

# Whatcha Gonna Do?

## The Situation

Gott Theejawb, ASLA, a local landscape architect, produced plans for a 500-unit residential community named Mountain View Village. At a hearing held by the town's zoning board, Gott passionately described his design and vision to the board's members.

He concentrated development on suitable soils areas and preservation of wildlife corridors, wetlands, and other environmentally sensitive systems as open space links throughout the proposed community.

What Gott failed to anticipate, however, was that in pitching the plan to the commission, he was likely to alienate Nawt Sewlucky, ASLA. Nawt was a self-employed landscape architect who had been recently elected to a six-year term on the zoning board.

It turns out that Nawt Sewlucky lived in a house on a one-acre parcel adjacent to Gott's proposed village. If the village was constructed, Gott would be looking straight at a low-rise apartment complex from his living room window instead of native prairie land.

As a member of the board, Nawt is expected to review the plans and make recommendations to either approve, modify, or reject them.

## Whatcha Gonna Do?

Should Nawt Sewlucky comment on the development if his existing residence would be affected by the plans as drawn for Mountain View Village? Did he lose his ability to protect his property when he accepted the position of reviewer?

Nawt has a couple of different options. He could verbally tear apart the plan in front of the board and bring the full weight of his official capacity against a plan to which he is completely opposed. Or he could disqualify himself from consideration of the plans on the



grounds that he is directly affected by them. If he did this, he still might be able to argue as a citizen of the community against the plan at a public hearing. What would you do?

## The Recommendation of the Ethics Committee

The ASLA Ethics Committee observed that it is inappropriate to wear both hats and speak both as the reviewer and as an affected abutter. In this situation, wearing both hats compromises both positions and is inappropriate.

If Nawt Sewlucky opposed the plan, he would be in violation of Rule 2.301 of the ASLA Code and Guidelines for Professional Conduct, which states:

“Members, who are elected or appointed to review-and-approval-type boards, committees, and commissions, shall seek to avoid conflicts of interest and the appearance of conflicts of interest, and shall comply with local rules and policies with regard to conflict of interest. Members serving on such boards, committees, and commissions, shall disqualify themselves,

in accordance with rules of ethics and this rule, and shall not be present when discussion is held relative to an action in which they have an interest.”

The committee believes the right course of action for Nawt Sewlucky would be to disqualify himself from consideration of the plans. According to the committee, this would permit Nawt Sewlucky to avoid any conflict and, at the same time, allow him to protect his vested interest.

*Editor's Note: One of the objectives of the ASLA Ethics Committee is to educate members about the ASLA Code and Guidelines for Professional Conduct. The code contains important principles relating to duties to clients and to members of the Society.*

*Readers are invited to send their comments on cases appearing in LAND to Managing Editor, 636 Eye Street, NW, Washington DC 20001-3736 or e-mail to [bwelsh@asla.org](mailto:bwelsh@asla.org). Members are invited to submit questions regarding ethical matters along with supporting data to Allen Hixon, FASLA, Ethics Committee Chair, c/o ASLA, 636 Eye Street, NW, Washington DC 20001-3736.*