

## FOREWORD: FITCH FORUM ON PRESERVATION LAW

ANDREW S. DOLKART\*

In the book *Preserving the World's Great Cities*,<sup>1</sup> author (and Columbia University adjunct professor) Anthony Tung examines the preservation of many remarkable places, from Athens to Amsterdam and New York to Beijing. Although he examines places rich in history, culture, and architecture, any tourist will note that some places are better than others in keeping physical remnants of the past and incorporating them into dynamic modern cities. And the underlying commonality for well-preserved places is not about quality of architecture or a benevolent climate but about the rule of law. Places with a strong legal framework for regulating places, and a culture that supports adherence to those rules, simply do better in preserving their historic character.

That the law is an integral part of the discipline of historic preservation in the United States, and particularly in New York City, is evident from the founding of the Historic Preservation Program at the Columbia University School of Architecture. Begun in 1964 by James Marston Fitch, the program is the nation's oldest graduate study of the art, the science, and the policies of preserving places. It grows out of, in part, immense anger and frustration on the part of New Yorkers—and many other Americans—that the monumental Penn Station by McKim, Mead & White of 1904-1910 had been demolished in 1963,<sup>2</sup> seemingly without regard to its importance in the urban landscape or architectural pantheon of the city. Fitch (as everyone who knew him, called him) incorporated a class on the law from the earliest days, and as the law itself was refined from general zoning rules to specific case law on the validity of historic preservation, the Preservation Law class within the Columbia University Historic Preservation Program became ever more important in the curriculum.

The official name of the institution—Columbia University in the City of New York—pinpoints a location that has been the legal touchstone of historic preservation since the 1978 Supreme Court decision in *Penn Central Transportation Co. v. New York City*,<sup>3</sup> which upheld the validity of municipal “landmark” laws as a contribution to the public good. Two important actors

---

\* James Marston Fitch, Associate Professor of Historic Preservation and Director, Historic Preservation Program at Columbia University Graduate School of Architecture, Planning and Preservation.

1. ANTHONY MAX TUNG, *PRESERVING THE WORLD'S GREATEST CITIES: THE DESTRUCTION AND RENEWAL OF THE HISTORIC METROPOLIS* (2001).

2. Editorial, *Farewell to Penn Station*, N.Y. TIMES, Oct. 30, 1963, at 38; cf. Kim A. O'Connell, *Lead Us Not Into Penn Station*, NAT'L TRUST FOR HISTORIC PRES. (Apr. 1, 2008), <http://www.preservationnation.org/magazine/2008/books/>.

3. *Penn Cent. Transp. Co. v. New York City*, 438 U.S. 104 (1978).

in that legal case, Dorothy Miner, Counsel for the New York City Landmarks Preservation Commission, and Paul S. Byard, part of the legal team and himself an architect and lawyer, went on to teach in the Historic Preservation Program for many years. Over their years associated with Columbia, both taught memorable classes on preservation law. In addition, Paul S. Byard served as Director of the Historic Preservation Program from 2000 – 2008. As Paul's successor as Director of the Historic Preservation Program, I am particularly honored to recognize the role of both people and place within New York City in developing and defending historic preservation law over the past several decades.

This law review volume is based on selected papers presented at the 2011 Fitch Forum held at Columbia University that examined the role of preservation law on the 45th anniversary of the creation of New York City's landmarks preservation legislation. The Fitch Forum is an annual colloquium on a current issue in historic preservation, invented and launched by Paul S. Byard, and named for the Historic Preservation Program's founder, James Marston Fitch. The 2011 Fitch Forum on Preservation Law and this related volume is an ideal way to honor earlier giants of our program, while also serving as an exciting venue for lawyers and preservationists to think about the current developments in American jurisprudence and to inspire future thinking and action to make historic places part of everyone's life.