

PART 1

THE PROFESSION

Laws, regulations, and codes of conduct govern the profession of architecture and define the obligations of architects to the public. AIA members comprise a community of practice that additionally agrees to abide by its Code of Ethics and its requirements for continuing education.

For prospective architects, the path to licensure is prescribed. For emerging and mature practitioners, professional life includes participation in professional organizations and architectural education.

For some architects, professional life at every stage includes engagement in public interest design.

CHAPTER 1

Ethics and Professional Practice

1.1 The AIA Code of Ethics and Professional Conduct

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Members of the American Institute of Architects lead the way through the highest standards of professionalism, integrity, and competence. The Code of Ethics and Professional Conduct is both guide and measurement of those practices.

INTRODUCTION TO THE CODE OF ETHICS AND ETHICAL PRACTICE

Architecture in built form is exclusively predicated on the universal constant of gravity. This is true regardless of location, weather, material, building or client type, codes and regulations, aesthetic, or other variable. Architecture as a practice is equally based on a moral foundation of professionalism, with responsibilities to the general public, our respective clients, to the profession itself, our colleagues, and to the shared environment

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that surrounds all of us. For members of the American Institute of Architects (AIA), the concise language of the Code of Ethics and Professional Conduct is both guide and measuring stick for professional behavior.

HISTORY OF THE AIA CODE OF ETHICS

In 1909, the AIA first adopted a formal set of rules governing the conduct of architects. The rules were published as “A Circular of Advice Relative to Principles of Professional Practice and the Canons of Ethics.” According to the National Council of Architectural Registration Boards (NCARB), only four states (Illinois, New Jersey, California, and Colorado) had by that time adopted laws regulating the practice of architecture. As a result, the AIA’s rules served to set standards for practice in much of the country. The AIA periodically revised its ethical code in mostly limited ways during the ensuing 60 years.

Limitations Imposed by Antitrust Law

Unlike the NCARB member registration boards, each of which is a part of a state or other government entity, the AIA is a nongovernmental organization. State governments and their agencies enjoy various powers and privileges that do not extend to other types of organizations or to individuals. As a result, both the scope of professional rules adopted by the AIA and the manner of their enforcement by the AIA necessarily differ from what registration boards may do.

Antitrust law imposes significant restrictions on what conduct the AIA can mandate or prohibit in a code of ethics for its members. Although antitrust law is complex, its general purpose is to foster economic competition. One way that antitrust law accomplishes this goal is to prevent competitors in a given market from acting together to unreasonably restrain competition. Because the members of the AIA are competitors of each other, AIA activities cannot be carried out with the purpose or effect of reducing competition in ways that courts have found to be unreasonable, that is, without having an offsetting precompetitive effect.

In the 1970s, in various legal proceedings, the U.S. Supreme Court and other courts established new understandings of antitrust law as applied to professional membership associations, including their codes of ethics. As a direct result, the AIA’s own code of ethics was repealed in 1980, temporarily replaced by unenforceable “Ethical Principles,” then completely revised and reinstituted as a new enforceable Code of Ethics and Professional Conduct in 1987. The structure and much of the content adopted in 1987 continue to be reflected in the current version of the AIA’s code of ethics.

Prior Provisions No Longer in the Code

Some subjects were covered in pre-1980 versions of the AIA’s code of ethics but are no longer covered, mostly as a result of restrictions imposed by antitrust law. Prominent in a list of such subjects is any restriction pertaining to fees or compensation for services. In a 1978 appeal by the National Society of Professional Engineers, the U.S. Supreme Court specifically held that a professional association’s ethical code may not prohibit competitive bidding—despite the argument that such a regulation would further public health, welfare, and safety.

The absence of ethical provisions regarding fees has a broader effect than just competitive bidding or minimum fee amounts, however. There is no ethical restriction on providing free services whether or not part of marketing; providing services at no charge is, of course, simply charging a fee of zero. Similarly, there are no ethical restrictions specifically pertaining to design competitions, which amount to providing services for no fee or a very small fee.

Other subjects no longer prohibited by the AIA code of ethics include:

- *Supplanting or replacing another architect on a project.* Historically, it was considered unprofessional to have any business contact with another architect's client. The AIA code of ethics does not prohibit such conduct.
- *Advertising.* The AIA's code does not prohibit advertising of professional services. The code does contain provisions that could be violated in the context of advertising, however, such as making false statements or failing to properly credit other participants in a project.
- *Contracting to do construction.* The 1909 code prohibited engaging in any of the "building trades" or guaranteeing any estimate. These restrictions, which are incompatible with design-build, disappeared by the 1970s.
- *Determinations of law.* Prior versions of the code did not shy away from provisions that required legal analysis. For example, prior to 1997 the code made explicit reference to copyright. Currently, however, in order for any legal or regulatory violation to be taken into account in application of the AIA's code of ethics, the legal or regulatory determination must have been made by an appropriate authority.

THE SIX CANONS OF THE AIA CODE OF ETHICS

CANON I: GENERAL OBLIGATIONS

Members should maintain and advance their knowledge of the art and science of architecture, respect the body of architectural accomplishment, contribute to its growth, thoughtfully consider the social and environmental impact of their professional activities, and exercise learned and uncompromised professional judgment.

CANON II: OBLIGATIONS TO THE PUBLIC

Members should embrace the spirit and letter of the law governing their professional affairs and should promote and serve the public interest in their personal and professional activities.

CANON III: OBLIGATIONS TO THE CLIENT

Members should serve their clients competently and in a professional manner, and should exercise unprejudiced and unbiased judgment when performing all professional services.

CANON IV: OBLIGATIONS TO THE PROFESSION

Members should uphold the integrity and dignity of the profession.

CANON V: OBLIGATIONS TO COLLEAGUES

Members should respect the rights and acknowledge the professional aspirations and contributions of their colleagues.

CANON VI: OBLIGATIONS TO THE ENVIRONMENT

Members should promote sustainable design and development principles in their professional activities.

STRUCTURE OF THE CODE

The code is arranged in three tiers of statements: Canons, Ethical Standards, and Rules of Conduct.

- *Canons* are broad principles of conduct. The code of ethics primarily addresses responsibilities that architects and other AIA members have to others. Except for Canon I, General Obligations, the canons reflect the categories of those to whom duties are owed: the public, clients, the architectural and related professions, colleagues (as individuals), and the environment.
- *Ethical Standards* are more specific goals toward which members should aspire in professional performance and behavior.
- *Rules of Conduct* are mandatory. Violation of a Rule of Conduct is grounds for disciplinary action by the Institute. Rules of Conduct, in some instances, implement more than one Canon or Ethical Standard.

Commentary is provided for some of the Rules of Conduct. That commentary is meant to clarify or elaborate the intent of the rule. The commentary is not part of the code, however. Enforcement is determined by application of the Rules of Conduct alone. The commentary is intended to assist those who are seeking to conform their conduct to the code as well as those who are charged with its enforcement.

NATIONAL ETHICS COUNCIL

The bylaws of the AIA establish the processes under which the ethical code is adopted, amended, and enforced. The bylaws provide for the establishment of a National Ethics Council, which has the authority to interpret the Code of Ethics. Individual members, officers, directors, employees, and officers and staff of state and local components of the AIA do not have this authority.

The National Ethics Council is the body charged by the bylaws to enforce ethical matters in the practice of architecture, in accordance with current, published editions of the Code of Ethics and Rules of Procedure. It does so through the process of complaint and response, measuring ethical behavior as defined by the code. The Council also considers proposed changes to the code for adoption by the Board of Directors or membership of the Institute, and may itself propose revisions. The Council amends its Rules of Procedure when appropriate, with any such changes requiring approval of the Board of Directors. As part of its educational mission, the Council conducts programs at the annual National Convention and at other component events. Occasionally, members of the Council publish articles on ethics.

The Council operates with operational support provided by the Institute's Office of General Counsel. The Council publishes on the Institute's website all of its publicly available information. This information can also be obtained by contacting the Office of General Counsel.

Composition of and Appointments to the Council

As established by the AIA's bylaws, the National Ethics Council consists of up to 12 architect members of the Institute, appointed by the Board of Directors to staggered three-year terms. Typically, the Council operates with seven members, each of whom generally is reappointed to a second three-year term. Individual terms are staggered to enhance institutional memory since Council members are not permitted to serve more than two consecutive three-year terms. Nominations for new appointments to the Council are made by the Institute's president with the advice of the Council. The Council's chairperson is also appointed annually by the Board of Directors following recommendation of the Council and nomination by the Institute's president.

Promulgation of the Code of Ethics

The National Ethics Council's page on the AIA website contains the current Code of Ethics, supporting documentation, and all necessary forms. In addition to violation notices published upon the conclusion of a case, decisions of the Council are also published in redacted form, that is, with names, places, and other identifying information removed. Prospective ethical matters may also be addressed through published advisory opinions issued by the Council upon request.

