

C O L U M N S

Architects

UNDER FIRE

Are architects engaging in the unauthorized practice of law? In two recent incidents, Pittsburgh architects were warned of doing so when they appeared before a zoning hearing board. Why after years of this common practice, the sudden warnings? A recent statute, for one, and a firm stance taken by the Unauthorized Practice of Law Committee, PA, for another.

So how big of a concern is it? COLUMNS interviewed several attorneys to get a better understanding and talked to architects to get reactions. (page 6)



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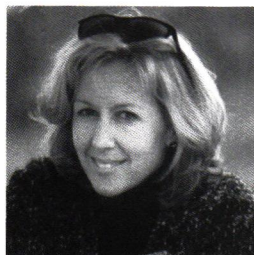
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Those Pesky Legal Matters

By Tracy Certo



...we explore the issue to understand the legal aspects (however murky) and the consequences. Is this something to wildly protest at this stage?

In the arena of no good deed goes unpunished,

we present to you two architects who recently helped out relatives. Luke Desmone, AIA was working on an addition for his cousin, and Fred Watts, AIA was helping out his daughter with a similar project. Nice guys. Both architects appeared, along with their relatives/clients, before different zoning hearing boards to request variances for the additions. As it happened, both were warned by the boards of bordering on engaging in the unauthorized practice of law. You can read all about it here.

I mention it in this space because some of the better comments in this piece were made off the record. It's that gap between how one really feels and what one actually says on record, especially when dealing with legal issues. So I take this opportunity to present some off the cuff reactions to this vexing problem. At issue: Are architects engaging in unauthorized practice of law just by appearing before a municipal body? Because if it is a legal issue at hand, as one attorney says, is any design advocacy spoken in the meeting also by definition legal advocacy? If so, does this mean an attorney must accompany every client and architect to every municipal meeting?

Most of the architects I talked to said this was news to them. The reactions ranged from curious to incredulous. For example:

(Laughter) "Sure, attorneys collect the fees!"

(Disgust) "I say shut up and do your job."

(Frustration) "The situation is totally maddening when in fact architects typically assist in writing zoning ordinances and other land use policy. Further, the damn zoning boards are not attorneys...what the heck difference does it make

who is advocating the issue when the decision makers don't have to understand the legal ramifications?"

(Melancholy) "It's sad."

(Skeptical) "Sounds like turf protection to me."

(Sudden interest) "Law suits? What kind of law suits?"

(Surprise) "You've got to be kidding. This really happened?"

(More sudden interest) "Very interesting. Law suits, huh."

Yeah, lawsuits. That seems to be the attention getter. Even attorneys who said this was the realm of overzealous lawyers admitted that this much is true: architects are open-

ing themselves up to lawsuits by appearing before municipal bodies with clients without legal representation. How likely is it? Legal pun unintended but you be the judge.

I have to admit that after talking to so many attorneys for this article, one of whom joked about going into hiding come September, that I took meticulous notes on their comments.

A non-attorney friend even told me, "You shouldn't waste any ink on them." He was referring to attorneys, that is, concerned this might be inadvertently advancing their cause.

The purpose of our inquiry was twofold: after two area architects were accused of playing lawyer before zoning boards, we wanted to know how widespread it is and how serious the consequences.

John Claypool, AIA, executive director of AIA Philadelphia has never heard of an architect being accused of unauthorized practice of law. A good sign. Although William Hoffmeyer, chair of the Unauthorized Practice of Law, PA committee, had some definitive statements about the matter, when asked he couldn't name a specific case where an architect was sued for it. And to broaden the scope, I even checked with some well-connected engineer friends none of whom had heard of this happening to a fellow engineer.

As one person said, things come in waves and trends. Maybe this is one of them. Or, as an attorney for AIA PA suggested, it will more likely play out in time. A court case will bring the situation to a head and something will be resolved one way or the other.

In the meantime, we explore the issue to understand the legal aspects (however murky) and the consequences. Is this something to wildly protest at this stage? Should the AIA take a strong stand? Or should architects simply be aware of the potential risks in accompanying (we dare not say representing) clients in zoning board hearings.

What do you think?

All comments welcome: tcerto@adelphia.net

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AIA Pittsburgh serves 12 Western Pennsylvania counties as the local component of the American Institute of Architects and AIA Pennsylvania. The objective of AIA Pittsburgh is to improve, for society, the quality of the built environment by further raising the standards of architectural education, training and practice; fostering design excellence; and promoting the value of architectural services to the public. AIA membership is open to all registered architects, architectural interns, and a limited number of professionals in supporting fields.

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Humane Spaces

by Anne Swager, Hon. AIA

My husband, Bill and I have spent

the better part of our summer either at the Children's Institute or at Children's Hospital. This has all been necessitated because our daughter Ellen who has cerebral palsy, underwent back surgery at the end of June. On the positive side, after an intense period of physical therapy, the surgery should greatly increase her ability to walk. I am happy to report she is doing beautifully; improving everyday and in positive spirits. Her parents on the other hand are exhausted. We lead the unenviable dual existence of trying to work full time while communicating constantly with doctors, therapists and other health care workers. We mostly live at the Children's Institute because Ellen, who is currently in residence, wants her mother or father there all day everyday. All pretense of consistency in our lives has been tossed out the window as we juggle where we need to be at any given moment.

The constant stress of our nomadic existence has made it hard for me to focus. However, when I can focus I spend an inordinate amount of time noticing my surroundings. I have started to watch where the morning sun hits the wall outside Ellen's window and how it changes in the afternoon and early evening. I take different routes throughout the maze of the Children's Institute and I did the same thing at Children's Hospital. I explore the art on the walls. I've found new routes through Squirrel Hill both to and from home and I have even spent too much time and money at the Waterfront.

My recent experiences have led me to some conclusions. First and foremost, Children's Hospital needs more space. The parking is terribly inadequate and getting around inside is daunting to all but those of us who spend entirely too much time there. The elevators are slow and few. At one point, I found myself on an elevator that I was not supposed to be on. Several critical care nurses were complaining that one of them might have to cancel her vacation because the parents of a brain dead child were unable to pull the plug necessitating continued care. We all need to vent but not in front of patients or their parents.

