

PRACTICE REVIEW BOARD

CASE HISTORIES AUGUST 16, 2006 TO SEPTEMBER 27, 2007.

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, Mechanical, Metallurgical and Mining disciplines. The ASTTBC also grants technical specialist certification in technical areas such as building design, construction safety, fire protection, house and property inspection, onsite wastewater, public works inspection, site improvements surveys, steel detailing and timber cruising.

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

The ASTTBC Council has charged the Practice Review Board (PRB) of ASTTBC with the responsibility for enforcement of the ‘Code of Ethics’ for member’s professional practice and conduct, as well as with protecting ASTTBC’s titles and designations. The following report reflects the activities and resolved case files of the PRB.

It is the policy of ASTTBC to only report on the specific details of cases (names, places and dates etc.) when the case has resulted in censure as a result of a Disciplinary Hearing or the PRB has determined it is in the public interest to have such information provided.

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September 27, 2007

**Report from Practice Review Board For Complaint Cases Resolved For
AScT or CTech Members - (cases received since August 16, 2006)**

CASE #06-53

STATEMENT OF COMPLAINT

It was alleged that a house inspection report provided to the complainants, from a certified and registered Applied Science Technologist (AScT) member, certified in the Building Discipline, was not up to basic standards and therefore the member was negligent in his duties as a professional.

BACKGROUND

The complainants retained the services of an AScT member registered in the Building Discipline as they had submitted an offer to buy property. The complainants had expectations the member was competent in this field due to the member's extensive experience in building technology.

INVESTIGATION

The member in question was not certified and registered with any house inspection organization in BC and, due to a lack of regulatory requirements, was only governed professionally by the ASTTBC Code of Ethics. It was noted that the member had undertaken a home study course in home inspection from the 'American Home Inspectors Training Institute' in the 1980s. The member also had fifteen years experience as a general contractor and was a technical representative for the New Home Warranty Program. The member claimed that his company had successfully completed some 300 inspections to-date. The complainant's list of complaints was quite extensive, however, no evidence of a breach of the ASTTBC Code of Ethics could be proven. There was evidence to suggest a serious lack of communication between the complainants and the member. It did not appear that the complainants were aware of what to expect from a house inspection report and the member did not include in his report an explanation as to why obvious places where an inspector should have inspected, were not. Of interest to the investigation is the time line of the events. The occupancy of the house was two months after the house inspection. There also seemed to be a lengthy delay of eight months before the complainants complained to the member about the deficient report. Also, it is noted that the member had returned the cost of the inspection to the complainants.

DISCUSSION

Since the Province of British Columbia has not regulated the practice of home inspectors, there are no standards of practice that could apply or be forced on an AScT member practicing in this area by ASTTBC. While there may have been a possible issue related to errors and omissions, these would need to be resolved by the courts and are not within the mandate of ASTTBC to pursue. There were concerns, however, with an AScT practicing in house inspection services without being certified as either a CHI or CPI.

OUTCOME

The Practice Review Board informed the member and complainants that an investigation determined that the conditions reported did not show evidence of a breach of the ASTTBC Code of Ethics.

The Practice Review Board went on to advise the member that:

1. The member's house inspection reports should be upgraded to a level that explains the reasons why an area is not inspected.
2. The member should consider becoming registered as a CHI with ASTTBC; which has required 'Standards of Inspection' to be used for clients in order to inform them of the purpose, scope and limitations of a house inspection.

The file was then closed with no further action required.

September 27, 2007

**Report from Practice Review Board For Complaint Cases Resolved In
FIRE PROTECTION - (cases received since August 16, 2006)**

CASE #Misc.5.4.2

STATEMENT OF COMPLAINT

It is alleged that a Registered Fire Protection Technician (RFPT) had been entering businesses claiming that their annual service is due, from up to four months prior to the service actually being required. Further, that the public, believing the individual's service requirement claims, allowed the service to be performed and did not find out the truth until the complainant RFPT member followed up with his clients at an appropriate later time.

BACKGROUND

The inspection and testing that is being referenced is the maintenance of fire extinguishers and emergency lighting. These systems or pieces of equipment are required to have an annual inspection and test. If they are being tested before that due date then the business owner is not getting full value for the original inspection and test.

INVESTIGATION

The municipality where the event took place did not have a bylaw in place requiring ASTTBC certification and the individual being complained about was not certified by ASTT at the time.

DISCUSSION

Since the individual was not a member of ASTTBC during the time of the reported incident, there was no jurisdiction or mandate for ASTTBC. The authority having jurisdiction (local Fire Department) was advised of the situation.

OUTCOME

The Practice Review Board determined that, since this complaint took place in a municipality where there is no bylaw in place and the individual against whom the complaint is alleged, is not a certified fire protection technician, ASTTBC had no jurisdiction. Therefore, no further action was required and the file was closed.

CASE #06-64

STATEMENT OF COMPLAINT

It was alleged by a Registered Fire Protection Technician (RFPT) that another RFPT had removed tags, prior to the expiration of the required service date, from a premises that had been previously inspected by the original RFPT complainant. Further that, in addition to three fire extinguishers, one emergency

lighting unit was also certified; services for which the RFPT member in question was not certified to provide. It was also alleged that that the offending RFPT missed one emergency light unit, as well as another fire extinguisher, and failed to provide a service report to the owner of the property.

BACKGROUND

A RFPT member, who was certified in Fire Extinguishers only, provided inspection services in a municipality that did not have a fire protection bylaw in place and did not require ASTTBC inspection and test forms. While the code stipulates that the inspection and maintenance of fire extinguishers shall be no more than one year apart, the member did the work about 2 weeks prior to being required by code.

INVESTIGATION

The RFPT member, against who the complaint was laid, advised ASTTBC that he only went where the occupant took him rather than doing a thorough inspection to look for other fire protection equipment. As a result, the RFPT missed the Emergency Lighting Unit and the Fire Extinguisher alleged in the complaint. The investigation revealed that the member also failed to conduct a proper inspection of the Emergency Lighting Unit, as he did not red tag a lighting unit that had the failed battery test even though he did report it on the invoice. He stated that the occupant advised that they could not authorize the expenditure and to leave it.

The RFPT complainant was contacted and he stated that his major concern was that the RFPT in question appeared to be raiding his customers by entering a premises and doing the work prior to the work being required, which he believed to be unethical practice. He was also concerned that his fellow member provided services for which he was not certified by ASTTBC, namely inspection and testing of Unit Emergency Lighting. The main reason stated for the complaint was the unprofessional response he received (“was greeted with vindictiveness and arrogance”) in a telephone conversation he made in an attempt to discuss the matter with this fellow member.

DISCUSSION

Issues that the Practice Review Board (PRB) had to deal with were:

1. Is it unethical to solicit business two weeks prior the expiry date on the tag?
2. Does a RFPT member have to be certified in Unit Emergency Lighting when the authority having jurisdiction has no fire protection bylaw in place?
3. The RFPT member did miss one Fire Extinguisher and one Emergency Lighting Unit, but it was noted that he did not stamp the Emergency Lighting Unit tag.

The PRB determined that the member should be given the benefit of doubt and assume that he was making a cold call trying to get business, even though the services were provided two weeks prior to the required inspection date. Had his site visit been significantly earlier it might be cause for concern. Also, the owner could have checked the tag to see when the next service was required and rejected the member’s services. However, it was determined that the RFPT had provided incomplete services on the Emergency Lighting Unit. The member had admitted to not doing a thorough inspection or properly tagging the Emergency Lighting Unit.

OUTCOME

While the PRB did not find that the RFPT member specifically breached the code of ethics, it did have concerns about the member's practice. The following issues were brought to the member's attention for future improvement:

1. he must ensure that all fire equipment adheres to the code and is tagged accordingly.
2. the member must be sure to exercise appropriate due diligence and identify all equipment that needs inspection.
3. even though the authority having jurisdiction does not require it, it was recommended that the member become certified in Unit Emergency Lighting should he continue to provide that inspection service.

CASE #07-06

STATEMENT OF COMPLAINT

A Registered Fire Protection Technician (RFPT) member used a service tag with another member's stamp imprint on the tag and affixed it to an emergency lighting unit.

