

Case Study 8: Code Enforcement

[Appeared in front of Ethics Board as Case No. 98-5 - *NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS (NSPE)*]

Engineer A serves as a director of a building department in a major city. Engineer A has been concerned that as a result of a series of budget cutbacks and more rigid code enforcement requirements, the city has been unable to provide a sufficient number of qualified individuals to perform adequate and timely building inspections. Each code official member of Engineer A's staff is often required to make as many as 60 code inspections per day. Engineer A believes that there is no way even the most conscientious code official can make 60 adequate, much less thorough, inspections in one day, particularly under the newer, more rigid code requirements for the city. These new code requirements greatly enhance and protect the public's health and safety. The code officials are caught between the responsibility to be thorough in their inspections and the city's desire to hold down costs and generate revenue from inspection fees. Engineer A is required to sign off on all final inspection reports.

Engineer A meets with the chairman of the local city council to discuss his concerns. The chairman indicates that he is quite sympathetic to Engineer A's concerns and would be willing to issue an order to permit the hiring of additional code officials for the building department. At the same time, the chairman notes that the city is seeking to encourage more businesses to relocate into the city in order to provide more jobs and a strengthened tax base. In this connection, the chairman seeks Engineer A's concurrence on a city ordinance that would permit certain specified buildings under construction to be "grandfathered" under the older existing enforcement requirements and not the newer, more rigid requirements now in effect. Engineer A agrees to concur with the chairman's proposal, and the chairman issues the order to permit the hiring of additional code officials for the building department, which Engineer A believes the city desperately needs.

1. Was it ethical for Engineer A to agree to concur with the chairman's proposal given the facts?

Discussion by author

The facts of this case are in many ways a classic ethical dilemma faced by many engineers in their professional lives. Engineers have a fundamental obligation to hold paramount the safety, health, and welfare of the public in the performance of their professional duties (See Code Section I.1.). Moreover, the Code provides guidance to engineers who are confronted with circumstances where their professional reputations are at stake. Sometimes engineers are asked by employers or clients to sign off on documents about which they may have reservations or concerns (See Code Section II.1.b.).

Turning to the facts of the present case, Engineer A is faced with a predicament with a variety of options and alternatives. First, Engineer A could interpret the situation presented as one involving "trade-offs," in which Engineer A must weigh one "public good" (a better building inspection process) against a competing or concurrent "public good" (a consistent code enforcement process). In such a situation, Engineer A could arguably rationalize a decision to permit the inconsistent application of a building code in order to accomplish the larger objective of obtaining the necessary resources to hire a sufficient number of code enforcement officials to provide proper protection to the public health and safety. On the other hand, Engineer A's decision to permit developers to avoid compliance with the newer, updated building code enforcement requirements might potentially cause a real danger to the public health and safety if the a new facility causes harm to the public because of its failure to comply with the more updated code requirements. In addition, agreeing to the chairman's arrangement has the appearance of compromising the public health and safety for political gain.

The Code of Ethics makes it clear that engineers have an obligation to advise their clients or employers when they believe a project will not be successful. In this case, Engineer A should make it plain and clear to the chairman that "righting a wrong with another wrong," does grave damage to the public health and safety (See Code Section III.1.b.). Engineer A should insist that the public will be seriously damaged in either case and that if the integrity of the building code enforcement process is undermined for short-term gain, the city, its citizens, and its businesses will be harmed in the long term.

Conclusion reached by the Board of Ethical Review: It was not ethical for Engineer A to agree to concur with the chairman's proposal under the facts. Additionally, it was not ethical for Engineer A to sign inadequate inspection reports.

