

**Teller County Board of Review
Oct. 7, 2020
Meeting Minutes**

I. **Convene.** The meeting was called to order at 2:00 p.m.

A. Roll Call. Those answering roll call were:

Carl Andersen*
Jared Bischoff*
Bert West – Chairman*

*Voting members for today's meeting.

Staff: Roger Campbell, Building Official and Acting Board Secretary
Paul Hurcomb, County Attorney

Mr. West acknowledged Dave Dernbach's 25 years of service on the Teller County Board of Review and thanked him for his service.

B. Review and Approve Minutes from the September 2, 2020 Meeting

Carl Andersen moved to approve minutes as written from the September 2, 2020 meeting. Jared Bischoff seconded.

Roll call vote:
Carl Andersen - Yes
Jared Bischoff - Yes
Bert West – Yes

The motion carried.

II. **Contractor Complaint**

A. Complaint against Ellis Construction / Jason Ellis / License #28424 by the Building Official, pursuant to Section 107.a of the Teller County Building Code.

Mr. & Mrs. Albert & Loretta DiMeo, complainants, were present. They detailed their complaint against Ellis Construction and gave an overview of the history of their project and their dealings with Ellis Construction. Mr. DiMeo's statements are summarized as follows:

- in January of 2017, the DiMeos gave a \$3,500.00 binder payment to get onto Ellis Construction's work schedule.
- the project was to be a custom kit log home.

- the project was to be a turn-key home.
- approximately \$60,000.00 in payments were made to Ellis Construction for items that were not provided or completed on the project.
- Mr. Ellis was rarely on-site for supervision and the workers did not demonstrate quality skills.
- he had contacted 4 separate contractors to finish the project and none were willing to take over the project.
- the septic system was excavated in April or May of 2017, the tank was set and the soil treatment area was excavated and then left open since then for more than 3 years.
- 285 Engineering reported that the tank had settled out of level and that the soil treatment area had been contaminated by organic material and would all need to be redone.
- estimates to repair the system are approximately \$26,000.00.
- the house was to have been completed in May of 2018 and still remains open to the elements and is a year away from completion.
- they have spent nearly \$90,000.00 on materials after Mr. Ellis had abandoned the project in order to get the home back on track.
- their bank loan had to be extended twice which cost the DiMeo's \$23,000.00 in interest.

Mr. West asked Roger Campbell if he had a copy of the permit, the contractor's License and the inspection log. Mr. Campbell stated that he did not but could acquire them. Ms. Lynda Morgan who was present as public, stated she would contact the office for the documents requested.

There was further discussion between the Board and the DiMeos.

Mr. Hurcomb asked Mr. DiMeo if they had filed any lawsuit against Ellis Construction. Mr. DiMeo responded that no lawsuit has been filed but is being considered.

Mrs. DiMeo stated that there are additional customers of Ellis Construction in other counties that are in a similar situation with their projects.

The DiMeos finished the presentation of their complaint.

Mr. Ellis was present and responded to the complaint. His statements are summarized as follows:

- in February of 2017, he received a deposit from the DiMeos to get on his construction schedule.
- at the time of deposit, no construction documents existed, only a conceptual idea.

- the DiMeos secured their construction loan prior to design drawings which detracted from the amount of time he had to complete the project.
- there were numerous deviations from what was discussed conceptually as opposed to what the design documents called for.
- due to permit delays and change order delays the permit expired and that he could not perform work on their project until it was renewed.

In response to a question from Mr. West on why he allowed the permit to expire when the project had not been completed, Mr. Ellis stated that he let the permit expire because the DiMeos did not pay for the permit and that the permit expired in February 2019.

Mr. Campbell provided the Board with a copy of Ellis Construction's contractor license and the inspection log.

In response to a question from Mr. West about the workers on the project, Mr. Ellis stated the workers were all licensed subcontractors and worked for D Squared Construction and Hartsel Electric.