BACKGROUND

A RFPT member (#2) on a service call to a customer discovered that another RFPT (#1), against whom the complaint was laid, had been on the customer's premises approximately one month prior to the required due date and completed the service. RFPT #2 noticed that RFPT #1 had tagged the fire extinguishers with his stamp imprint on the tags. RFPT #2 further noticed that RFPT #1 had serviced the emergency lighting unit using a third RFPT (#3) member's tag with #3's stamp imprint on it.

RFPT #3 had previously been a partner in RFPT #1's company but had terminated the partnership approximately five months earlier.

INVESTIGATION

An investigation of the site revealed that four fire extinguishers on site had RFPT #1's tag on the extinguisher. One emergency lighting unit did have a tag affixed with RFPT #3's stamp. Also, the tag in question appeared to be initialed but the initials were not decipherable. There are different dates on the extinguishers and the emergency lighting unit tags. The owner of the property advised that RFPT #1 did the fire extinguishers on one day and came back on another day to complete the unit emergency lighting unit.

RFPT #3 was questioned on how RFPT #1 had his tags. RFPT #3 responded that he had ended his partnership with RFPT #1 and there must have been some of his stamped tags left in his service truck. He was also training two of their technicians and they may have been in possession of some of his tags. RFPT #3 clearly stated that 'the tags were used without his approval'. He further advised ASTTBC that all tags left in the possession of RFPT #1's company had been destroyed. RFPT #3 also advised that he fully understands his responsibility in ensuring the care and control of his tags and that he would take all necessary steps now and in the future to avoid the possibility of them becoming lost or stolen.

DISCUSSION

Upon hearing of the evidence against him, RFPT #1 responded to the complaint admitting that he did in fact use RFPT #3's pre-stamped tag on an emergency lighting unit and took full responsibility for this matter. It was noted that RFPT #1 was not certified for inspection of emergency lighting units.

OUTCOME

The Practice Review Board issued a Stipulated Order to RFPT #1 with the following conditions:

- The member was required to complete, to the satisfaction of ASTTBC both the ASTTBC Ethics Exam and the Professionalism in Practice Module and come to the ASTTBC office at a pre-determined time to write these two exams
- The member was required to pay a fine of \$500.00
- The member's Fire Protection Technician certification was suspended until such time as he has satisfactorily completed the ASTTBC Ethics Exam and the Professionalism in Practice Module and paid the \$500.00 fine
- The member was required to surrender his stamp to ASTTBC

The RFPT member subsequently completed the terms of the Stipulated Order and no further action was required; the member was reinstated and the file closed.

The Practice Review Board advised RFPT #3 that, since he has taken responsibility to ensure that in the future he will take appropriate steps to ensure his tags are not lost or stolen, no further action was required and his role in this matter was considered closed.

CASE #07-07

STATEMENT OF COMPLAINT

It is alleged that a Registered Fire Protection Technician (RFPT) approved an inspection of a fire hose station, which he is not certified to approve. The RFPT is registered only in Unit Emergency Lighting (EM) and Fire Extinguishers (EX) systems.

BACKGROUND

The complaint came from an inspection of service tags on a fire hose station.

INVESTIGATION

The following response was received from the RFPT member:

“The inspection I performed was upon the hose only. I do not perform inspection on any stand pipe system only upon the hose as instructed to me by my employer. It is my understanding that an inspection for hydro due date, visual inspection for tears or rips, ensure nozzle is closed and adjust hose on metal pins to avoid wear in one spot is allowed. It is for this I have tagged the HOSE only.”

DISCUSSION

Prior to the certification program this had been normal practice for fire extinguisher technicians to service the hose systems in hose cabinets. Fire extinguisher techs did this because a fire extinguisher is usually

located in a hose cabinet. The inspection and testing of the above systems falls under NFPA 14 which is under the umbrella of water based fire protection systems. Technicians without the “WA” designation are not acceptable to conduct the inspection, testing and maintenance of hose and hose cabinets. The Practice Review Board believed that this technician did not know he was not allowed to service the hose in the cabinets.

OUTCOME

The Practice review Board (PRB) accepted the RFPT’s explanation of his misunderstanding of his level of certification and registration. The PRB reminded him that he must ensure he no longer provides services outside of his certification and registrations and that no further action was required and the case was closed.

As a result of a PRB request, a practice bulletin explaining as to who may or may not perform inspections on stand pipe systems was sent to all Fire Protection Technicians.

CASE #07-08

STATEMENT OF COMPLAINT

It was alleged that an individual, who had been previously registered with ASTTBC as Registered Fire Protection Technician (RFPT), was using his expired Fire Protection member (FP) number for inspection work he was performing.

BACKGROUND

The individual had not been a member of the ASTTBC Fire Protection Special Certification group for four months prior to the complaint. He had also been requested to return ASTTBC’s certification stamp at the time that his membership was cancelled.

INVESTIGATION

An investigation confirmed his use of the expired FP number, but not the use of the ASTTBC stamp. A letter was sent to him with a request that he immediately cease using his expired FP number.

DISCUSSION

Upon receiving a cease and desist letter from ASTTBC, the individual submitted a notarized letter stating that he no longer had possession of his expired stamp and that it was probably destroyed. He also stated that he would no longer use his expired FP number.

OUTCOME

Based on the individual’s cease and desist assurances, the Practice Review Board sent a letter advising that, since he no longer had possession of his expired stamp and he would no longer use his expired FP number, no further action was required and the file was closed.

September 27, 2007

**Report from Practice Review Board For Complaint Cases Resolved In
HOUSE INSPECTION - (cases received since August 16, 2006)**

CASE #06-66

STATEMENT OF COMPLAINT

It is alleged that a Certified Property Inspector (CPI) member of ASTTBC failed to identify and report an item of damage that should have been found during a normal house inspection.

BACKGROUND

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

INVESTIGATION

The ASTTBC Certified Technician member is also a member of the British Columbia Institute of Property Inspectors (BCIPI) as a CPI and owns his own inspection company. ASTTBC's investigation was limited to the inspection report, the letter of complaint, and the member's response; with the BCIPI Standards of Inspection as a guide. The member stated that he did not see or smell or otherwise suspect that damage had occurred previously to the property.

DISCUSSION

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

OUTCOME

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

CASE #07-01

STATEMENT OF COMPLAINT

It is alleged that a Certified Property Inspector (CPI) member of ASTTBC provided an improper report on air quality to a tenant of the complainant, resulting in the complainant having to pay damages to the tenant.

BACKGROUND

The ASTTBC Certified Technician member is also a member of the British Columbia Institute of Property Inspectors (BCIPI) as a CPI and owns his own inspection company. The member is also a qualified CMHC Indoor Air Quality Investigator, having completed their course. The complainant is the owner of a rented house in which the indoor air quality investigation was conducted, by the member, for the tenant of the house. The investigation was conducted and a report given to the tenant indicating that there was a mold problem in the house and that there was extensive mold in the attic. The tenant used this report to negotiate a termination of tenancy through an arbitrator. The complainant states that he had to pay damages due to the 'evidence of mold'. The complainant does not think the report was at all accurate since he claimed that he had building contractors inspect his attic and there was no mold present, only stains on the lumber (concrete foundation forms used again as sheathing for the roof) that were present when the house was built thirty years ago. The complainant also claimed that the member trespassed onto his property by accessing the attic by the ceiling hatch.

INVESTIGATION

The ASTTBC investigation was limited to the inspection/investigation report, the letter of complaint and the member's response. The investigation referred to the CMHC indoor air quality guidelines for reporting and the member's pictures. The pictures (of the attic space) in the investigation report proved not to be useful due to the dark quality. Also, the report was not very descriptive and did not follow the usual format of an air quality investigation. The instructions provided to the member by his client could not be determined, however, it is clear that the report satisfied his client who subsequently used this report and possibly other information to obtain a release from the contracted rental lease. The complainant's claim that there was no mold in the attic cannot be substantiated, as he has not had the area tested by qualified people and provided a report. On the claim of trespass, there is not a valid case of trespass and it is clear that the member had no intention of trespass when he took pictures from the hatch opening.

DISCUSSION

The investigation could find no evidence of a breach in the ASTTBC Code of Ethics. It was surprising that the member was a little naive in thinking that an investigation report would not be used as leverage in an official way.

OUTCOME

The Practice Review Board (PRB) advised the complainant and member that there was no substantiated evidence of a breach of the ASTTBC Code of Ethics. The PRB further advised the member that it would seem naive on his part not to think his investigation report would not be used as leverage in an official way and therefore he should rethink his decision not to carry liability coverage. The file was closed and no further action was required.

