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Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 5, 2024

Mr. Justin Stuart
8832 Avenue B
Liverpool, Texas 75777-6008

RE: Initial Application for On-Site Sewage Facility Apprentice License- First Notice

Dear Mr. Stuart:

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) received your On-Site Sewage Facility Apprentice license application in June 2024. 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 adjudications for a State Jail Felony in 2020, and a State Jail Felony in 2022. The Texas Occupations Code (TOC) § 53.021(d), allows deferred adjudications to be considered convictions. These offenses directly relate to the duties and responsibilities of the licensed occupation according to the grounds found in 30 TAC § 30.33(h)(1)(A).

The ED intends to deny your On-Site Sewage Facility Apprentice license application because she considers you to have been convicted of offenses that directly relate to the license as referenced in Texas Occupations Code (TOC) § 53.021(a)(1). 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 crimes, the relationship of the crimes 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, your age when the crimes were committed, the amount of time that has elapsed since your last criminal activity, and the fact that you have not completed supervision and are scheduled to complete court supervision in May 2026.
It is the applicant's responsibility to provide to TCEQ evidence regarding the factors listed in TOC § 53.023(a):

- The context (extent and nature) behind the events that led to the convictions listed in your criminal history record;
- 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. (Must be signed and on official letterhead to be considered during the review process)

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. Any information that you would like for the ED to consider must be sent to the address and/or email below. **Information that is not sent to this email/address will not be considered.**

Executive Review Committee
LICENSES@tceq.texas.gov
OR
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

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Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 26, 2024

Mr. Justin Stuart
8832 Avenue B
Liverpool, Texas 75777-6008

RE: Initial Application for On-Site Sewage Facility Apprentice License- Second and Final Notice

Dear Mr. Stuart:

This second and final notice is in regard to your On-Site Sewage Facility Apprentice license application received by Executive Director (ED) of the Texas Commission of Environmental Quality (TCEQ) in June 2024. 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 August 5, 2024 regarding your rehabilitation efforts and compliance with court ordered requirements was also considered.

The review of your application revealed that you received deferred adjudications for a State Jail Felony in 2020, and a State Jail Felony in 2022. The Texas Occupations Code (TOC) § 53.021(d), allows deferred adjudications to be considered convictions. These offenses directly relate to the duties and responsibilities of the licensed occupation according to the grounds found in 30 TAC § 30.33(h)(1)(A). The ED intends to deny your On-Site Sewage Facility Apprentice license application because she considers you to have been convicted of offenses that directly relate to the license as referenced in Texas Occupations Code (TOC) § 53.021(a)(1). 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 crimes, the relationship of the crimes 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, your age when the crimes were committed, the amount of time that has elapsed since your last criminal activity, and the fact that you have not completed supervision and are scheduled to complete court supervision in May 2026.

You may request a formal hearing on the denial of your On-Site Sewage Facility Apprentice 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)

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 On-Site Sewage Facility Apprentice 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