

Business Approaches and the “Patrimonial Documentation” Administration of Belgium

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Key words: Cadastre – Private Surveyors – Notaries – Architects – Business Approaches

SUMMARY

Business Approaches of the “Patrimonial Documentation” Administration :

With the Private Surveyors :

- Collaboration - Partnership
- Agreement to give the swap of informations
- Law taking in compliance of the Mortgage law
- Preliminary cadastration
- Map when new boundaries
- “Boundary makings plan”
- Identification of the Cadastral parcels
- Better Similarity between the Cadastral map of parcels and the reality
- Improving the quality of the cadastral map of parcels

With the Notaries

- Collaboration - Partnership
- Writer of the deed
- The analysis of the deed
- Updating of the juridical documentation
- Respect the common intention of the parties
- Better juridical security
- Registration
- Transcription at the Mortgage Service

With the Architects

- Collaboration - Partnership
- The architects testify the implantation for the new buildings and the consistency of the building
- Plans of Urbanistic and Planning Permission

With National Geographic Institute of Belgium

- Agreement between the “Patrimonial Documentation” Administration and the National Geographic Institute

With the three Regional Authorities

With the Provinces

With the Towns

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1. INTRODUCTION : THE “PATRIMONIAL DOCUMENTATION” ADMINISTRATION OF BELGIUM

The “Coperfin Reform”, the reform of the Ministry of Finance of Belgium has led to the creation of new organization charts and new structures.

The Ministry of Finance became the “Federal Public Service Finance”.

The “Federal Public Service Finance” is now composed of three general administrations :

1. Taxes and Tax Collection;
2. Patrimonial Documentation;
3. Treasury.

The general administration of the Patrimonial Documentation (before the “Coperfin Reform”) “Cadastre, Registration and Public Property administration” is composed of five general departments :

1. Juridical Security;
2. Measures and Evaluations;
3. Patrimonial Services;
4. Not fiscal Tax office;
5. Collect and Swap of information.

There are also central services with functions of “support – coordination” and controlling.

The three “staff services” are :

1. The Service Appraisal and Functional Support;
2. The Running Service;
3. The Service “Program Management Office”.

2. THE BELGIAN CADASTRAL SYSTEM

Historically Belgium has a Napoleonic Cadastre.

The Belgian cadastre should have been in the beginning a legal and juridical cadastral system where the immovables files should be updated by civil servants.

This immovables files should be the proof of the property. The civil servants should have an active updating. But it wasn’t so because it was not possible to consult all the needed titles.

The Belgian cadastre is a “personal cadastre”. When we say that the Belgian cadastre is not a juridical cadastre, it doesn’t mean the Belgian cadastre has not any juridical quality.

Indeed, the Belgian cadastre doesn't give a title, but without title, the Belgian cadastre can give a presumption. The title proof only comes from the notarial deed. The proof for the third party is possible only if the notarial deed is transcribed in the mortgage service.

However, in Belgium with the fiscal assignment of the cadastre, the cadastral documentation has a juridical value because the cadastral files are titles.

Some administrative legislations give titles to the cadastral documentation, for example compulsory purchases, regrouping of lands, national and regional developments.

The Belgian system consists of to assure the publicity of the immovables, in fact the ownership during thirty years (titles). The publicity is made by the Registration and the Mortgage Service.

Practically, the percentage of the reliability of the cadastral data is very high.

3. BUSINESS APPROACHES OF THE “PATRIMONIAL DOCUMENTATION” ADMINISTRATION BASED ON THE SEVEN THEMES OF THE REFORM OF THE “FEDERAL PUBLIC SERVICE FINANCE”

3.1. Only file within the Federal Public Service Finance :

The aim is a standardization of the data files and the data processing.

3.2. Integrated data processing :

The customers can consult their own data.

3.3 Access “New Technologies “accessibility” :

- Face to face (Front office);
- Computer;
- TV Console;
- Phone;
- Kiosk;
- Local Agency;
- E-mails;
- Internet (with the Center of the Communication of the Federal Taxation – the Data Processing Portal of the “Federal Public Service Finance”).

