

Report and Recommendations on the Application and Interpretation of Federal Historic Preservation Standards

DELIVERED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION BY CHAIR SARA C. BRONIN

MARCH 1, 2024

"It is the policy of the Federal Government... to use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic property can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations."

THE NATIONAL HISTORIC PRESERVATION ACT OF 1966

"Preservation does not mean merely the setting aside of thousands of buildings as museum pieces. It means retaining the culturally valuable structures as useful objects: a home in which human beings live, a building in the service of some commercial or community purpose.

Such preservation insures structural integrity, relates the preserved object to the life of the people around it, and, not least, it makes preservation a source of positive financial gain rather than another expense."

LADY BIRD JOHNSON, FOREWORD, WITH HERITAGE SO RICH, 1966

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Foreword



March 1, 2024

As Chair of the Advisory Council, I've had the privilege of hearing from people who have experienced the joy and satisfaction of rehabilitating their beloved places. Many of those same people, though, have told me about the challenges of appropriately following federal historic preservation standards in their projects – especially in the face of changing climate and housing needs.

Wanting to understand more about these challenges, I issued a call for public comments about the standards last summer. The comments we received opened my eyes to a broad range of issues and inspired me to dig deeper into the history of our creation and interpretation of these standards.

Based on that history and the recent comments, this report makes a few recommendations to federal partners and to the Advisory Council. Even while making those recommendations, I want to underscore that the burden of proactively addressing the issues identified in this report does not fall on the federal government alone. As preservationists, we must work together to ensure that preservation achieves all that it should, and continues to see widespread support. That means debating the ideas in this report, adding new or different ideas where I've fallen short, and moving forward where we find common ground to improve the way we evaluate changes to treasured sites.

I thank all those who helped inform this report, and I hope it is taken in the spirit in which it is offered: a diagnosis, a conversation-starter, and a hope that preservation may continue to evolve, as it has and as it must.

Sincerely,

The Honorable Sara C. Bronin

Chair

Advisory Council on Historic Preservation

Executive Summary

Federal historic preservation standards developed by the Department of the Interior have become central to historic preservation practice.¹ This report examines their application and interpretation and makes recommendations pursuant to the Advisory Council's statutory duty to "review the policies and programs of Federal agencies and recommend to Federal agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this division."²

This is not the first time the Advisory Council has initiated or been involved with public discussions about federal historic preservation standards. Nearly fifty years ago, the Advisory Council spurred the Department of the Interior to develop guidelines to help practitioners understand how to use the standards in the field.³ In the intervening years, the Advisory Council has participated in or led various efforts to understand the standards' impact and recommend improvements. This report is offered in the same spirit as the Advisory Council's past involvements, and is updated to reflect new issues raised by the standards' contemporary application and interpretation.

As documented in Part I of this report, federal historic preservation standards were created in the 1970s pursuant to the National Historic Preservation Act of 1966 and have been evolving ever since. To help clarify their meaning, the Department of the Interior (through the National Park Service) has issued various guidance documents.

Although originally written for programs administered by the Department of the Interior, federal historic preservation standards have taken on a life of their own. As Part II outlines, these standards have been embedded in key federal, state, and local regulatory processes, and they have thus been applied and interpreted in various contexts beyond the direct purview of the Department. Annually, these standards determine whether 120,000 federal undertakings affect historic resources, \$8.8 billion in rehab projects are eligible for federal rehabilitation tax credits, and thousands of individual projects are approved by local historic commissions.

¹ This report uses the phrase "federal historic preservation standards," in lower case, to refer collectively to both the Standards and the Tax-Related Rehabilitation Standards, as defined herein. This phrase should not be taken to mean other standards, such as the Secretary of the Interior Professional Qualification Standards or any other standards promulgated or used by the federal government.

² 54 U.S.C. § 304102(a)(6).

³ See U.S. Department of Housing and Urban Development & U.S. Department of the Interior, "Guidelines for Rehabilitating Old Buildings: Principles to Consider When Planning Rehabilitation and New Construction Projects in Older Neighborhoods," 1977 ("The Guidelines were initiated when the Advisory Council on Historic Preservation perceived a growing need for basic professional guidance when Federal assistance was used to rehabilitate buildings of historical and architectural value.") (hereinafter, the "1977 Guidelines").

Given the broad reach of federal historic preservation standards, over the years many policymakers and agencies – including leaders and representatives of the Department of the Interior and the Advisory Council on Historic Preservation – have sought to improve and clarify their application and interpretation. Part III documents several relevant prior attempts to suggest improvements. In 2023, the Advisory Council called for additional public comments on the federal historic preservation standards, and Part IV provides an overview of comments received. Parts III and IV are intentionally laden with detail: Part III because prior analyses do not appear to be summarized in this manner elsewhere, and Part IV because submitted comments richly illustrated key points better than a summary could.

The prior analyses and more recent comments urge improvement of the manner in which federal historic preservation standards are applied and interpreted by a range of actors. One repeated theme is that the application and interpretation of federal historic preservation standards is often more strict than the standards themselves require, undermining the confidence of private parties in the regulatory process and actually hindering preservation itself. Based on the analyses and comments, it is apparent that the public policy goals of economic growth, environmental sustainability, equity, and indeed effective historic preservation itself may be thwarted by outdated applications and interpretations of the federal historic preservation standards. Commenters pointed to common changes like adding renewable energy, adding energy efficient features, or converting vacant commercial buildings to residential use that were made more difficult, or in some cases impossible, by stringent interpretations of the standards.

Part V offers recommendations to address these issues and to ensure that federal historic preservation standards are applied and interpreted by all levels of government and by private parties in a manner that facilitates not only historic preservation, but also economic growth, environmental sustainability, and equity. Despite the decentralized manner of applying and interpreting these standards, federal agencies can play a leadership role in correcting current misalignments. Part V thus offers suggestions for immediate federal action not requiring regulatory or legislative change, including the issuance of new guidance on specific topics with an eye toward balancing other key values, as well as a launch of review of existing guidance, expanded trainings, and an acknowledgement of the utility of precedent. It also calls on the Advisory Council to consider reviewing the current structure of the federal historic preservation program.

Part V goes on to recommend that the Department of the Interior, in the medium term, initiate rulemaking⁴ to expand the Standards, including by potentially restoring previously-deleted standards on protection and stabilization and adding new standards for relocation, intentional release, and deconstruction. It suggests additional rulemaking to improve the appeals process for decisions related to the Tax-Related Rehabilitation Standards. And finally, it encourages consideration of a graduated approach to the National Register of Historic Places, which could in turn inform a graduated approach to federal historic preservation standards.

⁴ "Rulemaking" is a term referring to the typical open, public process by which a federal agency creates administrative rules, including regulations like the Park Service regulations enshrining the Standards and the Tax-Related Rehabilitation Standards.

I. Federal Historic Preservation Standards

The federal government's development of historic preservation standards has roots in the National Historic Preservation Act of 1966. That statute assigned responsibility for promulgating regulations articulating these standards to the National Park Service, an agency within the Department of the Interior. This Part documents the evolution, over the last five decades, of these regulations and related guidance the Park Service has issued to facilitate their interpretation.

The Park Service developed its first set of standards-related regulations for grant programs that it administered pursuant to the National Historic Preservation Act (the "Grant-Related Standards"). It developed a separate set of regulations for the federal rehabilitation tax credit that it administers pursuant to the Tax Reform Act of 1976 and subsequent laws (the "Tax-Related Rehabilitation Standards"). In 1995, the Park Service updated and expanded the Grant-Related Standards to become the Secretary of the Interior's Standards for the Treatment of Historic Properties (the "Standards"), outlining the manner in which four different approaches to (or "treatments" of) tangible historic resources should be carried out. The Park Service has issued, and continues to issue, guidance on the way the Standards and the Tax-Related Standards should be applied and interpreted.

In documenting the contributions of Congress and the Department of the Interior in the evolution of federal historic preservation standards, this Part aims to make clear that the standards have never been static. Rather, they have evolved as new opportunities and issues have arisen.

A. GRANT-RELATED STANDARDS

The Grant-Related Standards evolved out of a requirement in the National Historic Preservation Act that the Department of the Interior develop a program offering grants promoting the preservation of historic properties. In 1973, after the Department received funding for and initiated a grants program, the Park Service published a manual indicating how grantees should perform three treatments: stabilization, restoration (including adaptive use), and reconstruction.⁵ In 1976, the Park Service published another manual which expanded its guidance to grantees to include four additional treatments: acquisition, protection, preservation, and rehabilitation.⁶

These manuals were used in administering the grant program, but the Park Service did not promulgate regulations – a more "official" and permanent way to enshrine guidance into federal policy – until 1978. That year, the Department of the Interior finalized regulations for what it called the Standards for

⁵ National Park Service, Historic Preservation Grants-in-Aid: Policies and Procedures (1973).

⁶ National Park Service, Preservation Project Standards (1976).

Historic Preservation Projects, including the following seven treatments previously contained in the 1976 manual:

- Acquisition ("acquiring fee title or [other interest]")
- Preservation ("applying measures to sustain the existing form")
- Protection ("applying measures designed to...[defend or guard a property] from deterioration")
- Reconstruction ("reproducing by new construction the exact form...of a vanished building, structure, or object")
- Rehabilitation ("returning a property to a state of utility through repair or alteration")
- Restoration ("accurately recovering the form and details")
- Stabilization ("applying measures designed to reestablish a weather resistant enclosure and... structural stability")⁷

The regulations on point were relatively brief, offering broad statements about how each of these treatments should be approached. Eight "general standards" covered all historic preservation projects, and twenty-one additional standards were divided among the seven different treatments.

B. TAX-RELATED REHABILITATION STANDARDS

The Tax Reform Act of 1976 required that the Department of the Interior develop standards by which proposals for projects seeking the federal rehabilitation tax credit would be evaluated. These standards focused solely on one treatment, rehabilitation. In 1977, the Park Service issued final federal regulations, calling them the Secretary of the Interior's Standards for Rehabilitation. (To reduce confusion and emphasize their specific purpose and scope, this report calls these standards the "Tax-Related Rehabilitation Standards.") In 1990, the Park Service made minor updates to the Tax-Related Rehabilitation Standards and updated federal regulations accordingly. These regulations have not been changed since.

Like the Grant-Related Standards, the Tax-Related Rehabilitation Standards are brief and contain general principles about how rehabilitation work should be carried out, stating that they "are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility." This language thus allows and anticipates significant flexibility in applying the rehabilitation treatment to federal historic tax credit projects. See Appendix A for the full text of the Tax-Related Rehabilitation Standards.

C. TODAY'S STANDARDS

In 1995, the Park Service proposed revisions to the Grant-Related Standards. In the Federal Register announcement of the proposed rule, the Park Service clarified that the new regulations would apply to

⁷ 36 C.F.R. Part 68 (1978).

⁸ Id. § 67.7.

⁹ Id. § 67.7(b).

all resources on the National Register of Historic Places, not just to buildings.¹⁰ Thus, it explained, these standards would need to have a new and different title: the Secretary of the Interior's Standards for the Treatment of Historic Properties (again, the "Standards").

The Park Service also noted in the Federal Register that the goal of the revision was to "reduce the part in length, sharpen it in format and language and, in consequence, make it easier to understand and apply." To achieve this goal, the Park Service consolidated the seven approaches to four: the previous treatment approaches of protection and stabilization were incorporated into the preservation treatment, while acquisition was removed as a treatment type. It also reduced length of the Standards to just fifty-five sentences. See Appendix B for the full text of the Standards.

The proposal was formally enshrined in federal regulations later in 1995. The provisions reveal the distinct aims of each of the four remaining treatments:

- Preservation, to maintain a property, including later additions, consistent with historically significant materials and historically consistent uses ("applying measures necessary to sustain the existing form, integrity, and materials of an historic property").
- Reconstruction, to recreate a property as it existed historically ("depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object").
- Rehabilitation, to enable new uses of a property ("making possible an efficient compatible use for a property").
- Restoration, to bring a property back to a certain time period ("accurately depicting the form, features and character of a property as it appeared at a particular period of time").¹³

Because Parts III and IV include analyses and comments that speak to all four treatments and their relative "strictness," it bears emphasizing that rehabilitation is written to be, and is intended to be, the treatment that is least "strict" in terms of fidelity to any particular material outcome or time period. The restoration treatment – which requires accuracy in material outcome, relative to a particular time period – might be seen as the "strictest" treatment. The preservation treatment might be seen as somewhere in the middle, insofar as it requires the maintenance of materials but does not require fidelity to a particular time period. But even across the spectrum of four treatments, the Standards are all subject to a flexibility provision included in the regulations and nearly identical to the provision in the Tax-Related Rehabilitation Standards: "The Standards will be applied taking into consideration the economic and technical feasibility of each project."

Of the four treatments, rehabilitation is most commonly referenced by government bodies and most commonly used by property owners. The Park Service's regulations indicate that rehabilitation encompasses "repair, alterations, and additions while preserving those portions or features which convey

¹⁰ The Secretary of the Interior's Standards for Historic Preservation Projects, 60 Fed. Reg. 3,599 (January 18, 1995).

¹¹ Id.

^{12 36} C.F.R. § 68(3).

¹³ Id. § 68.2.

¹⁴ Id. § 68.3.

[a property's] historical, cultural, or architectural values."¹⁵ Note that the rehabilitation treatment articulated in the Standards differs slightly from the rehabilitation treatment articulated in the Tax-Related Rehabilitation Standards. The Tax-Related Rehabilitation Standards, last updated in 1990, were not updated in 1995 along with the Standards.

Today's Standards are direct descendants of the prior Grant-Related Standards; they were written to govern the actions of grantees receiving Park Service funding through federal historic preservation appropriations. However, as will be described in Part II, these Standards have been integrated, explicitly or by reference, into many other governmental programs and projects extending far beyond the Park Service's grant programs. That's why this report refers to them as the "Standards."

D. NATIONAL PARK SERVICE GUIDANCE ON THE FEDERAL HISTORIC PRESERVATION STANDARDS

In addition to promulgating the regulations containing the Standards and the Tax-Related Rehabilitation Standards themselves, the Park Service has provided supplemental guidance for the interpretation of those standards.

The Park Service has stated that all of its guidance is general in nature and non-binding, and is not intended to provide case-specific advice. Nonetheless, it is important to acknowledge that preservationists in both public and private roles have tended to rely on the guidance documents as if they contained official, binding, and immutable interpretations. Local governments and state historic preservation offices use this guidance when regulating and reviewing historic preservation projects. Private actors use this guidance when designing such projects and when determining whether to undertake a preservation project in the first place. Thus, the Park Service's guidance has become as essential as the text of the Standards and the Tax-Related Rehabilitation Standards themselves.

This guidance has taken four primary forms: guidelines, *Preservation Briefs*, *Interpreting the Standards* bulletins, and tax-incentive guidance.

I. GUIDELINES

Official Park Service guidelines have informed governmental and public interpretation of both the Standards and the Tax-Related Rehabilitation Standards. Rarely issued and often developed over a period of several years, these guidelines are lengthy documents that attempt to address many different practical scenarios. They typically contain illustrations and photographs that illustrate actions deemed

¹⁵ Id. § 68.2(b).

¹⁶ A comment received from the National Conference of State Historic Preservation Officers in response to the Advisory Council's call for comment explained the situation as follows: "While the Standards are designed to be regulatory for projects funded via the Historic Preservation Fund (HPF) and for Historic Tax Credit projects, they are simultaneously meant to be advisory for everyone else. Over the years, they have been regarded as the 'gold standard' by which historic properties are approached and, in many cases, at the early suggestion of the NPS, have in turn been adopted as regulatory by local preservation commissions all over the country. Therefore, an inherent tension can exist in their interpretation – reconciling how various approaches can be both required and recommended."

to be either compatible or incompatible with the historic context. Though they offer many examples, these guidelines are not codified in regulations and do not provide clear, actionable criteria for whether work meets federal historic preservation standards.

In 1977, the Park Service published with the Department of the Housing and Urban Development (HUD) its first such guidance, *Guidelines for Rehabilitating Old Buildings*, which aimed to articulate how certain HUD-funded rehabilitations should be carried out.¹⁷ In that document, the two agencies expressed a hope that the guidelines might influence decisions beyond the federal program (i.e., the community development block grant program) for which they were developed, stating: "Although specifically developed to assist property owners... and for local officials responsible for the... grant program... these Guidelines will help any property owner or local official." ¹⁸

Listing actions that a property owner should "consider" or "avoid," the 1977 guidelines set several precedents that carry forward through current guidance on rehabilitations, including recommendations to avoid:

- Altering the interior plan of a building by changing principal walls, partitions, and stairways.
- Substituting "inappropriate" new materials or materials unavailable when the building was constructed, including "artificial brick siding, artificial cast stone or brick veneer" for masonry buildings; "artificial stone, brick veneer, asbestos or asphalt shingles, [or] plastic or aluminum siding" for wood-framed buildings; and "vinyl plastic or imitation wood wall and floor coverings" on interiors (except kitchens and bathrooms).
- Painting a building a "not appropriate" color.

In 1977, the Park Service published guidelines for the Tax-Related Rehabilitation Standards, and revised those guidelines again in 1983 and in 1992 (adding illustrations). In the 1992 guidelines, the Park Service lists "recommended" and "not recommended" treatments, and it lists as "not recommended" the similar provisions on the "avoid" list in the 1977 Interior-HUD guidelines (i.e., interior alterations, material substitutions, and inappropriate paint colors). In addition, the 1992 guidelines further suggest avoiding covering structural systems, installing new floors, creating new light wells, lowering ceilings, or adding or removing walls — activities that might be necessary for property owners to successfully convert a building to a new use. They caution against removing any interior feature that is "character-defining"; against "[d]ividing rooms, lowering ceilings, and damaging or

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¹⁷ 1977 Guidelines. These agencies were directed by the Housing and Community Development Act of 1974 to develop such guidelines. 42 U.S.C. § 5320(a) (1974). In addition, the Advisory Council on Historic Preservation was directed to "prescribe regulations providing for expeditious action by the Council in making comments under section 106" of the National Historic Preservation Act. Id. § 5320(c).

¹⁸ 1977 Guidelines, at 5.

¹⁹ U.S. Department of the Interior, with W. Brown Morton III et. al, "The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings," 1992 (the "1992 Tax-Related Guidelines"); U.S. Department of the Interior, with Gary I. Hume & Kay D. Weeks, "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," 1983.

²⁰ In some cases, the 1992 guidelines slightly reword the 1977 Interior-HUD guidelines; the language on substitute materials cautions against "[u]sing a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the masonry [or wood] feature or that is physically or chemically incompatible." 1992 Tax-Related Guidelines, at 7, 12, & 14.

²¹ Id. at 49, 52, & 55.

obscuring character-defining features such as fireplaces, niches, stairways, or alcoves, so that a new use can be accommodated"; and against "[i]nstalling permanent participations that damage or obscure character-defining spaces, features, or finishes."²² The 1992 guidelines also address code compliance issues, stating that work to meet various building or energy code requirements must be "assessed for it[s] [sic] potential negative impact on the building's historic character" and seeming to discourage life safety and code compliance updates where they would in any way alter "character-defining" spaces. The guidelines even recommend against enclosing interior stairways for fire safety purposes, in contrast to prior guidance prioritizing safety. Overall, the 1992 guidelines prioritize the "preservation" of interior spaces, exactly as they were found — an interpretation seemingly at odds with the "rehabilitation" purpose of the federal rehabilitation tax credit.

In 1979, the Park Service published guidelines for applying the Grant-Related Standards adopted the prior year, ²⁶ and in 1985, the Park Service republished those guidelines. In 1995, shortly after the Grant-Related Standards evolved into the Standards as we know them today, the Park Service issued the *Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings.* The latest version of that document, which explains how the Standards should be interpreted and is the most general of the guideline documents, was published in 2017.²⁷ These guidelines continue to emphasize the material integrity of the historic fabric, even in the rehabilitation treatment. For example, for interiors being rehabilitated, the guidelines suggest avoidance of "[a]ltering a floor plan, or interior spaces (including individual rooms), features, and finishes, which are important in defining the overall historic character of the building so that, as a result, the character is diminished"; "[a]ltering the floor plan by demolishing principal walls and partitions for a new use"; "inserting additional floors or lofts; cutting through floors to create lightwells, light courts, or atriums; lowering ceilings; or adding new walls or removing historic walls"; and relocating interior features like staircases.²⁸ These recommendations may be difficult to follow in a rehabilitation seeking to convert a building from one use to another.

The Park Service has also developed guidelines for sustainability²⁹ (in 2011) and flood adaptation³⁰ (in 2019) for property owners using a rehabilitation treatment. These two sets of guidelines apply only to rehabilitations and no other treatment, and to buildings but not the other four types of resources Places

²² Id. at 58-59.

²³ Id., at xii, 101-102.

²⁴ Id. at 59-60.

²⁵ See, e.g., 1977 Guidelines, at 9 ("[d]estroying original plaster" and "removing original material, architectural features, and hardware" could be undertaken where necessary for safety).

²⁶ U.S. Department of the Interior, with W. Brown Morton III & Gary L. Hume, "The Secretary of the Interior's Standards for Historic Preservation Projects with Guidelines for Applying the Standards," 1979.

²⁷ U.S. Department of the Interior, revised by Anne E. Grimmer, "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings," 2017.

²⁸ Id. at 128.

²⁹ U.S. Department of the Interior, with Anne E. Grimmer et al., "Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings," 2011 (hereinafter the "Sustainability Guidelines").

³⁰ U.S. Department of the Interior, with Jenifer Eggleston, Jennifer Parker, & Jennifer Wedlock, "Secretary of the Interior's Standards for Rehabilitation and Guidelines on Flood Adaptation for Rehabilitating Historic Buildings," 2021 (hereinafter the "Flood Guidelines").

(i.e., structures, objects, sites, and districts) listed on the National Register of Historic Places. At times, the sustainability guidelines prioritize material fidelity and visibility over climate-friendly infrastructure, for example, in recommending against alterations to accommodate solar panels and against the installation of solar panels in a "highly visible" or "prominent location," even if installations can be removed with minimal or no damage to historic fabric.³¹ Similarly, the flood guidelines prioritize locational fidelity over adaptability, recommending against relocating a building in harm's way, especially to a new site "noticeably different from the original setting."³² The flood guidelines also explain that demolition "is not a treatment that meets the Standards for Rehabilitation," even while recognizing that demolition may be needed to enable adaptive measures to be instituted or "protect other, more important historic buildings."³³

2. PRESERVATION BRIEFS

In addition to the lengthy and rarely-issued guidelines, the Park Service has published fifty *Preservation Briefs*, which it explains "recommend methods and approaches for rehabilitating historic buildings that are consistent with their historic character." These briefs cover specific materials, such as ceramic tile floors and leaded stained glass; specific building types, such as gas stations and barns; and specific techniques, such as cleaning masonry and repointing mortar.

The Park Service continues to both publish new briefs and update existing briefs. The most consequential recent brief has been a revision of Preservation Brief 16, "The Use of Substitute Materials on Historic Building Materials." In the revised brief, the Park Service recognizes that historically, some materials have been substituted by property owners and builders to mimic other materials, such as terra cotta, cast iron, and stucco used to imitate stone. In addition, the Park Service acknowledged that the use of substitute materials may be appropriate in situations where the original material has inherent deficiencies or where the new material will need to resist environmental hazards. It also listed potential substitute materials, including composite and plastic materials that might replace siding, roofing, and masonry, among other things. In these recommendations and others, the revised Preservation Brief 16 represents a shift in the treatment of substitute materials, which prior guidance suggested avoiding.

3. INTERPRETING THE STANDARDS BULLETINS

The Park Service has published fifty-six *Interpreting the Standards* bulletins, each just a few pages long and posted together to a website, making them easy to locate. These bulletins explain specific decisions made by the Park Service in its interpretation of the Tax-Related Rehabilitation Standards. The first

³¹ Sustainability Guidelines, at 15.

³² Flood Guidelines, at 114 & 116.

³³ Id. at 126.

³⁴ National Park Service, "Preservation Briefs," October 2023, at https://www.nps.gov/orgs/1739/preservation-briefs.htm.

³⁵ Department of the Interior, "Preservation Brief 16: The Use of Substitute Materials on Historic Building Materials," 2023.

³⁶ Id. at 3-4.

³⁷ Id. at 12.

³⁸ Id.

such bulletin, for example, dealt with a shotgun house that was successfully approved for an interior alteration that kept virtually all interior features intact. The most recent such bulletin highlighted incompatible treatments at two commercial buildings, which were disapproved by the Park Service.

The Park Service has explained that "the bulletins are case-specific and are provided as information only; they are not necessarily applicable beyond the unique facts and circumstances of each case."³⁹ Thus, like the other Park Service guidance, the bulletins have been deemed to lack precedential value that could be useful to applicants currently undergoing the tax-credit application process.

4. TAX-INCENTIVE GUIDANCE

Finally, the Park Service has issued about twenty other pieces of guidance relevant to the Tax-Related Rehabilitation Standards. They cover a range of topics, including "Changing Secondary Interior Spaces in Historic Buildings," "Cumulative Effect and Historic Character," and "New Additions to Historic Buildings." They are also limited in scope in that, like the other guidance issued by the Park Service, they cannot be relied upon for precedential value. They do, however, provide some narrow clarity on how the Tax-Related Rehabilitation Standards should be interpreted with regards to specific situations.

For reference purposes, a copy of such guidance is located in Appendix C. The tax-incentive guidance documents dated 2007 were developed in response to the 2006 Department of the Interior Park Service Advisory Board Committee Report documented in Part III.C. The tax-incentive guidance documents dated 2016 were developed in response to the 2013 Department of the Interior Secretary-Commissioned Internal Review documented in Part III.E.

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³⁹ National Park Service, "Interpreting the Standards Bulletins," October 2023.

II. The Broad Reach of Federal Historic Preservation Standards

In the five decades over which the Standards and Tax-Related Rehabilitation Standards have evolved, federal agencies, as well as state and local governments, have integrated them into their regulatory frameworks. What that means is that many different groups engage with these standards: state and local officials, to be sure, but also practitioners (including architects, engineers, conservationists, and others) making recommendations to developers or property owners based on what they believe will be approved, and developers and property owners seeking an economically viable project that utilizes a historic property. Considering all of those groups, this Part offers five non-exhaustive illustrations of the application of these standards.

A. FEDERAL HISTORIC PRESERVATION GRANT PROGRAMS

At the federal level, the Standards are used to evaluate activities funded by historic-preservation grant programs administered by the Department of the Interior. As described above, these grant programs were the impetus behind the development of the original Grant-Related Standards.

B. SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

The Standards are also referenced in the Advisory Council of Historic Preservation regulations, which guide federal agencies in complying with the requirements of Section 106 of the National Historic Preservation Act. The Section 106 process requires federal agencies to take into account the impact of their undertakings on properties listed on or eligible for the National Register of Historic Places. Undertakings include not only activities, like construction, directly initiated and overseen by a federal agency, but also include private activities permitted, licensed, or funded by federal agencies. The National Register lists one and a half million historic properties, and as federal agencies have undergone the Section 106 process, untold numbers of additional properties have been deemed eligible for listing. Overall, federal agencies review upwards of 120,000 agency undertakings annually pursuant to Section 106, and in so doing they must assess adverse effects of their undertakings on National Register-listed or -eligible properties.

⁴⁰ 36 C.F.R. Part 800.

⁴¹ 54 U.S.C. § 306108.

⁴² Federal agencies do not systematically maintain records of the numbers, types, or locations of properties deemed eligible for listing on the National Register of Historic Places through the Section 106 process, so it is impossible to determine a precise number of properties found eligible.

The Advisory Council explicitly incorporates the Standards into the part of the Section 106 process requiring participants in the process to evaluate adverse effects. The regulations provide as an example of an adverse effect "[a]lteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the [Standards]... and applicable guidelines."⁴³ The regulations thus require federal agencies and other parties subject to Section 106 to review and apply not only the terms of the Standards themselves, but also the guidelines referenced in Part I.D.1.

Thus the Standards are highly consequential in regulating the impact of federal construction projects – from housing to hospitals and cultural landscapes to military facilities – and federal activities beyond construction projects. These activities generate significant economic activity and can also have significant environmental and equity impacts.

C. SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

Also relevant, the Standards are referenced in the National Park Service guidelines for Section 110 of the National Historic Preservation Act, which deals with federal agency historic preservation programs.⁴⁴ These guidelines, last updated in 1998, require agencies to manage and maintain historic properties they own or control "in a manner that considers the preservation of their historic, architectural, archaeological, and cultural values," and to modify and maintain such properties in accordance with the Standards.⁴⁵ Note, however, the regulations for Section 110 also allow for federal agencies to deviate from the Standards "[w]here it is not feasible to maintain a historic property, or to rehabilitate it for contemporary use."⁴⁶

D. FEDERAL AND STATE TAX CREDITS

The Tax-Related Rehabilitation Standards also have significant reach. Taxpayers seeking a federal rehabilitation tax credit must undertake a proposed rehabilitation in accordance with the Tax-Related Rehabilitation Standards to qualify for the credit. To obtain the credit, a taxpayer must submit an application to the state historic preservation office that proceeds in three parts: first, a determination that the property is listed on the National Register; second, a review confirming that the proposed work complies with the standards; and third, a certification that the work was completed in accordance with the standards. (The names of these steps are, perhaps predictably, called Part 1, Part 2, and Part 3 by preservation practitioners.)

At any stage in the review process, the taxpayer may have to resolve issues raised by the state historic preservation office or the Park Service, which also reviews applications. If officials find the project

⁴⁴ The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act, 63 Fed. Reg. 20,499-20,508 (April 24, 1998). See also 54 U.S.C. §§ 306101(a) and 306102.

⁴³ 36 C.F.R. § 800.5(a)(2)(ii).

^{45 63} Fed. Reg. 20,505.

⁴⁶ The Secretary of the Interior's Standards for Historic Preservation Projects, 63 Fed. Reg. 20,505 (April 24, 1998).

proposal will fail, or the finished project fails, to comply with the Tax-Related Rehabilitation Standards, the taxpayer will be denied the credit.

Moreover, conformance with the Tax-Related Rehabilitation Standards is often a requirement for *state* historic preservation tax credit programs. Thirty-nine states have historic tax credit programs.⁴⁷

E. LOCAL HISTORIC PRESERVATION ORDINANCES

Finally, many local historic preservation commissions use the Standards (especially the rehabilitation treatment) or the Tax-Related Rehabilitation Standards to either guide implementation of local historic preservation ordinances or serve as the basis for tailored local standards. The Park Service has acknowledged that while the Tax-Related Rehabilitation Standards have been used to determine the appropriateness of projects receiving the federal historic tax credit, they "have been widely used over the years... [and] have guided... both Federal and nonfederal rehabilitation proposals. They have also been adopted by historic district and planning commissions across the country."⁴⁸ A recent survey of the historic preservation ordinances of local governments found that just over half of such ordinances explicitly reference some version of the Standards or the Tax-Related Rehabilitation Standards.⁴⁹

⁴⁷ National Trust for Historic Preservation, "State Historic Tax Credits," at https://savingplaces.org/state-historic-tax-credits.

⁴⁸ The 1992 Tax-Related Guidelines, at v-vi.

⁴⁹ Sara C. Bronin & Leslie R. Irwin, "Regulating History," 108 MINN. L. REV. 241 (2023).

III. Prior Analyses of Federal Historic Preservation Standards

As Part I explained, federal historic preservation standards were developed nearly fifty years ago and have been only modestly revised during that period. Over the last two decades, various individuals and institutions have reviewed the interpretation and application of these standards. This Part documents, in chronological order, the following published analyses, two initiated by the Department of the Interior, and three initiated by external groups:

- NCSHPO Task Force Report (2003)
- Historic Preservation Development Council Working Group Report (2003)
- Department of the Interior Park Service Advisory Board Committee Report (2006)
- Federal Historic Preservation Program Task Force Report (2011)
- Department of the Interior Secretary-Commissioned Internal Review (2013)

These analyses, a full copy of which is found in Appendix D, have generally found that the application and interpretation of the Standards and the Tax-Related Rehabilitation Standards at various levels of government sometimes fails to balance the goal of historic preservation with other public policy goals, including economic growth, environmental sustainability, and equity, and at times may thwart preservation activity itself. These analyses have also offered various suggestions for the federal government to improve the process by which it applies and interprets the Standards and the Tax-Related Rehabilitation Standards.

In response to these analyses, some official interpretations of federal historic preservation standards have been amended or augmented. The openness to critique and evolution in these instances is worth applauding.

A. NCSHPO TASK FORCE REPORT (2003)

The National Conference of State Historic Preservation Officers (NCSHPO), a nonprofit organization bringing together state historic preservation officers and their staff and an organizational member of the Advisory Council on Historic Preservation, published the first external critique of the Tax-Related Rehabilitation Standards. By way of brief background, state historic preservation officers play a role in administering the federal rehabilitation tax credit, as they review applications for proposed projects and their compliance with the Tax-Related Rehabilitation Standards, and they liaise with Park Service reviewers providing final approval. Thus they have unique insights into administration of such tax credit reviews.

In 2003, NCSHPO convened and charged a Tax Act Review Task Force to "research and articulate concerns and issues in relationship to the NPS/State interface on Tax act projects; and to make

recommendations on potential ways to reform the review process and application of the Secretary of the Interior's Standards for Rehabilitation." The task force distributed a questionnaire to its members (i.e., state historic preservation officers) on relevant topics. After reviewing responses, the task force issued its report suggesting that the Park Service should improve the administration of the tax credit in several ways.

As preface to its recommendations, NCSHPO indicated that the application and interpretation of the Tax-Related Rehabilitation Standards was hindering economic growth and environmental sustainability.

With regard to economic growth, the report tied strict interpretations of the Tax-Related Rehabilitation Standards to a reduction in the number of rehabilitation projects, stating: "No credit [being issued] translates into no project and ends up leading to certain demolition or radical alteration." Explaining this point, the report said: "Insisting on the preservation of elements or fabrics that do not define the historic character and/or insisting on the restoration of missing elements may unnecessarily burden the overall economic feasibility of the project. After all, this is the 'historic preservation' movement not the 'aesthetic restoration' movement." ⁷⁵²

With regard to environmental sustainability, the report suggested that the interpretations of the Tax-Related Rehabilitation Standards should be made "in light of changing environmental issues such as lead paint management, energy conservation and smart growth." It went on to say: "Historic preservation efforts must be in tune with other progressive environmental movements...[including] local density increases, smart growth policies, energy conservation programs... The application of the Rehabilitation Standards needs to be within a framework that recognizes local or state policies." ⁵⁴

To address these issues, the NCSHPO report suggested that the Park Service loosen its strict interpretations of the Tax-Related Rehabilitation Standards in the following ways:

- Identify the character-defining elements that must be preserved in Part 1 of the application form, ⁵⁵ and require the preservation and protection of only such specified elements.
- "Eliminate any mandatory use of the restoration standard for a rehabilitation project." 56
- Avoid applying the reconstruction standard to deteriorated or missing elements.⁵⁷

In addition, the report observed that "NPS concerns on a project appear to relate to application of *a personal design philosophy,*" noting that some Park Service reviewers may have treated similar projects differently, or even arbitrarily.⁵⁸

 $^{^{50}}$ National Council of State Historic Preservation Officers, "Tax Act Review Reform Policy Paper," June 2003, at 1.

⁵¹ Id. at 5.

⁵² Id. (emphasis added).

⁵³ Id.

⁵⁴ Id. at 4.

⁵⁵ For an explanation of the three parts of the federal rehabilitation tax credit application, see Part II.D.

⁵⁶ National Council of State Historic Preservation Officers, "Tax Act Review Reform Policy Paper," at 4.

⁵⁷ Id. at 6.

⁵⁸ Id. at 4 (emphasis added).

From a procedural perspective, the report suggested that the Park Service clarify its tax-credit appeals process and allow the state to play a role in appeals. The appeals process is typically invoked when an applicant for the tax credit is denied it by the Park Service for failure to comply with the Tax-Related Rehabilitation Standards. The structure of the appeals process, and the manner in which appeals will be substantively reviewed, is thus relevant to the interpretation of the Tax-Related Rehabilitation Standards.

B. HISTORIC PRESERVATION DEVELOPMENT COUNCIL WORKING GROUP REPORT (2003)

In 2003, two national nonprofit organizations – the National Housing & Rehabilitation Association and the Congressionally-chartered National Trust for Historic Preservation – convened a working group of their joint Historic Preservation Development Council to develop recommendations for improving the administration of the tax-credit program. The group consisted of representatives of both nonprofit organizations and their affiliates, as well as historic preservation consultants and attorneys, the president of NCSHPO, and at least one state historic preservation officer. Additionally, representatives from the Park Service participated in several meetings. The participants thus have a multi-faceted perspective on the regulatory and practical aspects of the administration of the tax-credit program.

Over the course of the year, the working group met to identify key issues. In a report issued in December 2003, the working group issued several key recommendations relevant specifically to the Tax-Related Rehabilitation Standards.⁵⁹

As preface for its recommendations, the working group recognized that the application and interpretation of the Tax-Related Rehabilitation Standards affected economic growth, environmental sustainability, and equity.

With regard to economic growth, the working group report indicated that "developers are less likely to utilize the historic tax credit if they believe the design review process is too lengthy, expensive, and unpredictable." It added that developers might abandon or choose not to pursue projects because some tax-credit reviewers held a "bias favoring restoration over rehabilitation," contrary to the "primary purpose of the historic tax credit to foster *rehabilitation*."

With regard to environmental sustainability, the working group report said that "[t]he end use of the property, building and energy code requirements, the existence of hazardous materials such as lead paint or sash with asbestos in the glazing compound, and other similarly pertinent factors, should be taken into consideration" when applying the Tax-Related Rehabilitation Standards, particularly in regard to replacement materials. The report called "problematic" the failure to flexibly allow replacement

⁵⁹ Historic Preservation Development Council, "Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Program," December 2003.

⁶⁰ Id. at 3.

⁶¹ Id. at 2 (emphasis added).

⁶² Id. at 6.

materials to enable the tax-credit program to allow for "revitalization and adaptive reuse of buildings, not simply as a vehicle for architectural restoration." ⁶³

With regard to equity, the report went on to imply that inequities may be embedded in the process itself, with outcomes dependent on the biases of independent reviewers. In particular, the report noted that the chief appeals officer overturned two-thirds of decisions for which applicant-taxpayers had appealed.⁶⁴ Nonetheless, the report argued that the appeals process "can create an unfair bias against the developer and the project" because the chief appeals officer was (and is) an employee of the Park Service who primarily consults with those who denied the application.⁶⁵ Moreover, prior appeals decisions could not be relied upon by other later applicants, meaning that differential treatment over time may be possible.

To address these issues, the Historic Preservation Development Council report suggested that the Park Service loosen its strict interpretations of the Tax-Related Rehabilitation Standards⁶⁶ in the following ways:

- Identify the character-defining elements that must be preserved in Part 1 of the application form,⁶⁷ and require the preservation and protection of only such specified elements.⁶⁸
- Eliminate any mandatory use of the restoration standard for a rehabilitation project and revise all internal and public interpretation materials accordingly.⁶⁹
- Interpret the Standards "flexibility... based on building significance" through the introduction of a graduated application scale.⁷⁰

Additionally, the working group included an appendix of 13 "illustrative examples of areas where developers might be given greater latitude" in the interpretation of the Tax-Related Rehabilitation Standards. They are (verbatim from the report):

- Allow for the creation of new floor plans particularly on upper floors including removal of most demising walls outside of significant corridor areas.
- Where upper floor corridors are not significant, allow for their removal.
- Provide more flexibility in meeting fire, lead paint, accessibility, building and house code requirements. An example would include replacement of interior doors and transom windows to meet fire codes – especially in residential and hotel rehabilitations.
- On stairway retention, focus review on ornamented, centrally-located, highly visible stairs. Allow flexibility for compliance with secondary egress requirements under the fire code.
- Allow for more filling of existing light courts, particularly purely functional, utilitarian light courts.

⁶⁴ Id. at 4.

⁶³ Id.

⁶⁵ Id. at 5.

⁶⁶ The report noted that the interpretation of the Tax-Related Rehabilitation Standards "tends to be uniformly strict and does not reflect differing levels of significance for each property." Id. at 6.

⁶⁷ For an explanation of the three parts of the federal rehabilitation tax credit application, see Part II.D.

⁶⁸ Historic Preservation Development Council, "Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Program," at 7.

⁶⁹ Id. at 2.

⁷⁰ Id. at 6-7.

- Allow for creation of new light courts in large floor-plate buildings without regard to whether the new court is covered or uncovered.
- Allow for more flexible adaptive reuse of large-volume spaces such as gymnasiums, church sanctuaries and meeting rooms into office, residential, or retail space.
- Allow for exposed mechanical systems where no architectural significance is present.
- Allow for replacement of plaster with drywall where insulation, or new electrical or plumbing is required.
- Allow replacement of windows, with a "design-sensitive" replacement production where maintenance, energy efficiency or operability by seniors and the handicapped are an issue.
- Allow for the addition of appropriate new window openings and sashes on non-primary facades to provide light for office and residential uses.
- Allow more flexibility on rooftop additions and placement of rooftop utilities on buildings of lesser architectural significance.
- In general, return to the 1983 language regarding retention of original materials. Allow for replacement solutions when functionality, cost feasibility, energy efficiency or local codes make repair a less desirable option.⁷¹

From a procedural perspective, the report suggested that the Park Service improve its tax-credit appeals process by⁷²:

- Publishing the full text of appeal decisions to improve public and state reviewer understanding of Park Service review principles.
- Allowing appeals of denials of preliminary certification for buildings not on the National Register, which are non-appealable.
- Replacing the one-person appeals board (i.e., the Chief Appeals Officer) with an independent appeals board including Park Service, state historic preservation office, developer, and other professionals.

In addition, the Historic Preservation Development Council suggested that the Park Service allow for state historic preservation offices to directly approve (without a separate Park Service approval) projects generating \$500,000 or less in tax credits (projects with total development costs of \$2.5 million or less) and to be primarily responsible for assessing existing conditions.

C. DEPARTMENT OF THE INTERIOR PARK SERVICE ADVISORY BOARD COMMITTEE REPORT (2006)

In 2004, the Park Service published a 36-page response to the NCSHPO report and the Historic Preservation Development Council working group report, addressing certain recommendations of the report. The Park Service noted that it did not view its interpretation of the Tax-Related Rehabilitation Standards as increasingly conservative, emphasizing that its interpretation did not require the restoration

⁷² Id. at 4-5.

⁷¹ Id. at 8.

⁷³ National Park Service, "Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program: The National Park Service Response to Recommendations for Improvement," August 2004.

of missing features, excessive improvements, or retention of features that are not "character-defining." As to appeals, the Park Service explained its decision not to publish full appeals decisions online, suggesting that the public needed more context to understand them. Most relevant to this discussion, the Park Service pledged in the report to establish a committee that would consider whether: the Tax-Related Rehabilitation Standards appropriately met modern challenges, the guidelines were clear and consistent, the Park Service was overly conservative, the Park Service should be more lenient on interiors and other additions, and the Park Service should substitute a Section 106-like "mitigation of adverse effects" test in place of the Tax-Related Rehabilitation Standards.

In 2005, Park Service director Fran Mainella established a committee of the Park System Advisory Board (the "NPS Committee") to examine the Park Service's administration of the tax-credit program. The NPS Committee included two Park System Advisory Board members, along with leaders from the two nonprofits that created the Historic Preservation Council, a member of the Advisory Council on Historic Preservation, and private parties.⁷⁴

Over the course of a year, the NPS Committee met and heard presentations from a variety of individuals, including a representative of the Internal Revenue Service, two state historic preservation officers, representatives of nonprofit organizations, and private developers. Both the participants and the presenters had significant expertise with all aspects of the federal tax-credit program.

In 2006, the NPS Committee issued its report, offering several recommendations about the application and interpretation of the Tax-Related Rehabilitation Standards.

As preface to its recommendations, the NPS Committee indicated that the application and interpretation of the Tax-Related Rehabilitation Standards was hindering economic growth and environmental sustainability. With regard to both, the report indicated that "in some cases reconciling interpretation of the [Tax-Related Rehabilitation] Standards with other public policy goals, such as smart growth, energy efficiency, and affordable housing, can be problematic." The NPS Committee recognized that "[s]ome potential applicants may find the process confusing and burdensome to the point that they are discouraged from applying." In addition, the report stated, "NPS policy guidance does not sufficiently address how rehabilitation projects could accommodate more environmentally sensitive treatments and make use of more new building products and materials."

To address these issues, the NPS Committee report suggested that the Park Service loosen its strict interpretations of the Tax-Related Rehabilitation Standards in the following ways:

• Identify the character-defining elements of the interior of a building and "permit more change to less significant secondary spaces."

⁷⁴ National Park Service Advisory Board, "Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better," September 2006.

⁷⁵ Id. at 4.

⁷⁶ Id. at 16.

⁷⁷ Id. at 11.

⁷⁸ Id. at 10-11.

