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MARKETWATCH

SERVICE SEGMENT SNAPSHOTS

PHOTO: CHRIS KREUSSLING/FLICKR.COM

Green infrastructure projects like rain gardens are on the rise. Here's why Green Industry professionals should clue in on this trend.

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Covering your bases

Company owners protect their assets with noncompete agreements.

By EMILY SCHAPPACHER

When Dennis Topo discovered a former employee of Allison Lawn & Landscape Service was trying to recruit clients from the company to start his own business, he issued a cease and desist letter on the grounds that the individual was in violation of a signed noncompete agreement. The contract bars former employees from contacting Allison customers for one year after termination. The letter was enough to resolve the situation, but Topo, director of operations, says without the noncompete agreement, there was little else he could have done to protect the Tampa, Fla.-based company and its assets.

"We are a family-owned business and our employees are considered assets to the company," Topo says of Allison, which has a 75 percent residential and 25 percent commercial client base and generates less than $1 million annually. "But those assets come with intellectual property and when those assets leave, we want to make sure we retain the intellectual property that is our customers. It's pretty much basic business administration for a small company."

Kevin Kehoe, owner of 3PG Consulting, says "noncompete agreement" tends to be a loosely-used term. He clarifies there are three types of legal contracts that can help landscape company owners protect what is rightfully theirs: traditional noncompetes, nonsolicitations and confidentiality agreements.

A traditional noncompete agreement is a contract under which an employee agrees not to enter into or start an enterprise that competes with an employer for a designated number of years after the employee leaves the company. These can be difficult and expensive to enforce, particularly in states with right-to-work laws, Kehoe says. Noncompetes, he adds, typically apply to higher-level employees, such as partners, those with equity in the firm or those with significant customer interaction. They are not the type of agreement necessary for maintenance workers or hourly employees, Kehoe says.

> *"Employers invest time, dollars and training into their employees. For that person to become a competitor is something the employer should limit as much as possible."*
>
> —Richard Lehr

Nonsolicitation agreements prevent employees from trying to recruit clients or staff from their former employers. Confidentiality agreements prevent former employees from disclosing propriety information, such as trade secrets and client data, to a third party. As long as the terms of these documents, which pertain to a length of time and geographic area, are detailed and specific, Kehoe says they are highly enforceable in most states.

"You can't keep a person from making a living in the same industry, but you can certainly put some teeth into the nonsolicitation and confidentiality agreements," Kehoe says. "It should just be standard practice to have them. Otherwise, you can rely on the good faith, honestly and loyalty of people, but good luck with that in life."

Richard Lehr, general counsel for the Professional Landcare Network (PLANET), says these types of agreements are particularly useful in the Green Industry, which is perceived to have easy, low-cost entry. While there are generic versions of noncompetes available on the Internet, Lehr recommends business owners have a lawyer create a document specifically for their company that incorporates the nuances of their state

PHOTO: ISTOCK INTERNATIONAL INC.

laws. The agreements should be reevaluated annually or whenever there's a change in the business structure, such as with the addition of new locations or services. The terms and conditions should vary based on the type of employee, Lehr adds. For example, managers and sales team members may be restricted from working for specific competitors for two years, while an hourly maintenance worker may only be restricted for one.

"Noncompetes are advisable and necessary to protect a business," Lehr says. "Employers invest time, dollars and training into their employees. For that person to become a competitor is something the employer should limit as much as possible."

Kenneth LaVoie, owner of LaVoie's Landscape Management in Winslow, Maine, requires employees and subcontractors to sign noncompete agreements. The contract ensures his $110,000 company has the rights to any potential work a subcontractor encounters while on a LaVoie's Landscape Management job and prohibits subcontractors and employees from doing business with LaVoie's clients, which are all residential, for a period of five years. While LaVoie says it's unlikely his company would have the resources to enforce the agreement, he uses it as a precautionary measure to encourage current and former employees to do the right thing.