The “customers” can also follow their files

3.4. Assistance and Controlling :

The objectives are to analyze and to detect the needs in order to give them the optimal answers and offer better services for example for the “Private Surveyors” and the Notaries.

3.5. Study of cases :

The study of cases is an approach centered by plans and this for a specify treatment of the files with a support for the concerned civil servants ... for example for a new railway.

3.6. Consistent regulation :

It's necessary that the regulations are more clear, solid more comprehensible.

3.7. Brand Image :

The internal and external process of interaction must be improved.

4. BUSINESS APPROACHES WITH THE PRIVATE SURVEYORS

About 800 private surveyors collaborate with the cadastre and this under the way of a agreement that they signed to give the swap of informations.

The surveyor has access to the necessary informations for the identification of the parcels that must be surveyed. In exchange for this informations, he transmits to Patrimonial Documentation Administration all the informations and a standardized map and this in the context of the project CADMAP (digitizing of the cadastral map of parcels).

The second phase of this process of collaboration is a law taking in compliance of the Mortgage law that will impose the preliminary cadastration before the act transferring the immovable property and also a map when new boundaries are created.

The third phase will be a law that will impose for each act transferring the immovable property, a “boundary markings plan” made by a surveyor. This “boundary markings plan” will identify the cadastral parcels.

So the Private Surveyor will play a significant part for the establishing of the ownership. This is an important step to the acknowledgement of the Private Surveyor as a “Public Officer” in his assignment of Public Service. So the acts will be legally certified and centralized by the Patrimonial Documentation Administration.

The project of the Belgian Cadastre must lead to a better juridical security of the cadastral files and the cadastral map of parcels.

5. BUSINESS APPROACHES WITH THE NOTARIES

The “Patrimonial Documentation Administration” has also “Business Approaches” with the Notaries.

Since January 2003, the Notary has an “on line access” to the Cadastral Files. The Notary is the writer of the deed and it is logic that he makes also the analysis of the deed. So, the updating of the juridical documentation respects the common intention of the parties. This reform has a cost and the Notaries have new responsibilities. This reform is in the moment examined bilaterally with the professional unions concerned, especially the computerized framework where the analysis of the act will be made.

The business approaches with the Notaries is very important for a better juridical security and the respect of the common intention of the parties.

Within the context of the project of the preliminary cadastration, the Patrimonial Documentation Administration has also a business approche with the Notaries : it is the PRECAD PROJECT.

In future, the new cadastral parcels will be clearly identified before the Mortgage formality.

This univocal identification of the immovable is made in the context of the UNIDENT PROJECT.

The UNIDENT PROJECT has also an European dimension with the PCC (Permanent Committee on Cadastre in the European Union) in order to identify the common characteristics of the 25 countries of the European Union in the matter of identification of the immovables.

6. BUSINESS APPROACHES WITH THE ARCHITECTS

For the approaches with the architects there are two mainlines :

- the architects testify the implantation a new building;
- and the consistency of the building.

With Coperfin the outdoor appraisal and surveys must be reduced. The Patrimonial Documentation Administration will only make the great or special surveys and appraisals. The architects can testify an implantation of a building is true to the plans of the urbanistic and planning permission.

The consistency of the building is made up of :

1. the layout of the building and the layout of the rooms;
2. the outside and inside distances, the height of the ceilings;
3. the quantity and the quality of the building material;
4. the kind of equipments;
5. the outside developments : garden, swimming pool.