Redacted Decisions

Decisions of the Council in redacted form are published on the National Ethics Council's page of the AIA's website. These decisions are analogous to case law in a legal system and provide examples of how the National Ethics Council has applied various Rules of Conduct in contested cases. It should be noted, however, that prior decisions do not have binding authority on the Council in applying the Code of Ethics in any particular case that comes before it. Summaries of two such decisions are included here.

Advisory Opinions

The National Ethics Council offers the opportunity to AIA members to request advisory opinions be issued that apply the Code of Ethics to particular factual situations. Unlike complaints, which the Council always accepts in keeping with its current Rules of Procedure, granting a request for an advisory opinion is at the discretion of the Council. Decisions issued at the conclusion of a contested complaint have the benefit of the fact-gathering hearing process and usually input from both a complainant and a respondent. Advisory opinions, by comparison, ordinarily would be based on the single point of view of the member making the request.

Changes in the Code of Ethics and Complaint Process

How the Code Itself Is Modified

The AIA's bylaws provide two means for amending the Code of Ethics. The Institute's Board of Directors is empowered to adopt amendments at any time. In addition, the members as a whole, through a vote of their delegates at an annual meeting, may adopt amendments. Typically, amendments have been made by the Board.

How the Rules of Procedure Are Modified

The National Ethics Council is given authority by the AIA's bylaws to adopt the rules under which it operates, subject to specific requirements set by the bylaws themselves. Under the Council's Rules of Procedure, notice is given to the Board of Directors annually of any amendments adopted by the Council. The rules under which appeals are taken are established by the bylaws and the Board of Directors.

COMPLAINT PROCESS

Confidentiality

The AIA's bylaws require that the complaints filed with the National Ethics Council and the complaint processes that follow are maintained in confidence. Limited exceptions to the confidentiality requirement apply, as, for example, when a member is found to have committed a violation and a nonconfidential penalty is imposed. The confidentiality requirement does not prevent the complainant or respondent from contacting persons who already have knowledge of the circumstances described in the complaint and who are therefore potential witnesses. Maintaining confidentiality prevents an ethics complaint from becoming a subject of discussion beyond those who are already involved in the circumstances. In some instances, of course, no violation is ultimately found or only a confidential penalty is imposed for a minor infraction. In those instances, confidentiality ensures that the respondent does not suffer from publicity about the ethics complaint.

Filing of Complaints and Circumstances of Dismissal

Anyone who is directly aggrieved by the conduct of a member of the Institute may lodge a formal complaint against the member. This must be done in accordance with the Council's Rules of Procedure. A time limit of one year is imposed for filing a complaint after the alleged violation unless good cause for delay is shown.

Complaints are filed with the chairperson of the Council by sending them to the Institute's Office of General Counsel, which provides staff support for the Council. The format for complaints is established by the Council's Rules of Procedure, and a form is provided for this purpose. Once staff has determined that a complaint meets the formal requirements of the Rules of Procedure, the complaint will be reviewed by the Council chairperson, who may dismiss or defer the complaint, or determine that the case should proceed.

The chairperson is authorized to dismiss a complaint when the matter is trivial, when filing was delayed beyond the one year time limit without good cause, or if the matter would not result in an ethical violation, even if the facts alleged were proven to be true. The latter reason is analogous to the "motion to dismiss" standard in legal proceedings, but the Council does not follow any procedure analogous to "summary judgment."

The chairperson typically will defer a case if the parties are involved in litigation, arbitration, or another dispute resolution process, including a proceeding before a licensing board. In that instance, both parties will be notified of the deferral and a copy of the complaint will be sent to the respondent. Deferral due to another proceeding is not uncommon. About half of the complaints filed with the Council are deferred either upon initial filing or later if another dispute resolution proceeding is initiated.

In nearly all other instances, however, the Chair will determine that the initially filed complaint should proceed, and the Council forwards it to the respondent for response. As with a complaint, the form for the respondent's response is established by the Rules of Procedure, and a form is provided for this purpose. In the event that a respondent does not file a response after being notified, the complaint process will nevertheless proceed. Even if a respondent remains uncommunicative while the ethics case is proceeding, the Council sends notices of all opportunities for the parties to participate.

The Hearing Officer

Unless information received from the respondent would support dismissal or deferral of the ethics case under the same standards that apply to review of the complaint itself, the chairperson assigns the case to one of the other members of the Council who will serve as the hearing officer. This selection is predicated on an absence of previous knowledge of the matter and existence of significant ties to the complainant, the respondent, or any of the likely witnesses. To help meet these standards and to avoid other possible conflicts, the Council member selected to serve as a hearing officer is often located geographically distant from parties to the case. Notice of the hearing officer's appointment is sent to both the complainant and respondent to allow them to challenge the appointment by reason of alleged bias, prejudice, or conflict of interest.

The hearing officer serves in a capacity similar to an arbitrator. One major difference, however, is that a Council member serving as hearing officer is not the decision maker in the case but runs the process during the pre-hearing and hearing phases. The hearing officer's responsibilities for a case largely end with submission of a report and recommendation as described below.

After receiving the case file, the hearing officer will review the complaint, response, and accompanying documentation in order to independently confirm whether the case should proceed based on the same standards under which the complaint was initially reviewed by the chairperson. Dismissal or deferral by the hearing officer is subject to concurrence by the chairperson.

The complaint process does not provide for counterclaims, even in circumstances when the complainant is a member of the AIA. Upon occasion, a respondent has filed a separate complaint against an original complainant while the original complaint is pending. Although the Council formally treats the two cases separately, in the past the same Council member has been appointed to serve as hearing officer in both cases in the interest of efficiency.

Before the Hearing

The AIA's ethics complaint process is streamlined and does not include features of more formalized dispute resolution methods. Discovery of the opposing party's information through depositions and document production, which are common to litigation and arbitration, is not a part of the Council's procedures. As a nongovernmental organization, the AIA does not have governmental powers and has little means, if any, by which to enforce directives to complainants, respondents, or third parties to produce information that may be relevant to a case. With limited exceptions, a complainant and a respondent both come to a hearing primarily with the information they have in their own possession.

One essential step in preparing for an ethics hearing is for the hearing officer to conduct a pre-hearing conference, which is akin to a pretrial conference conducted by a judge in a court case.

The conference, which is typically by telephone, ordinarily includes introductions, brief statements by the parties regarding their views of the case, and reference to the possibility of settlement between the parties. The parties are permitted to have their counsel or their designated non-attorney advisers participate in this call. The

conference call is neither transcribed nor recorded, and nothing said during the call becomes part of the case record. The hearing officer may ask questions of the parties in order to better understand the framework of the dispute. A date for the hearing is set, along with a location, in the event that the complainant and respondent are not in the same area.

Also established during the pre-hearing conference call is a deadline for the parties to submit and exchange various information in advance of the hearing, notably including their expected witnesses and any additional documents (not submitted with the complaint or response) that will be used as evidence at the hearing. This pre-hearing exchange largely constitutes the extent of “discovery” in the AIA’s ethics complaint process.

Hearing

The hearing is conducted as an in-person meeting among the hearing officer (assisted by staff counsel), the complainant, the respondent, and their respective counsel or other designated advisers. Witnesses are ordinarily allowed to be present in the room only during the time that they are giving their testimony. The hearing is also attended by a court reporter, retained by the AIA, who makes a transcript of the proceedings for the case record. Most commonly, a hearing lasts the better part of a day, but occasionally the amount of information to be presented may require more than one day.

As with the pre-hearing conference call, the hearing officer presides. No evidence is typically permitted beyond what was indicated by the parties in their pre-hearing exchange of information. The hearing typically follows the following agenda: brief opening statements by both parties, presentation of the complainant’s evidence, presentation of the respondent’s evidence, and, finally, brief closing statements by both parties. After each witness (usually including the complainant and respondent) provides testimony, an opportunity is provided to the opposing party to ask questions of the witness. The hearing officer (and staff counsel) also frequently have questions to ask a witness to complete the record. During the hearing, the complaint, the response, and the supporting documentary evidence submitted by each party are marked as exhibits for inclusion in the case record.

Report and Recommendation

Following the hearing, the hearing officer prepares a Report and Recommendation. This written document describes the circumstances of the case, cites the Rule(s) of Conduct from the Code of Ethics that were alleged to be violated, presents pertinent facts, states the hearing officer’s conclusions regarding violations, and, if a violation is found, recommends a penalty. This Report and Recommendation is distributed to the parties, who are given the opportunity to submit written comments.

Deliberation and Decision by the Council

The entire case record is submitted to the members of the Council for their review. The case record includes the Report and Recommendation, the reporter’s transcript of the hearing, the hearing exhibits, and the written comments, if any, submitted by the parties. At a subsequent meeting of the Council, the hearing officer makes introductory remarks and responds to questions that the other Council members may have, after which the hearing officer withdraws and is not present for any case deliberations. If either of the parties has requested to appear before the Council, they also may make short statements and respond to questions the Council members may have.