"Noncompete agreements are like locks on doors," he says. "They are there to keep the dishonest people in line."

Schappacher is a freelance writer based in Charlotte, N.C.

SAYING "NO" TO NONCOMPETES

Steven Jomides, president of Lawns by Yorkshire in Westwood, N.J., is one contractor who doesn't think noncompete agreements make the best business sense. The $10-million company, which offers commercial maintenance services, used to require employees to sign noncompetes, but Jomides recently stopped putting as much emphasis on them. He says his philosophy is simple: "If you offer good service and you make your customers happy, regardless of who comes and goes, you should keep your customers."

Jomides says the costs to draft, maintain and enforce noncompete agreements outweighed any benefits his company saw in return. He also found the contracts difficult and time-consuming to enforce. Plus, there was the potential to upset clients if they were to get caught in the middle of a legal scuffle.

"Noncompetes aggravate everyone and, from a business perspective, I don't think it's a good decision," Jomides says. "We hire people who bring work in, and people who leave take work with them. We have come to accept that as part of doing business."

Some experts believe Jomides may have the right idea. A recent *Harvard Business Review* article—authored by On Amir, associate professor of marketing at University of California, San Diego, and Orly Lobel, a professor of labor and employment law at the University of San Diego—reports noncompete clauses are a standard feature of many employment contracts, but they often can be a double-edged sword.

Research shows innovation, productivity and economic growth all are greater in parts of the country where noncompete agreements are not permitted or enforced. The authors also conclude limits on future employment decrease workers' perceived ownership of their jobs and diminish their desires to exert themselves and develop their skills—factors that can be more detrimental to a company's success than the actual loss of the employee.

"Given today's increasingly mobile labor market and the heightened competition in many industries, it's understandable that companies want to guard their talent closely," the authors write. "But if the walls meant to protect human capital diminish the quality of the capital, they may not be worth building."

The Ticker:

MAINTENANCE

Paramount Landscape & Maintenance, a $3.2 million firm in Chandler, Ariz., was acquired by a private investor Jan. 31. Terms were not disclosed.

■

DAVEY
Proven Solutions for a Growing World

Following its acquisition of Knoxville, Tenn.-based **Cortese Tree Specialists, Davey Tree Expert Co.** opened seven new branch offices. They are located in Austin, Texas; Baltimore; Chicago; Detroit; Napa, Calif.; Pittsburgh; and St. Louis.

■

In a deal with undisclosed terms, the **Brickman Group** purchased **Metheny Commercial Lawn Maintenance**, located in Dallas. The acquisition marks Brickman's first M&A move since it was acquired by investment firm KKR in November.

ILLUSTRATION: ISTOCK INTERNATIONAL INC.

Service relief

Jerry McKay sheds light on how hiring a lighting service tech freed his team from the burden of service calls.

By SARAH PFLEDDERER

When eight landscape lighting professionals gathered for The Lighting Summit 2014, hosted by McKay Landscape Lighting Jan. 22-23 in Omaha, Neb., their conversations went beyond manufacturer preferences and installation methods.

In fact, the conference touched on none of that. Somewhere between the peer-to-peer networking, chatter about marketing techniques and a tour of McKay's facility and projects, Jerry McKay brought up a topic that prompted every head to nod in agreement.

"Service sometimes gets in the way of your business," the owner of McKay Landscape Lighting said, and recalled when it was worst for his company.

It was 17 years ago, when McKay Landscape Lighting was a $250,000 company and had two two-man crews.

"We got so many service calls in the early days," McKay said. His employees struggled to keep up on installations and existing customers were disgruntled with slow response times.

McKay's solution: Delegate the service jobs to a single person, a service tech.

McKay Landscape Lighting has two service techs on staff.

Now a $1 million to $2 million company with two service techs, McKay said the company's service department reels in 25 percent of its annual revenue.

