

2011 FITCH FORUM: PART ONE*

WELCOME & INTRODUCTIONS

Speakers: Mr. David Schnakenberg, Mr. Andrew S. Dolkart, & Mr. Anthony Wood

MR. DAVID SCHNAKENBERG: Good morning preservationists, good morning friends of preservation, and good morning everybody who made it out. We're really glad you're here. My name is David Schnakenberg. Many of you have received emails from me under the guise of 2011FitchForum@gmail.com. Most of those emails were sent between the hours of one in the morning and three in the morning so, sorry for that. I'm really excited about today's program. I'm going to get the ball rolling very quickly and then pass it off.

What we're here to do today is essentially to take stock of where preservation law is, both at the national and at the hyper-local level with our own landmarks ordinance here in New York City. We're going to open with our keynote speaker, who is going to discuss the state of preservation law and preservation policy throughout the nation. Then we're going to take a look at what's going on, on the ground, in three cities that are dealing with specific preservation issues: Chicago, Seattle, and Los Angeles. Then you guys get a break and we're going to come back and focus on the hyper-local. We're going to talk about New York City's Landmark Law and talk about whether it's living up to its expectations, what we might want to do to tweak the Law. We're going to finish the day by exploring some of the challenges and the opportunities that should inform preservation law and preservation policy going forward. Hopefully we'll have some fun.

We've got some really excellent speakers. We're all very lucky. Many of them have braved ice storms, blizzards, late trains, late planes, and late automobiles. But, I can say that everyone's here, which is really great for a February conference. And with that, I'm going to invite Andrew Dolkart to come up here and get started. Andrew is our host. He's the Director of the Historic Preservation Program here at the Graduate School of Architecture, Planning, and Preservation. He's also the James Marston Fitch Associate Professor of Historic Preservation, so it's very appropriate he get the day started at the Fitch Forum. So if you will come up, I will sit down, and you won't hear from me for quite awhile. Thanks everybody.

* The transcript that follows was produced from a contemporaneous audio recording of the 2011 Fitch Forum, 45 Years of Preservation Law: New York City and the Nation, the Past and the Future. The Forum was held on February 5, 2011 in the Wood Auditorium at Columbia University. The Forum was hosted by the Columbia University Graduate School of Architecture, Planning and Preservation. The transcript was formatted according to internal Widener Law Review standards and has been edited for grammar and clarity. Footnotes have been added throughout to aid in further reading.

MR. ANDREW S. DOLKART: I want to welcome everybody. I've been a hermit on sabbatical but I had to come off it for this event. This is the most perfect kind of conference for me because I did absolutely nothing in preparation. About a year and a half ago Tony Wood and Carol Clark came to me with this idea and I said, "Great, run with it," and they did. They really deserve an incredible amount of credit for organizing this, and putting this together, and getting all these people to come. It's a really appropriate conference for us to be having here on the 45th Anniversary of the Landmarks Law, which just about coincides with when the historic preservation program at Columbia was established. From the very beginning, Jim was very strong on trying to get students to understand the legal issues involved with historic preservation, both the foundations for preservation from a legal point of view and the problems.

When Carol and I were here together as students, one of the classes that we took was one of the first classes on preservation law and, interestingly, it was taught by Paul Byard at the same time he was in architecture school. He was both a lawyer and an architect. Later, Paul came to direct this Program, and brought in Dorothy Miner and we continued to have a really strong feel for legal issues. We miss Paul and Dorothy but we continue to kind of build on this idea that preservationists need to understand where we are and where we're going, and what the pluses and minuses are from a legal point of view; otherwise it will all just fall apart. I think it's really great that we're here to assess where we've been and where we are. So, I just want to welcome everybody. We're really thrilled that everybody is here. It's just so great to see so many familiar faces in the audience and I'm going to turn it over to Tony Wood.

MR. ANTHONY WOOD: Thank you Andrew and thank all of you for being here. There are those who accuse preservationists of being lost in the past. Ironically, the reality is that preservationists are lost in the present. We are so intensely focused on the present that we don't spend a lot of time reflecting on how we got where we are today or where we might want to be going. We just do, do, do. Other, wiser folks have suggested the value of a little bit of introspection. As Churchill reminds us, the further backward you can look, the further forward you're likely to see. So thank you for taking a day out of your very intense present to explore with us our past, where we've come in the last 45 years, the future, and where we might want to be going.

And what better place to step back, reflect, and project than an academic setting? Far from hearing rooms, court rooms, and back rooms, up in the hallowed halls or, in our case, the hallowed basement of academia; we have a safe place where we can think out loud, ask important questions, and openly and honestly explore extremely important matters. So, on behalf of the Historic Preservation Program of the Graduate School here, and myself and Carol, we want to add our welcome for your being here this morning.

It takes a village to put on a forum like this, and I want to give particular thanks to our co-sponsoring organizations: the law department of the National Trust for Historic Preservation, the James Marston Fitch Charitable Foundation, Preservation Alumni, and the Widener Law Review. Thanks also goes to our partner organizations. This is the first event I've been involved with that was totally promoted digitally and it seems to have worked; thanks to our partners and their wonderful digital network. We also owe a great debt of gratitude to the generous financial supporters of this event who have kept us out of debt. The list of wonderful supporters is in our program, and do commit their names to memory and thank them when you see them. I also need to particularly thank two of the lead funders, the Columbia University Graduate School of Architecture, Planning, and Preservation who put real money on the table in addition to space, and the Elizabeth and Robert Jeffe Preservation Fund for New York City of the National Trust for Historic Preservation. Beyond essential financial capital, a forum like today's is only possible with vast infusions of intellectual capital. So, a particular thanks goes out to all the experts participating in today's forum. Several people have literally traveled across the country to be here. An event like this also requires the skills and talents of many of the folks who've been co-organizing endless details behind the scenes, and we particularly need to thank our coordinator, David, for all his good work.

