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BULLETIN 62: OBLIGATION TO REPORT ALLEGED INFRACTIONS OF ARCHITECTS ACT AND BYLAWS

FEBRUARY 1994 (UPDATED DECEMBER 2000)

In response to questions arising from members of the AIBC and the public alike, please note the following series of four questions and answers (based on legal opinion). AIBC Council has no interest whatsoever in conducting (to use the vernacular) a “witch-hunt”. There is, however, a clear responsibility, in the public interest, which rests with each Architect and the AIBC to report apparent infractions of the *Architects Act* and its corresponding Bylaws.

A.	Question:	Are members of the AIBC obliged to bring apparent infractions of the <i>Act</i> and/or Bylaws to the attention of the Institute?
	Answer:	Yes. There is an overriding legal duty for professionals to report same.
B.	Question:	Can a member of the AIBC properly withhold information concerning an alleged infraction of the <i>Act</i> and/or Bylaws if requested or required to do so by another person?
	Answer:	No. It is inappropriate and unacceptable for any party to attempt to require that a member of the AIBC not disclose such information to the Institute.
C.	Question:	Can any member of the AIBC properly receive information “in confidence” (and not disclose it to the AIBC) knowing that such information may be in contravention of the <i>Act</i> and/or Bylaws?
	Answer:	No, similarly (subject to Code of Ethics rulings as to exceptions).
D.	Question:	Is the AIBC itself exposed if it treats material “in confidence” which demonstrates possible infractions of the <i>Act</i> and/or Bylaws...and retains or returns same without pursuing matters?
	Answer:	Yes. There is an overriding legal duty to respond to alleged infractions of the <i>Act</i> and/or Bylaws.

Bylaw 32.5 was adopted in May 1993, as follows:

“An architect who knows of an apparent violation of the *Architects Act*, Bylaws or Council rulings shall report such knowledge to the institute.”

The AIBC's "Code of Ethics and Professional Conduct" provides these two rulings and associated commentary with respect to Bylaw 32.5:

Bylaw 32.5 An architect, who knows of an apparent violation of the *Architects Act*, Bylaws or Council rulings, shall report such knowledge to the Institute.

- (a) An architect must not withhold information from the AIBC about an apparent infraction regardless of who might ask the architect or require the architect under an agreement, to do so. (*cf. Bulletins 62 and 65, part B*)

*It is every architect's ethical duty to act first and foremost in the public interest. There is an overriding professional obligation for an architect to report apparent infractions of the **Architects Act** and its Bylaws to the AIBC. The Institute, on behalf of the public, cannot receive such information "in confidence" and may be obliged to investigate apparent infractions.*

An architect cannot generally avoid such ethical obligation by seeking an exemption, or by making a private agreement of confidentiality. That would be contrary to public policy. An architect is, nonetheless, able to communicate with the Institute about the nature of a situation, or on a hypothetical basis, and receive relevant information or advice.

Notwithstanding the generality of the foregoing, information received by an architect acting in certain official or other capacities (e.g., as an elected official) may be protected by statutory confidentiality requirements, or by "solicitor-client" privilege (when acting, e.g., as a lawyer, or as an expert prior to taking the stand) with respect to ongoing or anticipated litigation, and is not obliged to report information so received to the Institute.

- (b) An architect acting in the capacity of a mediator or arbitrator, under an agreement that includes a confidentiality provision, is not obliged to report information so received to the Institute.

The foregoing applies to alleged infractions by architects and non-architects alike. It is every Architect's duty to act first and foremost in the public interest. Any alleged infraction should be brought to the attention of the Deputy Registrar, in writing with particulars and supporting documentation.