

# **PRACTICE REVIEW BOARD**

## **CASE HISTORIES JANUARY, 2011 TO JUNE, 2011.**

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

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

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

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

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

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

## **REPORT FROM PRACTICE REVIEW BOARD FOR COMPLAINT CASES RESOLVED IN ONSITE WASTEWATER - (BETWEEN JANUARY 2011 AND JUNE 2011)**

### **CASE #09-09**

#### **STATEMENT OF COMPLAINT**

That a ROWP submitted Filings to the Health Authority, which contained insufficient and/or incorrect information.

#### **BACKGROUND**

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

##### **Filing A**

The DDF is rated for more than a three bedroom home with no explanation or rationale included explaining why the system was planned the way it was. It suggests the system is a Type 1 but lists a treatment plant making it a Type 2, no scaled plans or Operating & Maintenance plans are attached, or information about the existing field area including size, condition or location of components.

##### **Filing B**

The DDF is rated for more than a three bedroom home with no explanation or rationale included for this difference. No details on vertical separation, no soils log and site assessment details, no explanation of the location or type of fill noted on the site and how this impacts the selection of the onsite system design, both Type 1 and 2 are ticked off on the RSS, no construction details provided including information on the pump chamber, dosing cycle, type of pump, location of alarm or control panels, a copy of a Health Authority permit showing a plan from 1997 is included but no scaled plan that is current and to the level required by BCOSSA/WOWTC training, doesn't show where percolation tests were carried out or the results of the tests per test hole, no description of soils, or direction of slope, no Operating & Maintenance plan.

##### **Filing C**

The DDF is rated for more than a three bedroom home with no explanation or rationale included. Plan is not to scale, doesn't show where percolation tests were carried out or the results of the tests per test hole, no description of soils, or direction of slope. Suggests a septic tank on the plan but indicates a treatment plan on the RSS, no calculations for dosing, orifice spacing, or construction details to show this mound is constructed on the property. No Operating & Maintenance plan.

##### **Filing D**

No DDF listed, suggests only a twenty meter separation to the onsite system instead of the thirty meter required setback, no slope percentage, suggests only thirty two centimeters of vertical separation but uses a trench method in the discharge area, plan is not to scale, shows no construction details, suggests sand is placed on fill but does not provide details on the type, quality or where the fill is in relation to the discharge area, no slope on the plan, no details on the pump chamber, no calculations on dosing, orifice spacing, and no Operating & Maintenance plan.

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

## **INVESTIGATION**

As a result of the incorrect and/or missing information, ASTTBC staff contacted the ROWP, requesting clarification and details concerning these Filings. The ROWP responded and admitted that information was missing while other details were misunderstood. This included the belief that a permit for a system issued several years prior to the SSR would still be in effect today even though the onsite system was not constructed under the original permit.

There was also no knowledge that version 2 of the SPM was in effect and the ROWP was still carrying out work to the requirements of version 1. Upon learning that version 2 only must be used, the ROWP immediately arranged to obtain a copy.

## **DISCUSSION**

The amount of missing details in these Filings is concerning and the ROWP admits the Filings were substandard after being given examples of proper Filings for comparison. The ROWP readily took responsibility for the substandard work and was most cooperative with ASTTBC staff during the investigation process, and there is no suggestion that the ROWP intentionally carried out such work to a substandard level.

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

One of the Filings suggests that the distance from the onsite system to the well is less than the required thirty meters which is a critical setback requirement under the SPM. All ROWPs must meet critical setbacks and a deviation to them is only permitted by a professional having reviewed the site and related conditions sufficiently to determine that the reduction in setback does not pose a potential health hazard.

## **OUTCOME**

The Practice Review Board required the ROWP to successfully complete the WOWTC course PLAN201 as a review of fundamental duties and responsibilities expected of all planners as well as course PLAN202 as a review of planning for pump based dispersal systems. The ROWP was also required to submit to a Practice Assessment. The ROWP completed the required training set out in the PRB decision.

After several attempts to contact the ROWP, a date was set with the Manager, OWRP to complete a Practice Assessment at the ROWPs place of work. Upon arrival, the Manager, OWRP was met by the ROWPs father who stated that the ROWP was called out to an emergency repair that morning but had left some documents related to a Filing that was recently completed.

During a review of the documents, concerns were developed over significant missing documentation and errors within the documentation that suggested the ROWP may be lacking fundamental knowledge of planning. A letter was sent to the ROWP pointing out that while the ROWP had completed the WOWTC courses set out in the PRB decision, the single example of work did not reflect the application of this knowledge and training in various ways. The ROWP was advised to provide additional examples of Filings from upcoming projects in order that the Practice Assessment could be completed. No further information was received from the ROWP. As a result of this lack of communication, the ROWPs registration was suspended pending successful completion of the Practice Assessment. No further action was required and this file was closed.

## **CASE #09-39**

### **STATEMENT OF COMPLAINT**

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

### **BACKGROUND**

During a random check of Filings within the Health Authority by ASTTBC staff, a Filing by the ROWP was reviewed and found to be missing or contain incorrect information. According to the Filing, this was for a new construction of a single family residence with “4+2” bedrooms but no explanation as to whether the “2” was for a suite or other uses.

No design rationale was provided to explain how or why the system was to be constructed on this property in the manner proposed. Pressure distribution was to be used, but no calculations were provided to explain how the HLR, LLR and dosing per pump cycle was determined. A reference was made to adding sand within the field area to fill in dips, but no construction details were included to show just how much might be required and where it would be placed. No soils log providing details, such as texture, consistence, structure, presence of mottles or other required items, were found in the Filing.

In review of this Filing, the amount of information was substantially less than set out under the SSR and SPM and was insufficient for an Installer to use for the purposes of estimating and constructing the system, according to the Planner’s requirements.

### **INVESTIGATION**

As a result of the incorrect and/or missing information, ASTTBC staff contacted the ROWP requesting clarification and details concerning the Filing. The ROWP thought the information provided was sufficient, but would ensure future Filings contained more details and would strive to achieve this. The ROWP describes consulting the SPM throughout the planning process, but does not seem to be aware of the need to ensure it is clearly documented and this may be due to the time period in which the courses were taken some years ago. This is especially clear when the ROWP admits to using a very old checklist, provided during the WOWTC courses, which meets SPM version 1 requirements rather than version 2.

There is a reference that the ROWP only approximates the size of the pump required rather than carrying out the actual calculations, and relies upon the pump supplier for the final determination. As for the ROWPs ability to calculate pressure distribution, insufficient information was provided through the Filing or response letter to verify this.

### **DISCUSSION**

The ROWP admits the Filing was insufficient and missing details in various areas, as was pointed out during the review process. As the ROWP didn’t appear to be fully familiar with the current requirements of the SPM or with the current information provided within the training, re-attending courses that specifically cover most of the issues found within the Filing would be of significant benefit.

### **OUTCOME**

The Practice Review Board required that the ROWP successfully complete the WOWTC course PLAN201 (or equivalent acceptable to the Manager, OWRP) as a review of fundamental duties and responsibilities expected of all planners, as well as, course PLAN204 (or equivalent acceptable to the Manager, OWRP) as a review of fundamentals to calculate and plan pressure distribution systems. The ROWP was also to submit to a Practice Assessment. The ROWP has agreed to this and staff will monitor the file to ensure all requirements are successfully completed. No further action was required and this file was closed.

## **CASE #09-88**

### **STATEMENT OF COMPLAINT**

That a ROWP undertook extensive planning work, and billed for this work, when the client was seeking only general advice and a quote, and did not authorize the planning work.

### **BACKGROUND**

The owners of a property considering the creation of an agri-tourism park for investment purposes. As part of the general planning associated to the venture, the owners began researching the various requirements from building permits to rezoning issues, which also identified the need to have an appropriate onsite sewage system to serve this project.

During discussions with developers and operators of similar projects in BC, the name of a person apparently having prior experience with these types of projects was passed to the owners, who asked this person to attend the site. The owners reportedly stressed that they were researching only, but seeking quotes for this work, as they were with other aspects of the project. The contractor, known only by a first name, made a statement suggesting that the type and size of the system would be similar to that needed for a residence, but would need to get back to them with a quote.

Days later, while one of the owners was out of town and only one was home, the contractor attended the property unannounced with a group of approximately half a dozen people. When confronted, the contractor introduced a ROWP stating that this ROWP was leading the group on an educational field trip and they decided to visit this site to examine the soils in relation to the onsite system the contractor was asked to provide a quote for.

After the owner confronted the group, they left and other contractors arrived, providing quotes for various other services on the project. The contractor and the group of people, including the ROWP, returned later at which point the owner was reportedly told by the ROWP that it would cost \$2,000 to \$3,000 “to engineer a septic system”. The owner then claims to have clearly informed the ROWP that only quotes for the work were being requested, as the project is still being reviewed for viability. The ROWP apparently directed an individual within the group to carry out some form of tests in the soil while the contractor stated he would be obtaining sufficient information to provide a quote. If they did want to proceed with the project at a later date, the contractor indicated the ROWP could file a permit for apparently \$200.

Some time later, the owners received an invoice in the mail from the ROWP stating they owed \$3,486 for the planning of an onsite sewage system on their property. According to the owners, they have no contract with the ROWP, verbal or written, and they did not authorize the ROWP to undertake such services resulting in the invoice.

When the ROWP informed them of an intention to take legal action to collect the outstanding fees, the property owners contacted ASTTBC for assistance.

### **INVESTIGATION**

ASTTBC staff contacted the ROWP and confirmed that a significant misunderstanding had taken place on this matter, and while the ROWP was convinced of being verbally retained to undertake the planning work, admitted that no written estimate for services or a written contract was provided to or signed by the property owners. The ROWP has ceased any action against the complainants and has implemented stricter business policies requiring contracts be in place prior to commencing any work.

The property owners were contacted by ASTTBC staff advising that the ROWP has ceased any legal action and the property owners agreed to drop any legal action they had been contemplating. At the property owner's request, no further action is necessary and this matter is resolved to their satisfaction.

## **DISCUSSION**

Confusion regarding roles and the property owner's needs was caused when a non-ROWP contractor involved a ROWP and the ROWP failed to take reasonable steps to assess the work and provide basic quote and contract documents. This evolved into planning for an onsite sewage system being performed by the ROWP when it was not desired or requested by the property owner. The property owners would have benefited from a consultation with the ROWP, but even this did not occur. Instead, a middle person, the contractor, became involved in an effort to profit from any resulting work.

The ROWP readily acknowledged the serious mistakes made at various points throughout this matter during discussions with ASTTBC staff and stated corrective action was already carried out within the business to prevent this from occurring in the future. A review of the changes implemented by the ROWP should be conducted by ASTTBC and can be done through a Practice Assessment.

## **OUTCOME**

As required by the Practice Review Board, the ROWP successfully completed a Practice Assessment and submitted a report to the Registrar explaining the new processes in place to ensure proper written contracts are created for each project, the basic template to be utilized for contracts and how any staff, students, peers or others will be supervised while on a clients property.

## **CASE #10-33**

### **STATEMENT OF COMPLAINT**

That a ROWP Installer allowed a property owner to install an onsite sewage system with minimal supervision, and once completed, did not inform the ROWP Planner or the Health Authority that the system was commissioned.

### **BACKGROUND**

An Environmental Health Officer was reviewing Filings to locate those which had exceeded the two year expiry limit. One particular Filing was by a ROWP Planner for a lagoon system which was registered in July 2007. No Letter of Certification or other final Filing documents were attached to the file.

The EHO contacted the ROWP Planner who stated he had not heard from the client or any ROWP that the system was installed, therefore no further documents were submitted. The EHO contacted ASTTBC staff for advice and it was suggested to contact the property owner to verify whether the system was installed or not. After contacting the property owner, the EHO learned that the system was indeed installed by the property owner, with very limited involvement by a ROWP Installer.

Based on this preliminary information, it would appear that the Letter of Certification and Operation & Maintenance Plan or other directions from the Planner to the property owner, on how to use this system safely and appropriately, were not available. These actions by the ROWP Installer would be contrary to Principle 1 & 2 of the Code of Ethics.

