

arcca

architecture california
the journal of the american institute of architects
california council

professional practice issue

05.1



Good Counsel

architecture and
the law

- ◆ The Legacy of Natkin & Weisbach
- ◆ Condos: Should I or Shouldn't I?
- ◆ The Arts of War

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Comment

I wish there were some way to share with you, Gentle Readers, the meandering course that an issue of **arcCA** takes as it gradually comes together. I enjoy the meander, and I think you might, too. But I'm not sure how to convey it.

For this issue, it was fascinating to see how, here in the Bay Area (I live in Berkeley), all roads lead to Jerry Weisbach. As you'll read in David Meckel's interview, Jerry is an attorney who was first an architect. The legacy of his and his architect-turned-lawyer partner Ken Natkin's practice suffuses the Bay Area architectural community to an astonishing degree. It began to make sense, then, to organize a portion of this issue around their legacy, which is what we have done.

There are, of course, other attorneys who began their working lives as architects and who have contributed in similar ways to the profession. We don't mean to slight them by focusing on Natkin & Weisbach; rather, we hope that this focus can be seen as representative of other, similarly integrative practices. (One also hears of the opposite—lawyers who've become architects—but surely that's craziness.)

As we like to say around the editorial garret, we cast a wide net, but poorly mended. Our catch is, consequently, broad but not comprehensive. The biggest problem, for me, is that some of the most interesting material emerges when it's too late to include in the issue. Such has happened again, with the popping-up of an insightful article on the photography of buildings, which you will recall was the theme of O4.3, "Photo Finish." I just couldn't bear to file it away this time, so we've instituted a section called "Continuation," where from time to time you may expect to see follow-up material on a topic covered in a previous issue.

No doubt many of you have already responded generously with contributions to assist victims of the recent tsunami. There are many ways to respond, as the needs are many: food and water, medical care, the replacement of both personal articles and those tools (fishing nets, for example) that are people's means of livelihood, and, of course, shelter. If you are looking for a specifically architectural way to respond, you might take a look at the program organized by Architecture for Humanity. The web address is: <http://www.architectureforhumanity.org>

Tim Culvahouse, AIA, editor

Contributors

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John Cary, Assoc. AIA, is executive director of Public Architecture, a nonprofit architecture group, founded and hosted by Peterson Architects in San Francisco. John is involved extensively with the AIA, currently serving on the AIACC Board of Directors as well as the national AIA Diversity Committee and Educator/Practitioner Network. He is also co-founder of ArchVoices, a nonprofit organization and think tank focused on emerging professionals and the future of the profession.

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Correspondence

Firstly, congratulating you and thanking you for your cultural enterprise **arcCA** magazine, especially issue 03.1, "Common Knowledge" (Spring 2003). The missing point, however, is the untrained teacher. It has been the practice of many architecture schools to throw practitioners into teaching with little or no preparation for this important role. Teachers initially find themselves without mentors or a clear direction. Having an excellent practice record or obtaining a PhD does not guarantee the creation of an architecture teacher. I see a need to improve architecture education through an advanced, post-professional Architecture Teacher Education program, establishing a relationship of pedagogy to the practice of architecture and considering the social roles and functions of architectural pedagogy and their implications globally, locally, and individually.

Siamak G. Shahneshtin, DArch
Zurich, Switzerland

My hat is off to you. The 04.4 issue ("School Daze") is the first and only **arcCA** that I have read from cover to cover. I encourage you to produce a parallel issue on the subject of healthcare.

Wayne Ruga, AIA
San Francisco

Just unwrapped this year's final **arcCA**, and was almost surprised to see a two-page spread given over to ADPSR and one Raphael Sperry's muddled effort to link funding for the Department of Corrections to reduced funding for our public schools. I suppose it's too much to expect editorial balance, but couldn't you expend just a little bit of effort to fact-check the material you print, even in your "opinion" section?

Here's what I'm talking about: according to the state's published budget summary, the 2003-2004 budget contains 557 billion dollars for k-12 education, which is (in round numbers) about 13 billion more than the 2002 budget. 13 billion more is not a cut, as Mr. Sperry states in his column. Nor is it a cut on a per-capita basis: in 2002, the state spent \$6,624 per pupil, while in the current budget \$6,887 is allocated. The source for the above is the "2003-2004 State Budget Highlights," published by the Department of Finance and available

on the Secretary of State's website.

Aside from factual errors, it's probably pointless to object to the suicidally stupid substance of Mr. Sperry's piece, so I'll limit myself to one observation. Mr. Sperry notes that while there are about 160,000 people serving time in California (at least his figures are correct this time), he then suggests that this is incompatible with California's lowering crime rate. But this gets the situation exactly backwards: isn't it likely that this remarkable progress in crime reduction is at least partly attributable to the fact that numerous violent and serious repeat offenders are now cooling their heels in the hoosegow, rather than running around mugging people and breaking into cars?

My question to you is this: is **arcCA**'s new incarnation to be a platform for partisan slams against Republicans (viz. your editorial) and a sounding board for the kookiest of the moonbat left like ADPSR? Or will voices from the center right also find a place?

Doug Robertson, AIA
Los Angeles

Editor's note: **arcCA** also received by post a copy of the summer 1976 issue of "A" Magazine, edited by Erik Lerner, (now) AIA, and published by the UCLA School of Architecture and Urban Planning. Turns out that the quotation used in our "Coda" in 04.3, "Photo Finish," is from an article in that issue, "A Walk through the UCSB Faculty Club with Tour Guide Charles Moore." We are grateful for the attribution.



Architects

Turned

Lawyers

A Conversation with Gerald Weisbach, FAIA, Esq.



David Meckel, FAIA

Over tea at Olivetto's Café in Oakland, David Meckel interviews Jerry Weisbach about his pioneering dual career of architecture and law.

DM: Jerry, when we first met thirty years ago, you had just become the Dean of the School of Architecture and Fine Arts at USC, where I was an undergraduate student. You left that position after three years. Is there any truth to the myth I've tried to perpetuate all these years that your advocacy for saving Marshall High School and the subsequent charges the national AIA brought against you were the impetus for your career change to law?

JW: No, but it sounds like you've enjoyed telling that story. What really happened was that the charges of unprofessional conduct were dismissed, and the school was saved. Several years later, the architect apologized to me for bringing the charges—he said that he was directed to bring charges by his home office.

DM: Then how did your law career start, and how did you pioneer a law practice unique to the design professions?

JW: I had always been interested in the law, not as a profession, but rather as an intellectual pursuit. In fact, I had applied to law school early in my architectural career, when I was working in John Carl Warnecke's San Francisco office in 1960. My motivation was that I didn't enjoy working there. Then I realized I didn't have to go back to school to solve that; I could just quit. So it was another sixteen years before I acted on my law school urge.

DM: Prior to working for Warnecke, you had quite an interesting set of experiences with other notable architects. Can you talk about those?

JW: The first six months out of school, I worked for a couple of good, small firms doing production work on housing projects. My good friend, Bernard Zimmerman, was working for Richard Neutra at the time, and he called to say that they needed someone to act as a job captain on a six million dollar military housing project. It had to be completed in just six weeks. I took the job and had a terrific couple of years working with Neutra. When my wife, Clarice, and I decided to start a family, I told Neutra that we planned to move to the Bay Area. He said, "Why do you want to leave? I do all of the unpleasant parts of running this office, and you get to sit here all day designing and drawing fantastic projects?" He graciously wrote letters for me to a number of significant Bay Area architects, including Ernest Kump and Rafael Soriano. Soriano called and hired me over the phone. We moved up and I joined his office in Tiburon.

DM: That seems too good to be true.

JW: At the risk of appearing immodest, I was a really good draftsman. I could organize a set of drawings well. It was my training at Neutra's. This skill would come to serve me well later in my law practice.

DM: So you had terrific practice experience followed by the deanship at USC. Was the law career the logical next step?

JW: Yes and no. After USC, I had a sort of early mid-life crisis. My wife and kids wanted to move back to the Bay Area, and we were able to sell our house in

Los Angeles for enough of a profit that I did not need to return to work right away. I didn't know what I wanted to do, but I knew I didn't want to teach—I had been on the faculty at Berkeley since 1964—nor did I want to go back to the practice of architecture. I decided to take some time off and go to law school, but with no intention of ever becoming a lawyer. My family was fantastic. I spent seven days a week either in classes or in the library at Hastings. The first year of law school is very prescriptive, but years two and three allow great freedom. I took very few traditional classes, focusing instead on a wide variety of things that interested me. By the time I graduated, I had only taken three or four of the dozen subject areas that you needed for the Bar Exam. I studied all summer before the exam and managed to pass. I spent the rest of that summer renovating our house, until my wife showed me the zero balance in our bank account. It was time to go back to work.

DM: So what did you do next?

JW: First, I wrote letters to the chairmen of thirty or so companies that all had significant building programs. I received some nice responses and a few job offers, but none of them seemed right. I continued to talk to friends and friends of friends in real estate, law, and business. A friend had suggested that I talk to Ed Howell at DPIC. After talking to him for an hour, he hired me and gave me an office, even though I knew nothing about insurance. When I asked him what it was that I would do at DPIC he said, "I don't know, but there ought to be something." I started to assist their insurers with loss prevention programs, and I reviewed client contracts, since I knew the AIA documents very, very well. I developed questionnaires and tests for their clients that provided a ten-percent rate cut if they participated. Many clients were also having trouble with contract negotiations, so I started providing that service as well.

DM: Did they have a large number of design professionals as clients?

JW: Mostly engineers when I started, but DPIC became one of the largest insurers of design professionals in the nation by the time I left to go out on my own.

One by one,

my architect friends got into trouble

and asked for help.

I got much busier
than I wanted to be.

DM: So you hung out your law shingle and started doing loss prevention consulting out of your house. How did you get into litigation?

JW: One by one, my architect friends got into trouble and asked for help. I got much busier than I wanted to be. Finally my wife said, “Either you move out or I do.” I started sharing office space with Ken Natkin, another architect turned lawyer, in 1983, and soon after we formed the firm Natkin & Weisbach (later Natkin, Weisbach & Higginbotham). We grew like crazy to twenty-six lawyers plus support staff in two offices, San Francisco and Orange County. Almost all of our lawyers were also trained as design professionals: architects, engineers, and landscape architects.

DM: How long did this run last?

