed. Complainant had sent a letter to Respondent's employer in March of this year alleging Respondent set a property corner was in the wrong place. Respondent denies this allegation and notes Complainant has no proof to support it. Respondent did meet Complainant and her husband at the property and replaced the missing corner. Respondent further checked multiple control points and property corners that day and states everything was correct.

Counsel notes that this complaint is related to a survey conducted in 2017. Tenn. Code Ann. § 28-3-114(a) states “All actions to recover damages against any person engaged in the practice of surveying for any deficiency, defect, omission, error or miscalculation shall be brought within four (4) years from the date the survey is recorded on the plat. Any such action not instituted within this four (4) year period shall be forever barred. The cause of action in such cases shall accrue when the services are performed.” Counsel finds no violations and in consideration of the statute of limitations, recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

3. 2023018401

Respondent:

License Status: Unlicensed

Disciplinary History: None

Complainant alleges Respondent is offering land surveying services on Facebook without a license. Specifically, the Respondent is advertising to find property pins and property corners for a flat rate of \$79 up to one acre. Respondent charges \$39 for each additional acre. Respondent offers their services in East Tennessee. Respondent notes their service “provides property owners an economical rough start when trying to determine property pin locations. If legal issues need to be addressed, you may wish to consult with an engineering professional and/or attorney.” The Facebook page has very minimal content and only lists a phone number and an email for the “business”.

An investigation was conducted. The investigation revealed that Respondent may go by a few different names. The investigation failed to reveal any other advertisements or information on the internet for the Respondent or the services he offers. The investigator visited the residential address found through internal research for Respondent on 6/15/23 and left their card at the door. Respondent has not contacted the investigator nor responded to Counsel. Counsel recommends issuing a Letter of Warning to instruct Respondent they must cease offering land surveying services without a proper license.

RECOMMENDATION: Letter of Warning

BOARD DECISION: Letter of Warning with cease-and-desist language.

4. 2023023431

Respondent:

License Status: Active

First Licensed: 1/18/2006 Expires: 12/31/2023

Disciplinary History: None

Complainant is in a dispute over land that he believes was incorrectly surveyed and taken away from him. Complainant's only details to support the allegations in the complaint are that he saw Respondent outside on the property at issue and "saw that he was not going to get the survey right" and feels he will "have to do the surveyor's job for him." Complainant has been fighting what he believes to be incorrect survey results that he feels has taken away land from him, and that property is now on the market to be sold again. Complainant believes there's a mistake in in the county records/property assessor's database in relation to the coordinates of the piece of property at issue. Complainant wants the error corrected.

Respondent states they were hired to survey a property in December of 2020 and when they were out on the property which is near Complainant's property, Complainant came outside to see what Respondent was doing. Respondent introduced himself and listened to the "back story" of Complainant's property and surrounding land. In Respondent's response, Respondent detailed the intense research he had to do before he went back out to the property in May of 2021 to continue his work. At that time, Respondent explained to Complainant what he had found from his extensive research, which included the fact that a description in a adjoining deed was wrong and had been for a long time. Complainant made it known that they disagreed with Respondent. Respondent completed their survey and informed their clients of what they had found, and that Complainant disagreed with the boundary line that adjoins his property. Respondent discussed some options for how to possibly resolve the situation. Respondent's clients offered to give Complainant the portion of the property in question if Complainant would have the paperwork prepared, and Complainant declined. Respondent states Complainant's home is in no way affected by the property line as shown in Respondent's survey and Respondent is confused as to what Complainant's is accusing them of. Respondent feels that this complaint is a prime example of what surveyors potentially face every time they step on to a new job. Respondent strives to be fair and thorough in all situations and thinks about each scenario from all sides. Respondent tries to help resolve disputes in a peaceful way that both sides can agree to when possible. Respondent reiterates that based on his extensive research, a deed description has been wrong for many years and has caused much confusion. Respondent believes they have tracked down the correct deed and found nearly all of the corners to support this. Respondent was respectful, listened to Complainant's input and tried to explain all of the factors that have contributed to this situation even though he was not Respondent's client. The bottom line is Complainant simply disagrees with

Respondent's survey and this has resulted in a boundary dispute, which Respondent's clients have attempted to resolve peacefully.

This Board has no jurisdiction or influence over a county record or property assessor's office. Complainant has an attorney and Counsel would suggest Complainant may need to take legal action in a competent jurisdiction to pursue this matter. Counsel finds no evidence of any violations and recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

5. 2023030421

Respondent:

License Status: Active

First Licensed: 1/26/2009 Expires: 12/31/2023

Disciplinary History: None

Complainant is a licensed land surveyor and states he was contacted by a potential client to provide a survey. This potential client provided Complainant with a survey prepared by Respondent. The survey covered a 2-acre new tract of land. Complainant alleges that a planning commission did not allow the survey to be recorded because it did not meet their standards for subdivisions at this time. Complainant alleges the potential client who owns the land at issue is now looking to pay him to begin the process to get the land recorded correctly after paying Respondent to do the same thing. Complainant alleges the landowner hasn't been able to get in contact with Respondent about fixing the issues.

Respondent first notes that the survey at issue is still in process and their client, the landowner, has not been charged nor have they paid as alleged. Respondent denies the allegations except for the fact the draft survey did not originally meet the requirements of the planning commission. Respondent has been communicating with the landowner and has been working with them to gather the information required to satisfy the subdivision plat requirements. Respondent would not expect payment for this until the subdivision is approved. After Respondent received notice of this complaint, he spoke with the landowner who admitted that he had been confused and thought Respondent was too busy to complete the survey. Respondent asked the landowner why they did not express their concerns and had only sent a single text before reaching out to Complainant. The landowner told Complainant that they did not have any issues with Respondent's work and just needed the survey completed. The landowner did not want a complaint to be filed.

Counsel finds no evidence of any violations and recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

Sunshine Law (Presented by: Stuart Huffman)

Stuart Huffman reviewed the details and requirements of the Sunshine Law with the Board.

NEW BUSINESS

In addition to decoupling experience from the FS exam, Jay Caughman mentioned that there could be additional items that may also need a statute change, to include decoupling the Principles and Practice of Surveying (PS) exam. Director Glenn Kopchak requested that Jay Caughman provide a redline for those changes he would like the board to discuss.

Jay Caughman made a motion to approve 2 PDHs. This was seconded by Jackie Dillehay. The motion passed by unanimous voice vote.

ADJOURNMENT

The meeting adjourned at 11:10 a.m.