



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

**Meeting Minutes for November 17, 2022
First Floor Conference Room 1-A
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on November 17, 2022, 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, Megan Maleski, Alexandria Griffey, Erica Smith

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

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

AGENDA

Jackie Dillehay made a motion to adopt the agenda. This was seconded by Gary Clark. The motion passed by unanimous voice vote.

MINUTES

Gary Clark made a motion to adopt the minutes from August 18, 2022, with a time change amendment to reflect 9:00 a.m. Call to Order. This was seconded by Kevin Martin. The motion passed by unanimous voice vote.

PROFESSIONAL SOCIETY REPORT

Jimmy Cleveland from Tennessee Association of Professional Surveyors (TAPS) gave a brief update to the board. Mr. Cleveland reported there will be a meeting on December 3, 2022, to finalize the conference and continue to work on the 5-year plan. Additionally, Mr. Cleveland stated the outreach program appears to be performing well resulting in increased student enrollment at ETSU.

EDUCATION REPORT

Course Provider	Course Number	Course Name	Hours
Lucas and Company	1085	Parol Evidence VIII	1.5
Alabama Society of Professional Surveyors	1103	The Affect of the Trail of Tears on the GLO	3
Lucas and Company	1104	Legal Research for Land Surveyor	8
Lucas and Company	1105	Deeds,Conveyances, and Boundaries	8
Alabama Society of Professional Surveyors	1106	Best Practices in Drone Surveying	3
Alabama Society of Professional Surveyors	1107	Buying or Selling the Engineering or Land Surveying Firm	3
Alabama Society of Professional Surveyors	1108	Deprecation of U S Survey Foot	3
Alabama Society of Professional Surveyors	1109	Right of Way	3
Alabama Society of Professional Surveyors	1110	Least Squares Adjustments	3
Lucas and Company	1111	Boundary Dispute Resolution	5.5
Lucas and Company	1112	Expert Witness Testimony For Surveyors and Engineers	4
Lucas and Company	1113	Title Insurance and Boundary Surveys for Surveying Professionals	3.5
TN Association of Professional Surveyors (TAPS)	1114	How to retrieve and use TN LiDAR	2
Halfmoon Education	1115	Resolving Conflicts of Surveying Evidence	2

Halfmoon Education	1116	Mapping, Managing, and Regulating Floodplains	6
Halfmoon Education	1117	The Art and Science of the Real Property Description: Situational Awareness	4
Lucas and Company	1118	Deed Interpretation V	1.5
Halfmoon Education	1119	Current Issues for Land Surveyors	7.5
Lucas and Company	1120	Title Insurance and surveys II	1.5
Lucas and Company	1121	Parole Evidence IX	1.5
TN Association of Professional Surveyors (TAPS)	1122	Client Communications: The lifeblood of business	4
TN Association of Professional Surveyors (TAPS)	1123	Managing your business and your projects	4
TN Association of Professional Surveyors (TAPS)	1124	Leadership and Time Management	4
Halfmoon Education	1125	Boundaries and Easements	6.5
TN Department of Transportation (TDOT)	1126	Day 1 FHWA-TDOT UAS Workshop	2.25
TN Department of Transportation (TDOT)	1127	Day 2 FHWA-TDOT UAS Workshop	3.25

Jackie Dillehay made a motion to adopt the education report. This was seconded by Gary Clark. The motion passed by unanimous voice vote.

DIRECTOR'S REPORT

Budget Report

Director Kopchak summarized the revenues and expenses thus far and drew attention to the technology expenses for August, relating that the database was upgraded to the cloud causing IT related expenses. This same increase in expenses has been seen across all other

boards. Additionally, Director Kopchak pointed out a spike in case revenue for the month of September, due to settlement of disciplinary action rendered.

2023 NCEES Zone Meeting

Jackie Dillehay made a motion to send Gary Clark, Jay Caughman, and himself to the 2023 NCEES Zone Meeting. This was seconded by Kevin Martin. The motion passed by unanimous voice vote.

LEGAL

LEGAL REPORT (Presented by: Erica Smith)

1. 2022024181

Respondent:

License Status: ACTIVE

First Licensed: 3/4/1997 Expires: 12/31/2023

Disciplinary History: None

This is an administrative complaint related to Respondent's license renewal. Respondent answered yes to the renewal application question related to completing required education credits and professional development hours (30 hours for 2020-2021), so a renewal was processed. During an audit, it was found that Respondent had only completed 15 hours during 2020-2021 and the other 15 hours had been completed this year, in 2022. Counsel recommends issuing a \$500 civil penalty for failing to comply with Tenn. Comp. R. & Regs. 0820-05-.03(2) which requires a licensee seeking renewal to obtain 30 professional development hours during the 2-year period immediately preceding application for renewal.