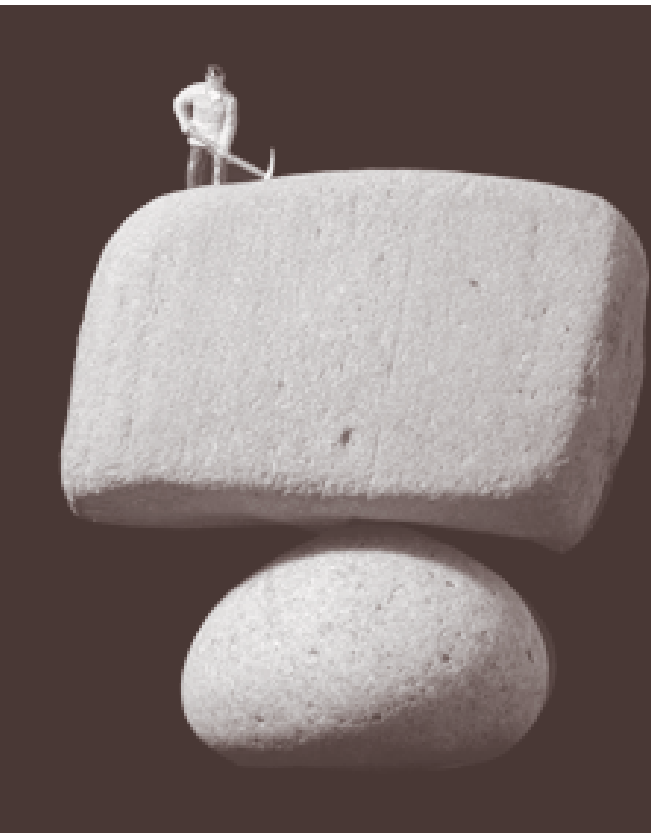
JW: Since there’s a recession in architecture every ten years, we closed the Orange County office in 1991, and eight of us joined up with Long & Levitt.

DM: Did this change your working method?

JW: Not in a fundamental way. Most lawyers hate their work and their clients. We had the good fortune of working with our friends. Also, because we were all trained in design, we worked collaboratively. This is very un-lawyer like.

DM: So are you retired now?

JW: Sort of. I’m doing some *pro bono* work for places like the SF Jewish Contemporary Museum, SPUR, and several younger architects without funds, and I’m developing ideas for courses. I’m retired, but not tired. I’m also doing some legal work for several old clients who are comforted by white hair (very little of it) and a little consulting as an expert for other law firms. I do manage to have time to travel, read, tie flies, and fish on occasion. ●



Working with Ken



Steven and Cathi House

arcCA spoke with Bay Area architects Steven and Cathi House of House + House Architects about Ken Natkin, FAIA, Esq., founding partner with Gerald Weisbach, FAIA, Esq., of Natkin & Weisbach, the pioneering architecture law firm. Here are some of their stories:

Soon after we opened our office, we retained Ken Natkin as our attorney. He and his partner at the time, Jerry Weisbach, were architects before they became lawyers, and we appreciated that they had a clear understanding of architectural practice. They were interested in architecture and would display their clients' work in their office. We appreciated them borrowing a number of our drawings to display for one of their office open houses.

We asked them to review our contracts, advise us on the general conditions and to write the necessary contract amendments for us. At about that time—this was in the mid 1980s—we would meet periodically with a group of other small Bay Area architectural firms to share information on the Article 12 contract amendments. Ken helped us develop a series of twenty or thirty clauses, which addressed the many and varied problems each of us had encountered.

Ken Natkin helped us on many things, from advice about liability insurance to collection letters. (Frank Lloyd Wright's letters published in a three-volume set are fascinating—particularly the ones pleading with his clients for payment). Now we call our attorney whenever we see a red flag, not just for our protection, but to learn how to handle the situations ourselves.

One dramatic example of Ken's help involved intellectual property. An architect we knew served on a municipal Design Review Board and there was a case in which the Board had turned down an owner three times for the design of his home. The owner asked the Board member what he should do, and was told, "You need a different architect." Because we had designed some homes in the vicinity, the Board member gave our name to the client, who then hired us. We started over, went through schematic design, and in the middle of design development submitted the new design to the Design Review Board for approval. The design was unanimously approved.

We finished design development and were ready to begin construction documents when the client called and asked us to pause because of a personal problem. He said he would be back in touch when he was able to proceed. About four months later, we got a call from the plan checker at the Building Department who had a couple of questions before issuing the building permit. We were listed as the architects on the Design Review approved plans, which was why he called us, but we had never submitted final plans to the Building Department. We asked for the name of the architect on the construction drawings and called him. He said that the clients had told him that he had our permission to proceed with the project based on our design development drawings. We said absolutely not—and that he should have checked with us first. When we contacted our clients, they were evasive and eventually said they had gone to this other architect because his drafting fee was less than the full-service construction documents phase of our work, and since our design was approved they felt they had the right to proceed with him.

We were disappointed by the deception and called Ken for his advice. He explained our rights and the ethics issues of working from another architect's design without permission. He prepared a strong letter to the client and architect, copied to the Building Department—violation of copyright, breach of contract, etc.—and demanded that the client return our drawings and model, sign a letter stating that they would not use our design, and pay us the full contract termination fee. It was an effective letter, and within a couple of weeks we had our drawings, model, the letter, and payment. The other architect refused to continue with the project in any capacity, and the client had no choice but to start over with a new architect. To the best of our knowledge, they never built a home on that site.

Here is an example that shows the value of the relationships that attorneys maintain with insurers. A subcontractor on one of our projects somehow installed the siding upside-down, so that the laps became little water troughs rather than shedding it—hard to believe, but it happened. It was a while—not until the rainy season—before any problems appeared, and by then the owners had moved into the home. When water started pouring through the walls, we realized we had a very serious problem, but it took a waterproofing expert and extensive testing to find out exactly what had happened. Once we identified the problem, the subcontractor and his insurer were unresponsive. Meanwhile, our client had become very ill and was in no condition to deal with the problem. To avoid the owner's involvement, we directed our insurer to take care of the situation; we didn't care how, just so the client wasn't bothered. Ken and Jerry had a good relationship with our insurer, as well as with the insurance broker, who also acted as an advocate. Our insurer paid for the reconstruction then battled with the sub's insurer for over a year before recovering their costs—but our clients were completely shielded from all of the legal and insurance process. They never knew how bad the situation had been. The important thing was that, through their network of relationships, our attorneys were able to get everyone to do not just the *lawful* thing, but also the *right* thing. ●

Payoff in Practice: the Legacy of Natkin & Weisbach



Clark Manus, FAIA, John McNulty, AIA,
Cass Calder Smith, and Richard Stacy, AIA

The interviews represented here—with architects Clark Manus, FAIA, John McNulty, AIA, Cass Calder Smith, and Richard Stacy, AIA—were conducted separately. We have interwoven them to highlight common themes and concerns.

CM: Jerry Weisbach is our father. He and, in a different manner, his partner, Ken Natkin. Jerry has a special place in my heart for what he's done for the profession. He was an architect, he practiced, he taught, he became a lawyer, and then he helped the architectural profession protect itself from silly, rash decisions.

JMcN: When we started our practice (MBH), the three partners realized that we were decent architects. We worked well together and respected each other personally. We were focused and hard working. We also realized that there were many facets to operating a business about which we knew absolutely nothing, so we sought advice from people we trusted. We contacted Jerry Weisbach and were fortunate to have Jennifer Suzuki and Steve Sharafian assigned as counsel to our new firm. Jennifer handles issues such as ownership transition procedures and the development of our Buy/Sell Agree-

ment, as well as providing us with guidance in such areas as the nuances of mechanics liens. Steve provides us with insight into the development and administration of our agreements. With his guidance, we have developed our own proprietary Owner/Architect Agreement, as well as our own Architect/Consultant Agreement. We try to utilize these documents with as many clients as possible. Both Steve and Jennifer truly understand who we are and what we stand for. We don't go anywhere without them, and we trust them implicitly. Steve could make a decision for me, and I would know it was one I would probably make. I wouldn't put him in that position, but I could.

CM: Steve is very much like Jerry in his approach. Those people are there to help architects understand the legal consequences of our actions. There are probably those rare architects who really do understand the law. But the majority are not trained to see things in that way. The law is black and white in words, but people can make the words say whatever they want. I'll read a paragraph and go to them and say, "I think I understand this, but tell me the scenario under which it would unfold."

JMcN: Steve is a great teacher, with a disposition that is immediately calming and reassuring. He has a wonderful sense of timing and knows when to let you ramble on and on and when to interject. He has always provided sound advice upon which we can make informed decisions. He understands the kind of clients that we deal with and how to recognize their posturing and strategizing.

RS: We want to understand what we're agreeing to, rather than just saying, "Our attorney looked at it; I guess it's OK." I have clients who have that attitude; they don't want to bother with it, but that's not our philosophy. So, half his job is explaining to us what the legal concepts are and implications are, so that we can make an informed decision and have a more intelligent negotiation.

CM: It's a very difficult field. You go into graduate school to be an architect. How glamorous, how cool. Neat profession. You get to do all these things. You get through school and begin to work. You're a grunt. You're basically drawing details. Probably nobody explains to you the consequences of what you're drawing. At some point along the way, when you make the transition from being part of the project team to running the job, and then to principal or firm owner, the legal consequences are daunting. You're looking for somebody to call you at night and make sure that you can understand the consequences of your actions.

USING LAWYERS

CM: A lot of architects are not sure how to use lawyers well. They say, "Just write me a contract and I can give it to my client," rather than using their lawyer's help to understand what the strategy should be and figuring out now to avoid spending lots of money on legal fees arguing about stuff that doesn't mean anything.

CCS: It's great to have the ability to call your attorney for a rapid answer to a client's objection to a contract clause. When a client tries to get clever, picking apart the AIA contract, it's good to be able to say, "I'll have to check with my attorney." It's nice in a negotiation to be a two-headed party—with your partner, or your wife, or your attorney—because it gives you time to think about the issue. It's almost always a mistake to agree on the spot. And this is one of the most important things I've learned from attorneys: the importance of being patient.

RS: Some people operate such that anything that's drafted by an attorney they automatically send to their attorney, but maybe because I'm married to one and have done this long enough, we don't automatically do that. I'll go through it first, and if I don't understand something, or we're not sure what the implications are, we'll ask specific questions. They're much better at drafting alternative language than we are.

JMcN: In order to get the most from your advisors, it is important to keep them informed. Never surprise them with last minute issues. It is incumbent upon the architect to keep your attorney—and your insurance broker—aware of your projects and to let them know the status of your high profile projects on a regular basis.

