

PRACTICE REVIEW BOARD

CASE HISTORIES OCTOBER 2011 TO NOVEMBER 2011.

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 and steel detailing.

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 and Registrants 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 Practice Review Board for Complaint Cases Resolved In ONSITE WASTEWATER - (October 2011 to November 2011)

CASE #09-36 – UPDATE

STATEMENT OF COMPLAINT

That a ROWP's registered Filings with a Health Authority contained insufficient and incorrect information and the ROWP may have practiced outside the limitations of his registration.

BACKGROUND

During a random check of Filings within the Health Authority by ASTTBC staff, four Filings by a ROWP were reviewed and found to contain various missing or incorrect information. These included:

Filing A

Site information states this is a permanent camp but did not indicate the number of workers, whether a commercial kitchen or other factors may be present, that results in high-strength wastewater conditions. It was unclear as to how the Daily Design Flow for the operation was established and no rationale provided to assist with this determination. The ROWP did not include his ROWP registration number on the RSS form. No soil log or other details, including texture and structure, no percolation or permeameter test results, and the RSS form does not have these two check boxes ticked off, suggesting such information was not available. The RSS form indicates the system is a Type 1 yet listed details on a package treatment plant making this a Type 2 system.

Filing B

The RSS form showed the system was for a three bedroom single family residence but did not list the DDF or the total living area of the home. Lot size, depth to highest water table, slope, size of septic tank, distance to the client's or neighbouring wells and any water lines was not provided. Further verification from the attached plan was not helpful, as it related to a completely different site and circumstances than the residence in question. The RSS form also did not include the ROWP registration number. No soil log or other details including texture and structure, no percolation or permeameter test results, and no design rationale were provided.

Filing C

The RSS form indicates the system was for a five bedroom home using a Type 3 package treatment plant. The Filing was stamped by the ROWP, but the details of who the Authorized Person was contained only a business name, without a ROWP registration number. There was no evidence in the Filing to show a Professional was involved as required with a Type 3 system. The method of dispersal shows a sub-surface pressure distribution system, but the plan contained minimal details and is substantially less than required by the SPM. No scale of the area, slope degree and direction, or distances of any form were included. Contrary to the RSS form, the plot plan provided was not consistent with the SPM. There is a reference to thirty centimeters of fill material over the discharge area, but no further information is provided.

Filing D

The RSS form shows this system was for a four bedroom home, but did not list the Daily Design Flow or total living area for the home. The site information does not list distances to water lines, wells, breakout points or other features on or around the property and the drawing provided lacked any further legible details. The scale used was "1 meter = 1 millimeter" [sic] resulting in very poor accuracy. The scale was an incorrect statement of scale, as was the spelling of the units.

In review of these Filings, the amount of information contained in all cases was substantially less than set out under the SSR and SPM.

INVESTIGATION

As a result of the incorrect and/or missing information, ASTTBC staff contacted the ROWP requesting clarification and the missing details concerning these Filings. Information was received from the ROWP, which provided details to all four Filings under review. These included:

For the 'A' Filing work camp, the facility is a thirty man industrial work camp including a dormitory, full service kitchen and laundry. Also included was a detailed soil log and permeameter results, some site assessment details, and details of the distribution method, stating it was based on the current version of the Alberta At-Grade guideline. This dispersal system was installed to replace an existing lagoon, which was not noted in the original Filing details. The Letter of Certification shows the system was installed August 21, 2008 but there was no stamp and date showing the LoC was ever registered with the Health Authority.

The vertical separation listed on the RSS form states thirty centimeters, yet the soils log suggested that the restrictive layer started at five to seven inches/twelve to seventeen centimeters. The Kfs appear very low at 40-60mm/day and the HLR at 4 L/m² is very conservative. However, based on the trench area and design flow, the HLR is 118 L/m², which is not even permissible for Type 3 effluent to gravelly sand. One comment by a technical reviewer "I'll be very surprised if this system works for more than a couple of weeks. Camps are notoriously hard on treatment plants. Based on the soil description he has provided, an HLR of 24-40 L/m² is appropriate."

For the 'B' Filing, the DDF and total living area details were added along with the size of the septic tank. A soils log and permeameter results were also included, along with a series of different site plans of varying quality. A Letter of Certification shows the installation signed off on November 17, 2008 but no stamp and date showing the LoC was ever registered with the Health Authority was provided.

For the 'C' Filing, sticky notes were placed over the page identifying that errors were originally made. This is a Type 2 system, not a Type 3, and that no fill was found in the discharge area. Some site assessment details are included along with soils log and permeameter results, but the details in the plans are better described as a schematic or sketch than a construction plan. It would be very difficult for any Installer to build a system based on the minimal information provided.

The dispersal system was listed as using the Alberta At-Grade method, stating it was at the insistence of the client not to have a mound. The Letter of Certification shows the system was installed July 19, 2007, but the stamp and date from the Health Authority shows it was received on January 9, 2008. This was well beyond the thirty day time limit for registering an LoC.

The vertical separation shows more than three hundred centimeters, yet the soils log sheets show a restrictive layer at sixty to sixty six centimeters and this does not include the potential for a seasonal perched water table. The HLR is reported to be 4 L/m² on the RSS form, yet the actual HLR is 28 L/m², which is on the higher side recommended under the Alberta At-Grade guidelines.

For the 'D' Filing, sticky notes were added identifying that no effluent pump was installed and the loading rate is fifteen litres per square metre per day, not the 24.58 rating on the form. These "were errors made by admin. in completing the form"... suggesting someone other than the ROWP was filling in these forms. Soils log and permeameter tests were included, as well as, a limited rationale that states the at-grade system was selected to "accommodate the home owner's intense desire to not have a mound." A cleaner plan was provided that included labels on structures around the property and a reference to the scale was removed and replaced with "not to scale" instead. Another plan is provided with more details including the layout of the dispersal pipes within the absorption field.

DISCUSSION

The initial documentation on file with the Health Authority shows frequent inaccurate or incomplete details are provided, including Letters of Certification missing stamps or being submitted beyond the

thirty day maximum limit after completion. Even when provided with an opportunity to compile improved documentation, various problems were found on the revised documentation.

The use of the Alberta At-Grade dispersal method for industrial work camps is currently under review by the Health Authority, in part due to the number of systems they have noted with effluent breaking out to the surface. Whether the HA will consider allowing such methods in the future is yet to be determined but HA senior management have made it clear that anyone submitting an application for a permit to construct an onsite sewage system under the Industrial Work Camp Regulation will be held to much higher standards than in the past; essentially at the same standards expected of Authorized Persons under the SSR.

The use of the Alberta At-Grade dispersal method for residential systems is another matter entirely. The concept of the Alberta version may be acceptable for temporary work sites but it is not considered to be an accepted practice for long-term wastewater treatment. This was confirmed through discussions with representatives of the BC Onsite Sewage Association, who recently stated that such a system would not be considered standard practice for use on residential properties, a view that technical reviewers with ASTTBC also agreed with.

Regardless of whether the ROWP submitted documents that fall under the Industrial Work Camp Regulations or the Sewerage System Regulations, the quality of the documents being provided and evidence that questioned whether the ROWP was acting within the scope of registration and training is very much under the purview of ASTTBC. Ensuring that a ROWP does not undertake work which they are not competent and qualified to do is within the regulatory authority applied to all ASTTBC registrants. Based on the review of both residential systems under the SSR and systems under a different regulation, there was cause for concern that the ROWP was unable to apply fundamental planning concepts in accordance with the regulation, and suggested that the errors in the documentation were the fault of his administrative staff, which was highly concerning. If the paperwork was filled out by his staff, the ROWP clearly did not review the contents or was unable to identify the errors.

Re-attending courses that specifically cover the issues found within the Filings would be of significant benefit. The greater concern was whether some of these systems were still operating, as a technical review identified concerns about the suitability of such a system, especially for long-term use. An independent confirmation by either a Professional or an Environmental Health Officer of whether the system is still in operation and that it is appropriately designed for long-term operation was recommended.

OUTCOME – UPDATE REPORT

Although the ROWP was to undertake a Practice Assessment as a condition of the censure as determined by the PRB in 2009, the ROWP was unable to complete this condition. Only one file for the Practice Assessment could be provided due to the ROWP's business having gone into receivership. In the file provided, various problems were found but it was also an older file, so it could not be compared to more recent examples.

The ROWP was required to take two planning related courses to improve his knowledge, and this was eventually accomplished. It should be noted that the ROWP did not pass one of the courses the first time it was taken, and passed with the minimum required for the second time. The ROWP was suspended in 2010 for not responding to ASTTBC staff, and did not pay membership dues in 2011, therefore, the individual is no longer a ROWP.

As the individual was no longer a ROWP, no further action was possible at the time and the file was closed. The ASTTBC database was flagged and should the individual apply for reinstatement, the file would be reopened and the individual required to complete all censure requirements to the satisfaction of the PRB prior to any reinstatement.

CASE #09-37 - UPDATE

STATEMENT OF COMPLAINT

That a ROWP registered Filings with a Health Authority, which contained insufficient and/or incorrect information.

BACKGROUND

During a random check of Filings with a Health Authority by ASTTBC staff, a Filing by this ROWP was reviewed and found to contain various missing or incorrect information. This included that no rationale was provided to help explain how and why this particular system was determined best suited for the site and the client; insufficient soil log or related details, no construction details sufficient for an Installer to carry out a proper installation of the system, and very minimal information within the O&M Plan. In review of this Filing, the amount of information was less than set out under the SSR and SPM.

INVESTIGATION

As a result of the incorrect and/or missing information, ASTTBC staff contacted the ROWP requesting clarification and details concerning these Filings. The ROWP responded and acknowledged that details were missing and could be improved, but was not clear on what the current requirements under the SPM were.

DISCUSSION

The ROWP admits his Filings were insufficient and missing details in many areas, as pointed out during the review process and stated he will improve his future Filings as a result. Examples of good documentation were also provided by ASTTBC staff as further guidance.

As the ROWP is not familiar with some aspects of the current requirements of the SPM or with the current information provided within the training, re-attending courses that specifically cover most of the issues found within the Filings would be of benefit.

OUTCOME – UPDATE REPORT

The Manager, OWRP, confirmed the ROWP took a soils course as part of the PRB censure conditions, but did not pass the course. When attempting to re-book, the second course was cancelled. The ROWP then attended a soils workshop offered by a different training provider, but as this was not a formal course, no statement of grades was provided; therefore it cannot be confirmed that the ROWP has successfully completed necessary training.

During this process, an applicant came before the Onsite Wastewater Registration Board and it was discovered that the ROWP had acted as the applicant's mentor. A review of examples of the applicant's work was carried out by the OWRB, confirming the applicant's work was poorly done and contained various errors. The ROWP was contacted regarding this situation, and stated both the applicant and the ROWP were mentoring each other. The ROWP then promised to immediately supply examples of work for the Practice Assessment.

The ROWP submitted documents for a Practice Assessment and, as numerous, serious errors were identified, the ROWP did not pass the Practice Assessment. Upon learning about the specific problems with the documents, the ROWP made changes to the documents for another system being planned, and submitted these as well. Some improvements were noted, but no details were provided to correct the serious problems within the previous examples for the Practice Assessment, and these were still a concern.

The ROWP's Planner registration was temporarily suspended, until such time as all PRB recommendations were successfully completed to the satisfaction of the Manager, OWRP. Further, the ROWP was advised in writing to cease mentoring other parties until this matter is resolved.

The ASTTBC database was flagged and if the individual applies for reinstatement, this file will be reopened and the individual required to complete all censure requirements to the satisfaction of the PRB.

CASE #09-42 - UPDATE

STATEMENT OF COMPLAINT

That a ROWP registered a Filing with the Health Authority, which contained insufficient and/or incorrect information.

BACKGROUND

During a random check of Filings with a Health Authority by ASTTBC staff, a Filing by a ROWP was reviewed and found to contain various missing and incorrect information. The Filing shows an alteration made to a system, but no rationale was provided that explained what was to be done or why. The septic tank was less than the required sizing for a four bedroom home, there were no details about the dosing per pump cycle, and most of the permeameter tests were not fully completed, including the calculations for HLR. There were no construction details provided and no O & M Plan included.

In review of these Filings, the amount of information contained in the Filing was less than set out under the SSR and SPM requirements.

INVESTIGATION

As a result of the incorrect and missing information, ASTTBC staff contacted the ROWP by letter requesting clarification and details concerning the Filing. The ROWP responded and acknowledged that details were missing and that the Filing could be improved, but was not clear about the current requirements under the SPM.

DISCUSSION

The ROWP admitted that his Filing was insufficient and missing details in many areas, as pointed out during the review process and stated he will improve his future Filings as a result. Examples of good documentation was also provided by ASTTBC staff as further guidance. He has arranged with another ROWP to be a mentor and was starting to amend the Filing to incorporate the items that were missing.

As the ROWP was not familiar with aspects of the SPM or with the current information provided within the training for ROWPs, re-attending a course that specifically covers the issues found within the Filings would be of benefit.

OUTCOME – UPDATE REPORT

As a result of the numerous delays by the ROWP, the ROWP's Planner registration was suspended until such time as all PRB recommendations were successfully completed to the satisfaction of the Manager, OWRP.

The ASTTBC database was flagged and if the individual applies for reinstatement, this file will be reopened and the individual required to complete all censure requirements to the satisfaction of the PRB.

