

Ethics Presentation on AIA Case Study 2002-16

Failure to Develop a Design that Meets a Client's Budget

Failure to Provide Consult Engineering Services

Signing and Sealing Construction Drawings Incorporating the Work of Others

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What is the AIA Code of Ethics?

The Code of Ethics and Professional Conduct is a document that states guidelines for the conduct of all members of the American Institute of Architects in fulfilling guidelines for professionalism, integrity, and competence standards.

The code is arranged in three tiers of statements: canons (which are broad principles of conduct) ethical standards (which are specific goals that members should abide by to improve performance and behavior), and rules of conduct.

All rules of conduct are mandatory and violating any rule shall result in disciplinary action by the institute.

Obligations

General obligations and other obligations, including those to the public, the environment, the client, the profession, and the worker's colleagues, are some of the important factors in how the code of ethics is governed. The code applies to all professional activities that are done by all members, regardless of where and when they happen.

What is Professional Ethics?

The textbook definition of professional ethics is as follows:

Statements of principles promulgated by professional societies or public agencies governing professional practice in order to guide members or licensees in their professional conduct

Background

This presentation is a summarized explanation of the National Ethics Council's decision that resulted in two AIA members being found to not have violated rules 1.101, 2.104, 3.102, 3.103, 3.301, and 4.102 of the institute's 1997 Code of Ethics and Professional Conduct.

The project that was being investigated was the design of a barn house with living areas on the second floor and horse stables on the first floor, and the person that was responsible for the complaint claimed that the design for the house met only one of the three major requirements for the project and that the people responding to the complaint billed the owner for consulting engineering services that were not provided, thus misleading the owner about the project's cost.

Code Rules Implied

Rule 1.101: In practicing architecture, members shall demonstrate a consistent pattern of reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing practicing in the same locality.

Rule 2.104: Members shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Rule 3.102: Members shall undertake to perform professional services only when they, together with those whom they may engage as consultants, are qualified by education, training, or experience in the specific technical areas involved.

Rule 3.103: Members shall not materially alter the scope or objectives of a project without the client's consent.

Rule 3.301: Members shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the members' services, nor shall the members state that they can achieve results by means that violate applicable law or this code.

Rule 4.102: Members shall not sign or seal drawings, specifications, reports, or other professional work for which they do not have responsible control.

History of the Case

The case was initially filed in September 2002, and the original complaint was revised two months later to comply with the requirement of the council's procedural rules. A second amended complaint was requested in June 2003 by the hearing officer, and the respondents later filed responses to the original complaint that was made. Only one of the two respondents attended the initial hearing, and one of the contractors who submitted the bid also testified.

Complainant history

The complainant is a doctor at a hospital where the firm was responsible for the design of a critical care unit. She was impressed with the firm's work on that project and was ready to build her dream house, which had a living room upstairs and a horse stable downstairs. After consulting with other architects in the city, the complainant decided that the proposal selected was the most reasonable in terms of design/build costs.

In December 1999, the complainant proposed a schematic of the proposed home to the respondents. There were three major requirements for the project: the home had to have adequate ventilation to ensure that no barn fumes entered the living quarters, the slate roof had to match the roof of the neighbors' houses, and the home had to be energy efficient with regards to insulation and air conditioning.

Budget issues

The respondents quoted a budget of \$21,666 that was approved as architectural and engineering fees, resulting in a total budget of \$431,600. One of the respondents began designing the house in late 2000, and in the months following, the complainant testified abouts between her and the respondent that was involved with regards to the estimated price of the project. The unexpected increase in that price happened because the project grew with the consent of the complainant. The bids that she received for the construction were all in excess of the original budget, so she was expected to consider civil action against the respondents.

Possible rule violations and final ruling

The complainant believes that rules 1.101, 2.104, 3.102, 3.103, 3.301 and 4.102 of the Code of Ethics in a manner where she was overbilled for possible inadequate design services. According to section 5.13 of the NEC procedural regulations, the complainant has the burden of proving the facts upon which a violation may be found. If the complainant's evidence does not establish a break of the rule, the complaint is withdrawn.

Upon further review, the original complaint was thrown out because the complainant failed to prove that either respondent violated the provisions of the Code of Ethics that were appropriately cited.

Rule 1.101 violation rejected, but why?

The case did not violate rule 1.101 of the code because of the following measures:

1. Design plans only included adequate ventilation inside the home as one of the three elements that were required. The HVAC system that was designed did not conform to regulations, and only the minimum amount of insulation was specified, limiting the house's energy efficiency. The roof was pitched at 2/12, which was under the normal limit of 4/12 for a slate roof.
2. The respondents failed to provide the contractor with breakout plans to determine mechanical, electrical, and plumbing plans for the project.
3. The complainant was not provided with the appropriate documents when the plans were initially given to her, even though the structural engineering consultation was paid for.

Based upon the review of the evidence, it can be concluded that the complainant failed to provide evidence sufficient to support her allegations that the respondents had unreasonable care and incompetence while working on her project.

Additional evidence for rule 1.101

The slate roof was originally designed as a metal roof with a pitch of 2/12, which was required for adequate windows in the side walls. A fiberglass shingle roof was put in its place to meet that requirement.

The respondents offered solutions to address the HVAC system's problems, which included lowering the ceiling and obtaining outside materials to serve as reinforcements. However, the question of whether the design would result in an energy efficient home or not was never tested, and as a result, there was no evidence here.

