

# Guidelines for Testifying

## Introduction to the Website Issuance

In October 1986, the Society of Architectural Historians adopted the following guidelines to enhance professional standards in the preservation review process. At that time, there seemed no shortage of individuals willing to testify as architectural historians against the protection of historic properties even though their own base of knowledge was limited or had little bearing on the issues at hand. The problem has persisted, prompting the Society to reprint the guidelines in the December 1996 issue in the SAH Newsletter.

The guidelines' purpose is to establish a framework of acceptable conduct for those testifying as members of the discipline. The guidelines themselves are short and general in tone. Much of the document is devoted to discussion, which reflects the thinking behind the guidelines and also the concerns of the Society's leadership over the years.

The document was intended for wide circulation, to be used by the staffs and members of review bodies at the state and local levels and by all others concerned with the integrity of the review process.

## Introduction to the Original Printing

These guidelines were prepared by the Society of Architectural Historians' Committee on Preservation to address issues brought to the attention of the Committee in recent years. The guidelines were adopted by the SAH Board of Directors on 2 April 1986, and have also received the official support of the National Alliance of Preservation Commissions, the National Conference of State Historic Preservation Officers, and the Vernacular Architecture Forum.

## **GUIDELINES FOR ARCHITECTURAL HISTORIANS TESTIFYING ON THE HISTORICAL SIGNIFICANCE OF PROPERTIES**

Architectural historians engage in research into, and the dissemination of knowledge about, the evolution of the art and craft of architecture and its place in the history of civilization. The knowledge which they perpetuate, acquire, and spread is central to understanding human growth, for the buildings of any age reflect not only the visions of their designers and clients, but also the values of their era. Architectural historians have a special responsibility to the past, for their judgments as to the value of its artifacts often figure large in public and private decisions about what to preserve and what to destroy. That which is preserved nurtures the culture whose past it represents. That which is destroyed is lost forever.

Thus the architectural historian has an awesome burden when called upon to speak to the value of a building, group of buildings, and other components of the man-made environment. It is essential to the integrity of the discipline that the architectural historian's testimony be based on sound scholarship, be an honest appraisal of all the pertinent circumstances, and be given with due regard for the gravity of its consequences.

Architectural historians testifying on the significance of historic properties before a duly constituted review board, commission, council, legislative committee, or court of law should:

- make objective and truthful statements and eschew dissemination of untrue, unfair, or exaggerated statements regarding the significance of any property or properties;
- assess the significance of the property or properties in question according to applicable local, state, and/or federal criteria;
- express their professional opinion only when it is founded upon adequate knowledge of the facts, upon expertise in pertinent areas of scholarship, and upon honest conviction;

- state specifically the circumstances under which they are presenting testimony, including whether they are taking, or at any time have taken, a fee for work related to the case in question; and
- issue no statements on behalf of interested parties unless they indicate on whose behalf those statements are being made, the nature of any compensation related to the case, and any personal interest in the property or properties in question or in property which would be affected by the disposition of the property or properties in question.

## **Credentials**

An individual who intends to testify as an expert on matters pertaining to architectural history before a duly constituted review board, commission, council, legislative committee, or court of law must have a demonstrated record of achievement in that discipline.

A full set of credentials applicable, directly and indirectly, to the case should be presented in writing for the public record.

As credentials, it is appropriate to cite institutions attended, degrees earned, research conducted, scholarly work published, pertinent consulting projects completed or in progress, and past and present employment. Professional affiliations, offices, committees, and similar forms of service related to the discipline may be included, but it must be made explicit that all testimony presented reflects solely that individual's opinion unless he or she has been duly authorized by an organization, agency, or firm to speak on its behalf.

All parties involved in a given case should understand that architectural historians are not certified, registered, or licensed according to a uniform set of standards comparable to those employed in professions such as law, medicine, or architecture. Moreover, it should be understood that no one form of academic program is acknowledged to be the sole means by which an individual can become an architectural historian. Advanced degrees in art and architectural history form the primary bases for entering the discipline; nevertheless, comparable preparation in other fields such as American history, American studies, geography, archaeology, and folk-life also may provide expertise in assessing aspects of the built environment in their historic context. Furthermore, architects, landscape architects, and others practicing in professional design and planning fields may have expertise in facets of architectural history. Finally, it is possible for a person to acquire such expertise with little or no formal education in the field.

From a legal standpoint, expert testimony must be based on specialized knowledge of a particular subject, surpassing that which might be acquired by the average, well-informed layperson. Therefore, in all the above cases, a demonstrated record of achievement related to the historical subjects in question, rather than training or professional practice per se, should be considered the essential basis for one's qualifications to testify as an expert on matters pertaining to architectural history in a given case. Moreover, simply having an interest in old buildings or being involved with efforts to preserve them should not be considered an adequate basis for such testimony.

In presenting qualifications, architectural historians should be specific in enumerating their areas of expertise with respect to the case. Working in architectural history, or even in the sphere of North American architecture, does not always render an individual fully qualified to address all pertinent topical areas with authority. For example, a scholar of eighteenth-century North American architecture may not necessarily be well equipped to assess the significance of properties dating from later periods. Moreover, it is doubtful whether someone who knows little or nothing about the architecture of a given locale is in a good position to assess the local significance of a property or properties in that place.