The Council conducts a vigorous review and deliberation of the transcript, other evidentiary materials, and the hearing officer’s Report and Recommendation. The Council makes its determinations by majority vote and authors the written decision, which is subsequently issued to the parties. In the event no ethical violation is found, the

case is closed and confidentiality continues to protect the innocent respondent. Should the Council find one or more violation has occurred, a penalty will be determined.

Penalties

Penalties that may be imposed for ethical violations are set by the AIA's bylaws. The National Ethics Council does not have the authority to require a respondent to pay money. The Council also does not have the authority to require a respondent to take any action or to refrain from any conduct. Penalties are imposed in keeping with the severity of the violation by the respondent in the eyes of the Council.

Unintended or relatively minor matters may result in a nonpublic *admonishment*. More significant violations are made public and are of increasing severity. First is a *censure* of the respondent, which includes publication of a notice describing the violation in an Institute periodical. Next, membership in the Institute may be *suspended* for a period of time, usually one to three years. In more egregious matters, membership is *terminated*. In all instances of violation, the respondent's AIA membership record will reflect the penalty, although the AIA will maintain confidentiality in the matter except for the published notice of violation.

Appeals

Members found in violation of the Code of Ethics may choose to appeal the decision of the Council to the AIA's Executive Committee. In an appeal, both parties are given an opportunity to submit statements to the Executive Committee. The Executive Committee is provided the entire case record for consideration. Except in cases where the penalty is termination, the decision of the Executive Committee is final, and no further appeal is offered. Upon appeal, the Executive Committee may approve the Council's decision and penalty, approve the decision but reduce the penalty, dismiss the complaint, or return the matter to the Council for further proceedings.

Matters resulting in termination are automatically considered as an appeal. In such cases, the Council's decision is first considered by the Executive Committee. In the event that the Executive Committee approves the decision and the penalty of termination, the case is further considered as an appeal by the full AIA Board of Directors. The Board is provided the Council's decision, the parties' statements to the Executive Committee, and the Executive Committee's decision. The Board may concur in the Executive Committee's decision or return the matter for reconsideration.

PRACTICAL CONSIDERATIONS

Although the number of cases pending before the National Ethics Council varies, usually between 20 and 30 complaints are filed each year. Because of the requirement of confidentiality, most of these will never be made known to the public in any fashion. Only in cases where violations are found, accompanied by penalties of censure, suspension, or termination, are the names of the respondents disclosed.

Guidelines for Complaint and Response

Complaints

Regardless of category, the formal complaints will cite one or more Rules of Conduct and briefly describe the circumstances of alleged violation. It is essential that complainants thoroughly and accurately understand the rules chosen for citation and that the argument be clearly stated.

Responses

A member's response to a complaint falls into a few broad categories, regardless of the particulars of the matter. Best are the thoughtful, well-documented responses filed in

a timely way. Unfortunately, some responses are not timely or thorough. Worse are cases where a response is not provided, which can result in a finding of violation. Regardless, the formal response should address each of the Rules of Conduct cited in the complaint and briefly refute the alleged violation. It is equally essential that respondents thoroughly and accurately understand the Rules of Conduct allegedly violated and that their rebuttal argument be clearly stated.

Effective Communications and Proof

The hearing officer's role is to facilitate fact-finding and submission of information by the parties, not as an investigator or judge. The burden of proof of a violation rests exclusively with the complainant. Inappropriate citation of Rules of Conduct, lack of supporting evidence, large amounts of irrelevant information, and presenting self-serving witnesses are unlikely to be persuasive. The same cautions hold true for the respondents, who are well advised to take care to address each of the allegations comprehensively and in correct sequence.

COMMON COMPLAINTS

Attribution of Credit

Because architecture firms market their services based on their portfolios of completed work, it is no surprise that some of the most frequent complaints are filed by architects against other architects over project credit provided or taken. These circumstances may arise out of the dissolution of a firm or the departure of a principal from a firm. Other credit disputes may be prompted by the departure of project staff members from a firm or between firms formerly in joint venture or other collaboration on project work.

ATTRIBUTION: CASE 2004-10

Case 2004-10 involved a complaint by an architect member against two other architect members regarding project credit, citing Rules 4.201, 5.201, and 5.202. The Complainant founded an architecture firm 30 years ago and was chairman of that firm. Respondent A was a former employee of the Complainant of 10 years' duration, departing to become vice president and managing principal of a regional office of the Respondents' architecture firm. Respondent B was a senior vice president of the Respondents' firm. A hearing was held with the Complainant and both Respondents present and participating.

Testimony at the hearing established that, at the time of the move, Respondents' firm hired a marketing consultant to publicize Respondent A's new presence as manager of one of the firm's regional offices. A folded announcement brochure prepared by the marketing consultant was reviewed by both Respondents and subsequently mailed to prospective clients of the Respondents' firm, including some clients of the Complainant's firm. The announcement described Respondent A as "one of this region's leaders in architectural design and project management with over \$200 million in projects and 10 years of award-winning

design and project management experience." The announcement also stated: "Her portfolio includes the acclaimed Office Building, Sports Facility, and College Facility, as well as other award-winning facilities like the Stadium, the University Facility, and the University Hospital." The Complainant learned of the announcement from clients who were confused by the fact that the Complainant firm's projects were being attributed to the Respondents' firm without mention of Complainant's firm.

Initially, the Complainant sought the publication of specific corrections to the announcement by the Respondents' firm but without success. The Complainant then filed a complaint with the National Ethics Council, alleging an absence of credit and improper use of photographs that had been commissioned by the Complainant's firm. At the hearing, the parties offered testimony regarding permission for Respondent A to use materials from her former firm, which had no published policy regarding the use of photographs or other project materials by former employees. It was established that another principal of the Complainant's firm, Respondent A, and the former counsel to the Complainant's firm had met as friends for lunch a few months after Respondent A's

departure. During that conversation, Respondent A's experience at the Complainant's firm was discussed and use of the Complainant's firm's projects by the Respondent's firm as examples of Respondent A's experience was deemed acceptable as long as the Complainant's firm was given credit. The discussion did not include permission to use Complainant's project photographs given to Respondent A, and the type of materials her new firm might want to use was unspecified.

Other evidence submitted at the hearing included promotional materials of the Respondents' firm that incorporated photographs of Complainant's firm projects, including nine of the Complainant's firm projects as examples. While several dozen photographs were used, all of which were commissioned by Complainant's firm, identification of the Complainant's firm was by text under only one photograph of each example. The type font was smaller than that used in the body of the text describing the project and was the sole attribution.

Applying Rule 4.201 ("Members shall not make misleading, deceptive, or false statements or claims about their professional qualifications, experience, or performance, and shall accurately state the scope and nature of their responsibilities in connection with work for which they are claiming credit") and the accompanying commentary ("This rule is meant to prevent Members from claiming or implying credit for work which they did not do, misleading others, and denying other participants in a project their proper share of credit"), the Council concluded that Respondent A violated the rule by making such misleading and deceptive statements in the initial announcement.

Regarding Respondent B, prior decisions of the National Ethics Council have explained that the principals

of a firm may be held accountable under the Code of Ethics for their firm's marketing materials regardless of whether they are directly involved in preparation of the materials. (See *Decision 92-07*; *Decision 94-07*.) In this case, the testimony reflected Respondent B's awareness of the content, review, and approval of the announcement prior to publication. Hence, Respondent B also violated Rule 4.201 by making misleading and deceptive statements.

Regarding Rule 5.201 ("Members shall recognize and respect the professional contributions of their employees, employers, professional colleagues, and business associates"), the Council concluded that Respondent A had both overstated her project influence on certain projects and understated the contributions of the Complainant's firm, creating an impression that the projects were projects of the Respondents' firm. The Council concluded that both Respondent A and Respondent B violated Rule 5.201 by failing to provide appropriate credit to the Complainant's firm for its professional contributions.

Applying Rule 5.202 ("Members leaving a firm shall not, without the permission of their employer or partner, take designs, drawings, data, reports, notes, or other materials relating to the firm's work, whether or not performed by the Member"), the Council determined that testimony did not support Respondent A's claim that she had tacit approval to take and use the Complainant's firm's photographs of that firm's projects and concluded that Respondent A had violated Rule 5.202. Having found a violation by Respondent A of three cited rules, and by Respondent B of two cited rules, these ethical lapses warranted a penalty of censure on both of the members.

Homeowner Complaints

Nowhere is the relationship between architect and client closer than in bespoke residential commissions. Another common type of complaint is filed by homeowner clients, who believe that services provided were in some way inadequate: the scope of the project was unknowingly altered; the overall schedule was hindered; and the project budget was ignored. Often, homeowners are first-time clients, without a depth of knowledge necessary for a good client-professional relationship.

