

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, December 11, 2018 11:02:40 AM

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From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Tuesday, December 11, 2018 10:46 AM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS%20BOARD%20PROFESSIONAL%20LAND%20SURVEYING

First Name: Brad

Last Name: Russell

Title:

Organization you are affiliated with:

Email:

City: Conway

State: Arkansas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

The Commission's report about the Texas Board of Professional Land Surveying revealed the appalling and disappointing state that the Board operates in.

The persona that the Board puts forth toward its licensed professionals is that it is a shadowy boogeyman, hunting through your work to nickel and dime you out of business, \$1500 at a time. The Commission's report, however, showed a much different story: an incompetent, ineffectual organization that cannot even accomplish their hallmark violation fishing expeditions in a reasonable time frame.

As, the TBPLS Rules do not define some terms, I will use definitions provided by Louisiana Professional Engineering and Surveying Board for the following statements.

1) The TBPLS acts with Gross Incompetence: LAPELS defines Gross Incompetence as "[...] incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty he/she undertakes." In the Self-Evaluation Report, the TBPLS states "The mission of [TBPLS] is to establish and enforce standards [...]"

813 days to resolve a complaint is frankly embarrassing, particularly when compared to the 110 day turn-around the Engineering board has with a ten-fold increase in cases. Additionally, the fact that the Board does not have a way to categorize complaints prevents the public from gathering data on what offenses the Board actually actions. The fact that the TBPLS also has ignored recommendations from the 2003 review (Report p.13, p.20, etc.) is similarly damning.

TBPLS Penalty Matrix, violation 1071.401(a)(2) demands a Revocation of license and a \$1500 fine for Gross Incompetence.

2) The TBPLS acts with Gross Negligence: LAPELS defines Gross Negligence as “[...] characterized by the licensee’s lack of reasonable care, precaution, or attention to the health, safety, or welfare of others, which could result in injury or damage to life or property or financial loss.” It further gives an example of “failure of the licensee to exercise reasonable diligence and care in providing professional services which could result in financial loss, damage or injury.”

Returning to the 2+ year investigation process, the Board’s lack of competence in enforcement creates an undue financial burden on those it is investigating, as well as on those who are seeking recompense for actionable offenses. As an example, a colleague issued a complaint against a former employer who was using the licensee’s certification without his knowledge.

His complaint is lost in the limbo of the 813 day process, and he has only received a single required update in the 1+ year timeframe. The delay of the TBPLS in resolving this complaint delays his civil actions, and results in increased lawyer fees for a prolonged legal engagement. Furthermore, Report

p.23 points out the Boards “fishing” practices, which seeks to intentionally financially damage a licensee for thing unrelated to the complaint at hand.

TBPLS Penalty Matrix, violation 1071.401(a)(2) demands a Revocation of license and a \$1500 fine for Gross Negligence.

3) The TBPLS has ignored past recommendations, and could not respond in kind to the Commission’s requests. In the Report p.13 and p.20, it explicitly states that the Board ignored previous recommendations by the Sunset Commission. Throughout the Report, the Commission notes that the Board was unable to produce a requested data point or item of note.

TBPLS Penalty Matrix, violation 1071.401(b)(4) demands a Reprimand and a \$1500 fine for Violation of the Act or Board Rule(s).

TBPLS Penalty Matrix, violation 661.60(a) demands a Reprimand and a \$1500 fine for Failure to respond to Board inquiries/orders.

4) Additional Violations. Report p.23 mentions “fishing” for violations.

The Board’s own investigators have stated during their Continuing Education classes that typically actioned licensees also get a few blanket violations for good measure.

TBPLS Penalty Matrix, violation 663.8(1) demands a Reprimand and a \$1500 fine for Failure to abide by and conform to the registration and licensing laws for the state.

TBPLS Penalty Matrix, violation 663.8(2) demands a Reprimand and a \$1500 fine for Failure to abide by and conform to the provisions of the state code and all local codes and ordinances.

TBPLS Penalty Matrix, violation 663.8(3) demands a Suspension/Reprimand/Revocation and a \$1500 fine for Violate, aid and abet another in violating a rule of conduct or engage in any conduct adversely affecting his/her fitness to practice.

TBPLS Penalty Matrix, violation 663.10(1) demands a Reprimand and a \$1500 fine for Violating any provision of the Act or Rules.

TBPLS Penalty Matrix, violation 663.10(5) demands a Reprimand and a \$1500 fine for Engaging in any conduct that discredits or attempts to discredit the profession of surveying.

I am currently licensed in three states (Arkansas, Texas and Louisiana), two of which have boards, which are combined with the Engineering board. Unlike the TSPS stance that combining with the Engineering board will not be in the best interest of the public. The current situation with the TBPLS, is most definitely not in the best interest of the public, and should not be allowed to continue as it presently operates.

Any Alternative or New Recommendations on This Agency: None, the Commission's recommendations are the best way forward for Surveyors in the state of Texas.

My Comment Will Be Made Public: I agree