- Eliminate any mandatory use of the restoration standard for a rehabilitation project and revise guidance accordingly.⁷⁹
- Allow most windows in historic buildings to be replaced, "even if the windows are repairable," including in hurricane-prone areas where building codes do not accommodate historic repairs.⁸⁰
- Address the Americans with Disabilities Act, life-safety requirements, seismic standards, energy
 efficiency, and LEED certification.⁸¹
- Allow for functionally-related multiple-building complexes in single ownership to be more flexibly treated during phased projects.⁸²

The Park Service issued about a dozen guidance documents in response to the 2006 NPS Committee report.⁸³ Most of these are included in their entirety in Appendix C.

D. FEDERAL HISTORIC PRESERVATION PROGRAM TASK FORCE REPORT (2011)

In 2010, the national advocacy group Preservation Action convened the Federal Historic Preservation Program Task Force to review the federal historic preservation program as a whole. The task force consisted of representatives from NCSHPO, the National Trust for Historic Preservation, state historic preservation officers, a tribal historic preservation officer, one Advisory Council on Historic Preservation member, and many preservation professionals. 84

Over the course of a year, the task force met and heard presentations and conducted interviews with fifty-three individuals, including the chairman and executive director of the Advisory Council on Historic Preservation, tribal and state historic preservation officers, retired Park Service and Department of the Interior staff, representatives of nonprofit organizations, and private developers, among others. Thus both the participants and the presenters had significant expertise with all aspects of the federal historic preservation program.

As preface to its recommendations, the task force emphasized the links between historic preservation and environmental sustainability, arguing that adaptive reuse "conserve[s] not only materials, but their embodied energy," while "the oldest buildings can perform at the most demanding standards of energy

⁷⁹ Id. at 12 ("Guidance should focus on and explain the thought process [in providing]... an incentive to 'rehabilitate' and not to 'restore' historic properties").

⁸⁰ Id. at 9-10.

⁸¹ Id. at 11.

⁸² Id. at 19.

⁸³ National Park Service Advisory Board, "Making a Good Program Better: Final Guidance and Implementation of National Park System Advisory Board Recommendations for the Federal Historic Rehabilitation Tax Credit Program," 2007.

⁸⁴ The task force included representation and/or input from eleven organizations: Alliance of National Heritage Areas, American Cultural Resources Association, Historic Tax Credit Coalition, National Alliance of Preservation Commissions, National Conference of State Historic Preservation Officers, National Trust for Historic Preservation, National Trust Community Investment Corporation, Preservation Action, Preservation Action Foundation, Society for Historical Archaeology, and the U.S. National Committee of the International Council on Monuments and Sites.

efficiency."⁸⁵ Its report went on to say that "retrofitting of historic buildings [can] meet national building performance objectives,"⁸⁶ and that "[s]ustainability issues have come to play a much more significant role in recent years."⁸⁷ The report argued that because the Park Service took a "curatorial' approach"⁸⁸ to historic preservation, property owners were wrongly denied historic tax credits.

Much of the task force report related to structural issues in the federal historic preservation program, and not federal historic preservation standards specifically. However, the report underscored the importance of the Park Service more explicitly addressing sustainability concerns, particularly when it came to solar energy and historic window repairs. ⁸⁹ It noted that the Park Service's issuance of guidelines on sustainability in 2011 were a good "first step," but that more was needed. ⁹⁰ The task force report also emphasized the importance of clear explanations and guidelines related to the Standards generally, and the Tax-Related Rehabilitation Standards more specifically.

E. DEPARTMENT OF THE INTERIOR SECRETARY-COMMISSIONED INTERNAL REVIEW (2013-2016)

In January 2013, former Secretary of the Interior Ken Salazar announced that the Park Service would conduct an internal review of its tax-incentive program. The Secretary solicited and received public comment from real estate developers, preservation professionals, nonprofit organizations, and other stakeholders.

Two months later, the Park Service released a report containing various recommendations related to the program, including a call to clarify guidance related to applying and interpreting the Tax-Related Rehabilitation Standards.⁹¹ To implement this recommendation, the report recommended that the Park Service issue new guidelines on five topics (verbatim from the report):

- Differentiating between levels of significance in interior spaces and making changes to secondary spaces.
- Making changes to certain types of assembly spaces as part of adaptive reuse projects.
- Applying Standard 1 in cases of continuing historic use, where modern needs may necessitate specific interior changes.
- Identifying changes to a historic building that have occurred over time and have acquired historic significance in their own right [related to Standard 4].
- Applying Standard 2 to highly deteriorated interior spaces.⁹²

⁸⁵ Federal Historic Preservation Program Task Force, "Aligned for Success: Recommendations to Increase the Effectiveness of the Federal Historic Preservation Program," Summer 2011, at 2.

⁸⁶ Id. at 3.

⁸⁷ Id. at 18.

⁸⁸ Id. at 18.

⁸⁹ Id. at 19.

⁹⁰ Id.

⁹¹ National Park Service, "Results of Program Review – Recommendations and Action Plan," March 2013.

⁹² Id. at 5. For reference, the Tax-Related Rehabilitation Standards 1, 2, and 4 are: "(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment. (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided. ... (4) Most properties change

From a procedural perspective, the report urged the Park Service to reexamine its early consultation protocols and to reduce review times for project amendments. The year after these recommendations were issued, W. Brown Morton III, one of the original authors of the federal historic preservation standards and related guidance, lamented changes that made interpretations of them increasingly strict, noting that "much of that flexibility [in the original Standards] has been lost in subsequent revisions."93

The Park Service largely followed through on the recommendations to issue guidance, issuing taxincentive guidance on four of the five topics in 2016.94 These are all included in Appendix C. It did not issue guidance related to making changes to assembly spaces.

Worth noting, between the 2013 report and the 2016 publication of new tax-incentive guidance, the Park Service issued a long-term planning document ("A Call to Action") for its centennial in 2015.95 In that document, the Park Service reiterated its commitment to updating its own federal historic preservation standards, identifying the Standards (and not just the Tax-Related Rehabilitation Standards) as needing modernization "in consultation with historic preservation partners." It also called for the Park Service to "show how historic structures can be made sustainable." 97

F. SUMMARY COMMENTS

The various documents summarized in this Part show a consistency in their analyses of the Standards and the Tax-Related Rehabilitation Standards. Most express concern about the possibility that the application and interpretation of such standards hinders economic growth and environmental sustainability. Most direct recommendations to the Park Service, which is viewed by private, localgovernment, and state-government actors as the primary interpretative authority for federal historic preservation standards. And several (including analyses from the Park Service itself) offer specific substantive suggestions about interpretations of federal historic preservation standards, while others offer procedural suggestions, particularly with regard to the appeals process. In response to these analyses, the Park Service laudably adjusted its official interpretations by issuing formal guidance, positively impacting the preservation field. Some issues, however, remain. Part V will pick up on some of the suggestions that appear to have persisted to today.

The documents described in this Part do not exhaust analyses of federal historic preservation standards. Omitted are scholars' critiques, critiques by individuals unaffiliated with institutions or task forces, and critiques that have been shared "live" and not transcribed. As one example of the latter, the leading

over time; those changes that have acquired historic significance in their own right shall be retained and preserved." 36 C.F.R. § 67.7(b).

^{93 &}quot;National Historic Preservation Act," C-SPAN, May 20, 2014, www.c-span.org/video/?319404-1/national-historic-

⁹⁴ National Park Service, "Final Report on the Implementation of Program Review Recommendations and Action Plan," December 2016.

⁹⁵ National Park Service, "A Call to Action: Preparing for a Second Century of Stewardship and Engagement," August 2015.

⁹⁷ Id.

national organization of architects in 2023 convened a colloquium at Frank Lloyd Wright's Taliesin West on federal historic preservation standards. The colloquium included attendance and participation by historic preservation practitioners, academics, and an original drafter of the Standards (W. Brown Morton III), as well as Park Service and state historic preservation office staff. The colloquium considered "the need for historic preservation to take on a more holistic view of sustainability including social, cultural and economic equity...and to look closely as to whether current standards are inclusive or exclusive." The Standards were described as "static" despite operating "within highly dynamic political, social, cultural, environmental, and economic systems." There was also significant discussion of Native American, Alaska Native, and indigenous perspectives on issues raised by the application and interpretation of the Standards. The proceedings and commentary were not transcribed, but the very existence of the colloquium suggests that analyses related to federal historic preservation standards still continue, long past the publication of many of the documents discussed in this Part.

To further understand the contemporary opinions about federal historic preservation standards, Part IV, next, summarizes public comments submitted to the Advisory Council on Historic Preservation in response to its broadly-cast call for such comments.

⁹⁸ American Institute of Architects, "Taliesin Colloquium 2023: The Evolution of Preservation Standards and Guidelines," at www.aiadc.com/event/taliesin-colloquium-2023-evolution-preservation-standards-and-guidelines#:~:text=This%20 event%20will%20inform%20dialogue,and%20to%20foster%20community%20equity.

⁹⁹ American Institute of Architects, "Taliesin Colloquium 2023: The Evolution of Preservation Standards and Guidelines Schedule" (November 2022) at https://content.aia.org/sites/default/files/2022-11/2023%20Taliesin%20schedule% 20v4.pdf

IV. Public Comments About Federal Historic Preservation Standards

Aware of the prior analyses of federal historic preservation standards, including those documented in Part III, the Advisory Council on Historic Preservation sought in 2023 to assess the status of such standards in the field. It issued a call for comments asking whether and how the application and interpretation of these standards accommodate twenty-first century policy issues, including concerns around cost, housing supply, energy efficiency, renewable energy, climate change, and equity.¹⁰⁰

In response to the call for comments, members of the public provided a snapshot of current views about these standards. Several large national organizations and state historic preservation offices, including a few that participated in the analyses in Part III, provided comment. But most comments submitted in 2023 came from private individuals – including preservation practitioners, developers, architects, neighbors, and religious congregants – with relevant professional or personal expertise. The majority of comments received dealt with the rehabilitation standard, primarily as articulated in the Tax-Related Rehabilitation Standards and administered by the state historic preservation offices and the Park Service. The comments also addressed the ways in which federal historic preservation standards have been administered by local historic commissions.

Overall, the snapshot – consisting of over three hundred pages of comments – confirms that many of the issues identified by the organizations, institutions, and task forces described in Part III remain relevant today. Many felt that federal historic preservation standards must be reviewed with a fresh eye to ensure they better accommodate the issues residents, occupants, developers, and policymakers are facing in today's world – alongside historic preservation values. Commenters expressed views that the application and interpretation of federal historic preservation standards is too often stricter than the standards themselves require, and may in fact hinder preservation itself.

The following summary comments and illustrative examples are organized by the three public policy goals commenters viewed as most challenged by outdated applications and interpretations of the federal historic preservation standards: economic growth, environmental sustainability, and equity.

 $^{^{100}}$ See Appendix E for the text of the prompt issued by the Advisory Council on Historic Preservation.

 $^{^{\}rm 101}\, \text{See}$ Appendix F for a copy of the public comments received.

A. COMMENTS REGARDING ECONOMIC GROWTH

Historic preservation can fuel economic growth through construction activity, housing creation, downtown and main-street revitalization, and heritage tourism, among other things. 102 In 2016, the Advisory Council on Historic Preservation recognized the relationship between federal historic preservation standards and economic vitality, issuing a formal policy statement urging greater flexibility in interpreting the Standards to new infill construction, substitute materials, and even strategic demolition "when there is concurrence that such an approach is the best approach to achieving broader community revitalization and preservation goals."103 Comments submitted to the Advisory Council in 2023 underscored several ways in which the application and interpretation of federal historic preservation standards has hindered economic growth. Many commenters cited inconsistencies and uncertainties in the administration of these standards, which in turn contributed to long delays and increased the cost of completing projects. These inconsistencies and uncertainties undermined the confidence of private parties in undertaking rehabilitation projects, and even compelled some commenters to state they would avoid commencing projects triggering compliance with federal historic preservation standards in the future. 104 With regard to the federal rehabilitation tax credit projects in particular, fully 83% of respondents to a survey of tax credit professionals indicated that "some of their clients had decided not to go forward with a [rehabilitation] project due to issues with the program." 105

The following illustrative comments concern the impact of the application and interpretation of federal historic preservation standards on economic growth. Comments are grouped, for convenience's sake, in four categories expressing views that current application and interpretation of the Standards and the Tax-Related Standards have reduced the effectiveness of the federal rehabilitation tax credit, thwarted the creation of housing, hindered the conversion of institutional buildings, and deterred people from listing properties on the National Register.

I. EFFECTIVENESS OF THE FEDERAL REHABILITATION TAX CREDIT

Many commenters opined about that the applications and interpretations of the Tax-Related Rehabilitation Standards have reduced the effectiveness of the federal rehabilitation tax credit. This federal program, offering a 20% income tax credit for qualifying rehabilitation expenditures, has led to the rehabilitation of over 49,000 projects since 1976, leveraging over \$131 billion in private investment. The tax credit's impact on the real estate industry from the standpoint of job creation

¹⁰² See, e.g., Place Economics, "Measuring Economic Impacts of Historic Preservation: A Report to the Advisory Council on Historic Preservation," 2d ed. 2013.

¹⁰³ Advisory Council on Historic Preservation, Notice of Adoption of Policy Statement on Historic Preservation and Community Revitalization, 81 Fed. Reg. 80,674 (November 16, 2016).

¹⁰⁴ See Part IV.C. for more detailed discussion of these inconsistencies.

¹⁰⁵ Historic Tax Credit Coalition, "Historic Preservation and the Federal Tax Credit: Addressing Challenges of the 21st Century," Sept. 2023, at 18, at https://www.historiccredit.com/resources (hereinafter "Historic Tax Credit Coalition Report").

¹⁰⁶ National Park Service, "Federal Tax Incentives for Rehabilitating Historic Buildings: Annual Report for Fiscal Year 2023," February 2024 (hereinafter the "2023 NPS Tax Credit Report").

(over three million¹⁰⁷), tax base expansion, property-value increases, Main Street revitalization, and other economic activity has been tremendous.

Unfortunately, there seems to be a clear sense among commenters that the program is not currently working as Congress intended. Echoing comments from the prior analyses described in Part III, commenters suggested that reviewers within state historic preservation offices and the Park Service too strictly interpret the Tax-Related Rehabilitation Standards and related guidance, particular for interiors, and that reviewers apply principles more appropriate to a "preservation" or even "restoration" treatment, rather than rehabilitation treatment.

A 93-page report from the Historic Tax Credit Coalition, representing 75 organizations involved in the real estate industry and policy advocacy related to the tax credit, identified several key issues. Members surveyed as to the top three issues with the tax credit program reported that at the very top was the "conservative interpretation of the Secretary Standards," cited by 69% of respondents, with 87% of respondents reporting a change in the interpretation of the Tax-Related Rehabilitation Standards over the last five years, and 69% feeling that more amendments had been requested by reviewers than before. The coalition summarized additional feedback as conveying increased stringency in the process, inconsistent reviews across time and across project types. It bears noting that 85% of respondents to the survey had more than a decade experience with the tax credit program, and collectively worked on more than 1,300 historic preservation certification applications.

The coalition reported dozens of examples from specific projects, noting tax-credit approvals being held up or denied for reasons, related to the Tax-Related Rehabilitation Standards, as minor as the:

- Choice of stain within interior closets (denied but successfully appealed).
- Choice of stain for a patch of masonry 1'x2' large (approved after a monthlong delay and applicant queries).
- Choice of exterior paint color (requiring the applicant to repaint).
- Choice of paint on a stucco wall that was not historic and on a rear façade (approved after significant delays and cost).
- Installation of nine exterior light fixtures (approved after a seven-month review process costing tens of thousands of dollars).
- Requirement that the applicant prove mitigation for a historic stairwell (delaying approval).

To address these issues, the coalition suggested several program changes. With respect to the Tax-Related Rehabilitation Standards, it encouraged "new and predictable guidance" to address a range of issues, including "modern movement buildings with fewer character-defining features" and the installation of energy-efficiency features. ¹¹²

¹⁰⁷ National Park Service, "Annual Report on the Economic Impact of the Federal Historic Tax Credits for Fiscal Year 2021," September 2022.

¹⁰⁸ Historic Tax Coalition Report, at 18.

¹⁰⁹ Id. at 20-21.

¹¹⁰ Id. at 18.

¹¹¹ Id. at 40-41, 44, 59.

¹¹² Id. at 22 & 24.

Other illustrative comments include:

- Main Street America, a network of more than 1,600 neighborhoods and communities and a subsidiary of the National Trust for Historic Preservation (a member of the Advisory Council on Historic Preservation), noted that: "Developers may be reticent to approach rehabilitation projects utilizing HTC [federal rehabilitation tax credits] because of fears about design review and control, especially with the subdivision of interior spaces for new uses...the lack of flexibility in the application of the Secretary's Standards can increase review timelines during the HTC process, leading to financing issues and failed projects. Prioritizing the Secretary's Standards without consideration for the project's economic viability may lead to developers abandoning use of the HTC or the project completely." The network cited a recent survey of their members that underscored the need to streamline rehabilitations, reporting that 70% of member respondents communicated that vacant buildings and non-rehabilitated spaces constrain economic development in their districts. The network suggested that decisions regarding new additions, "slipcovers," fire separation (including utilizing intumescent paint on interiors), and storefront windows were among the recurring and problematic issues needing more guidance.
- A nonprofit organization in Illinois wrote that affordable housing conversions for historic buildings are hindered by the higher costs associated with complying with the Standards. It commented that when "affordable housing developers pair the federal Low-Income Housing Tax Credit (LIHTC) with the Federal Historic Rehabilitation Tax Credit to finance projects," meeting the Standards "is reported to increase the per-unit cost." They added that the Illinois agency responsible for administering LIHTC "sees new construction, not historic building rehabilitation, as the best way to build more housing units" and has "removed the extra point that projects received for reusing a historic building from the state's qualified allocation plan for the use of LIHTC credits.
- The statewide preservation organization in Maine described how "local developers [who] have successfully rehabilitated buildings using federal and state Historic Rehabilitation Tax Credits]" were "unable to find an economically feasible pathway for reusing...[a National Register-eligible Church] without repurposing the sanctuary space in a way that would be [impermissible] using the current interpretation of the Standards." The organization noted when there is not an economically viable path for rehabilitation due to strict interpretations of the Standards, "the alternative is that these buildings continue to lay fallow and are eventually lost."
- A representative of a housing nonprofit explained: "[O]ver the past few years, the [historic tax credit program] has slowly moved from a broad rehabilitation program toward one with an emphasis on restoration and with a much stricter interpretation of the Standards. We note that a conservative interpretation of the Secretary's Standards is slowing our current projects down with many more requirements, more expensive rehabilitation and more burdensome requests for information." Due to these difficulties related to the interpretation of the Standards, the nonprofit's "real estate team is reluctant to pursue any further projects using historic tax credits. The additional costs and time are making the projects too expensive to complete. Further we know of other developers that are making similar decisions."
- The developer of seven large high-profile tax-credit rehabilitation projects in New York and Connecticut, including various commercial, retail, service, and residential uses, posited that as a result of overly strict interpretations of the Standards "every year dozens of rehabilitation projects are not pursued or they are delayed, tens of millions of dollars are wasted, and many

impactful economic development opportunities and job creation initiatives are thwarted and urban centers and communities in need of investment continue to be depressed and neglected." Despite the success of the seven prior projects, the commenter noted that "[g]iven the risks and uncertainty I encountered with recent [Technical Preservation Services (TPS)] interpretations and decisions, it would not be rational for me to pursue another HTC project, or recommend that anyone else does, until the changes made by current TPS leadership in the administration of the program are reversed."

2. HOUSING CREATION AND RETENTION

Of all of the project types mentioned by commenters referencing economic growth, housing projects were most common. That may reflect the fact that much preservation activity has been devoted to housing creation and retention – and much of that activity triggers application of federal historic preservation standards. Collectively federal agencies – including the Department of Housing and Urban Development, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, and the Department of Agriculture, among others – and their permittees and funding recipients renovate thousands or tens of thousands of historic homes annually, triggering the need to comply with the Standards during the Section 106 review process. Private developers awarded the federal rehabilitation tax credit, which requires application of the Tax-Related Rehabilitation Standards, have created or rehabilitated over 670,000 housing units since 1977.¹¹³ In fact, over half of tax-credit transactions have involved housing.¹¹⁴ Housing projects are also reviewed by local historic commissions who apply the Standards to renovations and to new infill development within historic districts.¹¹⁵ Interpretations by these public and private actors can influence the time and cost it takes to provide housing.

Recognizing these issues, the Advisory Council on Historic Preservation said in its recently-adopted Housing and Historic Preservation Policy Statement that "[t]he federal government should add to and flexibly apply its guidance on the treatment of historic properties in ways that will incentivize housing development, particularly of affordable housing, and facilitate adapting nonresidential buildings to housing. Likewise, additional guidance is needed on remediating environmental, health, and safety hazards when rehabilitating historic buildings and providing access for persons with disabilities." ¹¹⁶ Implied in these statements – which represent official federal policy – is a critique of the manner in which preservation standards have been interpreted and applied.

Commenters, too, described how federal, state, and local applications and interpretations of federal historic preservation standards have deterred housing conversions of historic buildings, reduced the number of units created in specific projects, raised the costs of housing-related rehabilitations, and complicated the construction of new infill housing.

^{113 2023} NPS Tax Credit Report.

¹¹⁴ Historic Tax Credit Coalition Report, at 13.

¹¹⁵ Preservation Priorities Task Force, "Affordable Housing and Density," 2021.

¹¹⁶ Advisory Council on Historic Preservation, Housing and Historic Preservation Policy Statement 6, December 2023.

Comments illustrating these challenges include:

- The country's largest municipal preservation agency, the New York Landmarks Preservation Commission, commented on the city's critical housing need by stating: "[T]he application of the Standards has not always provided the flexibility that is so critical to a successful project. In particular, we see room for improvement in the conversion of commercial office space for residential uses, which is a major opportunity for housing growth utilizing historic buildings in New York City." The agency also commented on the need for greater flexibility in new construction adjacent to historic buildings, noting in particular that it has "approved many... projects for houses of worship [that include] new housing developments on campus properties, which provide sustainable funding for building maintenance, restoration, and mission, while also delivering critical housing units." It adds "to address the special needs of religious institutions, we suggest re-evaluating how the Standards are interpreted...to allow for greater flexibility in the development of adjacent structures."
- The Big Cities Preservation Network, convening the historic preservation offices of the country's largest cities, explained that Park Service reviewers of federal historic rehabilitation tax credit applications "have been stricter in insisting upon the preservation of interior corridor configurations, even when these are typically the same from floor to floor." In order to facilitate additional housing projects, the network advised that the Park Service "consider additional flexibility when updating guidelines or guidance documents on the review of interiors for adaptive reuse housing project." The network went on to comment on new construction: "The Secretary's Standards often prove most pertinent to our local design reviews in addressing the compatibility of new additions to an individual historic resource, rather than in assessing a larger-scale infill project within a historic district or a complex urban setting." While "new infill housing development represents a central challenge in many of our cities, the Standards are inadequate for infill housing in historic districts" and as such the network called for "the Standards or Guidelines [to] provide more nuanced guidance on how to address the relationships between buildings of varying heights and densities as our cities continue to grow and evolve."
- The Historic Tax Credit Coalition provided several examples of interpretations of the Tax-Related Rehabilitation Standards impacting housing-related rehabilitations, including:
 - O A developer converting a schoolhouse to affordable housing will likely decide to forgo tax credits in a schoolhouse conversion due to "the stricter interpretation of the Standards" on flooring replacements, tin ceilings and mechanicals, windows, wood trim, removal of stairs, insulation, and roofing.
 - O A developer converting an office building to affordable housing waited seven months for final approval of the location, size, and color of nine exterior light fixtures, which was granted only after the applicant demonstrated the minimal visual impact of the fixtures given the applicant's other activities ("retention and restoration of all exterior windows; full reinstatement of the historic cornice, nearly all of which was missing prerehabilitation; restoration of the heavily modified base levels of the building, exposing and preserving remaining historic fabric and restoring missing elements consistent with their historic appearance; preservation of 100% of remaining historic corridors; reinstatement of historic corridor patterns where previously modified, including

- uncovering and preserving historic mosaic tile flooring; and substantial preservation and repair of historic wood flooring").
- A developer converting a factory to apartments waited months and was required to produce a detailed flooring survey and install mock-ups of various replacement products before receiving approval for the proposed flooring.
- Tenants of several three-unit apartment buildings were delayed in moving in for seven weeks after the developer had to wait months for the approval of an amendment that would allow them to use prefinished pine flooring rather than the rare southern pine originally used on the site.

Additional examples provided by the coalition and enumerated in Part IV.C. illustrate inconsistencies in the treatment of tax-credit projects, including housing. In general, the coalition urged that "the rehabilitation of existing affordable housing or buildings into affordable housing should be better established, and not hindered by impositions of overly difficult rehabilitation standards."

- An architecture, planning, and conservation firm discussed its concern for affordable housing projects that rely on the ability to add square footage to a current building, in order to make the project financially feasible. They commented that, "we have found SHPO's and NPS' application of the Standards to be somewhat inflexible when evaluating the compatibility of new construction on a site."
- An Ohio-based historic preservation development firm recounted that the Park Service prevented the firm from rehabilitating a building for low-income workforce housing intended for families, because the Park Service's requirements on interior configuration "limited the number of units we could fit into the building. ... Overly strict interior interpretation makes the housing conversion difficult or even impossible given policy requirements." It added that at another project, they lost "7-10 units of housing due to a requirement to maintain more of a large interior space. However, some of the earlier YMCA-type projects [with ballrooms gymnasiums, swimming pools, bowling alleys, and other large spaces] we have seen kept less of the interior space preserved... It is difficult to see the consistency." At yet another project, the firm "lost about 10 units of market rate housing due to a denial to add window openings to a blind wall on a facade," harming the overall project feasibility.
- Main Street America cited its survey indicating that Main Street practitioners view the development of housing within and near their districts as necessary to support the districts themselves, with 87% concerned about housing, and 75% indicating their districts lack sufficient housing. The organization said: "a narrow interpretation of the Secretary's Standards [sometimes] conflicts with the need to adapt spaces for modern uses. Examples of this often deal with the subdivision of interior spaces, such as upper floors that previously served as meeting spaces into apartment units, large interior spaces of historic churches, or the treatment of interior corridors. In smaller-scale projects specifically, one element of the building such as a tin ceiling or storefront window can stall the entire project and/or make the project no longer viable. An inability to proceed with a project that would add valuable housing or other income producing space leaves the community without an asset and heightens the risk of demolition by neglect."
- A staff member at a state historic preservation office pointed to the need to consider how strict application of the Standards affects homeowners in disadvantaged and underrepresented

communities. She said: "Hamlin Park Historic District is a large historic district in Buffalo, New York that has strong associations with black history in Buffalo and has predominantly low-and middle-income black residents today. It is difficult for the owners to invest in their buildings beyond basic needs such as roofs and heating. Asking them to restore windows, replace with matching windows or follow the Standards in other ways often creates an economic hardship."

Expressing the perspective of a state historic preservation office with experience considering these questions, the North Carolina state historic preservation office outlined the balanced manner in which it conducts Section 106 reviews and tax-credit reviews for rehabilitations involving housing. It noted that it primarily evaluates proposed alterations to interiors primarily to the extent that such alterations affect the building outward appearance. The North Carolina office also identified the need to consider and accept replacement materials for materials with lead-based paint and asbestos, even if the replacement materials do not technically meet the Standards.

3. CONVERSIONS OF INSTITUTIONAL BUILDINGS

Commenters offered a perhaps-surprising number of comments about the challenges faced by those seeking to convert religious, school, and other institutional buildings to new uses. As for religious buildings, the demand for repurposing such buildings may stem from the fact that less than half of Americans are affiliated with a congregation, 117 and only a third attend services every month. 118 As these numbers continue to diminish, the buildings in which worship historically took place have fallen into disrepair and disuse. As for school buildings, anecdotal accounts abound of mothballing and even demolishing early twentieth-century buildings, in communities large and small. While statistics on this trend are hard to come by, more than two decades ago, the National Trust for Historic Preservation cited the demolition of 90% of the 5,000 Rosenwald Schools built to educate Black students in the South, between 1917 and 1932. Common to religious buildings, schools, and other large community and institutional buildings are the challenge of deferred maintenance and large interior volumes requiring the installation of mezzanine floors and the overhaul of all building systems to be readied for new use.

Commenters noted the difficulty in understanding how federal historic preservation standards apply to additions to such buildings, the division of large assembly spaces, and the provision of modern mechanical, electrical, and plumbing services. For campuses with the potential for new construction, commenters explained that interpretations of the standards do not provide sufficient flexibility for the addition of adjacent structures. Reuse options also may be overly constrained by strict interpretations requiring retention of interior decorations, corridors, partitions, and other features.

The following comments provide more nuance to these views:

• An award-winning planner who founded Main Street America diagnosed the issue as follows: "Over the next decade, tens of thousands of houses of worship will close, as the mismatch between small, aging congregations and large, aging buildings becomes even more untenable. The closings will result in a plethora of vacant buildings. Most are not on the National Register,

¹¹⁷ Gallup, at https://news.gallup.com/poll/341963/church-membership-falls-below-majority-first-time.aspx.

¹¹⁸ Pew Research, at https://www.pewresearch.org/religion/religious-landscape-study/attendance-at-religious-services/.

but many are eligible for listing. The current Secretary's Standards require that large church spaces like sanctuaries and social halls must remain pristine and intact in order to qualify for historic preservation tax credits. ... Keeping them intact – as the Secretary's Standards recommend – is a potential showstopper for reuse." She went on to add that private developers of religious buildings "need every incentive possible. The obstacles are daunting, among them years of disinvestment and deteriorated conditions, ownership issues (reversionary clauses, adjoining graveyards), outdated zoning and buildings codes, and community acceptance (NIMBYs and resistance to change). Add all of these to the usual pre-development costs, and most developers and investors find it too easy to walk away." She suggested "[a] system to rank a church building's significance and to establish levels of allowable intervention or alteration. Regarding 'significance' in terms of its eligibility for tax credits, I would recommend that the focus be on its architectural quality."

- The New York State Historic Preservation Office suggested: "White elephants, churches and special categories of endangered building types could warrant exemptions to the strict interpretation of the Standards. These modifications could permit the buildings to remain in their communities and tell the story of their history."
- A developer seeking to convert a small schoolhouse into up to eight units of affordable housing heard from the Park Service that it will likely require retention of inoperable single-glazed windows and all wood trim, while prohibiting removal of a staircase that would facilitate an additional studio apartment. That developer is considering withdrawing from the tax credit program.
- The redevelopment of a chapel for affordable housing units was denied where the state historic preservation officer found the proposed subdivision of the chapel inconsistent with the Tax-Related Rehabilitation Standards. While that decision was overturned by the Park Service, the submitter cited this as an example of inconsistencies in project administration.
- A community development corporation in Ohio commented that additional flexibility is needed
 for building types that are particularly difficult to adapt, such as schools and churches, especially
 as these buildings are usually in "areas in need of affordable housing."
- A regional nonprofit historic preservation organization in western New York commented on dwindling religious congregations, which has resulted in vacant, large campuses. The organization commented that it has placed a high priority on creative adaptive reuse solutions and argued that federal historic preservation standards "make it exceedingly difficult to adapt historic houses of worship (especially those with large volumes of space in the sanctuary) to new, economically viable uses." It added that religious buildings are being abandoned and vacated in rural and urban areas, and that in Rochester, these buildings are clustered in neighborhoods "which have extremely high concentrations of poverty and are predominantly Black and Latinx. If the Standards do not evolve to make it easier to adapt these buildings to new uses that serve the communities in which they are located, not only do we face the loss of important historic resources, those losses will be disproportionately felt by poor, BIPOC communities."
- A statewide preservation organization said that "the rehabilitation and adaptive reuse of... houses of worship can be difficult due to the limitations set by the Standards...The primary challenge is the large, singular assembly space comprising a majority of the building's footprint that cannot be substantially divided without impacting the architectural integrity of the

- building... These landmarks present a prime opportunity for conversion to much-needed housing if the full footprint of the building could be utilized."
- A heritage organization in Ohio explained that "[i]nterpretations of the Standards are failing to adequately consider the significant challenges of adapting certain building types. Many communities are facing vacant schools and churches abandoned by their traditional occupants, with no viable option to maintain their current use. Repurposing such buildings in an efficient manner is particularly challenging given their use-specific designs and large common areas. Strict requirements to preserve large open volumes like gymnasiums, auditoriums, and sanctuaries can make adaptive reuse commercially and technically infeasible using HTCs, but economically infeasible without the benefit HTCs, resulting in long-term neglect and demolition."

4. NATIONAL REGISTER LISTINGS

Commenters drew out the relationship between federal historic preservation standards and private decisions to pursue listing on the National Register of Historic Places in several ways. While this report does not purport to comprehensively address issues related to the National Register, these comments nonetheless deserve mention.

Specifically, commenters indicated that current interpretation of the Standards and the Tax-Related Rehabilitation Standards is decreasing the willingness of property owners to list properties on the National Register. For example, a planning consultant who works with religious organizations commented that despite interest in converting religious properties to housing, "the requirement of the Secretary's Standards that large open spaces in houses of worship, such as sanctuaries and social halls be kept pristine, discourages property owners from proposing properties for the National Register" as it would complicate conversion. As another example, a Maryland planner explained that because of the strict requirements of the Standards, "most property owners and developers wishing to undertake adaptive reuse may gain no advantage from proposing church properties for the National Register." As such, she explained, "restrictive, inflexible standards serve as a showstopper for most creative reuse and redevelopment projects, especially those involving housing."

Despite the complications, some property owners may choose to pursue listing on the National Register in order to ensure their building qualifies for the federal historic preservation tax credits. Owners of as many as two hundred buildings annually may successfully pursue listing in this manner; in its most recent annual report, the National Park Service noted that 19% of tax credit applications involved buildings not previously listed on the National Register of Historic Places. One might read that statistic as an entirely positive development, promoting stewardship of these buildings. But according to a 2023 Historic Tax Credit Coalition survey of industry professionals, submitted as part of public comment, the statistic is lowered by strict reviews of National Register eligibility criteria, preventing buildings from being listed or making it harder for them to be listed. The survey found that 79% of respondents experienced an increase in the level of documentation required for determinations of individual listings, and 75% noted that there has been increase in the rigor of reviewing National Register

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^{119 2023} NPS Tax Credit Report.

nominations.¹²⁰ Potential tax credit applicants deterred by these increasingly rigorous reviews, or even denied a determination of eligibility, are unlikely to complete rehabilitations to the same standard as projects receiving the tax credits. They may even decline to pursue a rehabilitation in the first place, which may result in a building being neglected or even demolished.

To address these issues, several commenters suggested that the National Register criteria – and, in parallel, federal historic preservation standards - be more flexibly applied to buildings whose significance relates more to their importance to a community than to their architecture. A preservation professional engaged in projects seeking the federal rehabilitation tax credit, for example, wrote: "In a tiered system, the Part 1 of the tax credit application¹²¹ could establish a kind of graded system similar to the one used in England. Acknowledging the varying degrees of integrity seen in potential projects makes the process more equitable since the Part 1 review and subsequent tax credit review would be different for the rehab of a gutted box vs. an intact school. Allowing for variable levels of integrity in a structured way will hopefully remove the idea that arbitrary decisions are made as a result of the flexibility found in the interpretation of the current standards." She went on to use an example from the application of National Register standards to reject designation of "several contiguous buildings prominently located in the center of an urban community": "Two of the buildings are contributing resources to the district, but one was remodeled after the 1983 listing and all that remains is the façade, and doubt was cast on its eligibility for tax credits. Two other buildings were considered noncontributing in 1983 as they had by then a new skin with some architectural interest, and the threshold for listing required a compelling urban renewal argument. The uncertainty led the developer to walk away, and the buildings are likely to flounder without access to historic incentives." These suggestions are consistent with those contained in several prior analyses referenced in Part III.

B. COMMENTS REGARDING ENVIRONMENTAL SUSTAINABILITY

Preservationists across the country have identified climate change as a matter of significant concern. Unfortunately, commenters felt that the application and interpretation of the Standards and the Tax-Related Rehabilitation Standards thwart the integration of sustainable materials and approaches (including renewable energy) and hinder adaptation of historic places to climate change. The Advisory Council on Historic Preservation recognized these sentiments in its recently-adopted Climate Change and Historic Preservation Policy Statement, where it urged that government standards "be assessed to ensure that they align with climate mitigation and adaptation goals; that they facilitate a variety of modern uses; and that they encourage implementation of energy efficiency measures as integral to thoughtful preservation of historic buildings." To further this assessment, the Advisory Council requested respondents to its July 2023 call for comments to evaluate the application and interpretation of federal historic preservation standards on "energy efficiency, renewable energy, or climate-change-related (e.g. adaptation or mitigation) concerns." In addition to these topics, this section documents

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¹²⁰ Historic Tax Credit Coalition Report, at 19.

¹²¹ For an explanation of the three parts of the federal rehabilitation tax credit application, see Part II.D.

¹²² Advisory Council on Historic Preservation, Climate Change and Historic Preservation Policy Statement 4-5, July 202 (hereinafter "ACHP Climate Policy").

¹²³ See Appendix E.

a few comments regarding a related topic: the way federal historic preservation standards are applied to environmental hazards that affect human health, such as lead paint and asbestos.

The following illustrative comments concern the impact of the application and interpretation of federal historic preservation standards on environmental sustainability. Comments are grouped, for convenience's sake, in three categories, expressing views that current application and interpretation of the Standards and the Tax-Related Standards have thwarted renewable energy installations, hindered integration of energy efficiency features, and increased the climate-change-related vulnerability of our historic places. In addition, comments regarding the difficulty of applying federal historic preservation standards to materials containing environmental hazards are included in this section.

I. RENEWABLE ENERGY INSTALLATIONS

Clean energy projects can occur at several scales, from projects with landscape-scale impacts, which may affect archaeological sites or sacred sites and properties of religious and cultural significance to Indian Tribes and Native Hawaiian Organization, to projects with minimal impact, which transmit energy on-site. The Advisory Council's Climate Change and Historic Preservation Policy Statement calls for expedited permitting and reviews of clean energy projects with "minimal and small-scale" impacts, including rooftop solar panels. ¹²⁴ It is these smaller-scale projects, primarily solar, on which comments focused.

The following comments raised specific issues regarding renewable energy:

- A nonprofit preservation organization in Illinois reviewed the recent rehabilitation of a property in Chicago, where the Chicago Housing Authority installed rooftop solar panels on a one-story historic building. The Illinois State Historic Preservation found that the solar panel installation did not meet the Standards and would require mitigation. The nonprofit organization commented that "The mitigation requested a historic inventory process for Dearborn Homes and other CHA properties will be beneficial, but casting solar panel installation as an adverse effect and requiring mitigation discourages the implementation of renewable energy solutions." It added, "the ability of historic buildings to be part of climate change solutions is limited by the common interpretation of the Secretary's Standards that interventions that are visible to the public constitute an adverse effect."
- Main Street America, a network of more than 1,600 neighborhoods and communities, observed that rooftop additions to multi-story buildings that include the use of solar panels can be essential to the economic viability of projects. However, "there is sometimes tension between preservation requirements [including the Standards] and the need to improve the energy efficiency of buildings and integrate renewable technology such as solar panels." The network recommended that "every reasonable accommodation should be made through the Secretary's Standards for the integration of renewables, even when the visual impact of such technology cannot be mitigated. Renewables reduce reliance on fossil fuels, make building operations more affordable in the context of increasingly unstable energy markets, and are almost always reversible."

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¹²⁴ ACHP Climate Policy, at 5.

- The Historic Tax Credit Coalition urged the Park Service to issue "new and predictable guidance... to address today's challenges, such as... meeting the requirements [for] qualifying for funding sources associated with renewable energy and energy conservation." The coalition has urged other technical changes to ensure project proponents may successfully utilize both the federal rehabilitation tax credit and the federal renewable energy tax credit.
- A statewide preservation organization observed that reviewers of projects receiving federal rehabilitation tax credits approve proposed solar panels as consistent with the Tax-Related Rehabilitation Standards only if the solar arrays are located on flat roofs and shielded by secondary elevations. The organization commented that "application of regulations and guidelines must advance to integrate modern technologies that shrink the carbon footprint of historic buildings and permit the generation of renewable energy on site. Minor and reversible alterations to historic buildings (already permitted via Standard #10), whether they are out of public view or not, should be permitted to enhance our ability to address the climate crisis... Solar panels are removable and increasingly affordable, and thus should be permitted on more areas of historic buildings if historic fabric is not being destroyed. The same can be said for the installation of newer, more efficient HVAC systems, which require small punch holes in walls and an increased presence on the exteriors of buildings."
- A planner in Glendale, California, mentioned that solar panel review is becoming more frequent, and while there is guidance about putting solar panels on flat roofs, at times this is not possible due to the nature of the building. The planner offered: "Guidance on how to approach solar panel placement on homes with steeply pitched roofs, tile roofs, or roofs adjacent to the street due to topography as it relates to Standard No. 2 and 9 would be helpful." This planner appeared to wish to find ways to allow the solar to be installed, not always clear from the guidance offered.

Not included in the solicited comments but relevant to this discussion is a letter to the Advisory Council from the Department of Housing and Urban Development, a member of the Advisory Council on Historic Preservation, highlighting the need for more flexible treatment in the Standards and the Tax-Related Rehabilitation Standards of solar energy and energy efficiency features. In commenting the then-pending Policy Statement on Housing and Historic Preservation, the Department stated: "the Secretary of the Interior's Standards and application should be reviewed to determine how energy efficiency-related undertakings can be addressed in a way that improves existing housing and reduces NHPA Section 106 reviews. Assessing the implementation of the Secretary of the Interior's Standards for historic preservation as they relate to Historic Preservation Tax Credits and energy efficiency and renewable energy upgrades is a good example. Installation of photovoltaic cells (commonly known as solar panels) may render a project ineligible to receive a historic preservation tax credit.... HUD urges ACHP to work with the Secretary of the Interior to consider more flexible approaches to incorporating energy efficiency and renewable energy upgrades at historic properties, such as installation of photovoltaic cells on historic properties."

2. INTEGRATION OF ENERGY EFFICIENCY FEATURES

Recognizing that the built environment is responsible for about 39 percent of global carbon emissions, ¹²⁵ commenters identified the need to make buildings more energy efficient. Interest in this topic is not new for preservationists. Indeed, the Advisory Council on Historic Preservation. in the 1970s conducted research underscoring the importance of building-related energy analysis. And at the federal level, two major pieces of legislation that influenced the evolution of historic preservation standards resulted from concerns about the energy crisis of the 1970s. Congress discussed embodied energy and the energy efficiency when debating and eventually adopting the Housing and Community Development Act of 1974, which created grant programs that resulted in the creation of guidance related to the Grant-Related Standards, and the Tax Reform Act of 1976, which created the federal rehabilitation tax credit program that resulted in the creation of the Tax-Related Rehabilitation Standards.

Adapting historic buildings to improve their energy efficiency or satisfy modern energy codes will often require adherence to the Standards or the Tax-Related Rehabilitation Standards. Common adaptations affecting building envelopes and interior configurations include new insulation and wall materials, energy-efficient mechanical and electrical systems, light wells and other daylighting strategies, and window replacements. Where these adaptations trigger compliance with federal historic preservation standards, commenters noted difficulties meeting the standards as applied.

Comments illustrating both general and specific issues related to energy efficiency and historic preservation include:

- The National Trust for Historic Preservation, a Congressionally chartered historic preservation nonprofit that serves as a member of the Advisory Council on Historic Preservation, included in its comment reference to a report summarizing conversations with 30 preservation practitioners, who recommended addressing conflicts between energy efficiency requirements and the interpretation of the Standards and Tax-Related Rehabilitation Standards, particularly "[g]iven advancements in building technologies and the adoption of increasingly rigorous building codes, electrification requirements, building performance standards, and other climate policies in a growing number of communities." The National Trust warned that failure to do so could hinder the economic feasibility of projects seeking the federal historic preservation tax credit, which benefit financially from long-term operational savings resulting from energy efficiency features. The National Trust also noted that state government plans for allocating the federal Low Income Housing Tax Credit are increasingly requiring energy efficiency features, which can be difficult to integrate in historic buildings given "design review [issues] related to...solar panels, wall insulation, and windows."
- The Department of Defense called for the Park Service to revise the Standards to "make sensible energy efficiency standards that take into account best practices and national climate change

¹²⁵ See: Advisory Council on Historic Preservation, Assessing the Energy Conservation Benefits of Historic Preservation: Methods and Examples, 1979. See also: Advisory Council on Historic Preservation, Preservation and Energy Conservation, 1979.

¹²⁶ Erica Avrami et. al, "Energy and Historic Buildings: Toward Evidence-Based Policy Reform," 2023.

¹²⁷ See National Trust for Historic Preservation, "State Historic Tax Credits: Opportunities for Affordable Housing and Sustainability," June 2023.

