

sues and secure the commitment of a broad range of partners, including the business community, by explaining the possible direct and indirect benefits of conservation. In this respect, the holding of the 11th General Assembly of ICOMOS in Sofia in 1996 has had an appreciable effect.

Bulgaria has unequivocally pronounced its wish of acceding to European and broader international structures. It has already ratified several international instruments in the field of heritage, including: the European Convention on the Protection of Archaeological Heritage and the Convention on the Protection of the Architectural Heritage

in Europe. Of course, we still have a long way to go in bringing the national legislation and daily practices into line with international standards. In this respect our participation in ICOMOS activities and, in particular, those of its International Committees, is extremely important both in a strictly professional sense and as a source of the knowledge and experience that we shall need during the transition period if we are to ensure the preservation of Bulgaria's heritage for ourselves and for the world.



MARC DENHEZ

Overall Framework for a Public-Private Sector Relationship in Canada

The issue of legal forms, e.g. as attached to philanthropy, has been around for centuries. Long ago, one tax certificate described property set aside for a religious institution, and the legalities were sufficiently exceptional that they required a personal attestation from the head of state. This complex legal form was deciphered – but the hieroglyphics had to be deciphered first. This was, of course, the Rosetta Stone.

Various forms all exist in Canada, including variations on trusts, non-profit corporations, foundations, charities etc. However, a review of mechanisms would be moot, because relatively few donations of real estate are made in Canada. This is largely for tax reasons. Canada has one of the few governments in the world that insists that it has

- a claim for capital gains tax
- on donated real estate.

In 1973 Canada set up a counterpart to the National Trust in England, but within two years its Board decided to change direction, because the general context (including the tax climate) was not conducive to such philanthropy. On the other hand, Canada developed some alternative forms (e.g. associations of renovators) which will be alluded to later.

In short, since my country found itself unable to “go through the front door” for the protection of certain properties as described in other countries, it was obliged to “go through the back door” – with certain promising effects, and a resulting “strategic vision” which may be fundamentally different from many other countries.

That is the focus of this presentation. The prospect of a grand tripartite alliance between heritage properties, governments and the private sector is one to which I have devoted much of the past twenty years of my career not only as a witness, but as a participant. For heritage properties, I am pleased to report two books coming forward this year: *The Heritage Strategy Planning Handbook* and *Legal and Financial Aspects of Architectural Conservation*. In the public sector, I worked with about twenty governments on heritage. Within the private sector, I chaired my country's committee on the future of its residential renovation industry, and helped launch our new code review and embryonic na-

tional renovation strategy. The idea of a grand partnership is not just theoretical: although it is an extremely slow process, it is actually happening.

Comparative overview

The focus of this presentation goes beyond individual sponsorship, to the creation of an *overall national framework for private sector partnership* in the protection and revitalization of property. This legal subject enjoys an enormous body of precedent. The first known statute in this field was enacted by the Roman emperor Majorian in 457 AD, with a government veto on the private destruction of monuments along lines similar to the statutes which many lawyers still work with today. We also know of the work that started in 1666, in Sweden, to inventory (one by one) all heritage properties worthy of attention.

Some may wonder what Canada can contribute to this discussion of “monuments”, particularly if “monuments” are restrictively defined as structures erected or retained for reasons *other than economics* (a definition with which I respectfully disagree). Although Canada's first known home dates from 20,000 BC, and although Canada is the only country whose name actually means “the place of the buildings”, many still believe (as Voltaire did) that these “few acres of snow” have nothing of significance.

In reality, and leaving aside the above restrictive definition, Canada has the usual collection of buildings which might be objectively considered “monumental”. It also has the usual collection of historic buildings. Canada also has communities listed among UNESCO's World Heritage cities and towns. However, if my country had to rely on listing buildings and districts one by one (on the Swedish model), it would be in trouble:

- *Per capita*, my country has listed one-fortieth of the buildings and districts which have been listed in the United Kingdom. When we look at the City of Westminster where over 80 % of the land is under some kind of heri-



The strategy of the heritage movement in Canada is based on the principle that beyond individual public-private partnerships for individual buildings and districts, it is essential to build national frameworks for re-use and rehabilitation of "the built environment" as a whole.