The Children's Institute has done a wonderful job with color and scale on their pediatric in-patient floor. The little windows peaking into the patient rooms resemble house windows and the moons and stars on the ceiling tiles are a delightful added touch. The new playground is truly accessible and wonderfully colorful with activities for every child independent of their disabilities. The impact on the surrounding residential community however is a lot less pleasing. Like all institutions struggling with the need for more space, they have grown up and the resulting walls and service areas pay scant attention to the pedestrian experience. Parking is severely compromised but since they cover the whole block, they are able to use the on street spaces as well. As long as you can parallel park (I can) and you arrive at the crack of dawn, you can usually find a close spot.

Both Children's Hospital and the Children's Institute are blessedly close to other amenities. I have never met any hospital food that I can stomach. Meals out and short breaks from hospital surroundings are a necessity. Squirrel Hill reminds me of Mt. Lebanon with a tremendous mix of housing both size and style. The biggest surprise in my wanderings has been the discovery of grand boulevards running through residential neighborhoods and then opening onto parks with picturesque vistas. I never noticed these beautiful spaces before.

Spending most of your free moments in a health care institution is difficult for any family. In reality, there is only so much that can be done to relieve the stress it creates and the experience of the space is only part of the mix. However, humane spaces really speak to whole family care. Healing is more than just curing a wound, an illness or a condition. Often, it is much more about helping families adjust to experiences or conditions that greatly alter their lives and the lives of their children. The experience in and around our health care institutions can either jolt you into your new reality or help you see that change can be managed.

Ellen walks better every day but has a long way to go. While she works at it, she loves to go to the Children's Institute playground where even she can manage the slides and the swings.



The experience in and around our health care institutions can either jolt you into your new reality or help you see that change can be managed.



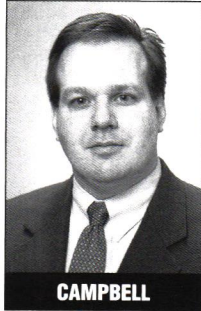
Welcome New Members

Timothy P. Campbell,

AIA Prof. Affiliate,

of Cagley, Harman & Campbell, LLC moved from Philadelphia to Pittsburgh to open a structural engineering and parking consulting office. His past projects include inspection of Penn

State's Beaver Stadium and stress analysis of the PA House of Representatives building. A graduate of Penn State University, Campbell and his wife, Melissa, have a six-month old child, Hannah. He enjoys playing ice hockey and watching all sports.

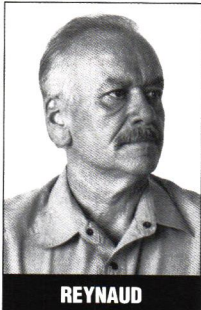


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Vic Reynaud, AIA Prof

Affiliate,

of Technique MFG, works in the fabrication and design of architectural metal detail. His work can be seen at Xplorion and the Hillel Jewish University. Interests include sailing and paleontology.



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Does a New Pennsylvania Statute Target Design Professionals?

Are architects engaging in the unauthorized practice of law?

In two recent incidents, Pittsburgh architects were warned of doing so when they appeared before a zoning hearing board.

Why after years of this common practice, the sudden warnings? A recent statute, for one, and a firm stance taken by the Unauthorized Practice of Law Committee, PA, for another.

Although some attorneys are aggressive in warnings, most aren't. Furthermore, attorneys can recommend that someone be prosecuted but only local district attorneys can prosecute.

So how big of a concern is it? COLUMNS interviewed several attorneys to get a better understanding and talked to architects to get reactions.

To Luke Desmone, AIA, it was just another routine appearance before a zoning hearing board. The architect attended with his client (a cousin) and his wife, requesting a variance for an addition. The board unanimously approved, 4-0, and Desmone thought that was the end of it. But then he received a phone message from an attorney representing the zoning hearing board, telling him he would soon receive a letter but not to be upset by it. Sure enough, the letter arrived, informing him that the zoning board of New Kensington felt Desmone's activities at the hearing "bordered on the unauthorized practice of law."

"I was blown away by the letter," says Desmone. "I've never had this happen before and I've represented, as an architect, a lot of clients in municipalities meetings identifying what their problems were and recommending resolution. I've always secured the variance the clients wanted."

Aaron Kress, chair of the New Kensington zoning hearing board, says it was the first time they ever sent a letter to an architect. More commonly, the board warns land use professionals, such as surveyors, at the time of the hearing when they are stepping over the line. In this case, they didn't want to warn Desmone in front of his client so they opted to send a letter instead.

Rather than stating specific actions, the letter was more of a general warning, stating: "Although your attendance at the meeting on behalf of your clients was permitted and, in fact, welcomed by the Board, the Board felt that your activities bordered on the unauthorized practice of law...The Board felt that your actions went beyond mere assistance to your clients and rose to the level of exercising your legal judgment." The letter then referred Desmone to Pennsylvania Consolidated Statute 42-2524 and Opinion 99-101 of the Unauthorized Practice of Law Committee of the Pennsylvania Bar Association for more information. (See sidebars.)

"I thought, gee, am I taking work away from attorneys?" Desmone said. The question in his mind: what constitutes stepping over the line? Why, after years of appearing before zoning hearing boards, was he suddenly flagged for a routine activity?

Although the architect appears to be one of the first to receive a warning letter from a zoning hearing board, he's not likely to be the last.

The issue raises many questions, among them: Are architects and other design professionals engaged in the unauthorized practice of law simply by appearing before mu-



Fred Watts, AIA



Luke Desmone, AIA



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LUKE DESMONE, AIA

nicipal bodies without an attorney present? Is the statute cited above protecting the turf of the attorneys or, as it states, is it protecting the best interests of the public? Is it, as some have suggested, simply a matter of how aggressive lawyers want to get? (Attorneys can recommend action but only the local district attorney can prosecute.)

When asked what Desmone did to warrant the letter, Kress stressed that architects “may not advocate issuances of a variance or building permit. They may testify as an expert witness but they may not act as an advocate. In this case the gentleman involved had crossed over the line and did just that.” He said he did not recall specifically what Desmone said in the hearing.

What’s the difference between advocating for a design issue and advocating for a legal issue? According to William Hoffmeyer, chair of the Unauthorized Practice of Law Committee of the Bar Association of Pennsylvania, very little. “An architect certainly would be entitled to advocacy in that area of expertise in building and construction and certainly advocate how buildings can be constructed or designed,” said the York, PA-based attorney. The architect could, for instance, relay the pros and cons of the site of the structure or the materials. But here’s the catch-22: “If he’s in a zoning meeting and he’s arguing zoning law, he stepped over the line,” he insists. By nature of the meeting, it’s all about zoning law.