- policies requiring the Federal agencies to meet the requirements of EO 14057" (entitled "Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability").
- A principal at a historic preservation consultancy observed that "Adding insulation to exterior
 walls is generally not approved" and as such "energy efficiency and user comfort are almost
 always sacrificed to meet the Standards."
- A Vermont-based nonprofit development company recounted an application to the Park Service for a tax-credit project involving the rehabilitation of a school. The school was originally built with one whythe of brick and plaster, with little insulation, and the Park Service insisted on retaining the wainscotting, which was "completely untenable not only in terms of operating costs, but also in terms of greenhouse gas emissions." While the company ultimately prevailed after "a long process to get to a" highly-rated wall, it urged broader-scale change that "baseline R values [insulation metrics] for walls and roofs are established by climate zone. ... If energy efficiency and climate change considerations do not become integrated into the standards, the result may be that more historic buildings are left vacant."
- The Historic Tax Credit Coalition suggested clearer criteria for applying the Tax-Related Rehabilitation Standards to "energy-saving solutions in materials and construction," including numerical or percentage standards, and ready approvals "[w]here a significant reduction in energy usage can be accomplished or is required by local building codes with minimal loss of historic character."
- Main Street America who polled local leaders indicated that these leaders felt "tension between preservation requirements and the need to improve the energy efficiency of buildings and integrate renewable technology such as solar panels. Project sponsors may encounter conflicts between the application of the Secretary's Standards and energy efficiency upgrades or renewables, whether through local commission review or in pursuit of [federal rehabilitation tax credits] for a project. Building owners must be allowed to make needed improvements to building envelopes and systems to minimize or eliminate reliance on fossil fuels."
- The Georgia state historic preservation office suggested additional guidance and case studies on "the areas of materials cost, longevity of replacement materials, and energy efficiency," as well as "[t]he removal of historic exterior character-defining features (i.e., windows and doors, etc.) to accomplish energy efficiency goals," particularly for housing projects.
- A Connecticut developer recounted an inconsistent and frustrating exchange with Park Service reviewers about operable windows, which delayed by six months the delivery of a 66,000 square foot factory building into 48 apartments. After a state historic preservation office approval of window shop drawings, the Park Service rejected details already approved. Ultimately, the developer at significant cost used the Park Service-preferred windows, which were not operable contrary to their historic condition. The developer documented: "To the detriment of the building, we made the changes. Historic photos show the use of the center pivot windows for efficient ventilation and cooling this iconic look is now gone making the North Armory look more like an office building than an iconic factory." This particular example illustrates the interconnectedness of the issues discussed in this report, including how the application of the Tax-Related Rehabilitation Standards in a manner that thwarted energy efficiency also had the effect of delaying necessary housing.
- A former local energy policymaker from Massachusetts offered the example of the rehabilitation of a state hospital into housing (including 25% affordable units), which was proposed to be

minimally insulated because "their historic preservation consultant said the NPS has a rule that interior walls can be no more than 4 inches thick. I consulted with an energy efficiency expert in the Boston area who is a retired historic rehab developer and he confirmed this appears to be a standing rule; he also stated that it doesn't seem to be grounded in preserving the historic character of the building." He noted that "this minimal level of insulation is likely to result in poor energy performance that will impose a financial burden on future residents, especially the 25% of units that are designated to be affordable."

- A materials manufacturer encouraged revisions to the Park Service brief regarding substitute materials, and that life-cycle embodied carbon considerations relevant to durability and replacement be considered.¹²⁸
- At least two state historic preservation offices wrote in to applaud the flexibility of the Standards and Park Service guidance in addressing energy efficiency issues, but those views differed from the majority of the comments received on point.

Also worth noting were several comments promoting the notion of the deconstruction of historic structures as a means of recapturing embodied energy benefits, including:

- An architectural historian and construction manager from Portland, Oregon, suggested "a standard be added or adjusted to reflect a preference for salvage and reuse of existing material," citing the benefits to promoting salvage shops, employing skilled trades workers, developing a pipeline for materials, and retain materials.
- The Big Cities Preservation Network called for more guidance addressing the way federal historic preservation standards are applied to "climate heritage," noting that in the absence of federal guidance, cities are "seeking to accommodate energy-efficient retrofits in ways that preserve buildings' significant historic features. Cities are also identifying ways to enhance the circular economy while maintaining embodied cultural value through deconstruction and the reuse of existing material to extend the life of other historic resources."
- A preservation project manager in Savannah commented that "the growing deconstruction movement supplies exact in kind replacements, without removing materials from extant historic buildings," and suggested that "the greenest material is the material that has already been used."

3. CLIMATE RESILIENCE

Today, hundreds of thousands of historic resources are at threat from worsening climate-change related natural hazards including wildfires, sea-level rise, hurricanes, and flooding. Building resilience in these historic structures requires the potential use of new materials that are water or fire resistant or even the elevation of structures. Despite updated guidance on substitute materials¹²⁹ and flood adaptation,¹³⁰ commenters opined that the best solutions continue to be challenging under federal historic preservation standards.

¹²⁸ Since the submission of those comments, the Park Service did issue an update to "Preservation Brief 16: The Use of Substitute Materials on Historic Building Materials."

¹²⁹ Department of the Interior, "Preservation Brief 16: The Use of Substitute Materials on Historic Building Materials," 2023.

¹³⁰ Department of the Interior, "The Secretary of the Interior's Standards for Rehabilitation & Guidelines on Flood Adaptation for Rehabilitating Historic Buildings," 2021.

Comments concerning the adaptation of historic properties to ensure against present and future climate-related threats include:

- The Big Cities Preservation Network called for more guidance addressing the way federal historic preservation standards are applied to "climate heritage," noting that in the absence of federal guidance, cities are "adopting guidelines allowing for flexibility on rooftop additions to accommodate the relocation from lower levels of significant features or mechanical equipment at risk of inundation."
- The New York City Landmarks Preservation Commission urged flexibility in standards and their interpretations. It explained: "Interpretations are sometimes unclear in explaining when treatments cross the threshold from recommended to not recommended," and it requested more guidance on wet and dry floodproofing techniques in urban settings, new openings for water movement, alterations to visible foundations, and relocation of critical electrical and mechanical systems (particularly where visible areas on roofs may be the only option).
- An architectural historian and construction manager in Portland, Oregon, discussed how communities across the nation's coastlines are already lifting existing buildings to prepare for sea level rise, which impacts a building's "spatial relationship within its site." She commented that as sea level rise "ceases to be incremental, the possibility of relocating buildings further inland entirely may become a reality." As a result, she suggests that "spatial relationships between properties should become less of a priority" within the Standards.
- The local preservation society in Charleston described how it "grappled with allowing sustainability retrofits of historic buildings, like elevating flood-prone buildings or installing solar panels, and ultimately came to a position of support for making historic properties more resilient to climate change." To thwart inappropriate changes to historic buildings in the name of sustainability, the group encouraged more understanding of the meaning of the "historic character" of a property.
- A preservation project manager in Savannah recalled a property owner receiving an approval for federal rehabilitation tax credits conditioned on the replacement of a new asphalt roof erected four years after fire destroyed the historic tin roof, with the new roof credited with saving the structure for a metal one. The project manager suggested more flexible guidance related to severe and unexpected damage, generally relevant to post-disaster recovery from climate events.
- The port authority of San Francisco, which is currently preparing a waterfront resilience plan, noted that "there's a need to reconcile NPS Climate Change policy guidance with the application of the Secretary of the Interior's Standards in regulatory contexts including NEPA, Section 106 consultation, and review of projects" receiving federal rehabilitation tax credits. In particular, the authority noted that guidance related to the Standards' applicability to pier and marine structures, including the appropriate treatment of "minimally-visible character defining features... and where historic resources are failing and interventions are necessary to maintain safety and functionality of infrastructure" would be beneficial.
- The Minnesota state transportation department welcomed additional guidance from the Park Service on adaptation strategies for transportation resources: "Recent guidance for flood adaptation of historic buildings is helpful in the context of historic buildings, but not in the context of transportation resources (e.g., bridges, historic roadways, and railroad corridors)."

4. ENVIRONMENTAL HAZARDS AFFECTING PUBLIC HEALTH

Often by virtue of their age, historic buildings may contain environmentally hazardous materials, such as lead paint, asbestos, radon, and mold, with potential to significantly harm human health. In the case of lead paint, the Environmental Protection Agency reports that approximately 87% of homes built before 1940 – and potentially eligible for historic status – have lead paint. And any building built before the 1970s – by their age, again, potentially eligible for historic status – may have asbestos. Professionals engaged in abatement (permanently removing hazardous material) and remediation (usually including abatement and steps to ensure that the problem does not recur) may seek to deploy a variety of strategies, including containment, encapsulation, removal, chemical treatments, or some combination of these. Where these activities are subject to federal historic preservation standards, there have been tensions, stemming in part because to properly treat environmental hazards affecting public health, changes to historic building materials may be required. Commenters urged clarity with regard to the way federal historic preservation standards would weigh preservation concerns in relation to public health concerns.

Some comments on this topic include:

- A nonprofit development company based in Vermont said, "In our experience, it is very difficult, and in some cases impossible, to abate the lead paint on the historic windows to a level that is considered safe by HUD. Where the renovation of historic buildings is for the purpose of family housing, the consideration for original windows needs to be weighed against the consideration for creating a lead safe environment."
- The North Carolina state historic preservation office offered its approach of "agreeing to the abatement of the affected materials as safe and 'practicable' and to replacement materials that may not meet the Standards but come as close as possible to matching what remains of original materials such as windows and doors."
- A local planner cited the difficulties faced by the local historic preservation commission given lack of guidance on lead paint. She said: "The problem is the Standards recommend against window replacement and if windows are replaced, against vinyl." Especially for housing projects involving HUD funding, she noted, "HUD also has strict budgets for each building which get exceeded quickly when wood replacement windows are necessary and finding contractors to strip and repair is challenging... These types of conflicts make it challenging to proceed with worthy programs like lead abatement and still attempt to meet the Standards."
- A statewide nonprofit organization in Hawaii recalled its experience with abatement procedures and developer abandonment of projects due to lack of guidance about remediation: "Abatement procedures and solutions have been overly destructive and need to have better solutions, particularly based on current condition and proposed use. We have seen numerous cases where a proponent will not consider rehabilitation or reuse due to concerns about abatement costs or outcomes."
- A local historic preservation nonprofit in Richmond, Virginia, stated: "Some historic materials are hazardous, such as lead paint and asbestos, and may require abatement to adequately reactivate the building. Such abatement should be accommodated, and flexibility should be granted in the use of substitute materials."

Not included in the solicited comments but relevant to this discussion is a letter to the Advisory Council from the Department of Housing and Urban Development, a member of the Advisory Council on

Historic Preservation, highlighting the need for more flexible interpretations of the Standards of remediation of radon, lead paint, and asbestos, citing human health, particularly for low-income residents, as a primary concern. The Department stated: "the federal government should add to and flexibly apply its guidance on the treatment of historic properties in ways that will incentivize housing development, particularly considering interior repairs and renovations, access for persons with disabilities, and mitigation of environmental hazards that affect the immediate safety of residents."

C. COMMENTS REGARDING EQUITY

Equity in this day and age means many things, but for the purposes of this report, equity is defined as both fair and consistent treatment in general, and equitable consideration of disadvantaged groups more specifically. Unfortunately, commenters highlighted many applications and interpretations of federal historic preservation standards that failed to advance both general and specific definitions of equity. Perceptions of inconsistencies and bias have led to negative views of historic preservation regulators and, in some cases, even to abandonment of historic preservation projects. Overall, the comments highlighted how process affects – even dictates – substantive outcomes.

While the comments echo the very same sentiments expressed over a period of twenty years in virtually all of the prior analyses described in Part III, the sense of urgency they conveyed was striking.

The following illustrative comments concern the impact of the application and interpretation of federal historic preservation standards on equity. Comments are grouped, for convenience's sake, in four categories, illustrating views on the inconsistent, punitive, and inequitable application and interpretation of the Standards and the Tax-Related Standards on federal rehabilitation tax credit applications, inconsistencies in the Section 106 review process, inconsistencies in local preservation commission decisions, and inconsistent and inequitable harmonization of the Standards and other statutory requirements.

I. APPLICATION OF THE TAX-RELATED REHABILITATION STANDARDS

Comments about the application of the Tax-Related Rehabilitation Standards to tax credit project proposals provided an eye-opening perspective on the importance of consistency, freedom from bias, and the prevention of inequitable (discriminatory) outcomes. As previously noted, these standards are applied to proposed rehabilitations of buildings by two governmental entities: the Park Service and the relevant state historic preservation office. While the Park Service takes into account the analysis of the state historic preservation office, the Park Service has the final say about whether a proposed rehabilitation satisfies the Tax-Related Rehabilitation Standards. In reflecting on the review process for tax credit applications, commenters noted three types of inconsistency:

- Organizational inconsistencies: state and federal entities disagreeing about how the standards apply to elements of specific projects.
- Project-material-technique inconsistencies: arbitrary application of the standards to the same type of project, material, or technique differently from one project to the next, even within the same state.

• Strictness inconsistencies: stricter application of the standards than previously (a temporal inconsistency).

Comments regarding these three types of inconsistencies include:

Organizational inconsistencies:

- As noted above, a developer recounted a disagreement between the Park Service and the state historic preservation office related to operable windows. After the state's approval of window shop drawings, the Park Service rejected details already approved. Ultimately, the developer at significant cost used the Park Service-preferred windows, which were not operable.
- An architect described a recent situation where preliminary review of a tax-credit project was sought and received, but new personnel at the state historic preservation office made an adverse effect determination and final approval was denied. He commented, "inconsistent implementation and application of the Standards has been problematic at the SHPO and NPS levels."
- An architecture, planning, and conservation firm said that its employees repeatedly receive inconsistent feedback from state historic preservation offices and the Park Service on tax credit projects. They stated: "while we understand that approval of proposed work by SHPO does not guarantee NPS consent, we feel that reviews at the state and federal level could better align, principally when related to more significant proposed work, such as new interior floor plans and adjacent new construction."
- The Historic Tax Credit Coalition recounted an issue where owner of a storefront commercial building was required, arbitrarily, to retain a later-added façade within the period of significance, even though the owner wished to restore the original recessed wood storefront. In another example within the coalition's report, another state historic preservation rejected the proposal for a new aluminum storefront matching the configuration in the historic photos because aluminum was deemed an unacceptable replacement material. In that case, the Park Service overruled the state interpretation. These two examples highlight both inconsistencies between decision-makers at the state and federal levels and project-material-technique inconsistencies in the treatment of the same type of feature (i.e., storefront windows).

Project-material-technique inconsistencies:

- A statewide nonprofit organization discussed its observations of inconsistent application across project types, stating: "the most common inconsistencies revolve around Standard #6," as "larger redevelopment projects using federal and state Historic Rehabilitation Tax Credits, such as the adaptive reuse of mills, warehouses and schools are given the latitude to use modern replacement windows while physically and financially smaller projects are held to a higher standard for retention and repair of existing windows."
- A principal of a Minneapolis development organization commented on recent tax credit projects subjected to paint-color review. She further commented, "there is no guidance in the Standards" when it comes to this type of review, "leading to an arbitrary and aesthetic-based review" with no consistency from one project to another.
- An owner of a Main Street restaurant was required by the Park Service to cover over exposed brick walls that were exposed by prior owners. The owner conducted historical research proving the brick in that space was covered by metal panels and proposed metal panel coverings, but was

- denied. The owner also argued that covering brick walls was inconsistent with the Park Service's own written guidance. The owner decided to forgo the tax credits.
- A developer proposed to replace non-historic windows with windows having the same profile as the historic windows (removed by a prior property owner), believing the restoration of the historic profile to be consistent with existing Park Service guidance. The developer waited two months and purchased thirty temporary windows at a cost of \$45,000, while awaiting approval.

Strictness inconsistencies:

- The Historic Tax Credit Coalition, which as noted above represents 75 organizations, surveyed professionals familiar with the tax credit and collectively a part of over 1,300 reviews. Fully 59% of individuals surveyed in 2023 cited "inconsistent review as compared to previous projects" as one of the top three pressing issues facing tax credit projects. The coalition cited increased incidence of:
 - Requests for window shop drawings, some exceeding fifty pages, including an example that took a year to resolve
 - Requests for flooring surveys detailing the dimensions, species, and direction of the floorboards, including an example that took a year to resolve
 - O Prohibiting the addition of balconies to secondary and tertiary elevations, including an example rejecting balconies in alley-facing housing units at a converted social club
 - O Prohibiting lowered ceilings in corridors, which had been previously allowed to accommodate mechanical, electrical, and plumbing equipment
 - Requiring mechanical equipment to be inside units, despite previously allowing such equipment to be placed outside of units
 - Requiring wood flooring instead of wood-like flooring, including an example of the same applicant with applications in the same state for mid-century office tower conversions to housing, where wood-like flooring was allowed in one project but not the other
- A mill complex owner with an approved Part 2 application¹³¹ from 2012 resubmitted the same application for the same project more recently, but the Park Service rejected previously approved treatment of insulation and flooring.
- A Connecticut developer discussed a recent federal rehabilitation tax credit project initially denied on grounds the developer believed were overly strict interpretations of the Tax-Related Rehabilitation Standards. The decision was overturned on appeal, and the developer commented that the appeals officer "had deeper experience with interpretation of the Standards" and as a result his "well researched rationale for reversing the staff's decision on all counts…illustrate[s] how arbitrary [NPS] interpretations have become."
- A Missouri historic preservation consultant observed that after her two decades in working with tax credit projects, she has recently observed more requirements for "detailed drawings that can only be done by an architect section drawings, elevations etc. all of which drive up project costs and make it harder for individuals to take advantage of the tax credits," greater insistence on "exactly matching materials and refurbishing existing features," a higher "threshold for what constitutes deterioration beyond repair" for windows, and new prohibitions on carpet, which was previously allowed. She also recounted a specific example of building without known historic photos being treated inconsistently by a Park Service reviewer who prohibited the

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¹³¹ For an explanation of the three parts of the federal rehabilitation tax credit application, see Part II.D.

reconstruction of a corbel on the front façade, modeled after neighboring buildings, while at the same time requiring that a rear addition be rebuilt like the historic porch structures of neighboring buildings. She concluded: "I'm increasingly concerned about the push for perfection... If we continue to set the standard for a good project so high as to be crippling we will lose more than we gain."

A statewide preservation nonprofit commented that tax credit projects facing comparable issues receive different guidance and review decision without justification. They commented, "interpretations of the [Tax-Related Rehabilitation] Standards can seem arbitrary and capricious, shaped by personal attitudes and opinions without a clear, defensible basis."

Commenters felt that these structural and technical inconsistencies led to a broader inconsistency, namely that the application of the Tax-Related Rehabilitation Standards runs contrary to: the spirit of the program, which aims to encourage reuse and modernization; the rehabilitation treatment, which does not require strict preservation; and the regulatory requirement that the standards be applied "in a reasonable manner, taking into consideration economic and technical feasibility."¹³²

Finally, in addition to comments highlighting instances of inconsistencies, there was a theme related to the impact of the application on the Tax-Related Rehabilitation Standards on disadvantaged communities. The Historic Tax Credit Coalition reviewed Park Service data over a recent fifteen-year period (2002-2017) and found that 80% of federal rehabilitation tax credit projects were located in census tracts with incomes of 80% or less of area median income or poverty rates greater than 20%. Applications and interpretations that deter additional private investment in the rehabilitation of historic assets in these disadvantaged neighborhoods should thus be given careful scrutiny.

Comments related to inequitable impacts of interpretations of Tax-Related Rehabilitation Standards include:

- Main Street America, a network of more than 1,600 neighborhoods and communities, observed "major barriers to the equitable implementation of the Secretary's Standards in capacity-limited communities, especially historically disinvested communities, who often lack access to preservation processes. The application of the Secretary's Standards through unevenly applied discretion, time constraints, and cost of participation limits the utilization and impact of preservation incentives such as the [federal rehabilitation tax credit] in these communities. Additionally, a lack of organizational capacity, training, and expertise accentuates these limitations." The network recommended that the federal government engage with disinvested communities and undertake "more research into the application of the Standards within those communities," possibly under the Justice40 Initiative, established by President Biden in Executive Order 14008."
- A preservation professional from New England explained that there are "equity issue [which arise] regarding who can undertake such [tax credit] projects to begin with. The process and costs inherent in meeting the Standards for rehab[ilitation] can preclude entities in

¹³² 36 C.F.R. § 67.7.

¹³³ Historic Tax Credit Coalition Report, at 13. Financing for many of these projects often involves other tax credits, including the Low-Income Housing Tax Credit and the New Markets Tax Credit, which amplify the positive impact on the area.

economically challenged, typically urban, neighborhoods from applying for federal rehabilitation tax credits. Already burdened by limited financial resources, historic building owners in those neighborhoods struggle to maintain them and over time face increasingly insurmountable costs to rehabbing them." She went on to state that developers with resources are most likely to have up-front project costs and access to financing, and sometimes build projects that "don't necessarily represent the interest of community residents."

A statewide nonprofit organization, as noted above, articulated its view that larger and betterfunded projects received preferential, and more lenient, treatment than smaller projects. Improved access to flexible interpretations of the Tax-Related Rehabilitation Standards on the basis of project budget would be problematic, if true.

Related comments not specific to the Tax-Related Rehabilitation Standards (meaning, comments also applicable to the Standards) include comments urging that the strictness with which these standards are applied and interpreted be tied to the property's significance, and that properties significant for reasons other than their architecture be given more flexible treatment to reduce discriminatory outcomes:

- A Virginia preservation nonprofit described how "[t]he buildings of underrepresented communities were often built of lesser quality materials that were less durable" and as such "a more flexible approach to the application and interpretation of the Secretary's Standards will more assuredly facilitate the survival and stewardship of more diverse historic resources for the future use and enjoyment of our community as a whole."
- The Washington state historic preservation office stated that "[t]he Standards work well when age and architecture convey its significance; but applying the standards to resources determined eligible for association to historic events, patterns or significant individuals is problematic in the Standards' tailoring to architectural significance. This is a persistent problem with historic resources relating to social justice and equality, including minority neighborhood identity and the Civil Rights and LGBTQ+ movements, as many such resources are not eligible under criterion C. Having one-size-fits-all Treatment Standards does not work in achieving a more inclusive, representative [National Register of Historic Places]. The treatment of such historic resources should be tailored to preserving and conveying the story of what happened there with clarity and intention."
- A California planner discussed how "[h]istoric properties that are associated with significant events and people don't always hold significance related to its architectural features or design and may not retain a high level of integrity when it comes to materials, workmanship, or design. Guidance on how to apply the rehabilitation standards when referencing a resource associated with intangible heritage or for an association with events or people would be useful."

Relatedly, the Historic Tax Credit Coalition noted that initial determinations of eligibility for the National Register for tax-credit projects tends to be "more difficult than in prior decades and requires a higher level of scholarship and details and the process does not consider the importance of the building to the community," noting that this is especially "impactful in underserved communities of color or with buildings that have a stronger cultural than architectural history." This comment raises a different concern than Part IV.A.4., which described how the strict application of federal historic preservation

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¹³⁴ Id. at 25.

standards deterred applications for listing on the National Register, as property owners sought to avoid potentially expensive compliance obligations. Here, the coalition's comment referred to property owners actively seeking a determination that an unlisted property be listed on the National Register of Historic Places, in order to take advantage of federal rehabilitation tax credits. Owners in disadvantaged communities may feel the burden of heightened costs and preparation to achieve listing on the National Register more acutely than others. They may therefore not pursue, or not have the resources to pursue, tax credit incentives. (A full critique of National Register standards falls outside of the scope of this memo, but the critiques also apply to property owners seeking designations for reasons other than the tax credit.)

To address all of these concerns, many commenters offered ideas. More specific, prescribed guidance and the greater use of case studies to illustrate approved materials and techniques for particular project types was a common refrain, as was a request to allow applicants to rely on precedent in similar projects. In addition, the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation – both members of the Advisory Council on Historic Preservation – called for greater guidance about the regulatory requirement that the Tax-Related Rehabilitation Standards be applied "in a reasonable manner, taking into consideration economic and technical feasibility." The former organization suggested that the phrase may create a "source of conflict and may further complicate a process that by design relies on individual interpretation"; the latter suggested that guidance "explain the project review analysis that allows a finding that the project as a whole meets the Secretary's Standards, even where satisfying a specific standard in isolation may prove problematic."

Other commenters proposed changes to the administrative process, including urging release of records regarding previous interpretations of the Tax-Related Rehabilitation Standards, and improvements to the appeals process itself. Currently, the Park Service makes publicly available online only the last five years of Park Service appeals, and does not systematically publish either approved or rejected applications and decisions. Commenters urged opening up public records for both application and appeals decisions to better equip applicants to submit well-reasoned and successful applications and appeals, and to ensure fairer and more consistent treatment. For example, an urban community development firm expressed the need for "an improved appeals process, allowing applicants timely access to an impartial third-party review, [and] ensuring that interpretations of the [Tax-Related Rehabilitation] Standards remain consistent with existing precedents." Supporting this comment is an analysis of the last five years of tax credit appeals, which showed that 29% of appeals reversed Park Service denials. Clearer guidance and greater understanding of precedents may reduce this large percentage of successful appeals, benefiting all parties.

2. APPLICATION OF THE STANDARDS IN SECTION 106 PROCESSES

Comments about the application and interpretation of the Standards in Section 106 review processes also highlighted inconsistencies, largely resulting from the lack of clear guidance and publicly available

^{135 36} C.F.R. § 67.7.

¹³⁶ "A Survey of Federal HP Tax Credit Appeals" prepared for the Chair of the Advisory Council on Historic Preservation, Laurel Grace Margerum, 2023.

precedents that project proponents can easily follow. As noted in Part II.B., Section 106 of the National Historic Preservation Act requires federal agencies to identify and assess the effects that a covered undertaking may have on historic properties. Federal agencies (and their permittees, licensees, and funding recipients) strive to manage their undertakings in a manner that complies with the Standards, given that Advisory Council on Historic Preservation regulations regarding Section 106 state that a failure to comply with the Standards warrants a finding of an adverse effect.

Commenters suggested that the Standards are not consistently applied and interpreted during Section 106 review processes. Several pointed to the lack of sufficient personnel highly trained in design, materials, and construction decisions, necessitating clearer guidance about the Standards' application and interpretation in specific circumstances.

Illustrative comments include:

- The General Services Administration, a member of the Advisory Council on Historic Preservation and the manager of nearly 10,000 federal properties, stated that the agency encounters challenges with differences in the interpretation of the Standards with regard to the determination of effects under the Section 106 process. The agency noted that Standard 1 and Standard 9 pose the most variable interpretations. The agency also pressed upon the importance, as two fellow Advisory Council members did, of clarity around the first paragraph in the Park Service regulations on the Standards, offering: "Guidance on application of the Standards and the accompanying guidelines state that they will be applied taking into consideration the economic and technical feasibility of each project, and this sometimes gets overrun in Section 106 negotiations."
- The National Alliance of Preservation Commissions, whose chair serves as an observer to the Advisory Council on Historic Preservation, noted that interpretation of the Tax-Related Rehabilitation Standards "should authorize professionals and staff to find the best path forward...[to] support consensus decisions in Section 106 and historic tax credit reviews. However, hierarchy in government roles and inflexible interpretation of standards often preclude opportunities for interpretation, negotiation, and consensus."
- The Department of Defense, a member of the Advisory Council on Historic Preservation, explained that "State Historic Preservation Officer (SHPO) and Regional National Park Service (NPS) staff have inconsistent interpretations and applications of SOI Standards [to Section 106 projects]. These inconsistencies create additional work and complicate DoD's ability to effectively manage and plan for renovations of historic properties, including housing, located in different states and regions." These concerns echo the concerns, relayed in Part IV.C.1., from private parties seeing differences between state and federal decision-makers in the context of federal rehabilitation tax credit reviews.
- The National Conference of State Historic Preservation Officers, a member of the Advisory Council on Historic Preservation, underscored conflicts between Advisory Council regulations, which cover Section 106, and Park Service guidance. As one example, the organization noted: "the ACHP specifically calls out "removal" of a property from its original location as an adverse effect, regardless of circumstances. This principle does conflict with the NPS Guidelines on Flood Adaptation for Rehabilitating Historic Buildings which acknowledges, due to sea-level rise and other climate hazards, that relocation may be necessary and can be achieved while

- meeting the Standards." The organization proposed review and coordination across both bodies of regulation.
- The Virginia state historic preservation office observed that in its experience in Section 106 reviews, numerous delays occur on these projects due to confusion and lack of coordination. The office urged: "Targeted training to federal agencies on the application of the Standards and coordination of Section 106 with the NEPA process may alleviate much of this misunderstanding and concern."
- The Minnesota state department of transportation said that applying the Standards during the Section 106 process was difficult for transportation projects, including road widenings, pavement replacements, and bridge reinforcements. While buildings have many character-defining features to consider, bridges "often have one or two character-defining features masonry cladding, concrete with applied ornament, the organization of a truss which doesn't allow for great flexibility."
- An Illinois statewide preservation organization commented on Section 106 interpretations of adverse effects and the ability to satisfy other goals: "Many of the changes that enable historic buildings to respond to equity, housing-supply, energy-efficiency, renewable energy and climate change-related concerns are made in opposition to the Secretary's Standards, not because of, or in harmony with, them. When assessed as part of the Section 106 process under the National Historic Preservation Act, it is common for these changes to be labelled adverse effects and to be allowed to go forward only with accompanying mitigation. These processes set historic preservation up as an impediment rather than as part of the solution to many of the most pressing concerns currently facing people and the built environment."
- The chief archaeologist for the state of Nevada asked for clarify about the treatment of "traditional cultural properties" and resources significant to Indian Tribes. He suggested that "the regs broaden 'the net' by making it clear that 'tribal' resources and TCPs apply to ethnic groups not Native American."
- The Iowa state historic preservation officer similarly urged efforts "to involve tribal members or appropriate members of a traditional cultural property when evaluated whether work proposed/performed meets the Standards," citing levels of understanding that vary greatly across project proponents.

3. APPLICATION OF THE STANDARDS AT THE LOCAL LEVEL

Some comments involved the interpretations of the Standards by local historic commissions reviewing applications of property owners to modify their historic buildings. Most of these related to a commission's application of the Standards to a particular project. In other words, they were not about inconsistencies across commissions.

However, four state historic preservation offices submitted comments about the challenges local commissions in their jurisdictions face in applying and interpreting the Standards:

- The Georgia state historic preservation office observed that "there appears to be a great deal of inconsistency with local historic preservation commissions [applying] the current Standards to projects under their purview to review."
- The North Carolina state historic preservation office noted that many local commissions have developed tailored review standards similar to, but not necessarily exactly like, the Standards.

For local historic commissioners, the office noted a particular difficult understanding how to review new construction on vacant lots: "the Standards alone may be inadequate as to how to assess stand-alone new construction on a vacant lot within a local historic district as the Standards largely address existing buildings. An alternative to be considered for infill might be the FRESH approach" covering footprints, roofs, envelopes, skin, and holes (fenestration).

- The Pennsylvania state historic preservation office provided its observation about the use of the Standards at the local level: "The Standards are sometimes used at the local level as a reason to deny alternative energy solutions (mostly solar panels on roofs) and other NIMBYs and are perceived to contribute to an elitist approach to preservation."
- The Virginia state historic preservation office commented about inconsistent application of the Standards by local historic preservation boards and commissions, stating: "[W]e find that the application of the Standards is inconsistent at the local level in large measure because volunteer members of the review boards lack the academic background, training, or experience to apply the Standards."

A more positive approach to inconsistent treatment was presented by the National Conference of State Historic Preservation Officers, who lauded the decentralized nature of American preservation regulation, noting: "Early on there was a recognition that the Federal government could not be present in every state and community to the extent necessary to evaluate solely every historic property and that state and local significance, in particular, could be best evaluated by states and local governments. The delegation of certain functions to state and local governments combined with the many calls in the NHPA for consultation, advice, and cooperation, pretty clearly suggests a program that is meant to be variable depending upon a variety of circumstances and including the input of multiple stakeholders, and without doubt, with a strong vein of accountability. Rather than viewing this structure as a weakness or shortcoming, we view this as a strength."

4. HARMONIZATION OF THE STANDARDS AND TAX-RELATED REHABILITATION STANDARDS WITH BUILDING CODES AND ACCESSIBILITY REQUIREMENTS

The Advisory Council on Historic Preservation did not explicitly call for public comment on the manner in which federal historic preservation standards were applied and interpreted vis a vis building codes and accessibility requirements. However, it received many comments about these topics. Commenters vocalized concerns about the difficulties harmonizing the standards with building codes (including energy codes) and with the requirements of the Americans with Disabilities Act (ADA). In some cases, particularly cases relating to the ADA, commenters said that federal historic preservation standards were applied and interpreted in ways that hindered life safety and accessibility.

Comments concerning difficulties in harmonizing federal historic preservation standards with building codes included:

 A statewide preservation organization discussed the recent rehabilitation of a long-vacant 1870 building, which was delayed for almost a decade while several developers attempted to ensure the existing historic stairs satisfied both the building code and the Standards. The organization

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¹³⁷ See Appendix E for the text of the prompt issued by the Advisory Council on Historic Preservation.

- commented that "historic preservation standards and their application have long been in conflict with building codes that address essential life safety and accessibility needs."
- A statewide nonprofit historic preservation organization commented that building codes, which are essential for health and safety of the public, are non-negotiable. Therefore, the organization asserted that, "when there is a conflict between the building could and the interpretation of the [Standards] by the reviewer, developers/property owners face limited options."
- The Historic Tax Credit Coalition recounted a conversion of a building to its original use, a hotel, which required the addition of a "gurney sized elevator" for life safety purposes. The local government had approved the location of a new elevator tower, but state and federal reviewers of the owner's tax credit application nonetheless required extensive documentation and ultimately denied the project, citing the proposed tower as a part of the reason.
- A former local energy policymaker from Massachusetts described a catch-22 between the widely-used International Energy Conservation Code and historic structures, in which the energy code requires compliance by historic buildings except where the energy efficiency measure would "damage the historic character of the building," meaning that compliance with the energy code would likely result in a finding by a local historic commission that the property owner violated the Standards and could not proceed. He observed that the Park Service has declined to incorporate this into explicit guidance, and meanwhile "the NPS guidelines are so inflexible, and the judgment of what affects the historic character of a building are based on very minute differences that it discourages developers from even proposing new solutions."
- An experienced architect said that throughout his involvement with historic properties, he has experienced significant difficulty in accommodating local building code requirements and the Standards. He stated: "[T]hese are building codes we are talking about health, safety and welfare of the building occupants must be accommodated or we are not doing our primary duties as architects." With regard to energy codes in particular, he recalled a project for which the code mandated additional wall insulation; the Park Service repeatedly rejected the additional wall insulation because of the increase in wall thickness.
- A Boston architecture firm submitted extensive comments about the ways in which the application of the Standards to windows and wall insulation have hindered compliance with Massachusetts' mandatory energy code. The firm noted that the "historic building requirement limit[ing] the insulation applied to the interior face of the existing walls to 4" maximum from the inside face of the existing wall to the face of the interior finish... is very limiting" and may result in noncompliance with the energy code.
- Part IV.B.2. offers other comments regarding the difficulties complying with energy codes, particularly energy efficiency requirements.

Comments concerning difficulties in incorporating equitable access by the disabled into projects subject to federal historic preservation standards included:

• An Illinois preservation nonprofit organization discussed a current project to rehabilitate the Van Buren Metra station in Chicago, where developers have proposed alterations to an adjacent pedestrian bridge to add a ramp improving access for the disabled. The ramp was determined to be an "adverse impact to the historic bridge, and potentially grounds to consider it no longer a contributing resource to the Grant Park National Register Historic District." The organization used this unfortunate determination to make a broader point that the Standards

- "currently discourage equity in the form of accessibility, by deterring interventions that make historic places ADA-compliant." The organization raised the question: "If preservation is a public benefit, how can it be an adverse effect to make access to a historic resource more broadly available to the public?"
- A historic preservation consulting business in Virginia commented on the Standards not being flexible enough to reasonably incorporate ADA accommodations, particularly not allowing door openings to be widened to fit wheelchairs. They further opined that "the Standards are written in a way that prioritizes buildings over people."
- A national historic properties development firm discussed a project where the local authority required the installation of a concrete ramp at the main entrance of the building, and although the ramp was required by code and ADA requirements, it was subject to strict scrutiny from state historic preservation office and the Park Service, making it "very hard to reach consensus." The firm further commented that building codes and ADA requirements "are going to continue to become more strict and difficult to meet and it would be helpful to have more guidance on how to achieve these while still maintaining historic fabric."
- A statewide nonprofit preservation organization in Hawaii provided two examples highlighting confusion balancing accessibility and preservation concerns. First, "[a] proposed new pedestrian and bicycle bridge over a historic canal has been over-engineered to accommodate a projected three-meter sea level rise, which also requires massive ramps for ADA and bicycle access to move from street level to the deck, increasing the mass and footprint," and alternatives that would have reduced the mass were rejected because water may have periodically overtopped the bridge. Second, to ensure accessibility in another project, "historic French double doors would have to be converted to single wide door with side panel to meet exiting requirements but destroying a key historic feature."

V. Recommendations

Current applications and interpretations of the federal historic preservation standards – which govern virtually all preservation activities occurring in the United States – may not fully benefit historic places and the people who care about them. Fortunately, many people who work in the preservation field – people who have devoted their lives to reinvigorating historic places – believe that we can do better. Preservationists can collaborate on necessary change, benefiting so many others who may never realize that the Standards and the Tax-Related Rehabilitation Standards even exist. Those benefits include historic churches saved from demolition, schoolhouses converted to senior housing, new solar panels delivering clean energy, Main Streets bustling with shoppers, and factories becoming innovation centers again. Adjustments to the "rules of the game" can especially benefit low-income and minority communities, who may lack access to capital and professional assistance, who may experience entrenched disinvestment, and whose cultural and social practices may challenge preservation's formalities.

This Part offers recommendations for clarifying and modernizing the way that public and private parties access, apply, and interpret the Standards and the Tax-Related Rehabilitation Standards. It takes into account the original impetus for these standards, prior analyses dating back over two decades and described in Part III, and public comments provided to the Advisory Council on Historic Preservation in 2023 and summarized in Part IV. In addition, these recommendations rely on two policy statements recently adopted by the Advisory Council – the Policy Statement on Climate Change and Historic Preservation and the Policy Statement on Housing and Historic Preservation – which both call for greater flexibility in interpreting federal historic preservation standards, balancing other pressing social needs.¹³⁸ And it relies upon the views of members of the Advisory Council on Historic Preservation and its committees, including the Experts Advisory Committee, as expressed to or before the author during meetings and discussions, and through written correspondence.

Addressing the challenges and issues raised in this memo could inspire actions to be taken both by the Advisory Council and the Park Service. To the extent that these recommendations relate to the Park Service, they are meant to answer – with specific ideas – the Park Service's centennial "Call to Action," calling for modernization of the Standards and the Tax-Related Rehabilitation Standards.

With that in mind, the recommendations are as follows. In the immediate term, both the Advisory Council and the Park Service should issue new, detailed, and updated guidance on several specific topics,

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¹³⁸ See Advisory Council on Historic Preservation, Climate Change and Historic Preservation Policy Statement 6, July 2023 ("The federal government should expand and more flexibly apply its guidance on the treatment of historic properties threatened by climate change."); Advisory Council on Historic Preservation, Housing and Historic Preservation Policy Statement 5-6, December 2023 ("The federal government should expand upon its guidance regarding reuse and rehabilitation of historic properties for housing and should encourage flexible yet consistent application of such guidance.").

and the Park Service should launch a robust process to overhaul the guidelines with economic growth, environmental sustainability, and equity in mind. In addition, it would be helpful for the Park Service to commit to expanding training and facilitating the use of precedent, particularly in applications for the federal rehabilitation tax credit. And the Advisory Council should undertake a review of the institutional frameworks through which the federal historic preservation program is administered to ensure alignment between those institutions and the achievement of a balanced view of historic preservation.

In the medium term, the Park Service could initiate rulemaking to: amend the Standards to restore previous or add new treatments; and improve the appeals process for decisions related to Tax-Related Rehabilitation Standards. In addition, the Park Service could consider initiating rule-making to introduce a graduated approach to the National Register of Historic Places, whose administration is intertwined with the administration of federal historic preservation standards.

These recommendations focus on federal decision-makers, recognizing that while the current structure of American historic preservation is highly decentralized, the federal government plays a critical role in influencing the application and interpretation of historic preservation standards. However, state officials and local historic preservation commissions could also consider some of these recommendations in light of their own decentralized regulatory frameworks.

A. RECOMMENDATIONS FOR IMMEDIATE ACTION

This section covers suggestions for immediate action not requiring regulatory or legislative changes, including the issuance of additional guidance, the launch of a review of current guidance, the expansion of training opportunities, and the facilitation of precedential interpretations of the Tax-Related Rehabilitation Standards. In addition, it suggests that the Advisory Council undertake an effort to better understand and make suggestions regarding the alignment of the structure of federal preservation governance, to ensure that these issues continue to receive regular attention and priority.

Before explaining each of suggested items further, it bears noting that achieving an "immediate" timeline requires sufficient and timely resources to be devoted to these tasks. Relevant budget offices and even Congress should consider what is required to ensure that these suggestions can be realized.

I. ISSUE ADDITIONAL GUIDANCE

Before proceeding further, it is important to clarify what "guidance" means and why this report calls for more of it. To a lay reader, there may seem to be a tension between the flexibility the drafters of federal historic preservation standards originally envisioned and the current call for more specific guidance. But at the core of many critiques of these standards is a lack of clarity on the extent to which flexibility is warranted. Such clarity could ensure consistency and predictability that would benefit the many different groups that engage in historic preservation activities, including practitioners, developers, investors, and property owners. Examples, case studies, and bright-line rules could also benefit those individuals of varying background and expertise who are often tasked with applying and interpreting these standards, including members of local historic preservation commissions, whose experience with

the technical aspects of historic preservation varies widely. So to be useful, guidance called for herein must be written down, informative, illustrative, and accessible to a wide range of users.

Both the National Park Service and to a lesser extent the Advisory Council on Historic Preservation, play a role in guiding others, both within and outside the federal government, to apply and interpret federal historic preservation standards. As noted in Part I.D., the Park Service issues four kinds of supplemental guidance (guidelines, *Preservation Briefs, Interpreting the Standards* bulletins, and taxincentive guidance) about the interpretation of the Standards and the Tax-Related Rehabilitation Standards. In addition, the Advisory Council provides a limited amount of guidance related to the Standards for federal agencies and related public and private parties to follow when carrying out the Section 106 review process of the National Historic Preservation Act.

With that background in mind, both the Park Service and the Advisory Council should jointly or separately consider issuing additional guidance for several specific topics. This guidance would be most useful for the rehabilitation treatment of the Standards and the Tax-Related Rehabilitation Standards, because those two sets of standards are used the most and have the most impact on preservation practice.

The following topics were consistently mentioned as problematic to the degree that they potentially jeopardize the practical or financial feasibility of rehabilitation projects¹³⁹:

- Changes to interior circulation patterns, floorplans, ceiling heights, lightwells, and courtyards. Prohibition on such changes can thwart conversions of commercial and institutional buildings for residential uses, particularly those with large floorplates, and installations of energy-efficient HVAC equipment and other utility ducts and lines; they can also diminish capacity to use natural lighting or meet energy codes.
- The subdivision of large assembly spaces.

 Prohibition on such subdivision can thwart conversions of religious, school, and other institutional buildings to residential uses.
- New additions to historic buildings or campuses.

 Confusion about the meaning of Standard 9 can lead to costly design review processes and, in some cases, buildings or campuses less useful to, or beautiful for, occupants.
- The installation of solar energy.
 Limitations on solar installations has reduced the environmental sustainability of projects and increased owner energy costs.
- The installation of energy-efficient features, such as windows and insulation.

 Limitations on energy-efficient window and insulation installations has reduced the environmental sustainability of projects and increased owner energy costs; in addition, such limitations may hinder addressing environmental health hazards such as lead paint.

To address the issues raised in this report, such guidance could promote the following clarifications for rehabilitation projects:

 Allowing greater flexibility in changing floor plans, circulation patterns, and ceiling heights, particularly in the upper floors of multi-story buildings; and rescinding existing guidance from

¹³⁹ Considerations about substitute materials also figured prominently in recent comments received, but the Park Service has recently issued guidance on substitute materials.

- 2004 on interior atria, lightwells, and courtyards, and allowing them on upper stories, especially where needed to facilitate housing conversions or satisfy lighting needs or energy codes.
- Allowing full reconfiguration of large assembly spaces with full-height walls and mezzanine floors, at a minimum where housing is anticipated.
- Identifying what being "differentiated from the old" requires, including through extensive cases studies showing a broad range of compatible additions.
- Allowing solar panels to be affixed to roofs of historic buildings and structures, including portions of roofs visible from the street, where their physical connection to the historic building or structure has minimal impacts on significant historic fabric or can be repaired once removed, and where their profile matches the pitch of the roof upon which it is installed.
- Allowing in most cases replacement energy efficient, low emissivity windows, and operable windows to be installed (or replacement windows addressing environmental hazards), as long as such windows share the general profile of the historic windows, are truly divided, and are not framed in vinyl or plastic; and allowing interior building insulation of any thickness, where such insulation may be removed without damaging historic fabric; all with consideration of building codes, energy codes, and climate risks (such as hurricanes).

New and updated guidance on these issues will dramatically increase the effectiveness of the historic tax-credit program by increasing the number of potential projects and providing certainty for people considering undertaking them. They will also position preservation to meet the climate challenge.

