

Whatcha Gonna Do?

The Situation

An important and controversial multi-family housing project was proposed for a fourteen-acre site, which flooded in a 500-year storm, in the village of Keepumout, New Hampshire. This was not the first project that the developer, Badley Abbused, had proposed or built in this suburban “ring of change,” so he commissioned Justas Scrupulous, a well-reputed firm, to address the land planning issues. In addition to the flooding concern, a parallel approval of a multifamily rental project on industrially zoned land was required, so that sewer capacity could be allocated to the multifamily uses.

The project coordinator was a young, talented landscape architect, Morally Upstanding, who supervised the development of the documents required for the two zone changes. A not-in-my-backyard (NIMBY) group was especially opposed to multifamily housing and would have no part of the rentals. They questioned the accuracy of Badley Abbused’s statement that the second and larger project was to be sold as condominiums.

The afternoon of the hearing, Morally Upstanding told Justas Scrupulous that he would not make the presentation because he would not lie for his client by proposing the condominium project, which he believed would end up as a rental project. Justas questioned the source of the information and suggested that, since he had been the project coordinator, he should be the one to make the presentation or find another office to support his family.

Whatcha Gonna Do?

Did Morally Upstanding have an obligation to his firm to make the presentation? Was Morally on solid moral grounds in refusing to give the presentation? If Morally were to be asked about ownership during the presentation, how should he respond?

By threatening Morally Upstanding,



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was Justas Scrupulous overreacting? Was it too late for Justas to approach Badley Abbused about his true intentions? For that matter, was ownership of the units a legitimate issue?

Recommendation of the ASLA Ethics Committee

The ASLA Ethics Committee found no violation of the ASLA Code and Guidelines for Professional Conduct on the part of either Morally Upstanding or Justas Scrupulous.

The case turns on the misconception held by Morally Upstanding that Badley Abbused was going to build affordable rental units along with the market-price condominiums. For his part, Badley Abbused never said he would rent them. This spurious argument was put forward by the NIMBY opposition group in an attempt to derail both projects. Morally Upstanding believed the NIMBY propaganda that Badley was going to sell rather than rent the units.

Morally Upstanding did have an obligation to make the presentation but was not responsible for answering questions about the builder’s intent. The Ethics Committee observed that if specific questions about ownership came

up during the hearing they should be answered by Badley Abbused and not by Morally Upstanding. Thus the Ethics Committee noted that it was the responsibility of Badley Abbused to make his intentions known to the zoning board and this was not the responsibility of Morally Upstanding.

The Ethics Committee was hopeful that this helped resolve the conflict between the two landscape architects.

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. 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.