HOMEOWNER COMPLAINTS: CASE 2005-15

Case 2005-15 involved a homeowner who filed a complaint against an architect, citing Rules 2.104 and 3.102. The Complainant, along with his wife, had retained the Respondent architect to design and prepare construction documents

for an addition to their 100-year-old house, which was located in a historic district. An agreement for architectural services was prepared and signed, and the Respondent provided architectural services as a sole proprietor.

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Testimony during the hearing established that the Respondent had encouraged the Complainant to act as his own general contractor, so as to save construction expense. While preparation of signed and sealed drawings for the building permit took five months, the Respondent also suggested the existing kitchen be demolished at the midpoint of this period, resulting in the loss of kitchen use for two years.

The Respondent signed and sealed drawings for the project on two separate dates, although he did not have a valid architectural license for more than six months during the project because of a failure to renew the license. The Respondent proposed that he provide plumbing construction services for the project through a separate construction business that he owned, although he was not a licensed plumber. Finally, the Respondent used the Complainant's personal credit card, with permission, to purchase roofing materials for the project but charged \$1,500 for materials used on another project.

Evidence in the case included a copy of a consent order with the state architectural licensing board wherein the Respondent had previously agreed to accept a reprimand, complete the NCARB Continuing Education Monograph on "Professional Conduct," and pay a \$250 civil penalty. The Respondent had also signed a consent agreement with the state board of plumbing contractors, agreeing not to provide such services without a license.

The essential facts in this case were not in dispute. The Respondent performed various architectural services for the project while he did not have a valid architectural license, including signing and sealing drawings for the project. The Complainant had a right to expect that the architect he retained was licensed and would maintain a current license throughout the duration of the project. The lapse in the Respondent's architectural license created a high degree of risk that the Complainant would be adversely affected. For example, approval of submittals to a building department

that required an architect's seal might be denied or substantially delayed. Therefore the Council concluded that the Respondent's failure to renew his license was in wanton disregard of the Complainant's rights and that the Respondent violated Rule 2.104 ("Members should uphold the law in the conduct of their professional activities"). The Respondent's execution of a consent order with the state architectural licensing board was an admission of fault to that state's relevant governing body and sufficient proof of an ethical violation.

The Council next considered Rule 3.102 ("Members shall undertake to perform professional services only when they, together with those whom they may engage as consultants, are qualified by education, training, or experience in the specific technical areas involved") and its commentary ("This rule is meant to ensure that Members not undertake projects that are beyond their professional capacity. Members venturing into areas that require expertise they do not possess may obtain that expertise by additional education, training, or through the retention of consultants with the necessary expertise").

The Respondent's plumbing construction was also carried out without the required state license. His execution of a consent agreement with the state board of plumbing contractors is admission of fault with that body. The Complainant alleged that the Respondent violated Rule 3.102 due to his lack of valid licenses, as Members must be "qualified by education, training, or experience" to perform the services they provide. The evidence, however, did not prove that the Respondent lacked either education, training, or experience as an architect or plumber. What the Respondent lacked was a valid plumbing license, which was not covered under Rule 3.102. Hence, the Council concluded that the Complainant had not established a violation of this particular rule. Having found a violation, albeit of Rule 2.104 only, the Council determined that this particular ethical lapse was sufficiently serious to warrant a penalty of a three-year suspension of membership.

CONCLUSION

Architects strive to provide exemplary service, while adding beauty and functionality to the built environment. Within and without, each commission brings untold decisions predicated on ethical practice, balancing the competing interests of clients, the public at large, our profession and colleagues, and of the earth itself. The AIA's Code of Ethics and Professional Conduct is that essential document by which all such decisions are benchmarked.

For More Information

AIA Code of Ethics and Bylaws website: <http://www.aia.org/about/ethicsandbylaws/index.htm>.

1.2 Ethics and Architectural Practice

Thomas Fisher, Assoc. AIA

Understanding ethics helps architects deal with the dilemmas faced in the course of practice as well as those that arise in the design and construction of the built environment. This article discusses four ways of considering the ethical issues of practice and offers three case study vignettes with analysis.

FOUR WAYS TO THINK ABOUT ETHICS

Architecture practitioners continually encounter questions such as: what is the right thing to do in a conflicted situation, and how to decide among the divergent values or opinions of people? Ethics helps architects find answers in such questions. While ethics, like any branch of knowledge, has a long and complex history, this essay explores four of the main approaches to thinking about the topic:

- Character-based ethics (Virtue)
- Contract-based ethics (Social Contract)
- Duty-based ethics (Deontology)
- Results-based ethics (Consequentialism)

Character-Based Ethics

Dating back to ancient Greece, this approach to ethics encourages people to focus on the development of a good character or what the ancient Greeks called “virtue.” Virtues such as justice, courage, prudence, and temperance all stress the importance of a person acquiring a sense of balance, persistence, and moderation, which philosophers such as Aristotle thought of as key to living a good life.

Such virtues also lie at the heart of professional practice. Exhibiting fairness when dealing with others, having courage to do the right thing in the face of opposition, using good judgment when encountering new information, and displaying self-control in the midst of multiple pressures can all help architects successfully serve their clients, retain their staffs, and remain well regarded among their colleagues and coworkers.

The medieval period saw a shift toward more empathic virtues such as faith, hope, charity, and love. These, too, have direct applications to architecture practice, whether it means having faith in oneself and one’s talent in competitive situations, giving people hope that they can have a better physical environment, showing charity toward the aspirations of clients or needs of users, or loving the act of designing itself.

Modern virtues like honesty, respect, tolerance, and trust also underpin the effective operation of commercial society. Following through on what one promised, recognizing the value that comes from a diversity of perspectives, accommodating viewpoints or ideas different from one’s own, and having confidence that others will also do what they have committed to all enable a practice, a profession, and a community to operate effectively.

Contract-Based Ethics

If the virtues involve the development of a good character, a contractual approach to ethics focuses more on the creation of a good society. Under a “social contract,” morality consists of a set of rules governing behavior, which rational people would accept on

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the condition that others accept it as well. People tend to follow the rules because, on the whole, they are to their advantage, while breaking the rules undermines that useful system. Differing historic views of what constitutes a good life and a good social contract derive from two diametrically opposed ideas about the earliest human settlements. The seventeenth-century philosopher Thomas Hobbes saw human nature as somewhat wild and early human life as “nasty, brutish, and short,” and argued that people should give up some of their personal freedom in exchange for the authority of a strong government able to keep the peace and enable people to lead longer and happier lives.

In contrast, the eighteenth-century thinker Jean-Jacques Rousseau saw early life in “the state of nature” as one of blissful harmony and independence, ruined only when people started to claim property as their own. Rousseau saw the possessiveness surrounding property as a corrupting influence and argued that the best societies enabled people to live as close as possible to the original state of nature, with the least interference from outside authority.

Modern social-contract philosophers, such as John Rawls, take a more nuanced view of what a good society comprises. Rawls argued that people should imagine “a veil of ignorance” behind which they cannot predict their own individual futures or fortunes in life. Using this thought experiment, he said, a good society would distribute resources so that everyone would benefit fairly and without prejudice.

These different views of the social contract have clear parallels in architecture. Hobbes foretells the generations of architects who have reacted to urban decay with new visions of urban order, while Rousseau presages the rise of suburbanization and the modern desire to live close to nature. Meanwhile Rawls gives justification to laws such as the Americans with Disabilities Act and strategies such as universal design.

Duty-Based Ethics

All professions have a duty to those whom they serve. In the case of architects, that duty extends not only to the needs and wishes of clients but also to the present and future users of buildings as well as to past generations (via preservation), to other species (via sustainability), and even to underserved populations (via public interest design). What distinguishes professions from ordinary businesses is the obligation, embedded in professional licensure, of using disinterested judgment to do the right thing, regardless of the biases of particular interest groups. In duty-based ethics, one’s own actions must be ethical regardless of the consequences, and the ends do not justify the means.

This approach to ethics is most closely associated with the eighteenth-century philosopher Immanuel Kant who argued for a set of what he called “categorical imperatives” to guide a person’s decisions when faced with common ethical dilemmas. The first of these imperatives would have everyone treat others as ends in themselves, and not as a means to an end. This is a variation of the biblical appeal to “do unto others as you would have them do unto you.” This imperative helps practitioners remember to treat clients, users, and society with respect and dignity.

A second categorical imperative entreats people to judge every action as if it were to become universal. In architecture, this idea relates most closely to attempts by practitioners and scholars to develop architectural theories: principles derived from particular buildings that should apply to all buildings. While some theories may have universal relevance, most do not: Think of the pretensions of “International Style” architecture and how ill-suited it was to many cultures and climates.