2. LAUNCH A REVIEW OF CURRENT GUIDANCE

Beyond issuing immediate guidance on the five key topics identified above, the Park Service and the Advisory Council could, together or separately, launch a full review of current guidance for its consistency with the values of economic growth, environmental sustainability, and equity. The guiding language for this review could include the general flexibility principles embedded in the Standards ("taking into consideration the economic and technical feasibility of each project"¹⁴⁰) and the Tax-Related Rehabilitation Standards ("in a reasonable manner, taking into consideration economic and technical feasibility").¹⁴¹

The summary of comments in Part IV and the comments included in Appendix F present a strong fact base from which a review can build. At a minimum, the review should cover: paint color; storefront windows; mechanical equipment on rooftops; lead, asbestos, radon, and mold abatement and remediation; and ramps, door openings, and other accessibility features. In addition, the review should cover energy codes, with the support of the Department of Energy, which is currently overseeing a renewed federal commitment to and involvement in this issue.

In tandem with launching this global review, the Park Service could initiate three additional administrative measures to smooth access to and understanding of federal historic preservation standards:

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¹⁴⁰ Id. § 68.3.

¹⁴¹ 36 C.F.R. § 67.7.

- Development of an online, searchable repository consolidating all past and future guidance documents and organized by subject matter (such as building type, material type, interior space, and time period).
- Development of a regular schedule for updates to Park Service guidance.¹⁴²
- Creation of a standing advisory body (or utilization of a body convened by the Advisory Council¹⁴³) to support the development of guidance that incorporates key issues raised by public and private parties most likely to be involved in the application and interpretation of the guidance.¹⁴⁴

Budgeting for immediate and ongoing expenditures in this vein will be an important collective priority.

3. EXPAND TRAINING

In both prior analyses and recent comments, commenters have urged more virtual and in-person trainings for federal agency representatives, state and local officials, and practitioners, on the application and interpretation of the Standards and the Tax-Related Rehabilitation Standards. The Park Service already offers many training programs for preservation practitioners, tax credit seekers, and others through its Technical Preservation Services division. Additional trainings could focus on new guidance issued or on case studies addressing sustainability, housing, religious and institutional uses, and compatibility with building codes and the Americans with Disabilities Act, among other specific topics.

For its part, the Advisory Council on Historic Preservation, which organizes trainings on Section 106 (including more than 4,000 participants in fiscal year 2023), could supplement these efforts for parties involved in the Section 106 review process. The Advisory Council continues to include a budget for training in its fiscal year 2025 budget request and will continue to do so in future years.

4. FACILITATE PRECEDENTIAL INTERPRETATIONS

The first three recommendations in this section addressed people's ability to understand, both through substantive guidance and through trainings, the appropriate application and interpretation of federal historic preservation standards. This fourth recommendation relates to the ability of people to rely on

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¹⁴² In its comment to the Advisory Council in 2023, NCSHPO recognized the lack of resources devoted to the issuance of guidance and stated: "With additional funding and more staff capacity, the NPS would be able to dedicate the resources necessary for us to simply recommend that Preservation Briefs and Bulletins are always current and feature the most up-to-date scholarship. Short of that eventuality, we would recommend the development of a regular publishing schedule so that there can be consistent and regular updates at appropriate intervals."

¹⁴³ NCSHPO acknowledged that the Park Service may have difficulty convening such an advisory committee within its existing structures, so it may be worth noting that all but two of those recommended organizations are members of the Advisory Council on Historic Preservation, which might be able to provide a convening function on behalf of the Park Service.

¹⁴⁴ In its comment to the Advisory Council in 2023, NCSHPO recommended the "creation of an Advisory Committee comprised of representatives of NPS (including their internal competing preservation divisions), ACHP, the National Trust, NATHPO, NCSHPO, Federal Agencies, The American Institute of Architects, and the Association for Preservation Technology that can convene regularly to provide input into changing trends, materials and approaches relative to the treatment of historic properties." Additional representative parties could include preservation practitioners and developers.

past interpretations of the Tax-Related Rehabilitation Standards, in order to inform the decisions of applicants for the federal rehabilitation tax credit, and to facilitate the Park Service's efficient review.

Current applicants lack access to prior decisions that could guide them about materials, techniques, and configurations that in the past have been successfully deemed compliant with the Tax-Related Rehabilitation Standards, and thus deserving of a tax credit. With access to decisions, an applicant could refer to a prior approval to try to argue that their proposed rehabilitation is similar to the project at issue in that decision, or distinguish their proposed rehabilitation from a previously disapproved project.¹⁴⁵

Of course, making these documents available and searchable presents a technical and budgetary challenge, given the volume of applications, the volume of supplemental submissions, the piecemeal nature of relevant email correspondence between the Park Service and applicants, and the number of years for which the tax credits have been offered. The recent move to electronic applications should facilitate digitization and access going forward, but the digitization of and access to past documents should also be a priority. In a world of limited resources and time, perhaps a budget that would enable the digitization of the most recent three to five years of applications and certifications would be an appropriate starting point.

To date, there has been reluctance to allow applicants to rely on prior decisions, perhaps on the grounds that each building is unique. On the other hand, many historic buildings were constructed using similar techniques and materials, were constructed in similar settings and locations, or were constructed with similar original uses. For example, industrial brick mill buildings, urban mid-century concrete office towers, stone-clad religious buildings, and early-twentieth-century schoolhouses often share similar materials, configurations, and conversion challenges. In some cases, identifying suitable treatments and products that satisfy the Tax-Related Rehabilitation Standards can be akin to finding a needle in haystack. The ability to budget for and rely upon previously approved treatments and products could save an applicant both time and money, and reduce the time needed for Park Service staff to conduct their reviews. If precedential weight were given to prior decisions, there may well be greater consistency across projects reviewed by different state historic preservation officers, at different times, and reviewed by different Park Service reviewers.

The reluctance to allow applicants to rely on prior decisions may also come from a feeling that decisions made in the distant past about prior projects do not reflect best contemporary preservation practices. Establishing a time period – say, five years – for which prior decisions could count as precedent would potentially assuage this concern.

It bears noting that while making public information about tax credit applicants would help applicants, the information could also help external researchers and the federal government study the tax credit program. Better data would enable more accurate analyses of the economic impact of the tax credit, the types of projects the tax credit facilitates, and the possibilities for improving the tax credit. If data also

¹⁴⁵ The ability to rely on precedent has parallels in our legal system, which, based on the English common law approach, allows contemporary litigants to point to prior judicial decisions to argue that the facts at issue in their cases are similar to (or differ from) the facts of prior cases, thus meriting the same (or different) outcome.

included applications and decisions related to the recently-eliminated 10% rehabilitation tax credit related to buildings built prior to 1936, new research could assess the effectiveness of that credit –which did not require compliance with the Tax-Related Rehabilitation Standards – on preservation activity and development.

EVALUATE THE STRUCTURE OF FEDERAL PRESERVATION GOVERNANCE

One possible explanation for the challenges outlined in this report is that there may be a structural issue that prevents federal historic preservation values from being fully considered in light of other economic, social, and cultural values. As the entity charged with evaluating the manner in which the federal government manages historic preservation policy and activities, the Advisory Council could conduct an inquiry into the current structure of federal preservation governance and make recommendations. The Advisory Council will discuss this option in the near future.

B. RECOMMENDATIONS FOR MEDIUM-TERM ACTION

In the medium term, the Department of the Interior may consider initiating rulemaking (or at least issuing an advance notice of a proposed rulemaking) to amend the Standards by restoring previously-allowed (now deleted) standards on protection and stabilization and adding new standards for relocation, intentional release, and deconstruction; and to improve the appeals process for decisions related to the Tax-Related Rehabilitation Standards. In addition, the Department may wish to consider a graduated approach to federal historic preservation standards that ties to different aspects of significance of properties on the National Register of Historic Places.

I. EXPAND AVAILABLE TREATMENTS

To expand the available treatments contained in the Standards, the Department of the Interior would have to change its own regulations. Doing so is a time-consuming and potentially fraught task, and one that cannot be entered into lightly. However, enough public commenters have opined on the need for additional treatments that the Department should consider expanding the Standards through rulemaking. Additional treatments were primarily requested to enable the owners of historic properties to address the growing threat of climate change, though new treatments may have other benefits. Five treatments worth considering are: protection, stabilization, relocation, intentional release, and deconstruction.

A protection treatment could restore a previously-allowed treatment and enable historic properties to be fortified through structural and chemical means not currently recommended by the Standards. It could also allow for landscapes around historic properties to be altered – even if doing so changes the integrity of the setting of the property – to protect more significant features. A firebreak created to thwart wildfire around a historic rural home, for example, may not be seen as consistent with the current Standards, but may be necessary to protect the home.

A stabilization treatment could restore a previously-allowed treatment and open up possibilities for more robust engineering and material alteration of structures suffering from erosion, increased precipitation, or other destabilizing forces. Currently under the Standards, whether new reinforcing materials may be added to stabilize a structure depends on a variety of interpretations and will not necessarily receive approval, even if changing environmental conditions require it. A stabilization treatment could establish the circumstances under which reinforcements may be left visible, new materials may be used, and visual impacts that may have previously been considered to be adverse may be disregarded. Another form of stabilization might be what some call mothballing: keeping a property stable and secure, even when it is not currently used, to enable it to be put to active use later. This concept is already referenced in a *Preservation Brief* called "Mothballing Historic Buildings." ¹⁴⁶

A relocation treatment could enable historic buildings and structures to be moved to new locations under certain circumstances. For example, relocation may be authorized where climate-change-related damage could imminently cause harm to a historic building or structure left in its current location. As another example, relocation of a historic building may be authorized where its relocation would facilitate housing creation (such as relocating the building to town-owned land and selling or renting it at affordable rates).

An intentional release treatment could recognize naturally-occurring transformation as an acceptable means of treating properties facing certain loss as a result of natural forces. The principle of "non-intervention" has been embraced by the National Trust in England and in other practical contexts, and may also be an acceptable practice among Tribal and Indigenous communities. In some ways, this concept is referenced in Department of the Interior regulations governing federal agency historic preservation programs under Section 110 of the National Historic Preservation Act. Those regulations state: "Where it is not feasible to maintain a historic property, or to rehabilitate it for contemporary use, the agency may elect to modify it in ways that are inconsistent with the Secretary's 'Standards for Rehabilitation,' allow it to deteriorate, or demolish it."¹⁴⁷

A deconstruction treatment could offer best practices for dismantling a building to ensure that its parts become usable in other buildings or applications. To be sure, this treatment should expressly be considered a last resort, and generally discouraged. However, where there is no choice beyond demolition, deconstruction has a very strong environmental justification in that it diverts construction waste from landfills and recaptures the embodied carbon contained in existing buildings. Significant academic work on the benefits of deconstruction and cities adopting deconstruction ordinances could be a starting point for a fuller articulation of this treatment.

With each of these five potential Standards, the Park Service could consider whether some of them may be used in tax-credit applications, or otherwise incorporated into the Tax-Related Rehabilitation Standards. For example:

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¹⁴⁶ U.S. Department of the Interior, "Preservation Brief 31: Mothballing Historic Buildings," with Sharon C. Park, 1993.

¹⁴⁷ The Secretary of the Interior's Standards for Historic Preservation Projects, 63 Fed. Reg. 20,505 (April 24, 1998).

- If a protection Standard existed, the Tax-Related Rehabilitation Standards could allow for radical changes to landscaping that would protect the site from wildfire, flooding, and other climate risks relevant to topography.¹⁴⁸
- If a stabilization Standard existed, tax credits might be issued at a lesser amount for stabilization projects that enable continued active use to avoid demolition, even if the measures used for stabilization would not satisfy the Tax-Related Rehabilitation Standards.
- If relocation were adopted as a Standard, the Tax-Related Rehabilitation Standards could be clarified to apply to buildings that have been relocated pursuant to the Standards. Currently, relocated buildings are generally not eligible for the federal rehabilitation tax credit.¹⁴⁹
- If deconstruction became a Standard, reference to it in the Tax-Related Rehabilitation Standards may help guide applicants that include demolition as part of tax-credit projects.

Existing regulations may also merit review. For example, Standard 1 of the Standards for Rehabilitation, which requires that a property with a new use only "require[] minimal change to its distinctive materials, features, spaces and spatial relationships" may leave too much to interpretation, and possibly serve as the root of some of the issues discussed in this report. As another example, Standard 9 of the Tax-Related Rehabilitation Standards, which requires new additions be "differentiated from the old" may be a dated theory that ends up producing less than optimal outcomes, particularly for property owners seeking to rehabilitate smaller structures.

2. IMPROVE THE APPEALS PROCESS

Separate from expansion of the substantive Standards, the Department of the Interior could consider improvements to the appeals process for applicants who have been denied the federal rehabilitation tax credit. The appeals process is laid out in regulations that identify a single individual, the Chief Appeals Officer, to review written appeals and make a determination on their merits. While on the surface these regulations are merely procedural, they have substantive bearing on the application and interpretation of the Tax-Related Rehabilitation Standards. That is because these appeals are typically lodged by a property owner who was denied tax credits for a project because the Park Service determined that the project did not satisfy the Tax-Related Rehabilitation Standards. Appeals are thus, by their nature, discussions about the interpretation of these standards. However, while the outcomes of recent appeals have been made public, appeals decisions do not have precedential value, meaning that later applicants cannot use them to understand how to apply the Tax-Related Rehabilitation Standards to their projects, negotiate with the Park Service or state historic preservation officer, or buttress their own appeals, if any.

Various suggestions have been made to address these issues and improve the process. These include the question of whether the decision-making structure, currently a single individual, is appropriate given the often large sums – sometimes millions of dollars – on the line. Some have suggested a panel

¹⁴⁸ Currently, the 1992 Tax-Related Guidelines say that "[r]adically changing the grade level of the site" is "not recommended." The 1992 Tax-Related Guidelines, at 69.

¹⁴⁹ Currently, the 1992 Tax-Related Guidelines say that "[r]emoving or relocating buildings or landscape features" is "not recommended." Id.

¹⁵⁰ 36 C.F.R. § 67.10.

comprised of individuals with experience working on historic rehabilitation projects. Another relevant question is whether these appeals decisions, essentially the highest level of administrative interpretation of the Tax-Related Rehabilitation Standards, might be granted precedential value, and the conditions under which appeals would have that value. The benefits for both applicants and the Park Service of assigning precedential value are described in Part V.A.3.

On a related note, the Department of the Interior might consider public reporting about, and periodic reviews of, the appeals process to ensure it works for applicants and facilitates the aims of the program. Such reviews may encompass analysis of whether similar projects and applications are consistently treated.

3. GRADUATE THE NATIONAL REGISTER OF HISTORIC PLACES

As discussed in Part IV.A.4., the criteria for the National Register of Historic Places determines how properties will be officially designated historic, and this designation has impacts on the application of the Standards and the Tax-Related Rehabilitation Standards. That is because designation, or determinations of eligibility for designation in the case of Section 106-related matters, often serves as the trigger for the application of these standards. If a property is listed or eligible for listing, proposed changes to it may be reviewed for compliance with these standards.

Generally, the Standards and the Tax-Related Rehabilitation Standards are applied in the same manner for all properties listed in the National Register.¹⁵¹ Over the years, some have questioned whether a uniform application of these standards may be overly stringent in certain circumstances. These people feel that a system by which the National Register is graduated based on the significance of the property would help property owners more appropriately apply the standards: the more significant the property, the stricter the application of the standards. In the case of a very highly recognizable community asset, like a city hall, the standards may be strictly applied. In the case of a townhome which is one of many in a historic district, the standards may be less strictly applied.

Not everyone agrees that this concept should be pursued. NCSHPO, for example, says that "[f]or everything on the National Register, however, no such gradation exists, and for good reason." It shares the concern that some properties of a "lower" grade could be considered "expendable," and that changing preferences may devalue properties on a cyclical basis.

Through an open dialogue about the possibility of a graduated National Register, which could be triggered through prefatory action, all opinions about this topic could be surfaced, and possibly resolved in a manner that advances a variety of goals.

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¹⁵¹ The only exception to this general principle is National Historic Landmarks, which number 2,600 listings on the National Register, and which are given elevated protection across an array of statutes and programs. For comparison purposes, the whole National Register has 95,000 listings, but many of these are historic districts containing multiple historic properties.

VI. Conclusion

The American preservation system protects historic places by requiring decision-makers at all levels of government to evaluate certain changes before they can be made. The way government actors conduct these evaluations matters to the economy, the environment, and people and communities – and it matters to the places themselves.

The federal government strongly influences these evaluations, because it creates and interprets the standards that undergird virtually all American historic preservation activity. For two decades, preservationists have urged bold action to improve the application and interpretation of these standards. Unfortunately, too many people involved in preservation currently feel that the application and interpretation of federal historic preservation standards hinders economic growth, economic development, and equity.

The recommendations contained in this lengthy report require urgent attention, even if – and perhaps because – they repeat recommendations made many times before. For its part, the Advisory Council on Historic Preservation has committed to, and will continue to, issue guidance and offer trainings to improve consistency in applying the Standards to Section 106 reviews. The Park Service, too, has previously responded by issuing new guidance, and no doubt will seriously consider the calls here to do the same. Additional changes to the administration of the Standards and the Tax-Related Rehabilitation Standards will also help to address concerns raised. But regulatory reform in the medium term that expands available treatments, improves the appeals process, and graduates the National Register of Historic Places, may most effectively facilitate structural solutions to the interpretive challenges that people have raised. In the meantime, the Advisory Council can and should evaluate the way the federal government addresses historic preservation.

As this report closes, one phrase that comes to mind is this: maybe we've made the perfect the enemy of the good. A formalistic and inflexible approach to our historic places may elevate material integrity over preservation itself. Decisive federal action to change this approach will influence state and local regulators as well as private parties, and – if done right – prompt an uptick in economic activity that is both sustainable and equitable. Accepting the imperfect, and promoting the balanced approach to preservation conceived of in the National Historic Preservation Act, can help us retain the places – the schools, religious buildings, factories, and homes – that form the soul of our communities, and have the potential to provide us with housing, gathering spaces, climate solutions, and memories. Loosening our grip on their evolution can free our places to reach their potential.

Appendices

APPENDIX A

DEPARTMENT OF THE INTERIOR REGULATIONS ON THE SECRETARY'S STANDARDS FOR REHABILITATION (THE "TAX-RELATED REHABILITATION STANDARDS"), 36 C.F.R. § 67.7

- (a) The following Standards for Rehabilitation are the criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structure(s) and, where applicable, the district in which it is located.
- (b) The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. (The application of these Standards to rehabilitation projects is to be the same as under the previous version so that a project previously acceptable would continue to be acceptable under these Standards.)
- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be

- compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

APPENDIX B

DEPARTMENT OF THE INTERIOR REGULATIONS ON THE SECRETARY'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES (THE "STANDARDS"), 36 C.F.R. § 68.3

One set of standards – preservation, rehabilitation, restoration or reconstruction – will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

(A) PRESERVATION.

- (1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
- (2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
- (3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
- (4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- (6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.
- (7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- (8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(B) REHABILITATION.

- (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
- (2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

- (3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- (4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- (6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- (7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- (8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- (9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- (10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(C) RESTORATION.

- (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.
- (2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.
- (3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
- (4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
- (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
- (6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
- (7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

- (8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- (9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- (10) Designs that were never executed historically will not be constructed.

(D) RECONSTRUCTION.

- (1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.
- (2) Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
- (3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
- (4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will recreate the appearance of the non-surviving historic property in materials, design, color and texture.
- (5) A reconstruction will be clearly identified as a contemporary re-creation.
- (6) Designs that were never executed historically will not be constructed.

APPENDIX C

NATIONAL PARK SERVICE TAX-INCENTIVE GUIDANCE

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United States Department of the Interior

NATIONAL PARK SERVICE WASHINGTON, D.C. 20240

JUN 27 1984

Memorandum

To:

Regional Directors

Attention:

MARO-Harrison, WRO-Pepin-Donat, ARO-Hart, SERO-Hartwig,

RMRO-Cole

From:

Associate Director, Cultural Resources

Subject:

Evaluating Tinted and Reflective Glazing Proposals for Historic

Buildings for the Tax Certification Program

In the March, 1984, regional workshop, a presentation and discussion was held on the use of tinted and reflective glazing and films in historic buildings. There was consensus among the regional offices that additional printed guidance on this subject was important to ensure greater consistency servicewide in evaluating these materials. Accordingly, Preservation Assistance Division has prepared the enclosed paper for your use. Based on the March presentation, this guidance expands on the Rehabilitation Guidelines. The paper identifies documentation that will be useful to regional offices and states in assessing the impact of tinted glazing in historic buildings and describes a methodology for evaluating this documentation. Please share this paper with States in your region.

Questions concerning tinted and reflective glazing should be addressed to Preservation Assistance Division, attention Jean Travers or Chuck Fisher. As in the past, I strongly encourage you to be prudent in your review of rehabilitation proposals, continuing to confer with Washington on all projects that could have important policy consequences for the tax certification program.

Ja Paga

TINTED AND REFLECTIVE GLAZING AND FILMS: CONSIDERATIONS IN EVALUATING REHABILITATION PROJECTS

Introduction

The Secretary of the Interior's "Standards for Rehabilitation" require that where historic windows are individually significant features, or where they contribute to the character of significant facades, their distinguishing visual qualities must not be destroyed, but rather retained and preserved (Standards 2 and 6). Standard 2 further states that the removal or alteration of any historic material (such as glass) should be avoided, when possible. Finally, the rehabilitation guidelines recommend against changing the historic appearance of windows through the use of inappropriate materials, finishes, or colors which radically change the reflectivity and color of the glazing.

Besides preserving the <u>visual qualities</u> significant to a historic building, the Standards emphasize the need to preserve the <u>historic material</u> that comprises the character-defining features. For windows, this would typically include the historic frames, sash, and glazing—collectively such material usually represents 20% to 40% of the exterior surface of a building. Whenever it is not possible to reasonably repair and preserve the historic material, it becomes even more critical to maximize the preservation of a window's visual qualities.

Historic Glass

Clear glass is most often found in historic sash; therefore, in addition to preserving the historic material, whenever possible, the visual qualities of clear glass—its transparency, reflectiveness, distortion, and texture—should be preserved to the greatest extent possible in the course of rehabilitation. When historic glass is replaced with tinted or reflective glass or when it is covered with a colored film, there are usually noticeable and frequently pronounced changes to the appearance of the window. Taken cumulatively, changes to the visual qualities of windows on primary or highly visible secondary elevations can diminish the historic character of the building and, in consequence, result in rehabilitation work that does not meet the Secretary's "Standards for Rehabilitation."

Reflective Glass and Reflective Films

The retention of clear glazing, where it existed historically on primary or highly visible secondary elevations, is always recommended by the National Park Service (NPS). Replacing clear glass with reflective glass or reflective films will almost always preclude a project from meeting the Standards because of its radically differing visual qualities and, in typical cases, because of material loss of historic features which results when replacement windows are installed.

Tinted Glass and Tinted Films

In the past decade, a more problematic area has been the use of tinted glass and films for historic buildings. This is because, while tinted glazing and tinted films are never recommended by the NPS on historic buildings, there may be cases where the visual impact and material loss are not so severe that such a single alteration will preclude certification for Federal tax incentives. It is therefore critical that projects be evaluated individually. Property owners should be cautioned that the use of tinted glazing or tinted films can be, and has been, the sole cause for denial of certification; more commonly, however, the use of tinted glazing and films represents one of several

changes to windows or facades which can lead to denial due to the cumulative effect of other inappropriate alterations.

Documentation for Evaluating Tinted Glazing and Films

When evaluating projects that propose the use of tinted glass or films, NPS should pay particular attention to the justification provided by the applicant:

- 1. Has a strong economic argument been made for tinted glazing or films? Has a careful analysis been undertaken? If not and the project is still in the proposed stage, the owner may be willing to revise the plans.
- 2. Is the applicant claiming the need to install tinted glazing or films in part to justify the replacement of sash that is in repairable condition? Film and tinted glass considerations should be separated from issues relating to replacement of historic sash. Replacement of historic window sash, of itself, is a major preservation concern. Owners should be made aware that in situations where the use of tinted glass will not have a radical visual impact, options often exist to reglaze single-light historic wood sash with tinted insulating glass or to apply tinted films without replacement, i.e., loss of the historic sash.

While the extent of documentation required for evaluation may vary according to the specific project, any work causing the serious loss of historic fabric or affecting the visual qualities of the character-defining features should be carefully evaluated.

In the final analysis, approval or denial of a project using tinted glazing or tinted films will always be a professional judgment on whether or not the rehabilitation is consistent with the historic character of the building, NOT whether the owner has made strong economic arguments for the use of tinted glazing and films.

The extent of documentation needed for NPS evaluation will vary according to the individual projects. The following points are provided to facilitate NPS evaluation:

- 1. The recommended alternatives for reducing solar gain and glare without having a radical, and potentially, permanent impact on appearance of the historic building include traditional measures such as blinds, awnings, and shades. The application should also clearly show why these alternatives to tinted glazing cannot be employed.
- 2. Since most owners base tinted glass proposals on economic considerations, the cost analysis undertaken by the owner may be useful as supporting documentation, especially where historic material is being replaced. A thorough analysis should factor-in increased lighting costs, increased heating costs, capitalization costs, and related economic issues, as applicable. If tinted glass or tinted film is light enough not to have a major effect on the visual qualities of historic features, it usually means reductions in solar gain and glare are not appreciable, thus strengthening the case for retention of the historic window glazing and sash.

- 3. For proposed work, a field mock-up of a tinted glazed sash could be placed next to an existing, thoroughly clean, window. The results of this comparison test can be photographically documented or, ideally, a field inspection made by either State or NPS regional office staff. If no photographs were taken before work was completed, the tinted glazing in one window could be removed and replaced with clear glass of the same thickness as the historic glazing to facilitate the NPS assessment.
 - --In general, a comparison of an opened window (giving an unglazed appearance) will not serve as an adequate side-by-side comparison with tinted glass units for evaluation purposes since the opened window (a) does not take into account the reflective qualities of the historic clear glass; and (b) usually makes the window opening appear as a darker void.
- 4. Specifications for the glazing should be provided in the application, i.e., the thickness of the glass; the shading coefficient; the daylight transmittance; and whether both or only one of the glass sheets in an insulating glass unit will be tinted. A determination should also be made whether tinted glass or tinted film is being proposed for a storm unit. Glass samples can be submitted, although are not required documentation.
- 5. Color photographs (wherever possible) showing before and after work should be examined. Ideally photographs should be taken both in (a) indirect sunlight or shade; and (b) in direct sunlight (if applicable).

NPS Considerations in Evaluating Tinted Glazing/Tinted film Proposals

Each project must be reviewed based on its own merits; the following points reflect decisionmaking over the past years:

- 1. The use of tinted glass and tinted films on character-defining or highly visible secondary elevations is discouraged because:
 - —It usually results in a change in the building's historic character. The Revised Guidelines (1983) to the "Standards for Rehabilitation" recommend against the use of tinted glass on character-defining facades.
 - -Technology is changing rapidly in the direction of glass which will appear clear, and reduce solar gain.
 - -An owner's desire to use tinted glass is often based on a perceived need to have a "new" or "rehabbed" look for an older building. It is also frequently used to help justify replacement of historic sash that could otherwise be retained, repaired, and preserved.
 - --In the majority of cases, light tinted glass will not lead to significant cost savings for the owner, thus weakening the owner's contention that it is essential for energy cost reduction.
- 2. Dark timed glass/films and reflective glass/films used on character-defining and other highly visible secondary facades almost always have a dramatic impact, and such work has resulted in the denial of certification, regardless of economic or market conditions.
- 3. When light tinted glass (or light tinted film) is installed in replacement sash on character-defining facades or on highly visible secondary elevations—where replacement is an appropriate treatment—but the new windows are a poor match for the historic windows, a cumulative impact of material loss and changes to the historic visual qualities occurs, usually leading to denial of certification.
- 4. Light tinted glass (or lightly tinted films) retrofitted to existing sash or installed in matching replacement sash where replacement of historic sash is an appropriate treatment can, in cases, be acceptable—depending upon the circumstances involved.
- 5. Use of tinted glazing on non-character-defining elevations that are not visible from the public way are necessarily a lesser concern (see also section on Documentation for Evaluating Tinted Glazing and Films).
- 6. An onsite inspection is recommended when considering denial of certification exclusively for use of tinted glass or tinted film.
- 7. When preparing special condition letters that address a variety of issues (cumulative changes—either to the windows alone or to various other components of the project—required to bring a project into conformance with the Standards), it is appropriate to require that clear glass be used on character-defining or highly visible secondary elevations rather than lightly tinted glass in those cases where the owner has not provided sufficient documentation for a professional assessment of its impact. Where it can be established that the tinted film or glass treatment does not meet the Standards, a single condition addressing the glazing issue is justified.

- 8. When the use of tinted glazing is acceptable, brand name glass, daylight transmittance levels, and shading coefficients should not be specified by the NPS in a conditional letter. Rather, the owner should amend the application and state what specific tinted glass will be used; NPS will then make an evaluation of its appropriateness.
- 9. Where a building has two architecturally identical elevations (i.e., the same materials, features, and detailing) that are character-defining and viewed together from the public way and only one facade exhibits major heat gain through existing glazing, NPS will consider the use of light tinted glass on both elevations for visual uniformity. This determination will always be made on a case-by-case basis and would never be encouraged as a general approach.
- 10. It is always important to consider what other changes are being proposed to the windows, including storefront glazing, in the course of rehabilitation. Are the windows being saved or replaced in kind? Are other major changes being proposed, which, in combination with tinted glazing, will create a major visual change involving windows on a character-defining elevation?

Additional Guidance:

- -To date, light grey tints seem to have the least visual impact although there have been a few instances where, due to the unique character of a building, a light bronze or a light green tint has not precluded the overall project from certification.
- -Interior light levels, curtains, blinds, dropped ceilings and overhead lights may sometimes serve either to increase or to lessen the negative visual impact of tinted glass; however, such factors are difficult to assess and interpret and are usually not decisive in certification evaluations.
- -N PS review staff need to be familiar with glazing products specifications. This information will assist reviewers in evaluating proposed projects. Sample glass submitted by an owner, however, is only minimally helpful in making a final evaluation.

Prepared by: Preservation Assistance Division National Park Service Washington, D.C. June, 1984



Pedestrian Bridges

The Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings recommend locating new additions so that character defining features are not obscured, damaged, or destroyed.

Pedestrian bridges, skywalks, or pedways between buildings are recent features in some downtown areas. They are constructed because of certain perceived advantages: they place the pedestrian above the automobile traffic in the street and provide protection from inclement weather. At the same time, they pose certain very real problems to historic buildings and districts that must be considered in the review of Historic Preservation Certification Applications.

Preservation Issues

Pedestrian bridges are inappropriate and incompatible attachments to significant elevations of certified historic structures. By floating above the street (and sometimes over other historic buildings), and by intersecting building facades, pedestrian bridges are dramatic and conspicuous additions to historic buildings and historic districts, because they obstruct the traditional views of the building and streetscape. They also frequently cause the destruction of significant historic fabric.

Even if pedestrian bridges are located on secondary elevations and are attached in ways that minimize loss of historic fabric, generally they are not consistent with the historic character of certified historic structures or registered historic districts. Moreover, insertion of pedestrian bridges into upper floors of historic buildings can also reorder interior plans and significant interior spaces, when primary access to the building is transferred away from the ground floor.

Administrative Issues

Although a pedestrian bridge may, in some cases, extend outside the historic district or in other cases, be conceived, constructed or financed by a second party, it is usually within the scope of National Park Service review as Department of the Interior regulations state in 36 CFR Part 67.6(b): "A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified historic structures(s) and its setting and environment, as determined by the Secretary, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structures(s)."

Similarly, State or local agreements or mandates requiring the construction of pedestrian bridges do not normally have bearing on the NPS scope of review. Such agreements are similar in effect to a State or local regulation or code; Department of the Interior regulations state that the Secretary's Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located. 36 CFR 67(d).

An exception would be a pedestrian bridge clearly constructed prior to the development of rehabilitation plans for the certified historic structure; in cases of pre-existing bridges, the scope of review does not extend to the impact of the bridge on the historic structure.

May 1997

* * *



Rooftop Additions

Rooftop additions are seen as a way of increasing the usable floor area of historic buildings. Standard 9 of the Secretary of the Interior's Standards for Rehabilitation states that such additions shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. The Guidelines recommend that all new additions be designed in a manner that makes clear what is historic and what is new; specifically, that rooftop additions, be set back from the wall plane and be as inconspicuous as possible when viewed from the street. The Guidelines also recommend that rooftop additions are inconspicuous from the public-right-of-way and that they not damage or obscure character defining features. Numerous Interpreting the Standards bulletins describe rehabilitation projects with rooftop additions.

Preservation Brief 14 provides guidance as well. The following is intended to amplify and clarify this existing guidance.

1. Can the historic building accept a rooftop addition at all?

Adding one or more floors to a two-or three-story building generally will change the massing of the building and result in a change of character. Such additions to buildings that are located in a historic district comprised of low-rise structures or even in districts with buildings of varying heights, can also have a dramatic, negative impact on the district in which they are located. Adding one or more floors to a high-rise building generally will not have such an impact because the addition is a small proportion of the total architectural expression. One new floor on a 10-story building probably will not affect the building, provided it is set back from the wall plane, unless the building's skyline is particularly distinctive and its outline against the sky will be obscured or dramatically changed by the new addition. A two-story addition to a ten-story building, however, would very likely alter the historic character of the building.

2. Where is it appropriate to evaluate the impact of a rooftop addition?

A rooftop addition's impact is properly evaluated from any public right of way (street, public park, sidewalk): from the front, sides, and rear. Where it is **not** appropriate to evaluate the new addition is from a privately owned empty but buildable lot across the street or from a high-rise building looking down on the addition. Less emphasis should be placed on the impact of a rooftop addition on non-character-defining side walls (including party walls) and rear walls, provided they are not highly visible.

3. If a rooftop addition is determined appropriate, where should it be placed?

The Guidelines recommend setting the addition back from the wall plane; this is to ensure that the new construction is as inconspicuous as possible. Setbacks should be considered for all elevations that can be readily seen from the public right-of-way. In certain very limited cases (high-rise buildings and

buildings with pronounced parapets in particular), significant setbacks may not be necessary if the building's historic form reads clearly despite the addition of a new floor.

4. How much should a rooftop addition be set back?

No formula exists for determining the proper amount of setback. Field mock-ups are better than sightline studies as indicators of the potential effects of a rooftop addition. For low-rise buildings, the new addition's setback from the facade should be sufficient to make it inconspicuous from across or down the street. For medium-rise buildings, some visibility may be acceptable given the overall size and scale of the building. For districts with wide streets, neighborhood parks or moderately scaled buildings, greater setbacks may be necessary.

5. How should a rooftop addition make clear what is historic and what is new?

There are a number of ways to make the distinction between old and new: through set-backs; by changing the materials of the new addition; by altering the pattern of window openings; by simplifying the surface ornamentation of the new addition. How these options are manipulated is the prerogative of the project architect, although in the end, the project must meet all ten Standards.

May 1997



Historic Preservation Tax Incentives Program

Technical Preservation Services National Park Service

Exposing Interior Masonry Walls and Ceilings

The National Park Service consistently has advised against the removal of plaster or other finishes from interior masonry walls and ceilings in order to create a new appearance. Where such finishes are deteriorated, they should be repaired, replaced in-kind, or replaced with compatible new materials, depending on the specific project. The application states that "owners are strongly discouraged ... from exposing masonry surfaces unless the condition is supported by historical evidence." In addition, the Guidelines for Rehabilitating Historic Buildings state that "removing paint, plaster or other finishes from historically finished surfaces to create a new appearance (e.g. removing plaster to expose masonry surfaces such as brick walls)" is not a recommended treatment. The only exceptions to this review approach have been rare cases where very small areas of historic finishes have been removed in secondary spaces, a treatment that is less likely to alter the historic character of a building's interior.

Over the past decade, this approach has resulted in a significant reduction in the removal of plaster and other finishes from walls and ceilings in historic preservation certification projects. However, the number of projects in which applicants propose to expose masonry walls and ceilings is again rising, generally in projects from the recent past (20th century). Historic buildings from the recent past are treated the same way as other historic buildings – the removal of plaster or other finishes from walls and ceilings to expose masonry (e.g., concrete or brick walls and ceilings) and to create a new appearance will cause denial of certification.

September 1999



Repetitive Floor Plans

Multistory buildings such as office towers and hotels typically have a single floor plan that is repeated on all of the floors above the commercial and public function levels. Lobbies, ballrooms and commercial spaces, where they exist, are generally character-defining aspects of a building, yet much of the basic sense of how a tall building is organized is embodied in the plan of its upper floors.

Because the organization of a building is usually a significant part of its historic character, the retention of the plan that defines that organization is necessary if a project is to meet the Standards. Although the retention of all historic fabric is to be encouraged, the functional needs of most rehabilitations usually involve substantial changes to existing interior partitions. What change is acceptable under the Standards is determined by the hierarchy of the components of the specific building.

Corridors are significant public spaces and the primary elements in repetitive plans, making both the corridor space itself and any historic fabric that defines it important to preserve. Partitions that divide the space behind the corridor walls are relatively less significant to the concept of the building, and thus acceptably subject to greater change.

Owners of projects with repetitive floor plans should be encouraged to retain the existing historic corridors on all floors. Projects that propose to retain only a few representative floors generally do not meet the Standards. When a project seeks to reduce historic corridors, changes should be limited to those that modestly diminish the extent of the space without destroying the overall configuration. Corridors in the wings of "L" "H" or "E" shaped plans may be shortened in some cases, but they may not be eliminated. The core of the plan where primary corridors meet the elevators is generally a significant space in a repetitive plan and is the area that can accommodate little alteration.

September 1999

* * *



Historic Preservation Tax Incentives Program

Technical Preservation Services National Park Service

Landscape Treatments Around Industrial Buildings

The treatment of the landscape surrounding industrial buildings and complexes, such as warehouses and mills, that are being converted to housing or commercial uses must be considered carefully as part of the overall rehabilitation project. Understandably, owners want to make these buildings, which generally had little or no historic landscaping, more "street-friendly" and to provide shade and greenery for residents or customers. However, if the new landscape treatments overwhelm the industrial character of the historic building and its setting, the project may fail to meet the Standards.

September 1999



Historic Preservation Tax Incentives Program

Technical Preservation Services National Park Service

Office Building Interiors

In certain projects involving 20th - century office buildings, owners have sought to remove finished ceilings and leave new ducts, pipes, and chases exposed. The intent is to transform office interiors into "lofts" with a warehouse look. Such dramatic changes in appearance and character are *not acceptable* under the tax incentives program. The *Secretary of the Interior's Standards for Rehabilitation*, the *Guidelines for Rehabilitating Historic Buildings* and *Preservation Brief 18: Rehabilitating Interiors in Historic Buildings* all confirm that altering interior finishes to such a degree can mean that a project will not preserve a building's basic historic character.

Owners and architects should be reminded that removing and eliminating ceiling finishes and running exposed ducts and pipes to create a warehouse character is an unacceptable treatment. Such an approach is also unacceptable even when a building's historic ceilings have been replaced previously with non-historic suspended ceilings. In most cases, these treatments impose a new *character* and may preclude certification. Rehabilitated office buildings should have finished ceilings and concealed ducts, pipes, and chases. The general point is that giving office buildings a warehouse or "loft" look does not meet the Secretary of the Interior's Standards for Rehabilitation.

Beyond the question of specific treatments, these projects raise the fundamental issue of Standard 1. That standard governs a building's use: "A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment." If an office building cannot be converted into a new use without a radical change in its historic character, then the owner should either select a different use for that building or rehabilitate a different building.

See also a related topic, "Exposing interior masonry walls and ceilings."

January 2002



Replacement Windows Where No Historic Windows Remain

Historic windows make a significant contribution to the character of most historic buildings, but many rehabilitation projects begin with a building that has no historic windows. Whether new windows will replace ones that have been previously replaced or will fill openings where windows are entirely missing, the new windows must be consistent with the historic character of the building. The existence of inappropriate replacement windows does not justify further replacements that are not compatible with the building.

The ideal basis for the design of a replacement window is the original historic window. Information on the appearance of the historic window can come from physical evidence that survives in the building or from historic photographs. However, evidence of missing historic windows can be misinterpreted and can lead to an inappropriate choice of replacement windows. Especially when working from information on a limited portion of the building, it is important to understand that all windows in a building may historically not have been the same.

Just as the quality and refinement of masonry may differ between the facade and the rear or side elevation, reflecting a hierarchy in the design of the building, the details of the windows may also vary, similarly reflecting issues of cost and appearance. It is obvious that refined face brick with tooled, tinted mortar is more costly masonry than common brick with coarse joints of plain mortar. It may be less obvious that until the 1920's a large-paned, 1/1 window was more costly than a 2/2 or 6/6 window. Prior to the mechanization of glass manufacturing, the added cost of a large piece of glass exceeded the cost of the wooden muntin structure that supported multiple smaller pieces of glass. Thus, a large, mid-19th century house might have 2/2 windows on major elevations yet have 6/6 windows on a rear wing; or a turn-of-the-century office block might have 1/1 plate glass windows on street facades, but 2/2 windows on an alley elevation.

Glass size is not the only aspect of windows that may differ from one part of the building to another. In urban areas where the spread of fire was a concern, windows in close proximity to other buildings such as those that faced a narrow alley were often metal, instead of wood as would be typical on the primary facade.

Though historic documentation and physical evidence can provide the basis for replacement windows that will be consistent with the historic character of a building, this information must be evaluated in the context of the design of the building itself. The more that is understood about the factors affecting the historic choice of windows, the more likely limited historical evidence can be correctly interpreted.

January 2002



Atria, Lightwells and Courtyards

One of the most significant changes that can occur to a building during a rehabilitation project is the introduction of a large new opening such as an atrium. There are essentially three types of openings that might be introduced within an existing building's envelope: atria, courtyards or lightwells. Each of these features has great potential for introducing new and incompatible elements into a historic building, and thus for altering its historic character or damaging significant historic fabric or features. Consequently, these work items should be approached with great caution.

It is always appropriate to consider why the feature is proposed. The need for light and ventilation in order to allow a new use—particularly for buildings whose historic use is now defunct—is likely to be a better justification for a new opening than a desire for a strong new design element.

The following definitions and criteria should be used in evaluating whether a new opening inserted in a historic structure will meet the Secretary of the Interior's Standards for Rehabilitation.

Definitions:

An atrium is an enclosed or "public use" space and is covered by a roof.

A courtyard is an unenclosed space. Courtyards possess an "outdoor" or exterior character and are not covered by roofs.

A **lightwell** is strictly a utilitarian space—not a useable space—and is intended to fulfill light and ventilation requirements. Typically, lightwells are quite small and not highly articulated or designed spaces. They are generally not covered.

Criteria:

1. Significance of the interior of the historic structure.

Historic fabric and features must be retained within the historic structure. The insertion of a new opening must not result in the removal of significant historic fabric or features, or the alteration of significant interior spaces. An atrium or other opening will be more likely to meet the Standards if historic fabric and features have been previously removed or if such fabric and features are simply detailed, as in the case of an open warehouse or parking garage. New openings are most acceptable in utilitarian or industrial buildings. Courtyards rarely meet the Standards and, even then, are typically only acceptable in buildings with very large floorplates.

• In order to preserve significant historic features, materials and spaces, a new opening may need to be limited to certain floors of a building.

2. Size, location and form of the new opening.

- A new opening's size must be kept to a minimum and must not dominate the historic interior space. Generally, the smaller the opening, the more compatible it will be with the historic character of the structure (e.g., an atrium that is 10 percent of the floor area and one bay wide has a better chance of meeting the Standards than one that is 25 percent of the floor area and three bays wide).
- The total number of floors in a building as compared to the number of floors proposed to be "cut" is an additional consideration. In general, the fewer floors cut, the better. For example, a new two-story atrium in a 12-story building is more likely to meet the Standards than a new two-story atrium in a two-story building.
- A new opening must be located in a secondary space and should not be located so as to be a physical or visual extension of an entrance lobby. Historic primary spaces, including entrance lobbies and principal hallways, are defined not only by their historic fabric, but also by the size and proportion of the spaces themselves, and their historic function. In any rehabilitation project, the essential proportion and size of the building's historic primary spaces must be retained.
- A new opening should not be located immediately inside primary exterior walls.
- A new opening must be internally located within the structure and must not be visible from the exterior.
- A new opening should not make one historic structure appear on the inside like two or more separate buildings, nor should an atrium connect or "bridge" multiple buildings so that the buildings' multiple interiors appear as a single interior space.

3. Design, materials and articulation of the new opening.

- A new atrium must be recognizable as having been derived from an interior space. Therefore, structural elements such as joists and beams should be retained and exposed within the new space, so as to indicate that the new space (atrium) is derived from a different, historic space (historic interior).
- An atrium must appear as an interior space, rather than an exterior one. A new opening introduced into a space that was historically enclosed and covered with a roof must remain as such in order to retain the historic "feel" of the space and to protect the historic materials. Due to their exterior character, courtyards are generally not appropriate for the interior of a historic building and will not meet the Standards. However, an atrium with open side walls at the roof edge (in order to provide natural ventilation) may meet the Standards, provided the open sidewalls are not visually prominent and historic materials within the building are protected from the weather.

