

ENGINEERS DUTY TO THE PUBLIC, LESSONS FROM FLORIDA

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JUNE 1, 2022



PROFESSIONAL CONDUCT 5.5.10 (PARAPHRASE)

If, in the course of the work on a project, the design professional becomes aware of a decision made by their employer or client against design professional's advice which violates laws and regulations, and in design professional's judgment will materially and adversely affect the health and safety of the public, design professional shall:

- 5.5.10.1 Report decision to public official; and either
- 5.5.10.2 Refuse to consent to the decision/action, or
- 5.5.10.3 Terminate services.



FLORIDA CONDO COLLAPSE

CASE NO. 90-5 – FAILURE TO REPORT INFORMATION AFFECTING PUBLIC SAFETY

- Apartment building tenants sued owner to repair building defects
- Owner hired consulting design professional, who discovered **serious structural defects** in the building which he believed constituted **an immediate threat to the safety of the tenants, but beyond the scope of his engagement**
- Design professional owed a duty of confidentiality to owner, but once aware of the imminent danger to the structure, he had an **obligation to make absolutely certain the tenants and public authorities were made immediately aware of the dangers that existed**

CASE NO. 98-9 – DUTY TO REPORT UNSAFE CONDITIONS

- Design professional designed commercial building; after construction, found calculation omission that could result in collapse under severe, but not unusual, winds; repairs would take months
- Design professional timely informed owner and architect of omission
- Design professional should have informed owner and architect that he had the ultimate, paramount obligation to see that the public is protected and informed the authorities

CASE NO. 13-11 – DELAY IN ADDRESSING FIRE CODE VIOLATIONS

- Fire protection design professional provided report for apartment building renovation showing the alarms violated local code; owner put renovation and fixing alarms on hold
- Design professional's obligations hinge on professional judgment regarding the level of risk posed by the violation
 - (1) Design professional with expertise in area may determine violation is **imminent and ongoing risk** to the health, safety, and welfare of occupants
 - (2) If imminent, should **immediately advise Client** appropriate steps must be taken to protect occupants from risks associated with violation
 - (3) If Client doesn't address issue, design professional **obligated to report** violation to code enforcement officials



FLORIDA PEDESTRIAN BRIDGE COLLAPSE

CASE NO. 00-5 – BRIDGE STRUCTURE

- Design professional learned a 280' long, 30' above stream bridge had 7 rotted pilings
- Design professional placed barricades on bridge; another design professional implemented new design, but design professional noted bridge movement was frightening
- Design professional's obligation: take immediate steps to contact higher authorities; by failing to do so, ignored basic professional and ethical obligations

NON-CLIENTS

CASE NO. 88-7 – PUBLIC CRITICISM OF BRIDGE SAFETY

- Design professional hired by newspaper to visit bridge project and provide general opinion
- A design professional should only render a professional opinion publicly, when that opinion is:
 - (1) based upon adequate knowledge of the facts and circumstances involved; and
 - (2) the design professional clearly possesses the expertise to render such an opinion

NON-CLIENTS

CASE NO. 65-9 – PUBLIC CRITICISM OF PROPOSED PUBLIC HIGHWAY ROUTE

- Consulting design professional worked on portion of highway project; issued public letter criticizing estimates, stating alleged disadvantages of route, and proposing alternative route
- When an engineering project has such direct and substantial impact on the daily life of the citizenry, as the location of a highway, it is desirable that there be public discussion
- Design professional's who have a particular qualification in the specific field involved may be said to have a responsibility to present public comment and suggestions

DUTY TO PROTECT PUBLIC

- Scope doesn't matter
- Duty to report to public authority paramount, even if confidential
- Who hires the design professional is largely irrelevant as to the duty to report
- The extent of reporting to "Public Officials" is important
- If you have particular expertise and knowledge, allowed to express professional opinion publicly
- Under some circumstances may have ethical obligation to present opinion and report when discover immediate threat to public



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QUESTIONS? THANK YOU!

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