A possible caveat related to duty-based ethics has to do with the importance of having good intentions and acting accordingly, regardless of the results. Kant’s dismissal of consequences brings to mind Colin Rowe’s observation that modernism was an “architecture of good intentions,” whose practitioners seemed too willing to overlook its negative impact. Architecture education, too, has had a strong focus on design intentions, with relatively little attention paid to design results, as would be learned from postoccupancy evaluations of buildings.

Results-Based Ethics

In part as a reaction to duty-based ethics, results-based ethics—consequentialism—arose in the nineteenth century, arguing that we determine the goodness of an action by looking at its consequences. In consequentialism, the ends justify the means. Architecture, of course, has always had functional utility at its core: Buildings have to meet occupants’ needs, protect people from the elements, and stand up against the forces pulling or pushing a structure. And buildings make the consequence of ignoring such things quickly evident: They fail, leak, or fall down.

Utilitarianism, one example of consequentialism, is a theory that values whatever brings the greatest happiness to the greatest number. For the nineteenth-century thinker Jeremy Bentham, that involved a simple calculation: Whatever maximized the most good for the most people was, by definition, the right course of action. But that quantitative approach also brought problems. Providing everyone the same minimum shelter would maximize happiness for the greatest number, but would it result in a good built environment? Bentham’s follower John Stuart Mill argued instead that qualitative consequences have more value than quantitative ones: that the quality of the built environment, for example, matters more than the quantity that each person has.

For pragmatists like William James and John Dewey, what matters is not maximizing happiness, but looking at the results of our actions to discover what works best in a given situation. James argued that something is good if it is useful and corresponds to how things actually are. Dewey thought, instead, that experimentation is needed in order to find the good, repeatedly trying things and learning from the results. A recent variation of this results-based ethic has a strong environmental component. Philosopher Peter Singer has argued that we cannot limit thinking about consequences to human beings, but instead need to include all “sentient” beings—all of the animals who, like us, can feel pleasure or pain. This presents a major challenge to architecture, which consistently degrades the habitat of other animals in the process of creating habitat for human beings. Were architects to consider the impact on all sentient beings, buildings would likely be much more energy conserving, environmentally friendly, and ecologically diverse than most are now.

Summary

TABLE 1.1 Four Approaches to Ethical Issues in Practice

	Being Good	Doing Good
As Individuals	Character-based ethics Fairness, courage, moderation, good judgment Faith, hope, charity, love Honesty, respect, tolerance, trust	Duty-based ethics Treat others as ends, not means Act as if it were to become universal Act with good intentions, regardless of consequences
As a Group	Contract-based ethics The good lies in social harmony and security The good comes from living close to nature The good comes from helping the least advantaged	Results-based ethics Do the greatest good for the greatest number Do what seems most useful and true Maximize benefits to all sentient beings

CASE STUDY VIGNETTES

These four approaches to ethics (see Table 1.1) offer different ways of resolving the ethical dilemmas faced during the course of practice. The following case studies, all adapted from real situations, show how ethics can help professionals sort through and evaluate alternative decisions and actions.

1. Conflict Between Personal and Employer Values

An architect worked, during the day, designing big-box stores. During her free time, though, she volunteered for nonprofit groups helping the poor, some of whom had been displaced by the same big-box stores she had designed. While big-box stores provide a public good in the sense of making low-cost products available to more people, such developments sometimes disrupt existing neighborhoods and environments in ways that can bring harm. This architect considered quitting her job because of its conflict with her values, but she also needed the income and had few other employment alternatives.

Analysis

In her sense of responsibility for the well-being of people negatively affected by the work of her employer, this architect exemplifies such virtues as a sense of fairness, an instinct for charity, and a deep respect for others. However, the decision to stay in her job or leave it depends upon other virtues, like the courage to act even if it runs counter to her financial best interest or the honesty to tell her employer of her misgivings even if it means her dismissal.

Situations like this also show how complicated questions of duty can become. This architect has a duty to her employer, but does that trump her feeling of duty to those negatively affected by the employer's buildings? Design as a way of thinking can help when confronted by such divided loyalties, since it can often find win-win solutions to seemingly unresolvable dilemmas, whether in a building or in life. As a way to honor duty to the community and to her employer, this architect might do better staying with the company and trying to change its practices rather than leaving and relinquishing that possibility.

From a social-contract perspective, the dilemma has to do with a paradox of capitalism. Her employer has an obligation to generate the greatest return to its shareholders and to attract customers to its products and services. But in a case like this, a company cannot maximize its returns while damaging its reputation in the community in which it wants to do business. The idea of ensuring that the least fortunate benefit from every action applies here. If this company put more emphasis on how its actions affect the community, and worked more on improving community relations and less on maximizing profit, it would likely make more money. There is a reason why the terms *ethics* and *economics* both have their origin in ancient words having to do with stewardship and care.

The company could argue that, from a strictly consequentialist perspective, the benefits of a big-box store to a community—directly through its goods and services and indirectly through its taxes—outweigh the displacement of a much smaller number of homeowners and the qualitative deficiencies of big-box stores. Making less-expensive goods available to less-affluent people can improve the quality of their lives economically, but does that have to come at the expense of the quality of their physical environment?

The architect, in this case, decided to talk to her employer about her volunteer work and her misgivings about the impact of the company's big-box stores on lower-income communities. And to her surprise, her employer asked her to move into a community-relations position in which she could work with neighborhoods prior to the development of the company's urban stores, in order to mitigate their negative effects. That response showed an understanding within the company that it is often beneficial to proffer in good as well as in goods.

2. Clash of Ethics and Aesthetics

A client came to an architect wanting his firm to design a building that would put it on the covers of magazines and get the publicity presumably needed to market the facility. The architect obliged and created a structure so striking that it achieved the coverage the client wanted, but at a price. The structure proved so difficult to occupy and unpleasant to be in that the client still had a hard time attracting tenants, and the design represented such an extreme that it triggered

a broader conversation in the profession about the absurdity of such work, ultimately leading to less coverage of the architect's work thereafter.

Analysis

From the point of view of duty ethics, this situation seems perfectly justifiable. Architects have an obligation to meet the clients' needs and help them achieve their goals, and so, in that sense, the architect here did the right thing as a professional. While architects also have a duty to the general public and to protect people's health, safety, and welfare, that does not preclude the architect from helping a client get as much publicity as possible for a project, including getting it featured on the covers of magazines. The client, too, conceivably has a duty to get the greatest return on the investment in a building, and getting a lot of press for the project can be an effective way of doing that, attracting potential tenants without having to do as much marketing.

Other ethical approaches, however, help shed some light on why the project's reception did not turn out as either the client or architect expected. Consider the character of the client in this situation. His placing publicity above all else suggested that the building was as much about his desire for attention as it was about attracting tenants. And the architect's accommodation of the client's immoderate ambitions casts doubts on the character of this design practitioner as well. Architects may have a duty to meet clients' needs, but professionals also have a duty to advise clients about potentially unwise actions.

From a social-contract perspective, the self-importance of this project also raises ethical questions. Buildings represent creative responses to the needs of people, organizations, and communities, but at the same time, architecture also has an obligation to meet at least some of the expectations of the societies and cultures in which it stands. Moving too fast and too far away from those expectations can backfire, as happened here, when the building, having received the press coverage that the client had wanted, still could not attract tenants.

In terms of functional utility, this project hardly met that measure, either. While its design obviously held some value for the client and architect, both of whom had the freedom to largely do what they wanted, the structure lacked even the most basic utility, given the number of people who found it too hard to inhabit. By ignoring certain important consequences of their actions, in favor of pursuing publicity, both architect and client undermined their original goal of attracting tenants. In addition, the building's pragmatic flaws did not end with the structure itself; its sheer extremism cast a pall over the architect's career.

3. Difference Between Employer Obligation and Employee Needs

An intern in an office wanted to go through the Intern Development Program (IDP) required of him in order to sit for his licensing exam. The principal of the firm in which he worked, however, could not be bothered by the requirements of IDP and did not give his intern the variety of experiences in the office that IDP expected. The intern complained to the national organization that oversees the program, but its representatives told him that there was nothing they could do to force this architect to participate and, despite the poor economy and few employment options, they told him that he could always look for work in another firm.

Analysis

Being an architect involves not just the acquiring of the skills required to design and detail buildings, but also the joining of a community of professionals. Professional communities are not without their tensions. Architecture firms, for example, often have to compete against each other for commissions even as they cooperate with each other on matters affecting the profession as a whole. And, as happens in every community, practitioners have different levels of involvement in the profession; some get very engaged and even seek leadership positions in the various professional organizations in the field, while others pursue their practice and never attend a single meeting or

► Intern Development Program (3.2) discusses the IDP in further detail.

contribute to any committee. Professional obligations range, in other words, from the mandatory—taking the licensing exam, for instance—to the voluntary, such as joining the American Institute of Architects.