RS: Land use attorneys are the ones we spend the most time with. They're almost indispensable these days in getting project entitlements. They're down at the Planning Commission, every meeting, and they know all the players. You don't want any surprises at the commission meeting. You want to know where everyone stands ahead of time, because you never know where a discussion might go if you don't. So they'll canvass members we probably couldn't get access to and find out what their hot buttons are, so we can address them up front. And even if we end up not convincing someone to support our project, at least we know what their issues are, where they stand. The ideal scenario is, when you get to the commission meeting, you already know what the outcome is.

TEACHING THE CLIENT

CM: The public believes that buildings are like cars. “I bought this design, you designed it for me. Don’t I get a warranty? When it breaks in fifteen years, don’t I call you up and you come and fix it for me?” Steve helps educate about such simple things. What’s the difference between providing architecture as a product versus a service? “I want you to design this building for me, but keep in mind I may sell the project to somebody else, and I want to be able to sell those drawings with it.” Wait, time out. I’m not designing your product, okay? I’m providing a service. Sure, we can part company, but there are parameters guiding what you can and can’t do with it. Steve gets into that gray zone where you’re not talking about creating a paragraph for other attorneys to review. You’re talking about how you approach a subject with your client, about what it is to provide architectural services.

RS: I mentioned that my wife is an attorney. One thing I’ve learned from her on a professional level is the art of thinking and writing clearly. She feels strongly that legal language is often overly complex and jargon-filled, that it doesn’t have to be, and that the better product from an attorney is something that is clear. It’s something that a good attorney has been well trained in, and something that I value a lot more than I did before I knew her, and I think I’ve gotten better at it.

CCS: Residential clients are sometimes naïve about what we provide. We try to come across as professional not only in creative terms but also in business terms—timelines, thoroughness of proposals, etc. Most people can relate to the business side of things and appreciate working with others who do.

JMcN: Effective communication is an art form, and I do believe that we get better at it as we mature in this business. An architect must first seek to understand all of the issues from the client’s perspective, design and scheduling issues as well as contractual issues. Contracts should be fair and balanced. We strive to act as professionals at all times, and we expect the same from our clients. Your first glimpse into the future relationship with your client will unfold during contract negotiations, and it is vital to have a clear agreement in place before you proceed. An architect should understand the value of their agreements, the scope of work and responsibilities that are delineated in order to manage the risks. During contract negotiations, we want to show our client that we scrutinize every detail and that this trait is an indication of how vigilant our firm will be in all aspects of the relationship. There was a situation once in which I told a client, “If an architect

When a client tries to get clever,

it’s good to be able to say,

“I’ll have to check with my attorney”

– *Cass Calder Smith*

actually signed this agreement, I would fire them on the spot. This is the most poorly written agreement I have ever read, and anyone who would sign this either did not read it or did not understand it. Either way, you do not want to work with them.”

arcCA: Did that increase your credibility with the client?

JMcN: [laughs] No, not that time. We felt good about it, though. It’s immoral to agree to something you can’t do.

NEGOTIATING CONTRACTS

JMcN: Architects are born with a passion do things at an “all or nothing” pace, and we are always striving for perfection. Despite this emotional attachment to perform architecture to the very highest level of our abilities, Steve has always been very clear that we must define the standard of care within our agreements as negligence. We are not perfect. Our contracts must acknowledge that the architect does not control everything and that the practice of architecture is performed by human beings.

CSS: Lawyers can help with limitations of liability that won't scare clients away and that can also help to lower insurance costs. And they help structure consultant involvement in ways that can limit liability.

JMcN: Our practice includes relationships with many corporate clients; therefore we often negotiate Master Agreements. Steve has been a tremendous asset in understanding the differences in the scope of work and the risks involved with each relationship and how to differentiate and manage those risks. We must understand the responsibilities that the firm has signed up for, the scope and the schedule of the work and how these corresponds to the fee, how we are going to be paid, what we are expected to produce over what period of time, and how much insurance we are providing to our client and for how long. We have come to describe ourselves as a business that provides architectural services. Architecture is an important—even fundamental—component of our culture, and it is up to us, as architects, to help society recognize it, so that we are compensated fairly.

CSS: Always insist on a *quid pro quo*: we'll limit our fee if we can limit the scope.

CM: In public projects, cities demand indemnification from architects. But it's uninsurable. What am I going to do? The attorney says it's your choice. You can make a business decision and sign the contract. You can resist and try to change it. And if you can't change it, you're just going to be back to your business decision. I hear this a lot from Steve: I've crossed the point where I can be your language attorney; I can advise you, but you need to make a business decision based on what you're going to get out of it and the risks. At the end of the day, you need to make the decision. Your lawyer can't make it for you.

JMcN: Jennifer has stepped in many times to provide us with guidance when we have difficulty in getting paid for our services,

usually toward the tail end of large projects, when the posturing begins. She really understands the concepts behind lien rights, how to protect them and how to effectively use them.

CSS: About 40% of our work is restaurants. With restaurants, getting paid is often hard. We now require a personal signature from the corporate director, so that both the corporation and the individual are responsible for the bill. It's best to get paid up front for each phase. In one case, we were asked to do a project by a client who was notorious for refusing to pay his architects for completed work that he claimed was in some way inadequate. But it was an interesting project, so we negotiated a process whereby I met with the client every Friday to review that week's work and have him sign off on it. Then he would pay in advance for the following week's work. Things went fine.

arcCA: At this year's Desert Practice Conference, the big topic was Building Information Modeling. One heard a lot of questions concerning the fear that, if a set of documents becomes much more comprehensive, so will the architect's liability.

JMcN: We all have heard many times that “the architect screwed up!” We always seem to be the first ones to blame for a problem on a project, so it would seem that anything that changes or advances construction techniques will have an impact on our liability. We always demand to have a clear Means and Methods clause within the agreement to accurately delineate the contractor's role during construction.

Recently, Jennifer Suzuki asked me if we ever thought about doing work in Asia. I said we have, but we didn't want to do any work that would distract us. Everybody has twenty-four hours a day to live, for however many years you get to spend here. You have your family and all the other important things in your life. Our goal is to have a workplace that is energetic and fun, that is focused and professional, and that can be counted on to perform at the highest level at all times. If we can live up to those goals and manage our risks properly, by structuring fair contracts and fulfilling our responsibilities, then we will be financially profitable. Distributing the wealth throughout the firm will keep our great team together. And we can maintain balance in all aspects of our lives. ●

It's immoral to agree
to something
you can't do. — John McNulty



In the Public Interest:
Pro Bono Service in Architecture

and the Law

John Cary, Assoc. AIA

As a design professional, chances are good that you field requests to take on projects *pro bono* on a regular basis. Many of these inquiries come from churches, communities in need, and nonprofit organizations that genuinely cannot afford to pay market rates. Unfortunately, very few firms have institutionalized ways to respond to these requests, much less execute the projects at the same level of quality as their regular work.

Financial and liability concerns are but two of the most central issues that can make architects hesitant to take on *pro bono* work. Yet, for all its challenges, such work can be attractive and beneficial from a number of standpoints. In firm settings, it can be used as a tool in the recruitment and retention of staff members; a professional development and mentoring opportunity for junior and senior staff members alike; and a way to gain exposure to new project types and markets.

While many practitioners are generous with their time, the architecture profession as a whole has never encouraged *pro bono* service as a fundamental obligation of professional standing—or as an integral component of a healthy business

model. *Pro bono* work is mostly “catch-as-catch-can,” slipped in-between paying projects. The primary reason for this *laissez-faire* position is that there are no formal mechanisms supporting or recognizing public interest work in architecture. Contrast all this with the approach of the legal profession.

THE LEGAL PRECEDENT

For decades, the legal profession has distinguished itself through a systematic approach to *pro bono* work. Lawyers, law firms, and the profession generally dedicate a significant portion of their practice to serving people in need and under-represented segments of society.

While American Bar Association (ABA) guidelines specify 50 hours of carefully defined *pro bono* service per attorney per year (2.5% of the standard 2,080-hour work year), architects have only the vague suggestion of the *AIA Code of Ethics & Professional Conduct*: “Members should render public interest professional services and encourage their employees to render such services.” This standard has had no measurable effect on the commitment of AIA members, and for non-members it has no effect at all. The same might be said about non-ABA members, were it not for state bars.

Led in large part by the ABA Center for Pro Bono, many state bars are actively exploring a requirement for attorneys to report on their *pro bono* service. This approach is distinct from mandating *pro bono* service. In fact, many of the legal profession’s most vocal advocates for *pro bono* service have spoken out against such a mandate. To date, three state bars have implemented *pro bono* reporting requirements: Florida, Maryland, and Nevada. The last is the most recent addition, now requiring all members of the bar to submit annual reports on their service.

The legal profession’s emphasis on *pro bono* service is supported by a cadre of public interest attorneys, as well as numerous groups that cater to all levels of the profession. The Pro Bono Institute, for example, supports the top 150 largest corporate law firms, providing management advice and strategy. It works closely with partners and dedicated *pro bono* managers; the majority of the latter are full-time, working exclusively on coordinating the firm’s *pro bono* activities. Other groups, such as Power of Attorney and Pro Bono Net, take a bottom-up approach

by supporting the efforts of individual attorneys. One common trait is that all maintain a robust and interconnected web presence.

OUR FIRM’S EXPERIENCE

Within our own firm, Peterson Architects, we discovered that our appetite for *pro bono* work was simply greater than what we could carry. As we thought about how to structure our own *pro bono* practice, we explored the various ways that other architects do so and how the profession as a whole supports this kind of work. That initially humble investigation inspired the establishment of Public Architecture, a nonprofit organization that puts the resources of architecture in the service of the public interest.

Now in its third year, Public Architecture acts as a catalyst for public discourse through education, advocacy, and the design of public spaces and amenities. Rather than waiting for clients or funding, Public Architecture both identifies and solves practical problems of human interaction in the built environment. Our first three *pro bono* design projects include an open space strategy for former light industrial urban areas, design interventions for day laborer gathering spots, and an initiative to transform single-family residence garages into accessory dwelling units. Each of these is being conceived as a prototype for adoption in other cities across the country, a criterion for every project that Public Architecture undertakes.

THE 1% SOLUTION

In an effort to engage other architecture professionals and develop a more pronounced culture of *pro bono* service within the profession, Public Architecture recently launched a national campaign called the “1% Solution,” challenging architecture professionals to contribute a minimum of one percent of their working hours to *pro bono* service.

One percent of the standard 2,080-hour work year equals twenty hours annually, which represents a modest, but not trivial, individual contribution to the public good. If all members of the architecture profession were to contribute twenty hours per year, the aggregate contribution would approach 5,000,000 hours—the equivalent of a 2,500-person firm working full-time for the public good.

