

ONSITE WASTEWATER CASE SUMMARIES 2020

CASE #16-22

STATEMENT OF COMPLAINT:

The Complainant alleged that the Respondent conducted a pre-purchase inspection of a septic system then provided an inspection report that was inaccurate and negatively impacted the sale of the Complainant's house. Further, that the Respondent was rude towards the Complainant's wife. The Respondent is a Registered Onsite Wastewater Practitioner (ROWP) certified in the Planner, Installer and Maintenance Provider categories.

INVESTIGATION:

An investigation was initiated and found insufficient evidence to prove the allegation of rude behaviour. The investigation also determined that the Respondent inspected a septic system when not certified in the ROWP Private Inspector endorsement. However, the British Columbia Sewerage System Regulation (SSR) and the BC Standard Practice Manual (SPM) do not stipulate that individuals providing onsite wastewater inspection services must be registered as Authorized Persons (AP). The SSR defines "authorized person" as a registered onsite wastewater practitioner (ROWP) or a professional and "construct" includes (a) to plan or conduct a site assessment in respect of a sewerage system. The SSR does not include or make reference to inspector, inspection or inspecting a system. The requirement to have the Private Inspector endorsement when conducting a septic system inspection is a requirement of the ASTTBC Onsite Wastewater Practice Guidelines.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and determined there was insufficient evidence to support the alleged rude behavior. The PRB required that ASTTBC review the Onsite Wastewater Certification policy and Practice Guidelines to comply with requirements specified in the Sewerage System Regulation and the ASTTBC Bylaws under the Professional Governance Act.

OUTCOME:

No further action was required and the file was closed.

CASE #19-09

STATEMENT OF COMPLAINT:

That the Respondent's conduct was unbecoming of an ASTTBC registrant as they did not conduct themselves in good faith towards clients in a fair and courteous manner and did not give honest professional opinion. The alleged conduct is in breach of Principle 7 of the ASTT Code of Ethics. The Respondent is a Registered Onsite Wastewater Practitioner (ROWP) certified in the Planner, Installer and Maintenance Provider categories.

INVESTIGATION:

The Respondent was contracted to design and install a new septic system on the Complainant's property. Upon installation of the system, the Complainant began experiencing problems with the system performance; however, the Respondent failed to address the Complainant's concerns and any attempts at a resolution with the Respondent were unsuccessful. In addition, the Respondent did not provide a letter of certification and maintenance plan to the Complainant, who subsequently filed a complaint with ASTTBC.

An investigation was initiated, wherein the Respondent provided comments on the complaint, claiming they did respond to the Complainant. The Respondent also advised that all documentation had been filed with the Health Authority and the Complainant had been advised a copy was available for pick up but the Complainant failed to do so. The copies of the Filing and certification documents the Respondent provided to ASTTBC included a letter issued by the

Health Authority to the Respondent as a reminder to submit a Letter of Certification or the Filing would expire. This contradicted the Respondent's assertion that all documentation was made available to the client after system installation.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and found that the construction of the sewage system was not in compliance with the Sewerage System Regulation. The PRB also concluded that as the Respondent's communication with the Complainant had been less than adequate, the Respondent's actions were contrary to Principle 7 of the ASTTBC Code of Ethics

Therefore, the PRB required that, to demonstrate compliance with the Sewerage System Regulation the Respondent submit their next 3 Filings and Letters of Certification documentation to ASTTBC, to be reviewed by an independent Quality Assurance Specialist (QAS) at the Respondent's cost. The Filings and Letters of Certification that will be stamped by the Respondent shall be prepared to the satisfaction of the QAS and when submitted to the Authority Having Jurisdiction, shall be accompanied by a letter from the QAS, with a copy to ASTTBC. The Filings may be provided individually.

OUTCOME:

The Respondent accepted the PRB requirements and the Authority Having Jurisdiction (AHJ) was notified accordingly. ASTTBC will continue to monitor the file to ensure completion of all conditions.

No further action was required and the file was closed.

CASE #19-10

STATEMENT OF COMPLAINT:

That the Respondent, a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories, did not honour their original cost estimate for a sewage system and did not submit a Filing in a timely manner thus delaying the issuance of a building permit.

