Responsible Charge—the case of Ed Turner and the city of Idaho Falls

Responsible Charge Definition
- “The control and direction of the investigation, studies, design, construction or operation of engineering work, or the control and direction of record research, field retracement, office calculating, boundary determination and mapping of land surveying work, requiring initiative, professional skill and independent judgment.”

Before city elections, the City Engineer in “responsible charge” supervised work done by engineering staff, and reviewed and approved work by consultants.

Reorganization
- New mayor appointed a new “Public Works Director (not an engineer)
- A new Engineering Administrator (not an engineer) was placed in charge of the engineering staff
- Turner’s responsibilities were reduced; he was no longer responsible for supervision of the engineering staff

Administrative changes after the election of a new mayor resulted in the engineering staff reporting directly to an “Engineering Administrator”—thus the City Engineer was not in responsible charge of work done by staff.
After reorganization…

• The City Engineer’s responsibilities were reduced in the following ways:
  – No Involvement in site plans
  – No involvement in Annexation Agreements
  – No involvement in Development Agreements
  – No Involvement in the public counter
  – No guidance and direction to the signing and striping (traffic), design, survey, or construction inspection personnel
  – No involvement in administrative and supervisory responsibilities of the Engineering Department

After reorganization…(cont’)

• The City Engineer was to communicate with only one person—the newly created position Engineering Administrator (non-engineer).
• All employees in the department reported directly to the Engineering Administrator (non-engineer)
• Employees doing engineering work did not report to City Engineer Turner.

Results

• The responsibilities of the City Engineer were reduced dramatically in March 1996.
• The work done by the designers and draftsmen was subsequently directed by others.
• Turner resigned his position as City Engineer when required to sign and seal projects over which he did not have responsible charge. He subsequently sued the City of Idaho Falls for wrongful termination and breach of contract.

Results

• This case brought the issue of “responsible charge” into focus, and helps us better understand the Code requirements today.

Comments by ASME

– “It has been brought to ASME’s attention that an issue may arise in the captioned lawsuit as to whether a licensed professional engineer may be required by his or her employer to sign and seal drawings, plans or similar documents for which he or she does not have ‘responsible charge’.”

Comments by ASME (cont’d)

– The purpose of this letter is to convey ASME’s position, as amicus curiae, that it is a fundamental legal and professional principle that it would be improper for a licensed professional engineer to sign and seal any such document unless he or she had sufficient control and direction over the underlying work in order to exercise his or her professional skill and independent judgment.
Comments by ASME (cont’d)

– “Consequently, it would be equally improper to attempt to force a licensed professional engineer to sign and seal such a document for which he or she did not have responsible charge through demotion, threatened discharge or similar means. To find otherwise would be to undermine a basic tenet designed to protect the public by assuring that professional engineers employ their best professional judgment based upon adequate information and involvement.”

Comments by NSPE

“NSPE was recently advised that there have been allegations that the City of Idaho Falls has permitted unlicensed individuals to assume “responsible charge” of engineering work in violation of the Idaho’s engineering licensure statute (Idaho Code Ann.54-1201 et.seq. (1995).

Comments by NSPE, (cont’d)

– “Unlicensed engineering practice endangers the public because unqualified individuals performing engineering services can do grave harm through the incompetent design and construction of roads, bridges, systems, machines, equipment, buildings, structures and other public or private projects.”

Comments by NSPE, (cont’d)

– “NSPE requests that the Idaho Attorney General immediately investigate these activities and take appropriate action to enforce the provisions of the Idaho engineering licensure laws.”

Summary of Support
American Engineering Alliance (A.E.A.)
Idaho Society of Professional Engineers (I.S.P.E.)
National Society of Professional Engineers (N.S.P.E.)
American Society of Mechanical Engineers (A.S.M.E.)
American Society of Civil Engineers (A.S.C.E.)
Idaho State Board of Professional Engineers and Professional Land Surveyors
Engineering News Record (E.N.R.)
Engineering Times
Idaho Job Service
Idaho Industrial Commission
Jeff Strother, Lawyer, Boise, Idaho
Charlie Babb, Lawyer, Austin, Texas
22 States