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Law School Notes

Speech highlights legal concepts of Burnham Plan

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Business leaders pushed for the Burnham Plan, also known as the 1909 Plan of Chicago, to save Chicago from its lurid reputation for squalor and corruption.

And the plan came about only after Daniel Burnham returned disappointed from San Francisco where local leaders had decided to disregard Burnham's San Francisco plan following the 1906 earthquake.

"Burnham was in a dour mood on that train ride," Richard J. Roddewig, Chicago land use and zoning attorney, told a rapt audience Thursday at The John Marshall Law School.

On the train, Burnham met Joseph Medill McCormick, publisher of the Chicago Tribune.

Hearing Burnham's story about San Francisco, "McCormick urged Burnham, 'Turn your attention back home. Create a great civic plan for Chicago instead.'" Roddewig said.

The beautiful pictures of the future in what came to be called Chicago's Burnham Plan are well-known, Roddewig explained, as are Burnham's stirring words, "Make no little plans. They have no magic to stir men's blood," (even though those words are not contained in the plan).

What is little-known is that the longest component of the Burnham Plan is the law, stated Roddewig, who is president of Clarion Associates Inc.

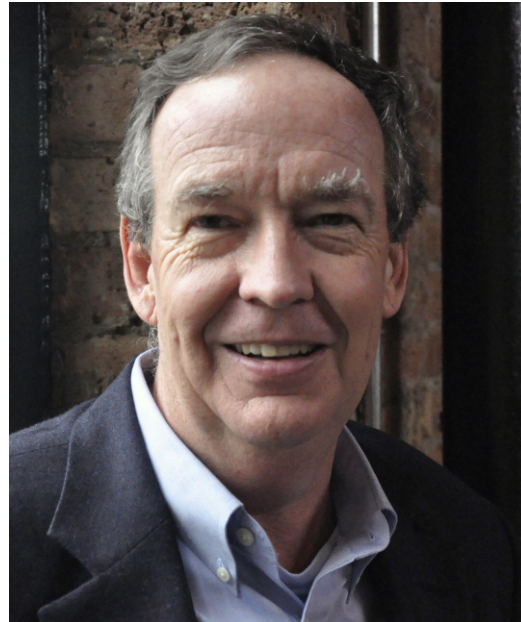
He referred to the 30-page appendix called Legal Aspects of the Plan of Chicago.

The legal section was written by attorney Walter L. Fisher, counsel for the Plan Committee of the Commercial Club of Chicago.

Roddewig's speech Thursday was entitled, "Law As Hidden Architecture: Law, Politics and the Burnham Plan in Downtown Chicago Since 1909."

The speech was one of a series of events at John Marshall to mark the 2009 Burnham Plan Centennial.

Showing photos of turn-of-the-century tenements, mud, animals and factories, Roddewig explained that Chicago's reputation had been trashed by Upton Sinclair's 1906 novel of the



Richard J. Roddewig

Stockyards, "The Jungle," by the writings of Jane Addams and also by Lincoln Steffens' 1904 book, "The Shame of the Cities," which exposed public corruption.

Chicago business leaders, progressive Republicans of the Teddy Roosevelt-mode, were indignant, Roddewig stated.

But city government was then controlled by corrupt aldermen such as Bathhouse John Coughlin, Mike "Hinky Dink" Kenna, and the City Council's Gray Wolves.

Thus, McCormick and Burnham and other civic leaders believed planning for urban improvements had to be led by ambitious business leaders who sought reputations in history, in a manner known as "Hamiltonian" democracy.

Fisher's legal section of the Burnham Plan is "almost pessimistic," Roddewig said. It said wide-ranging reforms of city land use were limited by the Fifth Amendment of the U.S. Constitution, which forbids taking private property without due process of law and taking

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private property for public use without just compensation.

European laws of that era lacked such limits, Roddewig said.

The legal battles that made implementation of aspects of the Burnham Plan possible, he said, involved the move toward citywide, comprehensive zoning.

Roddewig summarized the early 20th Century movement toward city zoning starting with the Boston case, *Welch v. Swasey*, 193 Mass. 364 (1906), that upheld the right of the legislature to delegate to a city power to regulate building heights and land-use boundaries.

It took 15 years of “legal slogging in the Illinois legislature and the courts” before

Chicago enacted its first comprehensive zoning code and it was legally upheld, Roddewig said.

This made implementation of the Burnham Plan’s idea of regulating uses for the benefit of Chicago’s citizens possible.

The legal section of the Burnham Plan argued that the best results could be obtained by consolidating Chicago and county governments, according to a paper by John Marshall student Joseph A. Kearney, entitled in part, “The Plan’s The Thing, But the Devil is in the Details.”

Kearney’s paper points out that Burnham’s call for regional planning has been frustrated by the fact that Northern Illinois has “more units of local govern-

ment than any other region in the nation.”

Kearney’s paper won John Marshall’s Burnham Plan 100 writing contest and a \$3,000 prize.

In his speech, Roddewig noted that no major, public works projects are planned for the Burnham Centennial nor major monuments nor permanent architecture.

But he showed a video by Clarion New Media of two temporary works of art known as the Burnham Pavilions in Millennium Park. The striking works were designed by London-based Zaha Hadid and Amsterdam-based Ben van Berkel of UNStudio.

The centennial, Roddewig said, “is about finding new inspiration.”