CASE #09-71 - UPDATE

STATEMENT OF COMPLAINT

The complainant alleged that a ROWP planned and installed an onsite sewage system, and that the system, as designed, was inappropriate and/or based on inaccurate information according to the Standard Practice Manual.

Further, that when the ROWP reviewed the planning work previously carried out by the complainant for this property, the ROWP made unflattering or disrespectful comments to the homeowner and others about the complainant's planning work in a manner contrary to the Code of Ethics.

BACKGROUND

The owner of the property in question hired a general contractor to undertake construction of an addition to an older home. In the process of obtaining a building permit, the contractor was made aware that an assessment of the existing sewage system would be required by an Authorized Person to determine if the system was sufficient or if a replacement was necessary.

The contractor was aware of the complainant, as a ROWP Planner. The complainant determined that a new system would be required since the system was suspected of being over twenty years old and, therefore, "would not meet requirements for a change in use." After completing a site investigation, soil analysis and permeability tests, the complainant determined that a pressure system in an at-grade bed dispersal area was the appropriate choice. This technology was chosen because the most suitable location on the property for a system had soils defined as a restrictive layer according to the SPM, but the depth to this layer was sufficient if pressure distribution was used and not a gravity based dispersal method. In the complainant's opinion, the at-grade would be sufficient instead of a sand mound and this also meant the least amount of imported material would be required, helping keep the costs of construction to a minimum.

A plan was drawn up which showed the septic tank, pump chamber and the dispersal area to be located in a lawn area east of the home. A Filing was made with a Health Authority and copies of the plans provided to the contractor and homeowner.

The property owner began seeking quotes for the installation of the sewage system and several ROWPs responded. The first provided a quote for the system as planned by the complainant, while the second ROWP suggested that changing aspects of the plan could save the owner money. A third ROWP to attend the site was asked by the property owner to design a system, but reportedly was not aware of the details of the complainant's plan, instead focusing on individually assessing what might be suitable.

This third ROWP, considered a different layout than the complainant. The septic tank would be located on the west side of the home since the house plumbing already led to a septic tank on this side of the house, not the east side where the complainant's septic tank was proposed to be located. As the ROWP believed a suitable dispersal field using gravity was possible at the northeast corner of the property, no pump chamber would be needed which the complainant's plan required, therefore saving significant money. The ROWP provided a price for the system that the owner noted was significantly less than what another ROWP quoted for the complainant's version, and as a result the owner directed the ROWP to construct this version instead of the complainant's.

When the ROWP submitted the Filing with the Health Authority, the Health Officer became aware that the owner's property had not only the complainant's Filing registered but also another Filing registered by a Professional Engineer associated to the second ROWP who attended to provide a quote, but never responded later to the owner's request. As the ROWP was seeking direction from the Health Officer on how to handle the unusual situation of three Filings by three different Authorized Persons for the same property, some discussion between the ROWP and the Health Officer occurred as to why the Filings were so different in design.

After the ROWP's meeting with the Health Officer, the complainant and the Health Officer had a conversation that included this unusual situation, at which time, according to the complainant, the Health Officer stated that comments were made by the ROWP about the complainant that may be non-flattering. After becoming aware of this situation, the complainant obtained the other two Filings for the owner's property and noted details which suggests the ROWP inaccurately assessed the site and soil conditions leading to incorrect conclusions for the type of system allowed under the SPM.

Due to the inappropriate system selected, as well as, the inappropriate comments made by the ROWP, the complainant filed a complaint with ASTTBC.

INVESTIGATION

ASTTBC staff reviewed the written complaint and provided a copy to the ROWP for a response. The ROWP responded stating all allegations by the complainant were unfounded and that such accusations were damaging to the ROWP's reputation.

The ROWP first undertook an inspection of the owner's system to determine if any portion was usable or not, in the event it was sufficient to meet the size required by the SPM, when the addition to the home is factored in. Although the system was reportedly in good working order, the ROWP determined that it was undersized, but could be added on to rather than fully replaced as a cost-savings option. After reflecting on the value of adding onto the existing older system verses entirely replacing it, the owner made the decision that a replacement was of better overall value for the long-term.

During the installation, the ROWP reports to have clipped a small diameter water line causing a considerable volume of water to fill the trench. The ROWP states it rapidly seeped away once the water was shut off. This flooding of the trench was seen by the ROWP to refute the complainant's claim that the soils had a restrictive layer and therefore the choice of a gravity system instead of pressure distribution was appropriate. In the ROWP's opinion, the soil type and depth were ideal for the system selected.

On the suitability of the soils, the ROWP points out that a Professional Engineer from a geotechnical consulting firm involved with submitting the second Filing for this property apparently found soil conditions even better than what the ROWP found, including that no limiting layer was present. The ROWP sent the soil samples to a laboratory to verify the type of soils present and the results also prove the suitability of the soils for a gravity system.

As for the conversation with the Health Officer, the ROWP denies making any statements of a defamatory nature and was concerned that the Health Officer would discuss, what was thought to be, a private conversation with a third party. The ROWP claims to have been confused as to how to submit the Filing since two others were already registered with the Health Authority and was seeking guidance from the Health Officer who was reportedly also not clear on how to handle this. Comments on the differing types of systems proposed were made between both parties but the ROWP denies making unprofessional comments about the complainant during the discussion.

Attached to the ROWP's response was a letter from a Professional Engineer retained by the ROWP because of the complaint, who conducted a plan and installation review for this matter. The Engineer reviewed the initial site assessment notes for completeness, soil profile notes, and percolation test results confirming all were complete and correct. Soil results from the lab were compared to that found on the site and this reportedly supported the design of the dispersal field. Calculations for the design were also reported to be correct and appropriate for the data collected at this site.

The Engineer conducted a site inspection of the installed system and found it in compliance with the SPM version 2, and that if the system would need to be replaced there was more than sufficient reserve space available to do so.

The ROWP also provides lab results of soil samples from two test holes taken at a depth of 1.2 metres below the surface. These samples indicate a silt loam soil consisting of 24% sand, 60.8% silt and 15.4% clay for one hole and 19.6% sand, 70% silt and 10.4% clay for the other. Both of these test holes were located within the dispersal field area upon which the system was later installed.

Another report included with the ROWPs response is from a second Professional Engineer who completed a geotechnical assessment of the soils within the area of the ROWP's dispersal field stating it is "underlain by loose to compact deposits of sand and silt to an average depth of 2.5 feet (76 centimeters)

below the ground surface. The test pit was terminated within deposits of layered silts of lacustrine origin to a depth greater than 6 feet (1.8 metres). These soils contain some clay and thin zones of very fine sand which indicate that water will percolate through these sandy and silty deposits without a limiting layer being found in the area of the proposed fields". This report appears to have been made at the request of the second ROWP who attended the site to provide a quote for the installation and suggested to the owner that a different system layout should be considered for cost-saving reasons, but failed to respond back to the owner with further details.

The complainant's claim to have chosen the most economical system for the site is disputed by the ROWP on the basis that it would require the septic tank and pump chamber located in the front yard immediately east of the home, even though the current interior plumbing exits the foundation wall on the west side where the original septic tank was located. The redirecting of the interior plumbing was not practical and would substantially add to the costs of the project and was entirely unnecessary if the new septic tank was located near the old one.

The ROWP does not believe the complainant's claim of being unaware of the installation by the ROWP based on the owner reportedly seeing the complainant drive by while the ROWP was installing the system. The other ROWP further challenges the complainant's statement that the ROWP made unflattering comments to the owner, claiming the complainant had no verbal contact with the owner since the ROWP became involved.

The response letter to ASTTBC from the ROWP was sent to the complainant for final comment. According to the complainant, no further attention was paid to this property until sometime in May 2009 after being contacted by a ROWP who was later found to have been involved with the second Filing registered on the property. The complainant expressed concern over what this ROWP was suggesting for the property but claims to have been too busy to get involved until learning through a Health Officer that three Filings were registered on the property. It was at that time that the Health Officer reportedly told the complainant of the ROWP's unflattering comments, which caused the complainant to investigate this matter further.

The complainant also provides reports, one from a ROWP and the other from a Professional Engineer, both stating that the complainant's proposed system was the more appropriate due to the soil conditions reportedly found by the complainant and both point out that the soil type, as listed under the SPM, states pressure distribution is the appropriate dispersal method, not gravity.

ASTTBC staff contacted the Environmental Health Officer, who the complainant states informed the ROWP of the unflattering comments. The EHO voluntarily agreed to comment on this matter with ASTTBC staff and offered insight into the conversation. The ROWP reportedly was very concerned and frustrated at attempting to register the Filing after learning two other Filings were already registered, both different. The EHO did not believe the ROWP's comments were derogatory or malicious in nature, but the ROWP did question why the complainant chose to plan this more complex and expensive system. The ROWP questioned the appropriateness of the system which the EHO felt stepped slightly beyond being professional, but the EHO was reluctant to call it anything more serious.

ASTTBC staff then contacted the property owner and requested comment as to whether the ROWP made any defamatory or malicious statements against the complainant at any time. The owner claims to have never heard any such comments and noted the ROWP was most cautious on this topic to the point of avoiding any negative comment when the owner began to question the complainant's ability to carry out such work in a professional manner.

ASTTBC staff along with a ROWP Planner/Installer assisting on PRB matters, attended the property to examine the site and circumstances. The system that the ROWP installed was examined and compared to the Filing and found to be substantially as represented according to the plans. However, a number of concerns were also identified.

These include:

- The fluid level within the septic tank was backed up almost 10 cm higher than the normal operating level should be. This appears to be due to the outlet pipe, or a section of pipe leading out of the septic tank to the dispersal field, having a higher elevation. This elevated fluid level is causing solids to clog the inlet baffle potentially leading to a backing up of sewage within the inlet pipe. If a full restriction were to occur, sewage could back up into the home itself.
- The effluent filter on the outlet baffle was also missing an extension handle to allow access by hand within 15 cm of the access cover lid, as required by the SPM. Both access lids to the tank were secured by only 2 screws when there are typically 8 per lid.
- The gravity pipe between the house and the distribution box is very long and cleanout access points are required to be installed along the way. Two such access points were installed, but the last section of pipe from a cleanout to the distribution box does not have an access point where it should have been installed.
- The distribution box was found to have uneven flows causing 2 of the 5 dispersal pipes to not receive any incoming flows while the other 3 pipes having varying degrees of flows. This is causing an over loading to one portion of the dispersal field.
- Within the area of the dispersal field receiving flows, fluids are ponding within the trenches to a point within several cm below the dispersal pipe themselves. With the low volumes of wastewater entering the system, and the system being as new as it is, this degree of ponding is highly concerning. Insufficient treatment would be taking place due to the saturated conditions within the actively used portion of the dispersal field, as well as, immediately down slope in the receiving area of the field as noted by test holes dug during the inspection.
- Within the area of the field, soils with high silt/clay content were found at the depths noted in the soil profile of both the ROWP's and the Engineer's documents and are consistent with the SPM's description of this as a limiting layer. Samples of soils from five points on the property, including two points within the dispersal field area, were taken and provided to a soils scientist assisting ASTTBC with PRB matters. Results of the examination of the soils found at the depth described by the complainant as being a restrictive layer are also consistent with the results found by the ASTTBC investigating members as being a restrictive layer.

DISCUSSION

A substantial amount of time was taken during repeated visits to the property to ensure the ROWP fully knew the owner's needs, determined the condition of the existing onsite sewage system to see if and to what degree any portions could be used to meet the requirements of the SPM due to change in size or usage of the home, to carry out site and soil assessments, and provide the owner with a choice of options to consider against their budget.

The owners stated to ASTTBC staff that they felt well informed by the ROWP prior to making any decision and decided to install a new system based on the perceived value of a new system as they intended to reside in this home for many more years. The owner also stated that the ROWP was highly professional and easy to deal with, taking the time to answer any questions, and at no time did the ROWP make any unflattering, derogatory or malicious comments towards the complainant during any discussions with the owner. The owner was most pleased with the manner of installation and care taken during as well as after installation by the ROWP and pointed out that the ROWP charged approximately \$500.00 less than estimated for the job. "Fair" and "honest" were words used by the owner to describe the ROWP's behaviour.

The EHO's statements to ASTTBC staff, while cautious and guarded, did suggest some comments were made by the ROWP that bordered on being inappropriate, but were also made in the context of being uncertain why the complainant's Filing would be so substantially complex and expensive for this site when the ROWP could not find a reason for this. The comments were reportedly not outright criticism and did not have an appearance of malicious intent to defame the complainant's character or planning abilities. The choice to raise this question with the Health Officer, within a private discussion in an office where other parties were not present, could be considered a private discussion with a peer and under

circumstances that were concerning as well as highly unusual. The ROWP appears to have taken steps to avoid any discussion with the owner on matters of the complainant's professionalism or abilities to carry out work.

Under these circumstances, a confirmed breach of Principle 7 of the Code of Ethics has probably not occurred but the ROWP should be cautioned to exercise care in such situations. A warning letter to that effect would appear to be sufficient as a reminder. If the EHO has indeed conveyed such statements to other parties beyond the complainant, then this should be addressed through the EHO's professional association, Health Authority management, or through a more formal legal process.