### **INVESTIGATION**

ASTTBC staff contacted the ROWP Installer who claimed to have provided some inspection of the installation by the property owner. "I met with the homeowner for our initial meeting to discuss the system prior to any works taking place. The homeowner indicated, during this initial meeting, that they

would like to do all the excavation works. As we were busy with other projects at the time, I agreed that this would be satisfactory and provided details on the requirements outlined in the plan provided by (the ROWP Planner). The homeowner indicated that they understood the requirements outlined and would proceed with the works.”

The ROWP Installer further states, “I then visited the site while the works were in progress and outlined to the homeowner the changes to the system that were required in order to meet the requirements of the plan. Following this meeting I had to leave town for other work that we had scheduled. During a brief return from this work I visited the site for a third time. At this time I did a final inspection of the system and it met all the plan requirements. Unfortunately, the homeowner was not present during this final inspection, as they were away at the time, and following the inspection I again had to leave town and return to our other works that were in progress.”

Final comments by the ROWP Installer are “I recognize that I did not fulfill my requirements with regards to notification of the project start or completion and I can only explain this due to how busy I was with the other projects at the time.”

Despite several months passing, ASTTBC staff have not received any further documentation to show that a new Filing was registered with the Health Authority or that a Planner has completed all final Filing documents for this system. ASTTBC staff contacted the ROWP Installer who reiterated this would be done soon.

## **DISCUSSION**

Once a ROWP Planner registers a Filing with the Health Authority, there is no means to keep track of whether the system will be constructed, when and by whom. Locating and reviewing expired or incomplete Filings is a time consuming processes and means to track electronically varies between each Health Authority. In this case, some seven months passed before an EHO found such a file and made enquiries about the status of the system.

The ROWP Planner, while being the original focus of attention by the EHO, had a legitimate reason for not knowing the status of the Filing since the client did not advise that the system had been installed. However, and more concerning, is that the ROWP Installer did not contact the Planner to advise the status of the installation prior to commencing work through to completion, nor make any invitation for the Planner to conduct construction reviews through the process. Without the Installer communicating with the Planner in any manner, this leaves the Planner in a precarious position of being responsible for the planning without an opportunity to ensure that the system is constructed as per the plan and that the property owner is in possession of a Letter of Certification and vital use and maintenance information.

In this case, the ROWP Installer involved the property owner to install the system, with what appears to be an initial site meeting; one inspection during the installation, where some direction for changes were provided to the property owner, and a third after completion. The degree of oversight or supervision appears to be minimal and far less than set out under the Onsite Wastewater Registration Board (OWRB) Policy in force at the time of the work.

**ROWPs must ensure that the level of oversight in all cases will ensure their due diligence as to the public health and welfare and their responsibilities for good practices as defined by the Standard Practice Manual. ROWPs must not provide oversight for any function for which they are not certified or registered.**

The degree of supervision the ROWP Installer provided is clearly less than expected for oversight of contractors or others who are not Authorized Persons or have demonstrated training such as Onsite

Wastewater Trainees. How the septic tank was installed or backfilled, whether the gravity pipes had the correct slope, or whether the berms of the lagoon had appropriate compaction of suitable material throughout is unclear.

This also holds true for the Filing itself. Since the original Filing had expired, a new Filing would be necessary and that would require the ROWP Installer obtain the services of a Planner or a Professional to create and register such documents.

The ROWP Installer admits to failing to involve the Planner and to giving less attention to business practices causing paperwork to become forgotten. Regardless of how busy one's work schedule becomes, delaying or forgetting to complete required documents can have serious repercussions for various parties and result in unnecessary wasting of costly resources to find and correct such matters.

As for involving a property owner to install the sewage system, OWRB Policies are in place that allows this to occur, but with requirements for providing sufficient supervision. Allowing the property owner to undertake specific work that is routine or simple in nature, such as digging a trench and laying a pipe, is only practical if the property owner was observed to be competent before being allowed to carry out the task.

Building the berms for a lagoon can take hours, which the ROWP Installer might find unnecessary to be present the entire time to watch, however the consequences of inappropriate soil being used or insufficient compaction methods employed during all phases of building the berm can be severe and the ROWP Installer remains liable for the work even when not on site.

Conditions may be found during the installation that require changes to the original plan and this requires the training and experience of the Installer to observe such conditions, determine what appropriate measures to take, and when to notify the Planner that changes to the plans are required. These are the liabilities the Installer faces for not providing sufficient oversight.

Since the ROWP had not supplied all outstanding documents for review, this investigation could not be concluded. Further action was warranted by the PRB to ensure compliance to PRB/staff requests for required documentation.

## **OUTCOME**

The Practice Review Board required that the registration of the ROWP be suspended until such time as a satisfactory response was provided and the ROWP successfully completed a Practice Assessment. No further action was possible and the file was closed.

## **CASE #10-36**

### **STATEMENT OF COMPLAINT**

That a ROWP was one of several parties involved with the planning and installation of an onsite sewage system, which malfunctioned shortly after being commissioned, and determined to be a health hazard by an Environmental Health Officer.

Based on this allegation, this could be contrary to any and all of Principles 1, 2, 3 & 6 of the ASTTBC Code of Ethics.

## **BACKGROUND**

The owner of a property contacted a contractor to enquire about installing a new onsite sewage system. To undertake this work, the contractor contacted an engineering firm which hired a ROWP to undertake a portion of the site assessment, calculate system and component sizing, and create construction drawings. During the assessment, the ROWP believed the site constraints required a Type 3 system, which would require the Professional to take over the system design and Filing.

The system was installed during December 2009 and soon after completion, problems were noted by the owner, who brought in other Authorized Persons to provide a second opinion. During an inspection of the system by the other Authorized Persons, sewage was noted escaping to the surface from several areas, at which time the Health Authority were informed of a potential health hazard. An Environmental Health Officer attending the site agreed with the Authorized Persons findings and issued an Order against the owner to repair the system immediately.

Through the owner's insurance company, a Professional was retained to investigate the malfunctioning onsite system and a report was prepared for the insurance company. The report indicated a variety of problems with the design and installation of the system had occurred, with fault placed to varying degrees upon the contractor installing the system, the Professional overseeing the system and the ROWP for planning related work.

## **INVESTIGATION**

A copy of this report was provided to the ROWP who responded to ASTTBC stating "it has come to my attention that I have not provided sufficient information regarding soil description with the Filing package. More detail should have been included in Filing documents to clarify findings." Further comments include, "After reviewing design calculations I agree with (the Professionals) findings that the sand mound should have been longer to provide sufficient Linear Loading Rates and sand media loading rates at infiltrative surface. This was an oversight and unfortunately was not identified or not seen as a concern in the review process. This is a design parameter which I am aware of but unfortunately it was missed when creating construction drawings."

Finally, "I understand plans for necessary repairs are to be filed soon by (the owners) Professional representative. I plan on assisting with the repair in any means necessary. I continue to keep in contact with all parties to help resolve this issue for (the owner)."

ASTTBC staff held a number of discussions with the contractor to determine role and responsibilities for each party involved with the planning and installation of the system. Confusion was found between all three parties and the ROWP may not have had a previously defined role and responsibilities, including and leading to insufficient site and soil assessments being carried out. There is also concern that none of the parties actually assessed the existing system to determine a possible reason for the malfunction of the older, original system, nor confirmed how the home was being used. A running tap in a suite may have been overlooked that could severely impact the daily flow rates.

Some of the confusion over roles and responsibilities may also be due to both the Professional and the ROWP jointly sharing work, yet operating under two different business names. A separate investigation is currently underway by the Association of Professional Engineers and Geoscientists of BC regarding the actions of the Professional.

## **DISCUSSION**

The ROWP admits to making planning errors and does not dispute key findings in a report produced by a Professional investigating this matter for the insurance company. The ROWP also has offered to provide

assistance to correct this matter and this was confirmed by the non-ROWP contractor who installed the system.

In review of the documents related to the ROWP's involvement for planning, they are substantially well prepared, therefore it is not clear if the oversight was accidental or a misunderstanding of fundamentals within certain portions of planning. It is also not entirely clear as to the extent of the role played by the Professional who worked with the ROWP, but this portion of the investigation rests with APEGBC. The ROWP may now be faced with legal action by the insurance company and/or the property owner.

Due to the circumstances of this case, a Practice Assessment would be worthwhile to determine the nature and extent of the ROWPs misunderstanding(s), if these errors are an isolated incident, and what continuing professional development courses or other measures may be needed to prevent future problems.

### **OUTCOME**

The Practice Review Board required that the ROWP successfully complete a Practice Assessment. This was done and substantial improvements were made by the ROWP. No further action was required and this file was closed.

### **CASE #10-65**

#### **STATEMENT OF COMPLAINT**

That a ROWP planned an onsite sewage system using incorrect and/or misleading information, and when presented with this, did not correct these errors. Further, that the hiring of another ROWP to correct these errors will result in the client incurring an additional unnecessary cost.

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

#### **BACKGROUND**

A property owner was in need of an onsite sewage system for a new 3 bedroom home being constructed. A ROWP was hired by the owner to plan this system and register the Filing with the Health Authority. Although the plans were completed by late August 2009, land title information was not provided by the owner until early January 2010, and the Filing was submitted immediately afterwards.

Construction of the home was scheduled for March, but further delays caused by other contractors pushed the project into April. The ROWP was waiting for the final elevations of the foundation and plumbing in order to ensure the pipes leading to the onsite sewage system were at the correct elevation and position in relation to the home. In the meantime, weather condition changes caused a further delay for the ROWP and miscommunication developed over the start date for the installation, positioning of the septic tank and pump chamber in relation to the home, and the costs for the project.

During one conversation around March or April of 2010, the ROWP learned from the owner that the septic tank and pump chamber would need to be relocated due to an ecological protection covenant on the property by the Ministry of Environment. This covenant prevented the removal of trees or shrubs and affected other aspects of placement of components for the wastewater system. Attempts to obtain the covenant by the ROWP were reportedly delayed or hampered by the owner causing the ROWP to further delay the installation. The owner then sought out other ROWP Installers to complete the project.

When the owner showed the plans to other ROWPs, the Installers stated the system was undersized and they could not install it according to the plans or would have to revise the plans, resubmit to the Health Authority, and then undertake the work. The owner became frustrated that they may have to incur additional costs to correct the plan after having already paid for these services and found the ROWP unwilling to make these corrections to the original plan.

## **INVESTIGATION**

ASTTBC staff contacted the ROWP who provided insight into the delays for the installation and difficulties obtaining the details of the protective covenant, giving dates and background into the phone calls made to and received from the owner. The ROWP also claims to have offered to contact the Ministry of Environment, in order to find a means to overcome the problems associated with the covenant, but that the owner would not provide any details nor allow this contact. Without knowing what adjustments to the plan might be required, the ROWP could not provide the owner with an accurate cost to install the system.

As a result the ROWP states, “At this point (the owner) informed me that he had in fact contacted other ROWPs and could get the job done in writing for many thousands of dollars cheaper and found them more professional. I informed (the owner) that he could hire any ROWP of his choice but the Environmental covenant issue would still have to be addressed and without his co-operation an impasse existed as I was unable to file an amendment without the relevant documentation.” No other communication between the parties occurred until September 16<sup>th</sup> when the owner reportedly contacted the ROWP by phone and allegedly stated “you had better give him a price and start construction or else.” The ROWP did not respond to what was perceived to be a threat.

In rebuttal to the ROWPs comments, the owner stated he thought the monies paid for planning was included in the cost for installation, pointing out that, as he had nothing in writing from the ROWP he was unable to show what services he had paid for and what other costs would be incurred. The owner also points out that the undersized sewage system was an issue that needed to be resolved and the September 16<sup>th</sup> phone call was not a threat but an attempt to provide the ROWP with two options for resolving the matter. Either the ROWP should correct the Filing or refund the money for the planning work, and there was a reference to suggesting the matter will be taken to Small Claims Court if it could not be resolved.