PREPARING FOR THE HIRE

As with any move that will grow a company, there are costs associated with forming a tech position. McKay said he looked at it as "creating another profit center."

Thorough planning, he adds, is key to onboarding a service tech.

Before hiring, map out a job description that addresses what that person will be doing in their downtime, such as taking inventory, cleaning the shop or doing small installs and upgrades, because they won't be busy with service calls 40 hours per week at first—that will come later, McKay said.

In terms of investing in the position, McKay purchased a new truck, toolboxes, a ladder rack and a surplus of lighting supplies—bulbs, wires, transformers, etc.—to fill the vehicle.

"It's gotta be like Noah's ark," McKay said. "He's gotta have a couple of everything."

It's equally important to equip techs with information, he said. Give them access to job histories, such as notes on the original install, any add-ons and past service calls. McKay's techs have netbooks that allow them to log in remotely to access customers' job histories.

THE IDEAL CANDIDATE

Hiring a service tech is "an art," McKay

The Ticker: DESIGN/BUILD

The **American Society of Landscape Architects** unveiled findings from its 2014 Residential Landscape Architecture Trends Survey, which showed lighting, low-maintenance landscapes and native plants to be in demand. The category of gardens and landscaped spaces received a 94 percent rating as somewhat or very popular. Outdoor living spaces were second most popular at 92 percent. Visit **ow.ly/ubWwX** for the full results.

■

John Deere debuted its 4 Family of compact utility tractors. The units, with Final Tier 4 engines, will hit dealerships in April.

PHOTOS: MCKAY LANDSCAPE LIGHTING; LANDSCAPE MANAGEMENT

Lighting professionals exchange their companies' marketing materials at The Lighting Summit 2014.

said. Their mindset is everything and it must strike a balance between being detail orientated and quick.

Not all installers, for example, are good for service because of their extreme attention to detail. They may want to check every fixture on a project, but that's not what the customer called them for, McKay said.

On the other hand, a service tech must be meticulous enough to realize offsets in a system that need to be addressed, such as if a timer is incorrect.

Service techs must be focused on fixing only the problem they're called for but have the communication skills to suggest other enhancements to clients, McKay adds.

"You want that person within your business to have good people skills," he said. "It's hard to have a service tech that doesn't speak well in front of clients."

KNOWING WHEN TO MAKE THE JUMP

McKay said most business owners will know inherently when it's time to boost their service department by adding a tech. Typically, he says, it's when clients are dissatisfied or service calls are slowing down your installation processes.

One of the most difficult parts of that decision is overcoming the financial nervousness of adding a new position, McKay said. But business owners must realize service is a make-it or break-it component of any business, he said.

"Without it, you wouldn't have a business," he said. "Either you embrace it and make a good ROI or it will sink your business."

For some perspective, McKay returned to the bullet point that service calls make up a quarter of his company's revenue. That cash flow alone is twice the annual revenue of the landscape company he sold in 1998.

"That's a pretty strong ROI statement," McKay said.

The green infrastructure opportunity

Irrigation and landscape pros can brighten their futures by acting as resources to water quality managers.

