

MINUTES

Tennessee Board of Examiners for Land Surveyors

The Tennessee Board of Examiners for Land Surveyors met on Thursday, February 2, 2012 at 9:00 a.m. in the 2nd Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN.

Those present were: Tim Lingerfelt, Chairman; Sue Braly, Vice-Chairman; David Cagle, Board Member; Galyon Northcutt, Board Member; Robert Herndon, Attorney for the Board; and Donna Moulder, Administrative Director for the board.

The meeting was called to order at 9:27 a.m. by Chairman Lingerfelt.

Chairman Lingerfelt thanked Jackie Dillehay for his service on the board and then welcomed the newest board member, Galyon Northcutt, to the board.

Sue Braly made a motion to adopt the agenda as presented. David Cagle seconded the motion. The motion carried unopposed.

The minutes of the previous meeting were then reviewed. Sue Braly made a motion to accept the minutes as written. David Cagle seconded the motion. The motion carried unopposed.

David Cagle made a motion to accept Robert's Rules of Order for conducting the board meetings. Galyon Northcutt seconded the motion. The motion carried unopposed.

Robert Herndon then presented the following legal report for review:

Complaint #201102711 –

This case was referred to a Board member for review because of the allegation of incompetence in the Respondent's professional practice of land surveying, in possible violation of Tenn. Code Ann. § 62-18-116(a)(1)(B), specifically the allegation is that the Respondent missed boundary lines in the process of developing a land survey and created a boundary dispute. The plats in question were forwarded to a Board member for review and determination of any indication of deviation from acceptable standards of practice. The events generating the complaint occurred in West Tennessee, and the reviewing Board member was West Tennessee Board member Mr. CAGLE.

Recommendation: Accept the reviewing Board member's proposal.

FINDINGS: The Respondent did not use proper care and was negligent in the production of the plat.

RULING: David Cagle made a motion to issue a Consent Order for a civil penalty of \$250.00, the production and distribution of a corrected plat to all parties and the

Board, and obtain a letter from the client that the corrected plat is acceptable and present it to the Board. Galyon Northcutt seconded the motion. The motion carried unopposed.

Complaint #201102843 –

This case was referred to a Board member for review because of the allegation of incompetence in the Respondent's professional practice of land surveying, in possible violation of Tenn. Code Ann. § 62-18-116(a)(1)(B), specifically the allegation is that the Respondent failed to communicate with a landowner about a boundary dispute. This particular situation has been considered by the Board before and resulted in a dismissal, but the complaint information was forwarded to a Board member for review and determination if there is any evidence of new information to indicate deviation from acceptable standards of practice that was not considered by the Board previously. The events generating the complaint occurred in Middle Tennessee, and the reviewing Board member was West Tennessee Board member Mr. CAGLE.

Recommendation: Accept the reviewing Board member's proposal.

FINDINGS: The facts as presented in this complaint are identical to the previous dismissed complaint.

RULING: David Cagle made a motion to dismiss the case with prejudice. Galyon Northcutt seconded. The motion carried unopposed.

Complaint #201103099 –

This case was referred to a Board member for review because of the allegation of incompetence in the Respondent's professional practice of land surveying, in possible violation of Tenn. Code Ann. § 62-18-116(a)(1)(B), specifically the allegation is that the Respondent used unreliable information to produce a plat and did not perform all due diligence. The plat and attendant information in the complaint was forwarded to a Board member for review to identify any indication of incompetence or misconduct, if any. The events generating the complaint occurred in East Tennessee, and the reviewing Board member was West Tennessee Board member Mr. CAGLE.

Recommendation: Accept the reviewing Board member's proposal.

FINDINGS: No violation of standards of practice identified.

RULING: David Cagle made a motion to dismiss for lack of grounds for discipline. Galyon Northcutt seconded the motion. The motion carried unopposed.

Complaint #201102116 –

The complaint alleges gross negligence in the preparation of land survey documents, in possible violation of Tenn. Code Ann. § 62-18-116(a)(1)(B). Specifically, the Complainant, an adjoining landowner to the Respondent's client, alleges that the Respondent damaged his property in the course of preparing the land survey for his neighbor and also that the Respondent attempted to record an inaccurate plat. An

investigation was ordered to collect statements of the parties and that report was returned on December 15, 2011. The investigation report states that the events relative to this complaint occurred in 2007, and that there is not much evidence of the damage any more. This case was adjudicated in a court of competent jurisdiction to resolve the boundary dispute and did not uncover any particularly untoward behavior on the Respondent's part. The complaint file contains a letter from the Respondent's attorney during the lawsuit and, as such, is familiar with the details of the incidents and attests to the Respondent's professional behavior throughout. There are no prior complaints in the Respondent's file, and his license expiration date is listed as December 31, 2011.

Recommendation: Dismiss the case for lack of grounds for discipline.

FINDINGS: There are no grounds for discipline.

RULING: David Cagle made a motion to dismiss the case. Galyon Northcutt seconded the motion. The motion carried unopposed.

Complaint #201102731 –

The complaint alleges that the Respondent offered to provide land surveying services without a license in violation of Tenn. Code Ann. § 62-18-102(4) by presenting a business card advertising these services in Tennessee and identifying the Respondent as a "P.L.S." The Respondent's license file indicates that his professional land surveyor's license expired on December 31, 2007 and remains expired. There are no prior complaints in the Respondent's file.

Recommendation: Issue a "cease and desist" letter along with a Consent Order for a civil penalty of \$1,000.00.

FINDING: The Board agrees with the assessment. Galyon Northcutt made a motion to accept the attorney's recommendation. David Cagle seconded the motion. The motion carried unopposed.