With regards to the complaint that the ROWP planned and installed an onsite sewage system that was inappropriate and/or based on inaccurate information according to the SPM, this was substantiated. The ROWP's Filing lacks a design rationale, which is required to be included, and provides justification for the design choices made by the ROWP. The septic tank was undersized in relation to the estimated daily design flow as listed by the ROWP. The soil description by the ROWP lacks details expected within a soils profile yet contained sufficient detail to describe what the SPM states is a limiting or restrictive layer. This layer was misinterpreted by the ROWP, who then planned a gravity dispersal system despite the SPM tables warning this should not be done. The soil type identified by the ROWP was documented in several places within the Filing, but these are contradictory. Based on the test pit log soil type, it would appear that the hydraulic and linear loading rates are incorrect and would result in an undersized dispersal area.

The ROWP relied upon a Professional Engineer to verify the suitability of soils for this gravity system. However, it is unclear whether the Engineer misunderstood the soils profile, was not present during the soils evaluation, or other reason to explain why this soil type was not correctly identified and related back to the SPM. The complainant not only identified this within the original soil profile work but also with both the ROWP and Professional Engineer retained to review this matter, when the complaint was lodged with ASTTBC and an investigation began.

The soils report by the Engineer, that supports the ROWP, is also in question. A ROWP Maintenance Provider approached the ROWP asking to accompany the ROWP to several sites and learn from the ROWP with the intent of applying to ASTTBC for these additional registration categories. The ROWP allowed this other ROWP to do so and one of the first projects they both went to was for this client. The ROWP showed the other ROWP how to conduct the soil and site evaluations, including taking details on the soil descriptions. Soon after, unrelated differences of opinion caused these two ROWPs to part ways, but the second ROWP approached the owner offering to arrange for a more simple and less expensive system than the complainant proposed by using a particular Professional Engineer to assist with drawing up the plans. The owner agreed to this but did not pay the second ROWP for such services. When this second ROWP did not return calls, the owner continued to deal with the ROWP who eventually planned and installed the system. The Professional Engineer's soil details were substantially similar to that of the ROWP, yet the owner states the Engineer did not attend the property, dig any test holes, or otherwise assess the property, since the owner was at home during the entire time period.

In review of the report, there is no evidence that the Engineer ever attended the site, but it does imply a field assessment was done by someone, and that is suspected to be the ROWP that was assisting the subject ROWP. ASTTBC staff could not interview this other ROWP to confirm this directly, as the ROWP died in a motor vehicle accident during the time period in question.

During a visit to the site by the ASTTBC investigating team, the limiting layer was quite evident and at the approximate depths described by the ROWP, the Engineer, and the complainant. Of further note was the ponding of wastewater within the dispersal trenches and saturated conditions in the receiving area immediately next and down slope of the dispersal field. These conditions are not typical of a new system nor of a system operating according to its design. Additional items of concern were found with portions of the system installation as well.

Based on circumstances and conditions found, with the onsite sewage system, allowing the existing system to continue to operate created a risk that fluid levels may further rise within the system above the already high and unsuitable levels found during the inspection. Higher levels increase the potential for wastewater to breakout to the surface, at which point it would create a health hazard, as defined under the provincial Sewerage System Regulation and the Health Act. A replacement of the current onsite sewage system was necessary to prevent this condition from occurring and the future system needs to address this by elevating the dispersal method above the limiting layer. Pressure distribution through a sand mound would be necessary, unless another portion of the property can be found that avoids the need for the sand mound, but pressure distribution should be expected as a minimum.

The owner has already stated to ASTTBC staff that if the investigation found a need to replace the system the ROWP installed, the owner would be most accommodating to have the ROWP re-attend to do such work and would prefer this instead of having to deal with any further ROWPs in the area. The owner's concern was due to the complaint having come from a well-known ROWP throughout the area. Attempting to find another one to undertake the new planning and installation of a system would become more challenging, even unlikely.

Based on these findings, there is cause for concern that the ROWP may not have carried out this project with sufficient care and attention, both in terms of site and soil assessment capabilities, as well as, planning skills. Whether this is an isolated case or a common practice cannot be determined without further assessments of more recent work, therefore a Practice Assessment would be of value to obtain a better determination of this. Re-attending courses that specifically cover the issues found within the Filing would be of significant benefit.

OUTCOME – UPDATE REPORT

The ROWP was to complete courses and undertake a Practice Assessment as a condition of the censure, as determined by the PRB in 2010. Due to the illness and subsequent passing of the ROWPs spouse, a delay was granted allowing the ROWP to care for, and then grieve for the spouse.

The Manager of the Onsite Wastewater Registration Board was in contact with the ROWP numerous times in an effort to move forward with the Practice Assessment, but the ROWP has not complied. The Manager is aware from other ROWPs that this ROWP continued to plan and install systems during this period. As a result, the ROWP's registration was suspended until such time as all PRB recommendations were successfully completed to the satisfaction of the Manager, OWRP.

The ASTTBC database was flagged and if the individual applies for reinstatement, this file will be reopened and the individual must complete all censure requirements to the satisfaction of the PRB.

CASE #10-74

STATEMENT OF COMPLAINT

That a ROWP carried out an inspection of an onsite sewage system for a property buyer, and that this inspection and report did not meet the ASTTBC Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems in Appendix G of the Registration Policy.

This allegation, if found to be true, would be contrary to Principle 1 of the ASTTBC Code of Ethics.

BACKGROUND

The ROWP was retained by the complainant, a prospective buyer of a property, to carry out an inspection of an older sewage system as a subject to the sale of the property. The ROWP determined that a replacement of the sewage system was necessary and offered services to replace the system, which the vendor agreed to.

A dispute arose between the complainant and the company over completion of the project in a timely manner, and the ability of the client to use the system, which resulted in a complaint being lodged with ASTTBC. During the investigation of this complaint, concern regarding the thoroughness of the original inspection was identified by the ASTTBC Investigator.

INVESTIGATION

The ASTTBC Investigator reviewed the inspection report that recommended the replacement of the original sewage system.

The inspection report contained minimal detail, little explanation of its findings, and no information to explain or support whether the system was malfunctioning, partially backing up or working normally during the inspection. There were comments suggesting the concrete tiles had deteriorated and collapsed, but no information as to whether one or two tiles were affected, or many tiles throughout the system, nor what tools or techniques were used to confirm such conditions were present.

The report lacked a summary and instead moved on to recommendations to repair the system starting with percolation tests and soils analysis, without stating this involves an Authorized Person. It then lists upgrades that include a new dispersal area “upon the construction of a new two-bedroom single family dwelling”, yet nowhere in the report does it indicate what the client’s needs or requirements were.

An existing septic tank underneath a carport was reportedly not intended to withstand vehicle weight, yet it is unclear whether the tank was to remain in this location or be removed. The design plan shows comments such as “do not drive or park over this septic tank”, which was not mentioned in the inspection report, and is confusing since this is a carport where vehicles are expected to park.

The ASTTBC Investigator met with the ROWP and discussed these and other problems identified with the inspection process and report. The ROWP admitted that the work was sub-standard, but the ROWP was covering for a co-worker who was out of town and delayed on a project. This ROWP normally did the inspections. Further, the ROWP admitted to being unfamiliar with the ASTTBC Guidelines and has begun implementing them since becoming aware of them. The ROWP then offered to undergo a Practice Assessment focused on inspections and their reports, stating improved examples would be forthcoming shortly.

DISCUSSION

The ROWP readily admits mistakes were made with this inspection and that the report he issued was poor. By stamping and signing his name to documents that do not conform to current standards, this would be contrary to Principle 1 of the ASTTBC Code of Ethics.

Having seen the ASTTBC Guidelines for Inspection, the ROWP was making efforts to improve the inspection process and report-writing skills, which were required to be forwarded to the Manager, OWRP for review and discussion.

OUTCOME

The ROWP was required to undertake through courses, workshops, mentoring or other means, to improve inspection skills and reporting to meet the requirements of the ASTTBC Standard Practice Guidelines for the Inspection of Onsite Sewage Systems. This improvement was to be demonstrated through a complete inspection file example, including site documentation and the report, to be provided to the Manager, Onsite Wastewater Registration Program within 60 days of receipt of the PRB decision. The ROWP passed the Practice Assessment, no further action was required and the file was closed.

CASE #10-78

STATEMENT OF COMPLAINT

A ROWP carried out an inspection of an older onsite sewage system for a prospective buyer of a property and issued a report that was substantially less than required by the ASTTBC Guidelines for Private Inspection. The ROWP also reportedly planned and installed an onsite system on the same property that does not meet the SPM requirements.

These allegations, if found to be true, would be contrary to Principles 7 and 10 of the ASTTBC Code of Ethics.

BACKGROUND

A ROWP Planner/Installer/Private Inspector was retained to inspect an onsite sewage system for a prospective buyer of a property. The inspection was completed and a one-page report was issued to the owner.

The complainant is a ROWP Planner/Installer who was hired by a general contractor renovating the home for the new owner of the property who required advice from the complainant on the suitability of the existing system for the renovations. The complainant reviewed the existing system, determined that a replacement was necessary due to the proposed changes to the home, and the complainant was asked to provide an estimate for a new onsite system. During this assessment to determine suitability of the existing system, the complainant was given a copy of the inspection report provided by the ROWP. Upon review of this report, the complainant developed concerns about the quality of the inspection carried out by the ROWP as the complainant is familiar with inspection standards.

Prior to making a formal complaint with ASTTBC, the complainant completed an assessment of the site and believed that a Type 3 system was probably necessary, at which time the complainant arranged for a Professional to attend the site to review the site and soil conditions. The Professional agreed with the complainant that conditions would be challenging to accommodate a Type 2, and even a Type 3 was just feasible. A proposal for a Type 3 system along with an installation estimate was then submitted to the general contractor who passed the information to the property owner.

The general contractor advised the complainant that the property owner had already arranged for the same ROWP who carried out the inspection of the existing sewage system to plan and install the new sewage system. The complainant then learned from the general contractor that a Type 1 system was being installed, at which point the complainant made a formal complaint to ASTTBC based on this additional information.

INVESTIGATION

The ASTTBC Investigator reviewed the complaint letter along with the inspection report completed by the ROWP and a letter was sent to the ROWP asking for clarification as the report contains little detail. The ROWP responded and explained:

"I did a Inspection on (date) and found the lid needed replacing. We opened the drain Field up in three places and found clay tile, 2 ~ inch drain rock in good condition and Clean. We then did a die test let a hose into the septic tank run for 1 hour to make sure There was no breakout spots or going to the ditch 30 ft from the end of the lines. We Located 2 lines 50 ft long another was under a deck no access. There was no breakout Spots."

Due to the brevity of this response, a second letter was sent to the ROWP requesting further clarification on key points and asking for a copy of all supporting documentation created by the ROWP for this inspection. The ROWP responded with the following:

"The inspection of the existing field was performed as a visual inspection, the existing septic tank was exposed and the field was dye tested for about an hour and

half.

1) The existing in site poured concrete tank with no proper lid (covered with plywood).

The sewage in the existing tank was at the proper levels with no showing of the Overflow.

The sewage "T's" were installed in the tank with no show of the overflow.

The dye test did not show any surfacing of the day after hour and half of test performed.

The area of the septic field was examined the following day and examination die not prove and dye surfacing.

The examination of the existing documents in the District and in the office of the Health Authority was not successful as the system was installed before 1970.

The existing system appeared to be in its original condition as originally installed with clay tiles. The existing tiles were located with the probe and the tile and gravel was exposed. The gravel was clean with no showing of black biomat. At that time I completed the inspection and I did conclude that the system was in good working order and needed a minor repair (new lid)."

The ROWP did not provide any expected site documentation such as photographs, video recordings, site/system sketches or field notes, and based on the description provided by the ROWP, it is likely that these documents do not exist.

A clause was included within the inspection report that is highly concerning:

"This information is believed to be accurate, but its accuracy is not guaranteed, and in supplying this information, no responsibility whatsoever is assumed or accepted."

As for the allegation that the new system was planned and installed contrary to the SPM, it was confirmed that the planning and supervision of the installation was carried out by a second Professional, and not this ROWP. Therefore, a further investigation cannot be conducted by ASTTBC.

DISCUSSION

Based on the explanation provided by the ROWP along with the copy of the inspection report, it is clear that the inspection and subsequent report fail to meet basic inspection requirements under the ASTTBC Standard Practice Guidelines for Private Inspectors found in Appendix G of the Onsite Wastewater Registration Program Policy.

- The ROWP failed to confirm the system component size and capacity as per section 1.1(iv).
- The inspection was not documented in any way, contrary to section 5.1.
- The ROWP appears to lack or failed to use appropriate inspection equipment as specified under section 5.2.
- The "dye test" contravenes the standards for flow testing as per section 5.4 and 5.8, as it is not a "flow test" but a "stress test" which is not an acceptable form of testing.
- The report did not describe the type and components of the system as per section 6.2.1.
- The report did not discuss the capacity of the system and its usage limitations as per section 6.2.3.
- The report did not describe or explain the system maintenance requirements.
- The report did not include a maintenance schedule as per section 6.2.5.
- The report did not include recommended do's and don'ts as per section 6.2.6
- The limitation to liability clause included within the report was cause for serious concern as it suggests the inspection report cannot be relied upon in any way to be accurate, contrary to section 8.7.

The ROWP completed the Private Inspector course, and in so doing, was required to provide a number of inspection reports that met these Guidelines as part of the final exam. As the ROWP passed this course,

he proved that he was familiar with the Guidelines and has the knowledge and capability to meet them. It is clearly evident that in this case, the ROWP chose to carry out a simplistic and unacceptable form of inspection, documentation and reporting contrary to Principles 7 and 10 of the ASTTBC Code of Ethics.

