I wish to argue in favour of CIP fostering the objectivity and independence of planning opinion by recognizing two categories of planners.

I propose that a standard of objectivity be created as an expansion of the CIP Code of Professional Conduct's requirement that members shall "provide independent professional opinion" to clients, employers, the public and tribunals. By adding this element, the profession would recognize both "objective" planners and "advocate" planners. In turn, clarifying the roles of planners would promote public recognition of the profession's standards.

The current expectation expressed by the code—that all planners should act in the public interest—is not realistic, nor is it shared by the public. By establishing a standard of independence or objectivity, CIP would allow some members of the profession to advocate their employer's or client's interests without restriction. Our ethical expectations should consider the context of employment and the differences of opinion that always exist in issues of public interest; failing to do so will make our profession less and less relevant to the decision-making process.

Greater public scrutiny, more frequent situations involving political conflict with professional recommendations, and complex local government relationships that produce a greater potential for conflicts of interest, are all factors that could be addressed by establishing the two categories of planners. These categories would be based on the nature of planners' relationships with their employers and the resulting objectivity or independence of their planning opinions.

The case
The objectives formulated in Ontario's Professional Planners Institute Act include high standards of professional planning practice and ethical behaviour. These objectives promote the recognition of the planning profession in Ontario and stimulate the generation, development, dissemination and discussion of ideas on planning. In addition, the act requires OPPI Council to pass bylaws "regulating and governing the conduct of members of the Institute in the practice of their profession by prescribing rules of professional conduct and standards of practice." Likewise, the CIP Code of Professional Conduct states that "The vitality and credibility of the planning profession, and of the Institute, rely upon the quality of the members."

The preamble to the OPPI Code of Professional Conduct acknowledges that the basic objective of planning is the promotion of the general welfare and that members will always recognize the primacy of the public interest. The code requires the member to maintain the integrity and competence of the planning professions, and specifically to provide independent professional judgement to clients or employers. Similarly, when evaluating the work of a colleague, the member must show evidence of objectivity and justice.

The CIP code addresses situations that may compromise or appear to compromise the objectivity or independence of a professional planner. The situations addressed include those involving conflict between the values of a client/employer and the values of the code, conflict of interest, disclosure of adverse effects on the public interest, and compensation or inducements affecting professional opportunities or advice.

In all cases the intent of the CIP code is to ensure both the appearance and existence of objectivity and independence of the member and his or her professional opinion. This objective stems from the principle that members "owe diligent, creative, independent, and competent performance of work in pursuit of the client's or employer's interest."

Establishing a clear and legitimate distinction among planners in the need for objectivity and independence will address many current issues involving the credibility and role of the profession. The distinction would recognize that advocate planners have a responsibility to the aims of the organizations that employ them, at times overriding their responsibility to the public interest.

A proposed model
The Institute of Chartered Accountants of Ontario represents and regulates a profession that has had legislative status since 1879. Their ethical standards, practice directions and professional conduct guidelines have been honed over the years to achieve an objective similar to that of OPPI: creating a trusted profession that the public can rely upon for high standards of excellence and ethical behaviour. The institute's members have a public trust in that they validate the actions of a company's management for the protection of shareholders. Financial institutions require their opinion or audit for a variety of business and regulatory approvals.

The accounting and planning professions both see themselves as responsible for a form of public trust in that they act in the public interest. This is based on the independence or objectivity of the accountant or planner. Here, public interest does not refer to a government authority, which in a planning process constitutes a single interest that may or may not act in the public interest. It should rather be thought of as the general welfare of the public.

Ontario's chartered accountants recognize that the appearance of objectivity or independence is as important as the fact. At heart, only the individual practitioner knows if he or she is working in accordance with the principles of objectivity and independence. From the perspective of a professional organization, public perception is most important to the credibility of the organization and the profession. In order to deal with public perception, chartered accountants have established the concept of a "reasonable observer," defined as "a hypothetical individual who..."
has knowledge of the facts, which the member knew or ought to have known, and applies judgement objectively with integrity and due care."

In order to show how the chartered accountants' approach may be applied to the planning profession, I have prepared a series of clauses intended to form the basis of a discussion on the issue of objectivity. These clauses are based closely on clauses of the chartered accountants' "Objectivity Standards."

1. This practice direction provides guidance on the distinction between members offering planning opinions that advocate the interests of clients or employers and members offering independent and objective planning opinions.

2. A full member may declare himself or herself as qualified to give independent opinions on planning matters. With such a declaration, such members shall hold themselves free of any influence, interest or relationship which, in light of a planning application, impairs their professional judgement or objectivity, or which, in the view of a reasonable observer, would impair their professional judgement or objectivity.

3. A member engaged in the practice of providing independent planning opinions shall disclose any influence, interest or relationship that would be seen by a reasonable observer to impair the member's professional judgement or objectivity. Such disclosure shall indicate the nature of the influence or relationship as well as the nature and extent of the interest.

4. Whether or not objectivity exists or is seen to exist in a given case must be interpreted using professional judgement. If a reasonable observer would perceive a lack of objectivity, either the member, the member's firm or the member's planning agency would ordinarily be expected to decline the role of providing independent planning opinion.

5. This practice direction sets out how a reasonable observer might view certain situations involving the application of the Code of Professional Conduct. This observer should be thought of as a hypothetical individual who has knowledge of the facts that the member in question knows or ought to know, and applies judgement objectively with integrity and due care.

6. Members are cautioned that the test of objectivity takes place in the context of both real and perceived impairments. Often it is the perception of an impairment that poses the greatest challenge to members. In all situations, members should reflect upon the wording of the applicable rule to ensure their compliance with its spirit and intent.

7. If, after considering the rules and this practice direction members are still uncertain about a given decision, they are encouraged to discuss the matter with colleagues, institute staff or council members. Members may also request the ruling of the appropriate committee dealing with professional conduct in specific cases.

Establishing a standard of independence or objectivity would allow some members of the profession to advocate their employer's or client's interests without restriction by or conflict with our ethical code. I don't believe it is realistic to expect all planners, regardless of the context of their employment, to further the public interest without qualification. It doesn't happen now, and we should recognize and respect that a planner may take either an independent or an advocacy role.

By establishing this new standard, we would add detail and context to the concept in a manner that would increase our understanding of objectivity, independence, and conflict of interest. My purpose here is to spark discussion of an issue that is often examined in private but is seldom the topic of open debate.

Robert Lehman is president of Meridian Planning Consultants and a founding partner of Metropolitan Knowledge International. Bob has acted as project director for major research and policy studies such as the Commission on New Planning for Ontario and the Urban Density Study for the Office for the Greater Toronto Area. He has also been retained by public- and private-sector organizations to assist in a wide variety of communications-lit processes. Bob is the author and publisher of The Zoning Trilogy, a perennial bestseller of the American Planning Association Bookstore.

Summary

Bob Lehman discusses the problem presented by the CIP Code of Professional Conduct's requirement that all planners must promote the public interest. In many instances planners are called upon to advocate for the private interests of particular clients. He suggests adopting an approach similar to the one currently in use in the accounting profession, in which planners could declare themselves advocates of a particular interest and be evaluated accordingly.

Sommaire

Bob Lehman s'interroge sur l'obligation, pour les urbanistes, de promouvoir l'intérêt public tel que prévu par le code de déontologie de l'ICU. L'urbaniste est souvent appelé à défendre les intérêts privés d'un client. M. Lehman propose d'imiter le modèle adopté par les professionnels en comptabilité, où l'urbaniste pourrait se déclarer représentant d'intérêts particuliers et être évalué en conséquence.