



Bergen County Society of Professional Engineers

A Chapter of the New Jersey Society of Professional Engineers

BER Chapter Ethics Program
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CHAPTER ETHICS ESSAY

It would be unethical for Engineer A to develop and report his views on the feasibility study of ABC's Edgetown project to the Edgetown Planning Board because of his public service position as an advisor to the Edgetown Planning Board.

As a professional engineer, it is fundamental that Engineer A hold paramount the safety, health and welfare of the public in the performance of his duties. To act otherwise would be a breach of one of the cornerstones of professional ethics in engineering. Thus, first and foremost, Engineer A has an obligation or duty to the public in the performance of his duties.

Similarly, Engineer A has an obligation to his employer or client to be a faithful agent or trustee. As an agent or trustee, Engineer A must work to further the goals of the client and not do anything that would be detrimental or damaging to the client's interests. For example, Engineer A has a professional obligation to disclose to his client any known or potential conflicts of interest to his client. This would include any business association, interest, or other circumstance which could influence or appear to influence his judgment or the quality of his services.

Likewise, Engineer A cannot accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

From the facts we are told that Engineer A has been retained by Edgetown as a town engineer. Thus, Engineer A would owe a duty to the safety, health and welfare of the public, and to his client, Edgetown. We are further told from the facts that Engineer A is also being retained by ABC Development Enterprises on a separate project in Nearwood, a town within the state. Engineer A would therefore owe a duty to his second client, ABC Development Enterprises.

A problem arises when we are told that the Edgetown Planning Board has under review the approval of a project proposed by ABC Development Enterprises. Furthermore, that Engineer A, in his capacity as town engineer, is expected to offer his views on the feasibility of ABC's Edgetown project to the Edgetown Planning Board.

Immediately, there appears to be a potential conflict of interest because Engineer A is employed by both parties. Although we are told that the Nearwood project is unrelated to the project under consideration by Edgetown, there still is a *business association which could appear to influence* Engineer A's judgment. Thus to overcome this potential conflict, Engineer A must, at a minimum, fully disclose to both clients the nature of his relationship with the other client. Included in that full disclosure must be all reasonably foreseeable conflicts of interest. However, the inquiry does not stop there.

As an advisor to the Edgetown Planning Board, Engineer A is obligated not to participate in decisions with respect to professional services by himself or his organization in private engineering practice. Thus, had Engineer A been involved in the planning and/or design of the proposed Edgetown project, he would have a duty to decline providing his services to the Edgetown Planning Board. Therefore, for that particular project the Edgetown Planning Board would have to rely on the services of another engineer, preferably one with no connection to the project.

Although Engineer A had no direct role in the proposed Edgetown project and, therefore, could possibly render his opinion on the project without breaching his ethical obligation, Engineer A has a professional obligation to avoid any conduct or practice which is likely to discredit the engineering profession. While Engineer A may be able to retain his objectivity in reviewing ABC's plans on behalf of Edgetown, he will be put in the untenable position where the public may (and most likely will) find his motives questionable.

For example, if Engineer A finds ABC's proposal to be acceptable to Edgetown, the public may question whether or not he was given any financial incentive to do so, either by the awarding of the job in Nearwood, direct payment or, more subtly, by threat of withdrawing future business. Ultimately, Engineer A's motives and actions could easily be questioned and possibly invalidated due to the appearance of impropriety. This type of public reaction could jeopardize Engineer A's duty to his client, especially the Edgetown Planning Board who will be viewed as relying on a questionable source. It could also have a detrimental effect on the engineering profession as a whole.

Of course, Engineer A must balance any detrimental effect against the practical circumstances of the situation. If it turns out that Engineer A is the only professional engineer capable of performing the work requested by the Edgetown Planning Board within several hundred miles, then the practical necessity of rendering a decision may outweigh the appearance of impropriety. Nevertheless, the facts as stated give no indication that Engineer A is confronted with such a situation.

Therefore, although Engineer A may believe that he can maintain the highest of ethical standards of honesty, impartiality, fairness and equity, and overcome any potential conflicts of interest through full disclosure of any and all potential conflicts to both the Edgetown Planning Board and ABC Development Enterprises, as well as protect the public health, safety and welfare, he ultimately must consider the public's perception of his actions and the damaging ramifications of that perception on the engineering profession. Consequently, Engineer A must decline providing his services to the Edgetown Planning Board.