OUTCOME

The Practice Review Board levied a fine of \$250.00 as a deterrent to future violations of the Code of Ethics and the ASTTBC Standard Practice Guidelines for Inspection. Further, it required the ROWP to immediately provide a copy of a recent inspection report that complies with the Standard Practice Guidelines for Inspection, and provide a letter, acceptable to the Registrar, outlining what actions he should have taken or documentation he should have completed to have met the requirements of the Guidelines in this case or what he will do to correct this in the future.

The ROWP paid the fine and provided an acceptable letter. The ROWP submitted documents for the Practice Assessment related to the inspection and planning categories of registration. Significant problems were identified in both areas and the ROWP was unable to successfully complete the Practice Assessment.

The ROWP voluntarily resigned the ROWP Private Inspector category, but wished to challenge the findings for the planning work as he did not believe his work contained the errors that had been identified.

As a result of this, the Registrar arranged for a neutral ROWP to review the ROWP's work and this ROWP identified the same significant errors, as were found during the Practice Assessment. The Reviewer met with the ROWP to discuss the findings and in the course of this meeting, the Reviewer agreed to become the ROWP's mentor. The ROWP also agreed to his ROWP Planner registration being restricted to type 1 gravity systems only. The ROWP's next plan was to be submitted to ASTTBC for confirmation of improvement.

CASE #11-03

STATEMENT OF COMPLAINT

A ROWP planned an onsite wastewater system and allowed a non-Authorized Person to undertake the installation of the system that was later found to be improperly installed and not usable without significant repairs.

These allegations, if found to be true, would be contrary to Principle 4 of the ASTTBC Code of Ethics.

BACKGROUND

The complainant purchased a property and required a sewage system to be constructed for a new home. The general contractor for the project contacted a ROWP who agreed to meet the complainant/property owner, and the general contractor on the site to discuss the client's needs and assess site conditions.

The complainant had not determined the exact location of the home but was anticipating living in the garage until the home was completed, so plumbing services in the garage would be required and connected to the new sewage system.

As the Fall was approaching and the ROWP already had other projects underway, the ROWP advised the property owner and the general contractor he could only undertake the planning work but not the installation at this time. The property owner stated that time was of the essence, as his wife was very ill, so delays with the completion of the home were more than an inconvenience.

The property owner was reportedly advised by the ROWP that only Authorized Persons can carry out the work and the general contractor was not a ROWP Installer. However, to assist with keeping the complainant's project moving forward, the ROWP reportedly stated he could supervise the general

contractor's work and would issue a Letter of Certification if the system was installed as per the plan and specifications. As the general contractor already had equipment on site doing excavating, grading and related work, the ROWP was under the belief that the contractor was capable of carrying out this work.

A Filing was registered by the ROWP with the Health Authority. A month later, the ROWP received a phone call from the complainant stating the system was installed and ready to be inspected. The ROWP was surprised that the general contractor had already undertaken the work yet had not contacted the ROWP at any point during the installation. Upon arriving at the property, the system was already backfilled and the ROWP had to expose various points to see what was done. When problems were found, the ROWP advised the property owner that the general contractor would need to re-attend and correct these deficiencies before a Letter of Certification would be written.

A dispute ensued between the property owner and the general contractor over payments for work performed and problems with the quality of the work provided. The property owner took the general contractor to Small Claims Court but lost on what the property owner believes was a statement signed by the ROWP and entered into evidence. According to this statement, "I was of the opinion that the system was complete and installed properly therefore, proceeded to authorize (the contractor) to bury the system. Registered Certification of the system did not occur as a result of subsequent advisement by (the complainant), that he was relocating the site for the house and the new septic system was to be constructed to accommodate this relocation." This letter contradicts the ROWP's original statement and is the reason the complainant was initiating a Small Claims Court action against the ROWP.

To complete the repairs to the system, the property owner hired another ROWP to carry out the work and the original ROWP coordinated with the Letter of Certification being issued upon completion of the work. This second ROWP was apparently recommended by this ROWP and the property owner was pleased with the work.

All documents are now registered with the Health Authority. Health Authority staff were involved with forwarding the property owner's complaint to ASTTBC's attention in part because the property owner does not have ready access to a fax or email as well as an ability to communicate in English was reportedly poor.

INVESTIGATION

ASTTBC staff contacted the ROWP to confirm details of the various statements and related documents supplied for this investigation. The ROWP admitted that he did not draw up a contract with the complainant that contained any detail on who was to carry out the installation or specific requirements for supervision of any non-Authorized Person undertaking the work, something he normally did, but forgot in this case. However, he was adamant that he verbally said this to both the general contractor and the homeowner on several occasions before any work began.

The ROWP admitted to signing the letter entered in court stating he authorized the general contractor to bury the system, but explained how the letter was written by the general contractor who came to his house asking the ROWP to sign it.

A discussion reportedly ensued in which the ROWP stated he did not agree with that statement but did agree with the portion further on in the letter regarding the relocating of the site for the home. The ROWP admitted he can see how this letter as a whole sounds contradictory to his original statements and why it was used in court. The ROWP stated that within an hour of the general contractor leaving his home, the property owner paid a visit to discuss this letter and the ramifications of what it contains.

During a discussion with ASTTBC staff, the ROWP was fully cooperative but also embarrassed that the matter had taken the direction it did. He thought he was clear with his verbal directions to both the homeowner and the general contractor, but sees the lack of detail in his contract as an increase in risk to himself. Even allowing a non-Authorized Person to undertake the work is not something he normally did

and only offered it out of empathy due to the ill wife of the homeowner, which the ROWP can relate to as he was also being treated for a serious health matter.

The contradictory letter he signed, that was presented in court, was another item he regrets and was embarrassed about. He felt that since a portion of the letter was true, he would sign it, but reportedly stated to both the general contractor and the property owner that the court should contact him to clarify some details in the letter. The ROWP did not understand that the courts do not ask for additional information, but make decisions on what is provided to them as is. He now has come to realize this.

DISCUSSION

Miscommunication, misinterpretation, and possibly some disregard to directions given to one party appear to explain why the events unfolded as they did. The property owner, due to poor English language skills, may not have been clear on all aspects of the work to be done, and the lack of detail in the contract did not help. Matters were made worse when the general contractor carried out the installation without regards to the ROWP's verbal directions on what the oversight and supervision needed to be.

The ROWP admitted some improvements in contracts and communication with clients in general may be needed and was aware such assistance was available through ASTTBC. How involved he will remain within the wastewater business will in part be determined by the outcome of his medical treatment, but the court case may also play a role as to if and when he undertakes further planning or installation work.

Regarding the allegation he failed to provide sufficient supervision to a non-Authorized Person, there was insufficient evidence to confirm that he knew the general contractor was installing the system, and when he became aware of the problems with what was installed, the ROWP refused to issue a Letter of Certification until repairs were completed and the system made compliant. The letter he signed, that was used in court, will be part of new court action dealing with the contract between the ROWP and the complainant, but this is a civil action.

OUTCOME

The Practice Review Board required that the ROWP complete a Practice Assessment with particular emphasis on business practice. However, before this could be completed the ROWP passed away. No further action was required and this file was closed.

CASE #11-20

STATEMENT OF COMPLAINT

A ROWP carried out an inspection of an older onsite sewage system for a prospective buyer of a property and issued a report that was substantially less than required by the Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems and used inflammatory language to describe the performance that cannot be supported by the explanation within the report.

These allegations, if found to be true, would be contrary to Principle 3 of the ASTTBC Code of Ethics.

BACKGROUND

A ROWP Planner/Installer/Maintenance Provider/Private Inspector was retained to inspect a sewage system for a prospective buyer of a property. The inspection was completed and a two-page report was issued to the buyer.

The complainant is the property owner who received a copy of the report when the purchaser considered backing out of the deal. The complainant reviewed the report and, due to the lack of any explanation of the findings, contacted ASTTBC regarding the standards that apply to inspections. ASTTBC staff pointed the complainant to the ASTTBC Standard Practice Guidelines for the Inspection of Onsite Wastewater

Systems, as posted on the ASTTBC website. The complainant reviewed the Guidelines in comparison to the report and filed a formal complaint with ASTTBC.

INVESTIGATION

The ASTTBC Investigator reviewed the complaint letter along with the copy of the inspection report completed by the ROWP and a letter was sent to the ROWP asking for clarification, as the report contains little detail. The complaint contained extensive detail as the complainant reviewed the Guidelines line by line and made comments where issues were noted with the inspection and report.

The complete report by the ROWP is as follows:

“Performance Evaluation: Performance Malfunction, Health Hazard”

“Camera Inspection of Laterals: camera inspection limited to locating the distribution box”

“This system appears to be original to this home, installation records were not available to the inspector at time of service. The system is in a state of failure that is required to be reported to the Vancouver Island Health Authority and a hazard report has been issued on this property. An Environmental Health Officer will be attending the site. It may be prudent to modernize water using appliances such as clothes washers, dish washers and shower heads and toilets to meet low flow standards as a matter of good practice for this or any septic system. Due to the above factors I believe this system will not be able to continue to provide effective wastewater dispersal under its intended level of usage for any period of time. IMMEDIATE HEALTH HAZARDS ARE ASSOCIATED WITH THE DISPERSAL BED AT THIS TIME”

After reviewing the ROWP’s report, the complainant made the following comments in brackets regarding the Inspection Guidelines as follows:

1-1 A Performance Inspection is to determine or include the following:

- a) Function and condition of each component (*There is no information about the function and condition of any of the components*)
- b) Location of each component on the property (*There was no ground disturbance at all in the area of the inlet pipe indicating that it was not inspected. Based on the digging that was done around the outlet pipe (also minimal) it is unclear that the distribution box was found. The report more or less confirms this when it indicates that the distribution box was only detected through use of the camera.*)
- c) Location of any utilities in the vicinity of the onsite system. (*I’m not sure what is meant by utilities here, but useful to note that the RD was emptying the reservoir at the top of hill above our place the day of the inspection. It’s possible that this may have impacted on the ground water level? Also, the rain gutter which directs all the water from our roof, should perhaps be diverted to avoid creating a higher than normal water table in the vicinity of the tank.*)
- d) Review of all existing permit/Filing documents and comparison with the system as installed. (*None were reviewed as per report.*)
- e) Review of all existing maintenance records. (*We were not asked about these. The ROWP however had pumped the tank on Nov. 17, 2010 and had not identified any issues.*)
- f) Review written (where possible) current or expected usage information collected from the occupant/client against the designed abilities of the onsite system. (*No information was requested from us however the inspector, in his report, suggested we should be using low flow shower heads, toilets, washers etc. We are already using a number of these devices including low flow shower heads, toilet, and washing machine.*)

1-3 ... However, the ROWP is to ensure that no assurance is granted which cannot be substantiated by the information gathered during the inspection. *(The level of testing done as described in the report, being as minimal as it was, would seem to indicate that the inspector would not be able to substantiate his work.)*

2-2 The ROWP is to inform, and take steps to protect, all parties on the property from the physical, biological, and chemical hazards, which may be created temporarily in the area of the onsite system during inspection. *(If there is a serious health hazard as indicated in the report why was the location of the health hazard not identified (for example pooling, run-off, back-up) and cordoned off? On viewing the site none of these potential issues shows up.)*

3-7 The ROWP is to carry out a flow test as outlined in the approved inspector courses. This is not a “flood”, “high volume” or “stress” test. *(As noted above there’s no indication that a flow test was conducted.)*

3-8 Fluid movement within the components of the system including the dispersal area is to be tested against the requirements of the design. *(There’s no indication that fluid movement testing was done.)*

3-9 The following components are to be exposed, examined and tested when present:

b) All tanks, chambers and treatment plants related to the onsite system at the inlet, outlet, dividing baffles and interior components. *(There’s no evidence in the report that this work was done.)*

4-1 The ROWP is to store all field notes, reports, letters, photographs/videos, test results, etc. in a file devoted to a particular inspection. *(No photos were attached to the report.)*

5-1 The ROWP is to provide a written report, which is to include the following:

d) Explanation of repairs and improvements *(Missing)*

5-2 *(The terminology used in the report doesn’t really match and isn’t explained)*

The ROWP was provided a copy of the complaint including the above noted observations by the complainant, and responded with the following explanation:

“Having reviewed the complaint by (the complainant), I would like to submit to you that as (the complainant) is not my client (noted on the report as (client name)) and therefore not privy to most of my files except the final report, obtained without my consent, and that the majority of the complaint is unfounded and filed with malice. In section 5-2 subsection c of the SPM for Inspectors (the complainant) has noted and quoted from my report that I have referred to the health hazard created by the system. I may perhaps have been more diligent and or responsible to have written possible health hazard however the subsequent issuing of a Repair order by the Environment Health Office at () substantiated the claim made in the report.

The inspection was terminated after the distribution box was exposed in the financial interest of my client, who has no interest in my services to determine the details of (the complainant) property beyond the point at which I discovered the issue with system. It would be irresponsible of me as a business man and professional to continue to carry on an inspection at +- \$100.00 per hour, billable to my client, after determining that a major malfunction of the system exists, for the purposes of (the complainant). If (the complainant) wishes the inspection to continue beyond that point () would be advised to contact myself or any other PIR to continue at () own expense.

(Professional Engineer) of (company name) had an associate contacted me after attending the site to ensure that a hazard report was submitted and to warn me that (the complainant) was "determined to make me pay" for scuttling () house sale.