September 27, 2007

**Report from Practice Review Board For Complaint Cases Resolved In
ONSITE WASTEWATER - (Since August 16, 2006 Report)**

CASE #06-31 (#06-62 resolved under same practice review)

STATEMENT OF COMPLAINT

A Public Health Inspector with the Northern Health Authority, sent a letter of complaint and supporting documentation (complete with photographs) reporting the failure of a Registered Onsite Wastewater Practitioner (ROWP) to provide a required Filing and letter of certification for the installation of an onsite wastewater system. The letter of complaint also expressed concerns with the standard of practice used in the design and installation of the system (#06-31).

While the first complaint was under practice review, a second complaint (#06-62) was received from the same Health Authority office, regarding the member's Filing on another property, which expressed concerns with possible inadequacies of the system design.

BACKGROUND

The member was issued a violation ticket by the Northern Health Authority (NHA) for his failure to provide appropriate Filing documents for the system under complaint #06-31. Subsequent to this, it appears that the member satisfied the Filing requirement with the NHA. The issue of whether the member conformed to the requirements of the Ministry of Health's Standard Practice Manual (SPM), as required by the Sewerage System Regulation, remained to be resolved.

While the Practice Review Board (PRB) was dealing with this practice review issue a second complaint was received for concerns of a Filing made by the member for a planned system (complaint #06-62). The member was asked by ASTTBC not to install the system until a technical review of the system could be carried out by ASTTBC. The member complied with the request.

INVESTIGATION

ASTTBC received a letter from the member in response to the #06-31 complaint and a further comment from the NHA complainant in response to the member's explanation of the matter. Two investigators were appointed to independently review the documentation and supporting evidence. In addition, during the investigation, the contents of the Maintenance Plan for the site became an issue and the member was required to provide this document. The member failed to cooperate in a timely manner with several written and verbal requests to provide the Maintenance Plan and ASTTBC was forced to obtain a copy of the Filed Maintenance Plan from the NHA, thus delaying the outcome of this case and presentation to the Board.

The second case (#06-62) was deemed to have similar underlining elements related to the member's practice and the PRB decided to handle both matters simultaneously. Upon a technical review of the member's Filing for a proposed system, several deficiencies were identified as not meeting the SPM. The member was informed about the identified deficiencies and was advised that these should be addressed prior to the system being installed. The deficiencies identified were as follows:

- i) It was unclear in the Filing form if 'total depth to highest water table or restrictive layer' is +150 cm, as indicated, and/or 'total existing fill on lot' is 0 (or natural) was correctly written. If it was, then 'natural soil vertical separation to restrictive layer' would also have to be + 150 cm, not the + 60- cm filled in.
- ii) Test pit log sheets consistently indicate that soils are silty clay loam yet permeameter forms have results indicating sand.
- iii) Permeameter forms chosen have an incorrect soil factor in the calculation which makes the results incorrect as well.
- iv) Indication of a HLR which does not match anything in the SPM. This loading rate would make the system improperly sized.
- v) The site constraints were indicated as a (SC1) slight constraint to a (SC2) moderate constraint. It cannot be both; it must be one or the other.
- vi) A page of the Filing document has an incorrect HLR noted.
- vii) There were further contradictions on other pages that were circled by the reviewer.
- viii) A Hydroaction treatment plant was indicated to be used. On the front Filing page it indicates the use of an Eliminator treatment plant. There is confusion as to whether these are the same treatment plant. This was not clarified anywhere else in the Filing documents and most importantly it was not in any of the drawings. This discrepancy could make this system a Type 1 not a Type 2, as has been filed and make the HLR chosen even worse.
- ix) If a treatment plant was to be actually used, then the septic (trash) tank capacity is too large.
- x) A page indicates the seepage bed designed was 600 sq. ft. and on another page the bed was 1100 sq. ft. and on a top view drawing of the Infiltration Bed the bed was 1300 sq. ft.
- xi) According to the soil test pit logs, a seepage bed could not be used. The best soil indicated was silty clay loam resulting in an inappropriate type of dispersal area being chosen.
- xii) On one page and on the front of the Filing form a pressure distribution system was indicated. Descriptions and drawings indicate that it is not a pressure system but actually a gravity system (pump to D box). The member appeared to be unclear on what pressure distribution is. Note: according to the soil logs and the SPM this system must be a pressure distribution system and it is not.

DISCUSSION

In the complaint case #06-31, the PRB considered the failure to provide a Health Authority Filing for an onsite wastewater system a serious matter. The facts of the issued violation ticket from the NHA were clear enough evidence of a breach of the Code of Ethics for this issue of the case. In addition, there are concerns that the SPM was not strictly followed; however, the PRB determined that with some remedial work there should not be a health and safety issue with the site in question.

The member agreed to the following conditions of a Stipulated Order:

- i) To provide to the PRB an acceptable letter assuring the Board of his future compliance with the Filing process of the local Health Authority.
- ii) To immediately provide to the PRB his originally completed Canadian Technology Human Resources Board (CTHRB) Professionalism in Practice Module, which was originally required to be completed before his registration as a Registered Onsite Wastewater Practitioner was granted. Failure to have completed the (CTHRB) Professionalism in Practice Module to a standard acceptable to the Board could have resulted in additional censure requirements.

- iii) To rewrite the Maintenance Plan for the onsite wastewater system to mitigate the possibility of premature hydraulic failure and further ensure that the property owner is advised of and understands the requirements of the new Maintenance Plan. The new Maintenance Plan was to be provided to the NHA to replace the previously provided Maintenance Plan.
- iv) To fit the installed system with monitoring devices (monitoring wells) to ensure proper function and mitigate the possibility of premature hydraulic failure.
- v) To contact the Executive Director of the British Columbia OnSite Sewage Association to set up a review of the interpretation of site constraints with a Westcoast Onsite Wastewater Training Center Instructor.

While the outcome of the #06-62 complaint case was being determined the member failed to meet all but item ii of the Stipulated Order conditions from the #06-31 case above. As a result the PRB required that a new Stipulated Order be created which required that:

- i) The member submits proof that the conditions of the first Stipulated Order were completed.
- ii) The member agrees to be restricted to 'planning non-pressurized' systems only.
- iii) Before the member has the restriction removed, he must submit proof of having 're-taken and successfully passed the Westcoast Onsite Wastewater Training Centre course ES930.
- iv) The member will have an authorized person over-see his next 5 planned pressurized systems and that letters of certification will be submitted to ASTTBC to verify that this was completed. This oversight was to be done at the member's expense.

The member was sent the new proposed Stipulated Order, which addressed censure for both complaints registered against him. The member made no attempt to contact ASTTBC regarding the Stipulated Order proposal by the date specified.

At about the same time the member's membership was cancelled by ASTTBC for non-payment of his annual membership dues. As with all cancelled members, he was given the standard 'grace' period in which he could make arrangements to pay his dues and again he did not contact ASTTBC.

OUTCOME

As the individual in question was no longer a member of the ASTTBC Special Certification Registered Onsite Wastewater Practitioner group, the Practice Review Board had no further jurisdiction to apply enforcement or censure in either complaint case.

The member was sent a letter by ASTTBC requiring him to immediately return the Association Certificate and Stamp. ASTTBC's member data base has been 'flagged' to indicate that the individual has an outstanding PRB issue and that membership can not be reinstated until he has satisfied the PRB as to the conditions of the Stipulated Orders. This file was closed with no further action required at this time.

The Northern Health Authority has been advised by the ASTTBC that the individual is no longer a Registered Onsite Wastewater Practitioner.

CASE #06-43

STATEMENT OF COMPLAINT

That a Registered Onsite Wastewater Practitioner (ROWP) failed to conform to the Ministry of Health's Standard Practice Manual (SPM) regarding the installation of a sewerage system; that he also failed to

engage a Professional in the submission of his Filing documentation to deal with the reduced property line setback requirements of the SPM.

BACKGROUND

The complainant was the Vancouver Island Health Authority for a system provided to a family relative of the member. It was suggested that the system was installed as cheaply as possible due to the family connection.

INVESTIGATION

An investigation revealed that the member failed to conform to the SPM regarding installation of a sewerage system as follows:

- i. Septic tank size was incorrect.
- ii. Hydraulic loading calculation was incorrect.
- iii. Setback to property line reduction from 3 metres should have been reported to Health Authority and approved by authorized professional.
- iv. Perc rates needed to be verified.

