



December 11, 2014

By Electronic Mail and First Class Mail

Mr. Raphael Sperry, AIA, LEED AP
President, ADPSR – Architects / Designers / Planners for Social Responsibility
PO Box 9126
Berkeley, CA 94709

RE: Proposal to Amend AIA Code of Ethics

Dear Raphael:

The Institute's Board of Directors has carefully considered the proposal of Architects / Designers / Planners for Social Responsibility (ADPSR) to amend the AIA Code of Ethics and Professional Conduct. The Board has decided not to make the proposed changes to the Code of Ethics, and has requested that I let you know the rationale for its decision.

The ADPSR proposal would have amended the Code of Ethics to include the following language:

(Proposed) Rule 1.402:

Members shall not design spaces intended for execution or for torture or other cruel, inhuman, or degrading treatment or punishment, including prolonged solitary confinement.

(Proposed) Commentary:

The Convention Against Torture and the International Covenant on Civil and Political Rights prohibit "torture or cruel, inhuman or degrading treatment or punishment" (ICCPR Article 7) and ICCPR also requires that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" (Article 10). Prolonged solitary confinement has been identified as a

form of torture by the United Nations Human Rights Council, Committee Against Torture, and the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

In May, after receiving the proposal, I appointed a special panel to examine it and to offer findings and recommendations on the requested changes to the Code of Ethics. The following questions guided the panel's deliberations:

1. Are the proposed changes of a type consistent with the purposes and structure of the Code of Ethics?
2. If the changes were adopted, what precedent might that set for future proposals?
3. What are the major substantive issues raised by the proposal?
4. What are the principal arguments in favor of, and against, the requested changes?
5. What other factors may be of importance in this matter?

Panel members reviewed not only the basic proposal, but also an extensive list of secondary materials relevant to their discussion. (I have enclosed a list of those materials.)

After much consideration, the panel submitted its report in October and recommended that the Board not adopt the rule proposed by ADPSR. In doing so, it stated:

- The AIA Code of Ethics should not exist to create limitations on the practice by AIA members of specific building types. The AIA Code of Ethics is more about desirable practices and attitudes than condemnation. Some specifics exist in current rules (such as prohibitions against fraud, mistreatment of employees or interns, or making gifts intending to influence judgment), but a prohibition against members engaging in a certain type of design or building type would be materially different from the current Code. Moreover, adoption of a rule forbidding members from designing a specific type of facility could lead to

proposals or demands for similar rules limiting or prohibiting design of other facilities.

- There is real potential of antitrust challenges to such a rule. Such challenges might come either from federal or state enforcement authorities, for example, or from AIA members arguing that restrictions on their right to design legally sanctioned structures unduly restrains their ability to compete in the relevant markets.
- It would be extremely difficult for the National Ethics Council to review and decide complaints brought under the proposed rule. As to certain rules involving violations of law or allegations of fraud, the Council declines to take action unless an independent court or administrative body has made findings concerning the underlying legal issues. Indeed, a body of architects – untrained in the law and unable to conduct judicial proceedings – should not be expected to adjudicate issues of law. Similarly, the National Ethics Council should not be expected to resolve the types of issues inherent in the rule proposed by ADPSR.

Considering the many relevant factors underlying the ADPSR proposal, the Board has decided not to adopt the requested changes to the Code of Ethics. In doing so, however, it has also expressed its encouragement of the Academy of Architecture for Justice to continue examining evidence-based and aspirational approaches to correctional design and operations, and to offer appropriate recommendations.

I thank you for submitting the ADPSR proposal for consideration, and appreciate your commitment to the Institute.

Best regards,

A handwritten signature in black ink, appearing to read "H. Combs Dreiling". The signature is fluid and cursive, with a large, stylized initial "H" and a long, sweeping underline.

Helene Combs Dreiling, FAIA

2014 President

Enclosure

AIA Code of Ethics Panel Materials

Secondary Research Resource Materials

- ADSPR Proposal and AIA Code of Ethics Panel Charge
- AIA New York Chapter of the Academy of Architecture for Justice Point of View
- AIA San Francisco press release posted March 1, 2013
- American Psychological Association Amends Ethics Code to Address Potential Conflicts Among Professional Ethics, Legal Authority and Organizational Demands dated February 24, 2010
- American Psychological Association Council Resolutions: Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment dated August 9, 2006
- American Psychological Association *and the Participation of Psychologists in Situations in Which Human Rights are Violated*, Analysis of Social Issues and Public Policy (Bernice Lott)
- American Medical Association Opinion 2.06 Capital Punishment
- American Medical Association Opinion 2.067 Torture
- “Anti-Death-Penalty Activists Target Pharmacists Association’s Ethics Code
- “Applying the Rules of Just War Theory to Engineers in the Arms Industry,” Science and Engineering Ethics (Aaron Fichtelberg)
- BMJ, (Sarah I. Kimball, Stephen Soldz)
- Case Study Excerpt from *Ethics for Architects*, (Thomas Fisher).
- “Doctors and Torture,” Medicine and Health Rhode Island (Herbert Rakatansky, MD)
- “Drawing the Line,” The Nation (Michael Sorkin)
- Ethical Issues, APhA Policy Manual, American Pharmacists Association
- “Ethics, Human Rights and Prisons -the AAJ Conversation (Parts 1&2) by Raphael Sperry posted at AIA KnowledgeNet Oct. 4, 2013
- “Guidelines for the UIA Accord on Recommended International Standards of Professionalism in Architectural Practice Policy on Ethics and Conduct”
- Letter from Boston Society of Architects dated April 23, 2014
- *Medical Professionalism and Abuse of Detainee in the War on Terror*
- *Segregation Housing, Use Not Abuse* (Frank Greene, FAIA)
- The Talk of the Town, Annals of Human Rights
- “UIA Accord on Recommended International Standards of Professionalism in Architectural Practice”
- UIA International Code of Ethics on Consulting Services
- “Violating Ethics: Unlawful Combatants, National Security and Health Professionals,” Journal of Medical Ethics (D. Perron, A. Perron)
- “Why Don’t Pharmacy Groups Condemn Lethal Injection Role,” Pharma & Healthcare (David Kroll)
- Written Testimony of Gary C. Mohr, Director, Ohio Department of Rehabilitation and Correction; On Behalf of The Association of State Correctional Administrators; Provided to: Subcommittee on the Constitution, Civil Rights and Human Rights Committee on the Judiciary, United States Senate; For Hearing on Reassessing Solitary Confinement (March 3, 2014)