INVESTIGATION:

The investigation found that the Respondent agreed to provide an estimate to their client for planning and installing an onsite wastewater system for a 3-bedroom house with a workshop. A site and soils assessment was conducted based on verbal description of the house and workshop to be constructed. The Respondent provided the client an estimated cost for the system before receiving the final plans for the house and workshop. When the Respondent subsequently received the plans, the proposed area of the house was 4,000 square feet, and considering the house to be a luxury home determined the need for a larger system. The plot plan showing the elevation and location of the workshop in proximity to the septic system further added to the overall cost.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and concluded that the Respondent's actions were in accordance with the Onsite Wastewater Practice Guidelines. However, the PRB also noted that the Home Owner Declaration was less than adequate and had not been signed by the client. Therefore, the PRB required that the Registrar write a letter to the Respondent reminding them of the importance and requirement to obtain a signed Home Owner's Declaration prior to planning any septic systems.

OUTCOME:

The Registrar accordingly sent a letter to the Respondent. No further action was required and the file was closed.

CASE #19-17**STATEMENT OF COMPLAINT:**

That the Respondent, a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories, constructed sewage systems that were non-compliant with the requirements of the Sewerage System Regulation (SSR), the Standard Practice Manual Version 3 (SPM), Public Health Act (PHA) and the Waste Management Act (WMA).

Of the four sites listed in the complaint, the Respondent did not adhere to setback requirements for 3 sites, nor did they comply with requirements for document submission to the Health Authority. For the fourth site, their own residence, the Respondent used their vehicle to pump and haul sewage into an unauthorized septic system on the property. The sewage then discharged onto the ground in a manner considered to be a health hazard, resulting in a Ministry of Environment on-site inspection and subsequent issuance of a Pollution Prevention Order.

INVESTIGATION:

A preliminary investigation was initiated, which included a review of the documents Island Health had provided to ASTTBC with the complaint. The review indicated that the documents were non-compliant with the SSR, SPM Version 3, and ASTTBC's Onsite Wastewater Practice Guidelines.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The Practice Review Board (PRB) reviewed the complaint and concluded that the Respondent's actions were contrary to Principle 1 of the ASTTBC Code of Ethics. Therefore, the PRB resolved that the Respondent be levied a fine of \$500, as a deterrent to future violations of the ASTTBC Code of Ethics. Further, to demonstrate compliance with the Sewerage System Regulation the Respondent was required to submit their next 3 Filings and Letters of Certification documentation to ASTTBC, to be reviewed by an independent Quality Assurance Specialist (QAS) at the Respondent's cost. Prior to submitting the Filings and Letters of Certification to the Health Authority, the Respondent had to provide ASTTBC with a letter of approval from the QAS. The PRB also instructed ASTTBC to advise the Health Authority upon the Respondent's acceptance of the PRB conditions.

OUTCOME:

The Respondent paid the fine and submitted their Filings and Letters of Certification documentation as required. A Quality Assurance Specialist (QAS) reviewed the documents and made recommendations for improvement which were conveyed to the Respondent, who subsequently submitted revised documents after making the necessary corrections. When the Filings and Letters of Certification were deemed by the QAS to meet minimum standards an appropriate letter was provided to the Respondent for submission to the Health Authority.

The Health Authority was advised regarding the requirement for the Respondent's next 3 Filings and Letters of Certification to be accompanied by a letter from a Quality Assurance Specialist (QAS). When the document review was complete the Health Authority was also notified that the Respondent no longer required a letter of confirmation when submitting Filing or Letters of Certification documentation.

The PRB was updated accordingly and determined that the Respondent had complied with its requirements and no further action was required. As directed by the PRB, staff provided a closure letter to the Respondent wherein they were reminded of ASTTBC's expectation that as a registrant they were expected to comply with the ASTTBC Code of Ethics as well as applicable practice standards, including but not limited to practising only within the scope allowed by their certification, practising in compliance with the Sewerage System Regulation and the Standard Practice manual, and following applicable practice guidelines. The Respondent was also advised that, as part of their Continuing Professional Development, they may wish to undertake additional education in order to support them in a safe and competent practice going forward.

The file was closed.

CASE #20-01

STATEMENT OF COMPLAINT:

That the Respondent, a Registered Onsite Wastewater Practitioner (ROWP) in the Planner and Installer categories, planned and installed a sewage system on the Complainant's property that does not function as intended during harsh winter conditions. Further, that the Respondent was unwilling to facilitate any resolution to the matter.