Recommendation: Authorize a \$500 civil penalty for failing to timely comply with biennial requirement of professional development hours

BOARD DECISION: Concur

2. 2022036181

Respondent:

License Status: ACTIVE

First Licensed: 5/28/2010 Expires: 12/31/2023

Disciplinary History: None

Complainant is an attorney who filed this complaint alleging Respondent's survey was inadequate for local zoning and was not responding to their attempts at contact. Complainant hired Respondent to provide a survey of their residence for the

purposes of meeting the requirements of the Contextual Overlay District pursuant to the local Government Code. Complainant alleges Respondent's survey was deemed inadequate to issue a building permit for the address.

Respondent states they performed a survey for Complainant in April and although there was nothing in their proposal about the contextual overlay zoning guidelines, Respondent knew Complainant wanted it, so that information was included on the survey. Respondent states they normally include this kind of information on site plans which are used to apply for building permits, but Complainant did not want Respondent to do one. Complainant emailed Respondent on 8/26/22 stating that codes would not approve the building permit because 4 neighboring houses used in the contextual average wasn't shown on the survey or site plan, which was not done by Respondent. Respondent explained that all 4 houses were used in the calculations, but you simply could not see the fourth house on their survey because of the scale used. Respondent was told by the Zoning Examiner that he needs to be able to see the fourth house on the survey or site plan. Respondent then added the revision to their schedule but before they even had a chance to respond to the email, within two hours, Complainant began sending threatening emails to Respondent demanding the correction be made to the survey. Complainant told Respondent that they had 48 hours and Respondent did send the revision within that time frame. However, Complainant first left bad reviews and filed this complaint, as well as the next complaint below, against Respondent's employer. Complainant also began sending emails to a local Council member and was insulting that member. Respondent states that as far as they know, zoning overlay guidelines are not a requirement on boundary surveys, and they tried to go above and beyond to satisfy Complainant.

This matter has been resolved and based on the information provided by Complainant and Respondent; Counsel recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: Concur

3. 2022036211

Respondent:

License Status: ACTIVE

First Licensed: 3/24/2011 Expires: 12/31/2023

Disciplinary History: None

This complaint is the same as the complaint above (3. 2022036181), except Complainant filed it against the employer of the Respondent above. There is no additional or new information to provide other than what is summarized above.

Considering the matter is resolved and there is no evidence of any violations by either Respondent, Counsel recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: Concur

4. 2022035451

Respondent:

License Status: ACTIVE

First Licensed: 1/23/1998 Expires: 12/31/2023

Disciplinary History: None

Complainant is a Tennessee licensed land surveyor who alleges that Respondent provided Complainant's client with a drawing reported to be a survey of their property. Complainant states that it wasn't until they completed the survey and delivered the signed drawing to the client that he was told the drawing from Respondent was completed using GIS data and no field work. Complainant alleges this erroneous drawing caused considerable harm to their client and caused them to hire Complainant to disprove Respondent's drawing. Complainant further alleges that the seal is improper because the drawing states "Preliminary Copy for Review Only" instead of "Registered Land Surveyor" on the inside of the seal. Complainant alleges this is deceitful because the drawing appears to be final even though it states "preliminary."

Respondent denies ever stating or implying that they used GIS data rather than performing a field survey. Respondent provides an email and field date showing they informed the property owner and the closing title company involved that the house and boundary had been field located. Respondent denies causing any damages in this matter, especially considering they never received payment for the performed survey as it is their practice to never accept payment until a job is complete and the customer is satisfied. Respondent further states that it is their practice not to provide a sealed copy until the job is complete. The preliminary stamp is placed on the maps to inform the customer that the job is still ongoing, and this is a copy for review only, as noted on the stamp itself. Respondent does a considerable amount of work with the title company involved and they request a copy for a customer to review any time issues are identified on the property they deem likely to cause the title company not to be able to insure a property. Respondent stops work and allows time for the title company and customer to review before running up excess survey costs. After review and at a customer's request, Respondent would then return to the property to conduct a more extensive boundary retracement to determine if the issue can be resolved. Only when the job has been thoroughly completed would the drawing be

stamped with Respondent's official state seal and certified. Respondent is shocked that a fellow surveyor such as Complainant would accuse another surveyor in this manner without checking on the facts in question and file a complaint on hearsay.