The owner provided the names of two ROWPs invited to install the system, who both stated that the system was undersized for the home. ASTTBC staff contacted both ROWPs who confirmed they advised the owner that the system appeared undersized and that the owner should see if the ROWP would adjust the plans. There was no indication either ROWP criticized the work of the ROWP, made defamatory comments or otherwise acted contrary to the Code of Ethics. They merely pointed out a concern to the owner and directed him to seek adjustments to the plans.

The ROWP provided a final rebuttal stating the owner only ever provided verbal information that indicated it would be a two bedroom home of under fourteen hundred square feet, plus a potential two hundred square foot addition. Based on those numbers, a system was designed for a two bedroom home, not a three bedroom, and that the owner had several other ROWPs review the plans and, based on the verbal information, there were no problems with the plans.

The ROWP then provided ASTTBC staff with a number of installation quotes for past clients to show that hard copy quotes and contracts are often provided but also that a verbal agreement and a handshake is not uncommon because the ROWP is well known in the community. The ROWP does not provide any further explanation as to the lack of a contract in this particular matter.

ASTTBC staff reviewed the plans and confirmed that the sizing would be appropriate if this was intended to serve a two bedroom home. However, the Record of Sewerage System form clearly states it was to be for a three bedroom home, as the owner maintains he stated it was to be and has building plans showing it was going to be.

## **DISCUSSION**

The ROWP entered into an agreement for services with the property owner but did not create a written contract or even a quote or proposal. The lack of a contract may not be the usual business practice for the ROWP, as demonstrated through examples of contracts from around this same time period, but these examples are simplistic at best and don't convey conditions that might increase costs, time period the price for services are valid for, potential for delays due to weather conditions or other factors, when the work might commence, how long it might take to complete, how the site will be finished off, or other aspects important to confirm with a client beforehand and agree to in writing.

There is also no apparent separation of the installation from the planning services, which has led to confusion and misunderstanding. There does not appear to be any homeowner declaration of usage, a key document that, if used, would have helped avoid portions of this complaint related to system sizing. Also, the ROWP did not obtain a copy of the proposed house plans and did not supply any notes or similar documents in the ROWP's defense.

The ROWPs insistence on obtaining information on land title information and the covenant as a requirement to complete planning and installation work was appropriate and essential. Why these were delayed, or in the case of the covenant not provided, is unclear but also an important reason why the ROWP could not complete the planning and installation work. This is an item not fully addressed by the owner in his responses.

The ROWP needs to improve basic business practices as it relates to contracts, proposals, and even documents listed under the Administrative section of the Standard Practice Manual, such as the homeowner declaration form and related items. Relying upon a handshake and a verbal agreement is fraught with opportunities for misunderstandings for both parties, as it was in this case. The lack of supporting documentation has resulted in a "he said, she said" dispute that both parties are suggesting may head to a Small Claims Court action for a resolution.

Under the Code of Ethics, the interpretation of agreements and contract documents must be undertaken with fairness and impartiality, and if members become aware of errors and omissions in their services they should report immediately to their superiors and work to rectify these problems. When the owner was made aware by two other ROWPs, he asked to bid on installing the system, that the sizing of the system appeared less than required for his three bedroom home, the ROWP should have stepped up to correct the plans and modify the Filing to meet the requirements for a three bedroom home. Why the ROWP put onto the form that it was sized for a three bedroom, yet actually sized the system based on two bedrooms, is not made clear in responses other than to suggest the ROWP was verbally told by the owner it was a two bedroom home. As the owner appears to have a building plan that shows three bedrooms and the ROWP was shown the plans and wrote "three bedrooms" on the RSS form, the ROWP should correct the errors in the Filing, since payment was made for the planning services. However, the details on the protective covenant are essential to completion of the plan and if they are not provided by the owner, then no further action are necessary or even possible.

## **OUTCOME**

The Practice Review Board required the ROWP to complete the paperwork or refund the monies paid by the client (monies were refunded), supply a minimum 500 word essay acceptable to the Registrar, explaining the responsibilities of a Planner in relation to communications with clients, and how the

ROWP will improve business practices with particular emphasis on measures to protect clients and reduce liability to clients for work in the future. In addition, the ROWP was to successfully complete a Practice Assessment. These things were done, no further action was required and the file was closed.

## **CASE #10-69**

### **STATEMENT OF COMPLAINT**

That a ROWP planned and installed an onsite sewage system prior to registering the Filing with the Health Authority and that, when a Health Officer found such work underway, the ROWP submitted a Filing with incorrect and/or missing planning information, and the installation was done in a manner contrary to the Standard Practice Manual.

If the allegations are found to be true, these would be contrary to Principle #2 & #3 of the ASTTBC Code of Ethics.

### **BACKGROUND**

ASTTBC was contacted by an Environmental Health Officer, who observed the installation of an onsite sewage system. The EHO became aware of this site due to a complaint received from a neighbour concerned about a sewage system potentially encroaching onto his property.

Upon arrival, the EHO noted a sand mound dispersal area within one to two meters of the property line, possibly even on the line, and developed concerns over the construction of the system itself. When Health Authority records were checked, no Filing was present, but further investigation revealed that a ROWP was undertaking the work. Once the EHO contacted the ROWP, the ROWP admitted to installing the system before registering the Filing and submitting the documents to the Health Authority. When the documents were registered, a further review of the Filing by the EHO resulted in concerns over the information it contained.

### **INVESTIGATION**

The EHO escorted the ASTTBC Investigator around the property to examine the partially constructed system. The findings included:

- The septic tank and pump chamber were found sitting over a meter above ground, yet it was unclear how the elevations for connecting pipes would work with the location of the proposed home
- The tanks were undersized, as the Daily Design Flow was incorrectly calculated
- The partially constructed sand mound was installed down a slope, not across, leading to potential overloading of the lower distal end of the basal area next to the property line
- The steep slopes on the sides of the mound and slope of more than 5% across the top of the mound are contrary to the Standard Practice Manual
- The Filing does not mention the rock outcrops immediately next to the mound, the varying slopes or where the test pits and percolation tests were carried out in relation to the mound/receiving area.

ASTTBC staff sent a letter to the ROWP advising of the concerns and the ROWP admitted to being in violation of the Code of Ethics, to undertaking the work prior to registering the Filing, and to mistakes within the Filing. In part, these mistakes are related to a time period when a family tragedy had just occurred, but the ROWP admits this was not a defense in itself. As to some aspects of the problems raised, the ROWP believes that the system was well constructed, that the slope across the mound is not a concern nor is the position on the slope a problem. On other aspects of the problems found, the ROWP

offered to correct these conditions, since the system is not completed yet. In closing, the ROWP states "...will not do no more work when my judgment is clouded."

Following the ROWPs response, ASTTBC staff became aware that the developer for this subdivision has retained an engineering firm to review the onsite system. The findings of this review appear to have resulted in the same issues as the ASTTBC Investigator discovered, and as a result, the developer is retaining the engineering firm to re-design a system for this property. The developer is reportedly also preparing legal proceedings against the ROWP as a result of the findings.

## **DISCUSSION**

The ROWPs Filing contains a variety of errors in calculations. The plans contain minimal details, soils logs are questionable, and ability to competently conduct a site assessment is unclear. More concerning are some fundamental misunderstandings of the SPM both as a Planner and as an Installer, several that were obvious and identified by both the Health Officer as well as by the ASTTBC Investigator and the engineering firm. The ROWPs mental health status due to a recent family tragedy may play one part, but does not explain the significant gaps in expected competencies displayed in the work.

Re-attending courses would appear the most appropriate step to ensure a solid foundation of planning and installation skills are in place, as well as identifying and describing soils in more accurate detail. However, a Practice Assessment may have more value initially to determine if other or larger problems are present than could be found during this investigation.

## **OUTCOME**

The Practice Review Board required the ROWP to immediately submit to a Practice Assessment and to agree to a voluntary suspension of the ROWP Planner and Installer registrations until the Practice Assessment could be satisfactorily completed. The ROWPs registration was suspended, no further action was required and the file was closed.

## **CASE #10-72**

### **STATEMENT OF COMPLAINT**

That a ROWP, identified here as ROWP 'B', planned and installed an onsite sewage system that allegedly did not meet the setback distances from a water well, as required by the Standard Practice Manual (SPM), and other features of the system were not consistent with the SPM.

This allegation, if found to be true, would be contrary to Principles 1 and 4 of the ASTTBC Code of Ethics.

### **BACKGROUND**

ROWP 'A' was retained by the complainant, a prospective buyer of a property, to carry out an inspection of an older sewage system as a subject to the sale of the property. The inspection was carried out on July 8, 2010. ROWP 'A' determined that a replacement of the sewage system was necessary and offered to have the Company replace the system. ROWP 'A' carried out a percolation test and a soil evaluation and produced a quote based on this on July 15, 2010. The buyer (complainant) and the seller agreed to split the costs (half and half) as quoted by ROWP 'A' on behalf of the Company. Part of the agreement between the buyer and seller was that the installation would take place after the buyer took possession of the property and would utilize an Installer of the buyer's choice. There is no written contract between the buyer/seller and the Company as represented by ROWP 'A'.

The buyer took possession of the property and attended with a ROWP Installer to make plans for the installation, only to find that a system had already been installed. The ROWP Installer briefly reviewed what had been done and pointed out that the system as installed appeared to differ substantially from the proposal included with the quote from ROWP 'A'.

The buyer attended the Health Authority office and acquired a copy of the Filing document. This Filing was similar to the quote and showed a pressurized bed system with a new pump chamber and a new, larger septic tank. As the Letter of Certification for the system had not yet been filed and as the thirty day time limit had not expired, the buyer decided to wait for these. During this period, the buyer received two telephone calls from the Company demanding payment for the installation. When the thirty-day period had run out and there was no Letter filed, the buyer contacted the Health Authority and asked for an investigation to be opened.

In the middle of September, the buyer again attended the Health Authority and was given a copy of the amended Filing document along with the Letter of Certification and Operation & Maintenance Plan that had been filed subsequent. The system shown in these documents did not include a pump chamber and the dispersal field was gravity rather than pressure distribution. The buyer noted that the amount demanded by the Company was the same, even though it was a less complicated system and should have been much less expensive to install. Numerous other errors and inconsistencies were noted between the original quote and proposal, the inspection report and the final Filing documents, which led the buyer to hire a ROWP Private Inspector to provide comment on what had been installed and to file a complaint with ASTTBC. A copy of the second inspection report was passed on to the Health Authority, however, the Health Officer told the buyer that as ASTTBC was now involved, the Health Authority would allow ASTTBC to handle the matter.

The buyer decided not to pay any monies to the Company pending the resolution of the dispute and this complaint, and as a result of this, a civil action was filed against the buyer by the Company. This investigation and report will not address the contractual issues that make up this pending civil action.

## **INVESTIGATION**

ASTTBC staff reviewed both the Filing documents associated to the new system as well as the inspection report that recommended the replacement of the original sewage system. The inspection report and the soil assessment report/quote were completed by ROWP 'A', and the Filing documents and the installation were completed by ROWP 'B', both working as the Company. The inspection and report will be dealt with in a separate Practice Review Board investigation and report due to questions regarding the thoroughness and accuracy of the inspection and report itself.

The soil investigation report only shows a percolation rate of three minutes per inch and three feet of "coarse gravel and sand". There is no further soils log as is required under the BC Standard Practice Manual. This same sheet of paper specifies that the new system will be composed of a new pump chamber and a seepage bed, but the electrical connection is not included and hand raking and grass seeding will be left to the owner. A price of \$10,200.00 is given for this work.

The Record of Sewerage System form has many inaccuracies/inconsistencies. For example, it suggests that there will be an effluent pump, but the method of distribution is identified as "gravity". An existing 750 imperial gallon septic tank is listed, but it should be noted that the inspection report says the existing septic tank is 600 imperial gallons; which is likely correct as the residence has three bedrooms and a 600 gal. tank was the minimum size for that number of bedrooms under the previous regulation. It should also be noted that the current regulation requires that the septic tank be 900 imperial gallons for a three bedroom home, not 750 gallons. The quote specifies that the system will be a seepage bed, but the form identifies it as a trench system.