Supported by a grant from the National

Endowment for the Arts (NEA), the 1% Solution program focuses on commitment, support, and recognition. The goal is to significantly increase both the quantity and quality of architectural services in the public interest. By making public interest work a regular part of architectural practice, the 1% Solution will enhance the profession's engagement with the community, correcting a widely perceived gap between the two. By sharing guidelines and documenting model efforts of public interest practice, the program will increase the effectiveness of architects' contributions to society. And by demonstrating the value of architectural services, the 1% Solution will increase popular awareness of design in the built environment.

LEARNING FROM THE LAW

The architecture profession has much to learn from the example and successes of the legal profession in *pro bono* service. Not all of those lessons will be immediately transferable, but many of the challenges the legal profession has tackled can provide insight into what it would take for architecture to truly engage a broader cross-section of society. Working together to mitigate the liability issues of design professions' engagement in *pro bono* work, the architecture and legal professions can help ensure a much more equitable distribution of professional services in places that need them most. ●

RESOURCES

ABA Center for Pro Bono (www.abanet.org/legal-services/probono) provides technical assistance, planning advice, and resources to bar associations, pro bono programs, legal services offices, bar leaders, law schools, corporate counsel, judges and government attorneys.

Power of Attorney (www.powerofattorney.org) mobilizes mainstream attorneys to support the nonprofit sector by donating free legal services to worthwhile organizations that cannot afford such services.

Pro Bono Net (www.probono.net) uses the power of the Web to increase access to justice through innovative uses of technology and volunteer attorney participation.

The Pro Bono Institute (www.probonoinst.org) provides support, guidance, training, resources, and inspiration to major law firms, in-house corporate legal departments, and public interest organizations seeking to expand and enhance access to justice for the poor and disadvantaged.

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Visit www.publicarchitecture.org for more information about Public Architecture and www.theonepercent.org for more information about the 1% Solution program.

Governmental Advocacy at the AIACC



Mark Christian

Imagine. You enter into a contract with a public agency to provide architectural services. You provide services and receive compensation. Later, the public agency determines that it erred and did not have the legal authority to contract out for the services you already provided. Because of the public agency's mistake, you are now required to return the fees you received for the services you provided. Sound unbelievable? Not really. A similar bill passed the Legislature in 2004, but thankfully the Governor vetoed it. The bill, SB 1892, would have applied to contracts for services with the State of California. Have no doubt—if SB 1892 were signed into law, there would have been a bill in 2005 to make it apply to other public agencies.

Often the AIA California Council is asked why it devotes a large portion of its resources to governmental advocacy in Sacramento. It is because both the business and practice of architecture are affected by the actions of the California Legislature.

For example, California law determines who can hold an architectural license, who can practice architecture, who can compete with architects, the liability of architects and when you can be sued, the working conditions in architectural firms, how

architectural firms can organize their business, and the livability of our communities.

There are other examples. A couple of years ago, a new law was enacted in an effort to reduce the amount of residential construction defect lawsuits. An early draft of the bill contained language that would have changed design professional liability from the negligence standard to a strict liability standard. The AIACC and its design profession partners, the Consulting Engineers and Land Surveyors of California and the Structural Engineers Association of California, successfully preserved the negligence standard. A few years before that, the Legislature was writing a new law to allow public schools to use design-build for the design and construction of school facilities. An influential interest in this process suggested that the law require the architectural firm, no matter its role in the design-build entity, to be financially responsible for the completion of the project if the contractor fails. The AIACC was able to convince the interest proposing this language that it was unworkable.

These examples are not offered to give you the impression that the legislature only poses a threat to your business and the practice of architecture, for that is not the case. There are many legislators who understand, appreciate, and support the architectural profession. And as some of the above examples show, often they will make changes to their proposals when we explain how they will negatively affect the profession.

There is no single key to having an effective advocacy program in Sacramento. An effective program consists of several components—grassroots involvement, a professional lobbying presence in Sacramento, and financial contributions to legislative candidates. The AIACC incorporates these three components into its advocacy program.

The most important is grassroots involvement. It informs legislators that their actions will have an impact on those who elect them. For this reason, the AIACC encourages architects to develop relationships with their legislators. And it is why the AIACC holds its annual Day at the Legislature. On this day, architects from throughout California come to Sacramento to visit their legislators and discuss the issues important to the profession. The AIACC also periodically asks targeted groups of architects to

An effective program consists of several components—

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legislative candidates.

write their legislators when a bill important to the profession is considered. We usually ask the letters to be sent to us, and we bundle and deliver them to the legislators with the message, “This is how your architect constituents feel about this bill; allow us to explain further.” As former U.S. House of Representatives Speaker Tip O’Neil once said, “All politics is local.”

AIACC staff and a contract lobbyist provide the professional lobbying presence in Sacramento. Our role is to know what is happening in Sacramento and who is behind it, to work with AIACC members and AIACC leadership to develop a response, to identify who we need to lobby to implement that response, and to coordinate grassroots involvement. We review the 3,000 bills that are introduced in the Legislature each year, and we review each amendment to those bills.

Perhaps the least attractive side of an effective advocacy program is political action, or making political donations to the campaign accounts of legislative candidates. Running for and holding elective office cost money, however, and most candidates do not have the personal resources to finance their own campaigns. The California Architects for Livable Communities Political Action Committee, or CALC PAC, is the political action committee of the AIACC. CALC PAC is controlled by a committee of AIACC members and receives its money from voluntary contributions from the AIACC membership. CALC PAC contributes to legislative candidates, both current legislators and those running for an empty seat, who demonstrate an understanding of the architectural profession. Whenever possible, CALC PAC will buy tickets to an event held in the legislative candidate’s district and invite local architects to attend on its

behalf to help develop relationships between legislators and their architect constituents.

How does the AIACC use these tools to advance the interests of the profession in Sacramento? We sponsor changes to state law we believe will benefit the profession and society, and we react to the legislation forwarded by others.

Every year, the AIACC surveys the membership and talks with individual members to identify changes to state law we should sponsor. Upon approval of the AIACC Advocacy Advisory Committee and AIACC leadership, AIACC staff develops the language and finds a legislator to introduce our proposal as legislation. Not all of our efforts have been successful—sometimes there are opponents to our ideas—but the AIACC has successfully changed the law for the benefit of the profession. Examples include the law that allows architectural firms to form Limited Liability Partnerships, the requirement that public agencies include their contractual indemnification provisions in their RFPs, the design professional lien, the requirement that architect and client have a written contract, and the coordinated process the state follows to adopt the building code.

Reacting to the initiatives sponsored by others is just as important as sponsoring legislation. As mentioned above, around 3,000 bills are introduced in the Legislature each year. AIACC staff reviews all of those bills and identifies those that are of interest to the profession. Working with architects and attorneys and insurers who represent architects, AIACC staff analyzes the identified bills for review by the Advocacy Advisory Committee and AIACC leadership, for development of our response. The AIACC sometimes supports bills, such as bills to place a school facility bond measure on the ballot; opposes bills, such as the bill explained at the beginning of this article; or seeks an amendment to a bill to change a part of the bill that unnecessarily harms the profession.

The decisions made by the Legislature can both harm and help the architectural profession. Successfully representing the architectural profession, to minimize or stop the bad bills and to promote the beneficial bills, is a team effort. It requires the participation of practitioners and constituent architects and the continuing generosity of the legal and insurance representatives of architects who freely offer us their professional advice. ●

Working Around Condominiums

Kevin deFreitas, AIA

The single most significant external force shaping architectural practice in the State of California is the law. Of particular concern is the lengthy, ten-year period of liability against construction defect, which is single-handedly decimating the entry-level, for-sale housing market statewide. In the residential market, the effort of dealing with demanding clients and lengthy entitlement processes and navigating the necessary bureaucracies—added to the ten-years of construction defect liability—far outweighs the fees architects can collect for this type of work.

Several years ago I designed and built a seventeen unit row home project that we insured before 9/11. The wrap policy for \$1,000,000 coverage over 10 years cost \$60,000. Today, we are doing a smaller project, and the same policy, which is only available through two insurers is \$325,000 for the same \$1,000,000 of coverage—certainly a deal breaker for this small in-fill project, since the insurance alone adds \$20,000 per unit. Hypothetically, a case against us would start deep in the tenth year following certificate of completion, and a court date would be assigned another year later, by which time there would inevitably be some degradation to the structure resulting from any number of factors besides poor construction: lack of consistent building maintenance, overgrown landscaping too close to the structure, etc. Insurance companies will almost always settle, regardless of culpability, rather than risk the expense of costly litigation that could result in a judgment on top of trial expenses. This is really risk management from the insurers' perspective, and a nearly guaranteed payout for the defect attorney. The end results are very high premiums to secure this kind of coverage.

I once worked for a firm that specialized in production housing. I attended a meeting in which a defect attorney called together all the design consultants and contractors

that were associated on a specific tract home project. He dismissed all the consultants and contractors who did not carry Errors & Omissions insurance, regardless of what their role or responsibilities had been on the development. Those who remained, he then named in the suit. The attorney's goal was to get the remaining companies to cannibalize each other by pointing the finger of blame at the other defendants, hoping to minimize their own liability. The insurance industry responded with a policy called a 'wrap,' which means that all the design consultants and contractors are covered under one policy and represented under the united front of one attorney. Again, a very costly and only partial solution.

From an aesthetic and urban design standpoint, higher soft costs like insurance, smaller profit margins, and the fear that your next project could wipe out a hard-earned reputation—not to mention your personal assets—strongly discourage smaller developments and urban in-fill projects, leaving the field to larger-sized production builders whose background is almost exclusively suburban. Design innovation is not typically a goal of production builders, especially as they move from their traditional suburban developments to more urban sites. The lack of diversity is not helping our communities look or function any better.

The resulting impact on the market is that low-rise condominiums, which serve as starter homes for first-time buyers, are not being built in any significant numbers by developers in California. Individual architects and contractors cannot get the necessary insurance coverage to work on such projects, even if developers were willing to take the risk. Choking off supply at the bottom end of the market has a direct impact on affordability: the San Diego *Union Tribune* recently reported that the medium-priced home in San Diego just hit \$565,000 and that only 11% of county residents could qualify for a home in this price range. San Diego has the third highest priced market in the State, as well as the country, behind Santa Barbara and Contra Costa Counties. In response, San Diego has become a leading voice in the urban in-fill housing dialogue, with highly innovative projects executed by architect/developers such as Ted Smith, Jonathan Segal, Public, Sebastian Mariscal, and others willing to assume the inherent risks.