The communication between the complainant and the respondents declined considerably as the project progressed from the design phase to the construction phase. However, the NEC believes that the respondents exhibited a level of reasonable care and competence that is consistent with normal practice. There are elements in the design that would require construction coordination, which is common in any project; therefore, no violation of rule 1.101 was found.

Rule 2.104 alleged violation

The complainant alleged that the rule was being violated because the respondents charged her \$4,400 for the consultation regarding the HVAC system. Questions arise about whether the system was constructed in the first place and why the mechanical engineer made green copy plans.

A letter from the contractor to the complainant states that the mechanical drawings were the biggest area of concern; however, her beliefs about the consultation with the mechanical engineer do not reflect the actual personal knowledge necessary to provide competent evidence. As a result, it appears that consultation between the mechanical engineer and the respondents was taking place at some point in the design process.

Additional evidence for rule 2.104

The complainant also contends that the respondents broke Rule 2.104 by charging her a fee of more than \$5,300 for a meeting and other work addressing questions regarding the proposed design. Communication problems may have persisted between the parties, but there is no evidence with regards to fraud. However, there may have been a violation of the rule with regards to wanton disregard.

Wanton disregard is the principle where action is taken in disregard of an apparent high degree of danger that is apparent to a reasonable party. The conduct of the member did not violate the rule in this manner because there was no basis of conscious indifference to anyone that could have caused potential injury. Since no violation of rule 2.104 was found based on wanton disregard, the complaint was thrown out.

Rule 3.102 violation charge

The complainant alleges that the rule was violated by the respondents because they took on a design project that was not within their requisite work background. None of the respondents had built with insulated concrete forms before, and they failed to contact the necessary consultants. Failure to consult with the mechanical engineer over the HVAC system design and the ignoring of advice from the ICF salesman were two major concerns. The respondents denied that they failed to consult the appropriate staff who were responsible for designing the house. During the hearing, they produced notes from their meetings and sketches by an experienced mechanical and electrical engineer as evidence that they consulted with the appropriate experts in creating the designs for the house and corrected errors based on their consultations.

Additional evidence for rule 3.102

It is common for architects to draft the designs that are requested by consultants, and projects sold by manufacturers and represented by salespeople are frequently referred to by architects in their area of expertise. Providing a structural engineer with such is considered to be appropriate. For this reason, proprietary products and designs, which are included in construction documents, can often increase the bid cost of a project. As a result, it can be determined that no violation was found for rule 3.102 based on undertaking of professional services, and as such the complaint was nullified.

Rule 3.103 alleged violations

Although rule 3.103 states that members cannot alter the project's scope without consent, the complainant states that the respondents changed the major design elements of the house without her consent in the first place.

The testimony presented by the complainant proves that the respondents communicated periodically over the course of the project and the plans were reviewed repeatedly during production.

Additional evidence on rule 3.103

Certain elements (i.e. windows, gable roofs, and HVAC systems) may have been added to the final design, but the total cost of the building may have not been explained fully to the complainant. Explaining the changes in the building's costs due to work scope changes falls within the responsibility of the architect to the client. Despite the respondents trying out solutions to rectify all discovered design issues, the cost implications do not appear to have been withheld. For this reason, it can be determined that rule 3.103 was not violated due to a lack of evidence with regards to the alteration of the project's scope of work.

Rule 3.301 alleged violations and evidence

Rule 3.301 states that members shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the members' services, nor shall the members state that they can achieve results by means that violate applicable law or this code. The complainant said that the respondents violated this rule because of the incorrect estimation of the design services cost (\$21,666 with billing of \$27,687) and the incorrect estimation of construction costs (\$431,600 initial estimate; cost projected to be 35% to 65% higher than what was specified). The evidence was required to prove that the respondents intentionally or recklessly misled the complainant regarding the costs necessary to build the home.

The initial cost estimates were preliminary in nature, and the plans were reviewed repeatedly during the design process. However, the complainant was well aware of the changes in the design throughout the project's course. Although the respondents may have submitted the estimate invoice too early, this does not reach level of conduct that results in this rule being violated; due to this, there is no finding of any intentional or reckless behavior against the respondents.

Rule 4.102 alleged violations and findings

As rule 4.102 requires members to not sign or seal any documents for which they do not have professional control over, it became clear that the complainant thought the respondents violated this rule by stamping plans which included an inadequate HVAC design; in addition there were no stamped mechanical drawings even though a mechanical consultation was paid for. Furthermore, the complainant announced that one of the respondents had sealed drawings and specifications that were not under his control.

There is a lack of evidence that the complainant provided by the complainant, and the official report states that the testimony by the respondents resulted in the determination which made both respondents have primary responsibility for the project and coordinated all work on the documents that were provided. For this reason, there is no violation of rule 4.102.

Conclusion

Under the NEC's procedural rules, it can be found that this case did not violate all the rules that were mentioned earlier in the presentation.

This case demonstrates why it is in the best interest of both the architect and the client to have a written agreement clearly defining the scope of the project and the architects' responsibilities.

Personal opinion of the case

On a personal note, it was a complete and thorough investigation of how ethical practices played a factor in the house's initial planning and construction. The case did not violate the rules of conduct that were shown earlier in the presentation because the respondents taking part in the case behaved in an ethical manner that was appropriate. However, the respondents should have been found guilty of violating the rules based on what happened with the construction documents that were presented.

References

2018 Code of Ethics and Professional Conduct. American Institute of Architects, 2018. Print.

Code of Ethics and Professional Conduct Decision 2002-16. American Institute of Architects, 2002. Print.