

**BEFORE THE  
WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS**

**West Virginia Board of  
Professional Surveyors,**  
Complainant,

vs.

**COMPLAINT NO.: C14-02**

**Timothy Lee Keely**  
WV Professional Surveyor License No. 972,  
Respondent.

**CONSENT DECREE**

The Respondent, Timothy Lee Keely, ("Respondent"), and the West Virginia Board of Professional Surveyors ("Board") execute the following Consent Decree for the purpose of resolving Complaint No. C14-02, filed against the Respondent on September 30, 2013. The parties have reached an agreement, in lieu of a hearing, which the Respondent hereby agrees and stipulates to the Findings of Fact, Conclusions of Law, Consent, and Order set forth in this Consent Decree concerning the disposition of this matter.

**FINDINGS OF FACT**

The Board adopts the following findings in this matter:

1. The Board is a state agency created by *West Virginia Code* §30-13A-4, and is authorized to regulate the conduct of Professional Surveyors in the State of West Virginia.
2. Timothy Lee Keely, ("Respondent"), is a Professional Surveyor licensed by the Board, holding license No. 972.
3. Respondent is designated as the Surveyor-in-Charge ("SIC") for Keely Surveying, located in Charleston, West Virginia, which has held a Certificate of Authorization ("COA") continuously since December 26, 2001. (COA No. 5250).

4. Keely Surveying, was contracted by Roger Doneff to conduct a boundary survey of a 166.02 acre tract of land, being four tracts combined, situate on the waters of Coon Creek, Carroll District, Lincoln County, West Virginia, owned by Roger Doneff in Deed Book 268, Page 95 and Tax Map 4, Parcel 11.

5. On September 30, 2013, the West Virginia Board of Professional Surveyors filed Complaint C14-02 against the Respondent alleging Incompetence, including Minimum Standards Violations and failure to make adjoining contact during the course of the survey.

6. On September 30, 2013, a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by Timothy Lee Keely on October 1, 2013.

7. On October 30, 2013, the Respondent's response was received by the Board.

8. On November 19, 2013, the Board's Complaint Review Committee ("CRC") reviewed Complaint C14-02.

9. On November 20, 2013, the Board approved an Informal Investigative Conference ("IIC") with the CRC.

10. On February 18, 2014, the Respondent was notified of the IIC scheduled for March 21, 2014 by certified mail and signed for by Timothy Lee Keely on February 19, 2014. Mr. Roger Doneff (property owner) and Mr. Darrell Hinkle (adjoiner) were also invited and were notified by copy of the Respondent's letter.

11. On March 21, 2014, at 1:00 p.m., an IIC was held at the Board Office, 738 Airport Road, Sutton, West Virginia.

12. On March 21, 2014, during the IIC, the Respondent provided the revised survey map of the Doneff property dated October 27, 2013 (*see Surveyor's Exhibit S-23*) and the original survey map of the Doneff property dated November 17, 2011 [*see Surveyor's Exhibit S-24*].

13. On March 22, 2014, the Board found probable cause that the Respondent violated the *West Virginia Professional Surveyors Act*.

14. On March 27, 2014, the Respondent submitted copies of deeds in response to questions which arose during the IIC concerning descriptions and conveyance.

### CONCLUSIONS OF LAW

1. Pursuant to *West Virginia Code* §30-1-8(a), the Board is authorized to enter into consent decrees for the informal disposition of complaints in lieu of a formal hearing.

2. Pursuant to *West Virginia Code* §30-1-8(a), the Board is also authorized to assess administrative costs against the licensee for reimbursement of costs of the investigation, hearings and other expenses relative to the complaint, when the Board finds grounds for disciplinary action.

3. Pursuant to *West Virginia Code* §30-13A-22(g), “[t]he Board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or certificate of authorization of, or impose probationary conditions upon or take disciplinary action against, any licensee or certificate holder...” (2010).

4. Pursuant to *West Virginia Code R.* §23-5-7.1, the purpose of minimum standards for surveys, “[i]s to establish minimum technical criteria to govern the practice of surveying when more stringent specifications are not required. Further, the purpose is to protect the inhabitants of this state from dishonest or incompetent surveying and generally to protect the public health, safety and welfare.” (2008).