There are several documents that should be found within the Filing, but are either missing entirely or substantially. For example, there is no design rationale to explain the reasoning and calculations behind the system type and component choices, and the specifications sheet says there is no pump, contrary to the amended RSS form, shows a distribution box, shows an “existing 750 gal tank” and contains little other information, contrary to the BC Standard Practice Manual.

Two drawings are included and both are dated July 20, 2010. It is unknown if either one is the as-built. If neither is the as-built, then there is no as-built drawing, contrary to the BC Sewerage System Regulation and Standard Practice Manual. One drawing shows the “existing 750 Imperial gallon septic tank” inside the carport (as was explained in the original inspection report) and contains a warning not to drive or park on top of it. There is then a 400 Imperial gallon pump chamber leading to a pressurized seepage bed.

The second drawing shows the “existing 750 imp. gal. septic tank” but in a slightly different location and there is no carport or pump chamber shown on the plan. There is a distribution box and 4 runs leading out of it. The scale used on both plans is unusual and the overall detail contained is minimal. No construction details are provided for any component within the system including what the pump float setting would be or how the dispersal field is to be constructed. Neither drawing meets the requirements of the SPM.

The complainant does point out that retaining the septic tank in this location is ill-considered as it renders the carport unusable for parking cars. The ROWP Private Inspector hired by the complainant did confirm that the existing septic tank located within the carport was retained for use in the new system. The Private Inspector also noted that the lid appears to have been replaced since the first inspection with a piece of aluminum siding and a paving stone rather than a lid. The complainant is also displeased that the electrical line that goes to the shed and powers the electric fence, which was operational at the time the property was purchased, was found to be severely damaged and left to end in the disturbed ground where the new dispersal field is located.

The Operation and Maintenance Plan is not specific to this site, does not meet the standards set out in the Standard Practice Manual section 3.3.3.4 and suggests this is a commercial rather than a residential property. It also states that the septic tank is 600 Imperial gallons. The Operation & Maintenance Plan and the Letter of Certification were filed on September 4, 2010, which is well beyond the thirty-day limit after the installation was completed. The ROWP explains this by saying that the Letter of Certification could not be completed until the speed levelers within the distribution box had been adjusted and this could not be done because there were now dogs on the property and the buyer, who had now taken possession, was not returning telephone calls. The complainant responds to this by saying that the only calls ever received were the two previous attempts made by the Company to demand payment.

Of serious concern is the opinion expressed by the Private Inspector that the actual setback distance is less than 100 feet between the system and the drinking water well, however, an error factor of +/- 5 feet is given which is too great an error factor to be useful. ROWP ‘B’ somewhat disagrees with this statement, but due to the many inaccuracies within the Filing documents and the unusual and inaccurate technique employed by ROWP ‘B’ in measuring this distance, this question has yet to be answered. ROWP ‘B’ describes experiencing significant difficulty in measuring the distance as a house stands in the way, which suggests that ROWP ‘B’ is unfamiliar with basic measurement techniques and equipment to overcome this minor obstacle.

Without a complete soils log and design rationale, the accuracy of the site assessment and the appropriateness of the onsite sewage system for the property and usage cannot be confirmed and calls into question the competency of the planning and installation work.

## **DISCUSSION**

Under the professional reliance model that is used within this industry, the individual who stamps and signs the work is fully responsible for its accuracy and completeness.

Regardless of which number is correct or where in the documents it is found, 600 or 750, neither is an adequate size for a septic tank under the Standard Practice Manual for a three bedroom home. The ROWP has a responsibility to plan and install a system that meets not only the documentation requirements but also the capacity requirements of the SPM, and it is likely that has not occurred here.

Waiting to make adjustments to such a minor component as speed levelers in a distribution box does not in any way justify failing to file the amended Record of Sewerage System form, the Operation & Maintenance Plan and the Letter of Certification. It is far more likely that this delay was related to the complainant's refusal to pay the ROWP/Company for the installation until after the dispute had been resolved. Especially as the documents were only filed after the Health Authority began to look into the situation.

ROWP 'B' did not provide a copy of the Filing documents including the Operation & Maintenance Plan and the Letter of Certification to the property owner contrary to section 9 of the Sewerage System Regulation, leaving it to the property owner to discover this information only after attending the Health Authority.

Overall, the actions of ROWP 'B' are contrary to Principles 1, 3, 4, 5, 6, 7 and 10 of the ASTTBC Code of Ethics.

Within the written complaint, the complainant states that the core concerns are around the appropriateness of the sewage system for both the property and their usage, as well as, the safety of it in relation to the drinking water well. In a telephone conversation with the ASTTBC Investigator, ROWP 'B' expressed a willingness to hire a Professional to review the system. As it is unlikely that the complainant will allow a Professional hired by ROWP 'B' onto the property due to the pending legal action, it may prove to be a better option for the complainant to select the Professional and ROWP 'B' pay the costs for the independent opinion.

## **OUTCOME**

The Practice Review Board required the ROWP 'B':

- be levied a fine of \$250.00 as a deterrent to future violations of the Code of Ethics
- Undertake through courses, workshops, mentoring or other means to improve planning documentation to meet the requirements of the Standard Practice Manual. This is to include improvements to site and construction drawings and measurement skills, writing a design rationale, site investigation and soils log, and a thorough operation and maintenance plan with emphasis on the accuracy and consistency of information. This improvement is to be demonstrated through a full Filing example to be provided for review by ASTTBC within 60 days of receipt of the PRB decision.
- In accordance with offers made previously by both parties, require that ROWP 'B' provide a letter from a Professional to the Registrar with a complete review of the accuracy and appropriateness of the sewerage system as installed for both the usage of the complainant and the characteristics of the property. The Professional shall also affirm that all portions of this onsite sewage system meet the critical horizontal setback distances as set out in Table 2-6 of the SPM and the SSR, and that the onsite sewage system, as installed, will not cause or contribute to a health hazard. The complainant is to select the Professional with all fees for this service to be paid by ROWP 'B'. The Professional is to provide a report to ROWP 'B', the complainant and ASTTBC within 60 days of receipt of the PRB decision.

ROWP 'B' agreed to this, but no response has been received from the complainant. As the complainant has not responded to either ASTTBC or ROWP 'B', the requirement for a Professional to review the system at the expense of ROWP 'B' cannot be met. All other requirements have been met, no further action was required and the file was closed.

### **CASE #10-77**

#### **STATEMENT OF COMPLAINT**

That a ROWP installed an onsite system and that deformities became apparent to the property owner, raising concerns that sewage could be backing up inside the septic tank and/or the plastic tank itself may have structural damage. If these conditions were occurring, the owner could be at risk of a health or safety hazard, which the ROWP did not respond to or correct.

If the allegations are true, the ROWP's failure to ensure the safety, health and welfare of the public and the protection of the environment would be contrary to Principle 1 of the ASTTBC Code of Ethics.

#### **BACKGROUND**

A ROWP planned and installed an onsite sewage system on a property during the summer of 2009. During an attempt to clean the effluent filter a year later as part of regular maintenance, the owner noted deformities to the access lid and riser resulting in the filter and access lid not being removable. Limited viewing inside the septic tank suggested fluid levels were above the normal operating level and may be causing a backing up at the inlet pipe of the septic tank.

The owner made repeated attempts to contact the ROWP by phone with no return call received and no message on the answering machine to suggest the ROWP was unavailable for any period of time. While waiting for a call back from the ROWP, the owner made enquiries with a Health Officer who raised concerns that the deformities of the plastic septic tank might be indicative of a collapsing tank, which would be a hazard in itself.

The owner then contacted the manufacturer and supplier of the plastic tanks who stated shifting or sinking may have occurred if improper installation was carried out, including improper bedding material or improper compaction during the backfilling process. The manufacturer stated that if this were the case, the warranty on the tank would be void.

As no effluent was apparent on the surface over the sewage system or down slope of it, the Health Officer would not investigate the matter. As the ROWP did not return calls, the owner considered arranging for another ROWP to attend the site, examine conditions and potentially take corrective action, but at a cost borne by the owner on a system that was only a year old.

#### **INVESTIGATION**

During the owners attempts to contact the ROWP, and prior to filing an official complaint with ASTTBC, ASTTBC staff attempted to reach the ROWP by phone, leaving messages to contact ASTTBC immediately. No calls were returned during a ten day period. With no response received, the owner decided to formally lodge a complaint and a letter was sent to the ROWP by ASTTBC.

The ROWP wrote a response to ASTTBC apologizing for the delay in responding, due to the fact the ROWP regularly works out of town. The ROWP claims to have installed the tank as per "best practices" and the "manufacturer's recommendations" but stated minor settlement is not uncommon and claims to have advised the owner to expect such to happen. The ROWP then states that since the ROWP is not a Maintenance Provider, the ROWP cannot render further assistance, nor did the ROWP offer to correct or even attend the site to look at the system in any manner.

In response, the owner states the ROWPs letter conveys confusion over “responsibility” and “maintenance”, somehow implying that since a year has passed that any problems related to settlement are now a matter the homeowner must contend with. The owner further points out that prior to being hired for the project, the ROWP had described being “responsible” for the system and showed the owner the ASTTBC registration, although the ROWP was reportedly unclear on how long after the installation this responsibility continued. The ROWP reportedly assured the owner that the ROWP was insured and that if any claim was made with the insurance company the owner would be reimbursed through the usual claim process.

The owner admits to receiving some documents at the conclusion of the installation but denies receiving an Operation & Maintenance Plan and found none on file with the Health Authority when checking their records. The owner also points out that it was only when he asked for a contract that the ROWP sent an email giving a general statement of the project time and costs but this also included other items related to work beyond the installation of the sewage system itself and was not a formal contract.

## **DISCUSSION**

The ROWPs tardiness in responding to the owner also extends to communication with ASTTBC resulting in a call for assistance becoming a complaint and subsequent investigation. This series of delays suggest the ROWP does not have an effective means of monitoring communication with clients.

Even once a message was received, the ROWP does not attempt to offer to resolve the problem or even simply visit and assess whether problems are present. Instead the ROWP suggests this is a matter for a Maintenance Provider, implying a misunderstanding of responsibilities as the Installer of the system. This behaviour could also be viewed as acting without integrity towards the client, contrary to Principle 4 of the Code of Ethics.

In review of the Filing documents the owner was given or able to obtain from the Health Authority, the design rationale is unclear on how a repair was completed on this sloping property, how the design is able to function properly when very uneven lengths of laterals are used, what the Hydraulic and Linear Loading Rates are and how they were determined for a site with many constraints, no soils log or information was included on where soil and percolation tests were conducted, and other similar serious problems were noted. Photos supplied by the owner also raise questions regarding the planning and installation practices employed on this system, including how a person was to remove an access lid screwed down to the tank at a depth of what appears to be some fifty centimeters below the surface and do so in order to carry out maintenance without creating a confined space entry hazard.

For this reason, a full review of the missing documentation, and/or a Practice Assessment should be undertaken before any further recommendations are made, especially on all documents surrounding this system.

As the owner now intends to employ others to assess and correct any problems, the owner also points out that such action would likely involve taking the matter to litigation to recoup costs, and no further action or response from ASTTBC was expected.

## **OUTCOME**

The Practice Review Board required the ROWP to:

- immediately provide ASTTBC a copy of the Operation & Maintenance Plan, soils log, field notes, and all required Filing documentation to complete the investigation into this matter, and
- submit a letter of at least 500 words to the satisfaction of the Registrar explaining (a) his duties and responsibilities to a client, (b) what actions he will take to improve communication with clients and prevent this from occurring in the future, (c) measures he will take to ensure his

clients have proper contracts, Final Filing documentation including an Operation & Maintenance Plan specific to each site and system installed, and (d) take measures to ensure safe and easy access is provided, and as required under the Standard Practice Manual, during routine maintenance of an onsite sewage system,

OR

- immediately arrange through the Manager, Onsite Wastewater Registration Program, to undertake a full Practice Assessment.