In some cases, Hoffmeyer has seen non-attorneys argue fine nuances of the law, a blatant violation. But what about other situations, such as Desmone’s, where there’s clearly no intent to act as an attorney? Hoffmeyer references the difference in advocacy by saying, “I would be committing malpractice as an attorney if I advocated for a specific architectural design, a specific type of structure.” But he again cited the problem of architects advocating design issues in zoning hearings. “Ordinances usually deal with issues such as square footage or height. There are only three reasons for a zoning ordinance: special exceptions, variances or conditional use. To actually advocate in regard to a zoning ordinance, you are arguing law,” he insists. If you say, “this variance meets the criteria for an ordinance or a planning code, you are arguing law.”

A zoning board, he explained, is “truly the lowest court of law we have in PA. If either party wants to appeal, there is no additional hearing. It goes to Court of Appeals—first to Common Pleas Court then another Commonwealth Court then Supreme Court—strictly on the transcript of what happened in the zoning hearing plus legal briefs filed by attorneys for the party.” In other words, nothing can be added to the testimony.

“So if the case isn’t presented right by the zoning hearing board—and I’ve seen this so many times because of the way it’s been presented—it’s a loser. And depending on

the size of the case, now the architect is really looking at a potential lawsuit for which they have no insurance," he says.

"How would your architect feel if I advertised saying I was happy to design buildings?" Hoffmeyer asked. Similarly, "if the person doing the advocacy is saying we meet the following criteria, they're advocating that their design meets the legal criteria for that ordinance," he says, referring to Section 1023 and "10 or 15 other sections that are applicable."

"You cannot advocate for design without stepping over the line," he continues, "any more than I can sit down with a paper and pen and advocate for a 30-story office building that my design is good and will stand up and last..." "Any client who appears before a zoning hearing board is there because they have filed an application for one of the three above and that's a legal issue right there. And the presentation of that case is a legal presentation."

What then is an architect's role in the zoning hearing? Is it as an expert witness? "An architect as an expert witness is a whole different ballgame. And I happen to act as an expert witness throughout PA. I'm there testifying based on my expertise as any other professional. And it's the job of the attorney representing the client to present the testimony of the expert in such a way as to win."

The bottom line, in Hoffmeyer's opinion, is that an attorney is needed almost all the time in zoning hearing board meetings. "I don't think they (architects) honestly realize their potential exposure," says Hoffmeyer. "If their actions result in a loss to the client that should not happen? Anybody can sue a person under the Unauthorized Practice of Law."

As to why Desmone suddenly got flagged for something he's been doing for years without any sign of conflict, Hoffmeyer chalks it up to litigation. "There is so much litigation. Cases taken off the Internet or seen on T.V. People who have lost and thought, why should I take the hit here?"

As chair of the state's Unauthorized Practice of Law Committee for six years and now as co-chair, Hoffmeyer speaks from experience when he notes the "hundreds of complaints coming from laypersons who have been glued, screwed and tattooed. They thought they were being represented." He also points out that zoning hearing boards are composed in many cases of non-professionals and "they look at it not necessarily from a legal point of view in many cases. It's a decision made from the heart and not the head so there are many exceptions that should never be granted. The problem is when someone appeals the damn thing," he stressed.

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WILLIAM HOFFMEYER, Chair
Unauthorized Practice of
Law Committee, PA

Chair of Zoning Board of Pittsburgh Speaks Up

"The issue has never come up," says Regis Murrin, chairman of the zoning authorization board of the city of Pittsburgh. Will it ever? "Who knows," he responds. "The Pittsburgh's zoning board practice is this: a contractor, relative, or architect who has written authorization from the owner of the real estate can appear. If specific questions are involved that they're not capable of responding to—questions we deem necessary—either the owner or the attorney for the owner must appear. If the owner appears that's all we need."

The board is not an enforcement agency, Murrin says, and the issue is really between the roles of architects as architects and the roles of attorneys.

Say there is valid written authorization that an architect or another party can represent a client if, for instance, he's out of town. "If the issue becomes complicated from either a legal or factual point of view we would say, whoever you are, you don't have adequate knowledge to present this case so you have to have either the owner or attorney in this case."

"We never say you must have," he adds. "If one party has an attorney we tell the party without the attorney to reschedule when you get an attorney. That's standard practice."

He describes the zoning board of adjustments as part judicial, part town meeting. "We try to be a little more informal," he says.

For instance, Hoffmeyer cites a case where a win seems evident, but due to a board bias the request is denied. "That's when you need a 'solid base of testimony, exhibits and law in order to protect your client in event of an appeal,'" he says.

Although boards are supposed to have legal counsel, he counters by saying, "but I can tell you right now that cases I have can go contrary to legal counsel."

So even when the law exists, it isn't always upheld, adding to the confusion. Hoffmeyer's belief is in opposition to that of some architects who feel their skill level permits them to continue appearing in front of zoning boards without legal representation for the client. Who's right?

"You can reconcile the two positions to some extent," according to a Pittsburgh attorney who spoke off the record. He believes the matter isn't as gray as suggested by others. "You're talking apples and oranges. I would agree with architects talking architectural issues. If, however, the architect would make some sort of conclusion or advocate that because of some architectural issue a building is in compliance, or not as the case would be, that would be practicing law."

You Don't Know What You Don't Know

Philadelphia attorney Carl Primavera is a partner at Klehr Harrison who specializes in zoning and land use work. He says he doesn't know of any instance where an architect was accused of, let alone prosecuted under the statute of the unauthorized practice of law. As for the gravity of the issue? "It really depends on your point of view, whether there's a clear-cut line or some flexibility," he says. "It's always caveat emptor. If people today are sophisticated and know the risks and benefits, let the buyer beware."

He sees Hoffmeyer's stance as a traditional viewpoint. "I don't think he's moving the bar, he's enforcing the bar," he says.

The owner takes the risk by not having a lawyer present at a municipal hearing, he says, and nine times out of ten that's suitable. "The problem is the one time he steps on a landmine that a lawyer would have avoided."

