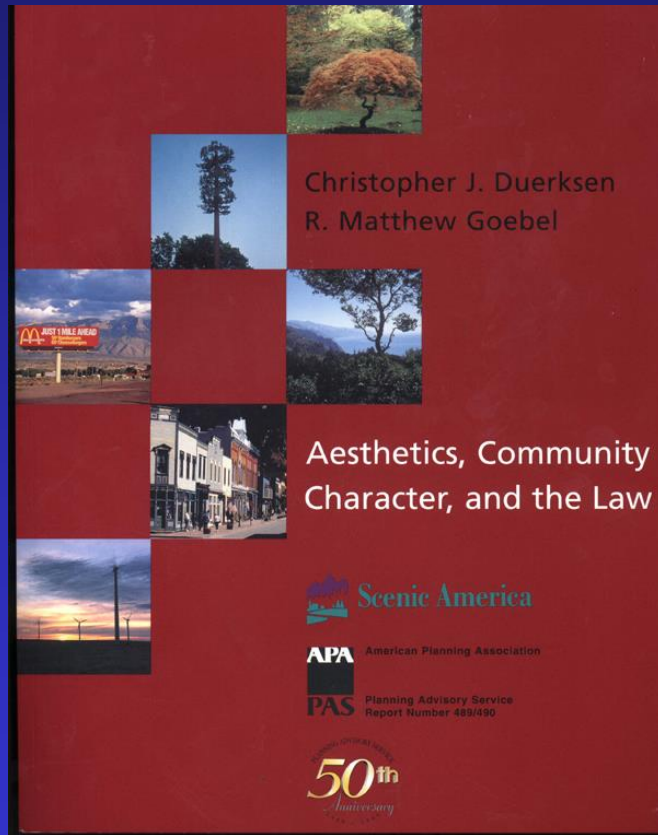


# Aesthetics, View Protection, and the Law

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# FOUR KEY LEGAL ISSUES

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- AESTHETICS AS A VALID GOAL OF POLICE POWER REGULATIONS
- DUE PROCESS
- THE TAKING ISSUE
- FIRST AMENDMENT

# VALIDITY OF AESTHETICS-BASED REGULATIONS

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- Setting the Stage: *U.S. v. Gettysburg Electric Railway Co.*
- Aesthetics-Plus Doctrine
- Historic Preservation Controls Upheld
- Aesthetics Stands on Its Own Two Feet

# Aesthetics Legal Framework

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“The concept of the public welfare is broad and inclusive.... The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.”

**Berman v. Parker, 348 U.S. 26 (1954)**



“...[W]e emphasize what is not in dispute.... This court has recognized, in a number of settings, that states and cities may enact land-use regulations or controls to enhance the quality of life by preserving the character and the desirable aesthetic features of a city....”

**Penn Central Transportation Co. v. New  
York City,  
438 U.S. 104 (1978)**









VP = Viewpoint  
 RS = Review Site  
 a = 653' - VP elevation  
 b = Distance, VP to capitol  
 c = Sightline to capitol  
 e = RS elevation - VP elevation  
 a' = VP elevation to sightline at RS  
 b' = Distance, VP to RS  
 h = Allowable height

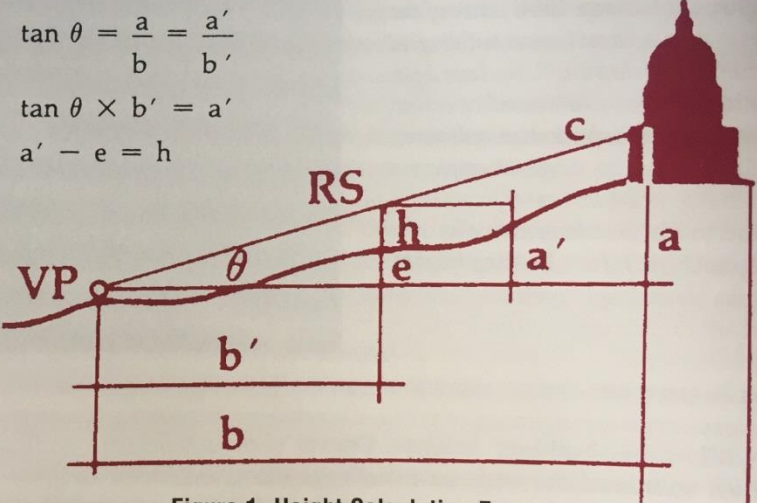


Figure 1. Height Calculation Formula



# Due Process Legal Tips: It's Not Rocket Science

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## DUE PROCESS

- Define Carefully The View Community Wants To Protect.
- Just As Importantly, Specify “From Where”—Designate Specific View Points Where Possible
- Write Clear, Simple Standards That An Average Person Can Understand And Apply Without Guessing What's Required











# Caveat: Billboards/Signs and the First Amendment