Counsel finds no evidence of any violations and recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: Concur

5. 2022036991

Respondent:

License Status: ACTIVE

First Licensed: 6/27/2006 Expires: 12/31/2023

Disciplinary History: None

Complainant alleges Respondent completed a survey on a property adjacent to his that was inaccurate. Complainant does not provide any documentation to support this allegation. Respondent states Complainant was angry about their property lines and decided to take revenge by filing this complaint. Complainant has since asked to withdraw this complaint as this matter has been resolved. Counsel finds no evidence of any violations and recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: Concur

6. 2022040751

Respondent:

License Status: ACTIVE

First Licensed: 1/18/2001 Expires: 12/31/2023

Disciplinary History: None

Complainant purchased a property in June of 2021 and alleges Respondent did not correctly identify the boundaries on their survey of the property. Respondent's survey at issue was conducted in 2006. Complainant alleges Respondent relied on 100-year-old hearsay to determine boundaries and ignored title research, effectively giving away valuable highway frontage land with mild historical value.

Respondent is unable to provide the survey and documentation for this matter because they sold their business in 2014 and no longer has that information available.

Additionally, Respondent correctly argues that Complainant has no real status to file a complaint in regard to the survey at issue, which was conducted pursuant to a court order on 9/28/2006 due to the statute of limitations and repose. 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." Respondent further notes that the Chancery Court approved the survey, and the owners of the land were satisfied with the survey at the time. Respondent urges Complainant to petition the Chancery Court if they believe they have a claim on any property that they allege was not properly included in the survey.

Counsel recommends dismissal based on the fact that the statute of limitations and repose has passed, in conjunction with the lack of evidence to support the Complainant's allegations.

Recommendation: Dismiss

BOARD DECISION: Concur

New Board Decision: Concur

7. 2022013961

Respondent:

License Status: ACTIVE

First Licensed: 1/27/2004 Expires: 12/31/2023

Disciplinary History: 2013008771 – Letter of warning.

Complainant states the issue leading to this complaint began in 1991. Complainant purchased property in 1991 and was provided a 50' right of way (ROW), which was supposed to be surveyed and cleared within one year. Complainant alleges after the survey; the adjoining landowner had taken a tractor and bushhog to destroy around half a mile of boundary markers. Complainant paid a surveyor to resurvey, and the neighbor then fenced the ROW. This boundary dispute went to court and the Judge ordered an independent surveyor, Respondent. Respondent completed their survey as ordered by the Judge in October 2004. Complainant did not agree with the stakes put down by Respondent as they didn't agree with Complainant's surveyor's points. Complainant then tried to get Respondent to come out and show them what Respondent said the boundary was. Complainant alleges Respondent stood him up and didn't show up until Complainant's attorney threatened him.

Respondent states they have tried to resolve this matter for years with Complainant. Respondent has gone out to the property and met with Complainant and their attorney, showing them where the markers and corners were. Respondent notes that the stakes that had been placed along Complainant's line were gone. Complainant wanted Respondent to move the line to match their survey, but Respondent believes the line should be held. Respondent, Complainant and the Judge had a Zoom meeting and the Judge ended up stopping the meeting, stating that Respondent had made their decision and was not tasked with resurveying the line. Respondent agrees with the Judge.

Counsel notes that this is a boundary dispute resulting from a survey conducted in 2004. Further, this matter has been dealt with in Court and Respondent has followed the Judge's orders. Counsel recommends dismissal in consideration of all the facts summarized and because the statute of limitations and repose has passed.

Recommendation: Dismiss

BOARD DECISION: Concur

NEW BUSINESS

Jay Caughman addressed the introduction for Public Chapter 1128 and asked that the board members review publication for discussion at the next board meeting.

Jay Caughman proposed reviewing and updating the minimum qualifying education on course lists 1, 2, and 3. The purpose of updating the education information is to assist in syncing the education applicants are presenting in their transcripts and records, to the current education offered at the universities.

Gary Clark proposed applicants be required to complete the course reporting form available on the website which outlines each course and designates the path for which they are applying. This would assist in the timeliness of reviewing applications.

Gary Clark made a motion to approve 1 hour for PDH. This was seconded by Kevin Martin. The motion passed by unanimous voice vote.

ADJOURNMENT

Jay Caughman adjourned the meeting at 9:45 a.m.