

the authenticity of place, you will have to express that belief without utilizing its clearest language—architecture. And the places where meaningful architecture of this nature can be explored are rapidly vanishing.

Design review rewards ordinary performance and discourages extraordinary performance. This has come to be known as the “Dolby” effect: a review that cuts out the highs and the lows. Although it is frequently cited as a criticism, it is probably less an issue in actual practice, where the excellent, exceptional, and original design proposed is often treated pretty well by design reviewers, especially if it has a famous name attached to it, and especially if the reviewers have design training. A much more severe and insidious problem, however, is related to the *perception* of the Dolby effect, because designers begin to anticipate the range of acceptability of particular reviewers and therefore rarely waste their clients’ time proposing something original or exceptional. Of 170 architects who answered our survey, 80 percent felt that their proposals were somewhat or strongly influenced by what they knew to be acceptable to a design reviewer. Some architects told us that they liked design review because it brought them more clients who were impressed with their ability to design projects that were approved quickly. When contemplating the cumulative effects of this tendency, one can only become fearful of the mediocre quality of the future built environment and the dwindling potential for truly exceptional works of architecture in this era.

Justice

Some forms of design review are more “fair” than others; that is, the rules are clearer and more objective, and the procedures are more predictable and consistent. It may seem that we should move this issue to the “solvable” side of the column, chalking it up to the newness of design review and the lack of tested processes and model codes. We must keep in mind, however, that the purpose of design review is not to deliver justice to the players, but to deliver the best environment to the community. Because of the slippery nature of design, a less discretionary system may not be flexible enough to work. Therefore, the explicit and fair process might not be the one that delivers the best environment. What follows is a discussion of the issues associated with justice and protection of the individual in design review, but

the foregoing problem must be recalled while we explore these.

Design review is arbitrary and vague. Many areas of the law fall under discretionary ruling; in fact, making orderly discretionary decisions is one of the purposes of the judicial system. A police officer exercises discretion in deciding whether to arrest someone or to let him or her go. When discretion gets out of hand, as it sometimes does with the police, more rules and guidelines are laid down to limit the discretion. Just as there is no way to create a rule for every possible circumstance confronting a police officer, there is no way to formalize every rule about design. Therefore, even the most “objective” design review rests on discretionary judgment. This is not the essential legal objection, however; it is the degree to which these discretionary judgments are made consistent and nonarbitrary. Guidelines help, but many cities don’t have them. Even where guidelines exist they may essentially be so vague as to be meaningless, insisting, for example, on “appropriate” scale or “compatible” design. Architects consistently complain of being sabotaged by the unclear language and unclear intentions of design review, which are clarified only in response to a specific proposal.

Design review judgments are not limited. Even though a city or town has guidelines, it is rare that the process of design review is limited to reviewing those items covered by guidelines; rather, the guidelines seem to represent a starting point, after which reviewers are relatively free to critique whatever they like or dislike about a project. There are limits, but these seem to be drawn from a political consensus about how much power the reviewers may exert. In exemplary cases, design reviewers must not only adhere to guidelines explicitly and exclusively, but must also publish “findings” that denote their critique in terms of the guidelines. Unfortunately, the more common pattern is a free-for-all, where the designer can be attacked for any aesthetic or conceptual decision and where no official document records the review criticisms.

Design review lacks due process. Because there are usually no limitations on what is reviewed, the designer is completely at the mercy of the power of the design reviewer. Also, not all projects are subject to the same process, since the process varies from district to district and use to use, and the rules and players are constantly changing. (Only 15 percent of cities have review systems unchanged from ten years ago.) In 12 percent of cities with design review, there is no appeal of a review body’s decision. Most important, in