

# What is Consistent with the Public Interest?

## *Rethinking Planning Ethics for the 21st Century*

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NO CASUAL OBSERVER of urban places can escape the reality that real estate development continues to define who lives in, has access to and enjoys urban life. In the wake of the housing crisis that started in 2007, economic inequality has grown in many cities. While we could easily agree with the hypothesis that this is simply the market at work and that we would be irresponsible (perhaps even criminal) to inhibit the exuberance of the real estate markets, we must ask ourselves as planners whether increasing economic inequality that is facilitated by real estate development is *consistent with the public interest* and what role we have played in creating or mitigating it.

The *Ethical Principles for Planning* published by the American Planning Association in 1992 treats social justice, civic participation, and

fairness in a planning process as key to the field's ethics. One of the central ethical principles for actors states that planners should, "...serve as advocates only when the client's objectives are legal and consistent with the public interest." I want to suggest here that there might be a great deal of room between the legality of a client's objectives and the public interest. Moreover, there is a great conflict for any planner who tries to mediate those two divergent goals in practice.

Real estate development in the United States depends on a basic microeconomic principle of "first-mover advantage." As a developer, I profit the most from being able to exploit demand in the market, for housing, services, amenities, etc. And, the fewer parties who know about the opportunity I have to construct new housing/office/retail space the better—lest they drive up the costs of doing business by competitively bidding against me on land and property. I may profit if I come in shortly after the first-mover or at least before the market demand has not been so satisfied that profit is no longer possible. This gamesmanship depends on asymmetrical information to operate. Cynically, there is

no democratic process that can even the playing field between the owners of that information and the public.

In our post-*Citizens United* world, corporations are now legally classified as people. The asymmetrical information they wield about policy, politics and their own profits and interests muddy the waters on what we might attempt to know about the public interest in our present day and age. Given the increasing levels of social inequality in the United States, it is time to revisit and refine how we are defining the public interest, but more importantly we need to examine whether our current code of ethics can be operationalized in practice. Planners who work for or with developers to build their mixed-use communities, multi-family high-rises, shopping centers, and office parks must necessarily use the language of profits, first-mover advantage and asymmetrical information.

- It is not that they did not learn about planning ethics in graduate school. I would like to suggest that there are three things that can and should occur.
- First, the *Code of Ethics*, while good, may need some refine-



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ment to be useful in our current political context. The power of money in politics is evident to most and does affect how planning operates at local, state and federal levels.

- Second, our current system of planning education needs to consider the gulf new planning school graduates must cross between the world of theory and design and competitive development and aggressive market forces. We do our students a disservice to leave them unprepared and ill-equipped to engage in these practical and ethical dilemmas.
- Lastly, progressive planners would do well to launch a campaign to engage in public scholarship that examines and documents how contemporary planning practices contribute to and exacerbate the growing social inequalities we see so present in American society today. If we do not, we risk becoming less relevant as a field to the American public that is surely better versed in the day-to-day experience of economic injustice than we have proven to be. **P<sup>2</sup>**