DISCUSSION

The member agreed to a proposed Stipulated Order.

OUTCOME

The member adhered to the following conditions of a Stipulated Order:

1. The member corrects the sewerage system to ensure the system conforms to the SPM.
2. The system must be inspected by an 'authorized person' and certified as to meeting the requirements of the Health Authority and the SPM. The authorized person's certification is to be provided to ASTTBC and the cost of the certification will be at the member's expense.

CASE #06-52

STATEMENT OF COMPLAINT

An Environmental Health Officer of the Vancouver Island Health Authority provided two letters to ASTTBC asserting that a Registered Onsite Wastewater Practitioner (ROWP) failed to provide accurate Filing information and failed to adhere to the requirements of the Ministry of Health's Standard Practice Manual (SPM) under the Sewerage System Regulation.

BACKGROUND

It is alleged that the ROWP member installed a sewerage system that failed to adhere to the setback requirements (30.5 metres or 100 feet) from the edge of an absorption field to two wells located on or near the property in question, as required by the SPM. The first well site was located in a shed on an adjoining property and was a shallow well that typically went dry in the summer. The complainant calculated the distance to be closer to 88 feet from the edge of the absorption field than the reported distances of either 110 feet or over 120 feet depending on which site plan from the member's Filing that

was used. The second well was located on the property and was a deep well that the complainant estimated to be at an approximate distance of 90 feet versus the 104 feet claimed.

It was also alleged that the Filing documents had inaccurate information in that the depth of the high water table was actually 18 to 24 inches as compared to the 36 inches claimed by the ROWP and that the dimensions shown on the site plans did not conform to the actual distances to the wells in question. The Health Authority had issued a violation ticket to the member for making a false or misleading statement

INVESTIGATION

The facts upon which the complaint is based were subsequently confirmed by a site investigation by ASTTBC and are as follows:

- a) The ROWP member installed the aforesaid sewerage system without adherence to the setback requirements (30.5 metres or 100 feet) from the edge of the absorption field to two wells located on or near the site, as required by the SPM. ASTTBC investigator's measurement was approximately 95.3 feet to the well head located in the shed on the adjoining property, which confirmed that the well was within a distance less than the required SPM setback.
- b) A second well, located on the property, was a deep well that the complainant estimated to be at an approximate distance of 90 feet. The investigator for ASTTBC determined that the well was 87.9 feet from the edge of the absorption field. Both measurements confirmed that the well was less than the required SPM setback and not the 104 feet shown on the member's filed site map.
- c) The ROWP member's site plans, provided to ASTTBC as part of the Health Authority Filing documents, had measurement inaccuracies that led in part to the Vancouver Health Authority issuing a violation ticket for making a false or misleading statement.
- d) ASTTBC's investigation was unable to validate the complainant's assertion that a high water table had been witnessed of between 18 to 24 inches, which was less than the 36 inches reported by the member.
- e) ASTTBC's investigation did not attempt to determine if the violation of the SPM distance setback requirements from the edge of the absorption field, to the wells in question, posed any health or safety risks to their owners. This would require a site assessment by an appropriate professional.

DISCUSSION

Clearly the member was in violation of the SPM in determining the location for installation of the absorption field for the system in question and in the reporting of the location of the wells in relation to the absorption field. There was some evidence to show that the member may not have known that the well head on the adjoining lot was located in the shed near the property line and had in fact mistaken a concrete post for a stand pipe indicating the well location. However, there is no evidence that he actually took time to verify the location of this well other than making a visual determination.

OUTCOME

The ROWP member accepted that he was in breach of Principle 1 of the Code of Ethics of the Applied Science Technologists and Technicians of British Columbia; specifically by his actions in violation of the SPM. The Practice Review Board, after careful review of all the information provided, determined that an appropriate remedy for this offence to be as follows:

That the member provides to the Practice Review Board an acceptable letter assuring the Board of his future compliance with the Filing process of the local Health Authority, specifically as it relates to the accuracy of measurements shown on site plans.

That the member immediately provides to the Practice Review Board his originally completed Canadian Technology Human Resources Board Professionalism in Practice Module, which was originally required to be completed before his registration as a Registered Onsite Wastewater Practitioner was granted. Failure to have completed the Professionalism in Practice Module to a standard acceptable to the Board would have resulted in additional censure requirements.

The ROWP member was required to either;

- have an appropriate professional certify that there are no health risks to the wells near the onsite system in question as a result of not adhering to the SPM setback distances from the edge of the absorption field or;
- advise the owners of the Board's findings so that they may make an informed decision on the necessity for regular testing of their well water quality.

The member was also required to provide confirmation through an appropriate professional, to the ASTTBC, of accuracy of the Filed Measurements for his next five Health Authority Filings. This was to be done at the member's own expense.

The member adhered to the above required conditions and the file was closed.

CASE #06-54

STATEMENT OF COMPLAINT

The Interior Health Authority (IHA) claimed that a Registered Onsite Wastewater Practitioner (ROWP) installed a sewerage system without consultation with the IHA or provision of the required and appropriate Filing documents.

BACKGROUND

The IHA received a previous Filing for the property from another ROWP member, which had not been addressed or updated by the member against whom the complaint was laid. ASTTBC considers the failure of a ROWP to appropriately provide a Filing with the local Health Authority, prior to construction or installation of a sewerage system, a serious matter and a breach of Principle 1 of the Code of Ethics.

INVESTIGATION

An investigation determined that:

- a) The ROWP member installed a sewerage system without consultation with the local Health Authority or provision of the required and appropriate Filing documents, prior to construction of the system.
- b) The Interior Health Authority had received a previous Filing for the property from another ROWP, which Filing had not been addressed or updated by the member in question.
- c) The member admitted to installing the aforesaid sewerage systems without having supplied the appropriate and required Filing documents prior to construction.

DISCUSSION

In discussion with ASTTBC, the member indicated that he wished to expedite the resolution of the matter by means of a Stipulated Order and did not wish to proceed to a hearing.

OUTCOME

In recognition of the foregoing, the ROWP member and the Practice Review Board agreed to a Stipulated Order with the following conditions:

- i. The member will provide to the Practice Review Board an acceptable letter assuring the Board of his future compliance with the Filing process of the local Health Authority.
- ii. The member was immediately required to provide to the Practice Review Board his originally completed Canadian Technology Human Resources Board Professionalism in Practice Module, which was required to be completed prior to registration as a Registered Onsite Wastewater Practitioner was granted. Failure to have completed the Professionalism in Practice Module to a standard acceptable to the Board could have resulted in additional censure requirements.

The member adhered to the conditions of the Stipulated Order and this case was closed.

CASE #06-56

STATEMENT OF COMPLAINT

It was alleged that a Registered Onsite Wastewater Practitioner (ROWP) allowed Filing forms to be completed by a 'non-registered' Installer and the design information did not follow the Ministry of Health's Standard Practice Manual (SPM) for two properties. Subsequently, for one of the properties, the ROWP is alleged to have submitted a late Filing for the required Letter of Certification.

BACKGROUND

In response to the allegations, the ROWP member advised that his employment had taken a new direction away from septic design and installations. The following are quotations from his letter:

1. "In the past the writer, working with his colleague, did not ensure information on Filings was correct. This occurred and Filings were then submitted to the local Health Authority. The writer will no longer take part in such practices. And in the future any stamped Filings from the writer will be correct."
2. "I will comply by completing the (2) Filings. Proper documentation and explanation will accompany these Filings."

The member also advised ASTTBC that a senior HA officer had instructed that a complete package, including a signed waiver from the customer, must be included with all Filings. At that time the owner of one of the properties in question was away from his home for an extended period and the member could not get in touch with him. He was, therefore, instructed by yet another HA officer to complete the Filing 'as is'. It was this incomplete Filing that generated the late filing complaint.

INVESTIGATION

Investigation of the complaint and the member's response to the complaint clearly indicated that the two Filings were not thoroughly reviewed and there was inaccurate information submitted.

The facts determined in the case were:

- a) Filing forms were completed by a 'non-registered' Installer and not by the member as required and;
- b) Design information did not follow the Standard Practice Manual

DISCUSSION

The member agreed to wrong doing for allowing Filing forms to be completed by a 'non-registered' Installer and for the design information not following the SPM requirements for the two properties in question. There appeared to be a reasonable explanation for the late filing issue.

