

September 13, 2004

Ethics

Whatcha Gonna Do?



Second Opinion

Ole Hand, ASLA, a recently retired landscape architect with years of state government experience, was visiting his old friend Good Tugo, a local developer. Tugo enthusiastically showed Hand his plans for a mixed-use development that included work around an area of critical environmental importance. Hand, who prided himself on his ability to negotiate sensitive projects with state and federal agencies, saw in the design certain features that spelled trouble for his friend. Hand knew that Fresh Associates, Tugo's landscape architecture firm, was a relatively new company with limited experience in the regulatory arena. Hand was concerned about the successful outcome of his friend's project if it went to the regulators without major change.

Without going into a lot of detail, Hand suggested that Tugo seek the opinion of the respected environmental design firm Greensted. Tugo did so, and as a result of the firm's comments, Fresh Associates's contract was renegotiated and Greensted was brought on to the project. Tugo told Fresh Associates that he liked working with them, but if they wanted any work in the future, they must accept the role of Greensted in the project. Although they privately grumbled about their loss of income and stature, Fresh Associates graciously acceded to the client's demands and remained the landscape architects of record. Design revisions were made, and the project sailed through the regulatory process.

Was it ethical for Hand to intervene—an effort that spurred the change in Fresh Associates' contract with Tugo? Was it ethical for Greensted to review the work of Fresh Associates and to subsequently become part of the design team?

Rules R1.111 and R1.112 of **ASLA Code of Professional Ethics** deal with members interfering with the contracts of other professionals. Hand had an ethical obligation to speak

up when he saw problems with the design. A basic tenet of the ASLA Code (R1.101) compels members to "treat other members, clients, employers, employees, and the public with honesty, dignity, and integrity in all actions and communications of any kind." As Hand neither benefited from recommending a second opinion nor moved to void Fresh Associates' contract, he was not in violation of the ASLA Code. For its part, the firm of Greensted did not solicit the work from Tugo but rather was hired to review the work of Fresh Associates on the recommendation of Hand. Greensted did not violate the Code in reviewing the work. Had Greensted stated that the only way to gain approval for the project was to hire the firm, it would have been in direct violation of the Code. Tugo made the decision to hire Greensted and renegotiate Fresh Associates' contract based solely on concrete information provided by Greensted—not a solicitation for work. Therefore, Greensted was not in violation of the ASLA Code.

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. Contact the Ethics Committee by writing:

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