## **Research**

A foremost responsibility of an architectural historian intending to testify on the significance of a property or properties is to familiarize himself or herself with that work to the fullest extent possible. Under all circumstances, this effort should include onsite study. Interiors also should be examined whenever feasible, and must be scrutinized when all or a portion of them are being considered in the case.

Furthermore, the architectural historian intending to testify should gain familiarity with as much additional information as possible concerning the property or properties. Of at least equal importance is knowledge of the context within which the property's significance may be evaluated. Such contextual frameworks include, but are not necessarily limited to: other work of the period(s), type(s), and designer(s) involved; work employing similar materials, construction techniques, or systems; work commissioned by the same or comparable clients, occupied by the same or comparable clients or occupied by the same or analogous groups; and the physical setting in both its historic and current dimensions. In cases involving one or more properties within a designated historic district, or a precinct that has the potential to become a historic district, the full nature of the contribution of the property or properties to that district should be carefully considered.

In some instances, the necessary research may already have been conducted for a case. The architectural historian intending to testify then has the responsibility to examine this material carefully, making sure that it is complete and accurate, prior to preparing his or her scholarly evaluation. In other instances, additional research may be needed, and the architectural historian intending to testify either should undertake this work or wait until it is completed by another responsible party before preparing an assessment. Whenever possible, architectural historians intending to testify should also seek consultation from colleagues known for their research in specialized subject areas pertinent to the case.

It should be realized that many such subject areas have received little or no scholarly attention and that the absence of this research should not necessarily preclude responsible efforts to save significant properties. It further should be recognized that many cases cannot be researched in a definitive manner when such an undertaking would require far more time than can be allocated even under favorable circumstances. Nevertheless, in all cases, an architectural historian intending to testify should exercise his or her best professional judgment in determining whether adequate information is available and determining that no available information is being concealed from consideration.

Moreover, the architectural historian offering testimony should be explicit regarding the degree to which his or her statements are based on his or her own research or on the work of others. Under no circumstances should an architectural historian convey the impression that an assessment is his or her own when it has in fact been wholly or substantially prepared by another party.

### **Criteria for Evaluation**

Architectural historians intending to testify should be thoroughly familiar with applicable local, state, and federal criteria for evaluation and gain a full understanding of the issues relating to significance that the testimony is intended to resolve. The criteria for the National Register of Historic Places and for most, if not all, local landmark and historic district ordinances specify that properties may be designated on the basis of local significance as well as by virtue of their significance to a state or the nation.

However, the concept of local significance is often ignored or distorted in testimony and thus deserves special consideration here. A given work may not rank among the finest designed by a distinguished architect, for example, but this does not necessarily undermine its significance for the locality in question. Similarly, comparative analysis of examples of a building type in different geographic regions does not necessarily provide insight on the local significance of examples in any one of those regions.

Furthermore, local significance should not be interpreted as meaning only the earliest, oldest surviving, best, or most unusual examples unless the applicable criteria for evaluation so state. The objective of national preservation legislation and most local ordinances is to foster a comprehensive plan for

protecting historic properties. Indeed, significance often may be fully understood only after it is studied in relation to the local context. Failure to assess a property's or properties' significance in any of the above ways will undermine the credibility of the testimony and run counter to the intent of the national historic preservation program.

## **Fees**

Taking a fee for testimony is legal under most circumstances and should not, in itself, be construed as diminishing the value of testimony. At the same time, an architectural historian who even unintentionally conveys the impression that his or her testimony is in any way affected by monetary compensation or personal reasons contrary to those of sound scholarship blemishes both preservation efforts and the discipline's integrity. Indeed, the entire basis for scholarship, along with its public reputation, rests on its independence.

Therefore, architectural historians should make every reasonable effort to demonstrate that their testimony is motivated solely by honest conviction, understanding of all relevant material, and scholarly expertise. In every instance, architectural historians testifying should state explicitly whether they are taking a fee for that testimony; whether they are taking, or at any time have taken, a fee for work related to the case; and the source or sources for same fees. They should further explicitly state all the circumstances under which they are presenting testimony in that case. In contractual agreements which will, or may at some later date, include testimony, that agreement should stipulate that the underlying aim of the architectural historian's work is to arrive at an objective evaluation of the significance of the property or properties in question. The contracted fee should be structured according to the nature of the work undertaken for research, analysis, and preparation of findings in a report or other appropriate form, and not according to the real or potential monetary value of the property or properties in question. Under some circumstances, it may be prudent to perform such work incrementally; that is, prepare preliminary findings, and, should the contracting parties so agree, then proceed with an in-depth study.

The contractual agreement should specifically preclude the contractor's later excerpting portions of the study in a manner that distorts the overall findings of that study. Furthermore, architectural historians should never agree "for monetary compensation or otherwise" to prepare a study that merely makes an argument pro or con without weighing all pertinent information and performing a full scholarly assessment.

No uniform set of standards should be established for such studies any more than for other forms of scholarly endeavor. Architectural historians should be guided by the same standards that are considered exemplary for other work in their discipline. A study too quickly prepared, lacking careful consideration of all aspects contributing to complete historical analysis, should be viewed as a serious breach of personal and professional integrity.

## **Summary**

Architectural historians should regard testimony as a public service and as a constructive means of advocating the retention of significant components of the man-made environment in accordance with applicable local, state, and federal laws. All work done to prepare for testimony, as well as the testimony itself, also should reflect high scholarly standards and should not suggest personal gain of any sort acquired at the expense of these objectives.