OUTCOME

The Practice Review Board, after careful review of all the information provided, determined that an appropriate remedy for these offences to be a Stipulated Order with conditions as follows:

1. The member was required to provide an acceptable letter to the Board indicating that he is aware that when he stamps a Filing he is certifying that the information on the Filing is correct and that it may require a thorough review of his employee or colleague's work.
2. The member was required to provide acceptable documentation and assurances to the Board that will ensure he is familiar with properly calculating loading rates and completing the Filing accordingly.
3. The member was required to have his next three Filings reviewed by an appropriate professional or authorized person prior to submitting them to the Health Authority; this will be at his own expense and ASTTBC must be provided with a letter of certification from the authorized person providing the review oversight.

The Board advised the member that it accepted his letter of explanation for the late Filing and determined that no action was required related to that matter. The member agreed to the Stipulated Order and the File was closed.

CASE #06-57

STATEMENT OF COMPLAINT

That a Registered Onsite Wastewater Practitioner (ROWP), certified as a Private Inspector, had allegedly given a property owner direction for doing his own maintenance of his onsite sewage disposal system.

BACKGROUND

The Vancouver Island Health Authority conducted a site visit to the above-noted property following a complaint that the home-owner was carrying out maintenance work on his septic system. The owner stated he was acting under the direct supervision of a ROWP. The work involved using a pressure washer and shop vacuum in the distribution piping and disposing of waste on the surface of the ground.

INVESTIGATION

The investigation found that maintenance was carried out on a system that was installed before May 31, 2005 which was, therefore, only subject to the requirements of the old Regulation and Permit system of the day. The current Sewerage System Regulation requires the authorized person to use 'standard practice' when dealing with the planning, installation or maintenance of a system. For clarity, the Regulation directs the ROWP to have regard to the 'Sewerage System Standard Practice Manual' when acting under the Regulation.

The manual published by the Ministry of Health and amended from time to time declares in section 2.10.1 that authorized persons will not be required to submit a filing document for repairs involving 'dispersal lines flushing or vacuuming'. This specifies where repair activities are as minor as not needing specific direction or standards

DISCUSSION

Enactment requirements for the sewerage system in question were under the previous Sewage Disposal Regulation – Section 36 of the Interpretation act allows for the continuation of processes in accordance with a repealed Regulation. Additionally, Section 37 (2) of the Interpretation act does not allow for the application of the new Regulation retroactively. Therefore, an authorized person was not required to carry out this work. If we follow the reasoning here, knowing that the Regulation does not apply and knowing no specifications are required for this activity, even if the current Regulation is applied, it is reasonable to interpret this as not requiring the expertise of an authorized person.

OUTCOME

The Practice Review Board (PRB) investigation of this complaint did not indicate that there had been a breach of the Sewage System Regulation nor the ASTTBC Code of Ethics. The ROWP member and Health Authority were advised of the PRB findings and decision and the file was closed with no further action required.

CASE #06-58

STATEMENT OF COMPLAINT

That a Registered Onsite Wastewater Practitioner (ROWP) was supplying a basic Type 1 septic system and then promoting it as a packaged sewage treatment system with no apparent documentation for the product.

BACKGROUND

A ROWP member became concerned that another ROWP member was providing a sewerage system package to work camps that did not conform to the requirements of the Ministry of Health's Sewerage System Regulation (SSR).

INVESTIGATION

The information provided to ASTTBC supported the use of the sewerage system as a Type 2 treatment system. Documentation provided by the ROWP member on the system had limitations as all of the testing on the system was done in summer weather and over a relatively short period of time. It was determined that this limiting factor could be overcome by appropriate sampling and monitoring by any ROWP responsible for the system installation and maintenance.

DISCUSSION

While the documentation provided could not be used to determine if a health hazard does or may exist from the use of this system and technology at any given site, it does provide reasonable theoretical support for its function. The system was reviewed by the Alberta Research Council and, with some modification, it was determined that it may be capable of producing type 3 effluent. It would be impossible to determine that a particular installation would or may create a health hazard but given the information provided by the ROWP member the system, with appropriate installation and maintenance, should provide the expected and required level of treatment.

OUTCOME

The Practice Review Board advised the ROWP member and complainant that, based on the information provided, it cannot be determined that the installation of the sewerage system in question would or may create a health hazard and that the system with appropriate installation and maintenance should provide the expected level of treatment as required by the SSR, therefore no further action was required and the file was closed.

CASE #06-59

STATEMENT OF COMPLAINT

That a Registered Onsite Wastewater Practitioner (ROWP) did not perform septic tests as per the regulations and did not provide the complainant with the test results after having received payment.

BACKGROUND

The complainant alleged that the ROWP's 'septic test consisted of kicking at dirt and looking at holes in the ground'. It is also alleged that he did not perform a percolation test as requested by the client.

INVESTIGATION

The Practice Review Board investigation determined that this was a case of a contractual dispute (verbal) between the ROWP and the complainant and there was no evidence that would support a charge for a breach of the ASTTBC Code of Ethics.

DISCUSSION

The facts of the complainant's statements could not be verified.

OUTCOME

The Practice Review Board (PRB) advised the member and the complainant that, since there was no evidence to substantiate the complaint or a breach of the Code of Ethics, this file would be closed and no further action was required.

CASE #06-63

STATEMENT OF COMPLAINT

An Environmental Health Officer from the Vancouver Island Health Authority expressed concerns that a Registered Onsite Wastewater Practitioner (ROWP), who is not certified and registered as an Installer, was approving installation work on various sites completed by un-registered contractors.

BACKGROUND

The ROWP in question was asked to confirm with ASTTBC as to who did the installations at the various work sites identified in the complaint and to submit the required certification letters from the ROWP Installers that indicated that the work was completed per his planning and design.

INVESTIGATION

The ROWP member sent copies of letters of assurance, stamped by ROWP Installers for all the sites listed in the complaint. Copies of these letters were submitted to the Vancouver Island Health Authority to complete their Filing documentation.

DISCUSSION

There was no evidence that the ROWP member had approved or supervised work done by 'unauthorized' contractors.

OUTCOME

Since the member was able to prove that the complaint was unfounded by submitting verification documentation to the Practice Review Board, the complainant and member were advised that no breach of the Code of Ethics was found and the file was closed with no further action required.

CASE #06-65

STATEMENT OF COMPLAINT

A Registered Onsite Wastewater Practitioner (ROWP) member contended that, in an attempt to use mentoring to achieve more experience in the planning of onsite systems, the ROWP (#1) made a verbal agreement with another ROWP (#2) member to assist with the planning and Filing of a system, which ROWP #1 intended to directly install. The ROWP #1 alleged that he had a loss of work due to the actions of ROWP #2; as a result of their actions in carrying out unauthorized work on a property and that the owner had concerns with the installed system.

BACKGROUND

The ROWP #1 had contacted ROWP #2 in search of both work as an installer and an opportunity to learn how to plan systems in hopes this would expand his business. ROWP #2 agreed to meet with ROWP #1 at a project site in order that they could assess ROWP #1's level of knowledge and experience.

The ROWP #2 had some concerns, based on some comments made by ROWP #1, and made a decision not to be involved in any mentoring or training. The owner of the property in question contracted the onsite wastewater project to ROWP # 2. The ROWP #2 had no further contact with ROWP #1 until a chance meeting on the property while ROWP #2 was installing the system.

INVESTIGATION

In addition to the background information, the following was substantiated during the investigation. The property owner had previously contacted ROWP #2 to conduct a site assessment for a new system, which was completed. The ROWP #2 became aware during one of their visits to the site that the backhoe operator, assisting the owner with construction on the property, was at one time employed by ROWP #1. Despite this and with the owner's permission, ROWP #2 subsequently hired the backhoe operator to assist with the machine work required for construction of the new system. The installation of the system progressed in steps, however, during two particular visits ROWP #2 found that the owner had run underground utilities into the area of the absorption field, and damage was done while components were being backfilled, even though ROWP #2 had not authorized anyone to do backfilling. The damages that were created were subsequently repaired.

The owner of the property stated that all repairs were completed, but the system was not yet put into operation as the home was still under construction. The owner also acknowledged that he had hired ROWP #2 to plan the system, but the installation was undertaken by a 'number of people'. He had no complaints.