For a recent project here, we came up with what may be a novel approach to the problem. Because our project was speculative and self-developed, instead of having a client to guide the process, oddly enough we drew our inspiration from our attorney and professional liability insurance agent.

Our attorney's counsel was that, if we did a subdivision and cut our 17,500 square foot lot into seventeen individual lots of approximately 1,000 square feet each and put a 3"



RowHOMES on F, San Diego.

airspace in between units, we could avoid being a common area project, and thus there would be no home owner's association. The 'row house' typology (single family detached on individual fee-simple lots) significantly reduces the chance of being sued for construction defect, since each homeowner would have to sue individually, rather than as a class action together. The approach acts as a sort of 'poison pill' for attorneys working on contingency, creating too much work without the prospect of a sizable payoff.

We determined that most construction litigation is based on water intrusion and its related problems. Since there is only a 3" airspace between the rowhomes, repairs in this area would be virtually impossible, so we settled on using tilt-up concrete, which is impervious to damage caused by water intrusion and termites, doesn't support mold (which our insurance agent calls the "new asbestos"), and is perfect for sound attenuation and increased energy efficiency. Utilizing a tried and true commercial construction technology like tilt-up in a new way resulted in an appropriate residential solution with greatly reduced exposure to defect litigation.

Tort reform in the area of construction defect would be the single most important step the State of California could take toward easing the staggering residential affordability gap. The State Legislature has initiated a few reforms, such as allowing contractors the opportunity to repair specifically identified defects to avoid lawsuits. Another modification to the law limits suits to known defects. Defect attorneys can no longer fish for unknown defects through destructive demolition; their case has to be based on problems that have already surfaced. These measures represent a few small steps in the right direction, but not enough to create a sea change. ●



Condos:

Should I or Shouldn't I?

David Barker

Condos are back. Let's face it: with real estate prices rising beyond the reach of many people, the demand for condominiums, a more affordable form of housing, is exceeding the supply. Consequently, many developers are venturing back into the arena of condos, despite the high risk of litigation arising out of this type of construction. As design professionals, you should not be asking *if* you will get sued for your involvement in a condo project; you should be asking yourself *when* you will get sued.

WHY ARE CONDOS SO RISKY?

The reasons for the higher risk in condo projects are several-fold. Once the project is completed and the units are all sold, there are typically a number of owners who find their own complaints about their units, the common areas, or the project overall. What is more, if there is a design defect in one unit, it is most likely present in all of the units. Therefore, what may be a relatively insignificant flashing or window detail when looked at in connection with a single unit can become a much larger problem if the defect was repeated on fifty units in a project.

WON'T MY INSURANCE PROTECT ME?

One of the most important issues you need to deal with is insurance. Many insurance carriers are simply refusing to

cover firms that do a significant amount of condominium projects. In the most recent phase of condo popularity (in the 1980s), litigation from those projects created such a drain on the insurance companies that they began drafting exclusions in their policies. In some instances, rather than draft blanket exclusions, insurers have created limitations on how much condo work their insured can perform and still be covered. For example, an insurance carrier may agree to provide coverage as long as the condo work does not exceed 5% of the architect/architectural firm's income. The rumor on the street is that if a particular firm or architect's income exceeds 20% from condos, they will not be able to get insurance. The secondary question, assuming that an architect can get coverage for their condo project, is: once the inevitable lawsuit comes, will the architect lose coverage? These are not only business issues, but liability issues as well. Ultimately, regardless of exposure, the registered architect who places his stamp on the plans will have personal liability for errors or omissions in the plans.

In recognition of the difficulty that design professionals are having in securing insurance for these types of projects, developers have been coming up with all sorts of schemes and ideas for how to provide insurance for design professionals. These ideas have ranged from ineffective to questionable. For example, a developer may offer to make an architect an additional insured on the developer's insurance policy. However, a commercial general liability policy to which an additional insured endorsement can be added will typically include a coverage exclusion for professional acts. Therefore, although the architect may have insurance coverage through the developer's policy, it will not cover the professional architectural services for which the architect has the most liability risk.

Other schemes have included setting up a dedicated trust, which would provide a fund of money to both defend and indemnify the architect should a lawsuit arise in the future. However, until one of these is put through the test of a lawsuit, many questions remain as to their viability. Remember, the statute of limitations for latent (hidden) defects in construction reaches ten years beyond completion of the project. Rare will be the developer that is willing to leave a significant sum of money tied up in a dedicated trust for at least ten years after the completion of a project.

While condos may be rising in popularity again, the insurance market is not as willing as the architects they protect to jump back into this dangerous type of project. As for those few carriers that are allowing condominium work by their insureds (or at least currently providing coverage for it), they remain very hesitant about the potentially large liability that comes with these projects. Again, the repetition of a

defect in multiple units can make a small problem very large, and very expensive, very quickly. Consequently, a carrier may provide coverage for an architect to perform condo work, but once the predestined lawsuit is filed, that carrier may not be interested in renewing their coverage of that architect. Moreover, because design professional insurance policies are written on a "claims made basis" (meaning the insurance company that is covering the architect at the time the claim is made is responsible for coverage, regardless of when the project was done) exclusions for condo work in later acquired insurance policies may result in a lack of insurance when a lawsuit is filed eight years after the completion of a condo project.

THANKS FOR THE BAD NEWS. WHAT IS THE SOLUTION?

Condos are once again presenting a profitable business opportunity. However, the very careful business decision that must be made is if the reward to be obtained (the fee) is worth the risk that it will bring. As with many decisions, this is a delicate balancing process that architects must make for themselves after careful consideration of all of the relevant factors. Some steps that can be taken to lessen the likelihood of being sued and to better your position when the suit does hit are:

- Don't do condos.
- Include a strong limitation of liability provision in your contract, including protection from third party claims.
- Include a strong indemnity provision in your favor and against not only the developer (typically an LLC or LLP), but the individuals/entities that own the developer.
- Consult with an experienced attorney to negotiate the best contract you can get.
- Obtain a waiver from the developer of any consequential damages.
- Have the developer establish an escrow account with irrevocable instructions to pay the money in the escrow account to you when you get sued. If you aren't sued before the statute of limitations runs out, the money can revert to the developer.
- Get the highest and fairest fee you can because of the time required to pay extra attention to the details of the project. (If you are going to get sued, you might as well be paid well for the privilege.)
- Don't do condos. ●



The Arts of War:

Visual Presentation and National Intelligence

Barry M. Katz, PhD

This article is excerpted from a more extensive essay, originally published in Design Issues, vol. 12, no. 2, Summer 1996. It is reprinted by permission of the author.

This essay concerns the mobilization of the artistic community during World War II, not as expressed in the outraged imagery of a *Guernica* or a Heartfield montage, but through the direct recruitment of the applied arts—architecture, industrial design, and graphic design—by the Office of Strategic Services, America’s wartime intelligence agency. The artists drawn into the “Presentation Branch” of OSS entered the secret war with boundless enthusiasm, a determination to support the anti-Fascist campaign, and—like most other units of the fledgling intelligence service—no particular idea of how they were supposed to do it. Their early campaigns reveal the bravado of infinite possibilities. Gradually, as their ambitions became adjusted to reality, a series of theoretical principles evolved which enabled them to apply the *scienza nuova* of design to the ancient art of war. Through their pioneering experiments in the visual display of information in the propaganda war, in service of the War Crimes trials at Nuremberg, and, finally, in the waning months of the organization, in preparation for the founding conference of the United Nations in San Francisco, they left a small but indelible mark on history. Armed with this extra-

left: Nuremberg Courtroom

ordinary wartime experience, they went on to make a much larger mark on their respective professions.

THE OFFICE OF STRATEGIC SERVICES

Overtaken by events, the United States found itself at the onset of the Second World War wholly unprepared in the field of intelligence. The Army and Navy maintained their separate military intelligence branches, the FBI dutifully carried out domestic surveillance, and a dozen other agencies conducted information-gathering activities of various sorts. No centralized intelligence service existed, however, that was capable of operating on the same level of professionalism as the British SOE, the Soviet NKVD, or the German *Sicherheitsdienst*. This failure has been explained by the legacy of post-Wilsonian isolationism, by a populist fear of an invasive secret police apparatus, and even by the patrician etiquette that dictated that “gentlemen do not read other people’s mail.”

Even before the attack on Pearl Harbor put an end to American innocence, President Roosevelt had taken the first steps to redress this deficiency. In mid-1940, he asked his friend William J. Donovan to undertake a series of overseas missions to assess the military situation and to evaluate American intelligence needs in what was shaping up to be a war of global proportions. On July 11, 1941, the President accepted Donovan’s recommendation that a “Service of Strategic Information” be created, and designated him the nation’s first Coordinator of Information.

Having virtually no precedent on which to build, the early history of OSS is that of an organization inventing itself. With remarkable boldness, Donovan recruited New Deal economists from Washington, Marxist philosophers from the German refugee community, socialite adventurers from the Ivy League, and a motley assortment of American labor activists, European Social Democrats, White Russian monarchists, and some two-hundred and fifty veterans of the Abraham Lincoln Brigade. “I’d put Stalin, himself, on the OSS payroll if I thought it would help defeat Hitler,” quipped the Republican Donovan in an unguarded moment. His wildly unorthodox conception of modern warfare led him, finally, into the shadowy underworld of art, architecture, and design.

“ONE PICTURE WORTH A THOUSAND WORDS”

Influenced by the slick persuasiveness of commercial advertising, Donovan had, in his civilian law practice, frequently supported his arguments with arresting visual devices. Behind the battle cry, “One picture is worth a thousand words,” he vigorously promoted these practices in his new position as Coordinator of Information. Knowing that the President would be the focal point of an inconceivable volume of information, he allocated a remarkable 24.9 percent of his first annual budget toward the design of visual presentations. How could the latest techniques be applied so as to enable the President to absorb, in a one- or two-hour, multi-media briefing session, masses of intelligence data that, in written form, might take months to assimilate?

