

# When buildings fail: ethics for the worst-case scenario

## Practice Matters

By Eugene Kremer, FAIA

Few architects are unaware of tragic building failures during recent decades. Perhaps best known is the July 1981 Kansas City Hyatt Regency skywalk collapse that took the lives of 114 during a Friday evening tea dance. The loss of life was limited to four in the May 2004 roof collapse at Charles de Gaulle Airport only because it occurred in early morning. It is still anguishing to contemplate the chaos, vast destruction, and massive loss of life that would have resulted had a potential collapse of the 59-story Citicorp Tower in Midtown

In the course of routine professional practice, as we deal with apparently mundane problems—code interpretations, zoning variances, roof leaks, budget overruns, fees—we recognize the necessity to serve interests that are often in competition, if not at odds, with each other. We are charged to serve clients; the public health, safety, and welfare; to advance the usefulness of the profession; and, of course, fulfill obligations to partners, employees, consultants, and creditors, as well as to our families and ourselves. Charting an

### ARCHITECTS CONTINUE TO VISCERALLY RESPOND TO CRISES BECAUSE, AS WE ALL RECOGNIZE, DESIGN AND CONSTRUCTION UNAVOIDABLY INVOLVE RISK.

Manhattan not been averted during the summer of 1978.

Understandably, these and many other building crises warranted extensive media attention, as well as detailed investigations that sometimes yielded significant advances in building codes, techniques, and design practices. Beyond these rational explorations, however, architects continue to viscerally respond to such crises because, as we all recognize despite impeccable care, the design and construction of even the simplest building unavoidably involves risk.

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ethically sound path through this thicket is often daunting.

Regrettably, there has been scant systematic study of professionals' ethical decision-making in the face of crisis. Although few of us will directly encounter disastrous events, if we do, we will be under great stress and enormous time pressure to make thorny ethical choices. Those decisions are ever more difficult and the stakes are by definition far higher for everyone involved when structural collapse and loss of life are threatened, or when a disaster has occurred. There is rarely opportunity to mull what actions to take in these circumstances. Yet we can find little or nothing in the way of explicit counsel for codes of professional ethics.



**The Citicorp Center opened with an inadequate structure which could have failed in a severe storm. It was repaired at night over several months, unbeknownst to the building's occupants or people living in the neighborhood.**

Resources such as *The Architects' Handbook of Professional Practice* characteristically focus on risk management, risk avoidance, and conflict resolution rather than offering advice on dealing with disaster.

Drawing upon the thinking of

people within and beyond our profession, this article offers ideas for preparing to deal with crisis, and explores alternate strategies for responding to looming disaster and to the aftermath of tragedy or its avoidance. It concludes with a gen-



**On July 19, 1981, the collapse of two bridges in the lobby of the Hyatt Regency in Kansas City, Missouri, resulted in the death of 114 people. The tragedy was the result of a construction change to the original hanger design.**

eral framework for professional ethics decision-making in crises.

How we deal with disaster Unfortunately, the AIA ethical standards, largely based on the NCARB Rules of Conduct adopted by most state licensing boards, do not establish ethical norms that might serve as helpful guidelines for architects encountering building disaster.

Acknowledging the scarcity of resources available to architects faced with crisis, Victoria Beach, AIA, of the Harvard Design School, observes that the profession “seems to retroactively adjudicate rather than proactively solve ethical

matters.” Recognizing that the majority of ethics complaints involve petty turf wars, she initiated the Boston Society of Architects Ethics Forum to focus on more profound ethical quandaries. The lack of published information often leads architects to turn for counsel to trusted members of their firm. Bob Berkebile, FAIA, a participant in the joint venture that designed the Kansas City Hyatt Hotel, recalls, “I found the most valuable [ethical] advice came from family, spiritual and mental health counselors, and attorneys not involved in the failure.” In his experience, counsel offered by his

lawyers and insurance company, the AIA, and fellow professionals was shaped by their perceived roles in the crisis at hand, or it was largely based on incomplete, often misleading media reporting.