- Where an atrium enclosure protrudes beyond the historic building envelope (e.g., a glass roof cover over an atrium), its visual impact on the outside of the building must also be taken into consideration. The covering must not be visible from the exterior.
- A new opening should be designed so as to retain or be compatible with the historic character of the building (e.g., industrial, commercial, etc.). Thus, new wall finishes, fenestration and features (such as railings) must also be compatible with the building's historic character.
- The configuration of a new opening must be compatible with the building's existing architecture and should follow the building's existing column lines. New openings should not introduce strong new design themes, e.g., a round shape within a "grid" of column lines in an industrial building.

January 2004



Cumulative Effect and Historic Character

A project meets the Standards when the overall effect of all work is consistent with the property's historic character.

The goal of the Historic Preservation Tax Incentives program is the rehabilitation and successful reuse of historic properties. Program regulations define rehabilitation as "the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the Secretary [of the Interior]." (36 CFR 67.2(b) (https://www.nps.gov/subjects/taxincentives/upload/regs-nps-36-cfr-67.pdf)). This accommodation of change is basic to the process of rehabilitation and distinguishes it from restoration. It is the owner's choice as to what or how much work will be undertaken in a project. There is no requirement that missing historic features be restored, that intrusive or incompatible additions be removed, or that insensitive, non-historic changes be reversed.

A project meets the Standards when the overall effect of all work on the property is one of consistency with the property's historic character. The <u>Guidelines for Rehabilitating Historic Buildings</u> (https://www.nps.gov/crps/tps/rehab-guidelines/rehabilitation-guidelines-1997.pdf) are intended to assist in applying the Standards, but they are not codified as program requirements. Divided into "Recommended" and "Not Recommended" treatments, the Guidelines are designed to assist building owners in planning rehabilitation projects that meet the Standards. Each property exhibits a unique set of conditions; thus, the evaluation of any single aspect of the proposed work can only be made in the context of those conditions and all the other work that constitutes the project. In some cases, a single aspect of a project may not be consistent with recommendations found in the Guidelines, yet its impact on the character of the property as a whole is small enough that the overall project meets the Standards. In other cases, similar work, in combination with numerous other treatments not recommended by the Guidelines, can contribute to a project not meeting the Standards.

The amount of change to features and spaces that can be accommodated within the Standards will vary according to the roles they play in establishing the character of the property. The Standards use language such as "distinctive feature" and "spaces that characterize a property," suggesting that all features and spaces do not carry equal weight in determining the character of an historic property. This does not mean that features and spaces fit into absolute categories of either "character-defining" or not. Rather, the components of a property can be seen as falling into a continuum of importance.

The more important a feature or space is to the historic character of a property, the less it can be changed without damaging the character as a whole. On the other hand, aspects less critical to the historic character may be altered more substantially with less effect on the character of the building as a whole. However, even when the features being changed are minor, changes that are too numerous or radical can in some instances alter the overall character of the building.

Similarly, features and spaces that have been so substantially changed outside the period of significance or are so severely deteriorated as no longer to convey historic character can be more readily altered than those aspects of a property that retain a high degree of integrity. Historic character, however, is not readily lost through deterioration, and most deteriorated historic features must be replaced to match when they are beyond repair.

Determination that a project meets the Standards is based on the cumulative effect of all the work in the context of the specific existing conditions, evaluated through the professional review of the State Historic Preservation Office and the National Park Service.

2007

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National Register of Historic Places

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Technical Preservation Services

(https://www.nps.gov/subjects/nationalregister)

(https://www.nps.gov/orgs/1739)



Energy Efficiency, Sustainability, and Green Building Practices in Historic Buildings

Historic preservation, energy efficiency, and environmental sensitivity are not mutually exclusive. Many historic structures were designed with inherent energy-saving qualities including: operable windows; ample natural light sources; clerestory windows and skylights; wide, overhanging eaves; or heavy masonry walls. These factors should be considered when evaluating the energy efficiency of an individual structure. During rehabilitation projects, the most common energy efficiency-related issues that arise are reducing air infiltration around windows and doors and insulating attics and walls. The NPS generally encourages boosting efficiency in these areas as demonstrated in Preservation Tech Note: Windows No. 11: Installing Insulating Glass in Existing Wooden Sash Incorporating the Historic Glass (https://www.nps.gov/orgs/1739/upload/tech-note-windows-11-insulated-glass-wood-sash.pdf). As long as a proposed measure does not diminish the historic character of a building or endanger historic materials, then improving the energy efficiency of a structure will meet the Secretary of Interior's Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm).

Promotion of green and sustainable design has a considerable impact in both the new construction and rehabilitation industries. As part of this continuously developing specialty, several programs have been established to evaluate the sustainable aspects of individual projects. The most popular program is the Leadership in Energy and Environmental Design (LEED) Green Building Rating System administered by the U.S. Green Building Council (USGBC). This voluntary program provides a method for measuring a building's environmental impact by evaluating five particular aspects of a project: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

The standards and requirements of the LEED Rating System are currently undergoing review, with the potential for revisions that will better accommodate the use of the LEED program by owners of historic buildings. The NPS, National Trust for Historic Preservation, Association for Preservation Technology International, and USGBC are leading this collaborative effort to rectify the conflict between replacing historic finishes and features with new "earth-friendly" products rather than retaining the historic material intact. This coalition is also attempting to determine how to evaluate the energy saved when existing materials are re-used instead of using newly manufactured or harvested products.

However, even before changes are made to the existing system, the NPS recognizes a need for users of the Historic Preservation Tax Incentives program (https://www.nps.gov/subjects/taxincentives/index.htm) to be aware of the compatibility of these two elective programs and how they have been successfully combined in the past. A number of historic buildings have been rehabilitated in a way that both met the Standards and received recognition for incorporating energy-efficient and environmentally-friendly products and systems. Several of these have also achieved LEED certification. Practices that promote environmental sustainability are important and should always be considered in a historic rehabilitation project. However, the NPS does not endorse wholesale removal of historic materials and features, or significant alterations to the historic character of a building solely for the purposes of achieving LEED certification.

Additional guidance »

- Guidelines on Sustainability for Rehabilitating Historic Buildings (https://www.nps.gov/orgs/1739/upload/sustainability-guidelines.pdf)
- Weatherizing and Improving the Energy Efficiency of Historic Buildings (https://www.nps.gov/orgs/1739/weatherization-of-historic-buildings.htm)
- Interpreting the Standards Bulletin 52: Incorporating Solar Panels in a Rehabilitation Project (https://www.nps.gov/orgs/1739/upload/its-52-incorporating-solar-panels.pdf)
- Interpreting the Standards Bulletin 54: Installing Green Roofs on Historic Buildings (https://www.nps.gov/orgs/1739/upload/its-54-installing-green-roofs.pdf)

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Evaluating Historic Windows for Repair or Replacement

Determinations concerning the treatment of historic windows begin with Standard 6 of the Secretary of the Interior's Standards for Rehabilitation:

(https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm) "Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence."

Repair should be the first option considered. Repair can include renewal of finishes, material repair using epoxies, replacement of component parts and additions such as weather stripping. While it may be possible to repair even severely deteriorated windows, repair of deterioration beyond a certain level is not practical or reasonable and replacement becomes the appropriate treatment.

The Standards also require, "The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided." While most windows are significant to the character of a property, every window on all properties is not, and it is in these cases that considerations beyond deterioration as described below are appropriate.

Documentation of deterioration

Determination as to when deterioration is sufficiently severe to justify replacement must be based on documentation of the condition of the windows. What constitutes effective documentation may vary with the circumstances of the project, but at minimum must include enough good quality photographs to clearly depict the full range of conditions. When a project involves a great many deteriorated windows, general quantification of the specific aspects of the deterioration may substitute for photographs and descriptions of every window. A full window survey should only be needed in limited instances.

Questions about the feasibility of repair or the quality of the repaired window can usually be best answered by doing a sample repair. The appearance, the cost of the repair, and other factors may be considered. Where particular performance levels are critical, testing of the repaired window may provide information useful in evaluating the viability of repair.

Considerations beyond deterioration

While condition is the primary determinant in decisions regarding the treatment of historic windows, the importance of the windows to the historic character of the building can also be taken into account. The design and location of windows and their relationship to the design of the building can affect their role in the character of a building. Windows that are distinctive features or exemplify fine craftsmanship are more critical to retain and repair than those that play a lesser supporting role in the design of the building or are simple manufactured units. The more important the elevation, feature or space of which the windows are a part, the more important it is to retain the historic windows.

While factors including occupant operation, presence of hazardous materials, code requirements, or energy performance, if taken individually, are not reasons to replace windows, they may be issues to consider in conjunction with deterioration in establishing a need for window replacement. In many cases these requirements can be met without losing the historic windows. For example, studies have shown that the energy performance of historic windows can be significantly improved by adding storm windows and weatherstripping or by replacing the glazing or the sash.

The number of windows being replaced is a consideration that may allow for window replacement that does not depend on deterioration. It may be possible that the replacement of a few windows may have only an inconsequential effect on the character of an elevation with many windows. Thus, where a need such as egress can be achieved with little change to the appearance of the building, a few windows may be replaced irrespective of their condition.

Some areas have code requirements in response to severe weather conditions. Mandates such as impact resistance may make it impossible for a building to have any compliant occupancy with the historic windows in place, particularly on taller buildings. In these cases, replacement of the historic windows will not be dependent on documentation of deterioration.

2007

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Identifying Primary and Secondary Interior Spaces in Historic Buildings

This document provides guidance on identifying and evaluating significant elements in the interior of a building, to clarify those elements that must be retained or minimally modified in a rehabilitation project, and those that can undergo greater change or modification.

This process has already been covered in some detail in Preservation Brief 18: Rehabilitating Interiors in Historic Buildings (https://www.nps.gov/orgs/1739/upload/preservation-brief-18-interiors.pdf). This document complements that guidance, drawing from its terminology and general approach while providing more specific steps and questions it may be useful to ask, as well as a section covering typical elements to consider in specific building types.

A thorough evaluation of all historic elements of a building in the planning stages of a project will help ensure that the project can be completed successfully by maintaining the building's historic character. Following the guidance below will help accomplish the evaluation. This review is part of a three-step process involving researching and documenting the building's history, evaluating the building's historic elements, and assessing changes to the building proposed in a rehabilitation project.

Evaluating the interior of a building involves two aspects: identifying which elements of the interior are historic, including those changes that have acquired significance; and evaluating the significance and physical condition of those elements. It is useful to note that determinations of historic significance for these evaluations are tied to the stated period of significance in the National Register nomination for the individual building or for the historic district in which the building is located.

Historic elements may be evaluated as either primary or secondary. Primary elements are those that are important in defining the historic character of a building and that should be retained or only minimally altered. Secondary elements are less critical in contributing to the historic character and may be able to undergo greater change without substantially impacting the building's overall historic character. It should be recognized that these elements are more likely to lie on a continuum of most to least important, rather than simply falling into one category or the other, and the amount of acceptable change will have an inverse relationship to that importance, depending on other factors such as physical condition.

Elements can be categorized as pertaining to the building's plan; the individual interior spaces or sequences of spaces; or architectural features, finishes or materials that may have sufficient importance and physical integrity to be retained or only minimally altered.

Differentiating between primary and secondary elements is very important. The following definitions may help in evaluating these elements.

Primary spaces are those that are essential in conveying the historic and architectural character of a building. They are most often associated with the primary use or purpose for which the building was designed or used during its period of significance and can vary greatly from building to building.

Where a public to private progression can be identified in the spaces of a building, the most public spaces will usually be the primary spaces. Entrance hall and parlor, and lobby and corridors are common examples of primary spaces. Similarly when spaces of a building vary in their architectural detailing, those that are the most elaborate are usually the primary spaces. This is not to say, however, that a private space or a simple unormamented space cannot be primary.

Some buildings, such as churches, theaters or gymnasiums, contain single large spaces that accommodate the principal use. These are easy to identify as the primary space of the building.

However, in some buildings such as hospitals, apartment buildings or other buildings consisting of multiple units that serve similar functions, it may be the sequences and interrelationships of spaces that are most important in defining the character of the building. Such buildings must be evaluated carefully to determine the importance of all the related elements in the context of the building being assessed.

Secondary spaces are less critical in defining a building's importance within its period of significance. They often still help define the building's significance and character, but because of their size, location, or function their impact is not felt as strongly when progressing through the building. Thus, altering these spaces may not significantly impair the ability of the overall building to convey its primary historic significance.

A secondary space is usually a more simply detailed space with restricted access – such as an office, hotel guestroom, or a bedroom – or a utilitarian space that serves a support function within a building – such as a kitchen or bathroom. Generally, these spaces are less architecturally detailed and subordinate in character to the primary spaces to which they relate.

The **physical condition** of interior elements will frequently affect their historic character and how they contribute to the historic significance of the building. If an interior plan has been heavily altered, it may no longer adequately convey its importance to the building's character, and further changes may be more acceptable. Conversely, if a bedroom in a rowhouse still retains many of its features such as moldings, fireplaces and doors, then significant alterations in the space may not be appropriate. And, while secondary spaces such as offices behind a corridor typically may be able to accept major plan changes, if features such as historic trim and woodwork around the perimeter wall of the building are still extant they should be retained.

To aid in evaluating the significance and integrity of each of these categories of elements it may be helpful to ask the following questions about a building's plan, spaces, features, and finishes and materials. These are not comprehensive but, instead, suggest how an evaluation may proceed in order to cover the significant elements of any building.

Plans

- Does the building have a floor plan that is an important characteristic of the building type, style, or period of construction or historic function?
- Is the plan symmetrical and is this symmetry an important characteristic of the building type or style? Conversely, is the asymmetry an important characteristic?

- Has the plan been altered over time? Have the alterations been additive (large rooms subdivided into smaller ones); or have the alterations been subtractive (walls removed)?
- · Does the plan retain its basic integrity?

Spaces

- Are there rooms or spaces that are architecturally or historically significant?
- · Have rooms survived that are characteristic of the building type or style or that are associated with specific persons or patterns of events?
- Is there a sequence of spaces that has been consciously designed or that is especially important to the understanding and appreciation of the building or the architect? Examples might include a foyer opening into a large hall; front and rear parlors connected by pocket doors; office lobby opening into an elevator hall; hallway to stainwell to upper hallway, etc.
- Does the space have distinctive proportions ceiling height to room size, for example?
- · Are the room shapes or volumes in any way unusual? Examples may include rooms with curved walls, rooms with six or eight walls, or rooms with vaulted ceilings.
- · Are the rooms a consciously designed "whole," that is, are the space, features, and finishes part of an integral design?
- · Have the spaces retained their architectural integrity, despite alterations and deterioration?
- · Do the spaces reflect the exterior design, e.g., tall windows indicating an assembly space on the second floor?

Features

- Are there architectural details that are characteristic of the period of significance, construction or historic function? Examples might include wainscoting, parquet flooring, picture molding, mantels ceiling medallions, built-in bookshelves and cabinets, crown molding, arches, as well as simpler, more utilitarian features, such as plain window and door trim.
- Are there features that indicate later changes and alterations that have gained significance over time? Examples might include lobby alterations, changes to wall and floor finishes, and later millwork
- · Are there features that were worked by hand, or that exhibit fine craftsmanship or are characteristic of the building style or type?
- · Have the features survived intact in one or more rooms?
- Is the ceiling vaulted, coffered, decorated with plasterwork, domed, or otherwise embellished?
- · What is the condition of the features: can they be retained and preserved?

Finishes/Materials

- · Are there surviving historic finishes that can reasonably be retained and preserved? Examples might include plaster, tile, flooring, and marble?
- What is the condition of the finishes, e.g., has water damage been so severe as to render the finishes unsalvageable?
- Are there finishes such as graining that are characteristic of a period or style of architecture?

Evaluating Interior Elements - Typical Building Types

Certain building types tend to have common types of plans, spaces, features, and finishes; for example, most schools can be expected to have auditoriums and most rowhouses can be expected to have a front parlor. Assessing the importance and condition of these architectural elements is the essential component of evaluating any interior rehabilitation proposal.

In virtually all cases, a project will not meet the Secretary of Interior's Standards for Rehabilitation if, as a result of the rehabilitation, the interior has lost all vestiges of its past; in these cases, the sense of time and place has been lost that was associated both with the building and the district in which it is located. Radical transformations of the sequence of spaces, or of the trim and finishes can be justified only in exceptional cases, where the interior deterioration is so extreme that the building can be said to retain its significance only by virtue of a high degree of integrity on the exterior.

Listed below are major building types that are commonly rehabilitated, with general statements about the relative importance of architectural elements often found in them. The guidance is not intended to be comprehensive, but rather is intended to help make consistent decisions about interior rehabilitation treatments in keeping with the Standards for Rehabilitation. A certain degree of repetition may be noted from building type to building type – for instance, it is always recommended to retain historic window and door trim.

- . Houses, Rowhouses, and Duplexes
- Apartment Buildings and Tenements (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#apartments)
- Shotgun Houses (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#shotgun-houses)
- $\bullet \ \ Schools \ (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm \#schools)$
- Factories, Industrial Buildings, and Warehouses (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#factories)
- Fraternal and Lodge Halls (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#lodge-halls)
- Commercial Office Buildings (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#office-buildings)
- Churches (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#churches)
- · Hotels (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#hotels)
- Hospitals (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm#hospitals)

Despite generalizations about certain building types, it is important to keep in mind that what may be an acceptable rehabilitation approach for one building may not be acceptable for another. For example, in one school, subdividing a simple, unadorned auditorium with no association with important persons or events may be an appropriate treatment, while in another, the elaborately detailed auditorium (space, features, and finishes) may warrant retention or minimal alteration. It is also important to recognize that a plain, simply detailed 19th-century worker's house is neither more nor less significant than a highly ornamented, high-style townhouse of the same period. Both resources, if equally intact, deserve the same careful rehabilitation that respects the qualities for which designation as "certified historic structure" was granted.

Each evaluation is unique, taking into account the facts and circumstances of the building in question.

Houses, Rowhouses, and Duplexes

These elements tend to be character-defining interior elements and should be retained.

- Basic floor plan
- Features and details that are characteristic of the architectural style of the house

- Entertaining and living spaces, such as entry halls or foyers, parlors and dining rooms
- Primary staircase
- Floor-to-ceiling height in primary rooms
- · Fireplaces, mantelpieces, and finishes on chimney breasts
- · Architectural detailing including window and door trim, baseboards, picture rails, cornices, etc.
- · Doors and windows
- · Historic floors
- · Historic hardware and fixtures, sometimes including lighting, radiators (if distinctive), knobs, pulls, and hinges

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Bedrooms, assuming the basic floor plan is retained
- · Bathrooms and kitchens
- · Secondary staircases
- Utilitarian spaces such as closets and laundry rooms
- · Basements and attics
- · Attached garages

Apartment Buildings and Tenements

These elements tend to be character-defining interior elements and should be retained.

- · General plan of the building including location of hallways, circulation patterns, arrangement of apartments off central hallways (or entries)
- · Overall character of design, spaces, details, and finishes-whether simple and utilitarian or highly decorative
- · Historic public entrance(s) and lobbies
- Primary staircase(s)
- Elevator lobbies including space, features and finishes
- · Corridors and doors off corridors
- Principal spaces within apartments, such as the foyer, living room, dining room, etc.
- · Architectural detailing including window and door trim, baseboards, picture rails, cornice, etc.
- · Doors and windows
- Historic floors

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- Room dimensions, unless rooms are detailed or carefully proportioned
- Kitchens and bathrooms
- Utilitarian spaces such as laundry rooms, storage areas, boiler rooms, etc.
- Secondary staircases
- Secondary spaces within individual units

Shotgun Houses

These elements listed below tend to be character-defining interior elements and should be retained.

- Linear floor plan
- Sequence of spaces
- Basic floor-to-ceiling height
- Architectural detailing including window and door trim, transom lights, baseboards, etc.
- Doors and windows

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Kitchens and bathrooms
- Actual dimensions in rear rooms

Schools

These elements tend to be character-defining interior elements and should be retained.

- · Historic public entrances
- Configuration and width of corridors
- Main staircases
- Generous floor-to-ceiling heights
- · Auditoriums, gymnasiums or other large assembly spaces where space, features and finishes create an architectural statement or where the space is of historic importance
- Architecturally-detailed spaces such as the principal's office or library
- · Unusual ceiling treatments such as vaults, coffers, etc.
- Architectural detailing including wainscoting, marble, beaded board, decorative plaster, window and door trim, baseboards, etc.
- · Windows, doors, and transom lights

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

• Large assembly spaces that are not architecturally distinguished or historically important, or have been altered

- Secondary staircases
- · Kitchens and bathrooms
- Utilitarian spaces such as cloakrooms, janitor's closets, boiler rooms, and storage areas
- Classroom size and actual room dimensions
- Blackboards

Factories, Industrial Buildings, and Warehouses

These elements tend to be character-defining interior elements and should be retained.

- · Generous floor-to-ceiling height
- Structural systems such as wood beams, cast iron or steel columns, and truss systems
- · Main stairs and stair towers
- · Company offices
- Historic equipment, such as cranes and pulleys
- Architectural detailing including wainscoting, window and door trim, baseboards, etc.
- · Doors and windows

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Full sense of open space if some sections are maintained
- · Actual floor-to-ceiling height, if new ceilings are set above or significantly back from windows
- · Secondary stairs

Fraternal and Lodge Halls

These elements tend to be character-defining interior elements and should be retained

- · Entrance, lobby and general arrangement of spaces
- · Main meeting rooms
- · Floor-to-ceiling height
- Main staircases
- · Proscenium arch and stage
- · Architectural detailing including wainscoting, ornamental ceilings, wall finishes, window and door trim, baseboards, fireplace mantels, etc.
- · Windows and doors
- Historic floors

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Secondary or altered meeting spaces
- Secondary staircases
- · Kitchens and bathrooms
- Utilitarian spaces such as storage areas, coat rooms, etc.

Commercial Office Buildings

These elements tend to be character-defining interior elements and should be retained.

- · Historic corridor plan, including upper floors
- Historic public entrance(s) and lobby
- · Main staircases
- Elevator lobbies: space, features and finishes (including upper floors)
- Executive office suites, board rooms, other meeting rooms and banking rooms
- Generous floor-to-ceiling heights
- Office doors, particularly those with transom lights above
- Light fixtures in public spaces
- Windows in corridors
- · Architectural detailing including elevator doors, ornamental ceilings, wainscoting, wall finishes in public areas, window and door trim, baseboards, etc.
- Doors and windows

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Full length of corridors
- Office wall partitions on upper floors, if undistinguished architecturally
- Exact floor-to-ceiling heights on upper floors, if new ceilings are set above or significantly back from windows
- Secondary staircases
- Utilitarian spaces such as storage rooms, boiler rooms, etc.

Churches

These elements tend to be character-defining interior elements and should be retained.

- Historic public entrance(s) and vestibule
- Sanctuary space and volume
- Balcony
- Vestry hall
- · Stairs to balcony space
- Doors and windows (configuration, size, and glazing)
- · Architectural detailing including columns, ornamental ceilings, flooring, lighting fixtures, stairways, wainscoting, window and door trim, baseboards, etc.

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation.

- · Secondary public spaces
- · Sunday school classrooms
- Sacristies
- Fellowship halls
- Offices
- · Kitchens and bathrooms
- Utilitarian spaces such as storage rooms, coat rooms, boiler rooms, etc.

Hotels

These elements tend to be character-defining interior elements and should be retained.

- · Historic public entrance(s) and lobby
- · Configuration and width of corridors
- · Main stairs and elevator lobbies
- · Commercial arcades on ground floor
- · Floor-to-ceiling heights on ground floor
- Main ballrooms and reception rooms
- Architectural detailing including registration desks, columns, lighting elements, fountains, fireplaces, mantels, ornamental ceilings, wainscoting, door surrounds and transoms, window trim, baseboards, etc.
- Doors and windows

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- · Full length of corridors, depending on circumstances
- · Secondary gathering spaces
- Individual guest rooms off corridors
- Service elevators
- Secondary staircases
- Kitchens and bathrooms
- Utilitarian spaces such as service pantries, laundries, coatrooms, service corridors, etc.
- Parking facilities

Hospitals

These elements tend to be character-defining interior elements and should be retained.

- Historic public entrance(s) and lobby
- · Reception office or alcove
- Main stairs and elevator lobbies
- · Configuration and width of corridors
- Entrances to wards
- · Daylight rooms or solariums
- Chapel
- Operating theaters
- Dining rooms
- Floor-to-ceiling heights in public areas
- Architectural detailing including decorative plaster, ornamental ceilings, columns, wainscoting, chair rail, window and door trim, baseboards, etc.
- Historic floors, such as terrazzo
- · Windows and doors

These elements tend to be of less importance and may be able to accept greater intervention in the process of rehabilitation

- Full length of corridors, depending on circumstances
- Secondary staircases
- Ward or room dimensions
- Operating rooms
- Cafeterias
- · Kitchens and bathrooms
- Utilitarian spaces such as laundries, boiler rooms, and storage rooms

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Preservation Brief 18: Rehabilitating Interiors in Historic Buildings – Identifying Character-Defining Elements (https://www.nps.gov/orgs/1739/upload/preservation-brief-18-

• Preservation Brief 17: Architectural Character - Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character (https://www.nps.gov/orgs/1739/upload/preservation-brief-17-architectural-character.pdf)

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Additional guidance »

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Codes and Regulatory Requirements for Rehabilitating Historic Buildings

Rehabilitating historic buildings involves compliance with code and regulatory requirements, including accessibility, fire and life-safety, mitigation of hazardous materials, and seismic upgrades. In addition to meeting Federal and State codes, which vary from state to state, rehabilitation projects have to meet local codes, which vary from town to town. Consultation with code officials, State Historic Preservation Offices (SHPOs) and the National Park Service (NPS) in the early stages of the planning process can ensure that rehabilitation projects achieve appropriate solutions that satisfy applicable code requirements and meet the Secretary of the Interior's Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm).

Because there are so many variables regarding code and regulatory issues it is not possible to address them all in depth. The purpose of this paper is to provide a broad overview of code and regulatory requirements as they impact historic buildings and to acknowledge the complexities of accommodating them in a manner that is sensitive to the historic building and that preserves its character. Two publications provide more specific guidance on accommodating these regulatory requirements in rehabilitation projects:

- Preservation Brief 32: Making Historic Properties Accessible (https://www.nps.gov/orgs/1739/upload/preservation-brief-32-accessibility.pdf)
- Preservation Brief 41: The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront (https://www.nps.gov/orgs/1739/upload/preservation-brief-41-seismic-rehabilitation.pdf)

Accessibility and the Americans with Disabilities Act (ADA)

The NPS was instrumental in implementing the ADA and worked with numerous public and private partners to make these guidelines sympathetic to historic buildings. The historic preservation tax incentives program provides flexibility to incorporate upgrades for accessibility that are compatible with historic buildings and meet the Standards.

New accessible features such as ramps, lifts, elevators, and elevator towers should be added in the least intrusive locations. Adding these features to primary elevations and significant interior spaces is discouraged. If appropriate, components for accessibility may be placed on the interior of buildings where their costs can be included in the overall rehabilitation costs eligible for the credit.

Fire and Life-Safety

NPS is proactive in its approach to keeping historic buildings safe in the event of a fire, natural disasters, other threats or emergencies. It is responsive to new building codes through its involvement with the development and implementation of the International Building Code (IBC), which now includes sections on historic buildings.

Many jurisdictions have adopted IBC in lieu of several existing building codes used in different areas of the country. This is beneficial because IBC's section on historic buildings is more compatible with the Standards. In the past, codes for new construction, existing buildings, and historic buildings were combined, leaving little room for flexibility. In response, IBC is more "performance-based" in its approach, as opposed to "prescriptive," and evaluates each building on its individual merits. This allows greater cost savings and further protection of historic resources. Many states and localities are adopting individual rehabilitation sub-codes specific to historic buildings. Greater flexibility, cost savings and protection of historic resources are experienced in states with these codes.

NPS partnered with the National Fire Protection Association (NFPA) and helped develop the Building Construction and Safety Code – NFPA 500, specifically Chapter 15: Building Rehabilitation.

Impact-resistant windows are increasingly the focus of new life-safety regulations, specifically with regard to hurricane-strength winds and threats of terrorism attacks. NPS works with SHPOs, building owners, architects and manufacturers of windows and other related products to ensure that rehabilitation projects where impact-resistant windows are required will meet the Standards.

Hazardous Materials

Hazardous materials present in historic buildings generally require some level of mitigation. This mitigation must meet applicable environmental codes and it must not impact historic integrity. One of the most prevalent hazardous substances is lead-based paint. The U.S. Department of Housing and Urban Development, Office of Lead Hazard Control and Healthy Homes

(https://www.hud.gov/program_offices/healthy_homes) has changed its approach from "abatement" to "interim controls," encouraging practices that are less costly than previous treatments and more sensitive to historic resources. "Interim controls" are treatments lasting at least six years and are generally tied to proper maintenance and good hygiene. The most common "interim control" is paint stabilization in areas of friction and high impact.

Seismic Retrofit

Depending on location, a rehabilitation of an historic building may require adding structural reinforcement to meet seismic codes. Assembling an experienced professional team and early identification of the seismic risk factors of a historic building are very important in implementing a successful seismic retrofit plan.

Prescriptive code requirements can often result in excessive removal of historic materials or significant alterations to the historic character of a building. However, with careful planning it is possible to introduce new structural reinforcement in a manner that minimizes alteration or removal of spaces, features, and finishes that give a building its unique historic character. Recognizing those features that are important in defining the historic character of a building is essential in order to determine what means and methods are best suited for a successful seismic retrofit plan.

As stated in Preservation Brief 41: The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront (https://www.nps.gov/orgs/1739/upload/preservation-brief-41-seismic-rehabilitation.pdf), the three important principles to be kept in mind when considering a seismic retrofit plan are:

- Historic materials should be preserved and retained to the greatest extent possible and not replaced wholesale
- · New seismic retrofit systems, whether hidden or exposed, should respect the character and integrity of the historic building and be visually compatible with its design.

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Seismic work should be reversible to the greatest extent possible to allow removal for future use of improved systems and traditional repair of remaining historic materials.

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Changing Secondary Interior Spaces in Historic Buildings

Secondary interior spaces are less critical in defining a building's importance than the primary spaces. They often still help define the building's significance and character, but because of their size, location, or function their impact is not felt as strongly when moving through the building. Altering these spaces may not significantly impair the ability of the overall building to convey its primary historic significance. (Refer to Identifying Primary and Secondary Spaces in Historic Buildings for more information (https://www.nps.gov/subjects/taxincentives/interiors-identifying-primary-secondary.htm).) Therefore, secondary spaces offer more opportunities for change and alteration compared to what is allowed in primary spaces. Appropriate changes may range from removal of existing partitions and addition of new partitions, to insertion of new floors, cutting openings in existing floors or ceilings and other modifications depending on the location and condition of the space. The opportunities and limitations for change must be identified within the following context.

Spaces may be subdivided both vertically through the insertion of new walls or horizontally through the insertion of new floors or mezzanines. New vertical or horizontal divisions must not intersect or alter the interior or exterior appearance of existing windows, doors, or other architectural features, especially when these changes can be seen from primary spaces or visible exterior elevations. Even if secondary spaces are subdivided, historic architectural features and finishes that contribute to the character of the space should be retained.

Secondary spaces that have been previously modified and lack important architectural features or finishes allow greater opportunity for change. New modifications must not alter the historic character of the space. New treatments that require removing all existing finishes, whether historic or not, and exposing structural elements in buildings where this is not in keeping with the historic appearance of the property's interior are not appropriate. Conversely, creating highly decorated or elaborate interior rooms and spaces in buildings that were historically devoid of such features is also not appropriate.

New floor openings must generally be contained within secondary spaces and be of a limited size. New stairs to provide a secondary means of egress may be placed within secondary spaces. However, a new floor cut must be placed away from exterior walls, particularly if there are windows and other openings in the wall through which the new floor cut would be visible from a public right-of-way. In addition, floor cuts should leave portions of the floor in place around the new openings and should appear as cuts into existing floors, not as a wall-to-wall removal of floor material that leaves a gap in the floor across the building.

In general, secondary spaces provide opportunities for change necessary to convert a building to a new use while maintaining its overall architectural character in accordance with the Secretary of the Interior's Standards for Rehabilitation.

Additional guidance »

- Preservation Brief 18: Rehabilitating Interiors in Historic Buildings Identifying Character-Defining Elements (https://www.nps.gov/orgs/1739/upload/preservation-brief-18-interiors.pdf)
- Preservation Brief 17: Architectural Character Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character (https://www.nps.gov/orgs/1739/upload/preservation-brief-17-architectural-character.pdf)

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New Additions to Historic Buildings

To meet Standard 1, which states that a property shall be placed in a new use that requires minimal change to the defining characteristics of the building, it must be determined whether an historic building can accommodate a new addition. Before expanding the building's footprint, consideration should first be given to incorporating changes—such as code upgrades or spatial needs for a new use—within secondary areas of the historic building. After such an evaluation, the conclusion may be that an addition is necessary, particularly if it is needed to avoid modifications to character-defining interior elements. The addition must be designed to be compatible with the historic character of the building and thus meet the Secretary of the Interior's Standards for Rehabilitation.

In accordance with Standard 9, a new addition must preserve the historic building's form/envelope, significant materials and features; must be compatible with the historic building's massing, size, scale, and architectural features; and must be differentiated from the historic building to preserve its character. Standard 10 calls for new additions to be constructed in such a manner that the essential form and integrity of the historic property be unimpaired if the new work were to be removed in the future. Limiting the removal of historic materials and utilizing existing doors or enlarging windows to transition to the new addition may accomplish this. The Guidelines for Rehabilitating Historic Buildings also recommend locating a new addition at the rear or on an inconspicuous side of a historic building. Additional NPS guidance is contained in Interpreting the Standards Bulletins and Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns.

There is no formula or prescription for designing a compatible new addition. A new addition to a historic building that meets the Standards can be any architectural style—traditionalist, contemporary or a simplified version of the historic building. However, there must be a balance between differentiation and compatibility in order to maintain the historic character and the very identity of the building being enlarged. New additions that are either identical to the historic building or in extreme contrast to it fall short of this balance. Inherent in all of the guidance is the concept that an addition needs to be subordinate to the historic building. General parameters are outlined below to provide guidance and to assist building owners in meeting the Standards.

Placement or location of the new addition on the site

A new addition is most appropriately located where its visibility from the primary views of the historic building is minimized. This is often a rear or obscure elevation. However, rear or side elevations may not always be sufficiently secondary to be suitable locations for an addition, particularly when a historic building is visually prominent from many vantage points.

Site characteristics therefore, are significant factors to consider in the process of determining the appropriate location for a new addition. When planning an addition, preserving significant landscape features – including vegetation, grading, walls, fences, walkways, driveways – and other important historic features of the historic property must be taken into account. Furthermore, significant archeological resources must also be considered when evaluating the placement of an addition and, as appropriate, mitigation measures must be implemented if they are to be disturbed.

A careful site analysis can identify suitable locations for an addition that take advantage of site features such as topographic changes and other factors that may lessen the impact of an addition. Opportunities for locating an addition partially or entirely below ground, or set behind other site features that can screen the visibility of new construction should be evaluated.

Size, scale, and massing of the new addition

The size, scale, and massing of a new addition all pertain to the addition's overall volume and three-dimensional qualities. Taken together, size, scale and massing are critical elements for ensuring that a new addition is subordinate to the historic building, thus preserving the historic character of a historic property. Typically, a compatible addition should be smaller than the historic building in both height and footprint. However, there are other considerations that may allow moving away from this basic concept.

Depending on its location, it may be possible that an addition slightly taller or slightly larger than the historic building may be acceptable, as long as it is visually subordinate to the historic building. In some cases, separating the addition from the historic building with a small hyphen can reduce the impact of an addition that is larger than the historic building. Another way of minimizing the impact of a new addition to an historic building is to offset it or step it back from the mass of the historic building.

Differentiating the new addition from the historic building

To preserve a property's historic character, a new addition must be visually distinguishable from the historic building. Section 67.7(c) of the program regulations cautions "exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of certification." This does not mean that the addition and historic building should be glaringly different in terms of design, materials and other visual qualities. Instead, the new addition should take its design cues from, but not copy, the historic building.

Differentiating the new from the old, yet still respecting the architectural qualities and vocabulary of the old, can be accomplished through a variety of design techniques, including:

- Incorporating a simple, recessed, small-scale hyphen to physically separate the old and the new volumes or setting the addition back from the wall plane(s) of the historic building.
- Avoiding any approaches that unify the two volumes into a single architectural whole. The coordination of individual features between the new addition and the historic building will not necessarily
 impair the existing building's historic character as long as the new structure is clearly differentiated and distinguishable as a new addition so that the identity of the historic structure is not lost
 altogether in a new and larger composition. The historic building must be clearly identifiable and its physical integrity must not be compromised by the new addition.
- Using building materials in the same color range or value as those of the historic building. The materials used on the new addition need not be the same as those on the historic building; however, new materials that highly contrast the historic ones should be avoided.
- Basing the size, rhythm and alignment of the new addition's window and door openings on those of the historic building.
- A new addition should also respect the architectural expression of the historic building type. For example, an addition to an institutional building should maintain the architectural character associated with this building type rather than using details and elements typical of residential or other building types.

The techniques listed above are merely examples of ways to differentiate a new addition from the historic building while ensuring that the addition is compatible with it. Other ways of differentiating a new addition from the historic building may be used as long they maintain the primacy of the historic building.

Working within these basic principles still allows for a broad range of architectural expression that can range from stylistic similarity to contemporary distinction. The recommended design approach for an addition is one that neither copies the historic building exactly nor stands in stark contrast to it.

New additions in densely-built environments

A densely-built neighborhood such as a downtown commercial core offers an opportunity to design an addition that can have a minimal impact on the historic building. Often the site for such an addition is vacant land where an independent building formerly stood. Treating the addition as a separate or infill building may be the route to having the least impact on the historic building. In these instances there may be no need for a direct visual link to the historic building, but the addition must still respect the scale of the historic building and those around it. Height and setback from the street should generally be consistent with those of the historic building and other surrounding buildings. There may be an opportunity for a larger addition when the facade of the addition can be broken up into elements that are consistent with the scale of the historic building and the adjacent building.

New additions in historic districts

When a building's historic status derives from its inclusion in an historic district, it is also necessary to look beyond the building itself in evaluating an addition. Relevant guidance comes from 36 CFR Part 67.6 (b)(6), of the program regulations and this guidance makes clear that all aspects of a rehabilitation, including a new addition, will be reviewed first as they affect the historic building and second as they affect the district in which the building is located. Additions to historic buildings may not cause the demolition of an adjacent certified historic structure for a rehabilitation project seeking certification according to 36 CFR Part 67.6 (b)(5).

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New Construction within the Boundaries of Historic Properties

It is possible to add new construction within the boundaries of historic properties if site conditions allow and if the design, density, and placement of the new construction respect the overall character of the site. According to the Secretary of the Interior's Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm) – Standard 9 in particular – and the Guidelines for Rehabilitating Historic Buildings (https://www.nps.gov/crps/tps/rehab-guidelines/rehabilitation-guidelines-1997.pdf), new construction needs to be built in a manner that protects the integrity of the historic building(s) and the property's setting.

In addition, the following must be considered:

- Related new construction including buildings, driveways, parking lots, landscape improvements and other new features must not alter the historic character of a property's historic function must be evident even if there is a change of use.
- The location of new construction should be considered carefully in order to follow the setbacks of historic buildings and to avoid blocking their primary elevations. New construction should be placed away from or at the side or rear of historic buildings and must avoid obscuring, damaging, or destroying character-defining features of these buildings or the site.
- Protecting the historic setting and context of a property, including the degree of open space and building density, must always be considered when planning new construction on an historic site This
 entails identifying the formal or informal arrangements of buildings on the site, and whether they have a distinctive urban, suburban, or rural character. For example, a historic building traditionally
 surrounded by open space must not be crowded with dense development.
- In properties with multiple historic buildings, the historic relationship between buildings must also be protected. Contributing buildings must not be isolated from one another by the insertion of new
 construction.
- As with new additions, the massing, size, scale, and architectural features of new construction on the site of a historic building must be compatible with those of the historic building. When visible
 and in close proximity to historic buildings, the new construction must be subordinate to these buildings. New construction should also be distinct from the old and must not attempt to replicate
 historic buildings elsewhere on site and to avoid creating a false sense of historic development.
- . The limitations on the size, scale, and design of new construction may be less critical the farther it is located from historic buildings.
- · As with additions, maximizing the advantage of existing site conditions, such as wooded areas or drops in grade, that limit visibility is highly recommended.
- Historic landscapes and significant viewsheds must be preserved. Also, significant archeological resources should be taken into account when evaluating the placement of new construction, and, as appropriate, mitigation measures should be implemented if the archeological resources will be disturbed.

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Replacement Windows that Meet the Standards

The decision-making process for selecting replacement windows divides into two tracks depending on whether historic windows remain in place or no historic windows survive.

Replacement of Existing Historic Windows

When historic windows exist, they should be repaired when possible. When they are too deteriorated to repair, selection of the replacement windows must be guided by Standard 6. Design, visual qualities, and materials are specific criteria provided by the Standard that are pertinent to evaluating the match of a replacement window. Evaluating the adequacy of the match of the replacement window involves the consideration of multiple issues

How accurate does the match need to be?

The more important a window is in defining the historic character of a building the more critical it is to have a close match for its replacement. Location is a key factor in two ways. It is usually a consideration in determining the relative importance of a building's various parts. For example, the street-facing facade is likely to be more important than an obscured rear elevation. The more important the elevation, feature or space of which the window is a part, the more important the window is likely to be, and thus, the more critical that its replacement be a very accurate match. Secondly, the location of the window can affect how much of the window's features and details are visible. This will affect the nature of an acceptable replacement. For example, windows at or near ground level present a different case from windows in the upper stories of a tall building.

Using the hierarchy of a building's features and taking into account the window's visibility, some general guidance can be drawn.

- Replacement windows on primary, street-facing or any highly visible elevations of buildings of three stories or less must match the historic windows in all their details and in material (wood for wood and metal for metal).
- Replacement windows on the primary, street-facing or any highly visible elevations that are part of the base of high-rise buildings must match the historic windows in all their details and in material (wood for wood and metal for metal). The base may vary in the number of stories, but is generally defined by massing or architectural detailing.
- Replacement windows on the primary, street-facing or highly visible elevations of tall buildings above a distinct base must match the historic windows in size, design and all details that can be perceived from ground level. Substitute materials can be considered to the extent that they do not compromise other important visual qualities.
- Replacement windows on secondary elevations that have limited visibility must match the historic windows in size, configuration and general characteristics, though finer details may not need to be duplicated and substitute materials may be considered
- Replacement windows whose interior components are a significant part of the interior historic finishes must have interior profiles and finishes that are compatible with the surrounding historic materials. However, in most cases, the match of the exterior of a replacement window will take precedence over the interior appearance.
- Replacement windows in buildings or parts of buildings that do not fit into any of the above categories must generally match the historic windows in all their details and in material (wood for wood and metal for metal). Variations in the details and the use of substitute materials can be considered in individual cases where these differences result in only minimal change to the appearance of the window and in no change to the historic character of the overall building.

How well does the new window need to match the old?

The evaluation of the match of a replacement window depends primarily on its visual qualities. Dimensions, profiles, finish, and placement are all perceived in relative terms. For example, an eighth of an inch variation in the size of an element that measures a few inches across may be imperceptible, yet it could be more noticeable on the appearance of an element that is only half an inch in size. The depth of a muntin or the relative complexity of a brick mold profile are more often made visually apparent through the shadows they create. Thus, while comparable drawings are the typical basis for evaluating a replacement window, a three-dimensional sample or mock-up provides the most definitive test of an effective visual match.

The way a historic window operates is an important factor in its design and appearance. A replacement window, however, need not operate in the same manner as the historic window or need not operate at all as long as the change in operation does not change the form and appearance of the window to the point that it does not match the historic window or otherwise impair the appearance and character of the building.

Factors to consider in evaluating the match of a replacement window

- Window unit placement in relation to the wall plane; the degree to which the window is recessed into the wall. The location of the window affects the three-dimensional appearance of the wall.
- Window frame size and shape. For example, with a wood window, this would include the brick mold, blind stop, and sill.
 - . The specific profile of the brick mold is usually less critical than its overall complexity and general shape, such as stepped or curved.
 - Typical sight lines reduce the importance of the size and profile of the sill on windows high above ground level, especially when the windows are deeply set in the wall.
 - . Though a blind stop is a small element of the overall window assembly, it is a noticeable part of the frame profile and it is an important part of the transition between wall and glass.
 - Steel windows that were installed as a building's walls were constructed have so little of their outer frame exposed that any replacement window will necessitate some addition to this dimension, but it must be minimal.
- Glass size and divisions. Muntins reproduced as simulated divided lights consisting of a three-dimensional exterior grid, between-the-glass spacers, and an interior grid may provide an adequate match when the dimensions and profile of the exterior grid are equivalent to the historic muntin and the grid is permanently affixed tight to the glass.
- Sash elements width and depth. For example with a wood window, this would include the rails, stiles and muntins; with a steel window, this would include the operator frame and muntins.