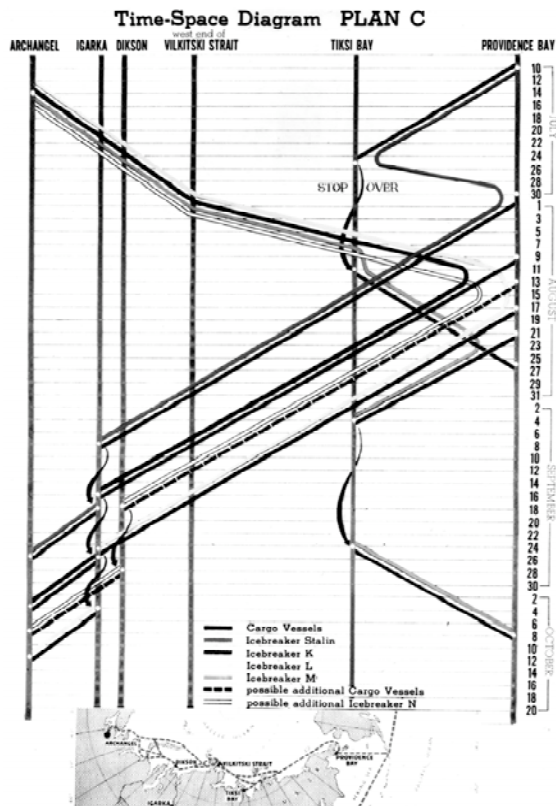
This question set in motion an alliance, which was sustained throughout the war, between the infant intelligence profession and the only slightly older profession of industrial design. In search of “the inventive genius and the technical creativeness of the country’s best engineers and industrial designers,” negotiations were opened with the offices of Raymond Loewy, Walter Dorwin Teague, and Henry Dreyfuss who, flushed with their triumphs at the 1939 World’s Fair, signed on as Expert Consultants in September. The visionary Norman Bel Geddes was taken on only when the job was fairly well-defined “so that Geddes wouldn’t start moving mountains.” They would be joined, at this early stage, by the inventive Buckminster Fuller and architects Louis Kahn and Bertrand Goldberg, each of whom had been experimenting with prefabricated, mass-produced housing units. Lewis Mumford, fresh from the anti-isolationist polemics of the day and anxious to play some part in the war, contributed his ideas, as did his friend, Lee Simonson, the theatrical designer, as well as the greatest visual communicator of them all, Walt Elias Disney. The language of theatricality—not surprisingly—permeated their far-reaching discussions.

In *Never Leave Well Enough Alone*, that masterpiece of unabashed self-aggrandizement, Raymond Loewy recalled how, when the war broke out, he loaned

Donovan “one of my most brilliant young men [who] became one of the top men in the Department of Visual Presentation.” The “brilliant young man” whom Loewy did not trouble to name was Oliver Lundquist, a prize-winning architecture student at NYU and Columbia who had been working for Loewy as a specialist in industrial and product design. Lundquist began to do consulting work for COI during the summer of 1941, and moved to Washington on a full-time basis in October. His first assignment was to design statistical charts reflecting Soviet economic capabilities. This seemingly mundane task proved to be a key element in the decision to continue the Lend-Lease program in the face of conventional military wisdom that held that a German victory in Russia was inevitable. It also suggests the imaginative approach that OSS applied to the new art of “envisioning information.”

Shortly thereafter, another architect, Donal McLaughlin, left the artful world of the New York designers for the more sober demands of a world at war. A product of NYU, the Beaux-Arts Institute, and Yale, McLaughlin had worked with Teague on exhibits and dioramas for the 1939 World’s Fair. In the spring of 1942, McLaughlin moved to Washington and became Chief of the Graphic Section of the Visual Presentation Branch. Over the next three years, he built up a team of artists who illustrated film reports; drew charts, graphs, and maps; prepared technical illustrations of secret devices and weapons; made propaganda sketches, caricatures, and forgeries; and more.

They were followed by a growing staff—114 in all by the end of the war—of architects, industrial designers, artists, editors, illustrators, engineers, machinists, photographers, filmmakers, composers, economists, cartographers, psychologists, and even a historian. Eero Saarinen, already one of the most daring architects of his generation, had been smarting over the cancellation of a gigantic General Motors research center for which he had the contract—and from the arrival of his draft notice—when he received a call from his former Yale classmate, McLaughlin. In OSS, Saarinen became Chief of the Special Exhibits Division, with responsibility for all three-dimensional projects. Jo Mielziner, who by 1942 had designed more than 150 stage settings for New York theater, opera, and ballet productions,



Time-Space Diagram of Winter Shipping Routes

became Chief of the Design Section. Walt Disney sent over a couple of animators; and the editor of the Viking Press, David Zablodowsky, came on board to direct the Editorial Section.

Other people were drawn into the organization at early stages of careers that would blossom after the war, often on the basis of the multidisciplinary, multimedia hothouse experience of OSS. Edna Andrade went from graphics work in OSS to a successful career in the Philadelphia art world; and Alice Provinsen as creator of the popular Golden Books series. Dan Kiley became one of the most celebrated figures in the modernist tradition of American landscape architecture. And Benjamin Thompson, who eventually would be awarded the coveted AIA Gold Medal for his campaigns to reinvigorate the urban life of Boston (Faneuil Hall), New York (Fulton Street Market), Baltimore (Harborplace), and Washington, D.C. (Union Station), acknowledged that the models and simulations he built during the war formed the basis of his later ideas about design and the communication of space and form.

Nor was this all. Georg Olden, who dropped out of art school to join the Presentation Branch, went on to become Art Director for CBS and is recognized as the first African-American to break through the color bar into the world of graphic design. Robert Konikow was drafted into OSS with a background in mathematics, but his experience in the Editorial Section redirected him into the world of communications and a distinguished career in the field of exhibition design. Paul Child was transferred from the Graphics Section in Washington to the OSS Outpost in Ceylon, where he prepared maps and other visual displays for the Far Eastern Theater. On the porch of a tea planter's bungalow he met—and later married—fellow OSS officer Julia McWilliams. Reassigned to the OSS outpost in Chunking, they acquired a taste for Chinese cuisine and, in postwar Paris, Paul and Julia Child mastered the art of French cooking.

VISUALIZING PEACE: SAN FRANCISCO

By the beginning of 1945, the Presentation Branch was at work on a series of projects relating to the forthcoming United Nations Conference in San Francisco—films, exhibits, publications, lecture materials, a full range of graphic services, and the behind-the-scenes tasks of “stage management” at which it had become so adept.

The San Francisco conference ran for two months, during which the services of the Presentation Branch were in constant demand. Architect Benjamin Thompson developed a system of flexible charts that enabled Secretary of State Stettinius, Foreign Ministers Anthony Eden and Vyacheslav Molotov, and South African President Jan Smuts to visualize the shape of the emerging organization and the shifting political forces it reflected. Oliver Lundquist, serving as “Presentation Officer,” together with Broadway theatrical director Jo Mielziner, designed the stage setting for the final signing ceremony; working through the night, Graphics Chief McLaughlin created a lapel pin for the members of the national delegations, with an azimuthal equidistant world projection that so deftly



United Nations logos

met the political and aesthetic requirements of the occasion that it became (and remains) the official seal of the United Nations.

VISUALIZING WAR: NUREMBERG

The lessons learned in managing the historic San Francisco conference were applied with comparable effect to the trials of the Nazi leaders implicated in war crimes, crimes against humanity, and crimes against peace. In May 1945, as four occupying armies fanned out across a shattered Germany, the Office of the Chief Counsel circulated a memorandum to OSS outlining a comprehensive program “to demonstrate Nazi guilt clearly to the world.” The role of the Presentation Branch in this process would include the collection of evidence; the preparation of graphic materials for use in the trial briefs and during the proceedings; and the architectural planning and layout of the courtroom itself. Having won the propaganda war, and with the legitimacy of the tribunal at stake, the designers were now challenged to solve a barrage of technical problems in ways that did not compromise “its dignity, its dominance, or its authenticity.” Since the guilt of the accused was a foregone conclusion, the task of the

designers, though never so bluntly stated, was to contribute through every means at their disposal to this inevitable outcome.

Concretely, this meant that supplementing the arguments of the American prosecutors would be a body of visual materials planned and executed by the Branch: detailed wall charts elucidated the political empire of Hermann Goering; photomontages exposed the functioning of concentration camps; exhibits represented the chain of accountability in the occupied countries; films were produced for use during the trials and as part of a coordinated program of public information. Justice Jackson's opening arguments were supported by a six and one-half by fifteen-foot chart of the structure of the Nazi Party—"an intricate blueprint of the organization that wrecked Europe"—that was the product of six months of painstaking research by jurist Henry Kellerman of Research & Analysis and Cornelia Dodge, a twenty-four-year old graphic designer in the Presentation Branch. In Nuremberg, Kellerman reviewed the chart in the course of his interrogation of Robert Ley, who since 1933 had been the NSDAP Chief of Party organization. Ley, who once boasted that under Nazi rule "only sleep was still a private affair," verified the factual accuracy of their work but pointedly objected that its two-dimensional graphics had captured only the static structure and not the "soul" of the movement. Two days later, as if suddenly grasping the implications of his criticism, he committed suicide in his cell.

For over a year, OSS had been closely involved in the preparations for the war crimes trials. By the summer of 1945, the Presentation Branch had worked out the basic architectural logistics of the proceedings: the positioning of the judges, witnesses and defendants; apparatus for the presentation of evidence; facilities for a press corps expected to number in the hundreds; and the outfitting of offices, barracks and prison cells. There remained only the pressing problem of siting, which was resolved in July when an OSS surveying team, headed by the landscape architect Dan Kiley, began to close in on the medieval city of Nuremberg (Nürnberg). "I wanted the Nürnberg Opera House," Kiley recalled, "where we could have staged it in a very dramatic and thrilling way." His dreams of a Wagnerian *Götterdämmerung* were overruled, however, and the OSS

designers team began work on the repair and retrofitting of Nuremberg's imposing Palace of Justice.

Having been influenced by the teachings of Walter Gropius at Harvard, Kiley set out to solve a simple problem of functional design, consistent with his brief that "there should be no allowance in design and layout for purely decorative, propagandistic, or journalistic purposes." As the critique of the modernist project has, by now, long since demonstrated, there can be no design *degré zero*; and in the highly charged environment of Nuremberg, political symbolism was as much a part of "function" as were electrical outlets and a reliable public address system. This is most evident in the ultimate design of the courtroom, which placed the judges on high-backed, throne-like chairs, framed by their national flags, and towering over the twenty-one defendants seated directly across from them. On the side wall was mounted a large screen on which the record of Nazi criminality could be projected. A model was presented to Justice Jackson, head of the American delegation. "He instantly approved the plan," recalled exhibition designer Robert Konikow, "appreciating the drama inherent in the face-to-face positioning of the defendants and the judges," with the battling attorneys arrayed in a no-man's land in between. With the physical site established, a team of Presentation specialists headed by David Zablodowsky was dispatched to Nuremberg, where they designed everything from wall charts to press passes. By the time the historic trials opened in November, however, the Office of Strategic Services—its spies, its intelligence analysts, and its designers—had itself become history.

