

# **Confidentiality Agreements -- Use and Enforcement**

***Klehr / Harrison / Harvey / Branzburg LLP***  
**1835 Market Street**  
**Philadelphia, PA 19103**  
**Fax: 215-568-6603**

**Gregory G. Gosfield, Esquire**  
Real Estate and Finance  
Tel.: 215-569-4164  
Email: [GGosfield@Klehr.com](mailto:GGosfield@Klehr.com)

**Michael K. Coran, Esquire**  
Litigation  
Tel: 215-569-2497  
Email: [MCoran@Klehr.com](mailto:MCoran@Klehr.com)

**THE MATERIAL USED IN THIS MANUAL IS FOR TEACHING  
THE PHILADELPHIA CLE SEMINAR.**

**October 24, 2011**

# DRAFTING CONFIDENTIALITY CONTRACTS FOR REAL ESTATE TRANSACTIONS (With Sample Clauses)

**Gregory G. Gosfield**

*If information is power, as the pundits say, then safeguarding information safeguards power. A comprehensive confidentiality contract should allow information to be shared without empowering adversaries or enfeebling the information giver.*

A CONFIDENTIALITY CONTRACT IS FREQUENTLY required as a precondition to the investigation of a prospective real estate opportunity. In the typical transaction, the confidentiality contract is signed after the broker contract and before the letter of intent. It is one of the

bracing relationships that bind the owner and the prospect before the transactional contract. As a result, it can augment or upset other operative documents, such as the access agreement, letter of intent, and transaction contract, by attempting to cover the same ground.

Litigating  
Confidentiality  
Agreements

Michael K. Coran, Esq.  
Klehr Harrison Harvey Branzburg LLP  
October 24, 2011

# Has A Breach of Confidentiality Occurred

## Circumstances

- Scenario One: Transaction does not close but confidentiality obligations survive
- Scenario Two: Transaction closes but other interested investors violate terms of non-disclosure agreement
- Scenario Three: Former employees or executives fail to adhere to confidentiality obligations

For complete content, please contact  
Michael K. Coran  
215-569-2497 [mcoran@klehr.com](mailto:mcoran@klehr.com)