Replacement Windows that Meet the Standards - Historic Preservation Tax Incentives (U.S. National Park Service)

- The depth of the sash in a double-hung window, or its thickness, affects the depth of the offset at the meeting rail of a hung window. This depth is perceived through the shadow that it creates.
- Because of its small size, even slight differences in the dimension of a muntin will have a noticeable effect on the overall character of a window. Shape, as well as depth, is important to the visual effect of a muntin
- The stiles of double-hung historic windows align vertically and are the same width at the upper and lower sashes. The use of single-hung windows as replacements may alter this relationship with varying effects on the appearance of a window. In particular, when the distinction between the frame and the sash is blurred, details such as lugs may be impossible to accurately reproduce.
- · Meeting rails of historic windows were sometimes too narrow to be structurally sound. Reproducing a structurally-inadequate condition is not required.
- The operating sash of a steel window is usually wider than the overall muntin grid of the window. In addition, the frame of the operating sash often has slight projections or overlaps that vary
 from the profile of the surrounding muntins. The shadow lines the muntins create add another important layer to the three-dimensional appearance of the window.

· Materials and finish.

- While it may be theoretically possible to match all the significant characteristics of a historic window in a substitute material, in actuality, finish, profiles, dimensions and details are all affected by a change in material.
- In addition to the surface characteristics, vinyl-clad or enameled aluminum-clad windows may have joints in the cladding that can make them look very different from a painted wood window.
- Secondary window elements that do not match the finish or color of the window can also diminish the match. Examples include white vinyl tracks on dark-painted wood windows or wide, black, glazing gaskets on white aluminum windows.

· Glass characteristics.

- . Insulated glass is generally acceptable for new windows as long as it does not compromise other important aspects of the match.
- The clarity and reflectivity of standard clear window glass are significant characteristics of most windows. Because these characteristics are often diminished for old glass, new glass equivalent to the original should be the basis for evaluating the glazing proposed for new windows. Color should only be a noticeable characteristic of the new glass where it was historically, and any coating added must not perceptibly increase the reflectivity of the glass.
- Where the glazing is predominantly obscure glass, it may be replaced with clear glass, but some evidence of the historic glazing must be retained, either in parts of windows or in selected window units.

Replacement Windows Where No Historic Windows Remain

Replacement windows for missing or non-historic windows must be compatible with the historic appearance and character of the building. Although replacement windows may be based on physical or pictorial documentation, if available, recreation of the missing historic windows is not required to meet the Standards. Replacement of missing or non-historic windows must, however, always fill the original window openings and must be compatible with the overall historic character of the building. The general type of window – industrial steel, wood double-hung, etc. – that is appropriate can usually be determined from the proportions of the openings, and the period and historic function of the building. The appearance of the replacement windows must be consistent with the general characteristics of a historic window of the type and period, but need not replicate the missing historic window. In many cases, this may be accomplished using substitute materials. There may be some additional flexibility with regard to the details of windows on secondary elevations that are not highly visible, consistent with the approach outlined for replacing existing historic windows. Replacing existing incompatible, non-historic windows with similarly incompatible new windows does not meet the Standards.

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Yes			
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SUBJECTS

Historic Preservation

(https://www.nps.gov/subjects/historicpreservation)

National Register of Historic Places (https://www.nps.gov/subjects/nationalregister)

ORGANIZATIONS

Cultural Resources Partnerships and Science Directorate (https://www.nps.gov/orgs/1345)

Technical Preservation Services (https://www.nps.gov/orgs/1739)



Retaining Corridors and Other Circulation Spaces in Historic Buildings

The organization of a building, its sequence of spaces and circulation patterns, is important in conveying the historic context, character, and development of most buildings. For this reason, corridors are almost always primary spaces. Hallways and corridors are generally experienced as one element in a sequence of related spaces, a group that often includes entrance lobbies, stainwells, and elevator lobbies. This sequence of spaces working together provides the circulation artery for a building.

Therefore, the retention of existing corridors on all floors during rehabilitation is necessary if a project is to meet the Secretary of Interior's Standards for Rehabilitation. Removal or extensive alterations of these spaces would almost necessarily cause the loss of historic fabric, which would further diminish the historic character and feeling of the building. Retaining only one or more "representative" corridors on a selected floor is also not sound preservation practice.

While significant alterations to the width or length of corridors do not meet the Standards, there is flexibility within the floor plan to moderately "truncate" the ends of a corridor, provided that the corridor's general configuration (whether it follows a "U," "L," "H," "E," or other plan) is retained and its features and finishes are preserved. Additionally, in buildings where there are primary and secondary corridors, more change will generally be acceptable in the secondary space. Secondary corridors can be identified as those that serve a distinctly utilitarian purpose as an alternative circulation route to the primary hallways, stairs, and elevators.

Changes in primary corridors should be limited to those that minimally diminish the extent of the space without destroying the overall configuration. The core of these plans where primary corridors meet the elevators is generally a highly significant space that can accommodate the least amount of change. So, too, are open staircases and other primary stairs in the vertical circulation core of a building. However, when significant alterations to the historic configuration of the corridors and vertical circulation have already occurred, a greater degree of change to these spaces may be possible.

When the historic features and finishes of the corridor walls or floors are completely lost, but the historic configuration remains intact, it is generally recommended that the location and width of the historic corridor be retained. If corridor finishes are altered or missing but other character-defining features, such as historic doors and ceiling heights, are intact or minimally changed, less change may be appropriate because the corridor may retain sufficient integrity to contribute to the character of the building. But if wall finishes are missing or altered, ceiling heights have been dropped, and all corridor doors have been replaced, it may be possible to relocate or remove the corridor, depending on other factors such as its significance to the overall character of the building. An exception to this rule would be where the configuration of the corridor is essential to understanding the historic function of the building such as in a small school building where the central corridor connects to the primary stairs and entrances of the building.

Additional flexibility is available in taller buildings with repetitive floor plans. In these buildings, one or two floors may sometimes be substantially changed when taken in context of the overall project. However, in no case is retaining a few sample floors instead of the majority of the repetitive floor plans appropriate. In this type of building, the repetitive floor plan is significant to the building's architectural character.

Where no historic fabric or none of the historic configuration of the corridor remains, complete reconfiguration of the interior is possible as long as the new design is compatible with the historic character of the building.

Additional guidance »

- Preservation Brief 18: Rehabilitating Interiors in Historic Buildings Identifying Character-Defining Elements (https://www.nps.gov/orgs/1739/upload/preservation-brief-18-interiors.pdf)
- Preservation Brief 17: Architectural Character Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character (https://www.nps.gov/orgs/1739/upload/preservation-brief-17-architectural-character.pdf)

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Yes
○ No



Subdividing Assembly Spaces in Historic Buildings

Public assembly spaces in buildings such as churches, theaters, schools, sports arenas, fraternal lodge halls, and hotels are typically the most significant interior spaces in these buildings, and proposals for subdividing them must be carefully evaluated in the context of an overall rehabilitation. As a first step, the most successful approach in these situations is to consider a use for the space that maintains the public or group activity nature of the space, in order to minimize the need for subdivision.

The following criteria come into play when making an evaluation of how much change these spaces can accommodate and how to approach subdividing them. These considerations interact and should be taken collectively, to make a balanced assessment of the impact of proposed changes.

Role of the space in defining the character of the building

In buildings such as churches and theaters, the assembly space is usually of paramount importance and the entire building is often defined largely by its interior space. Consequently, it can be difficult to subdivide such spaces without impacting the character of the building as a whole.

Other buildings such as schools or hotels may have several public assembly spaces, and they may not all be of equal importance. The subdivision of one assembly space may have less impact on the overall building, depending on its relative prominence. For example, in a school with an intact auditorium, gymnasium and cafeteria, subdividing the cafeteria would likely be less of an issue than a similar treatment in the auditorium.

Spaces should be evaluated for their importance architecturally in the building, as well as functionally. If an auditorium or lodge hall is expressed on the exterior of the building with double-height windows, for example, that speaks to its significance in the spatial hierarchy of the building. The space may still be character defining without that expression, but its existence is an indication of the primary nature of the space.

Physical layout and condition

The physical arrangement of the interior may help dictate the most appropriate options for subdivision. Even primary assembly spaces may have secondary areas such as a stage behind a proscenium or the area under a balcony. In some cases these areas can be walled off with little impact on the overall space, depending on other factors such as relationship to the larger space, dimensions of the area and degree of architectural detail. Conversely, it will be harder to divide spaces with areas that are of equal importance, or spaces with a more tightly unified design, such as a church sanctuary with a strong axial plan.

As in other areas of the interior, the existing physical integrity also will influence how much change the space can accommodate. If finishes and features are deteriorated or missing or if the space has already been significantly altered, then its importance in defining the character of the building may be diminished enough to allow further changes. However, the impact of new alterations must be evaluated in the context of what integrity does still exist, the functional or architectural importance of the space in the building, and other proposed project treatments.

Manner of subdivision

The manner in which the space will be subdivided must also be considered. Treatments such as adding full-height walls or new floors that block the sense of volume of the space do not meet the Secretary of Interior's Standards for Rehabilitation, unless the space is a secondary or tertiary area in a building with other more important public rooms. However, divisions that do not intrude on the overall character and height of the interior may be appropriate. Lower partition walls in the main space, such as open office-height partitions in a two-story space, may be used in some instances. Also, in certain situations it may be possible to insert a mezzanine into secondary areas. If it has only a minimal impact in the space.

Existing historic features and finishes should also be retained to the maximum extent possible, and new vertical or horizontal partitions should not diminish their prominence and impact. For example, a new wall between a stage and auditorium space that is installed behind the proscenium rather than within the opening will keep the appearance of the stage boundary dominant.

For more general guidance regarding changes to interior spaces, please refer to Changing Secondary Interior Spaces in Historic Buildings.

Additional guidance »

- Preservation Brief 18: Rehabilitating Interiors in Historic Buildings Identifying Character-Defining Elements (https://www.nps.gov/orgs/1739/upload/preservation-brief-18-interiors.pdf)
- Preservation Brief 17: Architectural Character Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character (https://www.nps.gov/orgs/1739/upload/preservation-brief-17-architectural-character.pdf)

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Historically-Finished Secondary Spaces—Avoiding Problematic Treatments at Project Completion

Secondary interior spaces that have been previously modified and lack important architectural features or finishes are usually less critical in defining a building's importance. While these spaces still help define a building's historic significance and character, they also provide more opportunities for changes necessary to convert a building to a new use. Such changes must not, however, alter the historic and architectural character of the spaces to the extent that they negatively impact the overall historic character and appearance of the property. (See related guidance on Changing Secondary Interior Spaces in Historic Buildings (https://www.nps.gov/subjects/taxincentives/interiors-changing-secondary-spaces.htm).)

Historically-finished secondary spaces that have been previously modified and lack important architectural features or finishes, but that remain finished spaces at the start of a project, still contribute to the overall historic character and appearance of a building. Once work is begun on these spaces—such as anticipatory demolition, removal of non-historic finishes, or installation of new plumbing or mechanical systems (whether to serve these or other spaces of the building)—the spaces must be returned to a finished character at the completion of the project. Removing interior finishes and leaving structural systems or components exposed in a building that had finished spaces historically, such as in a school, office building, or apartment building, will change the building's character and give it an appearance it never had historically, and, therefore, will not meet the Secretary of the Interior's Standards for Rehabilitation (the Standards).

The examples below address some common problematic issues concerning unfinished conditions in secondary spaces of otherwise completed rehabilitation projects submitted for final certification (Part 3). Such work—whether the result of planned work not yet undertaken (e.g., a tenant space without a tenant), work not undertaken as approved in the Part 2 application, or work with unplanned effects (e.g., new plumbing or mechanical equipment serving the floors above that is not concealed within interstitial spaces, as originally proposed, and left exposed)—can cause a project to not meet the Standards. This work should be anticipated, planned for in advance, and coordinated during construction to avoid any issues at project completion. Otherwise, certification of a project may be ieopardized or remedial work may be required for a project to be certified.

Unless otherwise noted, the examples assume that the space being described is a historically-finished secondary space that was previously modified, lacks important architectural features or finishes, and remains a finished space at the start of the project. Further guidance and examples can be found using the <u>Preservation by Topic index (https://www.nps.gov/orgs/1739/preservation-bytopic.htm)</u>.

Example 1. Exposed brick or stone walls, structural elements, or ceilings in upper-story secondary spaces that were historically finished.

Removing plaster or other finishes to expose portions of brick or stone walls, structural elements, or ceilings in historically-finished, upper-story secondary spaces will, in general, negatively impact the overall historic character of a property. Exposing portions of walls, ceilings, or other features, whether on a single floor or scattered throughout the building, or creating a distressed or deteriorated appearance is unlikely to meet the Standards and may therefore require remedial work for a project to be certified.

Depending on the character of the building, the relative importance of the secondary space(s), and the extent to which all the other completed work meets the Standards, there may be instances that such work, if discrete and limited, may not preclude the overall project from meeting the Standards. In such instances, for example, the treatment should be limited and incidental in the context of the secondary spaces and the overall project, not affect the appearance of any nearby important historic features or materials, and generally not be highly visible from the exterior of the building or from primary interior spaces or non-historic public areas.

Example 2. New mechanical, electrical, and plumbing (MEP) systems in secondary spaces that were historically finished.

New MEP systems in historically-finished secondary spaces, whether to serve the spaces themselves or adjacent spaces, should generally be concealed in order to preserve the historic character and appearance of the spaces and the building. Using existing soffits, chases, shafts, and interstitial spaces, where possible, is recommended. Constructing similar new features may also be possible without negatively impacting the historic character of the space or creating new features readily visible at windows from the exterior of the building. Examples include creating a new soffit in a secondary space behind a corridor wall to accommodate new HVAC ductwork or lowering a flat ceiling several inches, but still above the top of window openings, in order to accommodate new plumbing or ductwork.

In other instances, some exposed new plumbing such as a sprinkler system or mechanical ductwork may have less impact on the historic character of a secondary space and the overall building than concealed plumbing and ductwork—if painted, simply configured, and sensitively designed, sized, and located to be as visually unobtrusive as possible. [This may be true as well for secondary spaces that do retain historic features and finishes, such as those with expressed structural systems or highly ornamented plaster ceilings.]

For example, installing a large soffit in a secondary space may more negatively impact the historic character and appearance of a space than exposed plumbing or ductwork if it is sensitively designed and located. Similarly, lowering a ceiling to accommodate new plumbing or ductwork, depending on the depth required, could change character-defining ceiling heights of the building or proportions of the space. Also, lowering a ceiling below the top of the windows could create soffits visible from the exterior of the building and impacts its appearance.

Exposing ceiling penetrations in a secondary space in order to accommodate plumbing for the floors above can negatively impact the historic character of the space and the overall building. New ceiling penetrations must almost always be concealed. Even in secondary spaces that lack important architectural features and finishes, exposed ceiling penetrations, unless very few and very visually unobtrusive, will rarely meet the Standards because of their impact on the character and appearance of the space and the overall building.

Example 3. "White box" condition in secondary (tenant) spaces that were historically finished and for which a tenant has yet to be identified.

The rehabilitation of historically-finished secondary spaces as part of an overall rehabilitation project, even when the spaces lack important architectural features or finishes, must still be carefully planned and considered. Once features, finishes, and materials have been removed from such spaces as part of a project, the spaces must generally be returned to a finished condition at completion of

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the project for the historic character of the spaces and the overall property to be preserved. In most such instances, a "white box" condition with a finished ceiling, walls prepped for painting, and concealed electrical and mechanical systems (even if how the systems are concealed is temporary until the actual tenant build-out) will be necessary to return a space to a finished condition necessary for Part 3 certification

In some limited instances, leaving a secondary (tenant) space unfinished, such as one in a large, multi-story downtown office building, may not negatively impact the overall historic character of a building and the ability for a Part 3 certification to be issued. Conversely, an unfinished tenant space in a smaller building, such as a secondary (tenant) space on the second floor of a small two-story Main Street commercial building, would generally have a greater impact on the historic character of the building and likely preclude certification.

In the context of an overall project that otherwise meets the Standards, the extent of any unfinished conditions in such secondary spaces must be minor, not highly visible, and relatively incidental in the context of the specific floor(s) of the building, and the overall building generally. In all instances, other work that has been undertaken in the space(s) (e.g., completed mechanical ductwork and ceiling penetrations as described in the above examples) must be consistent with the description of work approved as part of the Part 2 application for the project. Once a use or tenant has been identified for the space, the proposed tenant build-out must be submitted for NPS review if it is to be undertaken within five years of completion of the project.

[Ground-floor tenant spaces are generally not considered to be secondary spaces, but this "white box" example may be true as well for such spaces that were similarly historically finished spaces but previously modified, lack important architectural features or finishes, and remain finished spaces at the start of the project.]

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SUBJECTS ORGANIZATIONS

Historic Preservation Cultural Resources Partnerships and Science

(https://www.nps.gov/subjects/historicpreservation) Directorate (https://www.nps.gov/orgs/1345)

National Register of Historic Places Technical Preservation Services

(https://www.nps.gov/subjects/nationalregister) (https://www.nps.gov/orgs/1739)



Continued Historic Use and Standard 1

Standard 1 of the Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm) states that "A property shall be used for its historic use or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment." The use of a historic property can greatly impact its historic character, depending on the changes necessary to continue its historic use or adapt it to a new use.

Many rehabilitation projects certified as part of the historic tax credit program do not involve a change in use. A rehabilitation that continues the historic use of a building often requires minimal changes to the property and, therefore, to its historic character. In some instances, the changes required to continue the historic use and meet modern needs can be more substantial—in which case, adapting the building to a new use that necessitates fewer changes may comparatively have less impact on its historic character. Standard 1 requires that however a property is to be used, the use require minimal change to its historic character.

The historic use of a property is usually closely associated with the property's historic character and significance and reflected in such aspects as the design, features, spaces, and materials of the property—and not just in such instances as a theater or stadium, where the historic use is particularly integral to the property's character, but in many, if not all, types of properties. This can be particularly true in cases where the historic use and character of the property are closely connected, such as a resort property, a factory complex, or even a barn, and the use remains uninterrupted up to the present day and will continue through the proposed rehabilitation. A continued or reestablished historic use, when possible, can often enhance how the property is experienced and its significance understood in preserving its historic character.

The individual changes that a continued historic use may require—even in instances where such changes may not be otherwise acceptable in another rehabilitation context—can often be accommodated, when sensitively planned and executed, as long as the overall effect of all work is consistent with the property's historic character. (See also Cumulative Effect and Historic Character (https://www.nps.gov/subjects/taxincentives/cumulative-effect-and-historic-character.htm).) Such changes should be the minimum necessary in number and extent of the change for the continued historic use and have the least impact on the property's historic character.

Examples of such changes in the context of a continued historic use include: changes to industrial and manufacturing buildings related to accommodating special safety, environmental and other regulatory requirements, or changes in the current manufacturing processes; floorplan changes to residential buildings with especially small room sizes, or that lack private bathrooms or other support spaces, such as single-room occupancy buildings, convents, some YMCAs, and other buildings with small dormitory-type rooms; and enlargement of opening sizes necessitated by changed equipment or equipment sizes, such as for a barn door or a freight entrance to a warehouse. Other examples include: floorplan changes to post-WWII 'spec' office buildings designed with flexible floor layouts that have not been repetitively subdivided, and which do not otherwise have distinctive walls, partition systems or other interior features; and changes to movie palaces and theaters to address deficient receptions areas, bathrooms and concessions or for required ingress/egress and backstage spaces.

Again, changes should be the minimum necessary for the continued historic use and have the least impact on the property's historic character. It may be difficult to make less essential, but what may be otherwise desirable, changes as part of continued use without negatively impacting the property's character.

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ORGANIZATIONS

Historic Preservation

Cultural Resources Partnerships and Science
Directorate (https://www.nps.gov/orgs/1345)

https://www.nps.gov/subjects/taxincentives/continued-historic-use-standard-1.htm



Acquired Significance and Standard 4

Standard 4 of the <u>Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm</u>) states that "Most properties change over time; those changes that have acquired significance in their own right shall be retained and preserved." Materials, features, and spaces do not need to be original to be considered "historic" and "character-defining." A property can be significant not only for the way it was originally constructed or crafted, but also for the way it was adapted at a later period or illustrates changing tastes, attitudes, and uses over a period of time. Buildings change over time, and these changes often contribute to a property's historic significance. If a change is important in defining the property's historic character, the change should be retained and preserved.

Changes should be carefully evaluated for their relative importance to a property's overall historic character. A change is not automatically considered to have acquired significance just because it occurred within the property's period of significance or by virtue of the change's age (for example, just because a change is more than fifty years old). Also, a change important to the historic character of one building may not be similarly important to the character of another building, and some changes may have little or no historical and architectural merit or may otherwise not be sufficiently important that they have to be retained in order to preserve the overall historic character of the property.

An addition to a school to accommodate growing enrollment may be important when the property is significant for its associations with the history of education in the community. A front porch added to a single-family residence important for its architecture may be significant depending upon when it was added, its architectural character, and condition. An exterior or interior remodeling of a commercial building may be important to the historic character of a building associated with a particular person or with the later commercial development of a neighborhood or area. Some changes may also be important for reasons apart from why the property is otherwise significant. For example, a later structural glass storefront may be important as an example of an architectural style, or a tenant space may be significant for its associations with an important later historic event or use.

Conversely, a later change to a building may not be significant if the property is important as an example of a specific architectural style or the work of a particular architect. An individual storefront change to a multi-storefront commercial building or changes made for a particular use or tenant may not be as important, depending upon the extent to which they contribute to the property's historic character. A minor addition on the rear or side of a property may not be sufficiently important that it must be retained, and interior changes of a limited impact to the historic character of a property's important interior spaces, features, and materials may not be significant.

A change needs to be evaluated within the context of the specific historic property, the property's materials, spaces, and features, and why it is significant to determine the change's relative importance to the property's overall historic character and whether the change should be retained and preserved. For contributing buildings in historic districts, a change needs to be evaluated within the context of the historic building itself, as well as the district. Evaluations should be made on the basis of the property's National Register of Historic Places.

(https://www.nps.gov/subjects/nationalregister/index.htm) nomination, if the property is already listed, as well as other documentation, research, and information as needed.

For listed properties, the National Register nomination will describe why the property is significant and will typically identify a period of significance. This stated period of significance should generally be used in evaluating the relative importance of a change to the property and its historic character. Some older nominations, however, may not have a defined period of significance, and other nominations may have an open-ended one. The available National Register documentation may not have addressed the importance of a later change—whether having occurred inside or outside the period of significance—that has acquired significance in its own right. Also, the documentation may not be conclusive, particularly for districts, and supplemental information on the significance of the specific property and change being evaluated may be required. (In some instances a determination that a later change is significant should be reflected in the formal submission of an Additional Documentation form from the State Historic Preservation Office to the National Register or through a Supplementary Listing Record by the National Register staff.)

The relative importance of a change to the historic character of a property remains specific to that individual property, as well as to how it contributes to the district if in a district. Again, a change is not automatically considered to have acquired significance just because it occurred within the property's period of significance or due to its age.

Wanting to return a property to its original appearance is not adequate justification by itself to remove later changes and may not meet the Standards for Rehabilitation if it requires the removal of later materials, features, or spaces that have acquired significance in their own right. Other times these later changes may not be as important and can be removed without impacting the historic character of the property.

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Interior Spaces, Features, and Materials in Highly Deteriorated Condition and Standard 2

Standard 2 of the Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm) states that "The historic character of a property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided." Character refers to all those visual aspects and physical features that comprise the appearance of every historic building and allow it to convey why it is important. Just as with the building exterior, site, and setting, deteriorated character-defining interior spaces, features, and materials should be retained and preserved, and when beyond repair replaced to match, consistent with Standards 5 and 6.

Deteriorated interior spaces, features, and materials need to be evaluated within the context of the specific historic property and why they are significant to determine their relative importance to the property's overall historic character and, therefore, whether they should be retained and preserved. Some spaces, features, and materials may be too deteriorated to be repaired. Historic character is, however, generally not readily lost through deterioration, and deteriorated historic spaces, features, and materials should generally be replaced to match when they are beyond repair.

In some instances, interior spaces may be so highly deteriorated or altered to convey little to no historic character, and the integrity of a space and its ability to convey its historic associations may be compromised or irretrievably lost. Such spaces may often be more readily altered than other spaces of a property that retain a high degree of integrity. A ballroom heavily damaged in a fire may be so deteriorated that it conveys no or little historic character to a hotel building or may be less important than other similar primary interior spaces in the building that remain more intact. In such cases, it may not be necessary to repair, replace, or even retain the space's component historic features, depending upon the integrity of the space and the importance of the space and its features to the overall historic character of the property. Replacement features and materials would need to be compatible with the property's overall historic character.

Conversely, if a property's other spaces do not retain higher integrity or are of lesser importance to its historic character, a deteriorated space or one that otherwise lacks architectural character may still be sufficiently important that it should be retained and preserved regardless of its condition. For example, the main meeting space in a small fraternal hall or an assembly space expressed in the exterior design of a YWCA building (e.g., with tall windows), even if highly deteriorated, may still be significant to the historic character of the property due to its important associations. A ballroom that was the main or only remaining such space of a hotel may still be important to conveying the historic character of the property, even if the entirety of its features and materials are highly deteriorated and unrepairable, or even irretrievably lost, or the space altered and less intact.

Depending upon the importance and relative integrity of a severely deteriorated space and its features, the space itself may be more important to the building's historic character to retain and preserve due the space's historic associations even though its component features and materials may be themselves so highly deteriorated that their integrity is irretrievably lost. In such cases it may be necessary to retain and preserve the overall space, but not its, or all of its, surviving features and materials. Replacement features and materials within the space would still need to be compatible with the property's historic character.

As with interior spaces, deteriorated interior features and materials need to be evaluated within the context of the specific historic property, whether they are in primary or secondary spaces, and why they are significant to determine their relative importance to the property's overall historic character and, therefore, whether they should be retained and preserved. Some features and materials, even if in highly deteriorated condition, may be important to the historic character of the property and still convey important historic associations, and therefore must be retained and preserved. In other instances the features and materials may be too deteriorated to be repaired accurately, no longer retain sufficient integrity to convey their historic associations, or be of less importance to the historic character of the property, and therefore may not need to be retained. For example, a surviving section of a deteriorated plaster frieze may be important to the historic character of a parlor in a residence, regardless of the space's condition, but of lesser importance in a secondary space, and therefore not as important to retain.

2016

Last updated: October 25, 2022

Yes	
○ No	



Evaluating Substitute Materials in Historic Buildings

The Secretary of the Interior's Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm) generally require that deteriorated distinctive architectural features of a historic property be repaired rather than replaced. Standard 6 of the Standards for Rehabilitation further states that when replacement of a distinctive feature is necessary, the new feature must "match the old in composition, design, color, texture, and other visual properties, and, where possible, materials" (emphasis added). While the use of matching materials to replace historic ones is always preferred under the Standards for Rehabilitation, the Standards also purposely recognize that flexibility may sometimes be needed when it comes to new and replacement materials as part of a historic rehabilitation project. Substitute materials that closely match the visual and physical properties of historic materials can be successfully used on many rehabilitation projects in ways that are consistent with the Standards.

Any proposed use of substitute materials should be reviewed within the framework of the following general issues:

- First, the need for replacing historic material is assessed,
- · Second, the amount and location of replacement material is evaluated in relation to the building's historic character, and
- Third, the appropriateness of a particular substitute material is considered regarding its appearance and other factors, such as the location of the application, the known physical compatibility of the substitute material relative to the historic material, and the performance of the material over time.

While the goal may be to achieve an exact match when replacing a historic material, most replacement, whether a matching historic material or a substitute material, involves some measure of change, even if only minor. For example, new marble available today — even from the same quarry — will not be exactly the same as historic marble panels that require replacement. Thus, the evaluation of any replacement material needs to take into account the quality of the match needed in terms of both appearance and performance for a given situation.

Need for substitute materials

According to the Standards for Rehabilitation (https://www.nps.gov/subjects/taxincentives/secretarys-standards-rehabilitation.htm), deterioration should generally be addressed through repair if in repairable condition. When the level of deterioration makes repair infeasible, or the feature or a component of it is missing entirely, there are circumstances in which the use of substitute materials may generally be considered appropriate, taking into consideration technical and economic feasibility reasons, including:

- · the unavailability of historic materials,
- the unavailability of skilled artisans or historic craft techniques,
- · inadequate durability of the original materials,
- the replacement of a secondary feature; construction of a new addition,
- the reconstruction of a missing feature;
- code-required performance; and
- for enhanced resilience and sustainability.

Economic feasibility is inevitably a concern when choosing a material for any part of a project, whether a historic or substitute material, but it should not be the sole determinant factor at the expense of maintaining the historic character and historic integrity of a building. Other factors may prompt the consideration of a substitute material, however, such as the cost of maintaining the historic material, because it is comparatively difficult or costly to reach or access, or the frequency of required maintenance the historic material needs. Additionally, where in-kind replacement material is found to be prohibitively expensive, it may be reasonable to consider a substitute that offers an alternative and is a good physical and visual match.

Amount and location of proposed application of substitute materials

Such factors as the design of a building, its history, the materials used, and the degree of craftsmanship combine to give a building its historic character. Different materials and features play different roles in the building's historic appearance. Where a particular feature contributes significantly to the historic character of a building, the material or materials that make up that feature are likely to require a closer replacement match than materials making up a feature of lesser importance. A careful evaluation of the building and an understanding of the historic significance of its various materials and features will assist in determining the degree to which the use of substitute materials may be acceptable.

All replacement work reduces to some degree the historic character and integrity of a building. While the limited use of substitute material on a historic building is acceptable, there is a point where the amount of replacement material becomes excessive, when the overall sense of the building as a historic structure is lost, and when the building's integrity is diminished to an unacceptable degree.

The overall visibility of a character-defining material or feature is an important determinant in whether substitute materials will be appropriate. Generally, the more visible a feature is and the more important that feature is to the building's historic character, the more likely any change will negatively affect that character. For example, a replacement cornice using a substitute material proposed for a two-story building would have to match more closely the historic feature than one intended for a ten-story building. Materials on the rear elevation or side elevations partially obscured by adjacent construction may be of secondary importance to a building's character.

Visual and other matches for the historic material to be replaced

Substitute materials, like all replacements, must closely match the design, color, surface texture, reflectivity, finish, details, and other visual qualities of the material or feature to be replaced. For example, the defining characteristics of a historic roofing material usually include its size and shape, as well as its thickness, color, and reflectivity. An asphalt shingle may be available that matches the size of a particular roofing slate, but its thin profile and granular surface may bear little resemblance to slate. A polymer–based slate substitute may match the thickness and surface texture but only be available in a larger size than the historic slate. Before one can evaluate the appropriateness of either substitute, one has to first identify the characteristics of the historic roof that are most important to how it is

Evaluating Substitute Materials in Historic Buildings - Historic Preservation Tax Incentives (U.S. National Park Service)

perceived on the particular building. This may lead to choosing one substitute over another, or rejecting all if the resulting differences appear to be too great.

While visual qualities are an important component, other factors should also be considered when evaluating the appropriateness of a particular substitute material. In some cases, if the surface texture of a substitute material differ markedly from the historic material, the building's character could be diminished by its use.

Use of a substitute material should also take into account any differences in the physical properties of the new material and adjacent or related existing materials. For example, proposed substitute materials may have rates of thermal expansion and contraction and rates of vapor permeability that differ significantly from the adjacent historic material. In some cases, a substitute material may be so new that there is little information on how it will perform over time. When information on the durability, performance over time, and physical compatibility of a substitute material relative to adjacent historic materials does exist, it should be evaluated. Repair or replacement using physically incompatible substitute materials could damage surviving historic fabric and should be avoided.

Many modern materials used as substitutes are promoted as "maintenance-free." Historic materials that require maintenance offer the possibility for indefinite life spans sustained by the renewal of maintenance. Materials that are maintenance-free may have more limited life spans and may not be repairable, with replacement being the only response to deterioration.

Substitute materials and applying the Standards for Rehabilitation

The Standards for Rehabilitation (https://www.nps.gov/subjects/texincentives/secretarys-standards-rehabilitation.htm) require that the replacement of a distinctive feature match the old in physical and visual properties and, "where possible," materials. While the use of matching materials is always preferred, the Standards purposely allow for the use of substitute materials when the use of original materials is not reasonably possible, such as in consideration of economic and technical feasibility. They also provide additional flexibility in the treatment of secondary, less distinctive features that are less important in defining the historic character of the property as well as missing features, new additions, and new construction. The Standards recognize that flexibility is appropriate to facilitate "a compatible use for a property... while preserving those portions or features which convey its historical, cultural, or architectural values" (definition of "Rehabilitation," 36 CFR 67.2(b)).

Additional guidance »

- Preservation Brief 16: The Use of Substitute Materials on Historic Building Exteriors (https://www.nps.gov/orgs/1739/upload/preservation-brief-16-substitute-materials-2023.pdf) (rev. October 2023), provides more detailed information on this topic as well as information on some of the more commonly used, currently available materials that may have some applications as substitute materials and the properties of each that affect their suitability for use as substitutes.
- The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm) (2017).

October 2023

Last updated: October 6, 2023

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ORGANIZATIONS

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Technical Preservation Services (https://www.nps.gov/orgs/1739)

APPENDIX D

PRIOR ANALYSES OF FEDERAL HISTORIC PRESERVATION STANDARDS

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- National Council of State Historic Preservation Officers, "Tax Act Review Reform Policy Paper," June 2003.
- Historic Preservation Development Council, "Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Program," December 2003.
- National Park Service Advisory Board, "Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better," September 2006.
- National Park Service Advisory Board, "Making a Good Program Better: Final Guidance and Implementation of National Park System Advisory Board Recommendations for the Federal Historic Rehabilitation Tax Credit Program," 2007.
- Federal Historic Preservation Program Task Force, "Aligned for Success: Recommendations to Increase the Effectiveness of the Federal Historic Preservation Program," Summer 2011.
- National Park Service, "Results of Program Review Recommendations and Action Plan," March 2013.
- National Park Service, "Final Report on the Implementation of Program Review Recommendations and Action Plan," December 2016.
- National Park Service, "A Call to Action: Preparing for a Second Century of Stewardship and Engagement," August 2015.

NCSHPO Tax Act Review Task Force

Tax Act Review Reform Policy Paper JG603

Summary Statement:

Below are outlined suggested reforms to the Tax Act Review process conducted between the individual states and the National Park Service (NPS). These reforms are recommended to NPS for discussion in order to improve the review process, to clarify the roles in the review process, to streamline reviews and to apply the Standards in a consistent and direct manner. The proposed reforms are related to three issues: Issue I: Streamlining, Issue II: Unique or Unusual Circumstances and Issue III: Applying the Standards.

Under Issue I six reforms are suggested: 1. Project training and education, 2. Certifying reviewers, 3. Application form revisions, 4. Reviewer training, 5. Preliminary reviews and 6. Electronic submissions. Under Issue II two reforms are suggested: 1. Review process negotiations and 2. Appeal process clarification. And Under Issue III there are three reforms suggested: 1. Compliance with the standards, 2. Design approach and 3. Increasing the incentive.

Comments received on this policy paper from the states are attached: Appendix A: Arizona, Appendix B: New York, Appendix C: Kansas, Appendix D: Texas and Appendix E: South Carolina.

Introduction:

The NCSHPO Tax Act Review Task Force was charged to research and articulate concerns and issues in relationship to the NPS/State interface on Tax act projects; and to make recommendations on potential ways to reform the review process and application of the Secretary of the Interior's Standards for Rehabilitation.

The task force prepared and distributed a questionnaire to all the states in February 2003. The questionnaire sought responses to specific administrative procedures between the states and NPS, possible approaches to changing the review process, application of the Secretary of the Interior's Standards for Rehabilitation and issues involving owner/developers.

The results of the survey were compiled, presented and posted in March 2003. Out of the 52 topics related to the state/NPS interface there was general agreement that, in the vast majority of cases, the review process and application of the Standards was going very well and many states strongly supported the positive working relationship the state's have with NPS.

This paper addresses those problem areas most often mentioned in answering the questionnaire and offers suggested reforms to address these consensus issues.

Issue I: Streamlining (The Front End, First Chance, Review)

Several questionnaire responses fell under the concept of streamlining. They include:

June 2003

- We have had owners back out because the review process takes too long.
- Expand the use of the facilitated review sheets.
- Let certified states complete the reviews themselves.
- Make the NPS review either Pass or Fail.
- Allow on-line submission of applications.

Background:

There are various opinions as to the perfect time to complete the tax act review process. Certainly the principle of "the earlier the better" is preferred until one sees a finished product that doesn't look at all like the original submission, especially after changes that may be required by local and state permitting reviews. Just as problematic is having the owner begin the review process after the building is already in service.

Ideally the project should be reviewed during design development at a time when meaningful consultation can occur and cost effective changes can be incorporated into the design. It is also helpful to have the eligibility criteria and character defining elements identified and agreed upon before schematic design starts.

Obviously having an owner, architect, structural engineer and contractor who understand the Standards and are familiar with the review process leads to a quick review and timely approval.

Current Situation:

The tax act credit for rehabilitation continues to be a positive historic preservation force in every state and the overall success of the review process is quite high.

The unanswerable questions are how many rehabilitation projects never take advantage of the credit, how many projects drop out because of extended review periods and how many unsubmitted poor projects would have been improved if they had come under the tax credit program?

NPS has tried to address some of the process issues by providing the "facilitated review sheets," by allowing preliminary early review comments (yes, the "Blue Plate Special" reviews) and by having an electronic version of the application form.

Reform Suggestions:

- 1. <u>Project training and education</u>. Increase the training opportunities for owners, developers, architects, engineers and lending institutions. These training workshops should be sponsored by both the States and NPS and should occur cyclically at a regional level.
- Certifying reviewers. Any reviewer with five years experience in the private and/or
 public sectors and attendance at three NPS tax act reviewer workshops should be
 given expedited review status. NPS would then address only those items referred to
 on the expedited review sheet. If there were no specific items listed the project would
 be automatically approved.
- 3. <u>Application form revisions</u>. In addition to the significance criteria, Part I should list the character defining elements that must be preserved if at all possible during the project. Part II should target the major "Top Ten" priority issues that could affect the continued eligibility of the property ideally tied back to the CDE list from Part I.

- 4. Reviewer training. NPS staff time gained through an expedited review process should be used to train reviewers with less than five years experience, to cyclically visit the states to see specific conditions affecting projects and to conduct workshops for owners, architects and engineers.
- 5. <u>Preliminary Reviews</u>. NPS should formalize the preliminary review procedure to clarify the role of the states, how the review is initiated, conditions and time frames.
- 6. <u>Electronic submissions</u>. NPS should study if and how applications and reviews could be done electronically.

Issue II: Unique and Unusual Circumstances (The Back End, Last Chance, Review)

Several of the questionnaire responses dealt with unique and unusual circumstances. They include:

- NPS should implement a "last chance" review.
- Allow the States a role in the appeal process.
- We find out a project we felt met the standards ended up being rejected by NPS.

Background:

When the tax act program began in the 1970s, the movement to reuse the existing building stock, especially historic buildings, was unsupported by the construction industry, the community redevelopment offices, local building codes, lending institutions and federal tax law that favored demolition over rehabilitation.

The historic preservation movement was at the forefront in promoting rehabilitation as a viable and cost effective project treatment. But since the 1970s other environmental movements have promoted preservation-related concepts such as "smart growth", energy conservation, sustainability, "green" architecture, neo-traditional planning and neighborhood conservation. Many of these programs look to the past for inspiration, identification of principles and documentation of standards.

Current Situation:

Rehabilitation of historic properties continues to be a major community tool for both preservation and redevelopment programs.

The development community has seen many successful rehabilitation projects combined with new construction. At the same time many historic properties continue to be lost due to unsympathetic or uninformed owners and/or specific project constraints that don't exactly fit the standard rehabilitation mold for success. In some instances progressive environmental policies, that should be viewed as a complement to historic preservation, can compound issues and clearances and lead to the complete loss of historic resources while promoting the very principles represented by the historic examples.

As the states work to save historic properties as part of community redevelopment programs, rehabilitation projects that require real or imaginary special considerations are appealed up through the SHPO staff while at the same time coming under NPS review. A built in point of disagreement can occur when the state starts treating the project like a 106 undertaking (even though they are dealing with a private developer), looking for ways to minimize the adverse effect of completely losing the resource. Meanwhile the

NPS reviewers who never face the 106 process directly apply program policies more like an iron clad 4F program of take it or leave it and the lack of any perceived ability to compromise puts the owner out of the program.

To remain in the forefront of property management options, historic preservation efforts must be in tune with other progressive environmental movements. Historic preservation treatments must allow for local density increases, smart growth policies, energy conservation programs and adaptive use flexibility that meet local needs while at the same time preserving those qualities that make a property eligible for listing. The application of the Rehabilitation Standards needs to be within a framework that recognizes local or state policies aimed at quality-of-life issues related to and enhanced by historic preservation principles.

NPS has addressed this issue when it comes to archaeology where a mitigation option is allowed through excavation (Standard No. 8 allows for mitigation, although excavation is now considered adverse). But when a contributing building is to be demolished, no mitigation can be addressed that still allows the owner to take advantage of the 20% investment tax credit.

Reform Suggestions:

- 1. Review process negotiations. Allow the states to negotiate (similar to a 106 review) with a project owner before submission to NPS. The goal of the negotiation would be to consider prudent and feasible alternatives and/or to satisfactorily mitigate any adverse effects of the project. If the state signs a MOU with the owner that addresses mitigation of adverse effects then NPS should review the tax act project in accordance with the mitigation measures offered by the owner but still allowing the use of the 20% tax credit.
- 2. <u>Appeal process clarification</u>. Allow the states an official role in the appeal process that allows incorporation of unique and unusual factors that affect the project.

Issue III: Applying the Standards (The Philosophy of Rehabilitation)

Several of the questionnaire responses dealt with application of the Standards. They include:

- Eliminate any mandatory use of the restoration standard for a rehabilitation project.
- NPS concerns on a project appear to relate to application of a personal design philosophy.
- NPS requires restoration of damaged plaster areas.
- NPS rejection of rooftop and other density/zoning related additions.

Background:

The Secretary of the Interior's Standards for Preservation Projects and specifically the Standards for Rehabilitation have been the most unifying force in historic preservation since the criteria of eligibility for inclusion on the National Register of Historic Places. The Standards are specific but flexible and have been incorporated into state register programs and local preservation ordinances across the United States. Derived from international standards under specific application to resources in the United States

development of the Rehabilitation Standards was a major prerequisite for the tax act program.

Nearly all construction projects involving historic buildings utilize more than one "treatment". For example projects promoting the adaptive use of a building are clearly "rehabilitations", but structural "stabilization", door "preservation", window "restoration" and porch "reconstruction" may all occur within an overall "rehabilitation" project.

It is also important to remember that the Rehabilitation Standards must be applied to an eligible or listed building. Any "new work" or replacement of missing features (even so called "restoration" work) on an existing eligible building does nothing to increase or improve its eligibility. It may do wonders aesthetically. It may do wonders economically. It may help promote the building and be more pleasing to the eye, but replacement of a missing element or other rehabilitation work does not enhance the property's basic eligibility.

The preservation of the character defining elements that make the building eligible is the key and primary goal of any state and/or federal involvement in the project. The building must be listed or determined eligible before the rehabilitation project. The Rehabilitation Standards are directed toward this goal. Rehabilitation projects need to place a high priority on the preservation of the character defining elements and of "original fabric" that is essential for preserving these character-defining elements. Any divergence from this overriding principle under any treatment heading (be it stabilization, restoration, rehabilitation and/or reconstruction) is not in the best "long term" interest of the historic preservation movement. Insisting on the preservation of elements or fabrics that do not define the historic character and/or insisting on the restoration of missing elements may unnecessarily burden the overall economic feasibility of the project. After all, this is the "historic preservation" movement not the "aesthetic restoration" movement.

Because the Rehabilitation Standards have a degree of flexibility, any individual's interpretation of them should be based on the collective meaning of any single standard and an overall recognition of how the Standards are tied to eligibility. Flexibility also comes into play in applying the Standards in light of changing environmental issues such as lead paint management, energy conservation and smart growth.

Current Situation:

Rehabilitation appears to be losing its economic edge over new construction. Rehabilitation used to clearly have an economic advantage over demolition and new construction even without use of the tax credit. Today rehab projects are bigger, more expensive; sitting on expensive lots and often surrounded by increased density. The tax credits are now part of the basic economic equation required to make a project pencil out. No credit translates into no project and ends up leading to certain demolition or radical alteration.

Construction project costs continue to shift toward increased systems costs at the expense of spatial costs. Traditionally the base cost of systems were equal when applied to a new or an existing building but now the effort to retrofit expanded systems into existing buildings (including fire detection, security protection, computer networks, fire suppression, lighting, power outlets, HVAC and plumbing) has shifted the overall rehab

budget toward these system upgrades and installation and away from original fabric materials conservation and stabilization; let alone the luxury of restoration. Without additional subsidy through increased tax credits or directs grants, rehabilitation projects will soon become marginal in favor of new construction where labor costs can be more closely controlled.