5. The Respondent failed to render an opinion as to the location of the boundary line in violation of *W. Va. Code R.* §23-5-6.1.b, (2008).

6. The Respondent failed to make a reasonable attempt to notify the adjoiningers during the course of the survey in violation of *W. Va. Code R.* §23-5-7.3.c, (2008).

7. The Respondent failed to include the acreage of the public highway passing through the property on the revised plat in violation of *W. Va. Code R. §23-5-7.3.g.2*, (2008).
8. The Respondent failed to properly describe the corners of the subject tract on his original plat in violation of *W. Va. Code R. §23-5-7.3.g.6*, (2008).
9. The Respondent failed to show the tax map and parcel number of all the tracts or parcels shown on his original plat in violation of *W. Va. Code R. §23-5-7.3.g.8*, (2008).
10. The Respondent failed to show the names of the current or past owners of the subject property, and the adjoining landowners on his original plat in violation of *W. Va. Code R. §23-5-7.3.g.9*, (2008).

### CONSENT

By signing below, the Respondent agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.
2. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.
3. Respondent acknowledges that this document is a public Record as defined in *West Virginia Code §29B-1-2(4)*, and as such, the Board is legally bound to allow any person to review this Consent Decree. Moreover, the results of the Board's action may be reported to other authorities and agencies.
4. Respondent consents to the entry of the following Order affecting his conduct as a professional surveyor.

## ORDER

On the basis of the foregoing, the Board hereby ORDERS as follows:

1. Respondent is hereby REPRIMANDED for his actions in the instant matter as outlined above in the Findings of Fact and Conclusions of Law. The Board finds that the Respondent violated *W. Va. Code R.* §§23-5-2.20.c, 23-5-6.1.b, 23-5-7.3.c, 23-5-7.3.d.1, 23-5-7.3.g.2, 23-5-7.3.g.6, 23-5-7.3.g.8, and 23-5-7.3.g.9, (2008).

2. Respondent shall complete his survey, render his professional opinion for all the boundary lines including the Mr. Doneff and Mr. Hinkle line, revise his plat and prepare a legal description and report of survey in accordance with the current minimum standards for boundary surveys, and remove the boundary line agreement disclaimer from the plat. A certified and signed copy of the plat, legal description and report of survey shall be submitted to the Board within ninety (90) days of entry of this Order into the Records of the Board.

3. Respondent shall pay to the West Virginia Board of Professional Surveyors a fine in the amount of \$100.00, (*Reference Complaint C13-05*), for minimum standard violations; to be deposited in the general fund of the State of West Virginia. Respondent shall pay the fine within ninety (90) days of entry of this Order into the records of the Board.

4. Respondent shall pay to the West Virginia Board of Professional Surveyors, by separate check, the administrative costs and legal fees associated with the Board's investigation of this complaint, which totals \$514.00, to date, (*Reference Complaint C14-02*). Respondent shall pay the administrative costs and legal fees within ninety (90) days of entry of this Order into the records of the Board.

5. Any deviation from the requirements of this Consent Decree, without the prior written consent of the Board, shall constitute a violation of this Order.

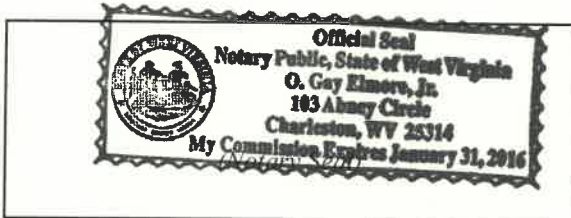
6. Respondent shall immediately advise the Board of any changes in his status and advise the Board of his current address at all times during the term of this Consent Decree.

AGREED TO BY:

Timothy Lee Keely P.S. 972      12/23/14  
TIMOTHY LEE KEELY, P.S.      DATE

Subscribed and sworn to before me this 23<sup>rd</sup> day of December, 2014.

My commission expires: January 31, 2016



[Signature]  
Signature of Notary Public

ENTERED into the Records of the West Virginia Board of Professional Surveyors this:

3rd day of February, 2014-2015

[Signature]  
ROY E. SHREWSBURY, II  
Chairman

