



May 20, 2008



### Ethics: Revealing Confidential Information

*This article does not represent a determination by the Ethics Committee of an actual case. One of the responsibilities of the Ethics Committee is to enhance member awareness about the **Code of Professional Ethics** and **Code of Environmental Ethics**, which contain important principles relating to members' duties to clients and to other members. While there may be additional licensing, legal, or legally actionable factors in these hypotheticals, the Ethics Committee's comments address only the implications with regard to the ASLA ethical codes; the discussions of these hypotheticals by the Ethics Committee do not constitute legal advice.*

Cecil Leaky had worked on a variety of projects as a young landscape architect at The Firm. One of these projects was a neotraditional development involving high-density residential housing mixed with commercial retail and office space. Since the project was a potentially controversial concept being introduced into a substantially low-density residential community, knowledge about the development, known internally as "Newville," was extremely confidential.

After receiving a great job offer, Leaky decided to go to work for The Company. At his new job, Leaky talked freely about his experiences and projects at The Firm. He often boasted about his involvement with the design of Newville even though information about the project had still not been made public. Eventually details about Newville came to the attention of a reporter with the local newspaper. After some investigation, including candid discussions with Leaky, the reporter was able to write a rather detailed article on the scope of the Newville project.

Public reaction to the front-page article was swift and negative. Understandably upset with confidential information being front-page news, the developer confronted The Firm about how the information about Newville was leaked to the newspaper. The Firm denied being the source of the leak, but eventually was able to trace the leak to Leaky and informed the developer and The Company about Leaky's revealing the confidential information.

**Was Leaky's openly discussing at The Company and with the reporter a project of The Firm that he knew to be sensitive and confidential a violation of the Code of Professional Ethics?**

Here is the relevant section of the ASLA Code of Professional Ethics:

**Rule 1.109: Members shall not reveal information obtained in the course of their professional activities that they have been asked to maintain in confidence or that could affect the interests of another**

**adversely. Unique exceptions: to stop an act that creates harm; a significant risk to the public health, safety, and welfare that cannot otherwise be prevented; to establish claims or defense on behalf of Members; or in order to comply with applicable law, regulations, or with the Code.**

Leaky's leaving The Firm did not relieve him of his obligation to maintain confidentiality with regard to the Newville project. By revealing confidential information about Newville, Leaky adversely affected the interests of the developer and the reputation of The Firm. Since the disclosure of the project does not qualify as one of the exceptions to this rule, Leaky was in violation of the Code.