The investigation further determined that the owner's comments appeared to support ROWP #2's information and contradicted ROWP #1's claims that ROWP #2 was not authorized to carry out the work or that the property owner had any concerns with the system. The Investigation could not substantiate any evidence that ROWP #1 had lost business as a result of ROWP #2's actions.

DISCUSSION

The investigation revealed the following concerns:

- ROWP # 2 carried out a project without utilizing sufficient control and supervision.

- The owner installed utilities through a portion of the absorption field because he was not aware of the exact location of the system.
- The backhoe operator began backfilling, in what appears to be misguided good intentions, in order to assist the owner with finishing up assorted jobs around the property.
- The use of a backhoe operator, who was not a 'ROWP', to carry out repairs without direct supervision by ROWP #2.

The WOWTC Installers course covers the need for all parties to a project, including the homeowner, to be informed as to the location, type and schedule of the work to be undertaken as this is required by WorkSafeBC. ROWP #2 had taken this course and should have been aware of this issue. It appears there may have been other factors that spilled over into this project for ROWP #2; delays due to lack of staff, changes to schedules, components arriving before they are ready to be installed, personal issues and trying to run too many projects.

OUTCOME

The ASTTBC Practice Review Board (PRB) sent a letter to ROWP #1 and ROWP #2 advising that there appeared to be no substantiated evidence of a breach to the ASTTBC Code of Ethics, therefore no further action was required in this regard. Further, ROWP #2 was advised that the PRB investigation determined that the project in question appeared to be completed without sufficient control and supervision. The PRB also questioned the use of unsupervised work performed by a non-authorized person. Therefore, ROWP #2 was to advise the PRB how, in the future, all onsite work and services for which they were responsible would be appropriately supervised. The PRB accepted a subsequent report by ROWP #2 that addressed this matter and the case was closed.

CASE #Miscellaneous Investigation

An anonymous complaint alleged that two Registered Onsite Wastewater Practitioner (ROWP) members were giving customers (property owners) advice and supplies to build their own septic fields.

BACKGROUND

No specific site information or owner's names were provided by the anonymous complainant.

INVESTIGATION

A copy of the complaint was sent to both ROWP members for comment.

DISCUSSION

Both ROWP members denied the claims of the complaint and there was no evidence provided to substantiate the claim of wrong doing.

OUTCOME

The ASTTBC Practice Review Board could not substantiate the alleged claims of wrong doing on the part of the ROWP members and, since there did not appear to be any breach of the ASTTBC Code of Ethics, the members were advised that this file was closed and no further action was required.

CASE #06-68

STATEMENT OF COMPLAINT

A Health Officer refused the Filing of a Registered Onsite Wastewater Practitioner (ROWP) for the following reasons and asked ASTTBC to follow-up on the matter:

- Sewerage regulations stated that a Record of Certification must be received within 30 days upon completion. The form was a photocopy of a single sheet not a multiple copy, 4 part form.
- The drawing appended to this submission was not stamped, nor signed.
- The maintenance schedule was not stamped, nor signed.

BACKGROUND

The background is explained sufficiently by the statement of complaint.

INVESTIGATION

The ROWP member was asked to submit his comments regarding this matter to ASTTBC. The member apologized for the confusion and advised that he had corrected the errors brought to his attention by the Health Authority. He sent copies to ASTTBC of the documentation he had submitted to the Health Authority. The member advised that the sewer system was originally planned in December 2005 by a Professional Geoscientist and that the installation of the system was started in the spring of 2006. He further stated that the system was completed in the late summer, as he had an obligation to his clients to finish it. The member also stated that the system was not in use and that was the reason for the Filing time frame for certification of the system expiring.

DISCUSSION

The member advised that this system was started prior to a Stipulated Order Agreement from the Practice Review Board dated June 7, 2006, which stipulated that the member was required to work only with an 'authorized person' recognized by ASTTBC and APEGBC. The member further advised that he had a copy of a letter from Interior Health stating that he was allowed to complete any jobs he had started before his planner status had been revoked by ASTTBC, under the Stipulated Order.

OUTCOME

The Practice Review Board found that the ROWP member had complied to the requirements of the Health Authority and had not violated his Stipulated Order Agreement, therefore the member was advised that the file was closed and no further action was required.

CASE #06-69

STATEMENT OF COMPLAINT

It is alleged that a Registered Onsite Wastewater Practitioner (ROWP):

- gave false and misleading information
- exceeded his authority as a Planner
- intended to install a system that was almost twice the size required by law and a system that was not wanted or required.

BACKGROUND

This complaint resulted as a result of a dispute between a ROWP member and a member of the public, who had approached the member for the possible provision of onsite wastewater services. A site assessment was carried out and invoiced by the member. A dispute developed over the member's invoice and no further services were provided. All communication between the member and complainant were verbal.

INVESTIGATION

An Investigation determined that there was insufficient evidence to support the complainant's claim that the ROWP member acted in an unprofessional manner. His invoice, which was also in question by the complainant, did not appear to be unreasonable, given that the ROWP made four visits to the complainant's property.

DISCUSSION

It is recommended that fees should be discussed with prospective clients prior to the provision of services and that an acceptable written contract be in place prior to the commencement of any work.

OUTCOME

The Practice Review Board informed both the ROWP member and the complainant that, since there was no substantial evidence to indicate that the ROWP member acted in an unprofessional manner, no further action was required and the file was closed. The ROWP member was advised that he, in the future, should have a written and signed contract in place prior to the commencement of work on any project.

CASE #07-05

STATEMENT OF COMPLAINT

A Federal Government Health Inspector alleged that installations of sewage appurtenances by a Registered Onsite Wastewater Practitioner (ROWP) were patently non-compliant with the BC Ministry of Health's Sewerage System Regulation.

BACKGROUND

At the request of Indian Affairs and a First Nations Band, a ROWP member certified approximately 38 holding tanks for acceptable use on Band leased recreational property.

INVESTIGATION

The member admitted to certifying the use of the holding tanks and felt that, since the authority having jurisdiction (Indian Affairs and First Nations Band) approved the process, this would not be an issue. There was a question as to whether in fact ASTTBC had jurisdiction for works carried out on federal Canada Lands. It was determined that members are subject to the ASTTBC Code of Ethics regardless of where professional services are provided.

DISCUSSION

Under the Sewerage System Regulation the development of holding tanks requires a permit to be given by the appropriate jurisdiction. In this case it was not done. A Registered Onsite Wastewater Practitioner must be aware of and follow the ASTTBC Code of Ethics and, as part of this obligation, follow the Ministry of Health's Sewerage System Standard Practice Manual. Since this manual is silent on the construction of holding tanks, it would be the ROWP member's responsibility to seek out another standard by which he could design or certify this type of facility.

He could have sought technical assistance from the BC OnSite Sewage Association prior to taking on such work. If, as is the case, the agency with jurisdiction advised the member to proceed with a design of their own, the member has two options:

1. not to do the work.
2. inform the regulating body of how and why the system should be designed and installed properly and insist that instructions in writing be provided for the work prior to starting the work; and informing ASTTBC of his concern.

OUTCOME

The Practice Review Board (PRB) required that the ROWP member ensure that, in the future, he will engage in procedures only in a responsible manner in accordance with the ASTTBC Code of Ethics.

Further, that a practice bulletin be circulated to all Registered Onsite Wastewater Practitioners advising that they must act ethically and follow the Standard Practice Manual regardless of where the work is carried out. Where there is a conflict between the Standard Practice Manual and the 'normal standards' in place under a jurisdiction, it is the obligation of the ROWP to inform the authority having jurisdiction why the Standard Practice Manual is a better choice. Where a conflict arises, the ROWP must get confirmation in writing from the authority having jurisdiction outlining the required standards.

Subsequently, the member submitted to the PRB a written letter advising how, in the future, he would engage procedures in a more responsible manner in accordance with the ASTTBC Code of Ethics. As a result of the PRB directive, ASTTBC sent a Practice Bulletin to all ROWP members, related to the facts of this case, reminding them of their professional obligations under similar circumstances. The PRB determined that no further action was necessary and closed the case.

CASE #07-10

STATEMENT OF COMPLAINT

A Health Authority complained that a sewage disposal system was completed by a Registered Onsite Wastewater Practitioner (ROWP) on March 30, 2006; however, the Letter of Certification was not received until April 10, 2007.

BACKGROUND

The time period between Filing and certification for the system in question was outside of the Regulatory one year requirement.

