

November 15, 2004

Ethics

Whatcha Gonna Do?

The Situation

Landscape architect N. Vera Menalist, ASLA, was designing a housing project for Hi Risen, a local developer. The project was located on a large tract in Duwitarweigh County. The entire project site drained to a 9-acre wooded lowland, the ideal location for the detention basin required for the project.



While investigating the environmental significance of the wooded area, Ms. Menalist discovered it was not only one of the last wooded areas in the county but also provided a unique natural habitat for a locally endangered rat, *Ratus outahere*. When contacted, the state confirmed the value of the natural habitat even though the rat species was not listed on the National List of Endangered Species. The state agreed the habitat had to be preserved.

Menalist informed Risen of the need to protect the wooded area. The detention basin could be located elsewhere on the site, she noted. But the developer was concerned that the move would decrease the projected density of his project. Being a longtime friend of the county commissioners, Risen offered to allow a regional detention facility to be built on the location of the wooded area. Recognizing such a facility could help to alleviate localized flooding problems farther downstream, the county agreed to Risen's

proposal even though it would result in the total elimination of the wooded area. The county claimed the woods were scrubby and of little value. Besides, Duwitarweigh was not interested in preserving habitat for an endangered rat. With the support of the commissioners, Risen told Menalist to locate the regional detention basin in the wooded area and to increase the density of the development.

Whatcha Gonna Do?

N. Vera Menalist was in a quandary. Should she revise the plans according to the county's wishes to obtain the approval for her client? If she refused to make the changes, would she be vulnerable to charges of ethical misconduct?

Menalist felt the design being required by Duwitarweigh County was contrary to both good environmental design and state regulations. In addition, she believed her contract with Risen

neither stated nor implied a guarantee for plan approval. Based on these professional judgments, Menalist informed Risen that she could not prepare, sign, and seal the revisions required by the county.

After learning her decision, Risen informed the ASLA Ethics Committee that Menalist would not amend the plans for his development as required by the County and that she had failed to work in his best interests. He requested appropriate action by the committee.

Recommendation of the Ethics Committee

By refusing to complete the project, it could be argued that Menalist failed to operate in the best interest of her client and that she violated Ethical Standard ES1.3. That standard makes clear that, "members should endeavor to protect the interests of their clients and the public through competent performance of their work." However, noncompliance with an ethical standard may not be a reason for an adverse recommendation by the Ethics Committee.

After an investigation, the Ethics Committee determined that N. Vera Menalist, ASLA, had not violated the rules of the **ASLA Code of Ethics**. She treated Risen and state and county officials with honesty, dignity, and integrity as required by Rule R1.101. Her plan to accommodate the proposed development while saving the wooded area and the unique environmental habitat was consistent with state and county laws and with sound environmental planning. Her actions were consistent with Rule R1.102, which states, "Members shall not violate the law . . . particularly laws and regulations in the areas of . . . environment and land use planning."

Finally, Menalist did not mislead Risen regarding results of the planning process. Throughout her work with him, she reviewed the issues with her client in a manner consistent with Rule R1.106 i.e. ("members shall not mislead existing or prospective clients . . . about the result that can be achieved through use of their services"). Therefore, the Ethics Committee recommended dismissing the complaint against the landscape architect.

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:

Ethics Committee, c/o ASLA
636 Eye St., NW
Washington, DC 20001-3736