

Discipline Case: 2012-07

Subject Member: Registered Professional Forester

Referred to: Complaints Resolution Committee

Date of Decision: January 2013

Allegations

This case resulted from a complaint submitted on December 11, 2012 from a member of the public about the conduct of an ABCFP member. The complaint concerned a report written by the subject member who was acting as an expert witness at a trial. The member's report addressed windthrow for a forested buffer (leave strip) on private land. The allegations are that the subject member did not visit the land, take into consideration water flow or saturation, and disregarded the alleged fact the 50m leave strip had been high graded of marketable fir and cedar by the previous owner. The allegations also purport that the subject member's report is contrary to reports done on a neighbouring property with a large discharge from highway ditches, and that the member's report is contrary to the Windthrow Handbook of BC.

The subject member was hired to provide expert testimony as an expert on windthrow in coastal BC. The case for which he was providing his testimony involved allegations that the complainant had removed trees and made alterations on his property without obtaining the required permits. Specifically the subject member was asked to estimate the amount of forested buffer that existed at dates before and after the complainant purchased the property in question. He was also asked to provide an opinion on whether the reduction in areas of the forested buffer between the two dates was attributable to windthrow.

The member found evidence that the forested buffer was largely intact shortly after the complainant purchased the property. He also found evidence that the buffer had been reduced by an estimated 75% less than two years later. After reviewing the wind records and other relevant reports the subject member concluded that the buffer had remained intact through two previous years and over that period had experienced at least 56 days where maximum hourly wind speed reached gale force in the nearby strait.

The reduction in the buffer appears to have taken place after the complainant purchased the property. Evidence indicated a significant reduction in the number of trees in the buffer occurred in a period in which no significant wind events took place. It was the subject member's opinion that the likelihood of the forest buffer being reduced by 75% due mainly to windthrow was low, although some windthrow likely did occur. Evidence presented suggests that the conditions of the buffer had been substantially altered through tree removal.

Decision

After reviewing the allegations made by the complainant and the response of the subject member with the complaints resolution committee, the registrar concluded that this complaint should not proceed to an investigation. In the assessment of the complaint and the evidence provided by the parties, the registrar is tasked to determine whether the subject member acted unprofessionally or contravened the *Foresters Act* or the ABCFP bylaws. After reviewing the evidence the registrar does not believe that the subject member acted unprofessionally or that his actions were in contravention of the *Foresters Act* or the ABCFP bylaws. The reasons for the decision include:

- The evidence that was provided by the complainant to dispute the work of the subject member did not lead to a conclusion that he was incompetent, or made errors in judgment, or failed to meet his professional obligations.
- The court process provided ample opportunity to challenge the work of the subject member. However no evidence was presented by any other expert on windthrow that challenged or was contrary to the opinion of the subject member.
- After reviewing the subject member's academic credentials and experience the registrar finds that the subject member is professionally competent to make the assessments he was hired to complete.
- The subject member was hired as an expert in windthrow and did what he was contracted to do with regards to the buffer and windthrow. The assessment and conclusions reached were appropriate given the information available.
- The fact that the subject member made his professional decisions based on evidence from his professional knowledge of windthrow, and after review of the weather records, two other reports of relevance, and the Windthrow Handbook is appropriate. He did not need to visit the site in order to complete the work he was contracted to do.
- Contrary to the allegations made in the complaint, the registrar finds the subject member's report to be very thorough.
- Contrary to the allegations made in the complaint, the subject member did refer to two other relevant reports in his work, as well as the Windthrow Handbook. As a result the registrar believes that the subject member was duly diligent.

This case is now closed.