"Architects and engineers are well versed in codes but not legal arguments. Much of it is common law, not written down, it's learned and traditional." In some cases, he says they wouldn't know the right argument to make or be aware of the precedents. "They don't know what they don't know," he says. "If you don't raise the issue itself you can't expect the zoning board to raise it."

When Primavera is asked if it's possible to have a waiver, he says he doesn't know if one exists. "I think it's a good idea to have that waiver," he offers. "Saying we don't represent ourselves to be lawyers nor do we take the responsibility."

In his opinion, non-attorneys in these situations should be allowed to go without lawyers. "As long as everyone understands the ground rules, there should be no surprises. Legal services are expensive.

You don't help the public by imposing monopolistic things on them; instead, you help them by informing them, he says. "I think all the professions can live in cooperation. The main thing is full disclosure." He suggests a form that
(CONTINUED ON PAGE 12)

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WILLIAM HOFFMEYER

A year ago, Fred Watts, AIA, now of MCF, stood before the Hampton Twp. zoning hearing board and introduced himself as an architect representing his client (his daughter and son-in-law on an independent project).

A board member stopped him immediately, warning him that if he was representing his client, he could be subject to prosecution under the Unauthorized Practice of Law Statute of Pennsylvania.

"I was pretty much dumbfounded," Watts said. "It was clear to me that they were saying that no one but an attorney could represent a client to the board. In my case the client was there to represent himself, so I didn't use that word again." To pacify the board, Watts said the client could speak in his own behalf while he was there to interpret the documents. They said that was fine. The hearing proceeded and the variance was granted.

"I was pretty much dumbfounded. It was clear to me that they were saying that no one but an attorney could represent a client to the board. In my case the client was there to represent himself, so I didn't use that word again."

FRED WATTS, AIA

But the stern warning upset Watts who researched the matter and found Grainger Bowman's article in the online newsletter of his firm. In addition he got a copy of Section 15.

In Watts' case, it appears that one attorney was more focused on the issue than the others.

Ed O'Connor, chair of the Hampton zoning board, doesn't recall the hearing where Fred Watts was warned. He didn't hesitate, however, when he said, "There is a member of our board who often takes that position."

Of the five individuals on the board, four are lawyers, he explains, (himself included) and one law-

yer "seems to guard the practice of law jealously. I don't share that view and neither does the majority."

So what happens when this particular lawyer warns a design professional during a hearing?

"We say, well, let's listen to what he has to say anyway," said O'Connor, adding that it happens infrequently. "I don't recall an instance, no recollection in the last year." He thinks the warning Watts received was "a fluky thing".

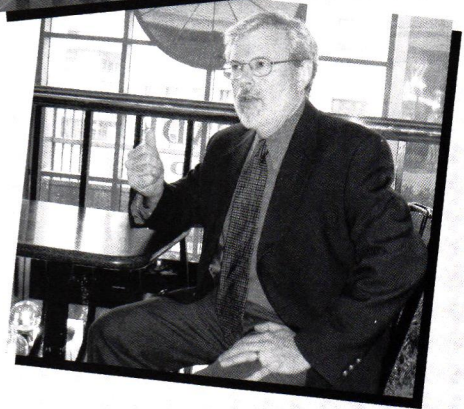
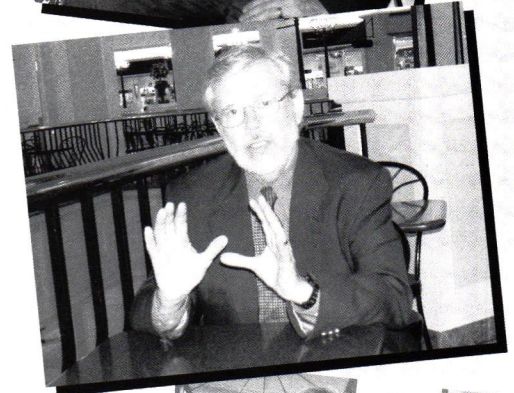
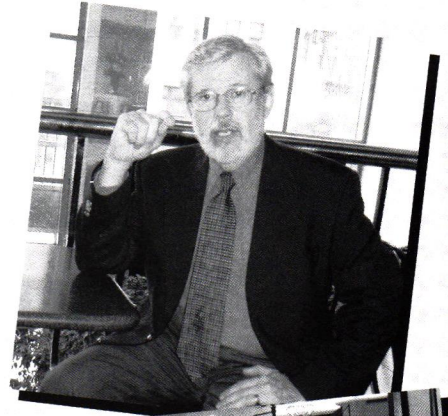
"I'm surprised it's a problem," he concluded. "It's news to me."

Fluke or not, it changed the way Watts feels about appearing before zoning board hearings. After reading material on the bar association's Web site he says, "I was enlightened by the opinion itself, having read it. It was food for thought. Knowing what can come from zoning hearings and how it can adversely affect the client, I would recommend that they have an

attorney," he said. "I believe having an attorney is useful, if not necessary." Particularly if people object to something the client is trying to do, he added.

Although that part may be clearer to Watts, he still feels the architect's role is not as clear as it could be. "I think the architect has to have the role better defined to protect themselves," he offered.

Prior to this incident, Watts had sometimes acted as an agent, as opposed to their legal representative, for a client, appearing at zoning hearings without the clients. Now, he said, he would protect the clients by advising them to get an attorney. It would protect him, too, he added.



alerts all appearing before zoning boards that they are entitled to representation by a lawyer. "Nothing is more painful than seeing one side with a lawyer and the other without. It's not good for the public process."

AIA PA Legal Counsel Replies

C. Bowman Grainger, legal counsel for AIA PA, became aware of the issue a year ago "when other cases surfaced where people believed certain design professionals, such as engineers, had been advocating in a zoning board hearing context."

His take? "The general feeling of design professionals has been, 'This isn't fair.' The design professionals feel that the definition of the practice of architecture is defined by statute. "It's the general belief that all they're doing when they present a matter before a municipal body are things within the definition of the practice of architecture," says Grainger. The same goes for engineers and landscape architects, he adds.

"If what they are doing is the definition of practice, then they are not engaged in the unauthorized practice of law," he asserts.

As for Hoffmeyer's black and white position, Bowman responds, "That's the general feeling of the PBA (PA Bar Association) but that doesn't necessarily mean architects have to agree with them."

