

One of the first legal battles over River Park Square came long before the developer and the city of Spokane would wind up in court in the spring of 2000.

And it created a debate in The Spokesman-Review newsroom, as well.

In 1998, a lawsuit was filed over another aspect of the project, which had been more contentious than the garage, a federally guaranteed loan the city was planning to re-loan the mall developer. The city borrowed \$22.65 million to help finance the overall mall renovation, and that loan was ultimately backed by federal Housing and Urban Development money that goes to the city for programs in poor neighborhoods.

Critics had called it corporate welfare. The city had hired three Gonzaga University professors to analyze the repayment plan. Mayor John Talbott had asked HUD to review the project.

And the loan was in court long before the city and developer came to loggerheads over parking meter money. A group of citizens represented by Spokane attorney Steve Eugster sued to see the mall developer's lease with Nordstrom, which was being used as collateral for the loan, arguing it was a public document.

The Spokesman-Review, which had a strong record of fighting for access of public documents, did not join that fight. The newspaper's attorney, Duane Swinton, was also the mall's attorney, fighting the release of the lease because it contained confidential business information.

Spokane County Superior Court Judge Linda Tompkins ruled in 1998 the lease was confidential until money from the loan was given to the city. At that point, she said, it would be public.

That created a conflict within the newspaper, which came to a head in early 1999 when a source at City Hall offered confidential staff memos about the lease to Spokesman-Review reporters while loan approval was pending.

The Wall Street Journal, which was doing a story about problems with the federal loan program, was rumored to have the same information. Spokesman-Review reporters went to then-Editor Chris Peck and other editors to say the paper should get the documents and do its own story.

After a meeting that lasted more than an hour and sometimes grew heated, Peck said The Spokesman-Review would not publish a story that contained confidential aspects of the lease. It could prompt Nordstrom to back out of the mall, he said.

In a recent interview, he said he talked with Swinton about whether the Nordstrom lease was a public or private document, and "I found his argument persuasive" that it was not public.

"We are dealing with proprietary information that related to business practices," he said. He doesn't believe he would have told reporters to go after the memo for a similar story that didn't involve River Park Square, either, because "we weren't in the business of wrecking someone's business plan."

The conflict about having Swinton representing both the newspaper and the developer "bothered me and it bothered Duane Swinton, who is as good as anyone in Washington on media law."

After the Wall Street Journal did its story, Swinton said city officials who had access to the memo should be required to give sworn statements whether they had leaked it to that newspaper.

In an effort to protect the newspaper's source, The Spokesman-Review's copies of the memo were delivered to the attorney for the union that represents newsroom staff. They stayed there until the lease was made public in 2000.

But by then, The Spokesman-Review had lost some of the momentum for covering River Park Square. A national newspaper had beaten the city's newspaper on a local story, and local journalists Tim Connor and Larry Shook were zeroing in on problems with the project.

Connor and Shook did their reporting in an Internet publication, Camas Magazine. With Connor's help, Tom Grant of KXLY-TV also did high-profile reporting on the project.

In a recent interview, Swinton said he never knew what The Spokesman-Review had access to, and was never asked by Peck about publishing a story about a confidential memo on the lease.

If the newspaper wanted to fight for the lease, he would have told editors to get outside counsel, Swinton said.