

CASE SUMMARY #2

CONFLICT OF INTEREST

COMPLAINT REVIEW COMMITTEE

A panel of the CRC recently conducted a hearing regarding a complaint that an architect was unskilled and unprofessional in the handling of numerous aspects of a renovation and condominium conversion project. All aspects of the complaint were eventually dismissed except for the allegation that the registered architect breached Rule 5 & 6 of the Code of Ethics.

BACKGROUND AND FACTS

In the case before the panel, the architect was acting as owner, developer, architect and condominium board member with respect to the renovation and condominium conversion of an office building. The architect made no effort to advise potential purchasers of this fact; nor did he try to hide the fact of his multi-faceted involvement. In fact it was implicit in some of the documentation made available to potential purchasers of units in the building that the architect was involved in several capacities.

FINDINGS OF THE PANEL

The panel found that the architect breached Rules 5 and 6 of the Code of Ethics and accordingly was guilty of unprofessional conduct. Rule 5 is very clear that an architect must take deliberate measures in advising clients of the potential conflict of interest and must obtain informed consent from the client. In the circumstance at hand, the architect should have provided potential purchasers with written notice of the potential conflict of interest and obtained an acknowledgement from the client. A failure to do so left the door open to the perception of a conflict of interest whether one actually occurred or not. Once a conflict has been perceived by a member of the public, the status of the profession has been diminished.

SANCTIONS

Upon receipt of the complaint, the member took measures to rectify the deficiency by introducing a disclosure and acknowledgement letter into the condominium purchaser package. At the hearing the architect received a reprimand, a fine of \$4000 and was required to pay \$2000 toward costs of the investigation and hearing. For a more complete discussion of conflict of interest issues, see Practice Bulletin 9 – Outside interests and Professional Practice.

COMMENTARY

Rule 5 of the Code of Ethics, *Impartiality and Conflict of Interest*, requires an architect to act impartially and to avoid a conflict of interest. If a conflict arises, the architect is required to disclose the potential conflict to the client and to refrain from continuing to act unless the client, with knowledge of the potential conflict, requests the architect to continue. The Rule describes a conflict of interest as an interest that “*would be likely to affect adversely the judgement of the architect on*

behalf of, or his loyalty to a client or prospective client or which the architect might be prompted to prefer to the interest of the client”.

Rule 6 – Outside Interests and the Practice of Architecture states that architects with outside interests should not allow those interests to jeopardize the architect’s professional integrity, independence or competence.

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