By MARISA PALMIERI

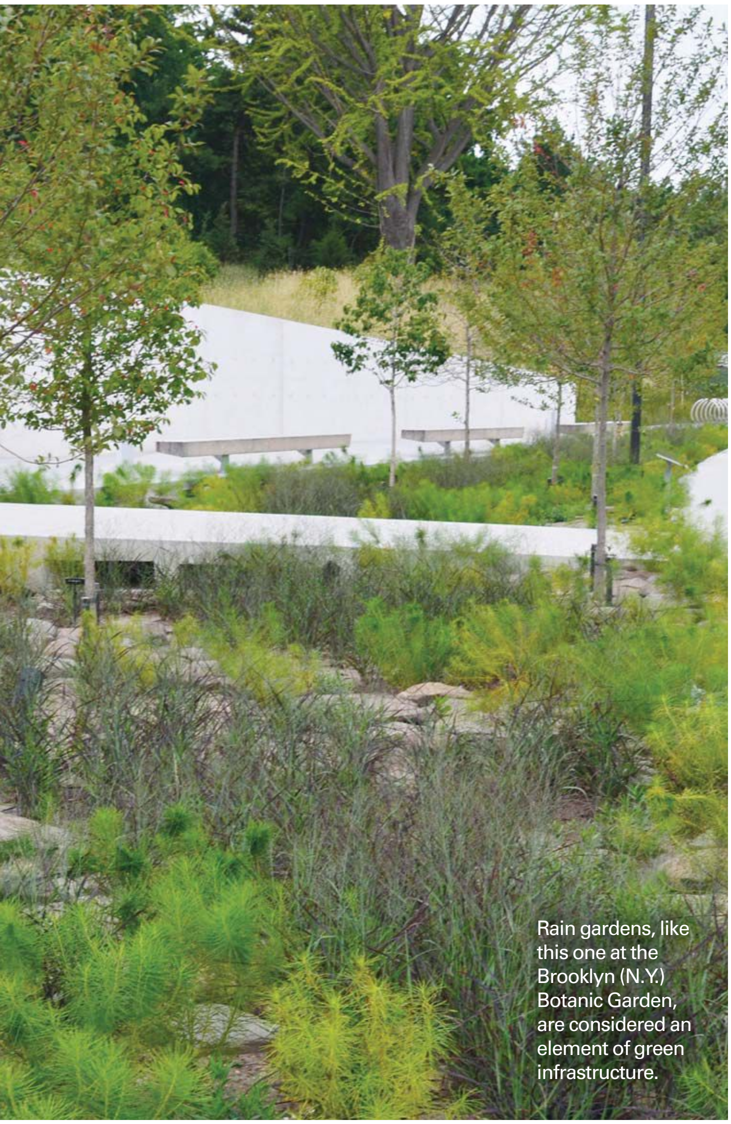
Rain gardens, like this one at the Brooklyn (N.Y.) Botanic Garden, are considered an element of green infrastructure.

PHOTO: CHRIS KREUSSLING/FLICKR.COM

The green infrastructure movement is growing in communities throughout the U.S. as a way to manage stormwater in urban environments while having a positive impact on the ecosystem.

To be more specific about what green infrastructure is, the Irrigation Association's (IA) John Farner turned to U.S. Environmental Protection Agency's (EPA's) definition during a webinar in January, titled "Green Infrastructure: The Role of Stormwater Management." That is: "Green infrastructure uses vegetation, soils and natural processes to manage water and create healthier urban environments."


Paul Lander

Why is this an important topic for irrigation and landscape professionals, Farner asked rhetorically? His answer was multipronged, but rested in co-presenter Paul Lander's succinct response.

"The opportunity here is to be a resource for water quality managers and sustainability professionals," said Lander, Ph.d, ASLA, LEED AP, a consultant with Dakota Ridge Partners in Boulder, Colo. "In almost every city across the nation, they're going to have a whole suite of things on their plates. If there's an opportunity for (irrigation professionals) to be seen as a resource, the profession's going to go a lot further, and we'll get more resources coming our way to help with this green infrastructure movement."

MORE ON GREEN INFRASTRUCTURE

At the scale of a city or county, green infrastructure refers to the patchwork of natural areas that provide habitat, flood protection, cleaner air and cleaner water for the community, Farner said. At the scale of a neighborhood or site, green infrastructure refers to stormwater management systems that mimic nature by soaking up and storing water.

Many states and municipalities (Philadelphia and Nashville, Tenn., to name a few) are exploring and adopting more holistic approaches to watershed management and stormwater control, including nontraditional green infrastructure approaches, such as vegetated swales, rain gardens, porous concrete and rain barrel installations. In addition to stormwater management benefits, officials are hoping to reap other green infrastructure perks like the enhanced livability and improved air quality that come from adding trees and vegetation to the urban environment, thus reducing urban temperatures and carbon dioxide in the ecosystem, Farner said.