The ROWP has decided that rather than complete the conditions set out by the PRB, the ROWP will voluntarily resign all ROWP registration. The ROWP certification was removed and the Health Authorities so advised. No further action was required and the file was closed.

### **CASE #10-79**

#### **STATEMENT OF COMPLAINT**

That an onsite sewage system was repaired or replaced by an Onsite Wastewater Trainee and a Record of Sewerage System was not filed with a Health Authority prior to the work commencing.

These allegations, if found to be true, would be contrary to Principle 2 of the ASTTBC Code of Ethics for undertaking or accepting responsibility for a professional assignment when not qualified by training or experience to do so.

#### **BACKGROUND**

An Environmental Health Officer was made aware that either a new onsite sewage system, or a major repair to the existing system, was carried out at a commercial site. From this information, the person carrying out the installation or repair work was an Onsite Wastewater Trainee (OWT). In turn, the EHO also contacted ASTTBC staff to investigate.

An OWT is not an Authorized Person as defined under the Sewerage System Regulation and therefore would not be allowed to undertake such work without the supervision on an Authorized Person. For this reason, ASTTBC initiated an investigation into the matter.

#### **INVESTIGATION**

ASTTBC advised the OWT of the complaint, and a response was received confirming the OWT was the person who carried out the repairs, but had retained a Professional to register the Record of Sewerage System with the Health Authority. The OWT states that the system was “a complete failure” and on a pump and haul requirement, but the property owner was “concerned that a harsh winter was coming and that it would be devastating for their business to: A) not be able to access tanks for pumping and B) not be able to start/finish repairs if the predicted harsh winter conditions made it impossible.” With a river in close proximity either scenario can easily be seen as “a health hazard arising from a system suffering from performance malfunction.”

The OWT apparently met with the Professional and property owner to review the site conditions, then the OWT made “a judgment call that the repair was an emergency repair as stated in” the Standard Practice Manual and “proceeded to repair the system as quickly as possible.”

The OWT further states the Record of Sewerage System form “was sent in and date stamped well within the standard thirty days of completing a system as stated” in the Standard Practice Manual.

After reviewing this response, ASTTBC staff contacted Health Authority staff and another ROWP in the area who was familiar with the site. These sources confirmed that the existing sewage system was known to be malfunctioning and was required to be on a pump and haul contract since 2007. Due to the very limited space on the property and its close proximity to the river, the costs for replacement were estimated to be very high and the property owners were well aware of this. As funding for the replacement was reportedly not available to the property owners, they agreed to the pump and haul contract as an interim measure.

ASTTBC staff contacted the OWT to clarify some details in the response letter. The OWT confirmed that no sewage was flowing to the surface from any point of the existing system but the alarm system in the tank was malfunctioning. It was also confirmed that the OWT alone made the determination that there was a health hazard and, upon seeking clarification from a person at an industry association, was reportedly advised that the OWT could undertake this work immediately because it was an emergency situation.

ASTTBC staff then advised the OWT that if there was no sewage on the surface and the system was already on a pump and haul contract for over three years, there does not appear to be any indication of an imminent hazard. If the high-level alarm was malfunctioning, then a simple repair of this device would restore the warning system for the property owner to continue with the pump and haul contract. As for concerns over the winter, the problem has already existed through three winters to date and that by itself would not constitute a health hazard.

ASTTBC staff then pointed out that only a Health Officer can determine if a health hazard is present, not an Authorized Person. Section 1.2.9 of the Standard Practice Manual does describe what an Authorized Person can do in emergency situations, but as a Registered Onsite Wastewater Practitioner, not an Onsite Wastewater Trainee. The judgment call should have come from the Professional retained by the OWT instead.

The OWT was then reminded that under the ASTTBC Code of Ethics, which even an OWT is bound to follow, there is a duty to undertake appropriate action to contain or control a hazard, but also a requirement to notify proper authorities where a hazard to the public, human welfare or the environment exists. Out of at least professional courtesy the OWT should have informed the Health Authority at the earliest possible moment to ensure they are made aware of a situation that may be a health hazard and let them determine the appropriate course of action. This could include being given instructions for any other measures they believe are appropriate and which the ROWP or OWT need to follow. However, the OWT agreed that the circumstances around this event would be difficult to call a health hazard requiring emergency repairs, based on the discussion with ASTTBC staff.

## **DISCUSSION**

The OWT undertook an ‘emergency’ repair of a malfunctioning system that was known by the OWT and the Health Authority to be malfunctioning for a number of years and had arrangements in place to prevent a health hazard from occurring. The OWTs reasons for undertaking such work were misguided and incorrect, as was the OWTs knowledge of duties, responsibilities and limitations as an OWT on many levels. The misinformation provided by the industry association created a further problem for all involved.

The OWT’s most significant misunderstanding is the need to inform other authorities where an unacceptable hazard is believed to exist as stated in Principle 1 of the Code of Ethics. Based on the dates in October the OWT was initially on site looking at the conditions, and the following day when the OWT made a judgment call that a health hazard exists, these fall within the middle of the work week where plenty of opportunity existed to notify the Health Authority.

The OWT also mentioned that the poor health of the Professional made any visits to the site difficult, and very limited in number, and the registration of the Filing documents was carried out at a Health Office in a town several hours away, not the one nearest to the project itself, because it was closer to the Professionals home. Through the conversation with the OWT, it appears the degree of supervision provided by the Professional is minimal at best and the OWT may be providing oversight inappropriately to other employees installing onsite sewage systems. These are cause for concern that Principle 2 may not be followed on a regular basis.

### **OUTCOME**

The Practice Review Board required the ROWP to immediately submit to a Practice Assessment with a focus on compliance with all regulatory and ethical requirements.

The ROWP complied with this requirement, and significant improvements were made. No further action was required and the file was closed.

### **CASE #10-85**

#### **STATEMENT OF COMPLAINT**

A ROWP was suspected of being a party to a contract for constructing an onsite sewage system on a property. When a dispute over the contract emerged, concerns about the actions of the ROWPs associated to the project, including this ROWP, were raised by the owners/complainants.

If the allegations are true, the ROWP would be acting contrary to Principle 4 of the ASTTBC Code of Ethics.

#### **BACKGROUND**

The complainants retained the services of a ROWP to plan a system on a property where a new home was to be constructed. The contract specified a list of particular components and features for a Type 2 system, including an exact price to install, but made no reference to other Authorized Persons or other parties required in the planning and installation process.

Only later, after the contract was signed, did the complainants learn that the original ROWP retained the services of another company and a Professional to develop a plan for a proprietary Type 3 system. The ROWP under investigation here is an employee of the other company, attended a site meeting with other staff members, the original ROWP, and the property owner.

When a dispute arose regarding the contract between the original ROWP and how the work was being carried out, the complainants suspected this ROWP to be a direct party to the subcontract and therefore may be partially accountable.

#### **INVESTIGATION**

ASTTBC staff contacted this ROWP, who admitted to being present at a site meeting along with staff members from the office; however, it was the ROWP's boss along with a Professional and the original ROWP under contract to the complainants who were determining the type and placement of a system on the property. This ROWP's role was minor and not party to the contract or dispute that arose.

#### **DISCUSSION**

No evidence was found that extends the allegations of a breach of duty to the client beyond the original ROWP. As there is insufficient evidence to substantiate charges of unprofessional conduct under the ASTTBC Code of Ethics on the part of this ROWP, the complaint should be dismissed.

## **OUTCOME**

The Practice Review Board determined that as there was insufficient evidence to substantiate charges of unprofessional conduct against this ROWP, the complaint was dismissed and the ROWP notified accordingly.

## **CASE #10-87**

### **STATEMENT OF COMPLAINT**

That a ROWP planned and installed an onsite sewage system for a client, but upon completion of the project, did not submit a Letter of Certification or Final Filing Documents within the required thirty day period.

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

### **BACKGROUND**

The complainant required an onsite sewage system for a new home to be constructed. A ROWP was hired by the complainant to plan this system and the Filing was registered with the Health Authority. Installation of the system was completed subsequent.

Although the ROWP is required by the Sewerage System Regulation to submit the Letter of Certification and related documents signing off and authorizing the system for use within thirty days following completion, the ROWP did not provide the client nor the Health Authority with the required documents. The complainant made repeated efforts to contact the ROWP and despite promises to complete the documents, none were provided.

The complainant contacted staff from the Health Authority who also made attempts to contact the ROWP, and sixteen months following the installation of the system, the ROWP finally submitted the required documents. Although Health Authority staff accepted the documents and did not issue a ticket for the offence, senior Health Authority staff were advised, who in turn contacted ASTTBC staff about their concerns with the ROWP.

### **INVESTIGATION**

ASTTBC staff contacted the ROWP, who readily admitted to failing to complete the Letter of Certification as required. The ROWP claimed to have apologized to the complainant and again to ASTTBC staff, admitting fault.

When asked why this happened, the ROWP described how large projects were set to commence and large, expensive new equipment was purchased to be prepared for it. A sudden down-turn in the economy put these projects on hold and a combination of financial and personal factors caused the ROWP to become disorganized and very stressed. Business practices and paperwork, previously well-managed, became overwhelming.

During the discussion with ASTTBC staff, the ROWP became aware that the Filing documents failed to meet the requirements set out by the Standard Practice Manual and the ROWPs level of knowledge related to documentation was not current. The ROWP agreed that further training would be beneficial, but is not financially able to undertake courses at this time and is not sure if monies can be found to pay registration dues to ASTTBC.

### **DISCUSSION**

A check with Health Authority staff confirmed that this is a singular and unusual event and not an ongoing behaviour. Health Authority staff were sympathetic to the ROWP and did not issue a ticket.

The ROWP has already apologized to all parties involved and admits to needing assistance to improve business practices and creation of Filing documents. During discussions with ASTTBC staff, the ROWP offered to undertake a Practice Assessment and any other efforts to improve performance as a ROWP. When the Manager, OWRP asked members of the Onsite Wastewater Registration Board if any could assist with mentoring, several volunteered to work in conjunction with the Manager, OWRP to assist this ROWP.

### **OUTCOME**

The Practice Review Board determined that, at the request of the ROWP, the ROWP will be permitted to voluntarily resign the Planner status rather than complete a Practice Assessment at this time. The ROWP will not be permitted to reinstate the Planner status until a Practice Assessment is successfully completed. The data base was be flagged to indicate this and the Health Authority was advised of the cancellation of the ROWP's Planner status. No further action was required and this file was closed.

### **CASE #10-88**

#### **STATEMENT OF COMPLAINT**

A ROWP carried out the planning and installation of an onsite sewage system on a residential property being developed for a new home and in close proximity to an open-faced rock retaining wall. This potential breakout point was not clearly identified on the plan submitted within a Filing to a Health Authority and became a concern to a Health Officer who attended the site. If wastewater from the system were to escape to the surface by means of this breakout point, this could result in a health hazard.

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

#### **BACKGROUND**

An Environmental Health Officer contacted ASTTBC with a concern about the Filing and Letter of Certification for an installation of an onsite sewage system by an ROWP.

According to the EHO, the Filing for this system includes a site plan where a "field" is located near a "top of bank" but there are no details to indicate that a loose rock retaining wall exists along this bank. When using the scale on the site plan, the distance from the bank to the nearest point of the "field" is less than two meters and not close to the minimum seven and a half meters as required under Table 2-6 of the Standard Practice Manual.

The Filing also had minimal details on the native soils that caused the Health Officer to wonder if this actually was native soil or fill material as there appears to be no horizons found within the soil description. The Filing mentions that the dispersal area would use a bed, yet elsewhere in the documents there is a suggestion that C-33 sand may be used in some manner, but again no details to confirm how and where this might be used.

Based on the preliminary information from the Health Officer, there was reason to believe a system was installed without regard to the requirements of the Standard Practice Manual. It would appear that critical setbacks to a breakout point have not been met and information contained within the Filing was insufficient to determine the level of risk this would pose. The Health Officer attended the site but was unable to clearly determine setback distances using the information in the Filing. The Health Officer did note that the steep bank leads down to a marsh area that could be a riparian zone and no details of this were in the Filing. During the visit, no evidence of sewage escaping from system was found, however it was also unclear if and for how long the home was now occupied as it appeared it was still under construction.