That personal preference becomes an ethical issue when it affects others, as in the case here, where an architect did not see his oversight of an employee's progress through the Intern Development Program (IDP) as part of his professional obligation. The IDP arose in the 1970s to address this very problem. Because so many firms in the past did not attend to the needs of interns for diverse experiences in order to become well-rounded professionals, the National Council of Architectural Registration Boards (NCARB) made the IDP a requirement for an intern to sit for the architect registration examination (ARE). The profession saw this as being in the best interest of the entire field and, in utilitarian terms, as doing the greatest good for the greatest number of those who aspire to become architects.

The IDP, however, puts the responsibility on the interns and has little force in requiring practitioners to participate in it. Most practitioners do support interns' IDP efforts because it has become an expected part of being an architect in the United States, part of the "social contract" that an older generation has to the younger generation of professionals. Most architects also see this as part of their duty to their staff and perhaps, self-interestedly, as a way of attracting and keeping interns who want to become architects themselves. From almost every ethical position and from the perspective of an employer as well as an employee, participation in the IDP makes sense. Virtue ethics may shed some light on that question. A character-based approach to ethics emphasizes personal responsibility, and while that has many benefits in terms of helping people lead better lives, it also tends to see a community as a set of autonomous individuals. In cases like this one, an emphasis on individualism allows practitioners to opt out of their community responsibilities, with little or no leverage to force them to do otherwise. However, as of 2012, the AIA National Ethics Council has adopted a rule that makes supporting the professional development of interns an ethical obligation of AIA members.

WHAT'S NEXT FOR ETHICS AND PRACTICE?

Architecture has taken an "ethical turn" in recent decades, reflecting a renewed emphasis on ethics in other fields like medicine and law and a reinvigorated interest within the profession in issues like sustainability and social justice. Ethics has become a required part of an accredited architecture curriculum and a topic covered with greater frequency in the profession's annual meetings and academic conferences.

At the same time, ethics has highlighted areas in which the profession needs to pay more attention:

- Architects generally have good intentions, but rarely give enough time and attention to postoccupancy evaluations of the consequences of what they do.
- Architects often seek to create the greatest good for the greatest number, but have largely overlooked the needs of the world's poor and the habitat of other creatures.
- Architects frequently respond well to the contexts in which they work, but have a much worse record when it comes to giving awards to buildings that represent a-contextual extremism.

The work of architects has such an enormous effect on large numbers of people and other species that the profession cannot avoid the ethical consequences of its actions. This will continue to make ethics a relevant issue for architects in the twenty-first century as the scope of professional activity expands to include responsibility for global populations and global climate disruption, and to address the resources, systems, and infrastructures that are all part of the built environment. This ethical turn may even lead to a redefinition of what it means to be an architect, attending to the health, safety, and welfare not just of clients and building users but also of other sentient beings, future generations, and diverse ecosystems, ultimately for the good of all.

For More Information

AIA Code of Ethics and Professional Conduct: www.aia.org/about/ethicsandbylaws.

Ethics for Architects: Fifty Dilemmas of Professional Practice (Princeton Architectural Press, 2010) by Thomas Fisher.

Architecture Design and Ethics: Tools for Survival (The Architectural Press, 2008) by Thomas Fisher.

The Ethical Architect: The Dilemma of Contemporary Practice (Princeton Architectural Press, 2001) by Thomas Spector.

Ethics and the Practice of Architecture (Wiley, 2000) by Barry Wasserman, Patrick Sullivan, and Gregory Palermo.

1.3 Design Beyond Ethics

Victoria Beach, AIA

As with safe food, many actors contribute to the ethical project of safe shelter: inspectors, engineers, and more. Rather than compete with them, architects, like chefs, should seek their niche with aesthetics—not in the narrow sense of beauty but in the broad sense of understanding and shaping how humans interact with their surroundings.

INTRODUCTION: THE CHEF ARCHITECT

Expecting an architect to design a safe structure is like expecting a chef to cook a safe meal: It is at once a high ethical requirement and a very low expectation.

Food and shelter, the raw materials that chefs and architects work with, are absolutely essential to human survival. Because of this, their quality (or lack thereof) rises to an ethical concern that society takes seriously, creating a great umbrella involving testing, codes, inspectors, and the like to protect the public from getting sick or injured. Obviously, anyone involved with things that can save or threaten lives is ethically mandated to uphold these protections. This mandate forms a foundation for professional ethics.

American architects became subject to professional ethics fairly recently, when they formed a regulated profession in the twentieth century. A well-defined branch of applied moral philosophy, professional ethics pertains to all professionals, including doctors, lawyers, and engineers.

But just as with chefs, the core, defining work of architects—the work that differentiates them from all the other contributors to the safety of the built environment—goes beyond ethics and into aesthetics. And just as there are many sources for a safe snack, many kinds of people (and even computers) can make a building firm, but it takes an architect to make one commodious and delightful.

Currently the legal authority of architects rests with their licensure and their parallel commitment to professional ethics. But what if the raw, primal power of aesthetics could trump that of ethics? If so, aesthetics may be the key to unlocking the real authority of architects, and therefore of architecture, to shape society.

We all experience architecture before we have even heard the word.

—Peter Zumthor, Architect

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Aesthetics is the mother of ethics.

Joseph Brodsky, 1987 Nobel
Laureate

AESTHETICS

“Aesthetics” is not what it used to be: the term has undergone some renovations. Around the mid-nineteenth century, the word became most closely associated with ideas of beauty or taste. But this recent definition constitutes a detour away from its more enduring and ancient foundations in basic notions of perception—with etymological connotations of sensing as well as understanding:

Greek: *aesthetikos*—pertaining to sense perception, from *aistheta*, perceptible things, from *aisthenasthai* / *aisthesis*, to perceive. Latin: *percipere*, to seize wholly, to see all the way through; *per*, thoroughly + *capere*, to seize.

The philosopher Immanuel Kant saw the detour coming and railed against a corruption of this word that would rob our language of a useful conceptual tool:

At the foundation of this term lies the disappointed hope...of subjecting the criticism of the beautiful to principles of reason, and so of elevating its rules into a science.... It is advisable to give up the use of the term as designating the critique of taste, and to apply it solely to that doctrine, which is true science—the science of the laws of sensibility—and thus come nearer to the language and the sense of the ancients.

The trendy definition may have had its run, but the concept of “sensory knowledge” is too helpful to architecture’s current predicament to keep it buried. It’s time to reconnect the modern definition to the timeless one.

Under its timeless definition, aesthetics is a most capacious term—encompassing the perception of all material things by all living senses: the earthy warmth of fresh milk and the repulsive acridness when it spoils. An aesthetic experience, then, is simply a perceptible one, just as a medical anesthetic renders us unable to perceive. To study or to master such a fundamentally human kind of knowledge is to connect to the essence of life in a way that ethics never can.

Nobel Laureate in Literature Joseph Brodsky remarks, “The tender babe who cries and rejects the stranger...does so instinctively, making an aesthetic choice, not a moral one.” In other words, aesthetic knowledge comes first, long before moral knowledge.

An aesthetic instinct develops in man rather rapidly, for, even without fully realizing who he is and what he actually requires, a person instinctively knows what he doesn’t like and what doesn’t suit him. In an anthropological respect, let me reiterate, a human being is an aesthetic creature before he is an ethical one.

Aesthetics describes the first contact with reality, whether at the beginning of each day or at the beginning of life itself. Morality, in contrast, evolves as part of the culture utilizing it.

ETHICS AND MORALITY

Under their largely uncontested definitions, ethics and morality are fairly circumscribed terms—dealing with the shared values and duties developed by and describing a particular group of people, and etymologically connoting customs, manners, or habits:

Latin: *ethicus*, Greek: *ethikos*—ethos, character; (pl.) manners.

Latin: *moralis*, concerned with ethics, moral; *mor-*, *mos*, custom; (pl.) *mores*, habits, morals. Classical Latin *moralis* was formed by Cicero (*De Fato* ii. i) as a rendering of ancient Greek *ethikos* (*mores* being the accepted Latin equivalent of *ethe*).

Whether a person’s action is right or wrong, therefore, highly depends on what the ethos of that person’s group requires. For example, it would be quite wrong for members of a local street gang to try to cut a person open with sharp knives, unless, of course, those same folks were the nurses and doctors on a surgical team. The societal group called doctors is defined by its devotion to medical ethics and the ethical goal of health; the street gang has other goals.

Doctors, as we know, form a self-selected subset of a larger group called professionals. People who devote themselves to professional ethical duties (shorthand: “pro” ethics) are, by definition, professionals. But professionals are also a self-selected subcategory of a larger social group of ordinary citizens with their own set of ordinary ethics (shorthand: “joe” ethics), things like being honest, kind, or fair. Even membership in this subgroup is elective, though. Folks who eschew these neighborly values, sticking to the bare legal minimums for behavior (shorthand: “schmoe” ethics) belong to an even larger group best defined, perhaps, as the unimprisoned.