WHAT ABOUT DROUGHT?

Drought is no doubt a primary concern in many pockets of the country, Farner said.

"You have to think about how drought affects green infrastructure," he said. "If a municipality is using plant material to promote green infrastructure, that plant material needs to be living. If it's dead, that can have the same effect as concrete."

So the question becomes, can the plant material officials are investing in for their green infrastructure projects sustain itself, especially under the threat of drought? That's not likely the case in all regions. If members of the irrigation industry have a seat at the table in green infrastructure discussions, there's a better chance irrigation will be considered a solution, Farner and Lander said.

SERVING AS A RESOURCE

Unfortunately, landscape overwatering is commonplace, Lander said. And it's the bane of water quality managers—officials at the local, state and federal levels whose jobs are to ensure compliance with regulations to minimize ill effects on water sources.

In some areas of the country, violating stormwater regulations is serious business with language like "water used for irrigation purposes shall not be allowed to run off of a site" and several hundred dollar fines.

"Increasingly, nonpoint source pollution, like irrigation runoff, is coming under scrutiny by these folks, as they move to reduce the impacts of urban development," Lander said.

Landscape and irrigation professionals who aren't familiar with nonpoint source pollution are behind the times—and missing out on a big opportunity to partner with water quality managers and officials in pursuit of green infrastructure projects, he said.

One area at the U.S. Botanic Garden in Washington D.C. demonstrates "rainscaping."

"It's all the little things around us that in aggregate can have a big impact," Lander said. "It's about identifying what's helpful for us so we can work with the other people who can help us to control it."

Again, Lander stated the onus is on the professional irrigation community to step up and participate. Why? "Cites need green infrastructure and green infrastructure will need smart irrigation," he said.

The Ticker:

IRRIGATION

Controller manufacturer **Galcon** acquired **Cyber Rain**, makers of WaterSense-certified controllers. Cyber Rain will become part of Galcon USA and it will continue to market products under the Cyber Rain brand.

■

The Irrigation Association (IA) created a resource page on its website for the California drought, which the state's Gov. Jerry Brown declared an emergency in January. This page links to drought resources and details the IA's activity in the face of the drought. The association plans to update the page regularly. Visit irrigation.org/2014_California_Drought/ for more information.

PHOTO: U.S. CAPITOL/FLICKR.COM

MARKETWATCH

Testing a new strategy

How one lawn care company formed an R&D business unit to improve customer retention.

By JONATHAN KATZ

Joshua Anderson's residential lawn care business, Team Green Lawn, grew almost as fast as his customers' turf. Anderson started the business in 2004 with about 30 accounts. By 2008, the Xenia, Ohio-based company had 800 clients. But the fast-paced growth came at a price. The company's service levels declined and customer retention suffered as a result.

"There was no longer that personal touch and connection with the customers," Anderson recalls.

In 2012, he decided to explore a different approach to serving customers. He formed a separate business unit called Turfway Lawns that would serve primarily as a research and development (R&D) arm. The R&D business allows Anderson to try new strategies, products and services without risking the reputation of his primary business.

At Turfway Lawns, to control for variances only production managers were allowed to perform lawn applications rather than technicians. Anderson wanted to measure the impact of a more personalized approach to servicing clients.

"They were to handle all aspects of customer service and retention like they owned the accounts," Anderson says. "I wanted them to know every customer personally and be on a first-name basis."

The results were noticeably stronger. Within six months of forming Turfway Lawns, the company established 1,200 accounts and had a 15 percent higher customer-retention rate than Team Green Lawn. In addition, Anderson says morale across both companies rose along with and referral rates.

Daughter of Team Green Lawn's owner Josh Anderson goes on a turfseed run with her dad.