On September 20, 1945, with the chill of autumn and the Cold War already perceptible in the Washington air, President Truman thanked General Donovan and his staff for their work and abolished the Office of Strategic Services. The reasons for this decision were complex, but its reputation for sheltering people "of progressive orientation," as ex-Communist Carl Marzani discreetly put it, did not endear the OSS to other government agencies in the months when the shooting war against German Fascism was solidifying into a Cold War against Russian Communism. Yet, by the time of the U.N. conference and the Nuremberg trials, the services of communications specialists—once tolerated as "an expendable luxury"—had come to seem indispensable in the policy process. ●



Continuation

Places, Buildings, Photographs

an excerpt

Nicholas Howe, PhD

This article is excerpted from an essay originally published in Southwest Review, vol. 89, no. 1, 2004. It is reprinted by permission of the author.

Photography can be a way to enter a place, to look at and then through the surfaces made by streets and buildings. The flatness of the photograph need not be a reduced version of reality, but a reminder that buildings as we walk and drive by them usually appear as façades to our eyes. Looking at a building front, watching as its flatness reveals variation and depth, signs of weather damage or repair, is the work that comes later from deliberately observing the flat plane. Looking at the same façade over time, in different weathers, adds the presence of light. From light comes the changing life of a place, its sense of being in time. The landscape painter's great gift, as Kenneth Clark says of Bellini, is an emotional response to light. What he might have meant by emotional seems uncertain, but it suggests that light itself has a quality of emotion to which we respond. It is the play of light across the most familiar scene—the view out of a bedroom window or across an apartment building's airshaft—that keeps it from becoming fixed. And that keeps us looking. At the moment when a photograph catches the depth of a scene, as it looks down the side of a building or catches a range of shadows, it can break the two-dimensionality of the

façade. And that makes us look again.

Light is the photographer's medium. It creates the active moment in a scene where nothing else seems to change: the façade of a building, the shape of the street. The photojournalist Henri Cartier-Bresson used the phrase "decisive moment" to describe his style of capturing human life. It signifies that the composition of elements has found its most compelling form: the apogee of the man jumping over a puddle, the smile of the little boy carrying two big bottles of wine. The moment is decisive because it will never come again, and that means not simply that the man is jumping or the boy is smiling but also that the photographer is standing there with a camera ready to shoot. It is about light in time. The fascination with the decisive moment among certain photographers is like the fascination with sudden inspiration among certain writers: each must be intuitively recognized, captured, left to stand uncropped or unrevised. It is there, perfect in itself; and much of the job is to know when to leave well enough alone. There is in this mystique a residue of vanity: the artist is the one singularly blessed by the moment.

What does the decisive moment mean, though, for something that cannot move, that seems fixed in its site? Only that the light at a certain moment illuminates and obscures, throws into relief and shadow, all that is there to compel the photographer's eye and does so in ways that could not happen at another moment. With patience, a bit of luck, and a good memory, though, the scene can be recaptured: the light will come again and the image can be made again. The moment of light across a building or urban scene is not so much decisive as it is active, because it allows a measure of change into an otherwise static scene.

The first carefully composed photographs I took here were done in a light industrial urbanscape off Gilman Street, between 8th and 4th Streets. I took a medium-format camera with a normal lens, two rolls of black-and-white film with 12 exposures each, and a yellow filter to increase contrast. That, along with a light meter and tripod, made for a minimal kit. These technical details matter only as they set the discipline of working with the equipment at hand

rather than carrying a wide range of lenses. I photographed some warehouse walls marked with hard-edged shadows cast by skinny tree trunks and electric lines in the morning light. I was following, as far as I could, Harry Callahan's practice in his great image of a Kansas City building in which the façade functions like a sheet of film to catch patterns of light and shadow. I also found an art deco-ish industrial site for an ink manufacturer with a set of pipes running overhead across the street. One of the pipes took a beautiful s-shape, oriented vertically. The sparseness of that curving line, of function finding its form of motion, defined the beauty of the site.

It was a Sunday morning, so the scene was quiet but not abandoned. People walked through on the way to neighboring residential streets and sometimes fell into the rhythm of the image. I felt comfortable being there and began to imagine how to work with the light: let its constant, unshaded intensity shape shadows and trceries and patterns. The shadows on the walls seemed uncannily like light hitting a piece of film, and that was as close to pure photographic possibility as I could imagine.

Looking at the world through a viewfinder distorts it and orders it: the frame composes as it includes and excludes. Given that the image in the viewfinder is fixed (unless a lens of a different focal length is used), every adjustment to gain something means inevitably to lose something. Shift upwards to capture more of a cornice and you risk losing the street level that grounds the image. Focus on a detail set back within the shadows and you risk blurring the rest of the façade. From the limited field of the lens comes the composition, especially when working in streets that hem you in with buildings or fences or parked trucks. The orderliness of the composition also becomes, at times, a limitation. The balance of elements, the axis of the camera parallel to the ground, the pattern of light and shade—all these need to be disturbed slightly so some sense of unease can register in the picture. Some trace of being off-balance, if only by a hair, of feeling that the scene is precarious, is necessary if the static image is to record one's uncertainty. The too-precise framing of commercial architectural photography, especially



Ink Factory

that done for prize juries, elevates the building into a sculpture, the pure product of artistic genius. And it does so largely by removing the building from its setting, because that usually lies beyond the architect's full control. By contrast, that which cannot be designed into place but which happens over time most engages me.

Using black-and-white film is another way of gaining and losing: its tonalities concentrate the eye on the structure or bones of a building, but it also lacks the energies of color, from the garish to the muted. I do not yet fully understand what it will mean to use black-and-white in a place that is usually clear and cloudless, bright and seemingly without nuance. I keep thinking of Marc Riboud's pleasure at photographing in Paris during an especially gloomy winter. The overcast light was good to work with, he said, because "sunlight is kitsch." There is an aes-

thetic in that line. So I will try photographing here on a foggy morning when the light is soft and diffused, though that risks another variety of kitsch.

Shooting black-and-white always makes me aware of its artifice, though many photographers will say that black-and-white is the natural, and color the artificial, medium. Looking at the world, though, we see in color, and often a sensation of saturated or bleached color is our lasting impression of a scene: overlit neon jungle, foggy ocean beach. A black-and-white print renounces all that is naturally there for us to see with our eyes in favor of a medium that gives a more astringent sense of line and form. Now that color films have accurate and subtle tones, the renunciation is voluntary. Making fun of Kodachrome in the 1960s and '70s for its garish values was easy, as was staying with black-and-white. The choice is harder now, both because color film is subtler and

because photographers like Callahan have used color with a tonal austerity once thought to be the defining quality of black-and-white.

A horizontal photograph taken by Callahan in Kansas City in 1981 disturbs all of the orthodoxies about film. It shows the front of an old brick building set on a corner where two streets meet at a diagonal; the main entrance crosses the plane formed by the two façades of the building. All of its doors and windows are boarded up, a “No Parking in Driveway” sign is barely visible at the far right, and several tree trunks of varying girth cast their shadows at an angle onto the front of the building. The image is rich with detail and pattern: the first floor of the building is marked by strong verticals of door and window jambs as well as the planks nailed up to cover the windows; these verticals are then capped by the powerful horizontal of a metal beam studded with rosettes. The second floor shows horizontal brick courses broken by a band of decorative stone at the level of the windowsills. The sidewalk slopes slightly downhill to the left; a white cup (probably styrofoam) lies on it and marks the center of the image. The composition of verticals and horizontals plays against the angles of the doorway and the shadows of the trees—all on the façade of a vernacular building like many others found in the older and, by now, usually rundown sections of American cities. The caption for the photograph reads “Kansas City, 1981,” but it could just as accurately, if more verbosely, be called “Neglected American City, Late Twentieth Century.” It is, in its simplicity, as close to perfection as a photograph can be in using visual form to represent urban history. Anyone who noticed Callahan shooting this building with his view camera probably thought he was one step ahead of the demolition crew.

As best as I can remember, I first saw this photograph in a black-and-white reproduction that made me assume it was originally shot in black-and-white. Only later, in a better catalog of Callahan’s work, did I see that it was done in color: the cup was white, the shadows were a very dark gray, the façade was a rusty orange-red going almost to terracotta, and there was a patch of white on the far side of the angled door that read as all the whiter because the print was in color. The austerity of black-and-white was here but also a warmth in that rusty orange-red, which suggested what had first captured Callahan’s

The image is rich with detail and pattern:

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eye. Despite its formal bleakness, the image celebrated the pleasures of strong light (judging by the direction of the shadows and their effect, probably that of late afternoon) which can enliven even a dreary urban scene. In its composition, the photograph said something necessary about the presence of light in the city, the way it fills a scene, gives definition to the buildings that surround us, forces us to pause and look, brings warmth into our lives.

In the Kansas City photo, Callahan is a severe master of color. I can hardly imagine how long it took him to learn that restraint, how many thousands of black-and-white negatives passed through his imagination and over his light table before he saw how to use color with that restraint.

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When I shoot with a 35mm camera, no matter how good it is, passersby do not give me a second glance. When I use a tripod and larger camera, no matter how old it is, they wonder what I am doing and why I am photographing a site, especially if it does not promise a familiar image. Sometimes, though very rarely, someone will stop to talk, though usually

about the equipment I am using rather than the picture I am taking. Photographing the Left Bank apartment building where Eugene Atget lived for most of his career and where he developed the negatives that changed the way people look at urban spaces, I was asked by a Frenchman about the lens of my Rolleiflex because he, years ago, had used a similar camera. But such interruptions are rare. Most frequently, people assume (and here I am guessing) that I am photographing a scene that seems featureless—such as an apartment building in Paris like thousands of others—for documentary purposes. Perhaps I am preparing images for a civic inventory or a real-estate transaction or the like.

* * * * *

That act of visibly doing something mechanical, signaled by tripod and bulky camera, makes me feel anonymous about my work, just another person in the city doing a job that clutters up the sidewalk. This anonymity reminds me of Atget going out very early in the morning to shoot the street-fronts, courtyards, corners and shop windows of late nineteenth and early twentieth century Paris. In doing work that was intentionally documentary, that was available for purchase at a very modest price to civic authorities and artisans of various sorts, Atget demonstrated how to photograph Paris and by extension any historically-layered city. So remote do I feel in my ability from the master that I am not at all ashamed to walk around the Latin Quarter with copies of Atget's photographs in hand so I can put my tripod exactly where he put his and replicate his images in order to learn from him. Sometimes I can find the spot where he worked so exactly that I know what kind of lens—wide-angle or normal—he used because his image fills my viewfinder perfectly. Doing so, I understand why an artist goes to a museum to copy an Old Master painting. It is a way to learn the technique that makes the image possible, to find the use of craft. The point of all copying is to take that lesson in technique out of the museum to one's own work.