7. THE “BUILDING CODE”

So, in this matter, the Cadastre has elaborated a “Building Code” with 62 terms. These 62 terms must permit the distinction of the necessary characteristics to fix the “building – market – rental value” of each building. This “Building Code” is composed of 10 clusters of informations :

1. the kind of building : a house, a warehouse;
2. the component elements : the year of the building, the number of floors, the number of habitable rooms,...;
3. the shell of the building : the sort of the fronts, outside joineries, the carpentry,...;
4. the inside finishing off the floor, the walls, the ceilings, the inside joineries;
5. the technical equipments : the quality of the wiring, the number of bathrooms installations, is there central heating ?, under-floor heating ?, are there lifts ? ;
6. the outside developments, like a swimming pool, a tennis court...;
7. the objective environment of the building : the objective but not the subjective environment : like a river or a stream, we don't consider if it's a advantage or a environmental nuisance
8. the distinctive characteristics of the building;
9. the date and the name of the appraiser;
10. the surfaces areas are measured and calculated with the distinctions : habitable, inhabitable, possibility of to convert... or not...

All these knowledges will permit in the “to be” to make computerized appraisals or at home appraisals and this without moving for a maximum buildings. Those appraisals are at the moment studying within the context of the “Risk Management”.

8. RISK MANAGEMENT

The “Risk Management” is all the procedures permitting the “Patrimonial Documentation” Administration to organize its Business Approaches according to the sectors of risk. Our “Risk Management” is so structured :

8.1. Risk : the possibility that a law or a regulation is not applied or applied incompletely.

8.2. Search of risks : to identify the risks.

8.3. Indicator of risks : factor or type of information that express the risks after analysis and assessment permits to establish the level of risk.

8.4. Analysis of risks : step of the management of risk that analyses each indicator of risks and this with the probability, the frequency and the scale.

8.5. Level of risk : with the analysis of risk, the evaluation of the degree of the risk and this for the appraisal of immovables or the activities of a partner.

8.6. Profile of risk : consists in the management of the risks and contents the identification of the sector of risks, the incurred risks, the indicators of risks and the level of risks. The profile of risk contents the description and possibly some procedures of assistance or control.

8.7. Proposals of selection : the implantation of profiles of risk leads to a proposal of assistance or a proposal of control.

9. BUSINESS APPROACHES WITH PUBLIC SERVICES

9.1. Business Approaches with the National Geographic Institute of Belgium

The STRATEGIS PROJECT will permit with a partnership between the Regions, the National Geographic Institute and the Patrimonial Documentation Administration the setting up of a cadastral GIS with references for the Regions, the towns; the Federal and Local Authorities...

9.2. Business Approaches with the Regional Authorities, the Provinces and the Towns

The Patrimonial Documentation Administration has also a Business Approaches with “Public Partners” like collaboration with the three “Regional Authorities” of the Kingdom of Belgium and this is for the improvement of the cadastral maps of parcels.

Since the creation of the Belgian Cadastre, the “Town Authorities” are partners of the Cadastre and this is for the identification of the physical modifications of the buildings and this will permit the update of the cadastral maps of parcels and the new land taxes.

Within this context, the professionalism of the “Public Departments” will be improved with complementary business approaches.

10. CONCLUSION

In conclusion we can say that the “Patrimonial Documentation” Administration has a Business Approaches with the Private Surveyors, the Notaries, the Architects, the Public Services for notably :

- the preliminary cadastration;
- the updating on line of the digitized cadastral map of parcels;
- the updating of the informations concerning the consistency of the immovables;
- the development of the access to the Geographics informations and this with a better partnership between the users and the producers.

BIOGRAPHICAL NOTES

Francis GABELE (58)

- Studies : Surveyor certificated by the Belgian State
Town Planner qualified by the Town Planning Institute
- Practice :
- General Auditor, Section Head at the “Federal Public Service Finance” – “Patrimonial Documentation Administration” (Cadastre, Registration, Public Property, Mortgage Service)
 - In charge of the general inspection of the services of the cadastre for Brussels and the Walloon Region
 - In charge of the International Relations for the Patrimonial Documentation Administration
 - Belgian Delegate to the PCC
 - Member of the National Council of the Belgian Association of Surveyors
 - Editor of the review “Surveyor”
 - Professor of property law (Engineer Surveyor)
 - Scientist Adviser at the University of Liège (Geomatic Engineer Department).
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