

May 2009

Discipline Report 2

Background

In mid 2006, the Registered Architects Board received a complaint from an architect about the alleged actions of another architect. The complaint was investigated and, given the particular circumstances, a proposal was put to the architect complained about that he acknowledge his error and accept the penalty of being censured by the Board. The architect complained about agreed to this.

As a result, a formal Disciplinary Committee hearing was **not** required, and the NZRAB Board imposed the penalty of censure, based on the architect's admission of the facts and acknowledgement that they constituted professional misconduct. The Board also decided that, given the particular circumstances, the architect found wanting would not be publicly named.

The complaint

The complainant, a Registered Architect, had been commissioned to design a replacement of a community building which was now too small, given growth in the numbers of people using it. When the plans for the existing building's demolition and replacement were presented to the local authority, one of the commissioners hearing the application was also at that time a Registered Architect. The commissioner (the architect complained about) came to the view that the proposal was poorly conceived and he prepared an alternative design. The architect complained about then presented the alternative design to the users of the building and did this without the complainant architect being advised beforehand, thereby breaching the architects' code of ethics that applied at the time.

The response

The architect complained about said the facts were other than inferred, as he did not attempt to supplant or replace the complainant architect, this being made clear at the time. The architect complained about said he was not practising as an architect when these incidents occurred, so there was no possibility of him taking over the project, and he did not make the offering as an architect. His involvement ended, he said, after he prepared the sketch, got a quantity surveyor to price it and made the alternative design public via a meeting and the press.

The sketch had been prepared to show that the needs of the client could be met in a way that would save the building, which was historic and listed, and save some valuable trees as well. By contrast, the existing design was "awful", required the destruction of a listed building and trees, and contained elements that looked like "brutalist remnants of the 1960s," the architect complained about said.

Findings

The NZRAB Board concluded that the complained about architect's "conduct in this matter amounts to an act or default discreditable to an architect."

The events in question took place at a time when, under the Architects Act 1963, the Architects Education and Registration Board's Code of Practice and Professional Conduct applied. That code stated that:

Principle 3: Integrity

An architect shall avoid actions or situations inconsistent with professional obligations or likely to raise doubts about his or her integrity

An architect who finds that personal and professional interests conflict so as to risk a breach of this principle, shall, as the circumstances may require, either withdraw from the situation or remove the source of the conflict or declare it and obtain the agreement of the parties concerned to the continuance of the engagement.

Lessons to be learned

Regardless of the design in contention, it was unprofessional to take an action which, by its nature, might well cause a breach between another architect and that architect's client. It was irrelevant whether or not the design was "awful" or "brutalist" and involved the loss of an historic building and some trees. Architects must not behave in this way, even when they disagree strongly with another architect's design.

The NZRAB's current Code of Minimum Standards of Ethical Conduct for Registered Architects lays this out explicitly, stating:

56) Not maliciously or unfairly criticize

A Registered Architect must not maliciously or unfairly criticise or attempt to discredit another Registered Architect's work.

An architect's work should be judged according to its merits, and not be the subject of professional backbiting. Architects need to remember that collectively they are a profession, as well as being commercial and artistic competitors.

The fault was compounded by the fact that the architect complained about did not advise the complainant architect of what he was going to do. It is an accepted principle of professional courtesy that one advises an architect before giving a second opinion on his or her current work. This applies whether one has been hired to give a second opinion, or, as in this case, volunteers it.

Indeed, the NZRAB's current Code of Code of Minimum Standards of Ethical Conduct for Registered Architects states:

58) Giving an opinion on the work of another registered architect

A Registered Architect must, when appointed to give an opinion on the work of another Registered Architect, notify the other Registered Architect unless the appointed Registered Architect is aware of any current or pending litigation concerning the work that is the subject of the opinion.

More broadly, the architect complained about acted in a reckless manner which did not advance the interests of the users of the community building instead creating both uncertainty and confusion amongst the client group. His conduct did not meet the Code's requirement that architects adhere to a duty of care towards clients and the public more generally, as per the following.

48. Exercise unprejudiced and unbiased judgment

A Registered Architect must exercise unprejudiced and unbiased judgment.

49. Care and diligence

A Registered Architect must perform his or her professional work with due care and diligence.

53. Conflict of Interest

A Registered Architect must disclose to clients, owners, or contractors significant circumstances known to the registered architect that could be construed as creating a conflict of interest. The Registered Architect must ensure that the conflict does not interfere with the Registered Architect's duty to render unprejudiced and unbiased judgment.

54. Act with honesty and fairness

A Registered Architect must pursue his or her professional activities with honesty and fairness.