Reform Suggestions:

- 1. Compliance with the Standards. The review should focus on how well the project preserves and protects character-defining elements as agreed to in Part I of the application. Although comments on the desirability to restore and/or even reconstruct deteriorated or missing elements can be suggested, no requirement to restore a feature of an otherwise eligible or listed property should be mandatory.
- 2. Design Approach. Because there is a plurality of approaches toward contemporary design, tax act review should remain focussed on maximizing the preservation of the character-defining elements and the spatial characteristics of the property. Obviously new work should not overwhelm and/or dominate the original overall architectural statement, but reviewers at both the state and NPS levels should not try to dictate any specific design approach to the project design team. NPS should assume the state has made a good faith effort to "improve" a marginal project and focus, in a pass/fail way, on basic compliance with the Standards. Professional suggestions to improve the quality of a project should definitely be offered if the design can still be modified, but any mandatory requirement to upgrade a marginal project that meets the Standards to one that better meets the Standards should be avoided.
- 3. <u>Increasing the Incentive</u>. There should be an effort to apply the investment tax credit toward the rehabilitation of as many listed or eligible properties as possible. The first and primary change would be to increase the credit back to 25%.

Appendix A: Comments from Arizona

Jim: The reform issue that will have the greatest benefit, i.e. saving the resource, will result from your suggestion for allowing the same treatment flexibility to the private sector that is enjoyed by Federal Agencies pursuant to Section 106. The tendency for NPS to view projects more as Restoration than as Rehabilitation is the issue that has not had enough attention, and it needed to be raised; as it, more than anything else, causes frustration in both owners and state reviewers in their effort to bring historic buildings into current use. To be forced to reverse their forward looking perspective, somehow takes the wind out of their sails, while they were feeling good about doing the right thing for quality of life issues. Just as consideration is given to the needs of a Federal Agency in fulfilling their program mission, in addition to consideration of the effect of their undertakings on historic properties, the private sector has a need to pursue project viability, and in some cases marketability, in fulfilling the objectives of economic redevelopment. A return to the 25% credit, especially in this period favoring tax cuts generally, would encourage redevelopers to go the extra mile in meeting the Standards. I too often hear that it's just not worth the bother. Moreover, the proposed tax reduction for dividends will divert rehabilitation investment unless it is seen to be more appealing. Bob Frankeberger, AIA

Appendix B: Comments from New York

Issue I: Streamlining (The Front End, First Chance, Review)

Several questionnaire responses fell under the concept of streamlining. They include:

- We have had owners back out because the review process takes too long.
- Expand the use of the facilitated review sheets.
- Let certified states complete the reviews themselves.
- · Make the NPS review either Pass or Fail.
- Allow on-line submission of applications.

Background:

There are various opinions as to the perfect time to complete the tax act review process. Certainly the principle of "the earlier the better" is preferred until one sees a finished product that doesn't look at all like the original submission, especially after changes that may be required by through local and state permitting reviews. Just as problematic is having the owner begin the review process after the building is already in service. In fact, the CFR advises that starting work before getting a Part 2 "Description of Rehabilitation" certification from the NPS puts the applicant in danger of not receiving the credit, and currently the IRS does not use of the credit if an application is received after the building is placed in service.

Ideally the project should be reviewed during design development at a time when meaningful consultation can occur and cost affective changes can be incorporated into the design. It is also helpful to have the eligibility criteria and character defining elements identified and agreed upon before schematic design starts.

Obviously having an owner, architect, structural engineer and contractor who understand the Standards and are familiar with the review process leads to a quick review and timely approval.

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NPS has tried to address some of the process issues by providing the "facilitated review sheets," by allowing preliminary early review comments (yes, the "Blue Plate Special" reviews) and by having an electronic version of the application form.

Reform Suggestions:

- 7. <u>Project training and education</u>. Increase the training opportunities for owners, developers, architects, engineers and lending institutions. These training workshops should be sponsored by both the States and NPS and should occur cyclically at a regional level.
- 8. <u>Certify reviewers</u>. Any reviewer with five years experience in the private and/or public sectors and attendance at three NPS tax act reviewer workshops should be given expedited review status. NPS would then address only those items referred to on the expedited review sheet. If there were no specific items listed the project would be automatically approved.
- 9. Review application forms. In addition to the significance criteria, Part I should list the character defining elements that must be preserved if at all possible during the project. This might not be useful and it could "tie the hands" of the Part 2 reviewers if something is overlooked or found after the Part I is certified. It could result in more inflexibility. Part II should target the major "Top Ten" priority issues that could affect the continued eligibility of the property ideally tied back to the CDE list from Part I. Again, this could lead to inflexible reviews, and cut out the creativity and "horse-trading" that makes many projects work
- 10. Reviewer training. NPS staff time gained through an expedited review process should be used to train reviewers with less than five years experience, to cyclically visit the states to see specific conditions affecting projects and to conduct workshops for owners, architects and engineers.
- 11. <u>Preliminary Reviews</u>. NPS should formalize the preliminary review procedure to clarify the role of the states, how the review is initiated, conditions and time frames.
- 12. <u>Electronic submissions</u>. NPS should study if and how applications and reviews could be done electronically.

Issue II: Unique and Unusual Circumstances (The Back End, Last Chance, Review)

Several of the questionnaire responses dealt with unique and unusual circumstances. They include:

- NPS should implement a "last chance" review.
- Allow the States a role in the appeal process.
- We find out a project we felt met the standards ended up being rejected by NPS.

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When the tax act program began in the 1970s, the movement to reuse the existing building stock, especially historic buildings, was unsupported by the construction industry, the community redevelopment offices, local building codes, lending institutions and federal tax law that favored demolition over rehabilitation.

The historic preservation movement was at the forefront in promoting rehabilitation as a viable and cost effective project treatment. But since the 1970s other environmental movements have promoted preservation-related concepts such as "smart growth", energy conservation, sustainability, "green" architecture, neo-traditional planning and neighborhood conservation. Many of these programs look to the past for inspiration, identification of principles and documentation of standards.

Current Situation:

Rehabilitation of historic properties continues to be a major community tool for both preservation and redevelopment programs.

The development community has seen many successful rehabilitation projects combined with new construction. At the same time many historic properties continue to be lost due to unsympathetic or uninformed owners and/or specific project constraints that don't exactly fit the standard rehabilitation mold for success. In some instances progressive environmental policies that should be viewed as a complement to historic preservation can compound issues and clearances and lead to the complete loss of historic resources while promoting the very principles represented by the historic examples.

As the states work to save historic properties as part of community redevelopment programs, rehabilitation projects that require real or imaginary special considerations are appealed up through the SHPO staff while at the same time coming under NPS review. A built in point of disagreement can occur when the state starts treating the project like a 106 undertaking (even though they are dealing with a private developer), looking for ways to minimize the adverse effect of completely losing the resource. Meanwhile the NPS reviewers who never face the 106 process directly apply program policies more like an iron clad 4F program of take it or leave it and the lack of any perceived ability to compromise puts the owner out of the program.

To remain in the forefront of property management options, historic preservation efforts must be in tune with other progressive environmental movements. Historic preservation treatments must allow for local density increases, smart growth policies, energy conservation programs and adaptive use flexibility that meet local needs while at the same time preserving those qualities that make a property eligible for listing. The application of the Rehabilitation Standards needs to be within a framework that recognizes local or state policies aimed at quality-of-life issues related to and enhanced by historic preservation principles.

NPS has addressed this issue when it comes to archaeology where a mitigation option is allowed through excavation (Standard No. 8 allows for mitigation, although excavation is now considered adverse). But when a contributing building is to be demolished, no mitigation can be addressed that still allows the owner to take advantage of the 20% investment tax credit.

Reform Suggestions:

- 1. Review process. Allow the states to negotiate (similar to a 106 review) with a project owner before submission to NPS. The goal of the negotiation would be to consider prudent and feasible alternatives and/or to satisfactorily mitigate any adverse effects of the project. If the state signs a MOU with the owner that addresses mitigation of adverse effects then NPS should review the tax act project in accordance with the mitigation measures offered by the owner but still allowing the use of the 20% tax credit.
- 2. <u>Appeal process</u>. Allow the states an official role in the appeal process that allows incorporation of unique and unusual factors that affect the project.

Issue III: Applying the Standards (The Philosophy of Rehabilitation)

Several of the questionnaire responses dealt with application of the Standards. They include:

- Eliminate any mandatory use of the restoration standard for a rehabilitation project.
- NPS concerns on a project appear to relate to application of a personal design philosophy.
- NPS requires restoration of damaged plaster areas.
- NPS rejection of rooftop and other density/zoning related additions.

Background:

The Secretary of the Interior's Standards for Preservation Projects and specifically the Standards for Rehabilitation have been the most unifying force in historic preservation since the criteria of eligibility for inclusion on the National Register of Historic Places. The Standards are specific but flexible and have been incorporated into state register programs and local preservation ordinances across the United States. Derived from international standards under specific application to resources in the United States development of the Rehabilitation Standards was a major prerequisite for the tax act program.

Nearly all construction projects involving historic buildings utilize more than one "treatment". For example projects promoting the adaptive use of a building are clearly "rehabilitations", but structural "stabilization", door "preservation", window "restoration" and porch "reconstruction" may all occur within an overall "rehabilitation" project.

It is also important to remember that the Rehabilitation Standards must be applied to an eligible or listed building. Any "new work" or replacement of missing features (even so called "restoration" work) on an existing eligible building does nothing to increase or improve its eligibility. It may do wonders aesthetically. It may do wonders economically. It may help promote the building and be more pleasing to the eye, but replacement of a missing element or other rehabilitation work does not enhance the property's basic eligibility.

The preservation of the character defining elements that make the building eligible is the key and primary goal of any state and/or federal involvement in the project. The building must be listed or determined eligible before the rehabilitation project. The Rehabilitation Standards are directed toward this goal. Rehabilitation projects need to place a high priority on the preservation of the character defining elements and of "original fabric" that is essential for preserving these character-defining elements. Any divergence from this overriding principle under any treatment heading (be it stabilization, restoration, rehabilitation and/or reconstruction) is not in the best "long term" interest of the historic preservation movement. Insisting on the preservation of elements or fabrics that do not define the historic character and/or insisting on the restoration of missing elements may unnecessarily burden the overall economic feasibility of the project. After all, this is the "historic preservation" movement not the "aesthetic restoration" movement.

Because the Rehabilitation Standards have a degree of flexibility, any individual's interpretation of them should be based on the collective meaning of any single standard and an overall recognition of how the Standards are tied to eligibility. Flexibility also

comes into play in applying the Standards in light of changing environmental issues such as lead paint management, energy conservation and smart growth.

Current Situation:

Rehabilitation appears to be losing its economic edge over new construction.

Rehabilitation used to clearly have an economic advantage over demolition and new construction even without use of the tax credit. Today rehab projects are bigger, more expensive; sitting on expensive lots and often surrounded by increased density. The tax credits are now part of the basic economic equation required to make a project pencil out. No credit translates into no project and ends up leading to certain demolition or radical alteration.

Construction project costs continue to shift toward increased systems costs at the expense of spatial costs. Traditionally the base cost of systems were equal when applied to a new or an existing building but now the effort to retrofit expanded systems into existing buildings (including fire detection, security protection, computer networks, fire suppression, lighting, power outlets, HVAC and plumbing) has shifted the overall rehab budget toward these system upgrades and installation and away from original fabric materials conservation and stabilization; let alone the luxury of restoration. Without additional subsidy through increased tax credits or directs grants, rehabilitation projects will soon become marginal in favor of new construction where labor costs can be more closely controlled.

Reform Suggestions:

- 4. Compliance with the Standards. The review should focus on how well the project preserves and protects character-defining elements as agreed to in Part I of the application. Refers to the Part I "list" of things to keep, again I don't like this "shopping list" approach. Such things have led to unintended consequences in historic districts where developers can pick and choose, and the overall effect is to lose things that may not have seemed so bad in themselves, but diminishes the overall resource in practice. Although comments on the desirability to restore and/or even reconstruct deteriorated or missing elements can be suggested, no requirement to restore a feature of an otherwise eligible or listed property should be mandatory.
- 5. <u>Design Approach</u>. Because there is a plurality of approaches toward contemporary design, tax act review should remain focussed on maximizing the preservation of the character-defining elements and the spatial characteristics of the property. Obviously new work should not overwhelm and/or dominate the original overall architectural statement, but reviewers at both the state and NPS levels should not try to dictate any specific design approach to the project design team. NPS should assume the state has made a good faith effort to "improve" a marginal project and focus, in a pass/fail way, on basic compliance with the Standards. Professional suggestions to improve the quality of a project should definitely be offered if the design can still be modified, but any mandatory requirement to upgrade a marginal project that meets the Standards to one that better meets the Standards should be avoided. Preservation of the original fabric includes making sure that the new part in no way hurts the setting, scale, form, overall perception, etc. This may mean that a new radical design may not be appropriate, and reviewers should have the ability to say so. This might result in some rather shocking new construction next to historic structures, without the ability to address it better to the existing structure.

6.

7. <u>Increasing the Incentive</u>. There should be an effort to apply the investment tax credit toward the rehabilitation of as many listed or eligible properties as possible. The first and primary change would be to increase the credit back to 25%.

Appendix C: Comments from Kansas

Jim,

Other than just a few typos I noticed, and marked in red on the attached copy, I just have a comment on the suggestions for Part 1s. I like the idea of listing out the character defining features on the Part 1, if it could perhaps be part of an overall simplification of the Part 1 applications. I'm afraid that this will fall on SHPO reviewers to provide since most people have no idea what the character defining features of their building are.

I spend a lot of time redoing Part 1s (basically writing them for people) because they have no concept of what information needs to be included or how to organize it. Many times I do much of the organizing of their research and writing of the narratives because it's just easier and faster for me to do it rather than try to explain how to do it. I understand wanting to have sufficient information in the Part 1 to determine a building's eligibility, but a little more direction or simplified format would really be helpful. I continually have projects drop by the wayside because the owner doesn't have the time or experience to get the Part 1 done. They are ready to do the work and don't want to wait. It is sometimes hard to believe that people will actually go without the tax credits rather than do paperwork!

Thanks for this opportunity to comment. You've done a great job organizing all of this. Sincerely,

Katrina L. Klingaman
Tax Credit Program Coordinator
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Appendix D: Comments from Texas

Subject: Re: Fwd: Re: Tax Act Review task Force From: Linda Roark < linda.roark@thc.state.tx.us> To: Jim Garrison < jgarrison@pr.state.az.us>

CC: Stan Graves <stan.graves@thc.state.tx.us>, l.oaks@thc.state.tx.us

Date: 4/25/03 7:57 AM

I think generally the document is sound; I just have a few comments:

Issue II, Reform Suggestion 1:

The NPS has included the concept of mitigation in past projects, such as allowing reconstruction of missing features to make up for inappropriate demolition that occurred in a project (Rice Hotel). However, the NPS should not be bound by 106-type MOU agreements made between state offices and applicants; they would need to be a party to any such document. Additionally, the NPS allows for demolition of contributing buildings that are too deteriorated to rehabilitate, but is entirely correct in not allowing Historic Preservation Incentive tax credits on projects that demolish contributing buildings that can be rehabilitated.

Issue III, restoration of missing features:

In our experience the NPS has not required the restoration of missing features, with the exception of mitigation agreements in compensation for damaging work that was done. Their recent decision to require repair of damaged plaster walls, when the majority of the material is intact, is an effort to preserve a building's historic character and the existing historic material. This is an effort prevent further deterioration, rather than an effort to require restoration.

Issue II, Reform Suggestion 2:

Not all states are able or willing to provide careful project reviews, perhaps due to inadequate staffing, training or political issues. While it might be appealing to have the NPS to assume that states always make good faith efforts to improve marginal projects, there are some states that will send any project forward with a recommendation for approval. When this happens, it falls to the NPS to do the job that the state avoided and make recommendations for improvements in the project.

Linda Roark

Appendix E: Comments from South Carolina

Dan Elswick May 19, 2003

Issue I - Streamlining:

- 1. Training for owners, developers, architects, engineers and lending institutions is a commendable goal. As our state budget tightens, we can offer support for this type of activity, but we may not be able to provide funding.
- 2. Certification of reviewers is a goal that would seem reasonable on the surface, but is likely to be unworkable in practice. We appreciate the intent behind this suggestion, but do not agree that experience in the private sector

or attendance at conferences will ensure that a reviewer will understand how to apply the Standards. Further, we see no reason that NPS should limit their review to items noted by the State reviewer. There are many reasons (politics, oversight, etc.) that a State reviewer may choose to include or not include specific items of project work in the State comments. Finally, we do not agree that a clean State review should require an "automatic approval" by NPS.

- 3. The suggestion that the Part 1 review include a list of character defining elements would put an unrealistic burden on the Part 1 review process in our agency. We do not support this suggestion. While it might be of some benefit to have a list of character defining elements when doing the Part 2 review, we do not agree that the Part 2 review must be linked only to the "top ten" items.
- 4. Training for reviewers is a commendable goal.
- 5. In our experience the preliminary review system works well. We see no need to "formalize" any changes to the existing preliminary review system.
- 6. Investigating the electronic submissions of application forms is an interesting suggestion. This must include the investigation of the computer systems of all SHPOs as well, however. Since there are over 50 SHPOs, we question whether or not all of these computer systems will be compatible. The issue of having an original signature must also be addressed.

Issue II - Unique and Unusual Circumstances:

- 1. Changes to the review process to make it more like Section 106 reviews does not acknowledge the basic differences between the programs. Federal tax incentives are a benefit that the owner can ignore. Reviews under Section 106 are the responsibility of the federal agency to take into account the effect of their actions on significant historic properties. We do not support this suggestion for revisions to the review process.
- 2. We have stated in previous comments that the state offices already have an official role in the appeal process. If a state office chooses to appear at the appeal, then any opinion that the state office wishes to express will be considered in the appeal decision. We do not see any need for changes to the existing appeal process.

Issue III – Applying the Standards:

- 1. We concur that the project review should reflect how well the project meets the Standards. At the heart of that concept is the understanding that the existing conditions set the baseline for the project review. We have never experienced a Part 2 being denied by NPS because the owner did not reconstruct a missing historic feature. Work on deteriorated historic features must meet Standard 6. Within Standard 6 is guidance for repair where possible or replacement in-kind where repair is not possible.
- 2. Meeting the Standards using a pass/fail approach. We do not support this suggestion. The suggestion mentions that "NPS should assume that the state has made a good faith effort to 'improve' a marginal project and focus, in a pass/fail way, on basic compliance with the Standards." We do not believe that the NPS reviewers should be bound to assume anything about the

- state's review. We appreciate the ability of NPS to approve projects with conditions rather than denying them outright. If NPS believes that a project needs a condition that we did not recommend at the state level, then we would prefer a conditional approval rather than a denial.
- 3. The suggestion to pursue increasing the incentive from 20% to 25% is not a wise move at this time. With state and federal budgets being cut and with Congress considering the elimination of the 10% credit, we believe that lobbying efforts must first be directed toward maintaining the programs currently in place.

General Comments

We believe that the existing review system is a sound approach for this federal incentive. While we do not always agree with every NPS decision and while we have a sense that some owners may choose to ignore this incentive, we do not believe that the existing review system needs significant changes.

In any reform of an existing system, we believe that it is important to look at the system from the larger perspective. In this larger perspective, the state agency acts to **facilitate** the review process. The National Park Service **approves** work that is eligible for the federal tax incentive for rehabilitation, as the federal review agency. In our opinion, it is unreasonable for a state agency to request **review authority** of a federal program.

We see our role as the liaison between the owner and NPS. In that role, we offer the owner our best advice on what we believe meets the Standards for Rehabilitation and what NPS will approve or will not approve. Within that role, we appreciate the professionalism exhibited by our NPS reviewer and the support that NPS provides to this program.

National Housing & Rehabilitation Association



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HISTORIC PRESERVATION DEVELOPMENT COUNCIL Working Group on Secretary's Standards for Historic Rehabilitation

Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Credit Program

December 29, 2003

Over the past year, the Historic Preservation Development Council, a joint effort of the National Housing & Rehabilitation Association and the National Trust for Historic Preservation, convened a Working Group on the Secretary's Standards for Historic Rehabilitation. The Working Group met in Washington, DC on several occasions, and by conference calls in between, to analyze the use and interpretation of the Standards and discuss ways in which the administration of the tax credit program might be enhanced. The goal of the group was to identify areas that deter greater utilization of the historic rehabilitation tax credit program for generating economic development activity and make recommendations for eliminating such deterrents.

The meetings were hosted by Peter Bell, executive director of the Historic Preservation Development Council and the National Housing & Rehabilitation Association, and participated in my a diverse cross section of historic rehabilitation professionals including architects, developers, building contractors, attorneys, preservation consultants, accountants, state historic preservation officials, and public policy experts. Representatives from the National Park Service participated in the discussion at a couple of the meetings.

Participants in the work group included: Hal Fairbanks, Historic Restoration, Inc; Kitty Higgins, Laura Skaggs, John Leith-Tetreault, and Tom Mayes, National Trust for Historic Preservation; Robert Kuehn, Keen Development Corporation; William MacRostie and John Tess, Heritage Consulting Group LLC; Christy McAvoy, Historic Resources Group; Richard Nettler, Robins Kaplan Miller & Ciresi LLP; Nancy Schamu, National Council of State Historic Preservation Officers; Rhonda Sincavage, Preservation Action; and Emily Wadhams, Vermont State Historic Preservation Office; Darryl Hicks and Glenn Petherick, HPDC/NH&RA.

During the meetings, the Working Group reached consensus on a number of recommendations for improving the federal historic rehabilitation tax credit program by making it more sensitive to the realities of the real estate development process. The following pages summarize the recommendations agreed upon by the Working Group members.

Reaffirm That the Historic Tax Credit Is Primarily a Rehabilitation Program

Issue Statement: A key concern of the Working Group is that the National Park Service (NPS) has shifted and tightened its interpretation of the Secretary of the Interior's Standards for Rehabilitation. Instead of viewing the historic credit as a "rehabilitation" tool that developers can use to breathe new life into old, often neglected commercial buildings, NPS staff has often taken a more conservative stance that strongly emphasizes the need for architecturally authentic "restoration" of properties. Reviewers are sometimes unrealistic in their requirements, prompting some developers to abandon their efforts to utilize the historic tax credit or not even pursue it in the first place.

As a result, projects miss the opportunity to use this important incentive that has been set in place to encourage thoughtful rehabilitation and creative adaptive re-use.

Proposed Recommendation: First, the Working Group recommends that the Interior Department revise the preamble to the regulations implementing the Secretary's Standards to emphasize that the historic credit program should primarily be concerned with fostering "rehabilitation," rather than "restoration."

Second, the Working Group recommends that the National Park Service reaffirm in its training and educational materials that the primary purpose of the historic tax credit is to foster rehabilitation of historic buildings, under a process that embodies flexibility, as opposed to being a restoration program. We suggest that NPS convene a review group, comprised of both NPS and non-NPS participants, to review all internal and public interpretation materials (including information assembled for SHPOs) with an eye to the issue of bias favoring restoration over rehabilitation.

Formal Adoption of Standards That Are Being Applied by NPS

Issue Statement: Since they were first adopted in 1978, the Secretary of the Interior's Standards for Rehabilitation have undergone slight revisions in 1979, 1983, 1992, and 1995.

However, the National Park Service acknowledged in the Working Group's first meeting in January 2003, that the version of the Standards applied today (from 1995) were never formally adopted through regulation. The 1992 version remains the latest version introduced for public comment and published as a Final Rule.

Recommendation: The Working Group recommends that the National Park Service publish a Final Rule adopting the appropriate version of the Standards. Right now the version that is actually used by the NPS as a benchmark for review is different from the version that has been formally promulgated under the federal rulemaking process.

State Certification Process

Issue Statement: The two-step review process for historic tax credit projects — an initial review at the state level followed by final review by the National Park Service — has some inherent

problems. The duplicative process takes time, the redundancy can frustrate and confuse participants, and the process does not serve historic tax credit applicants well.

The process is often one of negotiation. State reviewers may hesitate to approve an application if there are areas they believe meet the Secretary's Standards, but which may be questioned by the NPS. A State Historic Preservation Office (SHPO) risks losing credibility if it worked hard to persuade an applicant to make certain refinements, which are then disallowed by NPS.

A state reviewer is more familiar than NPS with the projects reviewed and with state and local conditions that may impact them. Moreover, state reviewers are often likely – but NPS reviewers, unlikely – to physically visit the buildings. The state reviewer is well positioned to work in partnership with an applicant to identify workable solutions to problem areas. This productive partnership can be undermined by a second layer of review.

Furthermore, the dual review process can create tension between the state and NPS that doesn't necessarily translate into better projects. States can find themselves getting into a "good cop/bad cop" scenario, which isn't good for the credibility of the program. It has been remarked that NPS has a tendency to take applications that are already "approvable" under the Secretary's standards and try to make these projects "better" by attempting to impose additional or more stringent requirements.

Finally, developers are less likely to utilize the historic tax credit if they believe the design review process is too lengthy, expensive, and unpredictable.

Recommendation: First, the Working Group proposes that the National Park Service differentiate the level of review required for small and large projects, measured by historic credit amount and, perhaps, historical significance of the property. The Working Group recommends that the Park Service establish a Demonstration Program that allows any State Historic Preservation Office electing to participate to complete and certify, for small projects only, all Part 1, Part 2, and Part 3 applications for conformance with the Secretary of the Interior's Standards for Rehabilitation. This review would be limited to projects generating no more than \$500,000 in historic tax credits (which translates into an estimated total development cost of \$2.5 million or less). States that choose to participate in the Demonstration Program would have to apply to the National Park Service and demonstrate their capacity for carrying out their responsibilities under the Demonstration Program.

In states that are accepted by NPS for participation in the Demonstration Program and are accepted by NPS for doing so, approvals made by the state shall be binding upon the NPS.

The regular two-tier review process – by both the state and NPS – would continued to apply to small projects in states that don't participate in the demonstration, to all large projects (above \$500,000 in credits), or to any projects, large or small, where the historical significance of the property warrants it. Furthermore, if because of unique circumstances, an applicant on a small project wishes to utilize the full two-tier review (SHPO and NPS) that option would continue to be available.

In any case where a project is denied certification by either a state participating in the Demonstration Program or by the National Park Service, the normal appeals process would be available to the project's sponsor.

Second, review of existing conditions should be delegated to the SHPOs. Under the current system, examination of existing conditions is performed via photographs submitted to the National Park Service. In many circumstances, it is difficult to surmise conditions entirely from photographs and it makes more sense to have someone actually look at the building conditions to be able to "see, feel and touch" actual existing conditions. An example might be a structure such as a mill building that has far too many windows to photograph each individually. By visiting the site, a reviewer can look at the overall condition of the windows and materials firsthand, determine whether hazardous materials exist and determine whether reconstruction of existing windows is feasible or if replacement is warranted.

State Historic Preservation Offices should have the authority to charge fees to cover any costs incurred in providing review of existing conditions or carrying out their responsibilities under the Demonstration Program.

Third, the Working Group recommends that the National Park Service establish a standardized early design review procedure under which a developer could elect to request a meeting with the SHPO and NPS to discuss specific issues pertaining to a proposed rehabilitation project. The cost of this consultation would be borne by the developer through some type of fee system designed to make the process self-supporting. Currently, a State Historic Preservation Officer can request, on behalf of the developer, an informal early review (commonly referred to by Park Service staff as a "Blue Plate Special") that entails a meeting of the developer, SHPO, and NPS. However, it is not necessarily common knowledge that such an opportunity exists and the number of issues that might be addressed via the "Blue Plate Special" consultation is generally limited.

The Working Group recommends that the opportunity for this kind of face-to-face meeting be institutionalized and available as a standard option to all historic tax credit applicants.

Publication of Appeal Decisions

Issue Statement: If the National Park Service denies a Part 3 application, a developer has the option to appeal the decision to the Chief Appeals Officer. Roughly a third of original denials are upheld upon appeal. Two-thirds are overturned outright, or overturned with certain design changes imposed upon the developer. Currently, there is no easy way to obtain or view these appeals decisions, even though they may provide valuable guidance to developers, architects, design review staff at NPS, SHPOs and others.

Recommendation: First, the Working Group recommends that the decisions of the Chief Appeals Officer should be published for public consumption. Two principal reasons for this are:

• To provide the public with guidance on the application of the Secretary of the Interior's Standards, with the recognition that each project has its own unique facts; and,

• To give increased guidance to NPS and SHPO design review staff. In this manner, during their review of a project, such staff could research prior appeals decisions that address similar design features, to see how particular issues might have been handled in previous circumstances.

Second, the Working Group recommends that the National Park Service be required to hear appeals of Denials of Preliminary Certification for buildings not yet listed on the National Register. At present, there is no process for appealing a Denial of Preliminary Certification for the rehabilitation of a building that is not yet a certified historic structure. In some states, the certification process for listing a historic structure on the National Register of Historic Places is not completed until after the Certification of Rehabilitation (Part 2) is obtained. In such a case, a developer can be put in a Catch-22 situation if he/she cannot obtain either certification.

Third, the Chief Appeals Officer is an employee of the National Park Service. When an appeal is under review, the Chief Appeals Officer has no choice but to consult with his or her NPS colleagues, the design reviewer(s), who denied the Part 3 application. The Working Group believes that this situation can create an unfair bias against the developer and project, and recommends that an Independent Advisory Board be formed to hear appeals. This board should be comprised of individuals representing NPS, SHPOs, the development community, and other independent professionals not connected with the project.

Training With Development Professionals

Issue Statement: Currently, there is a perceived lack of sensitivity by National Park Service reviewers regarding development and economic challenges commonly faced by developers when applying the Secretary's Standards to a project. Conversely, NPS and SHPOs sometimes find developers unwilling to consider feasible alternatives that may better preserve historic features.

Recommendation: The Working Group recommends providing increased opportunities for cross training of review staff, including among the SHPOs, between SHPO and NPS staff, and with development professionals. One particularly good forum is the annual training conference that the National Park Service holds for state reviewers. Participation can be broadened to include a larger cross-section of historic rehabilitation professionals.

Other recommendations include:

- Increased interaction between the National Council of State Historic Preservation
 Officers (NCSHPO) and the development community. Developers could sponsor tours of
 historic credit projects they developed when NCSHPO meets in their area. Developers
 also could be invited to attend/speak during certain sessions at NCSHPO-sponsored
 conferences, which could involve educational exercises and formal networking
 opportunities.
- Continue to increase NPS and SHPO presence, including speaking engagements, at industry conferences hosted by the Historic Preservation Development Council, National Trust for Historic Preservation and other organizations.

Re-enact appeals cases at HPDC or NCSHPO conferences, and have the review staff play
the developer and the developer play the reviewer, so that each side can gain a better
understanding of the issues facing the other.

Flexibility in Interpreting Secretary's Standards Based on Building Significance

Issue Statement

Interpretation of the Secretary of the Interior's Standards tends to be uniformly strict and does not reflect differing levels of significance for each property. Marginally significant buildings are reviewed with the same interpretative approach as much more distinctive properties. In addition, it was the broad consensus of the Working Group that the National Park Service's interpretation of the Standards has become increasingly more conservative over the years, prompting frequent complaints even among experienced preservation consultants and sensitive developers.

Much of the change in the manner of interpretation has occurred informally through the administration of the design review process. However, the Working Group noted that in some instances changes have come about through changes in documents governing the program, including making the Secretary's Standards more restrictive. For example, the 1983 version of the Standards allowed more flexibility than the current version. Standard #3, 1983 version, stated, for example: "The distinguishing original qualities and character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided whenever possible." Later versions have toughened this Standard and made replacement materials much more problematic.

Technological advances now permit the creation and use of replicas of original building features and components. In some cases, replacement with new materials that replicate historic fabric might be a more feasible approach. Rather than insisting upon the retention of original, but substandard materials and features, a broader set of issues should be considered. The "end use" of the property, building and energy code requirements, the existence of hazardous materials such as lead paint or sash with asbestos in the glazing compound, and other similarly pertinent factors, should be taken into consideration in determining where replacement materials would be acceptable.

The recommendation that follows is consistent with the Working Group's view that the federal historic tax credit program should be a tool for revitalization and adaptive reuse of buildings, not simply as a vehicle for architectural restoration.

Recommendation

The Secretary of the Interior's Standards were deliberately written to allow broad interpretation. Broad guidelines should permit a reviewer to accept more than one design solution for the treatment of character defining elements of a historic property. The NPS should therefore adopt, in writing, as a matter of review policy, a graduated application scale for the Secretary's Standards.

Under this proposed system, buildings that are National Historic Landmarks would be subject to the most conservative application of the broad Standards. Individually-listed National Register buildings would receive a somewhat less strict interpretation of the Standards. Contributing buildings in historic districts would be allowed the most latitude.

Reviewers should be encouraged to think about a range of acceptable treatments for various character defining features. Based on the three levels of National Register status outlined above, reviewers would allow the use of a broader range of acceptable options as building significance decreases.

Under this new review process, for most individually listed, as well as contributing buildings, exterior treatments would receive the most attention in the review process. Interior treatments would be approached with greater flexibility than is currently the case, except where the interior is the primary character-defining feature. The most flexibility would be allowed where historical, rather than architectural, significance is the basis for National Register listing. In general, interior spaces seen by the public (such as lobbies) would continue to be protected in the review process.

We also suggest that the National Park Service amend the Part 1 application to add a section prioritizing the most common character-defining (i.e. significant historical) features of a historic structure, so that a developer knows up-front what needs to be preserved. It would be useful if, at the outset, all parties agree on the "character-defining features" of a building and prioritize them.

An appendix to this document includes some examples of areas in which greater flexibility in design review would foster broader utilization of the historic rehabilitation tax credit program.

Communications Issues

Members of the Working Group expressed the feeling that, under current procedures, communications often take a circuitous route in reaching the project development team. Information is passed along from National Park Service to state historic preservation office staff to the developer. Efforts should be made to streamline this process with all communications from NPS forwarded to the SHPO and the project team simultaneously.

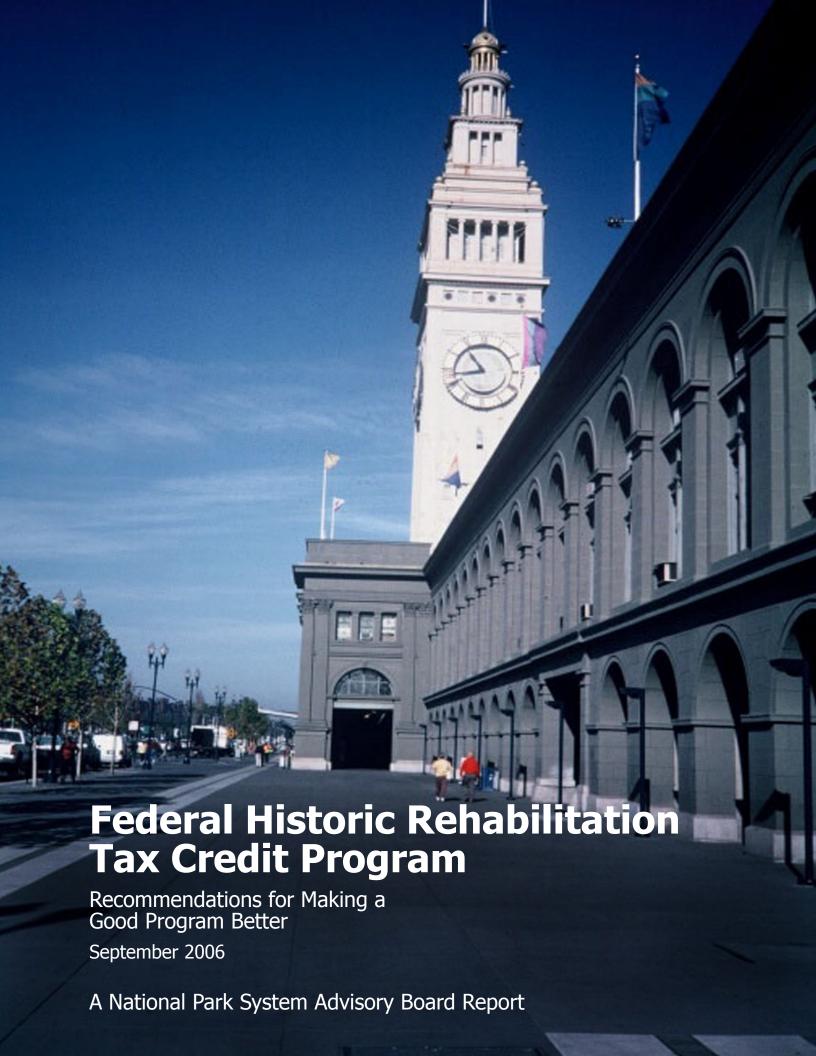
Additionally, contemporary technology that is commonly accepted in the normal course of commerce should be acceptable to NPS. Specifically, digital photos and electronic correspondence should be permissible. NPS has explicitly discouraged the use of digital photos. It would make more sense to issue a standard, specifying acceptable quality for digital photos. Similarly, electronic media should be acceptable for submitting plans and correspondence rather than requiring the submission of hard copies.

Finally, there is concern about a tendency on the part of some NPS personnel to provide what is essentially tax advice, information that should be more rightfully provided by the IRS or a qualified tax professional. NPS responses on historic rehabilitation matters should be restricted to issues concerning design review, National Register listings and other topics within the jurisdiction of the Department of Interior. Tax matters should be left to IRS or other qualified tax professionals.

Appendix I

Listed below are <u>illustrative</u> examples of areas where developers might be given greater latitude, depending on the level of significance of the property under review. It is recommended that a task force that includes National Park Service representatives, SHPOs, architects, developers and contractors be convened to develop a new approach to the use of the Secretary's Standards.

- Allow for the creation of new floor plans—particularly on upper floors—including removal of most demising walls outside of significant corridor areas.
- Where upper floor corridors are not significant, allow for their removal.
- Provide more flexibility in meeting fire, lead paint, accessibility, building and housing code requirements. An example would include replacement of interior doors and transom windows to meet fire codes—especially in residential and hotel rehabilitations.
- On stairway retention, focus review on ornamented, centrally-located, highly visible stairs. Allow flexibility for compliance with secondary egress requirements under the fire code.
- Allow for more filling of existing light courts, particularly purely functional, utilitarian light courts.
- Allow for creation of new light courts in large floor-plate buildings without regard to whether the new court is covered or uncovered.
- Allow for more flexible adaptive reuse of large-volume spaces such as gymnasiums, church sanctuaries and meeting rooms into office, residential or retail space.
- Allow for exposed mechanical systems where no architectural significance is present.
- Allow for replacement of plaster with drywall where insulation, or new electrical or plumbing is required.
- Allow replacement of windows, with a "design-sensitive" replacement product where maintenance, energy efficiency or operability by seniors and the handicapped are an issue.
- Allow for the addition of appropriate new windows openings and sashes on non-primary facades to provide light for office and residential uses.
- Allow more flexibility on rooftop additions and placement of rooftop utilities on buildings of lesser architectural significance.
- In general, return to the 1983 language regarding retention of original materials. Allow for replacement solutions when functionality, cost feasibility, energy efficiency or local codes make repair a less desirable option.



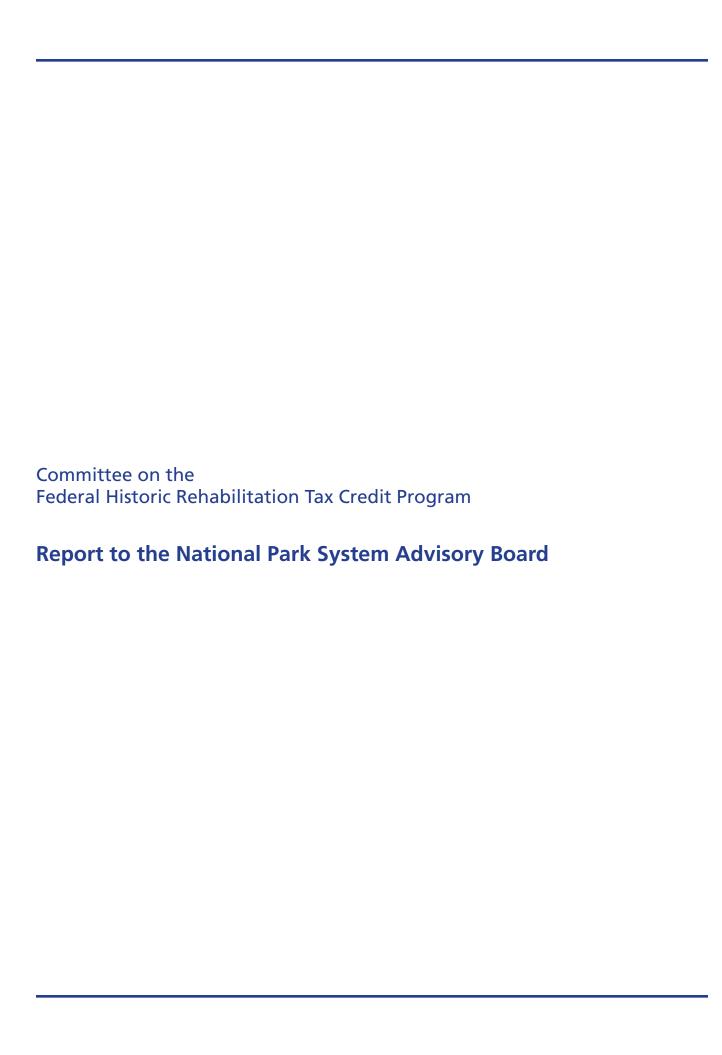




The following report of the National Park System Advisory Board Committee on the Federal Historic Rehabilitation Tax Credit Program was adopted unanimously by the Board on September 15, 2006.

MEMBERS PARTICIPATING
Douglas P. Wheeler, Chairman
John Francis
Jerry N. Hruby
Jay Parmer
Larry Rivers
William Walters
George Willeford III
LaJuana Wilcher

MEMBERS ABSENT
William Baker
Marie Greene
Michael Kammen
Daniel Ritchie (in attendance; not present during deliberation/vote)



Committee Members

Chairman

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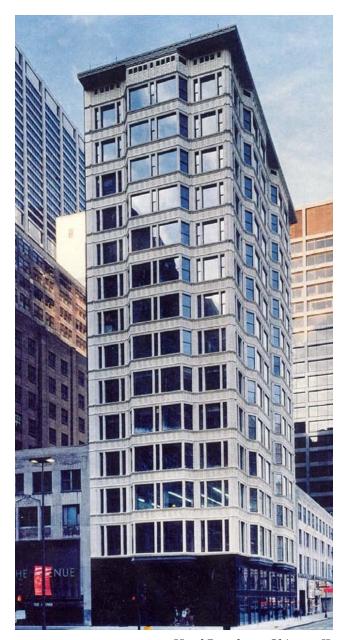
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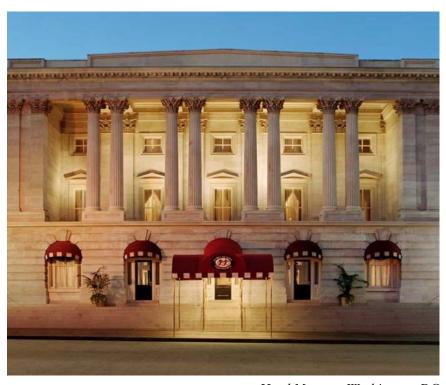
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Hotel Monaco, Washington, DC

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Preface

The first Federal tax incentives for the rehabilitation of historic buildings were created by the Tax Reform Act of 1976 to encourage the preservation of historic buildings by promoting private investment in historic buildings. The law, and subsequent modifications, makes Federal tax incentives available to "certified rehabilitations," which are defined as "any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary [of the Treasury] as being consistent with the historic character of such property or the district in which such property is located." The definition of a "certified rehabilitation" in the law requires the Secretary of the Interior to certify that rehabilitations undertaken for the tax incentives are consistent with the historic character of the property and that only rehabilitations that are consistent with a property's historic character qualify for the tax incentives. The Secretary of the Interior delegated this responsibility of certifying rehabilitations that are "consistent" with a property's historic character to the National Park Service, which has managed the Federal Historic Rehabilitation Tax Credit Program since it was created. The Federal Historic Rehabilitation Tax Credit Program is administered by the National

Park Service (NPS) and the Internal Revenue Service (IRS) in partnership with the State Historic Preservation Officers (SHPOs).

Two recent reports prepared by participants in this program called on the NPS to consider possible improvements in the program. Tax Act Review Reform Policy Paper (June 2003), issued by the National Conference of State Historic Preservation Officers (NCSHPO), recommended "reforms to the Tax Act Review process conducted between the individual states and the National Park Service (NPS) in order to improve the review process, to clarify the roles in the review

process, to streamline reviews and to apply the Standards in a consistent and direct manner." Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Credit Program, issued December 29, 2003, by the Historic Preservation Development Council (HPDC), contained recommendations "for improving the federal historic rehabilitation tax credit program by making it more sensitive to the realities of the real estate development process."

