2021 VIRTUAL PLANNERS’ DAY

Confronting Racism: Practical and Ethical Considerations for Planners

ZOOM

APRIL 16, 2021

Featuring:
James Peters, FAICP
AICP Ethic Officer

Michéle Delisfort, PP, AICP
AICP Ethics Committee/Code Update Taskforce

American Planning Association
New York Upstate Chapter

Creating Great Communities for All
Planners' Day Panelists

JAMES PETERS, FAICP
AICP Ethics Officer

RIMA SHAMIEH, AICP
Chair, NY Upstate APA
Racial Justice Taskforce (Moderator)

TRAVON T. JACKSON, GSR
USA
President and Managing Director, BlueLight Development Group, Inc.

MICHELLE DELISFORT, PP, AICP
AICP Ethics Committee/Code Update Taskforce

NADINE MARRERO, AICP
Director of Planning, City of Buffalo, NY

KENNETH KOVALCHIK, AICP
Planning Director, Town of Guilderland, NY
Confronting Racism
Practical and Ethical Considerations for Planners

Virtual Planners’ Day Webinar
New York Upstate APA Chapter
Friday, April 16, 2021

Michele Delisfort, PP, AICP
AICP Ethics Committee/Code Update Task Force

James E. Peters, FAICP
AICP Ethics Officer
APA’s Ethical Principles in Planning
Adopted in 1980 by the American Planning Association; revised in 1992

Guidelines for advisors, advocates, and decision makers in the planning process

1. Serve the public interest
Provide accurate information, provide opportunity for all, protect natural and built environment, pay attention to long-range consequences of action, etc.

2. Maintain high standards of integrity and proficiency
Provide independent judgment, disclose personal interests, seek no gifts or favors, avoid conflicts of interest, don’t disclose confidential information, don’t misrepresent facts, respect rights of all persons, etc.

3. Improve planning competence
Provide high level of professionalism, commit no wrongful acts, contribute time for groups lacking planning resources, treat other professionals fairly, etc.
AICP’s Code of Ethics

A. Aspirational Principles

B. Rules of Conduct

C. Advisory Opinions
Informal Advice, Formal Advisory Opinions, Annual Report

D. Complaints of Misconduct
Filings, Preliminary Charge/Dismissal, Settlement, Decision, Appeal

E. Discipline of Members
Confidential Letter, Public Censure, Suspension, Revocation
Aspirational Principles
(aka, the “shalls”)

1. Overall Responsibility to the Public (8)
(Interrelatedness of decisions, Broad participation, Social justice, Fair dealings)

2. Responsibility to Our Clients and Employers (3)
(Independent judgment, Accept decisions of client or employer, Avoid conflicts of interest)

3. Responsibility to Our Profession and Colleagues (10)
(Professional integrity, Contribute to planning knowledge, voluntary activities, and others)
Rules of Conduct
(aka, the “shall nots”)

Twenty six (26) rules to which planners can be held accountable. General topics:

- Abuse of position
- Conflicts of interest
- False or deceptive statements
- Honest and fair dealing
- Lack of cooperation
- Legal and ethical
- Loyalty to employer
- Private communication
- Respect for confidentiality
“Equity” Provisions of AICP Code

Aspirational Principles

1a: We shall always be conscious of the rights of others.

1e: We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.

1f: We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.

3g: We shall increase the opportunities for members of underrepresented groups to become professional planners and help them advance in the profession.

Rules of Conduct

#20: We shall not unlawfully discriminate against another person.
Key Issues for Code Update
(Approved by AICP Commission, Sept. 2019)

1. Equity, Privacy, Discrimination, and Harassment
2. Case Appeals by Non-AICP Members
3. Vague Language/Legalese
4. Rule Inconsistencies (due to local laws/policies)
5. Unified Aspirational Principles
6. Consolidated Rules of Conduct
7. Hyperlinks for Rules of Conduct (from case examples)
Ethics Code Update Process