There was further discussion between Mr. Ellis and Mr. West pertaining to change orders, payments made, and delays.

Mr. Ellis provided the Board with copies of black and white photos to show completed work and provided materials. He stated that he was not allowed back on the property to address any of the deficiencies stated in the complaint and that is why he did not complete the project.

Mr. Ellis concluded his statements.

The Board asked Mr. Campbell, Building Official, to provide his opinion on the project and complaint. Mr. Campbell's statements are summarized as follows:

- Mr. DiMeo contacted him expressing his concern on the lack of performance by Mr. Ellis and that he had let his license expire.
- He met with Mr. DiMeo at the project to observe and evaluate the status of the project.
- He verified all the deficiencies detailed by Mr. DiMeo and Mr. Ellis.
- He confirmed that the project was not finished, grading was a problem, the windows were not flashed properly, and the septic was out of level and has been uncovered for a long period of time.

The Board and Mr. Campbell discussed the status of the septic system.

Mr. & Mrs. DiMeo presented rebuttal statements, summarized as follows:

- Mr. DiMeo stated that he took issue with Mr. Ellis's statements about not knowing the engineers and the DiMeos not paying their bills.
- The DiMeos paid all of the contractors.
- Mr. Ellis previously volunteered to add the missing log in question and is now claiming it was a change order.
- David Pence, the engineer, denied ever taking 6 months to process a change order.
- Mr. Ellis took on 8 other projects which are now in default and believes that is why his home was ignored.

In response to questions from the Board, Mr. DiMeo confirmed that the plans Mr. Ellis bid on were the same plans submitted to Teller County to obtain the building permit.

Mr. Ellis presented rebuttal statements, summarized as follows:

- the original set of prints he was given were not the set of prints purchased by the DiMeos and submitted for permit.
- He made changes to the plans but believes all the changes were within the Building Code.
- He did not get authority from the Building Department for the changes.
- He acknowledged that the garage LVL size was his error.

Mr. Campbell explained that in any changes are made to the permitted plans, the changes have to be approved by the Building Department.

In response to questions from Mr. West, Mr. Ellis stated he was paid \$311,000 out of a total of approximately \$330,000 for the project and that he could not be able to complete the project for the balance.

Mr. West called for a recess at 3:39 PM

Mr. West reconvened the meeting at 3:45 PM

Mr. West summarized the evidence presented in the hearing. He expressed his concerns over (1) the amount of money paid by the DiMeos and the amount of work left to complete the project and the cost to finish, (2) the septic system, (3) the ice and water shield that was left exposed for more than 180 days which is a code violation, and (4) the changes the contractor made without going to the Building Department.

The Board engaged in discussion of these issues.

There was further discussion between the Board and Mr. Campbell regarding the current inspection status of the project.

Mr. West moved to revoke the contractor's license of Ellis Construction, with Jason Ellis as examinee, License #28424 under Section 107.b of the Teller County Building Code, based upon the following numbered acts or omissions listed in Section 107.b

#2. Departure from approved plans or specifications without authority from the owner, or authorized representative and the Building Department and with the finding that the commission of such violation was willful, substantial, reckless or repeated and/or that the commission of such violations has caused, or could cause personal injury, substantial damage to property, or substantial economic harm.

Mr. Bischoff seconded.

Mr. Hurcomb explained prior to the vote, if the Board voted for a revocation of the license, it is effective immediately and that the contractor had the right to appeal through the Teller County Board of Commissioners. He also had a right to a second appeal through the court system.

Roll call vote:

Carl Andersen - Yes

Jared Bischoff- Yes

Bert West - Yes

The motion carried.

Mr. Hurcomb clarified the appeal rights for Mr. Ellis.

III. Board Discussion.

Mr. West asked that the Building Department look into if the subcontractor "D Squared" was licensed and carried Workers Compensation insurance.

IV. Adjournment. The meeting was adjourned at 4:01 PM.