### Preparing for the worst

Your firm should create a plan for dealing with disaster and familiarize every member of the office with it. Several contributors advocate integrating structured ethical dialogue into office routines or designating an ethics officer within the firm. “Lack of preparation is what is unethical,” says public relations professional

observing that the era in which paternalism by professionals was normative has passed. If the professional’s role is that of honest collaborator, he believes remaining silent when others mislead the public “is simply not an option.” Others embrace less forthright approaches. In an effort to reduce the likelihood of false public statements and avoid panicking the public, Berkebile advocates opening dialogue about the danger with a limited group of stakeholders, progressively widening that circle as the situation is clarified and as a collaborative approach to its solu-

## “IN GOVERNMENT, WE DON’T HAVE ‘SECRET’ AS AN OPTION,” SAYS NEW YORK CITY BUILDINGS COMMISSIONER PATRICIA LANCASTER, FAIA.

Joan Capelin, Hon. AIA, who calls for “vigilant scrutiny of work and work relationships at the partner level that bespeaks quality procedures and mature acceptance of responsibility.” She insists that every office ought to develop and maintain an up-to-date crisis plan incorporating 24/7 contact information, a prepared first responder and staff designated to ensure effective communications internally and externally. Such a plan can cover several stages of a disaster event.

In the face of looming disaster *Avoid public panic.* One of the most difficult decisions for an architect when there is evidence that a design or construction fault could cause a building collapse is how much to tell the users and the public and when to tell it. The implications can be serious. Do you avoid creating panic by remaining silent, or by making ambiguous or false statements while focusing on mitigating or resolving the problem? Should you remain silent when others—owners, professionals, public officials—make misleading or untrue public statements?

“No matter what, tell the truth in real time,” argues writer and educator Andrew Pressman, FAIA,

tion is developed. Only then would the larger public be informed.

“In government, we don’t have ‘secret’ as an option,” says New York City Buildings Commissioner Patricia Lancaster, FAIA, but she acknowledges that timing is important when it comes to informing stakeholders. To avoid making actively misleading comments, she advocates responding with “no comment”; and to challenge false comments from others, answering, “We question the validity of the statement.” The AIA’s Code of Ethics is clear: “Members speaking in their professional capacity shall not knowingly make false statements of material fact.” While ambiguous or false statements may not violate the law, countenancing them heightens the risk of harm to people and property if a failure occurs. Professional status carries the obligation to openly acknowledge problems and give priority to actively rectifying the fault wherever responsibility for the crisis may lie.

*Actively inform owners and users.* Deciding to inform building users and the public of a looming disaster so they may act in what they perceive to be their self-interest engenders another set of issues.

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This strategy risks unnecessary disruption of personal, civic, and business activities, as well as additional public safety agency expenditures. It also increases the likelihood of damage claims and public relations debacles for owners, design professionals, localities, and others that would have been avoided if the danger had not been disclosed and the problem were safely resolved. Management consultant Peter Piven, FAIA, warns that concerns about potential business disruption, additional government expenses, and damage suits must yield to the obligation to protect public health, safety, and welfare.

Cautioning against acting precipitously without sufficient information to substantiate a safety

the consequence of maintaining a secret for a time only to have it revealed and to be accused of a cover-up, which, when combined with the initial problem, can transform a public relations problem into a debacle, stimulate a suit, or sully reputations. Even when a secret is maintained, "Success does not make a moral wrong any more right—even as it makes it seem more attractive," says Davis.

Once disaster has struck or has been averted *Avoid public comment.* After resolution of a crisis or in the aftermath of a disaster, design professionals must again weigh the potential consequences of ethical choices they confront. Is it best to evade, avoid, or

professionals and thereby lessening risk in future buildings.

Structural engineer Matthys Levy, co-author with Mario Salvadori of *Why Buildings Fall Down*, a book that lucidly explains to lay readers the causes of many major building collapses, has apparently changed his thinking, stating, "If a problem has been resolved, even after a disaster, there is no reason for public disclosure in more detail than to indicate that the problem has been resolved." In discussing his present view, Levy cites contemporary insurance and litigation concerns as well as the risk of "confusing" nonprofessionals with more technical information than can be absorbed. Berkebile conjectures that "delaying the release of information to the public might in fact improve the quality of information, which in turn would improve professional insight and reduce risk." He points out that early public disclo-

porate architect-client privilege and Rule 3.401 of the AIA Code of Ethics permits the professional to "reveal a confidence that is contrary to other ethical duties ... or to applicable law." In considering a client's demand for a confidentiality agreement, attorney Carl Sapers, Hon. AIA, believes the architect must consider whether disclosure would advance the profession's knowledge base "and is therefore worth fighting for."

