

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 5, 2024

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Attention: Docket Clerk, MC 105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Nicholes Parish; CN606049443; RN111553061
Denial of Application for Landscape Irrigation Technician License
TCEQ Docket No. 2024-0178-LIC

On behalf of the Executive Director, and pursuant to 30 TEX. ADMIN. CODE (TAC) § 70.109, please consider this letter a request for referral of the Executive Director's denial of Nicholes Parish's application for a Landscape Irrigation Technician license to the State Office of Administrative Hearings ("SOAH") for SOAH to acquire jurisdiction over the contested case.

Accordingly, the Executive Director requests that you file a Request for Docket Case form for the above referenced case. The Executive Director initially notified Mr. Parish of his decision on the Landscape Irrigation Technician license application on October 25, 2022. The Executive Director sent a second notice on November 29, 2022. Mr. Parish filed a timely response on January 3, 2023.

The denial notifications and hearing request are attached to this letter. According to 30 TAC § 30.38 all hearings regarding Occupational Licenses are to be conducted according to 30 TAC Chapters 70 and 80; 30 TAC § 70.109 provides that the Executive Director may request that the chief clerk refer the cases to SOAH for a contested case hearing. Additionally, please issue the necessary public notice of the hearing.

Please contact me at (512) 239-0133 with any questions you may have. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Alicia Ramirez".

Alicia Ramirez
Staff Attorney
Environmental Law Division

cc: Mr. Nicholes Parish, North Palo Duro Street, Amarillo, Texas 79106-5314
Jaya Zyman, P.E., Occupational Licensing & Registration Division, TCEQ
Tamara Calhoun, Occupational Licensing Section Manager, TCEQ
Rebecca Moore, Occupational Licensing & Registration Division, TCEQ
Kenneth Smith, Occupational Licensing & Registration Division, TCEQ
Garrett Arthur, Public Interest Counsel, TCEQ

bcc: Charmaine Backens, Environmental Law Division, TCEQ
Todd Galiga, Environmental Law Division, TCEQ
Aubrey Pawelka, Environmental Law Division, TCEQ
Melissa Knight, General Law Division, TCEQ

Jon Niermann, *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 25, 2022

Mr. Nicholes Parish
115 N. Palo Duro St.
Amarillo, TX 79106-5314

RE: Initial Application for Landscape Irrigation Technician License- First Notice

Dear Mr. Parish:

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) received your Landscape Irrigation Technician license application in August 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. The review of your application revealed that you received deferred adjudication for a 3rd-Degree Felony in 2019.

The ED intends to deny your Landscape Irrigation Technician license application because he considers you to have been convicted of an offense that directly relates to the license and is also a violent offense as referenced in Texas Occupations Code (TOC) §§ 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, the extent and nature of your past criminal activity, and the amount of time that has elapsed since your last criminal activity.

It is the applicant's responsibility to provide to TCEQ evidence regarding the factors listed in TOC § 53.023(a):

- The extent and nature of your past criminal activity;
- Your age when the crime was committed;
- The amount of time that has elapsed since your last criminal activity;
- Your conduct and work activity before and after the criminal activity;
- Evidence of your rehabilitation or rehabilitative effort while incarcerated or after release;
- Evidence of your compliance with any conditions of community supervision parole, or mandatory supervision; and
- Other evidence of your fitness, including letters of recommendation.

Mr. Nicholes Parish
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October 25, 2022

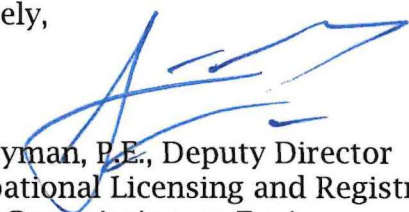
TCEQ must consider any correlation between the elements of the crime and the specific duties of the licensed occupation to determine whether a conviction directly relates to the license. In determining whether your criminal conviction directly relates to the duties and responsibilities of the licensed occupation, the ED considered the following factors:

- the nature and seriousness of the crime;
- the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- the relationship of the crime to the ability, capacity required to perform the duties and discharge the responsibilities of the licensed occupation;
- any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation

You may submit additional relevant information for the ED to consider to the address below, within 30 days of this letter, including but not limited to any evidence relating to any rehabilitation efforts you may have undergone while incarcerated, or after release, and any evidence of compliance with conditions of community supervision, parole, or mandatory supervision, in accordance with TOC § 53.023.

Executive Review Committee
c/o Occupational Licensing
TCEQ, MC-178
PO Box 13087
Austin, TX 78711-3087

Sincerely,



Jaya Zyman, P.E., Deputy Director
Occupational Licensing and Registration Division
Texas Commission on Environmental Quality

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 29, 2022

Mr. Nicholes Parish
115 N. Palo Duro St.
Amarillo, TX 79106-5314

RE: Initial Application for Landscape Irrigation Technician License- Second and Final Notice

Dear Mr. Parish:

This second and final notice is in regard to your Landscape Irrigation Technician license application received by Executive Director (ED) of the Texas Commission of Environmental Quality (TCEQ) in August 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. Any additional information that you may have submitted in response to our initial notice on October 25, 2022, regarding your rehabilitation efforts and compliance with court ordered requirements was also considered.

The review of your application revealed that you received deferred adjudication for a 3rd-Degree Felony in 2019. The ED intends to deny your Landscape Irrigation Technician license application because he considers you to have been convicted of an offense that directly relates to the license and is also a violent offense as referenced in Texas Occupations Code (TOC) §§ 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, the extent and nature of your past criminal activity, and the amount of time that has elapsed since your last criminal activity.

