

ONSITE WASTEWATER CASE SUMMARIES 2019

CASE #18-03

STATEMENT OF COMPLAINT:

That two Respondents installed an illegal wastewater system on the Complainant's property. Respondent 1, a Registered Onsite Wastewater Practitioner (ROWP) in the Installer category, installed the system without confirming that a Filing had been submitted to the Health Authority. In addition, the wrong type of system was installed in a location different from the plan that was filed and homeowner had agreed to. Respondent 1 did not involve the homeowner in the decision that led to the change. Furthermore, the property suffered significant damage, with the trees in the front yard cut down without the homeowner's knowledge or permission. The homeowner believed Respondent 1's conduct was unethical and unprofessional. Respondent 2, a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories, planned and designed the system, however they only submitted the Filing to the Health Authority after the system was installed. The Complainant subsequently hired a different ROWP to plan and install a replacement wastewater system, at an unbudgeted additional cost to the Complainant.

INVESTIGATION:

The investigation confirmed the allegations and determined that all parties, including the Complainant, had contributed to the complaint. A lack of clear written communication between the Complainant and the two Respondents was a significant contributing factor to the complaint. The Complainant was reluctant to accept the recommendations of the Planner and the Installer to construct a system in compliance with the area's Official Community Plan (OCP) and the Sewerage System Regulation Standard Practice Manual (SPM) Version 3. The Complainant's disregard for compliance to the restrictions stipulated in the OCP, insistence on the location for installing onsite wastewater system components and insisting work start when climatic conditions were detrimental to the work and environment were contributing factors in the complaint.

Respondent 1 installed the system at the Complainant's insistence, despite weather conditions that were detrimental to the installation. Respondent 2 was found to be negligent in submitting the Filing and in communicating with Respondent 1 as required. The investigation also found that the system designed and installed by the third ROWP appeared to be non-complaint with the setback requirements specified in the OCP.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and found the actions of Respondent 1 to be contrary to Principles 1 and 8 of the ASTTBC Code of Ethics as well as the SPM. The PRB also found the actions of Respondent 2 to be contrary to Principles 1 of the ASTTBC Code of Ethics as well as the SPM. Both Respondents were levied a fine of \$250 as a deterrent to any future violations of the ASTTBC Code of Ethics and the SPM.

The PRB also required that the Filing submitted by the third ROWP for the replacement onsite wastewater system be reviewed to determine compliance with the OCP.

OUTCOME:

Both Respondents paid the required fines. No further action was required and the complaint file was closed. The review of the Filing submitted by the third ROWP was initiated and a report will be submitted to the PRB upon conclusion of the review.

CASE #18-08

STATEMENT OF COMPLAINT:

That the Respondent, a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories, misrepresented themselves when asked to inspect a septic system and did not disclose that they were not registered with the ASTTBC inspection endorsement to do such

inspections. They did not conduct the inspection in a professional manner, omitting to look at the system pointed out to them, but based their findings on historical information and a decommissioned system. The complaint also alleged that the Respondent breached their ethical duty to confidentiality, which caused the property owners loss of the sale of the property, and also harmed their reputation as sellers going forward.

INVESTIGATION:

The investigation found inadequate evidence to support the allegation that the Respondent misrepresented themselves as a ROWP Inspector, as they were contracted to assess site conditions and recommend a system compliant with the Standard Practice Manual version 3 (SPM), and this was within their scope of practice as a ROWP Planner and Installer. Determining the status of an existing onsite wastewater system for purposes of repair, replacement or modification is not considered a performance inspection or a compliance inspection.

Adequate evidence was found to support the allegation that the Respondent did not conduct their assessment of the existing system and site conditions in a professional manner. They based their initial assessment of the current onsite wastewater system on historical information provided by a third party. In assuming that a decommissioned system component was somehow part of the current wastewater system the Respondent's report was incorrect.

Disclosing client-related information to a third party without the consent of the client was a breach of confidentiality on the Respondent's part. Asserting that the amount of information divulged was very small did not justify the action. However, there was inadequate evidence to support the allegation that their actions caused the prospective purchasers to withdraw from purchasing the property, and that their actions harmed the Complainant's reputation as a seller.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and concluded that the Respondent's actions were contrary to Principles 3 and 4 of the ASTTBC Code of Ethics. Therefore, the Respondent was required to submit a statement of assurance, acceptable to the Registrar, that they had read, understood and would abide by the ASTTBC Code of Ethics and Practice Guidelines. They were also levied a fine of \$250 as a deterrent to any future violations of the ASTTBC Code of Ethics and Practice Guidelines

OUTCOME:

The Respondent submitted an acceptable statement of assurance and also paid the fine. No further action was required and the file was closed.

CASE #18-09

STATEMENT OF COMPLAINT:

That the Respondent, a Registered Onsite Wastewater Practitioner (ROWP) certified as a Planner, Installer, Maintenance Provider and Private Inspector (Residential), conducted themselves and their business practices inappropriately while providing sewerage pump out services. Upon completion of the pump out the volume of the tank was determined as 800 gallons; the cost was more than double the original estimate and they refused to leave the property until payment by credit card was processed.

INVESTIGATION:

The investigation determined that the behaviour of both parties contributed to the complaint. The Complainant was aware the pump out estimated cost was based on an assumed 600-gallon tank. The Respondent was aware there were unknowns such as the age of the concrete tank, when it was last serviced and the type of access covers. Through the correspondence generated during the processing of this complaint the Respondent has an increased awareness of the importance of providing clear written estimates and improved conduct with clients. The Complainant has also

learned that providing clarity in the description of work requested of a contractor would increase the accuracy of cost estimates and reduce the likelihood of cost overruns. Keeping a record of e-mail, text messages and or other written documentation would provide evidence in resolving disputes.

There was inconclusive evidence to confirm that the Respondent was in violation of the ASTTBC Code of Ethics.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

Upon review of the complaint, the PRB required that the Registrar send a letter to the Respondent, advising that the PRB wished to reinforce their requirement, as per Principle 7 of the ASTTBC Code of Ethics, to conduct themselves with fairness, honesty, courtesy and good faith towards clients. The Respondent was required to submit a statement of assurance acceptable to the Registrar, that they had read, understood and would abide by the ASTTBC Code of Ethics and Practice Guidelines.

OUTCOME:

The Registrar accordingly sent a letter to the Respondent, who also complied with the PRB requirement by submitting an acceptable statement of assurance. No further action was required and the file was closed.

CASE #19-05

STATEMENT OF COMPLAINT:

That the Respondent's conduct during the construction of a septic system was unbecoming of an ASTTBC registrant. The Respondent is a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories

INVESTIGATION:

The substance of the complaint was based on the Complainant's observations of excavation work related to the construction of a septic system. The incident of a toppled fir tree, damage to a fence panel and the subsequent interaction with the Respondent was the focus of the complaint. The Complainant did not accept the Respondent's offer to remove the fallen tree from the driveway and repair the damaged fence.

The investigation found that the loss of a tree was an unintended consequence of the excavation. The investigation also found the issue of the tree falling during the construction of a septic system to have no relevance to the Respondent's practice as the authorized person to construct the system or to the record of sewerage system (RSS) filing prepared by them.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and found insufficient evidence to substantiate a violation of the ASTTBC Code of Ethics, and/or the BC Standard Practice Manual V3 and the Onsite Wastewater Practice Guidelines.

OUTCOME:

No further action was required and the file was closed.