"It's not an easy matter to resolve because when an architect makes a presentation to a municipal body, it effectively creates a record sometimes and the PBA says that it is in the area of an exclusive province of an attorney to do, not an architect."

So what can an architect do or not do before a municipal body? "It's undefined. I can't give an adequate answer because it's undefined," he replies. While the AIA does not yet have an official position on the matter, they soon will. In the meantime, Bowman believes the issue will play out

More from the Chair of the Unauthorized Practice of Law Committee, PA

"The interesting aspect of stepping over the line is the liability of the architect. I guarantee you his errors and omissions insurance carrier is probably going to deny any coverage if he is sued for the unauthorized practice of law," says Hoffmeyer.

And according to him, they're hearing more and more complaints against non-attorneys at zoning hearings. He cites surveyors and realtors "who never seem to know what the limits are" and "landscape architects, for God sakes."

In general, any non-attorney who represents clients at hearings and addresses legalities is open to trouble. Some are far more blatant in their activities than others. "For some, there is no hesitation to go in and argue the fine nuances of zoning law," according to the attorney who points out that zoning law in this state is based on three basic premises. "One is the Pennsylvania municipal planning code, two is the zoning ordinance

of the municipality where it's being heard and three is all of the case decisions of the courts of common pleas, the Commonwealth Court and the Supreme Court of PA."

"Unless you do analysis of all those cases, you don't know what you're talking about," he said. Non-attorneys have been held to the standard of attorneys, which they are not. If they are holding themselves out as knowledgeable, a number of court decisions are out there," he warns. Those decisions cite improper or inadequate advice or service.

The statute, Hoffmeyer states, makes it illegal to engage in the unauthorized practice of law. "It is a criminal statute. First count is misdemeanor of the third degree and possible jail sentence; second offense is misdemeanor of the first degree, fines and possible jail sentence," Hoffmeyer explains.

in some manner, whether it's a meeting of the minds of architects and attorneys or, more likely, a case before a court, which will resolve it.

As it presently stands, he says, "I can understand the nature of both arguments." On the one hand, the statute exists to serve the better interests of the public. So attorney representation before a municipal body in some cases would be the best thing to do. On the other hand, who is better served when a client now has to hire an architect as well as an attorney? he asks.

"The client who is pursuing the matter now must hire not only an architect but also an attorney which will increase the costs of any given project whether it's a home or an industrial facility.

"The real question becomes: is it right and proper to demand that a lawyer be the one who produces the record for the municipal body? The PBA says yes, it is proper and the architect says not necessarily in every case."

He adds, "I could be a hardline person on it and say it is not required in every case to have an attorney."

What if a client waives his rights to an attorney as in other courts of law? Would that make the architect simply an expert witness? "The question for the architect is whether the architect is doing anything in the course of presentation that gives the appearance of practicing law," Bowman replies. In an effort to try to respond to questions from the municipal body, if the architect makes a statement that addresses a legal issue, then it could be a problem.

Many presentations to the municipal bodies are matters that are less complicated than that. Bowman says it is the perception of many architects that they have the capability and skill level to do that kind of presentation when it is simple and straightforward. So if it costs more for the client in this case, then it is not in his best interest. "It's a difficult area," Bowman concludes. "I don't want design professionals to be engaged in the unauthorized practice of law but there are cases where it's hard to see the role of the lawyer when it's a very straightforward matter."

As for Hoffmeyer's definitive position? "It's easy to take a black and white position but I don't know if that's a very good way to approach this problem."

For years architects have answered the tough questions before municipal bodies. Architects have, in fact, helped formulate the very regulations in question.

"The people who know how to answer the questions are the design professionals, not the lawyers," Bowman says adding, "but by the same token, I understand the other side's position."

In his online article on the subject (www.powelltrachtman.com), Bowman advises that land use professionals do two things to protect themselves: 1) firmly refuse to express legal opinions or become an advocate in the law before public agencies and 2) have a letter in their file informing the property owner of his or her need to have legal counsel address "legal" matters.

How to resolve the issue? No one thinks it will be easy. But as one architect pointed out, in Q ratings, a marketing tool used to determine the appeal of products as well as professions, architects have the highest ratings and lawyers have the lowest. Architects try to find similarities in contracts while lawyers find the dissimilarities, he pointed out. When there's a goal in mind, isn't it better to work together to achieve it instead of putting up obstacles to make it more difficult?

Time will tell. In the meantime, forewarned is forearmed.

"The Supreme Court of Pennsylvania has the ultimate power to determine what is the 'unauthorized practice of law', not the Committee. However, the Supreme Court's decisions have not produced a precise definition of unauthorized practice. Instead the court has relied upon certain guiding principles to determine on a case-by-case basis which areas of professional practice should be reserved for those who are licensed attorneys."

Regulation of the Practice of Law in the Commonwealth of Pennsylvania

"In order to protect the public, stringent requirements have been imposed to gain admission to and remain a member of the bar."

The Courts have not precisely delineated "the boundaries...which limit the practice of law" since such "an attempt to formulate a precise definition would be more likely to invite criticism than achieve clarity." Although such an exact description does not exist, one can identify those areas which are reserved for licensed attorneys at law:

Where a judgment requires the abstract understanding of legal principles and a refined skill for their concrete application, the exercise of legal judgment is called for. While at times the line between lay and legal judgments may be a fine one, it is nevertheless discernible. Each given case must turn on a careful analysis of the particular judgment involved and the expertise that must be brought to bear on its exercise.

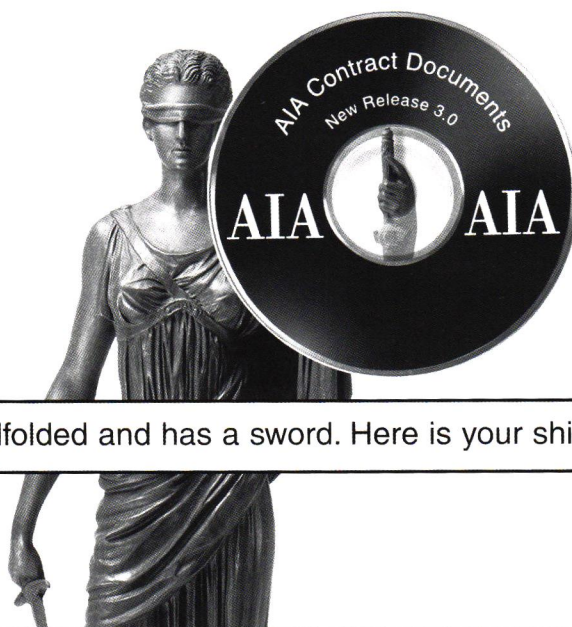
Shortz focused solely on the issue of whether proceedings before the Workman's Compensation Board required the application of legal knowledge and technique and therefore whether laymen can appear on another's behalf. The Supreme Court considered the proceedings before this administrative agency to be "essentially of a judicial character" and therefore constituted the practice of law.