Sept. 2019  Update Issues reviewed by AICP Commission
Dec. 2020  Draft Code Revisions reviewed by AICP Commission
Jan.-Mar. 2021  Draft Code Revisions reviewed by Component Boards (CPC, Divisions Council, FAICP Committee)
Apr.-May 2021  Code Update Task Force revisions
May 31, 2021 Draft Code Revisions published (for review and comment by APA/AICP membership)
Mid-June 2021 Code Revisions Town Hall Meeting (virtual)
July-Aug. 2021  Final Revisions by Code Update Task Force
Fall 2021  Review/Vote by AICP Commission
Potential New Aspirational Principles
(and Rules of Conduct)
Ethics Scenario

Social Equity

Norman, AICP, a staff planner with Costaville, has been assigned to review the site plan for a group home for refugee immigrant children who have been separated from their parents.

The site plan meets all legal requirements, but Norman is concerned about the quality of the operation, as well as the long-term separation of the children from their parents.
Social Equity Scenario (contd.)

Norman voices these concerns to his supervisor, Lucio, AICP, who says he is very sympathetic. But Lucio notes that the Mayor wants to get the approval done as fast as possible—"before the NIMBYs get wind of this," says the Mayor.

Lucio tells Norman to focus just on the facts of the site plan review process in his staff report—and not to mention any of his social equity concerns.
Social Equity Scenario

Questions

Q 1:
Is Lucio correct, ethically, to tell Norman to only focus the staff report on the facts relevant to the site plan review?

a) Yes
b) No
c) Not Sure
Social Equity Scenario Questions (contd.)

Q 2:
Is there anything else Norman should do or say?
Social Equity Scenario

Ethical Issues

*AICP Ethics Code*

**Section A: Aspirational Principles**

1f: We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.

2b: We shall accept the decision of our client or employer...unless the course of action is illegal or plainly inconsistent with our primary obligation to public interest.

3e: We...shall not accept the applicability of a customary solution without first establishing its appropriateness to the situation.
Social Equity Scenario

Ethical Issues (contd.)

AICP Ethics Code

Section B: Rules of Conduct

#1: We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.

#2: We shall not accept an assignment from a client or employer when the services to be performed involve conduct we know to be illegal or in violation of these rules.

#18: We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.
Social Equity Scenario

Outcomes

In the real-life case, on which this scenario was based, Norman and Lucio decided to seek background information from other communities that had dealt with this group home operator.

Meanwhile, a local community group began to raise its own social concerns about the project in public meetings, newspaper stories, and social media posts.
Prior to being elected to the Town Board, Mr. Miller was the leader of a local community group that was very vocal in their opposition to many land use projects in Town, primarily multi-family housing projects. While Miller led this group, its members made the following comments about multi-family projects:

- “It’s not that we don’t like apartments, we don’t like the people that live in apartments”
- “I don’t want my kids going to school with the kids that live in those apartments”
- “I don’t want those people living next to me”
- “Our community is becoming too urban”
- “Too many apartments are being built and they will just turn into Section 8 housing”
- “We don’t need affordable apartment housing; we are a community of single-family houses”
Planning Director Thomas had previously spoken with Mr. Miller, when he was the leader of the community group, and expressed concerns about the racist undertones of these comments.

Mr. Miller did nothing to address the comments made by the members of the group.

Now that Mr. Miller is a Town Board member, Planning Director Thomas is concerned that he may be basing his land use decisions on the type of people that may live in a proposed development and not on the merits of the application.

What should Planning Director Thomas do?
What should Planning Director Thomas do?

Responsibility to the Public

1a – We shall always be conscious of the rights of others.
1f - We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.
1h - We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.

Responsibility to Our Profession and Colleagues

3i - We shall systematically and critically analyze ethical issues in the practice of planning.

Ethical Principles in Planning

• Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons.
• Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.
• Systematically and critically analyze ethical issues in the practice of planning.
• What should Planning Director Thomas do?
• What should the other Town Board members and Town supervisor do?
• What parts of the Ethics Code applies?
• Do the proposed changes to the Ethics Code (including aspirational goals) help clarify how to address this scenario ethically?
Thank you to our Panelists!

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AICP Ethics Officer

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