It is truly unfortunate that (the complainant) feels personally slighted by the factual information provided in my report to my client and although I do feel some compassion towards (the complainant) personal financial issues surrounding the sale of () home, I cannot in good faith falsify the results of the report nor will I retract any portion of the report to satisfy (the complainant)."

The ROWP did not provide any expected site documentation such as photographs, video recordings, site/system sketches or field notes, and when asked again if he could provide just photographs, reportedly his camera became inoperable later that day making the retrieval of any photographs impossible.

The Investigator contacted the Professional who attended the site shortly after the complainant became aware of the problem through the prospective buyer. According to the Professional, the outlet pipe of the septic tank was not connected to the distribution box, the area around the box was soft and spongy but no wastewater was escaping to the surface. Access to the septic tank was difficult as a one-piece concrete slab with no access lids was found over top. The Professional admitted that a replacement system is being planned in order to satisfy one of the subjects of property sale, that the system will be sized for the number of bedrooms in the home.

DISCUSSION

Based on the explanation provided by the ROWP along with the copy of the inspection report, it appears that the inspection and subsequent report do not meet the basic inspection requirements under the Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems found in Appendix G of the Onsite Wastewater Registration Program Policy.

- The ROWP did not confirm the system component size and capacity as per section 1.1(iv) nor indicated in the report any challenges in doing so, such as a large, awkward concrete slab across the top of the tank or similar reasons. Without at least measuring the septic tank capacity, it would not be possible to claim the system was undersized in comparison to provincial regulations at the time the system was probably installed.
- It is unclear whether the inspection was documented in any manner, contrary to section 5.1, since even photographs were not available due to an apparent problem with the camera used during the inspection. Benefit of doubt given due to the camera reportedly being damaged later that day.
- The report improperly uses the performance terminology and makes no effort to explain what it means contrary to section 5-2. The intention is that the PI strives to make reports understandable to the lay-person, what is expected of a properly functioning system, and why sewage reportedly flowing to the surface is not allowed. Instead it jumped right into informing the reader that the Health Authority was informed of a hazard and they will be attending the site.
- The report does not describe or explain the nature of the performance problems. The ROWP apparently used a pipe camera inserted into the dispersal pipes from the distribution box, but offers no information on whether the pipes were clean, plugged with solids that had escaped the septic tank over time, or other possible causes of this malfunction. Even if the distribution box is full of fluids, if the camera is pulled out and found to be coated in sludge, it is worthy of stating. If the ROWP was also retained to pump out the septic tank, was the tank leaking or have a constant in-flow of water from the home or was the inspection conducted during or immediately after a heavy rainfall that could have impacted the system? While it is not the PI's role in such inspections to definitely determine the causes of the malfunction, the PI is expected to offer

possible reasons and potential solutions in order that their client can be informed of what steps should be taken or at least considered.

- The report did not describe or explain the location of the apparent health hazard, a simple yet important detail within a report that, when combined with photographs, helps show the extent of the alleged problem. If it was around the distribution box, it was not apparent to the Professional who attended the site. If it was further down the slope at the edge of the dispersal field some distance away, that would be an important detail to mention even to the Health Authority so they know where to be looking.
- The report did include a suggestion that water-efficient appliances be used, which the complainant states were already in place and would have been noted if the ROWP had entered the home as part of the inspection. This might have also aided the ROWP to determine just what the designed capacity of the system was in relation to what was actually in the home.

In discussions with the complainant, it was made clear to the Investigator that the intent behind making the complaint was not for spiteful or malicious reasons, but because the poorly crafted report did not convey to the buyer what the next steps or options may be to resolve the issue and keep the deal moving forward. Instead, it created panic and fear until the Professional became involved and put options on the table from which the Realtors could begin negotiating.

The malfunction was a surprise, reportedly in part because the same tank cleaning service that the ROWP works for was at the property shortly prior to pump out the tank. At that time no mention of problems was made to the complainant.

The ROWP's statement that he stopped the inspection to prevent further costs to his client is appropriate under Principle 4 of the Code of Ethics; however there is an obligation to undertake work with sufficient diligence to ensure it is accurate yet understandable to a non-technical audience. If the ROWP is advised to stop the work before the inspection is sufficiently completed, or prevented from completing a report with sufficient diligence, the ROWP would be expected to follow Principle 8 and advise the client of the consequences for doing so.

OUTCOME

The Practice Review Board required the ROWP to immediately provide three copies of inspection files, including site documentation and the report, within the next sixty days, to the Manager, Onsite Wastewater Registration Program, to demonstrate that the ROWP's documentation and reports comply in general with the Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems. The ROWP agreed to this, no further action was required and the file was closed. Staff continued to monitor to ensure that all conditions were successfully completed.

CASE #11-24

STATEMENT OF COMPLAINT

A ROWP constructed an onsite sewage system and did not file a Letter of Certification or an Operation & Maintenance Plan within thirty days of completion. Further, the ROWP did not appropriately supervise employees who carried out the work.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The complainant hired the ROWP to plan and install an onsite sewage system for a new home under construction. Delays occurred for various reasons given by both parties, but eventually two employees working for the ROWP attended the site and constructed the system. Later in the same month, the ROWP presented the complainant with an invoice, suggesting that once it was paid, the ROWP would connect the system alarms, complete the Filing, and submit the Letter of Certification to the Health Authority. The complainant suggested that half of the total would be paid that day and the other half would be paid when the Filing was complete and accepted. The ROWP agreed to this and asked the complainant to contact him to set up a time to complete this work.

After many failed attempts to contact the ROWP, the complainant contacted ASTTBC and asked for assistance with this situation.

INVESTIGATION

ASTTBC staff contacted the ROWP and received a written response. The ROWP described that his company took action as soon as it could to complete the system, as the weather made it impossible during the winter. When he had available employees, they were sent and they got the job done.

The ROWP further explained that the billing procedure used here was typical of his business practice and that once the Letter of Certification was filed, a final invoice for documentation and filing costs would be supplied. The ROWP did not explain why the complainant was never contacted again, why the alarms were not connected or why the Letter of Certification and the Operation & Maintenance Plan were never filed.

Photographs of the system were provided by the complainant and the ASTTBC Investigator developed serious concerns about the quality of the construction for this system.

DISCUSSION

The reason for the installation delay is unclear and confusing, but it is affecting the complainant's ability to conclude the matter and obtain the Letter of Certification and related final documents. The ASTTBC Investigator experienced the same difficulties as the complainant when attempting to contact the ROWP during this investigation. This was a problem noted in a previous investigation as well, that has not been corrected.

The installation appears by all accounts to be mostly completed if not entirely finished; although some details within the photos provided by the complainant raise questions as to the level of quality, as well as why the ROWP didn't provide sufficient supervision to non-Authorized Persons working for him. OWRP Policies are very clear on the level of supervision ROWPs are expected to provide in such circumstances and these are intended to prevent the very problems that appear to have occurred in this case.

The billing practices of the ROWP appear confusing and it raises the question whether contracts are clearly detailing costs to a client beforehand or if they may be open-ended opportunities allowing extra fees to be attached during the project.

Based on the information gathered during the investigation, the ROWP's actions would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

OUTCOME

The Practice Review Board required the ROWP to:

- immediately complete all outstanding aspects of the installation and register all final Filing documents; including the Letter of Certification, as-built drawings, commissioning details, and an Operating & Maintenance Plan with the Health Authority. This was to be completed without further costs to the complainant and no later than (), a copy of which was to be provided to ASTTBC as proof of successful completion, and

- be levied a fine of \$500.00 as a deterrent to future violations of the Code of Ethics, and
- be levied a fine of \$500.00 for failing to provide adequate supervision of non-Authorized Persons in a manner as required by OWRP Policies, and
- immediately arrange with the Manager, OWRP to undertake an assessment of the ROWP's understanding of business practices, professionalism and the Code of Ethics.

The ROWP had not responded to the initial letter regarding the censure requirements, to a follow-up letter, phone calls and emails from ASTTBC staff. As a result of this, the ROWP's registration was suspended. The ROWP still has the option to successfully complete the recommendations or to proceed to a Disciplinary Hearing. The ROWP's suspension will remain in effect until he responds to ASTTBC.

CASE #11-29

STATEMENT OF COMPLAINT

A ROWP violated the ASTTBC Code of Ethics in dealings with the client, who wishes to become a ROWP and, the ROWP did not follow the SPM when planning and installing a system for the client.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The property owner hired a ROWP in 2007 to plan and install an onsite system, after an engineering firm carried out a site assessment and determined that a Type 2 system would be needed.

The property owner was "quite disturbed" that the Regulation had changed and it no longer allowed the property owner to plan and install their own system. In a search for someone to install a Type 2 system, the ROWP had reportedly offered to plan a system for \$800, and install it for at least \$700 less than the going rate, if the property owner paid in cash. There was no written planning or installation contract, only a verbal agreement.

During the installation, the property owner claims the ROWP stated that, if the property owner passed the courses to become a ROWP, the ROWP would act as a mentor in support of the property owner's ROWP application. When the property owner completed the courses a year later and approached the ROWP for mentoring, the ROWP reportedly refused and told others not to hire the property owner for such work.

Following this, the property owner contacted ASTTBC and filed a complaint.

INVESTIGATION

The ASTTBC Investigator immediately noticed that the complaint was filed more than two years after the circumstances surrounding the complaint occurred, and must, according to ASTTBC regulation, be extinguished. However, portions of the complaint deal with the ROWP apparently re-using the soil information collected by the engineering firm and passing it off as the ROWPs own, failing to provide a written contract that would have prevented numerous problems, and several points where the planning and installation do not meet the requirements of the SPM.

The ASTTBC Investigator reviewed the complaint and associated Filing document, and confirmed several issues with the planning of the system. These include that the ROWP likely re-used the engineering firm's soil results, as the documents contain identical information, including the same errors, and that the seepage bed width is contrary to the SPM.

The complaint and documentation were forwarded to the ROWP, who refuted the accusations related to mentoring and the verbal contract agreement and cast doubt on the veracity of many other points of the

complaint. The ROWP also suggests that many points in the complaint were the direct responsibility of the complainant, including parking his vehicle upon the dispersal area.

At this point, it became clear that all points other than the planning and installation documentation could not be confirmed, as there are no written agreements or contracts that would define deliverables or general expectations. Further, the complainant had not previously approached the ROWP about any unmet expectations. The ROWP believes that this complaint was motivated entirely by the ROWPs refusal to mentor the complainant. Without any written agreement, there is no proof of the offer of mentoring and therefore, this issue cannot be confirmed.

DISCUSSION

Pursuant to Section 4.7.d.i of the ASTTBC Regulations, the mentorship and contract related portions of the complaint against the ROWP must be extinguished due to the two-year limit. The complainant had an opportunity to make a complaint much sooner and there is no obvious reason to explain this delay.

As a ROWP is responsible for the quality of planning and installation work that they complete, the two-year time limit does not apply to this case. Concerns were found within the planning and installation work that raise questions about the knowledge and application of the standards for constructing onsite sewage systems, as set out in the SPM. These were, in part, supported by photographs supplied by the complainant, although supplemental photographs supplied by the ROWP in response to the allegations contradict portions of the complaint.

The ROWP may have improved the quality of practice in the years since this incident occurred, or may be operating in essentially the same manner, therefore a Practice Assessment would be of value to determine this.

OUTCOME

The Practice Review Board required the ROWP to immediately arrange with the Manager, OWRP to successfully complete a Practice Assessment. The ROWP had agreed to comply with this decision. No further action was required and the file was closed. Staff continued to monitor to ensure that all conditions were successfully completed.

CASE #11-32

STATEMENT OF COMPLAINT

A ROWP installed a sewage holding tank on native land without obtaining a permit to do so from Health Canada, and ignored the express direction of an Environmental Health Officer's orders not to proceed.

This allegation, if found to be true, would be contrary to Principle 1 of the ASTTBC Code of Ethics.

BACKGROUND

An Environmental Health Officer with Health Canada received reports from ROWPs in the area that a ROWP was installing holding tanks on water front properties. These properties belong to the local Native Band, and matters related to sewage systems are under the jurisdiction of Health Canada.

The Health Officer, having dealt with the ROWP in question before, and knowing that the ROWP was familiar with Health Canada regulations and policies regarding holding tanks and sewage systems, contacted the ROWP by phone to advise that they would not be issuing holding tank permits for these properties. During the phone call, the Health Officer reports the ROWP became argumentative, stating he

did not need to obtain permits and would simply claim these tanks were for holding water instead of sewage.

Following the phone conversation, the Health Officer sent a letter to the ROWP reiterating Health Canada requirements that holding tanks were not allowed. Reportedly, the Health Officer did not receive further correspondence from the ROWP.

A week later, the Health Officer received additional information from other ROWPs in the area giving details on six properties where the ROWP in question installed either holding tanks or drywells on other lake front properties. The Health Officer was unable to observe the ROWP in the act of installing these holding tanks and drywells, but was aware from other residents in the area that they are being installed. As a result, the Health Officer was concerned about the impact this may have on residents in the area, who may utilize this ROWP to install illegal holding tanks, rather than the more costly, but site appropriate onsite sewage systems.

INVESTIGATION

The ROWP indicates he was following the direction of the property owner, a former Chief of the reserve, who was acting on advice from legal counsel. The ROWP attached a copy of a letter from the lawyer and highlighted portions of the letter that the ROWP felt were relevant to this matter.