* * * * *

Literary intellectuals who write about photography—Roland Barthes, Susan Sontag, John Berger—treat it

almost always as a medium for representing people. Reading their incisive discussions of photography as documentation and portraiture, you rarely encounter any mention of a building or a place. That photography interests them because it depicts people is not hard to explain: they have spent their lives reading, writing and interpreting novels in various ways.

The divide that still haunts discussions of photography between documentary and scenic—between real and imagined, ugly and pretty, socially committed and aesthetically privileged—may have made sense in the early days of the medium. But as notions of photographic form and composition became defined less by painterly conventions than by technical possibilities like faster shutters and sharper lenses, less by moody brushwork than by precise focus, one can see that this divide had as much to do with ideology as practice. Treating all images of spaces and places as merely scenic stopped making sense long before Atget's work became known in the 1920s and '30s, but his practice can serve as the clear refutation of that critical tendency. His photographs of Parisian streets, shops, courtyards, parks, churches and the rest of his urban world are documents of places, usually without people visible in them. Or, at least, with no people visible as human figures, for their traces and habits and uses of space are all recorded with fine-grained precision in his prints.

* * * * *

There is in a typical Atget photograph more evidence of people and their ways of living than in most photographs explicitly representing people and their ways of living. Is this rendering of places without people something that photography does better than painting, at least painting other than a few by Vermeer or, in a very different way, de Chirico? Part of the documentary truth of those Atget photographs is their loneliness, their sense of people being elsewhere than in the place they record. That is also what I feel as I wander around this industrial zone, this place where people work and then leave. Only the homeless settle here in temporary nests under the bushes and overhangs. And unless I know them, I will not take pictures of them or even of their shelters. Places are also marked by their own impositions of privacy. ●



Under the Radar

Pa sadena Glen Residence

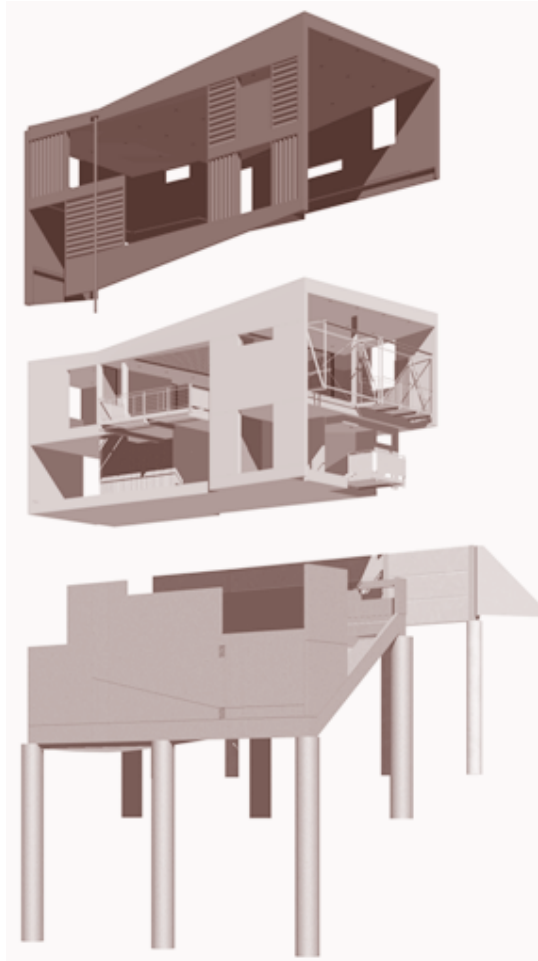
Architect: Randolph Ruiz

Structural engineer: Alexander Piper

Benjamin Parco, AIA

It is rare, in Southern California especially, to stumble upon a piece of modern architecture and actually be surprised. It's everywhere. There are the buildings we know and the buildings that mimic the buildings we know. We've come to expect modernism in our cities and scattered through our "better" neighborhoods. It is just as rare, however, to find modern architecture in a semi-rural, middle class setting such as this. Does it not reach these places, or is it just out of reach?

In Pasadena Glen, in the foothills of the San Gabriel Mountains, Randolph Ruiz manages to surprise us, and pleasantly so. Set on a steep site, at the edge of a seemingly benign creek, amongst the dangerously dry oak and laurel sumac, Ruiz has skillfully sited a highly articulated yet refreshingly modest, three-bedroom home, one that also happens to pack a heavy architectural punch. Like a hunter's jacket seen through the trees, the project at once seems utterly out of place and yet somehow perfectly at home; out of place because you don't expect it and at home because of its assertive though vulnerable posture. Unlike pure modernism, this is not an architecture of idealism or perfection. It's an archi-





texture of chance, reality, and awareness set in a location wrought with environmental hazards.

Ruiz's agitated box is far from the perfect white "machine" of modernism, and, though Pasadena Glen is quite beautiful, Mother Nature's ever-present threat of destruction prevents it from becoming any kind of paradise. In spite of this, the project is still very much the machine in the garden. It's just that, where this project is concerned, the garden is planet earth or, more specifically, Southern California, where anything can happen at any moment. This particular machine is enabled with a heavy dose of awareness, modernism with a reality check.

Ruiz is nothing if not real about the very serious threats, requirements, and constraints set upon this project. The project's modest budget called for the clever and inventive use of materials. In order to control both raw material and labor costs, Ruiz employed a sort of off-the-shelf, Home Depot pragmatism. His use of materials that are architecturally unusual and technically appropriate, yet inexpensive, easily fabricated, and commonly used, helped to keep the project budget lean. He uses a robust but inexpensive, corrugated, cementitious panel as a siding mater-

ial. It not only contributes significantly to the bold architectural expression and helps him to attain the necessary fire protection, but does it within a system that common construction laborers have mastered.

It is this combination of real world pragmatism, a sophisticated composition of form, pattern, material and texture, and an attitude about making a place in this precarious landscape that makes this project unusually interesting. Somehow, the project both respects and defies its natural setting. It seems to stand up proud in order to be heard, yet is savvy enough to watch its back. The project's assertive but guarded stance represents our own relationship to nature. Although we're part of it, we are continually on the alert and at times have no choice but to protect ourselves from it. This dichotomy seems especially apparent here in California. As we nibble away at the natural landscape, parcel by parcel, every now and then Mother Nature bites back. Because we continue to build in this frequently unstable and sometimes violent geo-climatic environment, it's refreshing to see an architecture that engages the land in this tug of war, eye to eye. It is this very tension that makes for such a striking relationship between Ruiz's bold, manmade object and the equally bold site on which it sits. ●

Credits

arcCA welcomes submissions for Under the Radar. To be eligible, a project or its architect must be located in California; the project must not have been published nationally or internationally (local publication is OK); and construction must have been completed within the last twelve months or, for unfinished projects, must be 60%-70% complete. Architects need not be AIA members. Submissions from widely published firms (as determined by the arcCA Editorial Board) may not be accepted. Please send your submissions to the editor by email at tim@culvahouse.com, attaching three to five JPG images with a combined file size of no greater than 1.5MB. Describe the project in fewer than 200 words in the body of the email, providing a brief caption for each image, keyed to the image's file name. (If you don't have the capability to submit by email, you may send the equivalent information by regular mail to: Tim Culvahouse, AIA, Editor, arcCA, c/o AIACC, 1303 J Street, Suite 200, Sacramento, California, 95814, Re: "Under the Radar.")

cover: design and photo, **Bob Aufuldish**
page 10: photo, **Bob Aufuldish**
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page 32: drawing, **courtesy of the author**
page 34: photo, **Nicholas Howe**
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page 40: photo, **Erich Koyama**; drawing, **Randolph Ruiz**
page 41: photo, **Erich Koyama**
page 48: drawing, **courtesy of Maynard Lyndon Collection, Architecture and Design Collection, University Art Museum, UCSB**; photo, **courtesy of Marmol Radziner and Associates**

Coda



Transchronology

Donlyn Lyndon, FAIA

During the AIACC awards presentation at last fall's Desert Practice Conference, Marmol Radziner and Associates received the Firm of the Year Award, rightly, for their vigorous, skillful work, some of it involved with the meticulous restoration of earlier modern buildings in Southern California. The architects of those buildings were adventurously seeking out new ways to conceive and to build within the benign and hopeful climate that then still nurtured paradisiacal visions, in a place where the clear air was welcome, the sun required tempering, the bowl of Los Angeles was perceptible, and technology (with a small *t*) was still malleable. It was a time when the astonishing mobilizations of the Second World War gave birth to an optimism that made creation of the new seem opportune for all; a time when reason and dream seemed not incompatible—at least for those classes whose lives were seen, or imagined, on the screens of the world.

All this was brought back to me, not only by the gorgeous images of Neutra's Kaufmann House and the explorative spirit of Marmol Radziner's work, but by a photograph they showed of the exterior of their renovated office—an image that struck me with a jolt of familiarity reaching into my teens. I was certain that it was a building designed by my father, Maynard Lyndon, FAIA. It bears the unmistakable line of his hand, which time and again fused roof overhangs and walls into an encompassing, sun-sheltering rectangular fold, a fold that simply and clearly delineates the building's scope, while gesturing of connections between inside and out. This sharp edged, elegant

form resisted any reading of the building as an isolated volume indifferent to its site. Consulting the archives of my father's work in the UC Santa Barbara Architecture and Design Collection confirmed that it was indeed the Transco Products Building of 1950, with revisions in 1957 and 1963.

Maynard Lyndon was among those confident and exploring architects of the post-war period. He too was feted (rightly) by national and local AIA awards juries. Transco Products, I believe, made a synthetic panel that my father used extensively and boldly in the house that he designed for our family in Malibu in 1949. The product, though largely unassailable, had the misfortune of being fabricated with asbestos and is no longer available. The incisive intelligence of those thin-edged folding forms lives on, however, not only here, but in photographs of the house in Malibu and in a number of schools he designed throughout Southern California. Most notably and graciously, they form the surrounding passages of the Twenty-eighth Church of Christ Scientist on Hilgard Avenue in Westwood—a building well worth considering for a Fifty Year Award, if such a program existed. Isn't it odd that we think twenty-five years is the measure of enduring value? ●

Editor's note: for more on the work of Maynard Lyndon, including the Hilgard Avenue Church, see arcCA 03.1, "Common Knowledge."