

Discipline Case Digest



Case: 2016-03

Subject Member: Bryan Fraser, RPF

Referred to: Complaints Resolution Committee

Date of Decision: August 2016

The subject member in this complaint requested that the Association of BC Forest Professionals (ABC FP) include his name in the case digest for publication.

The Complaint

In June 2016, the ABCFP president submitted a complaint to the registrar on behalf of the ABCFP regarding several professional concerns relating to Registered Professional Forester (RPF) Bryan Fraser. The complaint allegations were based on concerns arising from a report of the Forest Practices Board with respect to an investigation it had conducted into concerns about the visual impact of logging of several harvested cutblocks on the coast of British Columbia and an alleged lack of accountability for the results. The president's complaint alleged that Mr. Fraser may have contravened the *Foresters Act* and/or the ABCFP's bylaws by signing off on a visual impact assessment (VIA) that failed to meet the required visual quality objective (VQO) for the area, or by subsequently refusing to meet with government officials to discuss their concerns about the possible visual impacts of the cutblocks or to provide certain documents to those officials.

The allegations included questions as to whether Mr. Fraser's actions may have constituted a breach of several sections of Bylaw 11 (code of ethics) and Bylaw 12 (standards of professional practice) regarding competence, due diligence, and adherence to professional principles.

The complaint (including background material) and Mr. Fraser's response were referred to the Complaints Resolution Committee (CRC).

Discussion and Considerations

The CRC reviewed the complaint, supporting information, and the detailed response provided by Mr. Fraser in order to make a recommendation to the registrar, as per Bylaw 13.16. The purpose of the CRC's review was to make a preliminary assessment and recommendation as to whether there was a sufficient basis to warrant further investigation of the complaint, or whether there were insufficient grounds to support further investigation.

The CRC's consideration was focused on two main points:

1. Did Mr. Fraser have regard for existing legislation, regulation and policy in the process of signing off the assessments?
2. Was Mr. Fraser's conduct consistent with professional principles in regard to the meeting and document requests from government officials?

Based on the information provided, the CRC was of the view that the evaluation of visual quality effectiveness for these cutblocks was not straightforward, recognizing the complexity that existed given the legislation, provincial policy and guidelines at the time of Mr. Fraser's assessments.

It was the CRC's assessment that Mr. Fraser showed significant consideration both for the applicable legislation and for the modeling of visual impacts for the cutblocks in question, recognizing that the original block design was developed prior to his term of employment, and recognizing further that certain district manager policies were put into place at a later date and were not available at the time of Mr. Fraser's assessments. There also appeared to be significant inter-organizational challenges (i.e. government/employer) that created a complex working environment for Mr. Fraser, given a member's ethical obligation not to disclose confidential information of the employer without the employer's consent. The CRC had regard to Mr. Fraser's evidence of efforts he made to engage in professional dialogue with government officials while still meeting confidentiality requirements. Given the challenging circumstances presented, the CRC did not find Mr. Fraser's conduct to be inconsistent with professional principles, or to raise concerns within the ABCFP's investigative mandate.

Decision

As a result of this review, it was the CRC's assessment that there were insufficient grounds to support further investigation. They referred the matter back to the registrar with the recommendation that the case should be dismissed. The registrar accepted this recommendation and the complaint is now closed.

Summary

A number of important observations arose from this case with respect to the evaluation of professional due diligence and the process by which complaints are registered with the ABCFP. The following points may be helpful for ABCFP members:

- The ABCFP's investigative mandate is confined to investigating concerns about members' professional conduct and competence, including their compliance with the *Foresters Act* and the professional standards and principles established in the ABCFP's bylaws. Where there is an insufficient basis to satisfy the ABCFP that a member's conduct raises concerns within its investigative mandate, it is not the ABCFP's role to further pursue concerns about other matters that are more appropriately addressed by another agency or in another forum.
- Information arising from concerns raised in the public sphere (e.g. third party agencies or the media) may initially be perceived as shedding an unfavorable light on the subject member — sometimes quite widely. However, through the ABCFP complaint review process, additional information and explanation is often provided in a subject member's response or obtained through further investigation, which may provide additional or different perspectives which should be considered. This is a critical step in the complaint resolution process and in providing a fair and unbiased review of any complaint.
- Forest professionals have to balance their public interest-based ethical duties with the ethical duties they owe to their employer/client, the profession, and other members. This can be difficult at times, and may result in others perceiving a lack of professionalism or an inability to balance the public interest; however, a forest professional has a responsibility to "not disclose confidential information without the consent of the client or employer except as required by law" (Bylaw 11.5.2).
- Under the *Foresters Act*, it is the role and responsibility of the president to bring forward concerns about professional conduct that arise from third party agency reports or other information coming to the ABCFP's attention, where it may be in the public interest for the ABCFP to investigate those concerns. President-initiated complaints of this nature are brought forward on behalf of the ABCFP itself, and are not driven by a complainant in the same way as a typical complaint. This presents challenges in terms of both the timing of lodging the complaint, and the verification of information to support the complaint. This does not change the obligation of the ABCFP members to address issues arising from Bylaw 11.3.4 and 11.4.3.