## **INVESTIGATION**

The ASTTBC Investigator examined the Filing on record with the Health Authority for this site and confirmed the Health Officers concerns.

The Record of Sewerage System form states that the system would be a Type 1, yet details on a package treatment plant suggests this would be a Type 2 system. The site information section asks for the distance to a breakout and the form shows “n/a” for this. The section asking whether any covenants or easements are present that will affect the design or location of the sewerage system is marked as “no”.

A document within the Filing identifies the soil as “sandy gravel to shale rock” for both test holes, yet the Hydraulic Loading Rate listed is ten liters more per day than that stated within Table 2-8 of the SPM for a Type 2 system with pressure distribution. There is also no reference as to where other requirements under the SPM were carried out, including where the test holes or percolation tests were done on the property in relation to the dispersal area and the perc test results do not indicate how many tests per hole were done or if pre-soaking the holes was carried out.

Also missing was information on how the Area of Infiltration, Linear Loading Rate, pump dosing, size of pumps or setting of floats or other associated calculations were done as these are missing from the documents. There is also no rationale for the design or mention of concerns with this site that required particular attention for type and placement of components.

In review of the site plan, minimal details are provided. No indication of slope direction or degree, especially in relation to the “top of bank” reference. Dashed lines are shown running through the width of the property in the area of the sewerage system but no details are provided to describe what these lines represent.

A letter was sent to the ROWP advising of the complaint and posing questions about this system and the Filing documents. In a response letter, the ROWP claims that the system was built using soil native to the lot, that a package treatment plant had been installed and that the ROWP was involved along with Department of Fisheries and Oceans and Ministry of Environment staff in a two year study involving septic system sites and riparian zones on this and the neighbouring lots. The ROWP also states that twenty three inches of C-33 sand was added to the native soils and the field located within the zone mapped out during the study. The ROWP describes that the rock wall was constructed by another contractor after the septic system was completed and was designed by an engineering firm. The contractor contacted the ROWP because they would be “encroaching” on the septic system, and after a discussion between the ROWP, the contractor and the engineering firm, a barrier of “delta drain” was installed between the system and the rock wall which then runs five feet in depth and the full length of the lot. The ROWP claims that the drawing provided to ASTTBC by the Health Officer was the proposed drawing, not the as-built which was filed with the Letter of Certification.

A letter was sent by ASTTBC staff to the ROWP asking for a copy of the study report mentioned in the response letter, as well as clarification on a number of issues including the missing design rationale, missing construction details, missing soils log, along with specific questions regarding the details of the system, the retaining wall and the barrier. The ROWP did send a copy of the study report, but did not respond to the other questions. ASTTBC provided a copy of the study report to the Health Authority for inclusion in the Filing for this site. The Health Officer confirmed that the report did not address their concerns with the Filing.

Another letter was sent by ASTTBC staff, but no response was ever received and the ROWP has not contacted ASTTBC.

## **DISCUSSION**

Regardless of whether the drawing is the as-built or not, it is still missing significant details that are required to be included as per the Standard Practice Manual. Upon review of the photographs of the site, the extent of the detail missing from both the drawing and the Filing becomes very clear. Even if the rock retaining wall had not been installed, the system would appear to violate the setbacks to a breakout point on the slope, which is a critical standard within the Standard Practice Manual. The Health Officer did not note a health hazard/breakout, but also pointed out that the system had not been in use for very long and that the only occupant was a single man who works full time. This type of usage would put little strain on the operation of the system, and there is no way of knowing when or if sewage may break out, even if the usage increases.

Without the information that is missing from the Filing, it would appear that the ROWP did not exercise sufficient diligence in obtaining fundamental information about the site and other essential details prior to planning the system. The lack of documentation is contrary to the Standard Practice Manual.

In review of the lot size and the nearby slope and surface water, it is possible that the ROWP was acting outside of the limitations placed upon ROWP practice. If this is the case, the ROWP should have either referred the entire project to a Professional or had the system plan reviewed and approved by a Professional.

## **OUTCOME**

The Practice Review Board required the ROWP to immediately:

- Undertake through courses, workshops, mentoring or other means, to improve planning documentation to meet the requirements of the Standard Practice Manual. This is to include improvements to site and construction drawings, writing a design rationale, site investigation and soils log, and a thorough operation and maintenance plan. This improvement is to be demonstrated through a full Filing example to be provided within 60 days of receipt of the PRB decision.
- immediately provide a letter to the Registrar swearing affirmation that this onsite sewage system meets the critical horizontal setback distances as set out in Table 2-6 of the SPM. This includes both the retaining wall and any downslope drainage system behind the retaining wall. If this distance is less than the critical standards, the ROWP is to arrange with a Professional to provide a letter to ASTTBC and the Health Authority attesting that the onsite sewage system as installed will not cause or contribute to a health hazard.

The ROWP agreed to this, no further action was required and this file was closed.

## **CASE #11-02**

### **STATEMENT OF COMPLAINT**

That a ROWP undertook the planning of an onsite sewage system that would later be found to require a Professional review of the site conditions when the ROWP determined critical setbacks to a community water supply may not be met. The additional costs for a Professional were not discussed with the client prior to commencing any work nor conveyed by the ROWP as a possibility in any correspondence during the initial site assessments. Further, the ROWP is alleged to have been unrealistic and dishonest in dealings with the complainant.

These allegations, if found to be true, would be contrary to Principles 2 and 4 of the ASTTBC Code of Ethics.

## **BACKGROUND**

The complainants were considering whether subdividing their property was practical and wished to determine the suitability for an onsite sewage system on the new lot if it was created. The ROWP was retained to conduct an assessment based on two possible scenarios, one being a two bedroom cottage and the other an average sized home.

The ROWP met the complainant at the property, a discussion ensued about where the cottage or home may be located and all parties walked around the site as the discussions continued. The complainant was led to believe by the ROWP that the proposed area for the sewage system was not a problem. No contract was provided or signed during this meeting.

Later, the ROWP returned to the site to conduct a soil assessment after which a Filing was registered with the Health Authority based on a two bedroom home. The ROWP also advised the complainant to continue with having a design drawn up for the home, obtain a building permit from the Regional District, and arrange for the property to be surveyed. The complainant followed the ROWPs advice.

During a review of the application for the subdivision, a Health Officer became concerned that the sewage system did not meet the required setback distances to three community wells nearby and this was brought to the attention of the ROWP. Changes to the location of the dispersal area were made on the plans, which satisfied the requirements of the Health Officer; however the complainant was not consulted about the new location and did not like how it may impact the proposed use of the property as a result.

When these concerns were brought up with the ROWP, the ROWP's response was that to place the dispersal system closer to the original area first proposed would require a Professional with competence in the field of hydrogeology or geotechnical engineering to review and approve of such a change, however this would be an additional cost to the complainant and not a cost factored into the project by the ROWP.

Believing the ROWP was not forthcoming with this information sooner, including the need to relocate the dispersal system from an area the complainant was under the impression would be suitable, the complainant filed a formal complaint with ASTTBC.

## **INVESTIGATION**

ASTTBC staff supplied the ROWP with a copy of the complaint and asked for clarification as to the circumstances. The ROWP stated that it was difficult to confirm distances between the wells and the proposed dispersal area due to heavy brush through the property but that all parties were aware of the need for ninety meter setbacks from the initial meeting and the need to be accurate with these distances. Re-measuring was done and the proposed dispersal area was moved in a minor way and the ROWP felt confident setbacks were now met. The ROWP claims to have known that the ninety meter setback requirement applied to this site.

The ROWP claimed to have not been aware of where the potential division line for the property might be and that the complainant did not provide any documents to show where these were being proposed until months later. When this was provided, the ROWP noted the dispersal field would not be fully within the proposed new building lot.

The ROWP also stated the complainant was kept informed of the Health Authority's concerns about the setback to the wells but doesn't state whether the complainant was advised what the changes to the dispersal area location would be or if the complainant raised concerns at that time with the ROWP. The ROWP provides copies of email exchanges with the complainant, but not all show a clear relationship of

knowledge about the need to modify the location of the dispersal area until about a week after the Health Officer raised concerns over the setback distance on the Filing.

The ROWP also suggests that paying to have a hydrogeologist become involved would be an unfair financial burden and that for the complainant it “[should be considered part of the day to day expenses of being in the Land Development Business.](#)” The ROWP further states that if the planning was redone again, that “[...would have requested the owner to have the Surveyor locate the well setbacks in the field so that all of the parties involved could see for themselves – eliminating the ‘he said – she said’.](#)”

The ROWPs response was forwarded to the complainant for comment. The complainant states they are not in the land development business and were relying upon the ROWP’s reported knowledge and familiarity with the subdivision process to explore the feasibility of subdividing their property. The complainant challenges many points made by the ROWP and states they contacted the Health Authority to find out the reason for the delay in the application, at which time they obtained a copy of the amended Filing showing the new location of the dispersal field. As a result of this information, they then noted how it was substantially different than they understood from the ROWP. The complainant further points out that the location of the test holes were also inaccurate as were other measurements shown on the Filing.

In closing, the complainant comments “[I find it very offensive that \(the ROWP\) has not accepted any responsibility, and instead misrepresents all the information for \(the ROWP’s\) benefit. I am a customer who came to a 'qualified' professional for a service. I think that \(the ROWP\) should be responsible \('morally and ethically'\) for having customers rely on \(the ROWP’s\) knowledge and be accountable when \(-\) has given clients the wrong information.](#)”

The ASTTBC Investigator examined the original Filing registered with the Health Authority and noted that the setback distances were clearly shown as thirty meters, not ninety meters to other water supplies, but for their own well it was reported as more than thirty three meters. The Filing does not show where the proposed home was to be located nor any details on the actual construction or layout of the system, no rationale for the design, no soils log or other details expected under the Standard Practice Manual.

The ASTTBC Investigator also gave opportunity for parties to provide a contract, proposal or estimate of services but it appears none were created or signed. The invoice for services by the ROWP to the complainant was for conducting percolation tests and a design of the sewage system, and there is information emailed to the complainant by staff of the company the ROWP works within that quotes costs to install both a two bedroom sized system as well as a four bedroom sized system.

## **DISCUSSION**

Under the commentary for Principle 2 of the Code of Ethics, it describes the need for members to be clear in their communication with clients, setting expected outcomes, and generally ensuring they understand what the client needs as well as conveying to one’s client what they should reasonably expect from the member. Without this, miscommunication can result in misunderstandings of duties, roles and expectations causing frustration or worse for both parties.

The complainant relied upon the knowledge and expertise of the ROWP to help them explore whether subdividing the property was feasible. They became committed to investing further into the subdivision process, even beginning to have a home designed, on the basis that the proposed location of the sewage system was achievable and the ROWP gave no reason to doubt this.

Only when a Health Officer became aware of the details in the Filing registered by the ROWP did the accuracy of the information in the Filing become an issue and this led the ROWP to make adjustments to the location of the proposed sewage system. Heavy brush can make measuring challenging unless

appropriate equipment is used and measures taken to overcome such conditions, and if that requires a land surveyor to set such distances beforehand, then the client should be made aware of this reasonable request.

The services of such a specialist would be appropriate and should have been considered if the ROWP was uncertain about being able to diligently confirm a critical setback requirement of the Standard Practice Manual. With it, the ROWP would quickly realize if conditions would not allow the setback to be met, then the ROWP would need to consider the use of a Professional for a reduction in setbacks and inform the client of this option as well. Then the costs for the use of another specialist could be weighed against possible other choices on the property that meet the setback requirements. Principle 2 does not appear to be fulfilled by the ROWP.

Principle 4 requires members to act with integrity towards their client, be realistic and honest in all estimates, reports, and statements and immediately report errors or omissions in their services. The inaccuracy in determining the setback requirements as well as reporting incorrect information in the Filing, caused delays and concerns to the client that were preventable. Principle 4 does not appear to be met by the ROWP either.