You may request a formal hearing on the denial of your Landscape Irrigation Technician license application. The hearing request must be made in writing and must contain your name, address, and phone number. The Chief Clerk's Office must receive your request no later than 30 calendar days after the United States Post Office delivery date of this letter. You must submit the request to the following address:

**Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, TX 78711-3087
(512) 239-3311 (FAX)**

Mr. Nicholes Parish
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November 29, 2022

The formal hearing is known as a contested case hearing and is conducted by the State Office of Administrative Hearings (SOAH). The contested case hearing usually consists of a preliminary hearing and an evidentiary hearing. The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, provide an opportunity for settlement discussions, and address other matters as determined by the administrative law judge. The preliminary hearing will be held unless all timely hearing requests are withdrawn or denied or the parties agree to waive the preliminary hearing.

The evidentiary phase of the contested case hearing, to be held at a later date, will be a legal proceeding similar to a civil trial in state district court to determine whether you should be issued a Landscape Irrigation Technician license. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing.


If you fail to appear at the preliminary hearing or evidentiary hearing, the ED will request that the hearing be canceled and that the appeal of the ED's decision be dismissed.

SOAH's rules allow for participation by telephone or videoconference. Permission must be obtained from SOAH at least ten days before the hearing.

If you have additional questions about the hearing process, please contact Alicia Ramirez at Alicia.Ramirez@tceq.texas.gov or at (512) 239-0133.

If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

Sincerely,



Jaya Zyman, P.E., Deputy Director
Occupational Licensing and Registration Division
Texas Commission on Environmental Quality

December 27th 2022

Dear Office OF The Chief Clerk/TCF:

TCF
JAN 23 10:58

JAN 23 10:58

JAN 23 10:58

I, Nicholes Parish, am writing you this letter today in regards to my Landscape Irrigation Technician license application being denied due to my criminal history. I am requesting a formal hearing on the denial of my application. I understand, why the ED intends to deny the application. But I would greatly appreciate the opportunity to explain my rehabilitation efforts and why I would never repeat any crime, especially a crime like the one committed in 2019. First, I have been landscaping for almost 10 years now and I truly enjoy it. I've worked in other fields, but I've always returned back to landscaping. Landscaping has turned into a passion of mine. It's very gratifying to see my completed work and to see how pleased the customer's and my employers are. I take pride in my work and have maintained a good rapport and trusting relationship with my employer. Basically, my next goal involves obtaining this Technician license, so that I can advance in

MY Career. 2019 was an extremely difficult year in my life. Prior to the incident that occurred, I wasn't living right nor had I learned how to live right. I spent my childhood and teenage years in and out of CPS custody and foster care. This is by no means an excuse to what happened in 2019. There isn't a day that goes by that it doesn't haunt me. I deeply regret it. But unfortunately due to how I grew up and the kind of individuals that I was always surrounded by, I ended up picking up some of the same very bad habits that I was raised around, such as a bad attitude, poor stress-management skills, excessive drinking, unstable living situations, and unstable relationships. I knew that I was in a bad unhealthy place in my life but I had no idea how to get out of it. Then after the incident happened, I knew that I could either spend the rest of my life in and out of prison or make a drastic change (for the better) in my life. I couldn't change what happened, but I had to take action to ensure that my life would never again be in a situation or

environment where something like that could happen again. These past few years have been full of change. The first thing's i changed was to get out of the toxic lifestyle i was in. I stopped surrounding myself with the unhealthy family members and "Friends" that i used to associate with. I had also been in a very unhealthy relationship during this time, which i also ended. I recently completed 3 years of probation and completed early due to good behavior and consistently good check-ins. I kept in good standing with my probation officer. Here is her information if you desire to contact her:
Stephanie Monarao
806-378-3700

While on probation, I completed an anger management course through Amarillo College and completed my community service early. In 2020, I began dating a woman to whom I'm married to now. We have a 23 month old son together and i can proudly say that we have a very peaceful home, which is also a alcohol-free home.

TCER 000

3 JAN '23 10:59

we have been living in the same home for almost 3 years now and attend more church on a regular basis. My wife and I are both happily sober and voluntarily attend recovery meetings at our church as well. I have been off probation for almost 5 months now and have continued to stay on my new, healthy path and continue to voluntarily attend church and recovery meetings. The changes that I made these past few years are for life, not temporary changes. I have moments every once in a while where I think to my self, "Wow, I have a good life". In many ways, I am not the same person that I was prior to 2019. I needed to find myself, and God, which I have done these past few years. I needed to gain skills such as how to better manage stressful situations and live as a respectable man. I am happier and healthier (mentally and physically) than I have ever been. I never had a happy healthy relationship and a peaceful home. My family tells me how much I've changed over these past few years.

That especially tell me how much
happier i look. If given the opportunity
to become licensed, I would value it
with the most respect and never do
anything to even closely Jeopardize that
and the trust and confidence of the
State, the customers, or anyone involved.

Thank you for your time,
Nicholas parish

TCEB 000

3 JAN '23 10:59

Nicholas Parish
115 N Palo Verde St
Amarillo TX, 79106

AMARILLO TX 791
28 DEC 2022 P 2:11



RECEIVED

JAN 03 2023

TELE MAIL CENTER
69101 SZ. AMHS

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Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13083, MC 105
Austin, TX 78711-3087

