Restoring the Public Interest and Social Equity to the AICP Code of Ethics and Professional Conduct

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Overview

• What are the “public interest” and “social equity”
• What do other planning ethics codes say about them
• Changes to the AICP Code—“Aspirational principles”
• What needs to be done
Some definitions

- Edward C. Banfield:
  A decision is in the public interest “if it serves the ends of the whole public rather than some sector of the public.”
Some definitions

• John Friedman:
  The public interest is “the notion of something shared or held in common”
Some definitions

- Herbert J. Gans:
  Certain goals are always in the “communal interest”:
  1. physiological survival
  2. political rules that make it possible for people to fight for achievement of political goals
  3. equality
Some definitions

- Melvin Webber

  Social responsibility involves:
  1) Extending access to opportunity
  2) Integrating larger wholes
  3) Increasing opportunities for individual’s to choose for himself
Some definitions

• Paul Davidoff:

The planner’s primary task “is to work vigorously for the establishment of equal opportunity for all men [sic] to participate fully in their society.”

Davidoff favors proposals that lead to the “equal sharing of resources or wealth”
What do other planning ethics codes say?

• Canadian Institute of Planners:
  “Members have a primary responsibility to define and serve the members of the public”
What do other planning ethics codes say?

• Planning Institute of Australia:
  Planner’s obligation is “pursu[ing] outcomes which, as nearly as they can, reflect the interest of the community as a whole.”
  Planners must “uphold and promote the elimination of discrimination” and ensure all development is sustainable
What do other planning ethics codes say?

• Royal Town Planning Institute

Planners “shall fearlessly and impartially exercise their independent professional judgment”

Planners “shall not discriminate on the groups of race, sex, sexual orientation, creed, disability, or age . . “

Planners shall “seek to eliminate such discrimination by others and to promote equality of opportunity”
What do other planning ethics codes say?

- New Jersey Board of Professional Planners
  
  *N.J.A.C. 13:41-2.1 Enumeration of prohibited acts*
  
  - Fraudulent advertising
  - Charging for work not done
  - Kickbacks
  - Accepting payment from more than one interested party for the same work, unless agreed to by clients
  - Conflict of interest
What do other planning ethics codes say?

- New Jersey Board of Professional Planners

  “Disregarding the safety, health and welfare of the public in the performance of the licensee's professional duties, such as preparing or signing and sealing documents which are not in conformity with accepted standards. . .”
What do other planning ethics codes say?

- Michigan Registered Community Planners
  Planners must work to ensure and never endanger, the “public health, safety, and welfare”

Planner must engage in notice and then whistleblowing when public welfare is endangered
Some themes

- Individual responsibility
- Independence
- Equal opportunity
- Access to resources and information
- Recognition of common societal interests
- Action to prevent or eliminate discrimination or danger to public
Changes to the AICP Code

- Predecessor American Institute of Planners—“The Social Responsibility of the Planner” (1972)
- Previous AICP code—Public interest and social responsibility language is enforceable along with other provisions
Changes to the AICP Code

- Prior code in effect from 1978 to 2005
- “A planner’s primary obligation is to serve the public interest”
- “A planner must strive to expand choice and opportunity for all persons”
- Must plan “for the needs of disadvantaged groups and persons”
- Must “urge the alteration of policies, institutions, and decisions which oppose such needs”
Changes to the AICP Code

- AICP’s *The Social Responsibility of the Planner* (1972) contained guidelines for planning for disadvantaged groups and individuals
Changes to the AICP Code

- Salkin/Whiteley report (2002): recommended moving public interest and social justice language to nonbinding aspirational principles, more than 50 changes, but did not look at other planning ethics codes
- AICP Code completely rewritten and adopted in 2005
Changes to the AICP Code

- Completely revised in 2005
- Public interest and social justice—now nonbinding, unenforceable aspirational principles
- Drafting style changed
Fixing the AICP Code

• Revisions in 2005 eviscerated the ability to protect or advance the public interest
Fixing the AICP Code

• Rules of conduct contain boilerplate language addressing behavior that is not unique to planning practice
Fixing the AICP Code

• AICP Code contains no direction for morally ambiguous situations
  – Example: APA’s *Ethics in Planning*—A planners shouldn’t accept a vacuum cleaner from a developer
  – Example: But AICP won’t back a planner who is discharged for following the Code

• Code’s language the royal “we”—creates problems
Fixing the Code

• AICP must make aspirational principles enforceable
• AICP must implement standards describing what type of action will rise to the level of a violation
• AICP must include guidelines and comments for interpreting and applying each rule
Fixing the Code

- AICP should periodically review the Code
- The AICP Code should “use the singular” so that the subject and its obligations are clear
• Public interest and social equity considerations must be restored and reintegrated into the AICP Code in a substantial and enforceable manner
Israel Stollman, FAICP

- A planner . . . has the professional responsibility of achieving [a balance between the public and the right to pursue private interests] and using it as a personal guide . . . The common allegiance that unites planners is a sensitivity to publics beyond the immediate client. As a planner in the job of finding a balanced public interest, you are your own client.
Examples of social equity policies or strategies

- Linkage programs for office/commercial development
- Fair-share affordable housing programs
- Environmental justice/distributional issues in the siting of controversial land uses
- Inclusionary zoning
- School voucher programs and charter schools
- Waivers of assessments in I/m neighborhoods
- Integration of group homes into neighborhoods
Problem: You are a professional planner and have been asked to advise a municipality to help select a neighborhood park site from all of the available land. You decide to use “social equity” concepts. What do you do?
Some approaches

- Use national standards for population and spacing
- Find the area with the most underserved people
- Find the area with the most underserved people who are also heavy park users
- Conduct surveys in underserved neighborhoods to determine amount of usage and location of users and would they be willing to pay a special assessment
Personal reflection and anecdotes

• What is the most difficult ethical decision involving the public interest and social equity that you have faced as a planner and how did you approach it?