The letter illustrates a resolution to a dispute between parties owning the property and parties leasing the property, which would include a sewage holding tank, and that the work was to be completed by a particular date. The ROWP implies that they were following the directions set out by legal counsel within this letter, and since his client was a former Chief of the Band, the client had the authority to direct the ROWP to undertake such work.

The response letter from the ROWP was provided to the Health Officer for comment. The Health Officer stated that the ROWP appears to have made assumptions regarding the role and requirements for Health Canada, and also pointed out that the Health Officer has informed the ROWP numerous times in the past that all applications must be handled through Health Canada. The ROWP was also advised by the Health Officer that, regardless of the site being challenging for onsite sewage systems, all types of systems must be explored first. As the Health Officer points out, “the cheapest option is not the only option”.

DISCUSSION

When a sewage system is not constructed with regard to the Sewerage System Regulation and the Standard Practice Manual, it increases the risk of a health hazard being created. This is covered within the training required to become a ROWP.

Health Canada has jurisdiction on native land, but the application of authority varies with individual Bands. Agreements are often in place between individual Bands and Health Canada on such matters, and where agreements are not in place, an advocacy approach is taken to foster best practices while maintaining respect between both parties, as is occurring in this particular matter.

Where Health Canada does not have a Federal regulation to use, it adopts a Provincial regulation and sets this out within policies as the best practice to follow. For sewage systems, the SSR and the SPM are used, along with encouraging that it be ROWPs who undertake the planning, installation and maintenance of the systems wherever possible. The only difference with projects on native land is that a permit is still required from Health Canada and an Environmental Health Officer still reviews the application and inspects the project.

The ROWP was informed of this through the Health Officer several times prior to the event, and does not deny having done this work without involving a Health Officer. This disregard does not appear to be accidental. The ROWP appears to be following the direction of the client for expediency and cost-

savings, while not respecting the direction and concerns of the Health Officer who is considering the long-term impact and safety to the public and the environment.

For this particular property and event, the ROWP has breached Principle 1 of the Code of Ethics, but also of concern is the ROWPs dramatically disrespectful attitude to the Health Officer, a person in authority who the ROWP is expected to cooperate and comply with.

There is cause for concern that the ROWP may be continuing to undertake work in a manner contrary to Health Canada regulations and policies, but insufficient evidence at this time limits the investigation to the single property and event which the Health Officer has made a complaint about. Should additional information become available to further the investigation onto other properties, this will be done.

OUTCOME

The Practice Review Board required the ROWP to:

- cease and desist any further installation of sewage systems or holding tanks on properties under the jurisdiction of Health Canada unless the installation complies with all regulations and policies of Health Canada prior to commencing, and
- replace, upgrade or take any other measures as directed by, and in full cooperation with, the Health Officer to ensure all non-compliant sewage systems or holding tanks become compliant with Health Canada regulations and policies. This is to ensure they do not cause or create a health hazard, and
- be levied a fine of \$1,000.00 as a deterrent to future violations of the Code of Ethics, and
- immediately arrange with the Manager, OWRP to undertake a Practice Assessment with an emphasis on understanding professional practice and the Code of Ethics

The ROWP had not responded to the letter regarding the censure requirements, to a follow-up letter, phone calls and emails from ASTTBC staff. As a result of this, the ROWP's registration was suspended. The ROWP still has the option to successfully complete the recommendations or to proceed to a Disciplinary Hearing. The ROWP's suspension will remain in effect until he responds to ASTTBC.

CASE #11-34

STATEMENT OF COMPLAINT

A ROWP Installer constructed an onsite sewage system prior to registering a Filing with the Health Authority, and did not file a Letter of Certification or an Operation & Maintenance Plan within thirty days of the completion. Further, that the ROWP overcharged the client as evidenced by discrepancies between hard copy receipts and the ROWP's invoice, and that the final invoice amount was several thousand dollars higher than the approximate quote with no explanation for cost over-runs.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The complainant hired the ROWP to plan and install a sewage system for their home and provided \$3,500.00 as per the ROWP's request for a retainer to cover the "System Design & Filing". A week later, the ROWP started construction and requested additional money to purchase materials. The project reportedly took four days to complete, and the complainant asked the ROWP on the day before the job was completed to provide an overall estimate. The ROWP stated it should not exceed \$15,000.00; however the final bill came to \$18,602.99, with no explanation given for the additional costs.

Approximately two months after the installation was completed, the complainant phoned the ROWP seeking assistance when the high level alarm had sounded for several days. The ROWP told the complainant he didn't know what to do about it, nor did he have time to assist. When asked for the

maintenance manual, the ROWP reportedly stated that they would have to wait another three or four months because he was exhausted, busy, and didn't have time to write it before going out of town for "down-time". During this conversation, the complainant reportedly inquired as to why the invoice was for more than the estimated amount, however the ROWP refused to provide the receipts and allegedly stated "You are lucky, it could have been \$23,000.00 to \$25,000.00." When the complainant asked about contacting an electrician regarding the alarm, the ROWP became agitated and hung up.

Despite having paid the ROWP the full amount of the invoice, the complainant made repeated efforts to contact the ROWP and obtain documents but to no avail. During the spring of 2011, the complainant decided to list the property for sale, and was required to obtain these outstanding documents to aid with disclosure for any prospective buyer. During this process, the complainant learned that the Filing document was not registered with the Health Authority and the system was considered illegal. This led the complainant to contact ASTTBC for assistance.

INVESTIGATION

ASTTBC staff contacted the ROWP and received a brief email response to the details of the complaint.

"I've just heard back from () Health and they are sending the filing back to me for a couple of reasons, first off they want to see the new form used, of which I was not aware of, which they are sending me. Secondly I never received a tax assessment roll number from (the complainant) although I have asked for it several times, the filing will not be accepted without it. Also I will require a check from () for the filing cost in the amount of \$ 200.xx made out to () Health. I will assume no further debt on their behalf; this is my line in the sand, period!

I will be leaving for camp work on Sunday and as such will not be able to complete this until I return from my first deployment which will be sometime in (), providing I have the requested information and monies in my PO box, when I return, I will complete the filling as a first priority. Thanks in advance for your attention to this matter."

The complainant was contacted by the ASTTBC Investigator and asked about the tax roll number. The complainant stated they remembered the ROWP asking about it, but not knowing what this was, they supplied the ROWP with every document they had about their property. As the ROWP didn't ask for further details, the complainant believed they had provided the information requested. As for the \$200.00 filing fee, the complainant believed it was included within the \$3,500.00 they paid under the contract at the beginning for "System Design & Filing" and the ROWP never requested that they pay for it separately.

DISCUSSION

Poor details within the contract created by the ROWP have led to confusion and misunderstandings throughout this process. The lack of a fixed price contract in favour of an hourly rate and cost for materials is not a recommended practice under the Code of Ethics; however this was made even more problematic by the cost over-run that the client was billed without any reason given, nor an opportunity provided to review all invoices for materials, as was expected. Such questionable business practice is contrary to Principal 5 of the Code of Ethics.

The delays incurred by the complainant to obtain necessary documentation from the ROWP is causing problems for the complainant who is trying to sell the property with full disclosure, and the actions of the ROWP could potentially jeopardize the sale altogether for this real estate season when buyers are most active. The ROWPs unprofessional behaviour and cavalier attitude toward delaying this further, and only if certain additional conditions are met, shows the ROWP is not acting with integrity towards his client. This is contrary to Principal 4 of the Code of Ethics.

The most serious aspect of this matter is the ROWP failing to register a Filing with the Health Authority prior to the installation of the sewage system, as well as failing to provide a Letter of Certification, and

Operation & Maintenance Plan to the Health Authority and the client within thirty days upon completion of the project. These are legal requirements under the Sewerage System Regulation and an Authorized Person failing to complete these requirements is committing an offence under the regulation. This also puts the client in a difficult position because they are using a sewage system that is essentially illegal and puts needless liability upon them when the fault rests with the ROWP. These actions by the ROWP are contrary to Principal 1 of the Code of Ethics.

OUTCOME

The Practice Review Board required the ROWP to:

- immediately complete the submission of a Filing to the Health Authority and provide all final Filing documents, including the Letter of Certification, as-built drawings, commissioning details, and an Operating & Maintenance Plan. This is to be completed without further costs to the complainant and no later than (), a copy of which was to be provided to ASTTBC as proof of successful completion, and
- be levied a fine of \$1,000.00 as a deterrent to future violations of the Code of Ethics, and Sewerage System Regulations, and
- provide satisfactory expense documentation to justify the system cost overrun, or reimburse the client for the difference to the original quotation of \$15,000.00, and
- immediately arrange with the Manager, OWRP, to undertake a Practice Assessment with particular emphasis on professionalism, the Code of Ethics, and business practices.

The ROWP had not responded to the letter regarding the censure requirements, to a follow-up letter, phone calls and emails from ASTTBC staff. As a result of this, the ROWP's registration was suspended. The ROWP still has the option to successfully complete the recommendations or to proceed to a Disciplinary Hearing. The ROWP's suspension will remain in effect until he responds to ASTTBC.

CASE #11-41

STATEMENT OF COMPLAINT

A ROWP planned and installed an onsite sewage system in a manner contrary to the BC Standard Practice Manual, resulting in numerous deficiencies, both in thoroughness of the site assessment, documentation, and features expected to be installed on the system itself. Upon completion, the ROWP failed to provide the client with the required system documentation, including the Record of Sewerage System Form, Letter of Certification and an Operation & Maintenance Plan.

These allegations, if found to be true, would be contrary to Principles 1 & 4 of the ASTTBC Code of Ethics.

BACKGROUND

In 2007, the complainant constructed an addition to their residence, creating a duplex that would be registered on Land Title as a subdivision of the lot. The original portion of the home would retain the existing sewage system, and the new addition would be connected to a separate new sewage system. The general contractor for the project retained a ROWP to carry out this work, and it was completed in September of 2007.

The complainant noticed sewage-like odours around the front of the new house soon after the ROWP completed the work, but no problems with the use of either sewage system were noticed. In early 2011, sewage was observed to be coming to the surface of the ground during times of heavy water usage in the house. The complainant arranged to have the septic tank pumped out but this did not solve the problem.

In May of 2011, the complainant hired a Private Inspector, who located the pipes of the old onsite system, leading from the septic tank to a point about a meter away from where the new sewage system's septic tank was installed. The wastewater filling the pipe prevented the Private Inspector from being able to

fully view the restriction, however, the Private Inspector's pipe camera was stopped at a point where the wastewater was found to be pooling at the surface close to the new septic tank. Damage to the pipe of the original sewage system was suspected at the time the new septic tank was installed.

The complainant contacted the ROWP and requested attendance to determine what was wrong with the old system, as the complainant assumed that the ROWP must know where the components of both the new and old systems were, and would be the best person for this work. The ROWP attended the site, and after the situation had been explained, claimed to be very busy and since they could still use the facilities in the house, the ROWP would arrange to come back when the ROWP had more time.

The ROWP later contacted the complainant and arranged to attend within a week. At the appointed date, the complainant contacted the ROWP who "gave excuses" as to why he would not be attending that day and offered to call another company or attend several days later instead.

As sewage was still reaching the surface of the ground, the complainant contacted another company to repair the system who attended later that day. After this new person discussed the situation with the complainant and had a look at the new system, concerns were raised about the system itself, and the lack of documentation, including a Letter of Certification and an Operation & Maintenance Plan. The complainant does not recall receiving such documents and became aware that the system was missing some features normally expected on a sewage system. These include:

- No effluent filter or risers were installed on the new septic tank
- No cleanout access was installed on the main sewer line from the house as it travels more than 50 feet/16 meters to the septic tank
- No surface access to the bed or other means of monitoring fluid levels had been installed.

The complainant then attended the Health Authority paying a \$50.00 fee to obtain a copy of the onsite system Filing documents. After reviewing the site drawing that the ROWP had created showing where the existing septic system apparently was and where the new septic system was then installed, the complainant realized that the ROWP had incorrect information on the plan. The complainant had further reason to believe the ROWP had installed the new system in or near where the existing septic field or dry well had been, and that the ROWP may have damaged the pipe running from the existing septic system to this field or dry well.

The complainant then contacted ASTTBC to file a formal complaint.

INVESTIGATION

The complaint and photographs of the site were reviewed before a letter was sent to the ROWP asking for comments about the allegations. The ROWP's brief response was as follows:

"With reference to the above and further to our telephone conversation of (), this letter is to confirm our discussion regarding the complaint made by the above named. When they called I promptly attended their property to determine the extent of the problem, at that time they assured me that the system was still functioning and were willing to wait.

I did leave two messages to let them know that I would be able to attend to their problem, unfortunately when I arrived with my machinery to do the repair I was told that my services were no longer required. I did my utmost to attend to their problem as soon as possible"

The ASTTBC Investigator contacted the complainant to confirm the ROWP's suggestion that the repairs were made by others, and no further action was required of the ROWP. The complainant stated that the repairs were not made, and they did not discourage the ROWP from making them, but were concerned because the ROWP threatened to involve his lawyer if the complainant continued to accuse the ROWP of

damaging the original sewage system. Reportedly, the ROWP became very agitated, and the complainant's elderly handicapped mother did not wish to deal with the ROWP until another family member could be present, which is why the complainant wished to delay the repairs by a few days.