- tage regime, that suggests that at Canada's current rate of listing, it will *never* come even close to catching up.
- Nor does my country's legal system foresee the protection of an entire *category* of buildings at a time. It has no system like Austria's, where all religious buildings are *automatically* protected – let alone a system like Turkey's, where there are over 50 categories of buildings which are protected not because they are on a "list", but because every building with *that use* is automatically protected.
 - Nor does Canada have the same long tradition of urban planning, which created a *de facto* protective system in some major cities of the world.
 - And unlike some other countries, my country has not developed our system of "environmental impact" controls to the point that *these* can be used extensively for the protection of buildings and districts.

So it is not surprising that some people may ask what Canada can offer to the world's legal strategy for heritage. However, I suggest that despite other shortcomings, there are still five areas where Canadian experience may be of use to the international heritage community, in *ascending* order of priority. These are:

1. the so-called "audacity" of some of our projects;
2. the philosophical alternative that we have been developing;
3. our work on codes and standards;
4. our evaluation of potential mistakes; and
5. (most importantly) *strategic planning for an overall framework* for public-private sector partnership.

"Raw material"

Being an advocate for heritage property in Canada is not for the faint-hearted. My favourite example is Old Town Yellowknife, the northernmost city in Canada. It is having laudable success with what some countries might consider to be extremely unlikely buildings. The oldest building dates from 1934.

If we can protect "monuments" like this – and we *are* protecting them – then there is *no limit* to the accomplishments which our colleagues in other countries may wish to consider for their own buildings.

Philosophy

This presentation, on strategies for building a national partnership, is not about *individual* properties, but rather how,

as a national *community* of public and private sector stakeholders, we propose to deal with heritage on a systemic basis.

For too long, Canadian conservationists did not feel in control of events. They felt trapped in a reactive position, responding to individual crises *ad hoc*. In the early 1980s, therefore, ICOMOS Canada decided to look beyond special properties, to "the built environment as a whole". This was not because cultural arguments in Canada are politically weaker than in Europe (although that is true); nor was it a matter of opportunism, to ride the coattails of the ecological movement. Instead, ICOMOS Canada sincerely believes that – we have an obligation to the human habitat as a whole, and that

- we are unlikely to overcome the obstacles to heritage buildings until we grasp and overcome the obstacles to the existing building stock as a whole.
- Furthermore, the international community was declaring that as a country, we should be doing "sustainable development" of *everything* that we invested in.

This is hard advice, but it came through loud and clear in the UN Declarations at the Earth Summit in Rio de Janeiro in 1992 and at the Habitat II Conference in Istanbul in 1996.

That meant looking at systems as a whole – and one such system is that of Canada's construction standards.

Codes and standards

We discovered that many cooperative owners would not be *allowed* to do good renovation even if they wanted to. As in many other countries, Canada's building standards were what we call "prescriptive-based" codes. They disregarded the fact that older buildings were often built with good but *different* technologies, and could be made *just as safe* as new buildings if alternative technologies were used – but these were *not allowed* by the codes.

When you allow only a single technology in codes, it may make otherwise safe economical renovations impossible. That leaves no alternative but for the building to deteriorate or be demolished.

In the 1980s, Canada therefore launched into the drafting of a second generation of codes, called "performance-based" codes. Although this work continues, Canada also launched a process in the 1990s for a third generation of codes, called "objective-based" codes. We believe that when this difficult process is completed (around 2001), we will have the most advanced building guidelines in the world, and that these will provide the right flexibility for rehabilitation projects.

Avoiding mistakes

Many people in ICOMOS Canada used to believe that we could solve the problems of our heritage buildings with the same old strategies as in so many other countries:

- we would impose a legal framework to regulate virtually every conceivable feature of heritage property including a veto to stop the private sector; and
- we would introduce economic "incentives", supposedly to compensate for the so-called "uncompetitive" position of older buildings.