INVESTIGATION

The investigation determined that the ROWP member had been previously advised by a senior Health Officer as to the system certification requirements.

DISCUSSION

The ROWP member advised that the home owner spent a lot of time away from home and the member was unable to contact him to sign a required waiver. The member further stated that he was later advised by another Health Officer that the Filing could be completed without a signed waiver from the home owner. It was at this point that the member then filed the certification, which was the reason for the late Filing that generated the complaint.

OUTCOME

The Practice Review Board advised the ROWP member that, since he had complied with the request of the Health Authority, no further action was required and the file was closed.

CASE #07-12

STATEMENT OF COMPLAINT

A Health Authority complained about the quality of the documentation a Registered Onsite Wastewater Practitioner (ROWP) submitted for a sewerage system Filing under the Ministry of Health's Sewerage System Regulation.

BACKGROUND

Although the Filing satisfies the minimum criteria to be accepted by the Health Authority, the quality of the submission, in particular the site diagram including the system plan and specifications, was of questionable quality.

INVESTIGATION

The ROWP member advised ASTTBC that he had made an error and that he had contacted the Health Authority and had provided corrected maps of the proposed system. Copies of this documentation were also provided to ASTTBC for review.

DISCUSSION

The accuracy of documentation created by ROWP members on Health Authority Filings is an important practice issue with ASTTBC. It would appear that the member now understands the necessary requirements.

OUTCOME

The Practice Review Board informed the ROWP member and Health that since the ROWP member had corrected the Filing in question by submitting corrected maps of the proposed system, no further action was required and this file was closed.

CASE #07-14

STATEMENT OF COMPLAINT

A Health Authority complained that a Registered Onsite Wastewater Practitioner (ROWP) installed a sewerage system without Filing the system with the local Health Authority office, contrary to the requirements of the Ministry of Health's Sewerage System Regulation (SSR). Further, that the sewerage system did not meet the requirements of the Ministry of Health's Sewerage System Standard Practice Manual (SPM).

BACKGROUND

A Health Officer was concerned that a sewerage system, installed by a ROWP member, did not meet the Filing requirements of the SSR or technical requirements of the SPM.

INVESTIGATION

The ROWP member was able to demonstrate that the system was appropriately filed with the Health Authority. With respect to the allegations that the SPM had not been adhered to, the complaint documentation provided by the Health Authority and the ROWP member's response to the complaint were examined and the complainant's claims and the ROWP member's statements were inconsistent with respect to some of the matters of the case; although it was suggested that to verify which statements were correct might require an onsite audit. However, based on the facts that were consistent in the documentation, it was recommended that the ROWP member should review:

- his use of the old Sewage Disposal Regulation Standards as the old design plate is inappropriate; he should also review carefully both the SPM and the Westcoast Onsite Wastewater Training Centre's (WOWTC) 910/911 course training material to ensure proper burial is adhered to.
- his inconsistencies with the Filing document, as he provided a percolation rate of 1 minute per inch on the drawing then describes the soil as sandy loam, if the percolation rate is 1 minute per inch the SPM describes this as a site constraint 2 which would require pressure distribution of the distribution area. If the soil was sandy loam then the ROWP member had assigned the correct loading rate.
- his lack of identifying on the file any setback distances or the vertical separation, a requirement which should be done for his future HA Filings.

While the review and investigation was being conducted, ASTTBC received from the property owner of the site in question a letter expressing concern about the validity of the complaint and possible bias on the part of the individual that led to the HA complaint. His assertion was supported by a letter from a Professional Engineer which concluded, after a site inspection, that "The system in question was installed in a reasonable location and does not detrimentally impact neighbouring properties nor should it fail to operate as intended".

DISCUSSION

The inconsistencies between statements made by the Health Officer and the ROWP member were weighted against the submission by the land owner and provided engineer's report and it was determined that no follow up with a site investigation would be necessary to clarify these inconsistencies.

OUTCOME

The Practice Review Board recommended that whilst there did not appear to be a breach of the Code of Ethics, the ROWP member should address the following issues in the future:

- his use of the old Sewage Disposal Regulation Standards as the old design plate is inappropriate; he should also review carefully both the SPM and the WOWTC 910/911 course training material to ensure proper burial is adhered to.
- his review for any inconsistencies and accuracy in Filing documents related to the site assessment (it was assumed that the soil in this case was sandy loam and that the ROWP member assigned the correct loading rate).
- his lack of identifying on the file any setback distances or the vertical separation, a requirement which should be done for his future HA Filings.

CASE #07-21

STATEMENT OF COMPLAINT

A complainant was concerned about a number of issues, regarding the practice of a Registered Onsite Wastewater Practitioner (ROWP), as failing to meet required practice standards.

Specifically:

- refusal to commit in writing up front
- delay in providing a written quote until the job was nearly completed
- unreasonable billing practices
- the ROWP member's complaining about a construction holdback despite the complainants advising of this requirement prior to the ROWP accepting the job
- the ROWP positioning of the tanks higher than required leaving an unsightly mound
- the ROWP destroying vegetation by driving in areas he need not have gone
- the ROWP leaving the siphon tank open and unmarked; not only allowing it to be contaminated but also exposing them to potential liability
- the ROWP's decision to use a homemade siphon tank rather than a commercial unit caused construction delays.

BACKGROUND

This case resulted from poor communication between the ROWP member and the client. The issue was further complicated by the lack of a written contract.

INVESTIGATION

The investigation of this complaint suggested that the ROWP member had not willfully acted unprofessionally but that he could bring his professional skills up to a higher level.

From the investigation it was determined that the ROWP member should to do the following:

- file an amendment to the 'Record of Sewerage System' Filing document with the Interior Health Authority, correctly indicating what was installed on this site.
- amend the 'As-Built' drawing to correctly reflect the system that was constructed, properly dimensioned, including length and width of trenches, and filled out in accordance with the Sewerage System Regulation.

- advise the complainant once the above amendments had been filed with the Interior Health Authority and provide them with copies of documentation.
- provide ASTTBC with copies of all documentation

DISCUSSION

It was suggested that the ROWP should also consider the following suggestions:

- break quotations down and advise his clients that the quotations are approximate until an initial investigation is done and he knows what size system will be required. He should also clearly stipulate how the project will be invoiced, what the payment plan and holdback will be.
- must advise the Health Authority prior to construction if changes are made to the proposed sewage disposal system.
- must complete his 'Record drawing'(As Built) showing size of field installed, size of tank installed and location of system with respect to property lines.
- Inspect the siphon tank to ensure the complainant that it is still functioning satisfactorily.

OUTCOME

The Practice Review Board (PRB) advised the ROWP member that although there did not appear to be a willful violation of the Code of Ethics, there were concerns with the standards of practice, therefore the member was required to complete the following requirements:

- complete his 'Record Drawing'(As Built) showing size of field installed, size of tank installed and location of system with respect to property lines.
- file an amendment to the 'Record of Sewerage System' Filing document with the Interior Health Authority, correctly indicating what was installed on this site.
- amend the 'As-Built' drawing to correctly reflect the system that was constructed, properly dimensioned, including length and width of trenches, and filled out in accordance with the Sewerage System Regulation.
- advise the complainant once the above amendments had been filed with the Interior Health Authority and provide them with copies of documentation.
- inspect the siphon tank and ensure the complainant that it is still functioning satisfactorily.
- provide ASTTBC with copies of all documentation

The member was also advised that should he fail to comply with the PRB requirements, further action would be considered, which could include a Stipulated Order or Disciplinary Hearing.

Further, that the member was advised that he should consider the following suggestions to improve his practice:

- itemize quotations and advise his clients that the quotations are approximate until an initial investigation is completed and the size system is determined. He should also clearly stipulate how the project will be invoiced, what the payment plan and holdback will be.
- advise the Health Authority prior to construction if changes are made to the proposed sewage disposal system.

The ROWP member subsequently complied with the PRB requirements and the member and complainant were advised that, since the member had fulfilled all of the conditions required by the PRB, no further action was required and the file was closed.

CASE #07-22

STATEMENT OF COMPLAINT

A letter of concern was provided to ASTTBC regarding the installation of a sewage system by a Registered Onsite Wastewater Practitioner (ROWP), from neighbors adjoining the property on which the system was installed.

BACKGROUND

At the time of the installation of the sewage system in question, the individual who did the installation was not a certified and registered ROWP member with ASTTBC.