Today finds us well into the 45th Anniversary year of the passing of New York's Landmarks Law. Even Hallmark has failed to figure out a way to make a big deal out of a 45th Anniversary, but for our purposes, it's an important anniversary because it sets the stage for the golden anniversary of our Law. Leave it to two preservation planners to determine that the best way to celebrate the 45th anniversary of the Law is to use it as an occasion to do a checkup on preservation law and then, more specifically, New York's Law. Now, with the 50th Anniversary in our sights, it's the time to look nationally at the condition of preservation law and particularly at the state of New York's preservation law. How far have we come? What challenges and opportunities does preservation law face ahead, both nationally and locally? What are the actions we should be contemplating to make sure that when the golden anniversary arrives with the big cake and candles the Law glitters and shines as brightly as we need it to?

Preservation happens in a historical context. Much has changed since Mayor Wagner signed New York's Landmark Law in 1965 and President Johnson signed The National Historic Preservation Act in 1966. These laws reflect what was legally and politically achievable over four decades ago. What has changed since then? What changes are looming over us now? How has preservation law responded to those changes? How might it respond at the local and national level?

These are the many questions that will be addressed today. So, by 5:30 tonight, we may conclude that all is well in the world of preservation law, or

we may decide the challenges and opportunities of our time call for action. Whatever you and all of us conclude it will be the result of seriously and thoughtfully assessing the current state of preservation law and we can all only be better for having done so.

So to launch today's efforts, let me turn the podium over to Adele Chatfield-Taylor. Because everyone's more extensive bio was posted on our website, and we know you all go to those sites, we're not devoting too much of our time to reciting all that needs to be said about our speakers. All that I want to say about Adele is that in her seven years at the Landmarks Preservation Commission, several months of which I had the pleasure of sharing an office with Adele, I learned a lot. Her four years as a founder and first Director of the New York Landmarks Preservation Foundation, her tenure at the National Endowment for the Arts, her Presidency at The American Academy of Rome, her being a Trustee of the National Trust for Historic Preservation, all on top of her degree from this program and previous teaching in this field have made her one of the most thoughtful preservation thinkers of our time. She will both set an appropriate "Fitchian" tone for today's forum as well as introduce our keynote speaker. Join me in welcoming Adele.

KEYNOTE INTRODUCTION

Speaker: Ms. Adele Chatfield-Taylor

MS. ADELE CHATFIELD-TAYLOR: Thank you, Tony. Good morning everyone. How wonderful it is to be here for the 45th Anniversary and for the Fitch Forum, forty-four years after I enrolled in what was then known simply as the Fitch Program or the "Fitch thing." Let me thank the organizations for this marvelous gathering and for the honor of being involved, and salute, particularly, Martica Sawin for her incredible support of the Fitch legacy in all that she does.

My job this morning is to introduce our keynote speaker, and it's a great pleasure to have a chance to say a few words in that pursuit about Jerold Kayden. A lawyer as well as a city planner, Professor Kayden would've been a man after Fitch's heart. When Fitch founded the program, he actively sought to enroll the very diverse cross section of professionals and individuals who have always worked at historic preservation and the curatorial management of the "built world," as he later came to call it. He was unique in his eagerness to include what were then known as housewives and amateurs, never as a vague commitment to continuing preservation but specifically because he recognized that these were often the most skilled and effective preservationists to be found anywhere, not only in the United States but all over the world, and they had a great deal to share and teach.

Fitch nevertheless would have been delighted with Professor Kayden's impressive background. He is the Frank Backus Williams Professor of Urban Planning and Design at the Harvard University Graduate School of Design. His research and teaching focus on law and the built environment. As an urban planner and lawyer, Professor Kayden has served government and non-government organizations and private developers around the world. For the past fifteen years, he's been the principal constitutional counsel to the National Trust for Historic Preservation in Washington. Internationally, Professor Kayden has been a consultant to The World Bank, The International Finance Corporation, the United States Agency for International Development, and the United Nations Development Program working in China, Nepal, Armenia, the Ukraine, and Russia. Professor Kayden has received honors too numerous to recount, but I do want to note the recognition he received at the Graduate School of Design as the Teacher of the Year. He earned his undergraduate, law, and city and regional planning degrees all from Harvard. Subsequently, he served as law clerk to Judge James L. Oaks of the U.S. Court of Appeals for the Second Circuit and for U.S. Supreme Court Justice William J. Brennan, Jr. Professor Kayden's dazzling profile is perfect to set the stage for our discussions today.

In ancient Rome, the punishment for a person destroying a historic building was having one's hand chopped off. Our laws and policies date back not to ancient Rome, but at least 100 years to the Antiquity Act of 1906. These beautifully worded starting points, somewhat reminiscent of our Declaration of Independence, were the beginnings of our constitution and the establishment of the big ideas. Drawing the line in the sand and penalties were not as clear cut as they were in ancient Rome; but what has happened to the law in the last century, particularly in the last forty-five years, is an indication of how important this subject and this fight, if I may call it that, has become.

The varieties of issues we will cover today, beginning with Professor Kayden's presentation, also indicate how much work there is still to be done and frankly, that we have barely begun. My own focus in the last twenty-plus years has been in expanding the American perspective on preservation, to incorporate a more global understanding of preservation solutions. The problems are usually all the same around the world, but the ways to solve them are ingeniously varied and worth understanding, particularly with what goes on outside the United States. In its interest, the American Academy of Rome now gives two fellowships and a residency named for James Marston Fitch, aimed at those of you who want to think about this outside of the United States. I hope you will apply and win. We hope someday soon to have a visit from our keynote speaker, Jerold Kayden.