Complaint #201102870 –

The complaint alleges that the Respondent approved land surveying services prepared by a non-registrant without the proper amount of supervision in violation of Tenn. Code Ann. § 62-18-119 (Seal of registrant) and Tenn. Comp. R. & Reg. 0820—04—.03(3) [SERVICE IN AREAS OF COMPETENCE]. The Respondent's file does not contain any evidence of previous misconduct.

Recommendation: Close the case due to lack of evidence of misconduct.

FINDING: The Board agrees with the assessment. David Cagle made a motion to accept the attorney's recommendation to close due to lack of evidence of misconduct. Galyon Northcutt seconded the motion. The motion carried unopposed.

Complaint #201102919 –

The complaint alleges that the Respondent provided land surveying services in an unprofessional manner. The Complainant is a neighboring land owner to the Respondent's client and alleges trespass on the part of the Respondent. Tenn. Code Ann. § 62-18-124 (Right-of-entry) allows registrants to enter the land of other in the performance of land surveying duties and is not a disciplinary offense. There are allegations of verbal altercations between the parties, but no evidence that the Respondent performed his duties in an incompetent way.

Recommendation: Close the case due to lack of evidence of misconduct.

FINDING: The Board agrees with the assessment. David Cagle made a motion to accept the attorney's recommendation to close the complaint due to a lack of misconduct. Sue Braly seconded the motion. The motion carried unopposed.

NEW BUSINESS –

Greg Mullins – The board reviewed and approved the continuing education submitted by Mr. Mullins as part of his (re)application requirement. Mr. Mullins still has to take and pass the 2-hour Tennessee specifics portion of the exam.

Todd Johnson – Mr. Johnson has met the conditions of his Consent Order as of January 2012 and the board approved Mr. Johnson's (re)application and voted that Mr. Johnson must take and pass the 2-hour Tennessee Specifics portion of the exam. David Cagle made a motion to allow Mr. Johnson to take the 2-hour Tennessee specifics exam in April 2012. Sue Braly seconded the motion. The motion carried unopposed.

Robert Woodham – The board approved Mr. Woodham's (re)application and David Cagle made a motion to allow Mr. Woodham to take the 2-hour Tennessee Specifics exam in April 2012. Sue Braly seconded the motion. The motion carried unopposed.

Ronald Kirby – David Cagle made a motion that the continuing education submitted by Mr. Kirby is not surveying related and therefore is not acceptable. Mr. Cagle also stated that if Mr. Kirby does not want to complete his CE requirement for renewal, his renewal fee that has already been paid, will be refunded. Sue Braly seconded the motion. The motion carried unopposed.

The board then discussed the implementation timeline of NCEES Computer-Based Testing (CBT).

The board also discussed continuing education comity rule 0820-20-5-.13.

The board then reviewed applications for the April 2012 exam.

The following applications were denied:

- Keith Brotherton – application denied due to incomplete reference form, employer verification not current, lacks one completed reference form from a licensed surveyor and plats submitted do not meet requirements

- Jason Forsberg – has no four year baccalaureate degree as required by TCA 62-18-109(A)(i), does not have sufficient experience under the 10 year experience law TCA 62-18-109(2)(c)
- Daniel Collier – request to retake the exam was denied due to the fact, that based upon the information provided to the board from the applicant, the board felt that the applicant did nothing to prepare for taking the exam.
- Tyler McCoy – request to retake exam was denied due to age of original application

The following applications were approved:

James D. Langford, Jr.
 Henry Todd McBrayer
 Mark Isaac Luke
 William Hamilton
 Michael Zoltek
 Brian Andrew Barwatt
 Beau Marshall Agee
 Rodney Cunningham
 Wesley Long
 Brett Ferguson
 Douglas Hawk
 John Maholland
 Scott Prather
 Robert M. Goodrum

Scott North
 John C. Smith IV
 Jordan Bledsoe
 James Watkins
 Adam Marris
 Matthew Strickler
 Neil Grande
 Channing Taylor
 Jason Britt
 Daniel Givens
 Steven Ball
 David T. Alley
 James McCrory
 Jerry Apostol

Cliff Ogden

There being no further business, Sue Braly made a motion to adjourn. David Cagle seconded the motion. The motion carried unopposed and the meeting was adjourned at 4:00 pm.

FRIDAY, February 3, 2012 –

The Tennessee Board of Examiners for Land Surveyors met on Friday, February 3, 2012 at 9:00 a.m. in the 2nd Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN.

Those present were:; Tim Lingerfelt, Chairman; Sue Braly, Vice Chairman; David Cagle, Board Member; Galyon Northcutt, Board Member; Robert Herndon, Attorney for the Board; and Donna Moulder, Administrative Director for the board.

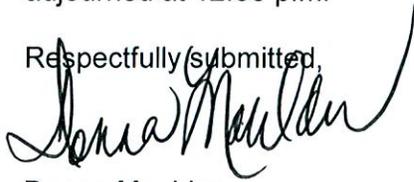
The meeting was called to order at 9:15 a.m. by Chairman Lingerfelt.

The board reviewed a letter regarding continuing education, from Bart Crattie, a member of the Continuing Education Advisory Committee.

The board then reviewed suggested changes to the Professional Rules of Conduct.

There being no further business, Galyon Northcutt made a motion to adjourn. David Cagle seconded the motion. The motion carried unopposed and the meeting was adjourned at 12:30 p.m.

Respectfully submitted,



Donna Moulder
Administrative Director



Tim Lingerfelt, Chairman



David Cagle



Sue Braly, Vice-Chairman



Galyon Northcutt