

## **PRACTICE REVIEW BOARD**

### **CASE HISTORIES JANUARY 2006 TO DECEMBER 2008**

#### **PRACTICE REVIEW BOARD DISCIPLINE REPORTS PREAMBLE**

The Applied Science Technologists and Technicians of British Columbia (ASTTBC) is incorporated under the Applied Science Technologists and Technicians (ASTT) Act RSBC 1979 c.16.1 in 1985; since revised as RSBC 1996 c.15 on April 21, 1997.

The ASTTBC provides professional certification to technologists and technicians in the applied science technologies related to Biological Sciences, Biomedical Engineering, Building, Chemical, Civil Engineering, Electrical, Electronics, Environmental, Forest Engineering, Gas & Petroleum, Geomatics, Industrial, Information, Instrumentation, Mechanical, Metallurgical and Mining disciplines. The ASTTBC also grants technical specialist certification in technical areas such as building design, construction safety, fire protection, house and property inspection, onsite wastewater, public works inspection, site improvements surveys, steel detailing and timber cruising.

Our ‘purpose’, as generally stated in the ASTT Act is, “To maintain, improve and increase the knowledge, ability and competence of technologists and technicians; to regulate standards of training and practice of and for its members, and to protect the interests of the public.” The ASTT Act and Regulations, in the provision of professional certification of technologists, technicians and technical specialists, requires that members adhere to a Code of Ethics, provides a disciplinary mechanism to deal with breaches of the Code and protects ASTTBC’s titles and designations.

The ASTTBC Council has charged the Practice Review Board (PRB) of ASTTBC with the responsibility for enforcement of the ‘Code of Ethics’ for member’s professional practice and conduct, as well as with protecting ASTTBC’s titles and designations. The following report reflects the activities and resolved case files of the PRB. It is the policy of ASTTBC to only report on the specific details of cases (names, places and dates etc.) when the case has resulted in censure as a result of a Disciplinary Hearing or the PRB has determined it is in the public interest to have such information provided.

## **Report from the Practice Review Board (PRB) for Complaint Cases resolved in PROPERTY INSPECTION from January 2006 to December 2008:**

### **CASE #06-66**

#### **STATEMENT OF COMPLAINT:**

It is alleged that an ASTTBC 'Inspector' failed to identify and report a damaged item that should have been found during a normal house inspection.

#### **BACKGROUND:**

The 'Claimant' retained the service of the Inspector to inspect a condominium. The property passed inspection and was subsequently purchased. Shortly after moving in the owner found damage to the drywall under the base boards in two areas at the doorway to the kitchen. An investigation by the Claimant led to the belief that dog urine from the previous owner's dog was the cause of the damage. The Claimant suggests that the Inspector ought to have advised of this situation by including it in his report.

#### **INVESTIGATION:**

The Investigator was limited to the inspection report, the letter of complaint, the Inspector's response and the ASTTBC Standards of Inspection as a guide. The member stated that he did not see or smell or otherwise suspect that damage had occurred previously to the property.

#### **DISCUSSION:**

As the ASTTBC Standards of Inspection (Purpose, Scope and Limitations of the Inspection) states 'the inspection is a visual inspection by direct observation of the existing conditions at the time of inspection; therefore, no breach of the ASTTBC Code of Ethics could be determined.

#### **OUTCOME:**

The Practice Review Board determined that, since the investigation found no breach of the ASTTBC Code of Ethics, the Claimant and Inspector were so advised and the file was closed with no further action required.

### **CASE #07-01**

#### **STATEMENT OF COMPLAINT:**

It is alleged that an ASTTBC 'Inspector' provided an improper report on air quality to a tenant resulting in the 'Claimant' having to pay damages to the tenant. Further that the Inspector had trespassed onto his property by accessing the attic through the ceiling hatch.

#### **BACKGROUND:**

The Inspector, also a qualified CMHC Indoor Air Quality Investigator, provided the Tenant an inspection 'Report' that indicated that there was a mould problem in the house plus extensive mould in the attic. The Investigator referenced the CMHC guidelines for reporting Indoor Air Quality, concluding the report was not fully descriptive and did not follow the usual format of an air quality investigation.

#### **INVESTIGATION:**

The investigation was limited to the inspection report, the letter of complaint and the member's response to the complaint. The Inspector's pictures, of the attic space, within in the Report proved not to be useful

due to the dark quality. The Claimant is the owner of a rental house for which the Tenant engaged an Inspector to complete an indoor air quality investigation.

The tenant used this report to negotiate a termination of tenancy through an arbitrator. The Claimant states that he had to pay damages due to the 'evidence of mould'. Further that the Report is not accurate in that he had building contractors inspect his attic and no mould was present, only stains on the lumber.

**DISCUSSION:**

The Claimant did not support the allegations presented by the tenant in arbitration nor did he with this claim against the Inspector. Further the tenant as rightful occupant of the property invited the Inspector onto the property negating the trespass claim. The investigator could find no evidence of a breach of the Code of Ethics.