INVESTIGATION:

An investigation was initiated, which included a review of the Respondent's documentation for the septic system. In response to the complaint, the Respondent also advised that when they attended the site to add heat tape to the system, they asked the Complainant (homeowner) to have the sand mound covered with additional soil or hay bales as an added insulating factor. However, when the system froze for the second consecutive year, the Respondent enquired about the additional soil or hay bales, and found their instructions had not been followed.

The investigation found that the Respondent complied with the BC Sewerage System Regulation Standard Practice Manual v3 (SPM) standards related to the design of septic systems in cold climates, and had implemented common strategies and proposed additional steps that are aligned with SPM standards and guidelines. However, the Complainant did not follow the Respondent's advice on how to reduce the risk of the system freezing in cold weather conditions.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

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

OUTCOME:

No further action was required and the file was closed.

CASE #20-02

STATEMENT OF COMPLAINT:

That the Respondent's conduct was unprofessional. The Respondent is a Registered Onsite Wastewater Practitioner certified as Planner, Installer and Maintenance Provider.

INVESTIGATION:

The Respondent was hired to design and oversee the construction of a sewerage system for a new house on the Complainant's property. The system was to be installed by the Complainant. The Respondent did not reside in the same area as the Complainant therefore most of the inspections were performed via photos sent by the Complainant to the Respondent. The complaint alleged that the Respondent missed appointments and did not return the Complainant's phone calls. When the Complainant completed the system, the Respondent was slow to respond with respect to the final inspection. The Complainant then found out from the Health Authority (HA) that there was no Record of Sewerage System (RSS) having been filed. By then the relationship had deteriorated and the Complainant filed a complaint with ASTTBC.

The preliminary investigation found several factors that appeared to have contributed to this complaint. The extent of oversight that the Respondent as the Authorized Person would provide to the Complainant during the installation was either not well defined or misunderstood by both parties. The construction of the system was slow and intermittent over a long period, partly due to the pace at which the Complainant was progressing with the installation. Another challenge was the Complainant's reluctance to pay the Respondent's travel and accommodation costs, relying instead on the Respondent's travel to the area for other ongoing projects.

The investigation also found an error with respect to the filing of the RSS. The Respondent submitted an electronic filing to the HA, and assumed it had been received without confirming receipt or questioning why the HA did not send confirmation of some sort.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and found insufficient evidence to support the allegation of unprofessional conduct. However, the PRB did note the lapse with respect to the filing of the RSS for the system, and considered the Respondent's actions in this regard as a breach of the ASTTBC Code of Ethics Principle 1: *Hold paramount the safety, health and welfare of the public, the protection of the environment and the promotion of health and safety within the workplace.* Therefore, the PRB levied a fine of \$250 as a deterrent to future violations of the ASTTBC Code of Ethics. The PRB also required that the Registrar issue a letter of caution to the Respondent as a reminder of the importance of confirming that all necessary documentation for any onsite wastewater construction projects undertaken are in place.

OUTCOME:

The Respondent was accordingly issued a letter of caution, and complied with the PRB requirement by paying the fine levied. No further action was required and the file was closed.

CASE #20-04

STATEMENT OF COMPLAINT:

The Complainant alleged that the Respondent designed and installed a septic system that did not meet setbacks, as it was less than 100 feet from a creek.

INVESTIGATION:

The Complainant's neighbour originally had an old septic system on the Complainant's property. Approximately 8 years ago, the neighbour had a new system constructed on their own property. The Respondent was contracted to design and install the system. The Complainant alleged that the Respondent deactivated the old septic system but failed to remove the septic tank and pipes, and made no attempt to remediate the soil around the deactivated system back to its natural state. The Complainant also alleged that the Respondent constructed a septic system on the adjacent property that did not meet setback requirements, as it was less than 100 feet from a creek.

Although the system was constructed approximately 8 years ago, the allegation regarding lack of setback was considered current, and the Respondent was asked to provide an explanation. Documents received from the Respondent provided a clear and reasonable explanation of the system design and installation that was compliant with the Sewerage System Regulation and Standard Practice Manual at the time.

PRACTICE REVIEW BOARD RECOMMENDATIONS:

The PRB reviewed the complaint and resolved that as the written notification of the complaint was outside of 2 years of the occurrence of the substance of the complaint, the complaint was considered to be extinguished.

OUTCOME:

No further action was required and the file was closed.