INVESTIGATION

An investigation found that at the time of this sewage system installation, the individual completed and signed off on the project as a Professional Agrologist. The Filing and certification for the system was accepted by the Health Authority as, at the time, it was assumed that Professional Agrologists met the definition for an authorized person as required by the Ministry of Health's Sewerage System Regulation. The individual was not a member of ASTTBC's Onsite Wastewater Special Technical Specialist Certification group for this project.

DISCUSSION

The individual became certified and registered as a ROWP with ASTTBC, after the Health Authorities received clarification from the Ministry of Health that Agrologists did not fit the definition of an authorized person under the Sewerage System Regulation. Since the individual provided their professional services as a Professional Agrologist, it was determined that ASTTBC had no jurisdiction or mandate to act regarding the concerns raised for this particular sewage system. Since the British Columbia Institute of Agrologists was made aware of the concerns related to the system in question, it was left to this Association's jurisdiction to handle the matter.

OUTCOME

The Practice Review Board advised the ROWP member that since they were not a member of the ASTTBC at the time the work for this onsite system was completed, ASTTBC had no jurisdiction or mandate to pursue the matter and the file was closed.

September 27, 2007

**Report from Practice Review Board For Complaint Cases Resolved In
TITLES ENFORCEMENT - (cases received since August 16, 2006)**

CASE #Misc. 11.8.06

STATEMENT OF COMPLAINT

It was alleged that there was a violation of the ASTTBC protected title, 'Certified House Inspector'.

BACKGROUND

An individual and his corporate associates were calling themselves 'Certified Inspectors'. An association member was concerned that this was too close to the ASTTBC protected title, Certified House Inspector.

INVESTIGATION

The information was provided to ASTTBC Legal Counsel, who investigated the individual's corporate web site.

DISCUSSION

Legal Counsel advised the Practice Review Board that the phrase 'Certified Inspector' is descriptive and indicates the individuals in question had been certified by various organizations and therefore it would be impossible for ASTTBC to prevent them from using this phrase.

OUTCOME

Upon advice from Legal Counsel, the ASTTBC Practice Review Board closed the file and the complainant was advised of the outcome.

CASE #Misc. 11.23.06

STATEMENT OF COMPLAINT

It was alleged that an individual was using the ASTTBC trade marked designation 'CHI' on his website.

BACKGROUND

It was reported that an individual was using 'RHI' and 'CHI' on their website.

INVESTIGATION

In an investigation by both ASTTBC Legal Counsel and ASTTBC staff, no reference to 'CHI' was discovered. It was noted that the individual also resided outside of British Columbia.

DISCUSSION

Legal Counsel advised that:

“With respect to out of province infringement, you can pursue misuse of official marks as a trade mark / official mark infringement. However, to the extent that you rely on the ASTT Act, jurisdiction does not extend outside BC.

If the infringement is a matter of an official mark, the validity of a mark is not affected by use by third persons. However, in the case of trade marks, it is important to stop others from using the mark across Canada”.

In this matter no evidence was found to support the illegal use of the designation ‘CHI’ and ASTTBC has no registrations for ‘RHI’(REGISTERED HOME INSPECTORS). The designation ‘RHI’ is a registered trade mark of the Canadian Association of Home and Property Inspectors.

OUTCOME

Upon advice from Legal Counsel, the ASTTBC Practice Review Board closed the file and no further action was required.

CASE #05-08 (reopened 2007)

STATEMENT OF COMPLAINT

It was alleged that an ex-member of ASTTBC was illegally using an ASTTBC Registered Fire Protection Technician stamp.

BACKGROUND

An individual had their Registered Fire Protection Technician (RFPT) membership cancelled in 2005, however, they continued to use ASTTBC’s RFPT stamp. This came to the attention of ASTTBC staff and the Practice Review Board (PRB) when the individual sent a letter of support for an applicant, on which they used the stamp and RFPT designation. The ex-member was required to return their stamp, but information received from the employer at that time indicated that they no longer resided in British Columbia and left no forwarding address. There was also no response to any notification letters from ASTTBC. A note was put into the ASTTBC data base to indicate that the individual could not be reinstated until the outstanding issue of the stamp was dealt with. In January 2007, there was a request from a company for information regarding reinstatement for the individual, who was now working for this company.

INVESTIGATION

Based on the information in our data base, a letter was sent to the individual asking that he submit a letter explaining his previous use of the ‘expired’ Fire Protection Stamp. The individual advised that his stamp had been stolen and that he would get a notarized statement to that effect and also write a letter of apology to ASTTBC. The notarized statement and letter of apology were subsequently received.

DISCUSSION

The facts of the case did not require discussion.

OUTCOME

The PRB sent a letter to the individual advising that since they had now completed the requirements recommended by the PRB in 2005, no further action was required and the file was closed. In addition, the individual was advised the restriction to a possible reinstatement had been lifted.

CASE #06-67

STATEMENT OF COMPLAINT

It is alleged that a non-member of ASTTBC was using the designation 'CHI' in his advertising.

BACKGROUND

The 'CHI' is a trade marked protected designation of ASTTBC reserved for the Association's members registered as a 'Certified House Inspector'.

INVESTIGATION

An investigation determined that there was an illegal use of the 'CHI' protected designation.

DISCUSSION

ASTTBC Legal Counsel sent a cease and desist letter to the offending individual, requesting that they immediately cease using the protected title 'CHI'. The individual was out of town when the letter was received at their office; a call from someone at the individual's office asked for an extension advising that they wanted to consult with their Legal Counsel prior to responding to ASTTBC. Subsequently, ASTTBC was informed that the individual would cease using the 'CHI' designation and would amend their advertisement in the telephone directory when the advertisements were renewed. Shortly there after, a second complaint was received indicating that the individual in question was distributing advertising literature which showed he was still using the 'CHI' designation. Legal Counsel again contacted the individual, to which they replied that they had ceased using the 'CHI' designation for some time.

OUTCOME

The Practice Review Board (PRB) accepted that the individual in question had removed the 'CHI' designation from their advertising and advised the complainant that the case was closed and no further action was required. The PRB required the ASTTBC Staff to check the individual's web site for a period of three months to ensure compliance to the cease and desist order.

CASE #07-02

STATEMENT OF COMPLAINT

An individual was illegally using the 'AScT' designation.

BACKGROUND

Email correspondence was provided that demonstrated the illegal use by an individual of the ASTTBC protected designation 'AScT'.

INVESTIGATION

It was noted that the individual in question was not a member of ASTTBC, but that they were a Certified Engineering Technologist (C.E.T.) member of the Association of Science and Engineering Technology Professionals of Alberta (ASET). A cease and desist letter was sent requesting that they immediately cease using the 'AScT' designation.

DISCUSSION

The individual responded that they were under the impression that they could use the 'AScT' designation if they were working temporarily in another province. They then advised ASTTBC staff that they had been working in BC since 1997 (approximately 10 years). Through communication between ASET, ASTTBC and the individual, it was agreed that the individual would transfer their membership immediately to ASTTBC. It should be noted that ASTTBC will allow certified members from other provinces to practice in British Columbia on a short term basis provided that they inform ASTTBC of their activities and use of professional designations.

OUTCOME

The Practice Review Board determined that since the individual had applied to transfer their membership from ASET, they would be permitted to use the AScT designation until such time as the transfer from ASET is approved by the ASTTBC Board of Examiners; the individual was advised that once they were certified by ASTTBC that the file would be closed with no further action required. The individual is now a member of ASTTBC.

CASE #07-04

STATEMENT OF COMPLAINT

A College was advertising on their web site that it offered a home inspection training program recognized by ASTTBC.

BACKGROUND

As stated in the complaint.

INVESTIGATION

Based on the information provided in a web site, ASTTBC Legal Counsel sent a cease and desist letter to the College in question asking that it send written confirmation confirming that the false claims referencing ASTTBC had been removed from their web site and, that the distribution of all materials that include false claims, have ceased to be distributed.

DISCUSSION

Written confirmation was received from the College apologizing for the false claims made on the web site. Also, that the web site had been corrected and that reference to ASTTBC would be removed from their written materials.

OUTCOME

Since the Practice Review Board had received written confirmation from the College confirming that they had removed the false claims about ASTTBC from the web site and that they would no longer distribute materials with the false claim, no further action was required and the file was closed.