The Supreme Court's reasoning in Shortz equally applies to the issue of whether the non-attorney representation of applicants before the zoning hearing board constitutes the unauthorized practice of law. Proceedings before the board are under oath. The board may subpoena witnesses and documents. Although the rules of evidence do not apply, parties have the right to be represented by legal counsel and "shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues."

(Dauphin County Bar Association v. Mazzacaro)

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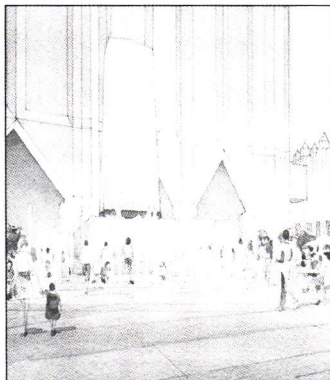
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From the Firms

► The Water Feature at PPG Place (pictured at right) is scheduled for completion early this month. **IKM Inc.** is the coordinating architect for this project.

JSA Architecture Planning Engineering Interior Design has completed schematic design for several buildings at the Deer Valley YMCA Family Camp in Fort Hill, PA. **JSA** has most recently completed design development and is now preparing construction documents for a 13,000 sf dining hall renovation and expansion. The new facility will include a kitchen and gift shop and expanded dining space. Currently in the design development phase are new family cabins. Project designer is **Timothy J. Morgan, AIA**. Project managers for the dining hall and the family cabins are **Dwayne Mihalow, Assoc. AIA** and Anita Myers respectively. The **JSA** predecessor firm of Hoffman and Crumpton was the original architect for the camp in the late 1950's.



Mosites Construction Company recently completed the following projects:

- Crown Castle USA, 126,000 sf office facility; Lorenzi Dodds & Gunnill, Inc.
- H.J. Heinz main distribution warehouse-146,000 sf; LLI Technologies
- Whole Foods Market shell construction; **Perfido Weiskopf Architects**

Mosites is currently constructing the following:

- Fountainhead Office Facility-97,000 sf; Lorenzi Dodds & Gunnill, Inc.
- East Busway & stations
- Grunau Fire Protection- Pittsburgh corporate offices; Lorenzi Dodds & Gunnill, Inc.
- Cranberry Woods office facility-120,000 sf; Herring & Trowbridge Architects



KSBA Architects has completed design and construction administration of the first STBC (Sustainable Technology Business Center, pictured above) in Mission, TX for Centratek LP, the development arm of Hunt Power, Dallas, TX. This 75,000 sf building is the proto-

type for a new real estate product targeted toward technology-based office users ranging from call centers to data centers and including all office space.

Renaissance 3 Architects P.C. announced two recent projects: Siemens Westinghouse Corporation's 188,000 sf fuel cell facility and office building under construction at the Waterfront in Munhall; and ABB Inc.'s 132,000 sf product assembly and office facility in Westmoreland County. When completed, the Siemens building will be the largest LEED certified manufacturing facility in the region.

Little Sisters of the Poor, who have cared for the elderly poor in Pittsburgh for over 130 years, broke ground for the addition to the Home that houses residents who require nursing care. **Perfido Weiskopf Architects** and Massaro Company



were hired for the \$16.7 million project which will include an addition and renovation. Upon completion, a new Day Program will enable the elderly poor, many who live in isolation in their own homes, to spend the day at the Home, participating in all of the activities, receiving nutritious meals and wellness checkups.

Burt Hill Kosar Rittelmann Associates is providing architecture, engineering, and site design for a new, 27-story housing project in downtown Rochester. Broadway Plaza will host patients and family of travelers to the Mayo Clinic who need extended stay.

Burt Hill has been selected to provide additions and renovations to seven Mt. Lebanon elementary schools over the next three years. The firm completed major renovation projects of two middle schools for the Mt. Lebanon School District in 1998.

The Hayes Design Group - Architects has been hired by the West Jefferson Hills School District for alterations of the existing Pleasant Hills Middle School and a 12,000 sf classroom addition. Construction work at Thomas Jefferson High School Stadium, completed in June, included a synthetic grass football/soccer field, track, bleachers, fieldhouse, pressbox, and concession stand. Addition and alterations to the McClellan and Gill Hall Elementary Schools, begun in June, are scheduled for completion next spring.

Dynamic Building Corporation was awarded construction contracts for two Verizon Wireless projects, one in Upper St. Clair, PA and the other in Chambersburg. Architect is **Fukui Architects, PC**.

Dynamic Building Corporation will begin construction on Foxmoor, a \$30 million multi-family development in Cranberry, PA that consists of 250 condominiums and 40 townhouses. Architect is The Steinberg Collaborative of Houston, Texas.

The Sextant Group, Inc., a digital technology consultant firm, announced the completion of the following projects:

- Audiovisual systems design for a new office building for Mitsubishi Electric Power Projects Inc. in Warrendale, PA. and GlaxoSmithKline's new space in the Millennium Center in Moon Twp. Architect for both projects is **Burt Hill Kosar Rittelmann Associates**
- Audiovisual systems design for the Western Pennsylvania Conservancy Bear Run Nature Center in Mill Run, PA. Architect Partner: **Bohlin Cywinski Jackson**
- Acoustical design and upgrade for the Palace Theater in Greensburg. Architect Partner: **Perfido Weiskopf Architects**
- Audiovisual and acoustic design of the McKelvey Campus Center at Westminster College. Architect partner: **CelliFlynnBrennan**
- Audiovisual systems design for Giant Eagle. Architect partner: **The Design Alliance**

Two architectural firms, **Gardner + Pope** and **Davis + Gannon** have recently merged to form **Davis Gardner Gannon Pope Architecture**. Principals **Jeffrey Davis, AIA**, **Kevin Gannon, AIA**, **Gary Gardner, AIA** and **Ed Pope, AIA** will continue their focus on green design. The firm is located at 2325 East Carson St. 15203; (412) 381-1184.