**OUTCOME:**

The Practice Review Board (PRB) determined there no substantiated evidence of a breach of the Code of Ethics, the parties were informed of the findings and the file was closed.

**CASE #07-24**

**STATEMENT OF COMPLIANT:**

The 'Claimant' engaged by contract an ASTTBC 'Inspector' to complete a pre-purchase inspection. There were abnormal structural issues which had evolved since the inspection, that the Claimant alleges the Inspector should have reported.

**BACKGROUND:**

The signing of the engagement contract provided arbitration in matters concerning disputes however the Inspector's company is now dissolved eliminating this avenue of relief. A report from the Better Business Bureau reveals the Inspector is now registered under a new company.

**INVESTIGATION:**

The Claimant did not forward a complete copy of the inspection report to support his accusations. The Inspector states he sent the claimant a photo report supplementing a form report; unfortunately the Inspector cannot supply the photos report due to a computer crash; but did provide the written portion. Comparison of the May 2006 photos to the newer ones supplied by the Claimant was therefore impossible.

**DISCUSSION:**

This case was full of discrepancies and without evidence as to the deficiencies past and present it is difficult to draw conclusions. Although the photographs could have been of assistance in making the comparison, a statement within the report indicated the Inspector had suggested the Claimant engage a Geotechnical engineer. There was no evidence indicating the Claimant engaged the engineer, nor is there supported evidence that the Inspector had breached the Code of Ethics.

**OUTCOME:**

The Practice Review Board advised the claimant that ASTTBC could not establish, by the evidence provided, that the Inspector breached any of the principles of the Code of Ethics. Further, it was not the role of the Practice Review Board to determine if there were errors or omissions in the inspection, only that the required Standards of Inspection were applied.

## **CASE # 07-37**

### **STATEMENT OF COMPLAINT:**

The 'Claimant' alleges that an ASTTBC 'Inspector' has failed to conduct an adequate home inspection in that he lacks the commitment to customer care and expert knowledge, there in failing to adequately execute his duties as a Property Inspector.

### **BACKGROUND:**

The complaints deal with bathroom water damage, a roof leaking, a faulty hot water tank, an oven switch malfunction, an oven front decorative glass breakage, a leaking refrigerator, and a rotted porch, all found subsequent to the inspection. All were valid complaints, but some were reported within the Inspection report while others are not covered under the ASTTBC/BCIPI Standards of Inspection (and therefore do not require to be reported on). Some of the complaints could have occurred after the Inspection was completed. Other complaints included the price of the inspection, an unfulfilled promise of submission of pictures taken during the inspection, and a conditional partial refund of the inspection fee.

### **INVESTIGATION:**

The investigation was conducted using the letters and email communications that have been exchanged between the two parties as well as the Home Inspection report. A chronology of the 21 communications was reviewed.

The Inspection was completed within normal ASTTBC/BCIPI Standards of Inspection. Appropriate comments were made in the report that gives the client an indication of component failure in some areas. Secondly, the analysis of the communications showed a great deal of frustration on both sides that seemed to lead to accusations, which were in some cases completely reversed in following communications.

### **DISCUSSION:**

The Inspection report indicates that the Inspector adhered to the BCIPI Standards of Inspection. It does appear the inspector failed in his promise to deliver the inspection pictures to the claimant in a timely manner but eventually did. Issues with the Inspector's inspection, as it pertains to any possibility of potential errors or omissions, is not within the mandate of the Practice Review Board to review or provide comment, as these issues are for a court of higher jurisdiction.

### **OUTCOME:**

The Practice Review Board determined that no further action was required and this file be closed, as the ASTTBC Code of Ethics and the ASTTBC Standards of Inspection were followed in this case. This outcome was communicated to both parties.

## **CASE #08-22**

### **STATEMENT OF COMPLAINT:**

The 'Claimant', who had an interest in a mobile home sales business, alleges the 'Inspector' had intended to harm the image of the firm in that the Inspector had gone beyond his legal rights with the home inspection.

### **BACKGROUND:**

The 'Buyer' engaged the Inspector to undertake an inspection on a mobile purchased from the Claimant.

**INVESTIGATION:**

According to a letter submitted by the Buyer he was satisfied with the contents of the inspection report provided by the Inspector.

It appears that the Buyer used the inspection report to challenge the Claimant as to deficiencies that were reported in the inspection report. The Claimant does not agree with some of the reported items on the inspection report.

**DISCUSSION:**

There is no evidence to support the accusations of the Claimant that the Inspector has breached any of the ASTTBC Code of Ethics. Further, there is no indication that the Inspector had any intention of harming the Claimant's business, nor is there any indication that the Inspector exceeded his legal right to report his finding to the Buyer.

**OUTCOME:**

The Practice Review Board determined that there was no evidence to substantiate the Claimant's allegations of wrong doing on the part of the Inspector and that the case be closed. Further, a letter was sent to the Claimant advising of the PRB determination that the Inspector was not found to be in breach of the ASTTBC Code of Ethics.