Quatman states emphatically, "The client does not dictate ethics to an architect." Viewing damage claims in such cases as unavoidable, he advocates early public disclosure since delay is likely to engender charges of a cover-up, thereby compounding the public relations damage for all involved.

A conceptual framework Victoria Beach offers a conceptual framework for engaging professional problems that should provide a useful starting point as we grapple with vexing ethical choices in crises. Employing the rubric "Others First," Beach proffers a hierarchy of professionals' responsibilities: "Always serve the public first, then client, then craft and colleagues (the latter two perpetuate the professional's capacity to serve the former two)." By definition, professional careers are focused on service to others rather than on self-interest, which is therefore assigned the last position in the hierarchy. It follows then that "if keeping a professional secret serves only yourself and harms others, you should tell." Pursuing that logic further, "You should tell if your client's interest endangers the public interest."

It may be inevitable that even among experienced, thoughtful professionals and academics there will be disagreement on the ethical appropriateness—and potential consequences—of alternate courses of action when architects are confronted by crises. Or, perhaps the diversity of views we encountered affirms not only the difficulty of the issues but the need for continued dialogue that might help move our community toward shared ethical understandings. ■

### **"IF A PROBLEM HAS BEEN RESOLVED, EVEN AFTER A DISASTER, THERE IS NO REASON FOR PUBLIC DISCLOSURE IN MORE DETAIL THAN TO INDICATE THAT THE PROBLEM HAS BEEN RESOLVED," SAYS STRUCTURAL ENGINEER MATTHYS LEVY.**

risk, attorney Bill Quatman, FAIA, affirms the ethical duty to inform. He recalls a court case involving the failure of an engineer to report an unshored trench that collapsed, killing a worker. His defenses—that construction site safety was not in his contract and that the worker's supervisor saw the trench—were rejected by the court. As a professional, the engineer was obliged to act when he recognized the safety risk. Faced with a known risk to safety, Quatman counsels that the professional should inform the client that the danger will be made public and invite the client to issue a joint disclosure or otherwise collaborate in revealing the problem. Ultimately, a client's desire for secrecy cannot override the obligation to disclose.

Professor Michael Davis, of the Center for the Study of Ethics in the Professions at the Illinois Institute of Technology, declares, "Candor is not cost free. If it were, our moral life would be much easier." He warns of

refuse public comment or to share the information—complete or not—that is presently available? What consideration is merited by the possibility of legal action arising from the crisis or the disaster? What if silence heightens the likelihood of denying the lay public access to information of value in protecting itself from risk; denies design professionals of insight that might advance their knowledge and skill; or denies regulatory agencies of understanding that might lead to useful reform?

Observing that demand for information varies directly with the significance of the threatened calamity or the disaster, long-time executive editor at the AIA Joseph Demkin, AIA, acknowledges the risks of sharing information before all the information is at hand. But he also points to the likely risks of withholding information: suspicion and diminished confidence, loss of future commissions, legal challenge, and the inability to educate other

sure can elicit insurance claims and lawsuits resulting in delays in the dissemination of information needed for reform of professional practice and regulation.

*Share available information.* The architect who decides that quickly and forthrightly sharing information is the sound ethical choice might encounter objection from the client demanding confidentiality in order to avoid a public relations disaster. Technology journalist Kenneth Jacobson argues that, aside from the primary responsibility to ensure public safety, sharing information "should be the basic goal, keeping in mind that speed can be the enemy of accuracy and that forthrightness, when offered up thoughtlessly, can lend itself to being sensationalized."

If a disaster results from a known design flaw, Joseph Demkin asserts that a client's desire for secrecy cannot prevail. He points out that our legal system does not incor-