Massaro Properties LLC, a full-service realty company located in O'Hara Twp., has signed an exclusive agreement with Pittsburgh Transportation Company to provide brokerage, development, and construction services for the relocation from their current headquarters in East Liberty. Massaro Properties will be responsible for locating and developing a new facility while Massaro Company will provide design/build services. Architect is **Davis Gardner Gannon Pope Architects**.

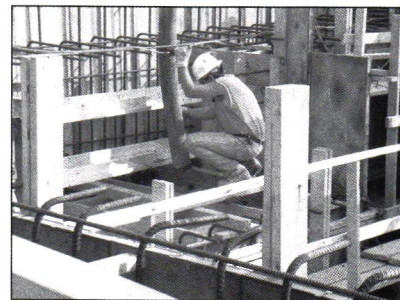
DRS Architects, Inc. has been selected by Butler Township to develop a new municipal facility that will include the police department, township administration offices, and community and meeting rooms. Design is underway for this 21,000 sf facility.

DRS Architects, Inc. has been selected by the PA National Guard in Johnstown to develop a Regional Maintenance Shop. This 23,500 sf one-story masonry building will feature a standing seam metal roof with clerestory windows to provide natural light to 10 maintenance bays.

The new Butler County Public Safety Building recently opened. This building and the training tower, pond and burn building was designed by **DRS Architects, Inc.** and Elliott LeBoeuf Associates and will be used by Western Pennsylvania fire fighters for public safety training and rescue. Principal **Greg Madej, AIA** was the Project Manager and **Sarina Bodnar, AIA** the Project Architect. For the full story, search for "Baptism by Fire" at www.postgazette.com.

Ground was broken for the UPMC Cancer Center this past February and is scheduled for completion by September 2002. The 17x36-foot radiation facility (pictured above) con-

tains concrete walls that vary in thickness from 3'6" up to 8' with metal studs and dry wall to prevent radiation penetration into the medical office building. The Center will allow patients to receive Intensity Modulated Radiation Therapy (IMRT) that allows for precise delivery of radiation to a tumor while sparing nearby normal tissue. Massaro Company is providing general construction services, while **L.D. Astorino Companies** is providing architectural services.



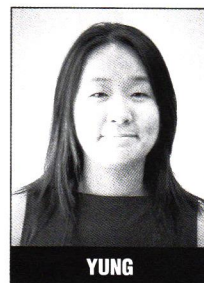
Business Briefs

→ **JSA Architecture Planning Engineering Interior Design** is pleased to announce that team leaders **Timothy M. Kist, AIA** and Christopher J. DiCianna, PE have been promoted to Senior Associates. **JSA** welcomes Christy Lederer to the firm as an interior designer. She is a graduate of LaRoche College and is working on a master's degree at Robert Morris University.

DRS Architects, Inc. has hired Chad Chalmers as an intern architect. Chad is a graduate of State University of New York at Buffalo and is currently working on his Masters in Construction Management at the University of Pittsburgh.

L.D. Astorino Companies announced that the company will consolidate its Greensburg office, Astorino-Pellis Architects, with its Pittsburgh headquarters to more efficiently serve the firm's K-12 education facilities design clients. Staff from the Greensburg office can now be reached at (412) 765-1700.

Ruprecht Schroeder and Hoffman (RSH) Architects of Scott Township recently hired Lisa Yung as an architectural intern. Yung will participate in the LEED (Leadership in Energy and Environmental Design) certification process and assist **RSH** in achieving its first silver certified LEED project. **RSH Architects** is also sponsoring Yung's involvement in The Solar Decathlon, a national design/build competition for colleges and universities. She devotes one day each week to her team at Carnegie Mellon University in an effort to design and build the most effective solar-powered house for competition at the National Mall in Washington DC this fall. Jessica Mann has joined the staff at RSH Interiors, an interior design firm as an intern.



YUNG



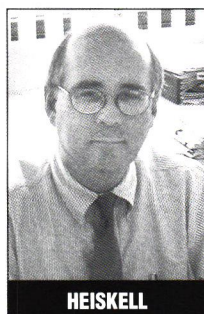
MANN

Mosites recently added Michael D. Ellis as Director of Business Development.

Strada announced the addition of Abigail Stallkamp and Thomas H. Price. Stallkamp has a Master of Architecture in Urban Design through the Cleveland Urban Design Collaborative and Kent State University; Price has worked for Strada the past year while completing his Masters degree from the University of Virginia.

The Hayes Design Group - Architects announced that Sheila Moore has joined the firm as an associate. She is a graduate of Virginia Polytechnic Institute and State University.

Burt Hill Kosar Rittelmann Associates announced the following appointments in the Butler office: Bethany L. Akmal, architectural draftsman, Gerald Sabatini, architectural draftsman, Leah C. Smith, architectural draftsman, and Michael Schnelle, architectural draftsman; Paul M. Pohold, engineer. In the **Burt Hill** Pittsburgh office: **Jeffrey N. Heiskell, AIA**, architect, Bradley G. Frankhouser, architectural draftsman, **Christopher S. Reynolds, Assoc. AIA** architectural draftsman, and Kenneth Tooley, architect.



HEISKELL

Renaissance 3 Architects P.C. welcomes Amanda Roland as marketing coordinator.

Baker and Associates announced the appointment of Louis Mittelman to mechanical engineering manager.

Volpatt Construction Corporation announced the appointment of Raymond A. Volpatt as president.

Massaro Company hired Beth A. Cheberenchick as business development representative.

GAI Consultants, Inc. Vice President Dr. Diane Beynon Landers recently moved to a new position in the Executive Group to work on client development and administrative projects. Benjamin Resnick was recently named as manager of the cultural resources group.

McGraw-Hill Construction unveiled its new branding and logo at the national AIA Convention in Charlotte.

"McGraw-Hill Construction connects the leading information and intelligence of the construction industry under one name," said president Norbert W. Young, Jr., FAIA. "Our re-branding is much more than a name change - it's a commitment to serve our customers and the industry better. It's a dedication by our business units to collaborate so it's easy for our customers to receive the solutions they need from us."