After repeated attempts and messages, the ASTTBC Investigator finally contacted the ROWP who confirmed that sewage was observed seeping up to the surface of the ground near the location of the new septic tank. When asked how the ROWP knew where the existing sewage system was located, the ROWP stated that documents on file with the Health Authority from many years ago were used but no attempt was made to confirm the location, condition or features of the new system during the site assessment by the ROWP. The ROWP agreed that it was possible the existing system was located in an area different than depicted on the old documents, and used by the ROWP, on the plans submitted as part of his Filing.

The ROWP agreed to re-attend the site, expose the source of the sewage escaping to the surface, and make repairs as required. A date was set and the Investigator contacted the complainant who agreed to this. During the return visit, a heated verbal exchange occurred between the ROWP and the complainant's family causing the ROWP to leave the property.

The ASTTBC Investigator talked with both parties and arranged for the ROWP to re-attend, this time with the complainant and family members to remain in the home and not communicate directly with the ROWP, but instead through the Investigator. The ROWP was instructed on how to conduct himself on the property and agreed to this condition, along with taking photographs of the problem once exposed and forwarding it to the Investigator.

Although a date was set, the ROWP did not return to the property. After several days with no attendance, the ASTTBC Investigator attempted to reach the ROWP, and left voice messages expressing the need to contact the Investigator immediately, so the complainant could ensure ready access with no pets left in the yard while the ROWP carried out the work. With another week passing and no response to messages left for the ROWP, the Investigator does not believe this matter will be resolved in a timely manner.

DISCUSSION

The insufficient site assessment work at the time of planning includes failing to attempt to confirm any details on the existing sewage system or other potential utilities as would be expected of a Planner. There is reason to believe the old documents the ROWP relied upon were not accurate, and damage to the existing system could have been avoided if a proper assessment was done.

Other problems with the documentation are also fully avoidable and this includes ensuring the client was provided with all final documents upon completion of the sewage system, such as the Letter of Certification and the Operating & Maintenance Plan. For the client to find out from other ROWPs about missing documentation and having to pay for such documents, especially considering these documents are missing significant detail or convey incorrect information, is unacceptable.

The difficulties in reaching the ROWP, and delays experienced in having him attend when a serious matter such as this is occurring, also raises concerns about the ROWP's understanding of professionalism and duty to a client. Failing to respond to requests for communication with the ASTTBC Investigator also raises concern that the ROWP is acting to frustrate and delay the investigation, and is not making any effort or attempt to resolve this in a timely manner.

OUTCOME

The Practice Review Board required the ROWP to:

- immediately attend the site and complete corrective action to eliminate the potential health hazard and,
- upon completion, submit an amendment of the original Filing to the Health Authority and provide all final Filing documents including the Letter of Certification, as-built drawings, commissioning details, and an Operating & Maintenance Plan. This is to be completed without further costs to

the complainant and no later than (), a copy of which was to be provided to ASTTBC as proof of successful completion, and

- reimburse the complainant for the \$50.00 fee paid to the Health Authority for obtaining the Filing documents already registered for this sewage system, and
- be levied a fine of \$500.00 as a deterrent to future violations of the Code of Ethics, and
- immediately arrange with the Manager, OWRP to undertake a Practice Assessment with particular emphasis on professionalism, the Code of Ethics, and business practices

The ROWP successfully completed all censure requirements and is making improvements on matters related to professionalism, the Code of Ethics, and business practices. No further action was necessary and this file was closed.

CASE #11-48

STATEMENT OF COMPLAINT

A ROWP violated the ASTTBC Code of Ethics in dealings with the client, carried out an initial installation that was reportedly of poor workmanship and, even though the ROWP admitted to being at fault for repair work that needed to be done, the ROWP still billed the client.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The property owner hired a contractor in April of 2005 to plan and install an onsite system for a new home under construction on a property that had just been subdivided. This contractor was also hired to excavate for the foundation and install other site utilities such as water lines. The onsite system was installed in stages, as the contractor had to drill and blast to make space for the septic tank and pump chamber. The contractor became a ROWP during the construction of this system, to be in compliance with the new Sewerage System Regulation that came into force in May of 2005.

The system was substantially completed in October of that year, but the client did not move in until December of 2008, as work on the home progressed. An alarm in the system went off in January of 2009 and the ROWP attended to investigate. The client describes that the ROWP discovered that the pump had been installed backward and this was then fixed. The alarm went off again a year later, and the client claims the ROWP yelled over the phone to fix the system themselves or wait a day or two for the ROWP to come. The client claims the neighbour assisted with connecting an alternate pump and pumping the effluent out to the field. The ROWP attended two days later and said that the glue holding the plastic pipes together had let go and that the ROWP had similar experiences with this glue and had complained to the manufacturer.

The client did not expect a bill for this work because the ROWP had admitted to “shoddy workmanship and faulty materials,” but a bill for \$543.54 did arrive. The client contacted the ROWP and said that the amount was excessive but the client would pay it when the ROWP returned to fix other items that hadn’t been done properly.

The client made a complaint to ASTTBC in August of 2011 because the ROWP did not return to fix the other items, and a second copy of the bill was received marked over-due.

INVESTIGATION

The ASTTBC Investigator reviewed the complaint and a copy was sent to the ROWP for review and rebuttal. The ROWP describes that the home and property were built over a number of years, and the general contractors handling the construction never made contact as the ROWP requested, to allow for

certain items to be completed. The ROWP believes that the complainant is confusing statements made by the ROWP regarding the water line installation, with the onsite system, further confusing the matter.

The first alarm sounded because the wiring for the pump was incorrect. The ROWP believes this mistake was made because the writing on the cable had worn off since the original installation, and the mistake was not immediately obvious. The ROWP immediately fixed the problem, tested the pump to ensure no damage had occurred, and did not charge for time or materials.

The second alarm sounded during a forest fire-fighting job that the ROWP was out of town for, and the ROWP claims that at no time did he yell at the complainant. He spoke to the complainant's neighbour and they worked out how to pump down the fluids in the pump chamber to give the ROWP time to finish work and return to the site to diagnose the problem.

When the ROWP arrived, it became clear that the glue holding together the plastic fitting on the pump line had given out and the "off" control float was malfunctioning. The ROWP was aware that the glue used in this installation had also caused problems at other sites, and so other glue was used when the ROWP replaced the connections inside the pump chamber. The ROWP also replaced the float switch. When the work was completed, the ROWP discussed several items with the complainant including the missing risers on the septic tank, which could not be installed at the time of installation due to the landscaping work being done, and because the contractors did not contact the ROWP to say they were ready for it. The improvements also included a different brand of plastic lid with a new sealing system to prevent odours at the request of the complainant. The ROWP sent the complainant an invoice for less time than the ROWP spent working on the site and for only the items used in the repair. This invoice did not include the improvement items they had discussed.

The ASTTBC Investigator discussed the situation with the ROWP and the ROWP agreed that written contracts are valuable to protect both the client and the ROWP from misunderstandings and clarify expectations.

The ROWP provided a supplementary letter to the ASTTBC Investigator discussing the liability an Installer has for material longevity, especially when the manufacturer's warranty only extends for one year. The ROWP also describes efforts to create appropriate contracts to avoid misunderstandings. The ROWP has decided not to pursue the complainant for payment in this case, chalking the loss up as a learning experience.

DISCUSSION

The ROWP responded quickly when the client encountered a problem and made every effort to provide assistance. The complaint is essentially that the ROWP did shoddy work and then charged the complainant for fixing it, but during the investigation, it became clear that the problems were not due to poor workmanship, but poor quality of products used that could not be anticipated by the ROWP beforehand. Where the ROWP did make a mistake, it was promptly fixed at the ROWP's cost.

ROWPs must rely on a product manufacturer's claims, and if a product fails, the ROWP cannot be held liable. The ROWP in this case did nothing wrong and other than failing to provide a written contract, went out of his way to provide exemplary customer service. A ROWP is not responsible for normal component wear and tear, and contrary to the complainant's claim, the invoice was not found to be excessive for the labour and materials that were used.

OUTCOME

The Practice Review Board required that since there is no basis to substantiate charges of unprofessional conduct on the part of the ROWP, that this file be closed and both the ROWP and the complainant be so notified. No further action was necessary and this file was closed.

CASE #11-51

STATEMENT OF COMPLAINT

A ROWP partially and incorrectly constructed an onsite sewage system, and this is preventing the client from obtaining an occupancy permit and moving in on the anticipated date. Further, that the ROWP has not responded to repeated telephone calls and messages from the client.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The complainant contacted ASTTBC and submitted the following complaint:

“In May of 2011 (the ROWP) was hired and accepted the responsibility to install the septic system from start to finish meeting all requirements for permits and codes at (site address). (The ROWP) was paid \$5000.00 upfront to do this project. The tank was placed and buried in the ground without a pump. After numerous (30+) phone calls, having to leave a message each time (the ROWP) finally returned a call after being tricked into it. He then promised to go install the pump and hook everything up for inspection. Upon inspection (building inspector () district) it was then discovered that there was now a pump, not hooked-up. The pump couldn't be hooked up as it was the wrong pump (way to much power) and the wrong plug. Once again, (the ROWP) is not returning calls and we are back to square one with having to extract and install a new pump, which (the ROWP) had been paid in full to do originally. It has been 4 months since he was hired and paid in full to complete this job. Permits cannot be obtained until this job is signed off by the building inspector.

(The ROWP's) lack of professional workmanship, dignity and honor for his trade has caused a huge amount of grief to this project.

(The ROWP) has been completely unprofessional and has put this project on hold way too long. Something MUST be done to stop this kind of thing happening to others who might hire him.

You should be very concerned with having (the ROWP) as a Registered Member with your organization. He's a disgrace to the trade.

We are now devastated as this project was to be completed for ()(move in date) for an elderly physically challenged lady and her pets. Please take action against (the ROWP). We might be able to land on our feet but there will be others who can't should he do this to them.”

INVESTIGATION

The ASTTBC Investigator reviewed the complaint and a copy of the complaint with a request for comment was forwarded to the ROWP. The ROWP has not responded.

DISCUSSION

As the ROWP has not responded to the allegations made by the complainant, few conclusions can be drawn at this time. The reasons for this are not known. The ROWP has also not responded to follow-up letter, phone calls and emails from ASTTBC staff.

At the time of writing this report, the ROWP had a previous complaint (file 11-24) that was investigated, and censure conditions were recommended by the PRB. The ROWP has not responded to notice of censure conditions.

OUTCOME

The Practice Review Board determined that based on Regulation 4.7 d, his ROWP registration was to be suspended. The ROWP was informed that he still has the option to respond to the complaint or to proceed to a Disciplinary Hearing. The ROWP's suspension will remain in effect until he responds to ASTTBC, and until the previous complaint (file 11-24) has been resolved to the satisfaction of the PRB. All Health Authorities were advised of the temporary suspension. Further, that a letter be sent to the complainant explaining ASTTBC's limitations in enforcing resolutions in this situation, and recommending they examine their options in regard to a civil suit. No further action was necessary at this time and this file was closed.

CASE #11-52

STATEMENT OF COMPLAINT

A ROWP installed an onsite sewage system but allegedly did not follow the Standard Practice Manual resulting in damage to portions of the sewage system.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The property owner worked with the ROWP as follows:

"We purchased our home in 2007 but did not live in the home until July 2009. By September of 2009 we had our septic backup in the basement and called in a contractor to clean the septic tank. We were unable to locate the tank as there were no hatches at ground level. My husband was poking rebar down into the ground trying to locate the tank. We got a copy of the as built documents from the Health Authority but were still unable to locate the tank. We called out a plumber-pipefitter who used a locator and camera to find the problem – the pipe attaching the septic to the house was broken off at the house.

We contacted (the ROWP) who installed the system and he came and excavated the tank – the tank was installed without risers to the surface and was buried approx 5 feet under the surface. (The ROWP) advised that he did not backfill over the tank – the owner builder, (name), did the backfilling. (The ROWP) installed risers, fixed the broken pipe and backfilled the tank and charged us approximately \$2,000 for the work.

This year we are building a retaining wall because of other issues, and we hired a geotechnical engineer to design and oversee the building of the wall. When the existing septic field was mapped out, there was a great concern that it was sitting under heavy blast rocks, heavy fill and potentially even under the asphalt of the driveway – I say potentially because we do not know yet. Erosion and water under the edge of the driveway are causing the asphalt to fail. The engineer advised us that we had to relocate the field so a new field was built under the direction of (another ROWP). During the connection of the new field concern was expressed about the wrong pipe being used in the original system – the pipe was compacted to an oblong shape. In addition, the risers were not packed properly and it appears that rocks are protruding into the new tank risers – this can be observed by looking into the hatches. We are currently in the process of digging out the existing field – the engineer wants to know what we find at the end of that."

INVESTIGATION

The ROWP provided the following statement:

“We installed the septic system during the construction of the home for the builder/owner of the property at the time, (name). The system was planned and installed keeping in mind the challenges of an extremely steep lot with limited placement possibilities. The seepage bed was installed and backfilled accordingly, however, due to the house not yet being backfilled and restricted access to the front of the house, the tank was not completely covered. (The owner) planned on completing the backfill of the house and wanted it left that way for ease of his equipment moving around. His crew and equipment backfilled the house, the septic tank and the pipe leading to the house. Any damage which occurred to the pipe was done at that time and (the owner) advises me that the tank was buried to approximately 3 feet below the surface.

