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Landscape Architecture News Digest • The Online Newsletter Of The American Society Of Landscape Architects
May 27, 2003

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Whatcha Gonna Do?

The Situation



Ohso Careless Moonlighting

Wanabe Green, ASLA, had a well-regarded design firm that specialized in a broad spectrum of environmental services as well as traditional site design. The company was often presented with projects too small to be profitable. Green had a liberal policy on moonlighting. She considered practicing "on the side" a means of broadening the experience of her junior associates as well as supplementing their income. Green encouraged them to handle some of these small-scale projects on their own. She even let associates use the office for late-afternoon consultations with their clients. In order to avoid any conflict of interest, however, she required associates to inform her of their outside work.

Morand Morestores was a local developer who was building a controversial shopping center adjacent to several environmentally sensitive areas. The town of Filledup had

never worked with a developer like Morestores and fashioned a tight set of conditions for the construction permits. Morestores was cited several times for serious violations of the conditions. The town decided that enforcement was beyond the local building inspector's ability and hired Wanabe Green to monitor construction.

Nomore Stores, an organization of citizens opposed to the project, was independently monitoring construction of the shopping center. Several months after Green's appointment, Nomore discovered that Green's employee, **Ohso Careless, ASLA**, was actively working on the site plan of Morestores's nearby vacation home. Citing conflict of interest, the organization demanded that Green be replaced as monitor of the shopping center project.

Green was furious at being blindsided and shocked at the abuse of her moonlighting policy. Careless claimed that the work was not a result of a referral through the office, therefore, he did not have to inform Green about working for Morestores. Green, on the other hand, had nothing to say about the office's involvement and sent Careless packing within the hour.

Whatcha Gonna Do?

Should Green remove herself from the project even if the town says she can stay? Did Careless violate office policy? Was it necessary to inform his boss of his outside work? And, should Careless have come forward when he learned of the town contract? Did Green have the right to regulate his outside activities? Should she have fired Careless?

Relevant Code sections: R1.101; ES1.2; R1.203

Green's moonlighting policy was a condition of employment, set up to avoid the very situation that occurred with Morestores. She had a right to fire Careless; if Careless did not like the policy, he need not have worked for Green. Even if Careless thought he was within his rights working for Morand Morestores, he had an obligation to inform Green of the project with Morestores before Green took the contract with the town. Ultimately, Green decided to remove herself from the town contract to avoid an appearance of a conflict of interest and improve her relationship with the Nomore Stores group.

Editor's note: One of the objectives of the ASLA Ethics Committee is to educate members about the [ASLA Code and Guidelines for Professional Conduct](#). The code contains important principles relating to duties to clients and to members of the Society. Contact the Ethics Committee by emailing ethics@asla.org or by writing:

*Ethics Committee, c/o ASLA
636 Eye St., NW
Washington, DC 20001-3736*