## **OUTCOME**

The Practice Review Board required the ROWP to:

- be levied a fine of \$250.00 as a deterrent to future violations of the Code of Ethics,
- undertake through courses, workshops, mentoring or other means to improve planning documentation to meet the requirements of the Standard Practice Manual. This is to include improvements to site and construction drawings and measurement skills, writing a design rationale, site investigation and soils log, and a thorough operation and maintenance plan with emphasis on the accuracy and consistency of information. This improvement is to be demonstrated through a full Filing example to be provided for review by ASTTBC within 60 days of receipt of the PRB decision.

The ROWP agreed to this, no further action was required and the file was closed.

## **CASE #11-07**

### **STATEMENT OF COMPLAINT**

That a ROWP was asked to provide a plan and estimate for the planning and installation of an onsite sewage system on a bare lot, and the basic plan was different than that proposed by other ROWPs. Once the ROWP was hired, the installation did not start in a timely manner, the ROWP utilized the services of a Professional to assist with the design and the proposed system turned out to be more expensive than first thought.

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

### **BACKGROUND**

The ROWP was asked by the property owner to attend a bare piece of land and begin the process for an onsite sewage system to serve a house that had yet to be built. There were no blueprints available at that time (summer), only hand drawn sketches. The ROWP recommended that the property owner have blueprints made, as the owner was experiencing difficulties getting quotes from sub-trades and would need them for a building permit. The owner told the ROWP that he wanted a lagoon system, but the ROWP wouldn't guarantee anything until the site assessment had been done.

The owner was informed that the ROWP would be hiring the services of a Professional to complete the plan and once the site assessment was completed, a proposal would be made that the owner could accept or reject. Firm prices were given to the owner for the assessment work at this time. The owner told the ROWP that he was in the process of acquiring financing and was hoping to have the house framed. The ROWP asked for two weeks notice and pointed out that it is not a good idea to install the system until after the foundation had been installed in case changes to the building arise. The owner agreed to this.

The financing problems delayed the start of the home construction until early the following year. The owner contacted the ROWP asking to be available in April, however, miscommunication between both parties resulted in the ROWP attending the site several weeks later. The owner advised the ROWP that there was a delay as the framer was finishing his own house and the ROWP advised the owner that since the crew installing the foundation had heavy equipment already on site, the ROWP could direct them to dig the needed test holes and save the owner the cost of bringing in the ROWPs equipment. The owner agreed to this and the ROWP asked for one week notice to arrange to be there.

The owner contacted the ROWP in late June and said the ROWP had two days to attend before the machinery would be taken off the site. The Professional was not available on short notice so the ROWP attended to direct the excavation for the Professional to look at later. When the ROWP arrived, the owner had already cleared the trees from an area and told the ROWP that the lagoon would be placed there. The ROWP pointed out that it was not an ideal site due to the lay of the land, but the owner was determined that it would be used as the fewest number of trees had to be removed and he preferred that spot.

The Professional carried out the assessment and identified that the site chosen by the owner was not suitable for a lagoon, so the ROWP reviewed the property with the owner to find an alternate site. The owner decided to go with the original site and a different system type that would be appropriate based on the site assessment, as all other sites would require the removal of more trees than he wished.

In August, the ROWP provided the owner with the proposal, as well as, a materials list and a verbal estimate for the installation, but also recommended to the owner to obtain quotes from other Installers. Days later, the owner contacted the ROWP and said the mortgage vendor told the owner that if he contacts the right contractor, they will install a lagoon anywhere the owner wants. The owner hired another ROWP to install the system and filed a formal complaint with ASTTBC.

## **INVESTIGATION**

ASTTBC staff supplied the ROWP with a copy of the complaint and asked for clarification as to the circumstances. The ROWP described a friendly relationship with the owner as well as the assistance the ROWP provided in organizing sub-trades to work on the owner's home. There were even occasions where the owner admits to having dinner at the ROWP's home and giving the ROWP a case of home-made wine. It would appear that the relationship was a positive one until it became clear that the site chosen by the owner for a lagoon was not workable.

The ROWP's response was forwarded to the owner for comment. The owner responded and retracted the complaint. The owner clarified that the complaint was more about the inconsistencies between what was suggested by different people involved in the onsite industry and that a property owner should be able to install the type of system they want in the location they see fit.

ASTTBC staff contacted the ROWP who explained that the delays in the installation were related to the owner's building schedule, not the ROWP's schedule and that changes were already being made to business practices including written contracts and estimates to prevent this kind of misunderstanding in the future.

ASTTBC staff are currently conducting an investigation into the nature of the lagoon system that was finally installed at this site and are awaiting details to be provided by the Health Authority confirming that a ROWP was or was not involved.

## **DISCUSSION**

There is no evidence that the actions of the ROWP were in violation of the ASTTBC Code of Ethics. It would appear that the owner's complaint had more to do with unfulfilled expectations about the process of planning and installing of onsite sewage systems by ROWPs in general and not this ROWP in particular.

The proposal was verbal initially to allow the owner to accept or reject it without the ROWP having to charge. However, the ROWP would be better protected from incidents of this nature in the future if a proper written contract and estimate had been utilized.

## **OUTCOME**

The ASTTBC Practice Review Board determined that since there is no evidence to support the complaint and as the complainant has retracted the complaint, no further action was required, this file was closed and the ROWP notified.

## **CASE #11-08**

### **STATEMENT OF COMPLAINT**

That a ROWP installed an onsite sewage system that emitted noxious odours into the environment, which affected the welfare of neighbouring property owners.

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

### **BACKGROUND**

A Professional was hired to design a Type 2 treatment system to serve a new restaurant and a ROWP was hired to install it. The installation was completed and the neighbour quickly noticed a foul odour permeating the area. The neighbour contacted the Health Authority and was told that it takes time for treatment plant biological activity to "settle" and it might be smelly until that happened. After several months passed with the neighbour still noticing odours, several contractors attended to resolve the problem at the restaurant. No solution was forthcoming, so the Health Officer suggested to the neighbour that they file a complaint with ASTTBC to force the original ROWP, who installed the system, to resolve the issue.

### **INVESTIGATION**

ASTTBC staff supplied the ROWP with a copy of the complaint and asked for clarification as to the circumstances. The ROWP pointed out that the installation was carried out to the specifications of the Professional who designed the system, the Standard Practice Manual, and the requirements of the treatment plant manufacturer including the venting for the plant.

The property owner had asked the ROWP for an estimate to install an alternate venting system, so the ROWP consulted with the Professional, who suggested a venting system toward the back of the property. The ROWP provided the recommendation to the property owners, who rejected it, as they were looking for a less expensive solution. The ROWP further points out that they were the low bid for the installation itself.

The ROWP has contacted the manufacturer of the treatment plant, who scheduled a site visit and suggested the installation of a charcoal filter.

## **DISCUSSION**

There is no evidence that the actions of the ROWP were in violation of the Code of Ethics. The ROWP installed the treatment plant in accordance with manufacturer requirements. Any odours produced by a treatment plant under such circumstances amount to a venting and maintenance issue that may be best addressed by the property owners, in conjunction with the ROWP Maintenance Provider and the treatment plant manufacturer.

The complainant describes in the complaint letter that the restaurant was built in a rural residential area under protest by local residents, and, due to several comments about the general undesirability of the facility immediately adjacent to the complainant's property, it appears that the odours produced by the treatment plant are being used in an attempt to continue the argument against the restaurant.

## **OUTCOME**

The ASTTBC Practice Review Board determined that since there is no evidence to support the complaint, no further action is required, this file was closed and the ROWP notified.

## **CASE #11-10**

### **STATEMENT OF COMPLAINT**

A ROWP carried out an inspection of an onsite sewage system for a prospective buyer of a property and issued a report that was later found to be misleading in relation to the performance of the onsite system. This inaccuracy led to the client purchasing a property that needed a new onsite sewage system and the client did not have the opportunity to negotiate for a reduction in price for the property.

These allegations, if found to be true, would be contrary to Principles 1, 6, and 10 of the ASTTBC Code of Ethics.

### **BACKGROUND**

A ROWP Maintenance Provider and Private Inspector was retained to inspect an onsite sewage system for a prospective buyer of a property. The inspection was completed and a report was issued.

This report describes that the system is "not working as well as it should" and gives a couple of possible reasons for this, with a final suggestion to make repairs and monitor for any change in the performance. The property owner arranged for this and the ROWP re-attended and noted that the fluid level had not gone down within the system, but in the ROWPs opinion, the system was operating even if it was a "slow draining system". The client needed a letter for the Health Authority that confirmed the system was capable of handling the wastewater that would be produced by their expected home-based business, and one was produced by the ROWP as their business creates little wastewater. The buyer and property owner accepted this information and the sale of the property was completed.

A relative of the new system owner, who had been the client of the ROWP, is familiar with onsite sewage systems and pointed out to the owner that the fluid level backing up over the pipes of the distribution box and even into the septic tank is not an indication of proper performance. At this point, the owner contacted another ROWP who had been recommended and this ROWP carried out an inspection and concluded that the system was not operating and was likely in need of a complete replacement.

Based on this additional information from others who examined or inspected the sewage system, the owner made a formal complaint to ASTTBC.

## **INVESTIGATION**

The ASTTBC Investigator reviewed the complaint letter along with a copy of the inspection report completed by the ROWP, and a letter was sent to the ROWP asking for clarification. The ROWP responded and explained that the report described that the system “was not working as well as it should” and that the ROWP has no control over what the client does or does not do with this information. In a telephone call between the ASTTBC Investigator and the ROWP, the ROWP admitted to being unfamiliar with the ASTTBC Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems, as well as, the performance terminology that is required to be used within inspection reports.

In review of the report issued by the ROWP, it was noted that while the content of the report is in the right direction, the ROWP is clearly not familiar with reporting requirements as well as how to analyze the performance of a system. The performance terminology was designed to be both easily understood by a lay-person, as well as, assist the ROWP with describing the performance based on physical characteristics. In the response letter, the ROWP suggests that if the terminology had been used, the ROWP would have chosen “partial backing up” to describe conditions where the fluid level never descends lower than the top of the pipes in the distribution box. This is an incorrect understanding of how to apply the terminology as such situations are clearly defined as a “performance malfunction.” In the case of a performance malfunction where steps have been taken to correct it have been unsuccessful, the correct response would be to recommend that the system will likely need to be replaced.

## **DISCUSSION**

Based on the explanation provided by the ROWP along with the copy of the inspection report, it is clear that the inspection and subsequent report fail to meet basic inspection requirements under the ASTTBC Standard Practice Guidelines for the Inspection of Onsite Wastewater Systems found in Appendix G of the Onsite Wastewater Registration Program Policy and the Performance Terminology listed within the Appendix of the Standard Practice Manual Version 2 in force at the time of the inspection.

- The report has check boxes that are checked both “yes” and “no” for “Probe the drainage area to determine its location and to check for excessive moisture, or, and/or effluent.” It also checks “yes” for “indications of previous failure” and “ponding water in the aggregate”, but does not elaborate on this or explain the ramifications in any way.
- The report does not include the Treatment Method Type as per section 1.1(ii).
- The ROWP appears to lack or failed to use appropriate inspection equipment as specified under section 5.2.
- The report lists them but does not describe the function of the type and components of the system as per section 6.2.1. This contributes to the complainant’s misunderstanding.
- The report does not discuss the capacity of the system and its usage limitations as per section 6.2.3.
- The report does not describe or explain the system maintenance requirements.
- The report did not include a maintenance schedule as per section 6.2.5.
- The report did not include recommended do’s and don’ts as per section 6.2.6

One of the most serious problems with the report form used by the ROWP is that at the end, it provides two checked possibilities. Either “Appears to be functioning at this time” or “Appears not to be functioning at this time.” These two options make it quick and simple to complete the report, but they do not account for the many shades of grey in system performance and do not describe what this might mean for the client. The report should focus less on check boxes and more on explaining the findings in a manner that is easily understandable for a lay-person.