With all this talk of ethical options, it is interesting to note that deciding between being a pro, joe, or schmoe, or a member of any other identifying group actually requires an aesthetic choice. People choose to pursue the kind of life that appeals to them, the one that follows their aesthetic vision for themselves; nobody *must* grow up to be a doctor, after all. Only once that meta-choice is made must future ethical choices follow the value system of the group in order to ensure that the life pursued will actually be led.

“Aesthetics is the mother of ethics,” according to Brodsky, which of course makes ethics the offspring of aesthetics. Aesthetics deals with physical truths while ethics deals with social constructs dependent upon them. Sense follows sensibility. As architect Peter Zumthor states, “We all experience architecture before we have even heard the word.” If so, then aesthetics provides the foundation to ethics, not the reverse.

PROFESSIONAL ETHICS

Though professional ethics may not fully describe the ultimate aesthetic obligations of architects, it’s worth sorting through the complex web of obligations it does describe. All licensed professions share at least four common characteristics. They apply (i) technical knowledge, nurtured by (ii) collegial organizations, to advance (iii) ethical public values, through (iv) client service. Each one of these four brings with it its own universe of moral duties to perform or moral virtues to cultivate.

An ethical public value (iii) provides the primary defining justification for establishing a regulated profession. This goal, such as safety for engineers, health for doctors, or justice for lawyers must be so crucial to humanity’s survival that it rises to the high level of an ethical value. And it follows that the highest ethical priority professionals have is to serve the public, above serving their discipline, colleagues, or even clients. The sociologist Talcott Parsons put it well in discussing lawyers:

[Their] function in relation to clients is by no means only to “give them what they want” but often to resist their pressures and get them to realize...what the law will permit them to do. In this sense, then, the lawyer stands as a kind of buffer between the illegitimate desires of clients and the social interest. Here he “represents” the law rather than the client.

And the public is not limited to the paying public. Medicine and law, in fact, require pro bono services to those who cannot pay, because to deny someone access to a hospital or a fair trial would be to deny someone a fundamental human right. Obviously, it requires the exercise of certain human virtues to maintain this principled stance: philanthropism, humanitas, Samaritanism, and transcendency, to name a few.

Client service (iv) is one of the four cornerstones of a profession because professionals achieve their general moral goals iteratively and incrementally, through many specific client cases. Theirs is an applied science: neither basic laboratory research nor overarching political policy. This endows the relationship between professionals and clients with the utmost societal importance and with crucial ethical dimensions. Furthermore, due to the imbalance of technical knowledge in the relationship, the situation is ripe for exploitation and must be counterbalanced. Professionals, therefore, must cherish this special relationship and must always prefer their clients’ interests above their own. In doing so, they may call on such moral virtues as selflessness, trustworthiness, fidelity, and discretion.

It may seem strange to have ethical obligations toward a nonhuman abstraction. But professionals must respect technical knowledge (i) just as they might look after an important tool, like a sharp knife. If the tools do not perform, neither can the professionals using them perform their obligatory societal role. In fact, states cede power to professions to self-govern because neither the state nor any other entity is more expert than the professionals themselves to evaluate their own standards. So, a profession that does not maintain high technical standards can simply decline until it disappears or until it becomes regulated by outsiders, as occurred with accountants in the wake of the Enron scandals. In a rapidly evolving global culture, everyone must continually expand the boundaries of their knowledge even to stay current—a minimum standard for professionals. Just to stay ahead of lay knowledge can, therefore, be a Herculean task, requiring access to virtues such as inquisitiveness, disinterestedness, rigor, and diligence.

Stranger still, perhaps, are ethical obligations toward the self, which may initially appear selfish, a decidedly unvirtuous quality. But if the ethical goals of a profession are to thrive, so must the profession itself. A profession is therefore ethically obliged to ensure its own survival. In a strong collegial organization (ii), each member contributes to the unified voice of the profession's ethos and must be respected and nurtured. This is especially true for those who are most vulnerable: the aspiring professionals who quite literally represent the future of any profession. This self-referential focus performs another important function in upholding professional ethics. For example, the unanimity with which doctors in California adhered to their own ethical code led to the indefinite postponement, in 2006, of the practice of lethal injection. If a single doctor had broken this collegial bond, the profession would have remained ineffectual on this matter. To come together, sometimes against corrosive exterior forces, may involve ethical virtues such as empathy, nurturing, kinship, and protectiveness.

ETHICS OF AESTHETICS

Though complicated and with competing duties that often seem impossible to balance, professional ethics is not particularly controversial; there is widespread agreement on the specifics of its four cornerstones and on the general notion that professions entail ethics in the first place. In contrast, there is very little agreement on the general question of whether aesthetics entails ethics or on the specifics of how that might work.

And since architecture derives its identity through the artistic treatment of the medium of shelter, it is worth exploring whether this component of the work involves ethics. Over the millennia, many philosophers have investigated the moral purpose of art in search of an ethical justification for all the aesthetic activities (visual, musical, culinary) that humans just cannot seem to resist. Here is a brief sampling of the mixed results.

Human beings require an expressive outlet, goes one argument. As sports provide physical release for our animal energies, without the emotive outlet of the arts, our species descends into instability. This theory seeks moral authority for the arts based on its role in maintaining a civilized society, but many, including Plato himself, take issue with whether self-indulgent expression rechannels or actually cultivates depravity.

Many argue that art's moral purpose is to edify. Art improves us, they claim, makes us more morally virtuous—often through the empathy we feel with artists or their subjects. But counterclaims point out that interpretations of artistic works vary uncontrollably from person to person. In fact, lessons that are intentionally planned and obvious to anyone verge on the pedantic or the doctrinaire—hardly the province of art.

The Mithraditic approach to art's moral purpose may be among the most creative. King Mithradates VI ruled Pontus (modern-day Turkey) in the first century BC and took small doses of poison starting in childhood so that he could not be secretly poisoned by his enemies. Art, by analogy, provides life experience by proxy—protecting us, in small, harmless doses, from the otherwise overwhelming dimensions of life. This might provide a moral justification for art, though it does not take into account life's unusual twists and turns. In fact, the king's plan hit a major snag when, under threat of

capture by Rome, he could not commit suicide by the usual, more gentle means of poison and had to command his servant to stab him to death.

Problems seem inherent to every known attempt to justify art in moral terms. Some maintain, therefore, that it is the very resistance to, or transcendence of, morality that defines the artistic endeavor. In other words, they see art as a meta-ethical thing: beyond or outside ethical consideration, ethically inert like a potato or a pebble.

This would imply that art can be neither moral nor immoral. It can neither uphold nor subvert any particular morality. Under this theory art is amoral: simply nonmoral. This is the theory that Henry Cobb, the world-renowned architect and regrettably less-renowned ethicist, espoused in a 1995 essay:

How do principles of human duty relate or apply to works of art? We can go a long way toward answering this question by referring to an aphorism of the poet-philosopher Paul Valéry, who wrote: “We recognize a work of art by the fact that no idea it inspires in us, no mode of behavior it suggests we adopt, could exhaust or dispose of it.” This statement seems to me precisely correct. And though its eloquence be sacrificed, I think its meaning is not lost when we rephrase it as follows: a work of art always transcends those principles of human duty which it may embody or to which it refer. Thus the work of art is alone among human productions in being privileged, indeed obligated, to escape the rule of human duty. Hence we can say that the only absolute duty imposed on a work of art is that of being undutiful.

The duty to have no duty, though a contradiction of logic, is an evocative description of the amorality of art and could certainly apply to the aesthetic aspect of what architects do.

ETHICS OF ARCHITECTURAL AESTHETICS

Though most moral philosophers investigate aesthetics through the general category of the fine arts, occasionally someone tackles the particular aesthetic case of architecture head-on. In a 2000 essay, philosopher and planner Nigel Taylor explores a few possibilities for understanding the aesthetic content of buildings through ethical means. He takes on three familiar historical arguments that ascribed moral imperatives to design choices: arguments for “honesty,” for a certain superior style, and for following the “spirit of the age.” He finds each one lacking ethical force.

Modernists and Gothicists alike argued for aesthetic honesty, for revealing structure, for being true to materials, and so on. But Taylor finds that this theory’s own proponents espoused so many exceptions to their ethos that it falls apart into incoherence. Moreover, he points out, sometimes we prefer the aesthetic deceit, the elaborate ceiling shape that accommodates the old ductwork, such that ethical honesty would actually be the lesser choice.

Proponents of architectural styles often assert their moral superiority. For the Gothicists, the argument was both religious and moral, an ethical responsibility to mimic the glory of Nature. The evocation of Mother Nature was meant to add finality to the discussion. Taylor sees, however, that even the original choice to elevate nature is actually not a moral one as claimed but an aesthetic one, a fact that he says becomes clear as soon as anyone forms a similar attraction to a straight line or right angle.