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Kudos

► **Dennis L. Astorino, AIA** was named to the National Architect Council's Board of Directors for 2002-2003. NCARB's mission is to work together as a council of member boards to safeguard the health, safety, and welfare of the public and to assist member boards in carrying out their duties.

Bob Bailey, AIA of IKM Architects recently published an article in The Construction Specifier titled "Significant Building Material of the 20th Century". Bailey also received an award from the Pittsburgh Chapter of the Construction Specifications Institute's "President's Special Award" for spearheading the Pittsburgh Specifiers' Roundtable group.

Brian R. Greene, Assoc. AIA, of Kingsland Scott Bauer Associates recently achieved the status of Registered Architect in the state of PA.

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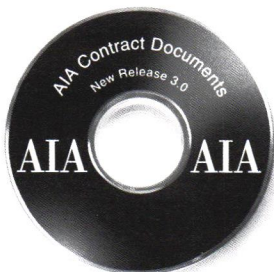
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September 10, Tuesday

Effective Design and Construction of Masonry Structures Seminar by Ahmed Hamid, Ph.D., P.E.

Professor Hamid is Director of the Masonry Research Laboratory, Drexel University, Philadelphia, PA and Principal, Tri-State Engineering Services, Paoli, PA.

The seminar will draw light upon up-to-date experiences and background knowledge to provide information to achieve cost effective design and construction of engineered masonry buildings.

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Registration 8 a.m. Seminar 8:30-11:45 a.m. \$50, deadline for registration is 9/4. Call 717-279-6346.

Please send your information to AIA Pittsburgh, 945 Liberty Avenue, Loft #3, Pittsburgh, PA 15222, or fax it to 412/471-9501. The deadline for inclusion is normally six weeks prior to publication. If you would like information describing qualified continuing education programs, please call the AIA office at 412-471-9548.

COLUMNS UPCOMING ISSUES

OCTOBER

- Case Studies at Carnegie Mellon University by student Megan Nash
- More Orphaned Spaces
- Transportation

NOVEMBER

- Architecture of Public Performance Spaces: Purnell Center, School for Performing Arts, others
- The Business of Architecture: Internet Security by Design

TO CONTRIBUTE TO AN ISSUE or to submit a story idea, contact the editor at 412/563-7173 or email: tcerto@adelphia.net

AIA ACTIVITIES

September 6, Friday

AIA Communications Committee Meeting, noon at the Chapter office. 412-471-9548.

September 9, Monday

AIA Pittsburgh Board Meeting, 4 p.m. at the Chapter office. All members are welcome, 412-471-9548.

September 9, Monday

AIA Membership Meeting, 5:30 p.m. at the Chapter office. Election of officers, see our new space, social, food, drinks, RSVP 412-471-9548.

September 10, Tuesday

AIA Design Awards Presentation Board Session, noon at the Chapter office, lunch provided. RSVPs only 412-471-9548.

September 19, Thursday

Legislative Committee Meeting, noon at the Chapter office, Chuck Coltharp, AIA, 724-452-9690.

September 25, Wednesday

AIA Pittsburgh's Foundation for Architecture 5 p.m. at Strada LLC office, 925 Liberty Avenue. Contact Ed Shriver, AIA 412-263-3800.

October 3, Thursday

AIA Pittsburgh Design Pittsburgh Gala at the David L. Lawrence Convention Center, 6-9 p.m. For more information call 412-471-9548.

AROUND TOWN

September 10, Tuesday

CSI Meeting. Planning for the Pittsburgh area, at the Holiday Inn Greentree. Dinner at 6:30 p.m., meeting at 8:00 p.m. \$25 per person. For reservations call 412-855-0928 by Sept 4.

September 11, Wednesday

Society of Design Administrators Walking Tour of Pittsburgh, contact Cheryl Marlatt at 412-281-1337.

September 10, Tuesday

ULI Pittsburgh: FBI Behind the Scenes Tour for members only from 3:30-7:30 p.m. 412-471-5141.

September 18, Wednesday

David Lewis Lecture Series funded by UDA with speaker Donlyn London at the Carnegie Museum of Art Auditorium, 6 p.m.

September 22, Sunday

ASLA and Chatham College Penelope Hobhouse lecture and high tea at Omni William Penn Hotel, \$75 RSVP only 412-365-1256.

September 25, Wednesday

ASLA Membership Meeting LaQuatra Bonci, 95 S Tenth Street, South Side 6:00 p.m. 412-374-9996.

AIA Pittsburgh is using e-mail to keep our members informed of the chapter's activities. If you would like to be included and are a member, please send your address to info@aiaapph.org

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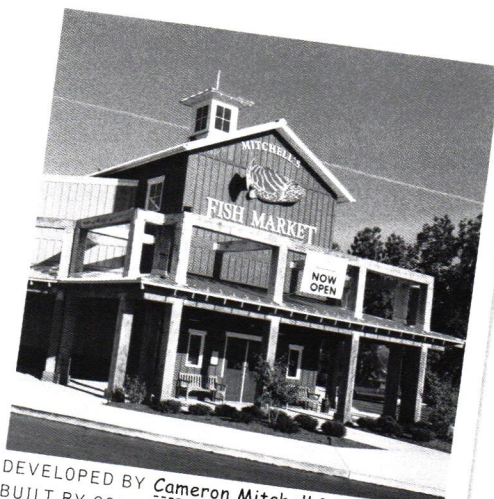
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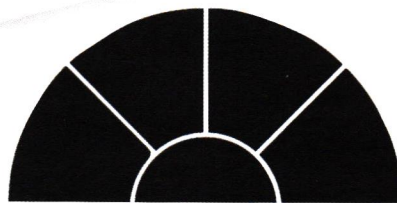
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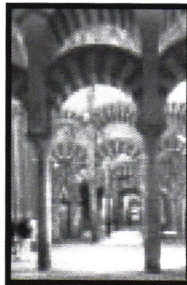
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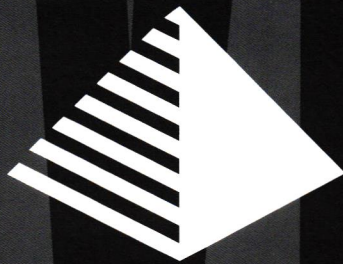
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