According to regulations, we provided (the ROWP) with the required documents, including an as-built of the septic system, a copy of which is enclosed for your reference. (The owner) had also advised me that when he sold the home to (the complainant), he provided them with these documents. When the homeowners contacted him about the leak and locating the septic tank, he reminded them that the documents had been provided to them and they could also get a copy of the as-built from the Health Authority. At this time it was realized that the homeowners had installed a concrete sidewalk over the septic tank without first consulting the as-built. (The original owner) continued to say that he assisted the homeowners with the breaking up of the concrete sidewalk.

It was at this point that we were called in to repair the leak. We removed and dumped the concrete sidewalk, repaired the damage done by (the original owner's) backfill where the pipe was damaged at the house, and provided and installed risers to bring the septic lid to the surface of the yard. We also provided the appropriate gravel products to complete backfilling the risers. This is what we billed the homeowners for and, had we done the job wrong or done the damage ourselves, we would have done the work under warranty and there would not have been a charge. Further to concerns about the field being buried under heavy blast rock and fill, we found upon our return to do the repairs that (the original owner) had placed large rocks along the bank above the field in order to stabilize the steep bank from the house. He had also buried the access to the distribution box. At the time I inspected the field and it was operating properly with no smell or leakage, as designed. Please also note that the as-built shows and photos enclosed indicate the pipe from the septic tank to the field ran along side of the driveway and not underneath it as (the complainant) implied. Once again, the appropriate pipe was used but any damage caused to the pipe was done by (the original owner) tramming material with his equipment over the pipe.

Third party information from the homeowner prompted me to contact (name), the geotech who is working on (the complainant's) new retaining wall. I related to him the statements that (the complainant) attributed to him. He advised that he made no such statements nor any comments about the septic system. He also advised that the seepage bed was in the way of the retaining wall placement she wanted and that was the reason for it being replaced. I asked (the geotech) if there was any effluent on the surface or any smell emitting from the field and he advised there was no indication that the seepage bed was failing in any way, just that the placement was not convenient to her landscaping plans. I also enclose photos I have taken which reiterate (the geotech's) and my observations of the same, that the field was in good working order. I then contacted (name), who installed the new field (name), the ROWP who planned the new field and they concurred with (the geotech), that the field was not a problem, simply the placement was in the way of the planned retaining wall.

The ASTTBC Investigator reviewed all submitted documents including the site and system drawing created by the ROWP and a letter issued to the original property owner when the system was completed

in 2006. The letter is a cover letter for the copy of the Filing given to the owner and notifies the owner that the Filing has been completed and filed with the Health Authority. The documents provided with the letter include the Record of Sewerage System form, the Letter of Certification, the as-built drawing and the maintenance plan. The letter goes on to inform the owner that *“We ask that you read the Maintenance Plan carefully and follow the guideline in order to keep your system working well for years to come. Please keep these documents for future reference; should you ever have to dig on your property, you will have the specifications as to where the system is located. If you have any questions or concerns please contact us.”*

The ASTTBC Investigator contacted several of the parties associated to this complaint, including the geotechnical member associated to the project. The geotechnical member declined to comment but did arrange for another representative, an ASCT who attended the site and is familiar with onsite sewage systems, to discuss his observations. The orientation of the dispersal area with pipes leading down the slope rather than across, as well as the size of the dispersal area, were his concerns but he confirmed that no evidence of breakout was noted. He also confirmed that the dispersal area had to be relocated due to the construction of retaining walls necessary to prevent further settling or shifting of the ground around portions of the property including the area around the home itself.

The Investigator also contacted the non-Authorized Persons assisting with the installation of the second sewage system who confirmed similar details as the ASCT did. The ROWP who installed the second system could not be contacted as he had recently passed away. Several other parties were contacted and the consensus is that risers and backing filling around them were carried out by the general contractor after the ROWP had left the site and the creation of a rock retaining wall, driveway and additional fill placement over top of the dispersal area was undertaken by parties other than the ROWP in question.

DISCUSSION

The complainant appears to hold the ROWP responsible for the actions of the original property owner after the ROWP left the site, and has possibly misrepresented or misunderstood comments made by others regarding the system as installed by this ROWP. Ideally, the ROWP should have taken steps to either prevent the original property owner from backfilling the septic tank, or required that the owner be supervised when doing so to prevent damage, but this is not possible for the ROWP to enforce.

As the system installed by the ROWP no longer exists, and because landscaping and site modifications were undertaken by the property owners and others since then, it cannot be confirmed that the ROWP placed the system incorrectly, broke components, or otherwise was responsible for any system problems. It is much more likely that any damage was caused by the property owners, the general contractor, or others when work was done on the property after the ROWP completed his portion of work, short of installing risers on the septic tank. It should also be noted that the letter provided by the ROWP reminds the owners of the need to protect the system from damage, and they did not bother to consult with these documents, or the ROWP, prior to their modifications.

The complaint made by the property owner appears to be unfounded; however, during a review of the documents submitted by the ROWP, it became clear that the as-built drawing of the site and system created by the ROWP is missing considerable detail as would be expected by the SPM. Further, there are concerns about the missing details within the filing, ranging from design rationale to reasons why the dispersal pipes were oriented down the slope, missing information to show potential breakout points, and similar planning work.

OUTCOME

The Practice Review Board required the ROWP to:

- undertake through courses, workshops, mentoring or other means, to improve his planning documentation to meet the requirements of the Standard Practice Manual. This is to include improvements to site and construction drawings and measurement skills, writing a design

rationale, site investigation and soils log, and a thorough operation and maintenance plan with emphasis on the accuracy and consistency of information.

- that the ROWP immediately arrange with the Manager, OWRP to successfully complete a Practice Assessment.

The ROWP agreed to this, no further action was necessary and the file was closed. Staff continued to monitor to ensure that all conditions were successfully completed.

CASE #11-54

STATEMENT OF COMPLAINT

A ROWP constructed an onsite sewage system and did not file appropriate paperwork with the Health Authority, which is preventing the client from applying for an occupancy permit inspection before the work permit expires. Further, that the ROWP has not responded to repeated telephone calls, emails and text messages from the client.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The client contacted ASTTBC and submitted the following complaint:

“On (date), I hired (the ROWP) to install a waste water septic system, for a new house being built at (address).

We are now 2 years later and the final permit has not been registered with the HA. There was a problem with the control panel at one point during the process and we have not been notified whether this problem has been rectified so that the final permit could be filed.

My work permit for construction of the house, including the septic system is expiring next week. I cannot apply for an occupancy inspection until the septic documents have been filed with the HA. I have made dozens of calls, emails, and text messages to (the ROWP) with no response. All invoices have been paid.

I would appreciate if you would advise me as to what my next step should be to get this septic contract closed and filed with the property authorities.”

INVESTIGATION

The ASTTBC investigator reviewed the complaint, and a copy of the complaint with a request for comment was forwarded to the ROWP. The ROWP has not responded.

DISCUSSION

The ROWP has not responded to the allegations made by the complainant. For this reason, and the fact that the complainant is not in possession of any photographs of the installation, few conclusions can be drawn at this time.

However, it would appear that the Letter of Certification and other documents have not been filed by the ROWP, as they are required to be. The reasons for this are not known.

At the time of writing this report, the ROWP had two previous complaints against him (file 11-24 and file 11-51) that was investigated, and censure conditions were recommended by the PRB. The ROWP has not responded to notice of censure conditions.

OUTCOME

The Practice Review Board determined that based on Regulation 4.7 d, his ROWP registration was to be suspended. The ROWP was informed that he still has the option to respond to the complaint or to proceed to a Disciplinary Hearing. The ROWP's suspension will remain in effect until he responds to ASTTBC, and until the previous complaint (file 11-24) has been resolved to the satisfaction of the PRB. All Health Authorities were advised of the temporary suspension. Further, that a letter be sent to the complainant explaining ASTTBC's limitations in enforcing resolutions in this situation, and recommending they examine their options in regard to a civil suit. No further action was necessary and the file was closed.

CASE #11-56

STATEMENT OF COMPLAINT

A ROWP installed an onsite sewage system within a road right-of-way, and ignored required setback distances during system planning and installation phases.

These allegations, if found to be true, would be contrary to Principles 1, 4 & 5 of the ASTTBC Code of Ethics.

BACKGROUND

The property owner hired a ROWP, to plan and install an onsite sewage system. The ROWP carried out this work, and subsequent reviews of the site by BC Ministry of Transportation and Infrastructure staff identified that the system and several landscaping features appeared to be located within a road right-of-way. MOTI staff contacted the property owner, and this eventually resulted in MOTI staff filing a complaint against the ROWP with ASTTBC. The complaint includes the following excerpt:

“Several field reviews of the site have been made by various Ministry employees over the last few weeks, myself included. The Ministry has concerns with works being done within the road right of way, specifically property infill which appears to have been done to partially accommodate the septic system and field. Measurements taken from the location certificate shows a 5m setback from the deck posts indicate that some of the septic pump chamber features and possibly a portion of the septic field may fall outside of the property boundaries. Attached is a photo showing an approximation of the property line and the pump chamber features. Also attached is a copy of the filing by (the ROWP), including a sketch of the system and field.

I have concerns with the installation of the system and the available property that the lot provides to accommodate the system. I believe that a portion of the system may be located within the road right of way; therefore, there is no availability for adequate breakout points, which I don't think has been considered by (the ROWP) in his design or installation. I have concerns with the topography of the area and adequate drainage with the possibility that drainage may affect the proper functioning of the system. The development of the property and location of the septic system and field has created a difficult situation for the Ministry, adequate area to construct ditching and provide roadside drainage has been negatively impacted.

I would like the Association to be aware of this situation. The Ministry does not permit septic systems to be located within road right of way. I would expect that all required setback and breakout distances be adhered to during the design and installation of a septic system by an ROWP.”

INVESTIGATION

The ASTTBC Investigator reviewed the complaint, and a copy was sent to the ROWP for review and rebuttal. The ROWP provided a statement where he claims that the septic system was not encroaching on the property line or right-of-way and that the photograph provided by the complainant, which shows a red line to represent the property line, was incorrect. No other details were provided by the ROWP.

The rebuttal was reviewed and forwarded to the complainant for comment. The complainant responded with the following:

"I have spent considerable time discussing the development of the property with the owner, (name); Ministry of Transportation and Infrastructure employees (name), (name) and (name); Regional District of (name) Building Inspector, (name). I have spent time in the field looking at property boundaries and the location of features in relation to these boundaries. I have discussed the boundaries and property pin locations with the land surveyor who prepared the certificate of location and building layout. Although I have not discussed the property directly with (the ROWP), (MOTI staff) had met with (the ROWP) and has relayed their meeting and conversation to me.

I would like to clarify some of the statements that (the ROWP) has made in his letter. It's correct that the landscape features (rock walls) are a concern to the Ministry, having been partially constructed into the road right of way. (The owner) has recently removed most of the rock structures from the right of way, leaving some of the rocks and fill material to leave some protection for the septic system. The property owner has not adequately dealt with drainage, causing concern for the road surface as well as possible property concerns that may affect the road structure. Although I cannot confirm the exact location of the underground septic field; measurements from survey data along with the provided sketch submitted by (the ROWP) for the filing of the system, indicates a very high probability that part of the system may be within the right of way, and at the very least, does not provide adequate breakout distance to the property boundary. I am not disputing the quality of (the ROWP's) work; my concern is that the available property and topography once the house has been constructed may not provide sufficient area to support a fully contained system and adequate breakout distances."

The ASTTBC Investigator reviewed all submitted documents including the site and system drawing created by the ROWP. An individual associated with the Onsite Wastewater Registration Board who lives near the subject site was also asked to drive by the site to provide their impressions as to the concerns of MOTI staff.

DISCUSSION

Beyond quality issues noted within the other Filing documents, the drawing of the site and system created by the ROWP is far from the level of quality required by the SPM. For example, the drawing gives a scale value, but as there is no scale bar and as the document has been copied and scanned several times, resulting in size fluctuations, therefore the scale cannot be relied upon. Further, there are no measurement values given, nor grid squares present to assist with a determination of distance. Because of the low quality of this drawing, it is also impossible to tell that there is a significant slope to the property or any other topographical features. Due to this, there is no way to determine the location of the buried onsite system components without physically exposing them and measuring the distance to the property line.

Given the information provided by both sides to this matter, the question regarding the actual location and position of the system components remains, and the ASTTBC Investigator is concerned that the system may not meet BC Standard Practice Manual setback requirements.

OUTCOME

The Practice Review Board required the ROWP to:

- expose the onsite sewage system as necessary to prove that it does meet all setback requirements and provide MOTI, ASTTBC and the property owner with photographic evidence of this, acceptable to ASTTBC. Further, if the system did not meet the required setbacks, that the ROWP make modifications to the system as necessary and allowable under the BC SPM, at his own expense, and provide proof of this to MOTI, ASTTBC, the Health Authority and the property

owner, that is acceptable to ASTTBC. Prior to making any required modifications, the ROWP should submit a plan acceptable to the Manager, OWRP, by (date).

- undertake through courses, workshops, mentoring or other means, to improve his drawing skills to meet the requirements of the Standard Practice Manual. This is to include improvements to site and construction drawings and measurement skills, and should be completed by (date).
- that the ROWP immediately arrange with the Manager, OWRP to successfully complete a Practice Assessment.

The ROWP agreed to the PRB recommendations, no further action was necessary and the file was closed. Staff continued to monitor to ensure that all conditions were successfully completed.