As we conducted further research, however, we discovered that we were missing the point. Many buildings were *not in-*

trinsically uncompetitive; instead, their future was being made artificially fragile, because of the government's own policies (sometimes dating back fifty years). During the postwar years, the design of the country's tax system, accounting system and a host of other laws, which had been passed to favour new construction, also favoured demolition and discouraged rehabilitation. We had made almost every statutory mistake imaginable (at least now we have a better chance of recognizing a mistake when we see it).

Today, instead of focusing on financial subsidies, we believe that if we just got rid of the *disincentives*, a level playing field would make heritage immensely more competitive than it is now. We also believe that other countries might learn some surprising things, if they did a similar analysis to the one we did.

I now turn to the most crucial point.

The new partnership

The strategy that is emerging today is not to avoid the challenges facing heritage properties, but to tackle them head-on. The intent is to bring people together not just for one building, but for several million buildings at a time.

We are in good company. I am personally working closely with the Canadian Home Builder's Association, the Canadian Renovators' Council and others to create a positive economic partnership for older buildings. Canada has set up a network of "renovators' councils" (i.e. associations of residential rehabilitation contractors) which are an interesting new forum to address ways to overcome the obstacles to widespread rehabilitation. For the first time, we are within striking distance of creating an actual framework for that kind of partnership, involving all the stakeholders:

- Negotiations are beginning over a future "national renovation strategy" to address some nine million residential buildings.
- In May 1996, after four years of effort, my own industry committee produced its report on the future of the residential renovation industry (entitled *Residential Renovation: the Industry Framework*). It was the first step towards a "sectoral strategic plan" so that as a country, we could *systematically* overcome the kinds of obstacles I have described here.

- In June 1996, the Canadian government then commissioned further work on an embryonic national renovation strategy, beginning with low-rise owner-occupied buildings (i.e. the first six million buildings). This work covers the *entire list* of obstacles facing the economic rehabilitation of buildings, from banking and codes to training.

Although this exercise covers only part of the built environment, and although the long process of consensus-building has barely begun, the wheels are in motion. The objective is to improve the climate for the rehabilitation of every building that has ever been built – including, obviously, the 750,000 houses built before World War I and other buildings of cultural significance. The intent, however, is not specifically "cultural": instead, it is to improve the building stock and "bring sustainable development to the human habitat."

Conclusion

For those who want *predictions* on the future of national partnerships for heritage, I believe the key is the following.

- The threat to our building stock didn't come out of nowhere. As lawyers, we believe that there is no such thing as an accident; every problem in this world has a *cause*. The challenges facing our older building stock are the result of systemic errors which we must dismantle.
- It is not good enough to tell owners what they *cannot* do: professionals and governments can join forces to make it as easy as possible for owners to identify what they should do.
- The time has come for *all interested parties to join in some strategic thinking* to solve the problems of our heritage. In today's competitive marketplace, it is simply not good enough to merely pray for the future of our heritage.

Our heritage buildings are more than just quaint tokens of a community's past. They are a "renewable resource". They are an investment which has been made over generations, and they help constitute "the environment" for our urban population. The proper upkeep and periodic upgrading of that environment is the key to "sustainable development" in an urban context; as such, they are the foundation of the livable city of tomorrow.



SARA CASTILLO VARGAS

Costa Rica's Legal Structures for Sponsorship and Protection of the Heritage

Costa Rica is a small country with four million people and a 500 year history of post Columbus times, 221 of them under the rule of Spain, the rest as a democratic republic. The exuberant beauty of our land and richness of the forest and coastlines have overshadowed the relatively small and humble built heritage of our cities. A historic process characterized by civil organization and education has left us with a pa-

trimony formed mostly by schools, churches and vernacular architecture. The emphasis placed on the ecological resources of the country made the Costa Ricans give not much value to their architectural structures.

In this frame the Costa Rican branch of ICOMOS was formed in 1983, under the legal structure of an "Asociación", which is a non-governmental and non-profit organization,