This complaint appears to have occurred because the ROWP has not made an effort to keep current with basic inspection standards and techniques. The actions of the ROWP in this situation are contrary to Principles 1, 6 and 10 of the ASTTBC Code of Ethics.

### **OUTCOME**

The ASTTBC Practice Review Board required the ROWP to:

- be levied a fine of \$250.00, payable immediately, as a deterrent to future violations of the Code of Ethics and the ASTTBC Standard Practice Guidelines for Inspection; and,
- Undertake through courses, workshops, mentoring or other means to improve inspection skills and reporting to meet the requirements of the ASTTBC Standard Practice Guidelines. This improvement is to be demonstrated through a complete inspection file example, including site documentation and the report, to be provided to the Manager, Onsite Wastewater Registration Program within 60 days of receipt of the PRB decision.

The ROWP agreed to this, no further action was required and the file was closed.

### **CASE #11-12**

#### **STATEMENT OF COMPLAINT**

That a ROWP undertook the planning and installation of an onsite sewage system in a manner substantially less than required by the Standard Practice Manual and, therefore, may be a risk to public health and the environment. Further, this work is reportedly of a quality that is less than expected by training and experience of a ROWP.

These allegations, if found to be true, would be contrary to Principles 1 and 2 of the ASTTBC Code of Ethics.

#### **BACKGROUND**

The complainant retained the ROWP to plan and install a new onsite sewage system for a home being constructed by the complainant. Various reasons for delaying the installation were apparently given by the ROWP to the complainant, but the installation commenced a year later and most of the work was completed soon after.

As the sewage system utilizes a pump, the ROWP would not sign the Letter of Certification until the electrical power was installed in the home and a proper connection could be made to the pump chamber. The complainant suggested that the generator supplying power to various tools on the construction site be used to commission the system, however, the ROWP insisted on waiting until the main power to the home was installed and available.

The complainant paid the ROWP for a portion of the work completed and carried on constructing the home. Once the electrical power was installed, the complainant attempted to operate the pump in the pump chamber but found no control floats were installed so the pump could not be operated. While checking other parts of the sewage system, the complainant became aware that some pipes had settled and incorrect grades had resulted.

As the Filing for the sewage system had expired, the Regional District notified the complainant that the occupancy permit was subject to a functioning sewage system that was signed off by the ROWP, who planned and installed the system. Due to the dispute between the complainant and the ROWP, the complainant retained the services of a second ROWP.

The second ROWP began assessing what stage the installation was at and where any issues would need to be addressed in order to create a new Filing to be registered with the Health Authority. During the assessment, numerous problems with the existing system were found; ranging from pipes out of grade in many areas, to improper installation of materials and components within the system itself. When the complainant became aware of this, he contacted ASTTBC to lodge a complaint against the original ROWP.

## **INVESTIGATION**

ASTTBC staff supplied the ROWP with a copy of the complaint and asked for clarification as to the circumstances. The ROWP confirmed that a site assessment was carried out in the spring and again in the late summer of the year prior to installation, at which time it was determined that the gravelly soils and depth of the basement for the home required a pumped system with pressure distribution. Reportedly, the complainant made various changes to the building that would affect the elevation and location of the sewer pipe leaving the home, so the ROWP advised the complainant to hold off with installing the sewage system until further construction was completed. This would also prevent damage to the system from construction vehicles, materials being stored and other trades working around the site.

Once most of the construction was completed, the ROWP prepared to install the sewage system, but the complainant reportedly wanted to install a driveway around the home in a manner that caused the septic tank to be located closer than the one meter minimum requirement under the Standard Practice Manual. Other challenges included working around large rocks that became part of the dispersal area filled with excavated soil from the foundation of the new home. As for the cause of pipes settling or even being broken as was found by the second ROWP and the complainant, the ROWP could only speculate on possible reasons for this.

The ROWP does point out that this work was completed prior to a Practice Assessment and that the ROWP had learned what needed improvement. To the ROWP, the Practice Assessment “[was a great learning tool](#)” but does believe the calculations for flow volumes, tank size, AIS, LLR, HLR and other key design requirements were properly addressed, even if the documentation was substandard.

The ROWP also stated to the complainant that extension cords and the use of a generator are not acceptable for operating the pump and control panel, and that the ROWP should be called once the electrical was connected in the home, which is correct. The ROWP claimed to have installed the control floats but gave the complainant the control panel advising the electrician can install this component as other electrical work was being done in the home, but once installed, the electrician was to give the ROWP a call to finalize the system. The ROWP attended the site the following spring but the panel was not installed. It was also during those visits that the ROWP noted some settling of pipes and reminded the complainant that water was to be added to the tanks to prevent shifting, but any pipes that had shifted, the ROWP would deal with at the time of commissioning the system. No calls were apparently received by the ROWP from the complainant.

For payment, the ROWP received 4/5ths of the total amount and didn't mind waiting until the rest of the project was completed before requesting the outstanding balance. The ROWP confirmed that no contract or other agreement for services was in place other than a verbal agreement.

The ROWP concludes the statement by questioning whether the new system installed by the second ROWP addresses the additional living space, which would result in a larger septic tank, pump chamber and overall size of the dispersal field, therefore greater cost to the complainant. Other accusations are made that suggest other motives may be behind the second ROWP's involvement with this project and the ASTTBC Investigator will conduct a separate examination into these issues.

## **DISCUSSION**

While the complainant suggests he had no choice but to use a second ROWP when the first ROWP did not respond to phone calls, the first ROWP claims to have never received any calls to re-attend, whether for commissioning the existing system or repairing problems found with it. Offers were reportedly made by the ROWP, but not accepted by the complainant. Which story is true cannot be easily determined, but the complainant has arranged with another ROWP to file a new system plan with the Health Authority and all work is now completed.

Some aspects of the poor quality of work carried out by the ROWP occurred during the investigation of a prior PRB matter. After completing the PRB requirement to undertake various courses along with a document based Practice Assessment, substantial improvements were noted by the ASTTBC Investigator. The Practice Assessment did not include visits to any sites, as the ROWP was not actively constructing a sewage system at that time, and weather conditions, due to the time of year, made visiting older sites less valuable.

There is no evidence to suggest further training is warranted, but it would be of value to continue the Practice Review with the examination of recent installations to confirm improvements.

## **OUTCOME**

The ASTTBC Practice Review Board required the ROWP to immediately arrange with the Manager, OWRP to complete the practical portion of a Practice Assessment to confirm that installation skills had improved since the actions described in this complaint. The ROWP agreed to this, no further action was required and this file was closed.

## **CASE #11-17**

### **STATEMENT OF COMPLAINT**

That a ROWP was the Planner of an onsite sewage system that used a package treatment plant in the design, that the ROWP is connected to the business that sells the plant, that incorrect information was provided to the Installer about safe burial practices, which resulted in damage, and that the company refused to accept the damaged treatment plant for return.

### **BACKGROUND**

The property owners hired a ROWP Planner through a consulting firm to plan an onsite sewage system for their property, and a related company to supply the package treatment plant (PTP) for that system design. The ROWP Planner is an employee of the consulting company, which is owned by another individual, who also owns the PTP supply company. An unconnected ROWP Installer was hired by the property owners to install the system.

During the installation process, several issues developed between the parties that led to a small claims court action, filed by the PTP supply company, against the property owners, as well as the ROWP Installer's company. This small claims action resulted in counter-claims and is currently still before the court. Subsequent, the ROWP Installer filed a complaint against the ROWP Planner with ASTTBC.

### **INVESTIGATION**

ASTTBC staff sent a letter to the ROWP Planner asking for further details on this matter, and a response letter was received from the ROWP Planners lawyer with an excerpt as follows:

*(ROWP Planners) response to (ROWP Installers) complaint is two-fold. The first response is procedural in nature, the second is substantive.*

*First, we note that s. 4.7d)i) of the ASTT Regulations states the following:*

*d) Complaints*

*i) Complaints against any member or registrant must be made, in writing, to the Registrar within two years of the occurrence of the substance of the complaint. Any complaint not received within such period will be considered to be extinguished.*

*The substance of (ROWP Installers) complaint relates to matters that occurred between August 2008 and February 2009. (The ROWP Installers) letter of complaint is dated March 15, 2011. Accordingly, pursuant to the ASTT Regulations, (ROWP Installers) complaint is extinguished. Furthermore, the vast majority of the (ROWP Installers) complaint relates to parties other than (ROWP Planner), including (--) and (--). (ROWP Planner) does not intend to respond to any of the allegations made against (--) and (--) or any other persons or companies not regulated by ASTTBC.*

*(ROWP Installers) allegations relate to a lawsuit commenced in the Provincial Court of British Columbia by (--) against (ROWP Installer), (property owners) (the "Lawsuit"). The Lawsuit was not commenced by (ROWP Planner) or (consulting company). doing business as (--). (ROWP Installer), (property owners) added (ROWP Planner), (consulting company). And (--) as third parties to the Lawsuit on November 22,2010. The Lawsuit is ongoing.*

*(ROWP Installer) also states the following at paragraph 2 of (-) complaint letter:*

*2. Sept 16, 2008 (ROWP Planner) files for a type 1 design with 56 cm natural soil vertical separation. It appears the filing document was altered to later show the type 2 "(--)" treatment plant manufactured by (--)*

*It is not clear from this paragraph what is the nature of the allegation made against (ROWP Planner). (ROWP Planner) acknowledges that (--) filed a Filing of Sewerage System with the (--) office of the (--) Health Authority on September 16, 2008. The initial filed document indicated that the design was to be a Type 1 sewerage system. This was a typographical error. Upon becoming aware of (--) error, (ROWP Planner) informed the HA that the system was intended to be a Type 2 sewerage system. (ROWP Planner) was told to indicate the change on the Filing of Sewerage System and re-submit same to the HA. (ROWP Planner) did so and the new document was received by the HA on September 24, 2008. We have attached a copy of the amended Filing of Sewerage System.*

*(ROWP Installer) also states the following at paragraph 7 of (--) complaint letter: 7. Jan 14, 2009 (ROWP Planner) delivers the treatment tank. Against (--) tank installation instructions (ROWP Planner) instructs my employee and me not to put any ballast water in the tank during backfill. Claiming "it's a dry tank". Again, it is not clear from this paragraph what is the nature of the allegation made against (ROWP Planner). If (ROWP Installer) wishes to provide further detail regarding (--) allegation against (ROWP Planner), (ROWP Planner) will consider same and provide a further response.*

*Finally, if (ROWP Installer) is concerned that (ROWP Planner) is in breach of principle 7 of the ASTT Code of Ethics, which states that members of ASTIBC shall, "conduct themselves with fairness, honesty, courtesy and good faith towards clients, colleagues and others, give credit where it is due and accept, as well as give, honest and fair professional comment", we note that no such complaint is set out in (ROWP Installers) letter.*

*That said, (ROWP Planner) advises that other than the day (--) dropped off the treatment plant for the (property owners) sewerage system, and perhaps one other telephone call prior*

*to that date, (--) does not believe (--) has ever spoken to (ROWP Installer). Accordingly, we do not understand there to be any basis for a complaint pursuant to principle 7 of the ASTT Code of Ethics. Furthermore, as noted above, as any conversation between (ROWP Installer) and (ROWP Planner) took place more than two years before (ROWP Installers) complaint was submitted to ASTTBC, any complaint arising from same is extinguished pursuant to s. 4.7d)i) of the ASTT Regulations.*

## **DISCUSSION**

Any dispute over payments and/or refunds is a civil matter between the ROWP Installer, the property owners, the treatment plant supply company, and the consulting firm, and is therefore outside the mandate of ASTTBC. It should be noted that the ROWP Planner is not an employee of the treatment plant supply company.

As is pointed out by the ROWP Planner's lawyer, the complaint was filed more than two years after the circumstances surrounding the complaint occurred, and must, therefore, be extinguished.

## **OUTCOME**

The Practice Review Board determined that as there is an insufficient evidence to substantiate charges of unprofessional conduct against this ROWP, and because the alleged offence took place more than two years previous, the complaint was dismissed and the ROWP notified accordingly.