The spirit of the age or *Zeitgeist* argument, favored by Modernists, disintegrates as well, according to Taylor. He questions the premise that we can ever successfully identify a distinctive technology or culture that characterizes a particular historical period. Then he questions the conclusion that we should necessarily design to express that distinctive technology or culture should we find it. If, for example, in our rapidly changing multicultural world, Nazi culture were somehow to become completely pervasive, it should obviously be resisted, he explains.

Taylor thus obliterates many of the best architects’ attempts to bring ethics into their aesthetic choices. He also points out that buildings themselves are ultimately amoral, ethically inert artifacts, and that only people can be said to be moral or immoral.

We may find, for example, that an ancient Greek temple seems morally depraved if we discover that it hosted human sacrifice, but that would be misdirecting the blame from the people to the place, and probably would not prevent us from finding it aesthetically excellent anyway.

AESTHETIC ATTENTIVENESS

Though buildings may not embody the ethical principles of their creators or occupants, Taylor concludes that we can still detect something significant in these built artifacts: thoughtful design work, or what he calls “aesthetic attentiveness.” He asks us to

Imagine a building, which we find aesthetically displeasing, and where this displeasure arises in large part because all kinds of features and details in the building appear to have been thrown together carelessly, without any thought or sensitivity. Imagine, too, that part of our displeasure arises because the building as a whole appears as if it has just been “plonked” down on its site without any apparent consideration of how it fits on the site or relates to its surroundings. Such a building might literally offend us aesthetically, but, more than that, part of our offence might be ethical. Thus we might reasonably be angered or outraged, not just by the look of the thing, but also by the visible evidence that the person who designed it didn’t show sufficient care about the aesthetic impact of his building. And this moral objection would be supported by the fact that buildings, unlike (say) paintings or books, are things we are compelled to look at, for architecture (unlike painting and literature) is necessarily a public art. Consequently, any lack of care given to the design of a building is also, in effect, a lack of care shown to the public.

Architecture serves, then, as a fossil of sorts, preserving in stone, wood, and steel, if not ethics generally, at least a work ethic. The designer’s work ethic, Taylor implies, must take into account how the dimensions of architecture cut across so many scales of aesthetic human experience: affecting our individual senses at the personal scale of the detail as well as our social senses at the public scale of the city.

John Ruskin also seems to have wished that design at least demonstrate some effort:

[T]here is not a building that I know of, lately raised, wherein it is not sufficiently evident that neither the architect nor builder has done his best.... Ours has constantly the look of money’s worth, of a stopping short wherever and whenever we can, of a lazy compliance with low conditions....

And so does Peter Zumthor offer a similar complaint about how little is required of his design efforts and a belief that he must transcend those low demands:

Our clients are of the opinion that the careful way in which we treat our materials, the way we develop the joints and transitions from one element of the building to the other, and the precision of detail to which we aspire are all too elaborate. They want us to use more common components and constructions, they do not want us to make such high demands on the craftsmen and technicians who are collaborating with us: they want us to build more cheaply.... When I think of the air of quality that the building could eventually emanate on its appointed site in five years or five decades, when I consider that to the people who will encounter it, the only thing that will count is what they see, that which was finally constructed, I do not find it so hard to put up a resistance to our clients’ wishes.

Moreover, according to Leon Batista Alberti, when architects put aesthetics first, it ensures the longevity and influence of their structures long after the designing is done:

Thus I might be so bold as to state: No other means is as effective in protecting a work from damage and human injury as is dignity and grace of form. All care, all diligence, all financial consideration must be directed to ensuring that what is built is useful, commodious, yes—but also embellished and wholly graceful, so that anyone seeing it would not feel that the expense might have been invested better elsewhere.

Yet all these pleas for aesthetic excellence in the art of architecture in no way diminish ethical responsibilities to the underlying science of safe shelter. Confusing the two, however, has presented obstacles to the practice of architecture.

ART VS. SCIENCE IN ARCHITECTURE

Good building involves engineering and therefore relies on the science of physics, just as law relies on logic and medicine relies on biology. But the art of building, like the art of cuisine, brings so much more to the table than science that it is not quite parallel to those engineering, legal, and medical counterparts. Since modern professions are scientifically based, the professionalization of architecture does not fully encompass or describe the practice of architecture.

Not so long ago, many of the finest minds in architecture made this argument in an attempt to actually prevent architecture from becoming a regulated profession. During the late nineteenth century, a group of prominent British architects led by Richard Norman Shaw fought desperately against professional regulation, predicting that it would “kill” architecture. They observed that because the science of shelter is different from the art of architecture, the former can therefore be regulated and the latter cannot.

The Brits never disputed that the scientific aspects of building (sanitation, safety, durability) could be professionalized, because those things can be taught, tested, and objectively evaluated. They believed that building inspectors, engineers, and codes (increasingly, we can include software) do and should take charge of these technical issues.

But regulation of architecture as a whole, they claimed, would imply that its subjective, artistic aspects are as objective as its scientific aspects. Licensure would confuse and deceive an unwitting public, a lay public, into equating licensed “architects” with legitimate architects. The result, they predicted, would be an inadvertent degradation of the built environment.

In the hundred years that followed, of course, the opposite view seems to have prevailed. At its founding in 1857, the American Institute of Architects, just like their British colleagues, did recognize and promote a distinct field they called “architectural science.” Moreover, the language of state regulations falls (as it must) squarely in the sciences, relying on the “health, safety, and welfare” justification for protecting monopoly privileges to practice. However, when their campaign for professional regulation began, somehow that important semantic clarification got lost, and it is “architecture” generally, rather than “architectural science” specifically, that states now regulate. The first American state to regulate architecture was Illinois in 1897; the last states were quite recent—Vermont and Wyoming in 1951—well within the lifetimes of many current practitioners.

This long-fought regulatory victory has coincided with some mixed trends. The science of building has advanced. Net zero-energy facilities, the Burj Dubai, and better protection than ever from natural disasters testify to remarkable innovations. Yet the art of building has retreated, in the sense that since architectural regulation the built environment has not seen a corresponding aesthetic improvement—quite the contrary, perhaps. The fact that clients are hiring “architects” and not always getting architecture out of them could indeed, as the Brits predicted, point to some confusion about what architects add to a project beyond safe construction.

CONCLUSION: THE CHEF ARCHITECT

In contrast, there does not seem to be much confusion about the role of chefs in society. Nobody chooses a restaurant, or even just a recipe, based on whether the meal will be safe. Fortunately, in modern societies, science and ethics make food safety virtually a given. This allows chefs to move beyond the science, beyond the merely ethical and the merely edible, and on to the aesthetically engaging.

Similarly, no chef would try to attract diners by drawing attention to the safety of their meals. Even though the issue is crucial—life and death—to dwell on it is to highlight the danger and not the joy: to court business with fear rather than with aromas from the kitchen. Scaring customers about the hazards of cuisine also runs the risk of scaring off customers altogether, sending them scrambling for their own kitchens and backyard vegetable gardens.

A fear-based approach also runs the risk of perpetuating a lie about what chefs do. If diners thought that all chefs do is help prevent food poisoning, why would customers value or pay for their other talents? While government regulators have an ethical obligation to make sure that chefs produce cuisine as safe as a Twinkie, if chefs had to deliver cuisine for the same price as a Twinkie, they just might start to feel overworked and undervalued. And legally forcing the public into hiring a chef, when all they need is a factory-sealed pastry, is surely a recipe for dissatisfaction.

However, with safety issues ethically handled back in the pantry, chefs are liberated to unleash their creativity out in the kitchen. They celebrate the aesthetic essence of what they do, the exploration of all the senses that are involved with eating. At their best, they study and understand what we humans can perceive with our taste buds, and they use that knowledge to help us experience an enhanced existence, so that when we sit down at the table, the food that we need to sustain our bodies does that plus much more: It helps us live our lives better than we knew we could.

As with safe food, there are many actors that contribute to the ethical project of building safe shelter: building officials, licensing agencies, examiners, materials testers, engineers, contractors, lawyers, and the like. Rather than argue that architects have something unusually valuable to contribute in this arena, architects, like chefs, should seek their niche with aesthetics—in the timeless sense not merely of beauty but also of profoundly understanding how humans interact with their surroundings. Ironically it is in this completely ungovernable, amoral arena of pure design, where nobody else is legally kept out, that they should find almost no competition for what they do best. Aesthetics is the value architects add, better than anyone else, to safe shelter.

If architects could just channel their inner chefs, they could better celebrate and promote the essence of their work: going beyond just the science of shelter to the art of inhabitation. Where ethics is transactional, aesthetics is sensory; and where ethics involves obligation, aesthetics involves instinct. Architecture, therefore, as the mother art, with a scale larger than most any other art, has the raw, instinctual power to move people, to direct culture and society more than any moral code ever could—to inspire rather than regulate us toward lives better lived. Architects need only honestly and unabashedly embrace design and devote their efforts to aesthetic attentiveness to assume their natural authority.

For More Information

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