He attributes the success to providing more personalized service, similar to how he handled accounts when Team Green Lawn was much smaller.

KNOW YOUR CUSTOMER

When the company had a few dozen accounts, Anderson knew his customers

PHOTOS: TEAM GREEN LAWN

Team Green Lawn and Turfway Lawns door-to-door marketing staff members pose for a photo during a summer picnic.

by name, answered all their calls and attended to their needs individually.

That became impossible when the company's customer list grew into the thousands. By 2009-2010, Team Green Lawn struggled to retain existing customers. Additionally, technicians were responding to calls outside their designated zones. This further strained relationships with customers because the technicians were not familiar with some clients' properties.

Despite growing the customer base to 10,000-plus properties and annual revenue approaching $3.6 million, Anderson became discouraged.

"Problems were on the rise, and technicians were merging into neighboring zones, causing conflict with customers due to communication and routing issues," he says. "Consistency of effort and morale wavered."

Anderson wanted to regain the customer loyalty he experienced in the early years. He wanted to see if experienced managers made a difference in annual retention outcome by building personal relationships with customers.

He initially invested approximately $150,000 to set up offices, purchase equipment and hire sales representatives to sell the Turfway accounts. He gave two Team Green Lawn managers the responsibility of juggling Turfway accounts along with their Team Green Lawn obligations. Balancing the two jobs was difficult for the managers in the beginning, but they received additional pay from the new company, Anderson says.

Anderson provided cash bonuses to managers who met retention goals. Their goal was to record less than three full lawn-application program cancels per week or less than 20 full-program cancels per application round. The managers also were expected to develop a rapport with their clients. Anderson asked them to be a little less formal and address the clients by their first name.

"They were using the ownership-thinking mentality just like I used as a new lawn care guy who had a connection with his customers," Anderson says.

He regularly rode along with the managers to see how they were interacting with customers. He also defined specific route zones so only the person assigned to a particular service area was responding to calls in that ZIP code.

The Ticker:

LAWN CARE

The M&A market has seen some bustle lately. **SavATree** merged with **Country Green** and **St. Croix Tree Service**; **Noon Turf Care** bought **Grasshopper Lawns**; **Ryan Lawn & Tree** merged with **Simply Green Lawn Sprinklers**; and **Swingle Lawn, Tree & Landscape Care** acquired **Advanced Tree and Lawn Concepts** and **Nitro-Green Lawn and Tree Care**.

■

Nufarm introduced its new Last Call herbicide and Anuew turf growth regulator, both usable on cool-season turf. Anuew also may be applied to warm-season turf.

■

Bayer CropScience donated $19.3 million to Texas Tech University to benefit research developments in the Department of Planet and Soil Sciences. Bayer's total contributions to the university since 1998 equal $27.6 million.

John Anderson (above, right), hands out cash bonuses at the annual banquet.

Having an R&D company also balanced the risks of trying new products, Anderson says.

"If I try a new herbicide or fertilizer from a manufacturer I've never used before, instead of risking my entire customer base or reputation in a certain area from bad results with the use of a certain product for TGL, I could take all that risk and apply it to a smaller business like Turfway Lawns," he says.

THE RESULTS

Anderson already has applied some lessons learned at Turfway to Team Green Lawn.

For example, technicians at Team Green Lawn only are allowed to perform applications at properties in a designated ZIP code unless they have permission from management. This ensures customers are receiving consistent care from a single technician.

Anderson is still in the process of comparing retention rates between the two companies. The next step is to measure how well Team Green Lawn and Turfway can retain "saved" customers, defined as Team Green Lawn clients who canceled and then returned.

Anderson plans to keep the Turfway business operating until he decides he has enough information to implement necessary changes at Team Green Lawn or the business becomes too much of an expense burden. LM

Katz is a freelance writer based in Cleveland.

PHOTOS: TEAM GREEN LAWN