The National Park Service responded to these two reports in August 2004 with a report entitled Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program. In this report the NPS agreed to carry out a number of tasks aimed at improving the project review process and enhancing training for project sponsors and reviewers. For an examination of policy-level issues, the NPS also agreed to "establish a committee of the National Park System Advisory Board to be made up of appointees broadly representative of all those who have a professional interest in what the Secretary's Rehabilitation Standards say and how they are interpreted." With its 30th anniversary approaching, the Director suggested that now



Palace of Florence, Tampa, FL

would be an appropriate time to reexamine the program, which has been successful since its inception, to ensure that it is utilized to the fullest extent and that it is still providing the best possible service to the public.

The Director asked the Committee to study the following questions: (1) "Are the requirements of the Federal Historic Rehabilitation Tax Credit Program clear to program users? Do program users have realistic expectations when they undertake projects? If the process is not clear, how can it be made clearer?" and (2) "How can the interpretation of the Secretary of the Interior's Standards for Rehabilitation be made

more user-friendly so that program users and the preservation community can better understand them?"

Committee members participated in a preliminary conference call on August 9, 2005. The Committee met twice, in Washington, DC, October 18-19, 2005, and in San Francisco, CA, December 7-8, 2005, to hear presentations from State Historic Preservation Officers (SHPOs), the Internal Revenue Service, developers and preservation professionals, and then to develop its recommendations.



Berkeley Mill Housing, Cumberland, RI

Summary of Findings and Recommendations

The Committee finds that the Federal Historic Rehabilitation Tax Credit Program has been very successful in leveraging private investment in historic buildings, preserving historic resources, stimulating economic growth, creating housing and revitalizing communities. The changes proposed by the Committee will provide greater ease and clarity for applicants to meet the program's requirements as well as help expand the benefits of historic preservation and economic development. In accordance with the two questions posed by the Director, the Committee's findings and recommendations for improving the program are organized into two categories: Application of the Secretary of the Interior's Standards for Rehabilitation and Improving the Process.

Application of the Standards

- 1. The Committee recognizes the inherent tension in carrying out a program that seeks to accommodate more than one public policy goal. The Committee also recognizes the inherent tension in seeking to balance the goals of historic preservation with the ever-increasing market pressures for more intense use of land and buildings. The Committee finds that the Secretary of the Interior's Standards for Rehabilitation remain appropriate for addressing this inherent tension, and therefore recommends that there be no change to them.
- 2. The Committee finds that the Federal Historic Rehabilitation Tax Credit Program's application of the Standards is already marked by considerable flexibility to address this inherent tension. Nevertheless, the Committee finds that in some cases reconciling interpretation of the Standards with other public policy goals, such

as smart growth, energy efficiency, and affordable housing, can be problematic. The Committee finds further that in some cases reconciling interpretation of the Standards with market pressures inherent in large and complex projects or in projects where a building's historic function, design or condition makes adaptive use especially difficult can be problematic.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reexamine and revise as appropriate its interpretation of the Standards in order to provide some greater measure of flexibility in addressing especially challenging projects. The NPS review should focus in particular on windows, interior treatments, new additions and related new construction, modern-day requirements, life safety requirements, energy efficiency improvements, green building features and use of new technologies and materials.

3. The Committee finds that in some cases the NPS interpretation of individual treatment issues such as window replacement, interior alterations, new



The Prizery/ R.J. Reynolds Tobacco Warehouse, South Boston, VA

construction, and new building technologies is unclear. There is also a lack of accessible guidance concerning the significant flexibility that already exists in the program to meet today's challenges. This lack of clarity has led to uncertainty and errors on the part of project designers.

The Committee recommends that the NPS, in consultation with its historic preservation partners, revise and expand its current guidance materials as appropriate, so that the NPS interpretation of the Standards is clearer to project designers, and so that the outcome of the NPS review is more predictable.





Legion Building, Spokane, WA

4. The Committee finds that there is a high level of consistency between the NPS and SHPOs in the interpretation and application of the Standards. However, in an approval process that requires review at two levels of government and that involves multiple and constantly changing individual project reviewers, examples of lack of clarity, inconsistency and professional disagreements are inevitable.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review and enhance its existing training sessions and materials and enhance and refine guidance in an effort to provide the highest possible level of clarity and consistency among all project reviewers in their application of the Standards.

The Committee further recommends that, during its review of particularly complex projects, the NPS ensure the fullest communication with state staffs, so as to foster consistency and to ensure that SHPOs have adequate opportunity to participate by phone or in person in the review process.

Improving the Application Process

5. The Committee finds that the "learning curve" for how to negotiate the application process successfully is steep. There is much for an applicant to know concerning both the requirements and the flexibility of the Standards, when to file an application, and even how to prepare the application form and supplementary materials.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review and enhance its guidance materials to make those materials and the application process, itself, more accessible and user-friendly to first-time users and small project owners. In particular, the Committee recommends that the NPS continue to emphasize the importance of early involvement of the NPS and the SHPO in project planning, and that the NPS promote more widely the use of "preliminary consultation" on complex and difficult projects.

6. The Committee finds that large and complex projects can involve problematic treatment issues, and that coming to a successful resolution of those issues very often benefits from a site visit involving SHPO or NPS staff. The Committee finds further that the current level of program funding allows for few visits to project sites. Finally, the Committee finds that large project sponsors would willingly pay increased fees in return for improved service from SHPOs and the NPS.

The Committee recommends that the NPS investigate how increasing and restructuring the fees charged to process Historic Preservation Certification Applications could facilitate and expedite review of project applications. The

Committee recommends that this investigation include mechanisms for sharing some portion of fee revenues with SHPOs.

7. The Committee finds that the current NPS policy for review of rehabilitation work within functionally-related, multiple-building complexes in single ownership inhibits use of the tax credit program for phased projects and for projects carried out by multiple long-term lessees on buildings within the complex. Current policy makes tax credits for such individual projects within the complex dependent for five years upon acceptability of any other rehabilitation work done elsewhere in the complex.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reevaluate and revise its current policy to lessen the dependence of projects within such a complex on each other for purposes of eligibility for the tax credits.

The Committee recommends that the actions identified in this report be addressed immediately in order that they may be implemented by December 2007.

* * * * * * * * * *

The Committee finds that the program will be improved by implementing the items previously identified in the NPS report *Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program:* The National Park Service Response to Recommendations for Improvement, August, 2004. The Committee recommends that the NPS complete implementation of these items as quickly as possible. Finally, the Committee finds that changes to the Tax Code, as currently proposed by the National Trust for Historic Preservation and others, would also serve to enhance the program and encourage more projects. The Committee acknowledges, however, that such changes are beyond its official purview.



Arabella Bus Barn New Orleans, LA



FINDINGS, RECOMMENDATIONS AND DISCUSSION



Aldridge Hotel, Shawnee, OK Lobby before and after rehabilitation

FINDINGS, RECOMMENDATIONS AND DISCUSSION

The Committee finds that the Federal Historic Rehabilitation Tax Credit Program has been very successful in leveraging private investment in historic buildings, preserving historic resources, stimulating economic growth, creating housing and revitalizing communities. Since the inception of the program in 1976 over \$36 billion in private investment in historic buildings has been generated, involving over 32,800 approved projects. In FY 2005 alone more than \$3.1 billion in private investment was leveraged in 1,101 approved projects. These projects included the creation of 4,863 low- and moderate-income housing units, with a total of 14,354 housing units created or rehabilitated overall. The economic benefits of these projects include creation of jobs, revitalization of older communities, and generation of new tax revenue for localities, state, and the federal government. The heritage benefits of these projects are the preservation and rehabilitation of historic buildings and neighborhoods that embody our nation's history and define the unique character of local places.

The changes proposed by the Committee will provide greater ease and clarity for applicants to meet the program's requirements and help expand the benefits of historic preservation and economic development. As the program has evolved, new historic rehabilitation issues have emerged, the scope of some projects has expanded, and rehabilitated historic buildings have become key parts of contemporary real estate development in many communities. These developments along with new directions in marketing rehabilitated properties were instrumental in the Director's decision to appoint this Committee to take a fresh look at and to reevaluate the policies of this 30-year-old program. In accordance with the questions posed by the Director, the Committee's findings and recommendations for improving the program are organized into two categories: Application of the Secretary of the Interior's Standards for Rehabilitation and Improving the Process.

Application of the Standards

1. The Committee recognizes the inherent tension in carrying out a program that seeks to balance the goals of historic preservation with the ever-increasing market pressures for more intense use of land and buildings. The Committee finds that the Secretary of the Interior's Standards for Rehabilitation

remain appropriate for addressing this inherent tension, and therefore recommends that there be no change to them.

The Secretary of the Interior's Standards for Rehabilitation are the criteria used by the National Park Service to certify rehabilitation projects for the Federal Historic Rehabilitation Tax Credit program. The Standards for



Sherman Perk, Milwaukee, WI



American Can Company, New Orleans, LA



Rehabilitation were first published in 1977 along with Guidelines for Rehabilitating Historic Buildings that were developed by the NPS to help program users interpret the Standards. The Standards were created as a distillation and codification of an already large body of knowledge concerning best practices in the treatment of historic buildings. In the years since then, the technical body of knowledge has continued to expand and inform practitioners, but the Standards have remained the appropriate expression of good preservation practice.

The Standards have gained acceptance throughout the preservation community and at all levels of government. They have been adopted by state and local preservation programs all across the country to guide their efforts.

There is also a consensus among current users of the Historic Rehabilitation Tax Credit Program that the Standards for Rehabilitation can accommodate virtually all project requirements, including coderequired issues. Consequently, there is no basis at this time for amending the Standards.

2. The Committee finds that the Federal Historic Rehabilitation Tax Credit Program's application of the *Standards* is marked by considerable flexibility. Nevertheless, the Committee finds that in some cases reconciling interpretation of the *Standards* with other public policy goals, such as smart growth, energy efficiency, and affordable housing, can be problematic. The Committee finds further that in some cases reconciling interpretation of the *Standards* with market pressures that are part of large and complex projects or in projects where a building's historic function or design makes adaptive use especially difficult can be problematic.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reexamine and revise as appropriate its interpretation of the *Standards* in order to provide some greater measure of flexibility in addressing especially challenging projects. The NPS review should focus in particular on windows, interior treatments, new additions and related new construction, modern-day requirements, and use of modern technologies and materials.

Windows. One of the most common and frequently encountered rehabilitation challenges involves windows, because windows are almost always important character-defining features

of historic buildings. The recommended rehabilitation treatment for any character-defining feature of a historic building, according to the *Standards*, is always to retain and repair



Tide Point, Baltimore, MD

the feature. If the feature is too deteriorated to repair, it may be replaced in kind to match the historic feature or, in some instances, it may be replaced with a compatible substitute material. The Committee recognizes that certain types of windows should be preserved if possible, and replacements if necessary should match historic materials and design. Examples include windows that are highly decorative or that have a unique or distinctive design or material; early-period windows in which the craft details of wood sash are important in defining the building's historic character; and many small-scale buildings where sash may be viewed close at hand and non-historic details would be readily apparent.

However, the windows in many historic buildings are not notably distinctive or unique and, for this

reason, in specific circumstances, the Committee believes replacement should be allowed, even if the windows are repairable. Examples include larger scale buildings that contain hundreds or even thousands of windows and tall buildings where most windows are viewed at a distance and details are not easily perceived.

Even when property owners and developers would like to retain and repair existing windows, there may be factors that require that the windows must be replaced. For instance, in hurricane-prone areas, building codes mandate that if existing windows cannot meet certain requirements they must be

replaced with new hurricane-resistant windows in rehabilitation projects. Other factors that may determine the feasibility of retaining historic

windows include: the cost to properly repair historic windows and future maintenance costs on large-scale buildings; and the need for window operability, energy efficiency and noise control in former industrial and commercial buildings that are converted to residential use.

The NPS should review and revise, in consultation with its historic preservation partners, its existing policy to ensure that it is sufficiently flexible concerning replacement windows when windows are missing, too deteriorated to repair or, when, for other compelling reasons, it is not feasible to retain the existing windows. As a result of its review, the NPS should develop written and webbased policy guidance, as needed, that offers more options for window replacement and when, under specific circumstances, existing windows may be replaced, and what kind of replacement windows will meet the Standards. This expanded policy should address the various factors involved in window performance, including cost, functionality for building occupants, energy and sustainability and evaluation of new window technology.

Interior Treatments. Interiors are important in defining the character of historic buildings. Interior treatments of historic buildings are problematic in some rehabilitation projects. While there is general agreement on the need to repair and retain character-defining materials and spatial arrangements in the principal interior spaces



West Baden Springs Resort, West Baden Springs, IN

of a building, an expanded policy on treatment of secondary spaces that would permit more change to less significant secondary spaces would make the program more useable for a larger constituency of property owners and developers. The NPS should, in consultation with its historic preservation partners, expand its policy to allow more change to less significant, secondary interior spaces, and develop written and web-based quidance on this issue.

New Additions and Related New

Construction. New additions and rooftop additions to historic buildings and related new construction in a rehabilitation project are problematic issues. The Committee acknowledges that real estate land values often mean that new additions and new construction are necessary to ensure the economic success of a rehabilitation project. The NPS should, in consultation with its historic preservation partners, examine its existing guidance regarding new additions and related new construction to provide maximum flexibility that is consistent with the Standards to meet market pressures. As part of this effort, the NPS should provide more guidance on compatible new construction on the site of or adjacent to a historic building.

Modern-day Requirements and New Technology. The *Standards* are flexible with regard to meeting certain code-mandated alterations. Most modern-day requirements for rehabilitation projects can be accommodated within the *Guidelines*. However, NPS policy guidance does not sufficiently address how rehabilitation projects could accommodate more environmentally sensitive treatments and make

use of more new building products and materials

while meeting the Standards.

To better accommodate modern-day requirements, the NPS should revise its policy guidance to include more environmentally sensitive treatments, as well as new building products and materials, in rehabilitation projects. The expanded guidance should address the following: new substitute materials; hazardous materials abatement; ADA (Americans with Disabilities Act) and life-safety requirements; upgrading historic properties to meet seismic standards; improving energy efficiency; rehabilitating historic properties as "green" buildings; and achieving LEED (Leadership in Energy and Environmental Design) certification.





W.P. Fuller Paint Company Office & Warehouse, Salt Lake City, UT

3. The Committee finds that in some cases the NPS interpretation of individual treatment issues such as window replacement, interior alterations, new construction, and new building technologies is unclear. There is also a lack of accessible guidance concerning the significant flexibility that already exists in the program to meet today's challenges. This lack of clarity has led to uncertainty and errors on the part of project designers.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review, revise and enhance its guidance materials as appropriate, so that the NPS interpretation of the Standards is clearer to project designers, and so that the outcome of the NPS review is more predictable.

The goal of the program is generally summarized in the definition of "rehabilitation" as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values." The fact that rehabilitation, as a treatment, allows some changes to be made to a historic building that are necessary to accommodate the new use may not be understood by everyone, including project reviewers.

To clarify the inherent flexibility in the program, the NPS, in consultation with its historic preservation partners, should develop and publish more printed and web-based guidance that explains the broad scope of rehabilitation treatments that the program allows, including technical guidance regarding conservation treatments for historic buildings, and guidance

on interpretation of the Standards. The NPS should establish written policy guidance to enable SHPOs and program users to understand how the NPS evaluates the "cumulative effect" of a rehabilitation project that overall conforms to the Standards, but that cannot fully implement some of the "recommended treatments" described in the Guidelines for Rehabilitating Historic Buildings. Guidance should focus on and explain the thought process in project review that allows a finding that the project as a whole meets the Standards and that the program provides an incentive to "rehabilitate" and not to "restore" historic properties.

Specific Treatment Issues

To clarify its policy on windows, the NPS should develop written guidance, with illustrated examples, that explains the inherent flexibility in the program regarding historic windows in

rehabilitation projects, including when replacement is acceptable and what visual qualities replacement windows must convey in order to meet the *Standards*.

The NPS should define and clarify what constitutes a secondary space in a historic building. NPS guidance should focus on the public purpose of the program in its discussion of primary and secondary spaces, giving most attention to those features that preserve the public experience and memory of the building.





Necco Factory, Cambridge, MA

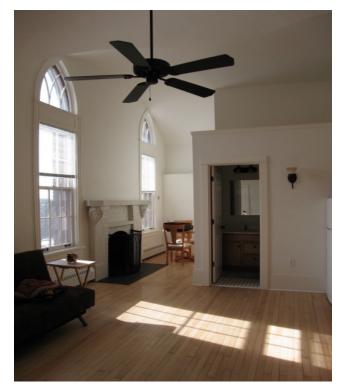
The NPS revised guidance should avoid definitive statements about how much change can be allowed in corridors, repetitive floor plans in highrise buildings, and whether the floor plan/corridor configuration always has to be retained on all the upper floors in multi-story buildings. NPS guidance and training efforts should help program users to identify inherently beautiful, valuable or unique architectural features in non-public spaces, including structural and mechanical elements, that are important to retain.

Because the NPS may not recommend or prescribe the design for new additions and new construction, the guidance provided in the *Standards* and *Guidelines* is general. The *Standards* and *Guidelines* provide basic guidance regarding such factors as size and scale for "compatible" new additions to historic buildings and related new construction. The concept of compatibility is not always clear to program users, nor is it clear how large a new or rooftop addition may be or how much new construction may be added to a site without compromising the building's historic character.

To achieve greater consistency in the review of new construction, the NPS should examine how it reviews proposed new and rooftop additions and related new construction, and their impact on the historic building to ensure that the Standards are applied consistently. The NPS should establish written policy that clarifies and explains the flexibility in its existing program guidance regarding "compatible" new additions to historic buildings and related new construction. The NPS should develop and provide more written and web-based guidance, with examples, to illustrate "compatible" new additions and "compatible" new construction. Examples should be chosen to ensure that a wide range of design options is presented.



Alicia's Place, Duluth, MN



4. The Committee finds that there is a high level of consistency between the NPS and SHPOs in the interpretation and application of the *Standards* and *Guidelines*. However, in an approval process that requires review at two levels of government and that involves multiple and constantly changing individual reviewers, examples of inconsistency and professional disagreements are inevitable.

The Committee recommends that the NPS enhance and augment its existing training sessions and materials, in an effort to provide the highest possible level of consistency among all project reviewers in their application of the *Standards* and *Guidelines*. The Committee further recommends that, during its review of particularly complex or sensitive projects, the NPS ensure the fullest communication with state staffs, so as to foster consistency and to ensure that SHPOs have adequate opportunity to be included in the review process.

Final NPS decisions are in accordance with SHPO recommendations over 80 percent of the time. While this level of agreement is commendable, there remain nearly 20 percent of projects in which the applicant receives a final answer from the NPS that is to some degree different from what the SHPO recommended. In most cases, the difference is that the NPS adds one or more conditions for approval beyond whatever conditions the SHPO may have recommended for approval. Only very rarely does the NPS deny certification where the SHPO has recommended approval.

The committee heard from presenters that they felt in some cases SHPO staffs had not consulted in a timely manner with the NPS, so that when projects came to the NPS there was need for refinement or retention of more physical fabric than the owner had been led to believe by the state. Several presenters mentioned that in some regions of the country there are very few trained consultants who are familiar with the requirements of the Federal Historic Rehabilitation Tax Credit Program.

In addition, the majority of states review fewer than 10 tax credit projects each year, so that the opportunities to become well-practiced in the program can be limited. Finally, there is sufficient turnover among state staffs to ensure that there will always be relatively inexperienced staff administering the program somewhere.

Currently the NPS offers biennial training for all SHPO staff and one-time training for new project reviewers in the State Historic Preservation Offices. Approximately 10 new state reviewers are given a three-day orientation and training by NPS in Washington, DC, each year. Not all new state reviewers can attend. In some cases, state staffs are not permitted to come to Washington, DC, due to travel restrictions imposed statewide, so training for them must wait until an NPS project reviewer is traveling to the state. At the biennial training for SHPO staff generally half of the attendees may be new to project review and only minimally familiar with the program. Many of them have never had any NPS training or have only attended the three-day orientation training.

In short, maintaining the current level of consistency between the NPS and the SHPOs requires an ongoing commitment to providing training at least as often and as intensive as the current effort. Striving for greater consistency will require an increased level of effort and greater outreach to all participants in the program.



Citizen's Bank, Oklahoma City, OK

Currently, the NPS offers additional training through national forums, such as the annual meetings of the National Trust for Historic Preservation, the American Institute of Architects and statewide preservation organizations. However, much of this training is tied to other conference objectives and is very short in duration. Since most states mandate annual continuing education for design professionals, the NPS should work on outreach to state architectural review boards and also to the purveyors of the courses themselves, to ensure that training on all aspects of the historic tax credit program is made available.

In order to increase consistency in decisionmaking, the NPS should look at both short-term and long-term training of project reviewers and consultants. This training should be supplemented with more published and web-based guidance on interpretation of the *Standards*, including "Interpreting the Standards" Bulletins. In addition, the NPS should investigate how to provide funding to allow more frequent trips to review projects on site with SHPO staff, owners and consultants. The NPS should undertake training not only of SHPO staff, but also develop training sessions with the SHPO for consultants, applicants, city officials and others who might benefit from learning more about the *Standards*, the application process and best practices in preservation.

NPS and SHPO staff who work with the program should also be encouraged to expand their knowledge of the development process to ensure that they are able to provide more informed service to program users.





500 Block West Fillmore, Phoenix, AZ

Improving the Application Process

5. The Committee finds that the "learning curve" for how to negotiate the application process successfully is steep. There is much for an applicant to know concerning both the requirements and the flexibility of the *Standards*, when to file an application, and even how to prepare the application form and supplementary materials.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review and enhance its guidance materials to make those materials and the application process more accessible and user-friendly to first-time users and small project owners. In particular, the Committee recommends that the NPS continue to emphasize the importance of early involvement of the NPS and the SHPO in project planning, and that the NPS promote more widely the use of "preliminary consultation" on complex and difficult projects.

Major developers who do primarily large projects and who use the tax credit program regularly have the resources and experience to deal with the program's administrative requirements. However, the overwhelming majority of applicants

are first-time users who expect to use the process only once, and who may be undertaking relatively small projects. There is not enough guidance material specifically for inexperienced developers, smaller projects, or property owners in smaller, rural communities across the country. As a result, applications may be incomplete, resulting in timeconsuming requests from the SHPO or the NPS for additional information; applications may be submitted well after work has begun, greatly decreasing the opportunity to avoid or correct inappropriate treatments.

For example, the Secretary of the Interior's Standards for

Rehabilitation focus on preserving "character-defining features." Yet, some first-time program users may not understand character-defining features and may have difficulty identifying them in their historic buildings. Because an understanding of character-defining features is essential to the success of a rehabilitation project in this program, the NPS should develop more illustrated, written and web-based guidance featuring examples of character-defining features to help applicants evaluate their historic buildings and plan their rehabilitation projects. NPS

guidance should stress that projects are reviewed on their overall success in complying with the Secretary's *Standards*, so that first-time users in particular are aware that project evaluation strives for a good project, not a perfect project.



Groton General Store, Groton, VT

Some potential applicants may find the process confusing and burdensome to the point that they are discouraged from applying. Some potential users of the program are not aware of the program, and some do not participate due to a lack of understanding or a misperception about the program. Others do not submit applications because they do not know whom to contact for information and are unable to get professional guidance locally. More education, technical

assistance and a facilitated application process could encourage owners of smaller, historic, income-producing properties to take better advantage of this incentive.

A "preliminary consultation" is an informal meeting among the NPS, the SHPO and the project sponsor prior to submission of a formal application. In the past, such meetings have been held when the SHPO has been working with a project sponsor and finds that some major treatment issue would benefit from discussion with the NPS before project planning proceeds any further. Preliminary consultation, thus, has

been specific to that issue and is advisory. These preliminary meetings can be very helpful in guiding the subsequent development of project plans and should be routinely available to project sponsors and design teams that request them. The agenda for preliminary consultations should be limited to key issues agreed upon by the project development team, the SHPO and the NPS. Because the option of such preliminary meetings is not widely known, the NPS should take steps to make sure that project sponsors, design teams and contractors know that such meetings can be requested.

6. The Committee finds that large and complex projects can involve very difficult treatment issues, and that coming to a successful resolution of those issues very often would benefit from a site visit involving SHPO or NPS staff. The Committee finds further that the current level of program funding does not allow for site visits to as many projects as would benefit from such an on-site meeting. Finally, the Committee finds that large project sponsors would willingly pay increased fees for timely and responsive service from SHPOs and the NPS.

The Committee recommends that the NPS investigate how increasing and restructuring the fees charged to process Historic Preservation Certification Applications could enhance service and facilitate and expedite review of project applications. The Committee recommends that that this investigation include mechanisms for sharing some portion of fee revenues with the SHPOs.

There is consensus among developers that the overall success of the program, as well as the success of individual rehabilitation projects, depends on having a close working relationship with the NPS and the SHPO and a timely review of projects. This relationship includes preliminary review of projects in their early concept stage,

timely review of applications for proposed project work, and onsite visits when needed. In looking for ways to improve this working relationship, developers pointed in particular to the need for more site visits by NPS and SHPO staffs. However, current funding for the program is not sufficient for the NPS and SHPOs to provide this increased level of service desired by applicants.

At present, NPS project review staff is supported by a combination of appropriated funds and revenues from fees paid by project sponsors. SHPO staffs are supported by a combination of grant funds from the NPS and

appropriated state funds. Fee revenues are not shared with the states. Current funding levels require that both the NPS and SHPOs carry out their program responsibilities with limited staffs that are pressed to complete their reviews within expected deadlines. This funding level simply does



Anderson Center, Mullins, SC



Welch Apartments, Muscatine, IA

not permit NPS and SHPO staffs to make many of the site visits requested by project owners and developers.

When the fee payment system was established more than 20 years ago, it created a sliding scale of fees. There is no fee for rehabilitation projects costing less than \$20,000. The fees begin at \$500 for projects over \$20,000, and rise to \$2,500, which is the amount charged for any project costing \$1 million or more. This fee structure has never been adjusted since then, either to account for inflation or to address the additional review costs for projects costing many millions of dollars. As a result, the review fees charged by the NPS do not reflect today's dollar values or the increased costs of the many extremely large and complex projects that invariably require considerably more staff time.

Higher fees could help pay for enhanced service from the NPS and the SHPOs, including additional funds for more visits to project sites. Most of the developers who spoke before the Committee stated their willingness to pay higher fees, if this would enable the NPS and SHPOs to provide increased service in reviewing their projects. Higher fees would also benefit smaller and rural projects in the increased service they would receive from the NPS and SHPOs. The developers also pointed out that additional revenue from fee payments could also enable the NPS to offer more training programs to provide more service and program guidance.



The NPS should review the existing fee structure to determine the extent to which increasing the fees for inflation and restructuring the scale could generate revenue sufficient to support a higher level of service, including increased NPS and SHPO travel to project sites to provide technical assistance. Further, the NPS, in consultation with SHPOs, should determine how best to share some portion of the increased fee revenues with SHPOs based on workloads or other particular needs. A new, increased fee structure, which is currently being developed, will be put into effect when the revised regulations, now being drafted, are published in one to two years.

7. The Committee finds that the current NPS policy for review of rehabilitation work within functionally-related, multiple-building complexes in single ownership inhibits use of the tax credit program for phased projects and for projects carried out by multiple long-term lessees on buildings within the complex. Current policy makes tax credits on such individual projects within the complex dependent for five years upon acceptability of any other rehabilitation work done elsewhere in the complex.

The Committee recommends that the NPS reevaluate and revise its current policy to lessen the dependence of projects within such a complex on each other for purposes of eligibility for the tax credits.

Increasingly, Federal Historic Rehabilitation Tax Credit projects are being considered for military bases that have been decommissioned as required by the Base Realignment and Closure (BRAC) process and for large functionally-related complexes that contain numerous buildings such as mills, hospitals and factories. Often these complexes, many in excess of 10 buildings, are in single ownership, and the most successful strategy for the overall rehabilitation of these underutilized structures is one where the owner of record leases out one or more buildings on a long-term basis. The various long-term lessees can then underwrite all rehabilitation expenses for their leased buildings and take advantage of the 20 percent credit.

Current NPS regulations [36 CFR Part 67.6 (b)(4)] require the owner of record in a multi-building, functionally-related complex to ensure that the rehabilitation of all the buildings included in the National Register listing meet the Secretary of the Interior's Standards for Rehabilitation if one or more of the structures is taking advantage of the credits. While on the face of it this seems reasonable, it is in fact a burden to the owner who may have undertaken a successful rehabilitation of a portion of the property and must now ensure that any and all long-term lessees also undertake rehabilitations that meet the Secretary of the Interior's Standards. If a long-term lessee

subsequently undertakes an unsympathetic rehabilitation, the IRS may recapture the credit on the previously approved rehabilitation work. Likewise, if rehabilitation

work on a complex is stretched over a number of years, the overall project cannot receive final certification until all work is completed. If rehabilitation work is being undertaken by different entities, projects that are completed must keep their records open beyond the normal 36-month statute of limitations of IRS auditors.

In contrast, in historic districts and in complexes where individual buildings are separately owned, each rehabilitation project is reviewed on its own merits and is not subject to the uncertainty of whether other owners carry out projects that meet the *Standards*. The Committee heard during the presentations that some owners of large multibuilding complexes had sold buildings within the complex outright to others to avoid being tied into a phased review or to projects that might not meet the *Standards*.

The NPS should review its policy on complexes, including military bases, to determine whether a more flexible interpretation of "functionally-related complexes" and "ownership" can be developed in conjunction with IRS regulations. The NPS should assess whether complexes can be treated as districts with separate contributing buildings being reviewed as separate projects and whether long-term lessees can be considered as owners for purposes of the tax credits. The Committee acknowledges that the integrity of

the National
Registerlisted resource
must also be
considered
to protect
complexes
from extensive
demolition.



San Diego Naval Training Center, San Diego, CA

Implementation of Recommended Tasks

Due to the importance of the actions identified in this report, the Committee strongly recommends that the NPS make their implementation a priority. The Committee acknowledges that these tasks are substantive and that undertaking them will require considerable time and effort on the part of the NPS and SHPOs. As administrator of the program, the NPS is responsible for providing the best possible service to program users while at the same time meeting the legal mandate to approve only projects consistent with the building's historic character. Accordingly, because of the overwhelmingly positive enhancements to the program that will result from these improvements, the Committee recommends that work on accomplishing these tasks should begin immediately. The Committee recommends that these tasks be completed by December 2007 to ensure the continued success of the program. In order to meet this deadline the Committee recommends that the NPS initiate consultation with its historic preservation partners immediately and complete this consultation by December 2006, after which time the NPS should begin to address its partners' recommendations and incorporate them into draft guidance by August 2007.



The Bay School, The Presidio, San Francisco, CA

NPS IMPLEMENTATION PLAN

Implementation of the tasks recommended by the NPSAB Committee on the Federal Historic Rehabilitation Tax Credit Program will be completed by December 31, 2007.

Special teams (1-3), composed of National Park Service staff and including historic preservation partners to the extent allowable by law, will be created to carry out implementation of these tasks. After initial consultation, NPS will continue to seek comments and recommendations on a regular basis from its historic preservation partners as it works on implementing these tasks.

Team 1. Interpretation of the Standards - Specific Issues Identified by Committee:

Windows

Interior Treatments

New Additions and Related New Construction Modern-day Requirements and New Technology

Team 2. Education, Training and Written and Web-based Guidance on:

Interpreting the Standards for SHPO staff and program users, including project owners,

architects and preservation consultants

Improving the Application process/Expanding program user base/Expanding

availability of Preliminary Consultations

Team 3. Reevaluate and revise NPS policy concerning functionally-related complexes

Team 4. Oversight:

Ensure tasks recommended by Committee are completed and that remainder of tasks identified in the August 2004 report *Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program: The National Park Service Response to Recommendations for Improvement* are completed.

Provide the NPSAB with updates on progress as circumstances warrant.

Schedule

September, 2006NPSAB Committee Final Report issued
October, 2006NPS meets to consult with its historic preservation partners to
discuss scope of work and policy direction in implementing tasks
recommended by the Committee
October, 2006NPS establishes four teams to implement tasks following its
consultation with historic preservation partners
November, 2006NPS teams analyze assigned tasks and begin to develop work plans
December, 2006NPS provides work plans to historic preservation partners for review and comment
January, 2007NPS teams begin work on implementing tasks
March, 2007NPS reports to annual NCSHPO meeting on status of teams' work
July, 2007NPS holds special workshop at biennial training for SHPO staff to discuss the
guidance that is being proposed while it is still in draft, as well as to share
the status of implementing the other tasks, and to seek
comment and additional input from SHPO staff
August, 2007NPS prepares final draft guidance and provides to historic preservation
partners for final comment
December, 2007 NPS implements all tasks recommended by the Committee and issues final guidance

OTHER ISSUES

In its August, 2004 report, Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program: The National Park Service Response to Recommendations for Improvement, the NPS deferred to this Committee for a consideration of issues related to application of the Secretary of the Interior's Standards for Rehabilitation. However, the NPS did recognize a number of more procedural aspects of the program in which it could work with its partners to bring about improvements. Work on some of these items has already been completed, while work in other areas is still underway.

The Committee finds that the program will be improved by implementing the remaining 18 items -- the creation of this Committee having been the first item - previously identified in the NPS report. The Committee recommends that the NPS complete implementation of these 18 items as quickly as possible. Those items and their status as of the date of this report are as follows:

- 1. The NPS will consult with the National Conference of State Historic Preservation Officers (NCSHPO) to determine feasibility/schedule for more frequent regional SHPO meetings. The NPS has informed all SHPOs that NPS staff is available to participate in statewide training and regional training. Status: Ongoing.
- 2. The NPS will hold its biennial workshop for SHPOs and will consult with the Historic Preservation Development Council (HPDC) and NCSHPO about developer participation. The NPS held its biennial workshop for SHPOs in July 2005. At the invitation of the NPS, the National Trust for Historic Preservation and representatives of the development community from the private sector participated in the workshop. This format will be used for future workshops. Status: Ongoing.
- 3. The NPS will complete 12 new "Interpreting the Standards" Bulletins and post them on its Technical Preservation Services (TPS) website. *Status: Completed.*
- 4. The NPS will review "Interpreting the Standards" Bulletins issued earlier in the program which are now out of print to select approximately 45 to be adapted and posted on the TPS website. NPS review revealed that less than 20 of the previously issued ITS Bulletins are suitable to be adapted into new ones. The NPS is currently preparing these for posting on its website. Status: To be completed October 2006.
- 5. The NPS will make clear on its website that all guidance materials are available to the public, not just to SHPOs.

The NPS has reviewed its website and has determined that all guidance materials are available to the public. Status: Completed.

- 6. The NPS will consult with its partners to determine if consolidating the two versions of the Secretary of the Interior's Standards for Rehabilitation would be desirable and feasible. The Office of the Solicitor of the Department of the Interior has advised the NPS that the version of the Secretary of the Interior's Standards for Rehabilitation in the current regulations should not be changed. Instead, the revised regulations will include a statement that all versions of the Standards for Rehabilitation may be applied and will carry equal weight for purposes of the Federal Historic Rehabilitation Tax Credit Program. Status: Drafting of revised regulations in progress; revised regulations estimated to be published in one to two years.
- 7. The NPS will convene a Task Force that includes SHPOs and the private sector to examine guidance material to ensure that all NPS guidance for the Federal Historic Rehabilitation Tax Credit Program refers only to rehabilitation treatments and not to restoration treatments.

The NPS met with the NCSHPO Task Force chaired by Jim Garrison (SHPO/AZ) in March 2006 and discussed this matter. The NCSHPO Task Force indicated it will begin to examine NPS guidance material for the program to ensure that it refers only to "rehabilitation" treatments and not to "restoration". Status: Completion contingent on NCSHPO Task Force schedule.

8. The NPS will consult with the Office of the Solicitor of the Department of the Interior to devise and begin implementing a plan for posting information on appeals decisions on its website. The NPS consulted with the Office of the Solicitor with regard to posting appeals decisions on its website. The most recent appeals decisions have been reformatted with sensitive personal

information removed (Tax ID numbers, owners' names, etc.), and they have been posted on its website. New appeals decisions will be posted. Status: Completed.

- 9. The NPS will notify SHPOs that they may accept travel expense reimbursements for site visits to projects seeking rehabilitation tax credits, and will post this information on its website. The NPS has notified SHPOs via e-mail that they may accept travel reimbursements for site visits. This topic was also discussed in depth at the July 2005 NPS/SHPO workshop. In addition, this information was included in the annual newsletter that the NPS sends out to SHPOs. Status: Completed.
- 10. The NPS will post guidance questions on its website to assist SHPOs and property owners in documenting the pre-rehabilitation condition of a building.

The NPS has collected and reviewed existing state guidance on documenting the pre-rehabilitation condition of a building. The NPS is developing a standard format in preparation for posting the guidance on its website. Status: To be completed December 2006.

- 11. The NPS will invite a NCSHPO task force to work with NPS staff to develop recommendations for the expansion of facilitated review and/or implementation of expedited review. Pending NCSHPO concurrence, the joint task force should report its findings at the NCSHPO annual meeting. The NPS met with the NCSHPO task force in March 2006 to discuss this. The NCSHPO task force concluded that the existing facilitated review process works well and currently does not need to be expanded. Status: Completed.
- 12. The NPS will finalize draft guidelines for preliminary project consultations, circulate for comment, disseminate and post on its website. The NPS has finalized the guidance for preliminary project consultations. This guidance will be included in the annual newsletter that the NPS sends to SHPOs and will also be posted on its website. Status: To be completed December 2006.
- 13. The NPS will consult with partners regarding changes to the Part 2 Application form, particularly about listing "character-defining features" and significant treatment issues. NPS will make recommendations for change, if any.

The NPS met with the NCSHPO task force in March 2006 to discuss this. Since SHPOs are the first point of contact with regard to listing properties in the National Register or potential rehabilitation tax credit projects, the NCSHPO task force concluded that developing a list of "character-defining" features, in consultation with National Register staff, and supplemental guidance on treatment issues should be left up to the discretion of individual SHPOs. Status: Completed.

14. The NPS will issue a letter to SHPOs to remind them that they are welcome to participate in appeal meetings, in writing, in person or by phone.

The NPS has provided this information via e-mail to SHPOs and announced it at the July 2005 NPS/SHPO workshop. It was also included in the annual newsletter that the NPS sends to SHPOs. Status: Completed.

15. The NPS will consult with partners and the Office of the Solicitor of the Department of the Interior to determine the desirability and feasibility of some less formal process for the Chief Appeals Officer to seek advice other than from the NPS and SHPOs.

The NPS has consulted with the Office of the Solicitor. The Office of the Solicitor has clarified that the program regulations already provide the Chief Appeals Officer with this discretion. The NPS has reiterated this in its annual newsletter to SHPOs. Status: Completed.

- 16. The Chief Appeals Officer will routinely grant any request for an "administrative hearing." The NPS will ensure that property owners are notified of this in letters denying certification of a rehabilitation project.
- The Chief Appeals Officer grants all such requests for "administrative hearing." The NPS has revised the denial letter to include this information. Status: Completed.
- 17. The NPS will consult with partners regarding the feasibility of electronic submittals of project applications. If agreed upon by its partners, the NPS will develop and disseminate guidelines for submitting applications electronically. The NPS undertook a six-month pilot project study with five SHPOs to review the feasibility of submitting applications electronically. Preliminary data indicated that most states do not have the capability of receiving applications electronically

at this time. However, the NPS and those states that do have that capability currently receive a considerable amount of additional information sent electronically for projects already under review that have been submitted in traditional hard copy format. Status: Completed.

18. The NPS will consult with SHPOs concerned about the NPS practice of transmitting communications simultaneously to the SHPO and the project owner, and implement any changes necessary.

Each state has its own preferred means of communicating with NPS staff. In some states, all contact is through the SHPO; in others, the SHPO prefers that the NPS contact owners directly. In still others amendments to the Part 2 Application are sent concurrently to both the SHPO and the NPS. The NPS will follow the procedure according to each state's specified preference. (All applicants may, at any time, contact NPS staff directly to discuss projects.) Status: Completed.

FEDERAL HISTORIC REHABILITATION TAX CREDIT PROGRAM HIGHLIGHTS

The Tax Reform Act of 1976 established the first Federal incentive for private investment in the rehabilitation of income-producing historic properties.

The current program provides a 20% Federal Tax Credit to qualified projects based on eligible expenses associated with the rehabilitation.

The first tax incentive project was undertaken in 1977. Since then, over 32,000 properties have been rehabilitated involving a capital investment of over \$36 billion.

Approximately 40% of projects involve some form of housing. Approximately 350,000 housing units have been created or rehabilitated. Approximately 80,000 of these units are for low- and moderate-income tenants.

Fiscal Year 2005:

Private investment for 1,100 approved rehabilitation projects was \$3.12 billion.

The average cost of projects receiving final certification was \$2.85 million.

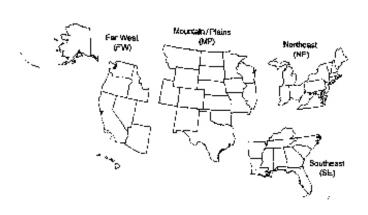
The total number of housing units created or rehabilitated was 14,354.

The average number of local jobs created per project was 48.

The estimated total number of local jobs created was 52,464.

The cost of the smallest project was approximately \$8,000. The cost of the largest project was \$50,000,000.

Regional Share of investment for completed projects:



States by Geographical Region



PSFS Building, Philadelphia, PA

APPENDIX

The Committee is aware that any recommendation regarding legislative changes to the Federal Historic Rehabilitation Tax Credit Program is outside its purview. However, the Committee would like to note several limitations of the tax laws that prevent some individuals from using the program that were discussed during the course of the meetings. These are as follows:

- The five-year holding period for properties that have received the credit makes it difficult for some users to benefit from the program.
- The requirement that investment equal the adjusted basis excludes smaller projects and some projects in high value real estate markets, as well as properties that have experienced high appreciation in value over the past several years.
- 3. The requirement that properties be incomeproducing excludes most condominium developments.
- 4. At 20 percent, the credit is too low to finance some projects.
- 5. "Passive loss" rules enacted in 1986 limit syndication financing for many smaller projects.

- 6. Alternative minimum tax rules may hamper an applicant's ability to claim the total amount of the credit.
- 7. Review period turnaround, 30 days for complete applications, is critical to projects and a deterrent in some private rehabilitation experiences.
- 8. Projects that use the federal tax credit for low-income housing sometimes encounter conflicts when also using the historic preservation tax credit because the requirements for the Low-Income Housing Tax Credit, which is a program administered by the Department of Housing and Urban Development (HUD), differ from the requirements for the Federal Historic Rehabilitation Tax Credit Program.
- 9. In some real estate markets with high land values, rehabilitation of a smaller historic building will create a lower economic return than constructing a larger new building.

It should be noted that the National Trust for Historic Preservation has drafted legislation that addresses some of the current disincentives that would, if acted upon, encourage more widespread use of the Federal Historic Rehabilitation Tax Credit.



The Colonial Building and 1905 pool after rehabilitation Bedford Springs Resort, Bedford, Pennsylvania

Making a Good Program Better

Final Guidance and Implementation of National Park System Advisory Board Recommendations For the Federal Historic Rehabilitation Tax Credit Program

December 2007

Introduction

The Federal Historic Rehabilitation Tax Credit Program has been responsible for revitalizing thousands of underused and derelict historic buildings and developing them into community assets as viable income-producing properties. The program has been administered by the National Park Service (NPS) and the Internal Revenue Service (IRS) in partnership with the State Historic Preservation Officers (SHPOs) since it was established by the Tax Reform Act of 1976.

In 2003, program partners and other interested parties suggested to the NPS that it was time to reassess the program and, based on this, to consider possible improvements. In response, the NPS established a committee of the National Park System Advisory Board "representative of all those who have a professional interest in what the Secretary's Rehabilitation Standards say and how they are interpreted" to study two questions:

- (1) Are the requirements of the Federal Historic Rehabilitation Tax Credit Program clear to program users? Do program users have realistic expectations when they undertake projects? If the process is not clear, how can it be made clearer?
- (2) How can the interpretation of the Secretary of the Interior's Standards for Rehabilitation be made more user-friendly so that program users and the preservation community can better understand them?

The final report of the Committee, Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better, was unanimously adopted by the National Park System Advisory Board on September 15, 2006, and presented to the Director of the National Park Service.

Implementation of Recommendations

During 2007, the NPS followed the schedule set forth in the report to implement the Committee's recommendations. Three teams of NPS staff and partners, to the extent allowable by law, developed the materials called for in the report. The Office of the Solicitor, Department of the Interior, determined that State Historic Preservation Officers, who are specifically designated by the National Historic Preservation Act of 1966 as partners in the administration of the Historic Rehabilitation Tax Credit Program, could participate in these teams.

In addition to NPS staff, each team included representatives from four SHPOs:

Interpreting the Standards – Windows, interior treatments, new additions and related new construction, and modern requirements and new technologies and materials

Martha Raymond, OH; Catherine Montgomery; OK; Ruth Pierpont, NY; Kathleen Kilpatrick, VA

Education, Training, Written and Web-based Guidance Katrina Ringler, KS; Amy Cole-Ives, ME, Nelson Knight, UT; James Draeger, WI

Policy on very large, functionally-related, multiple-building complexes Wayne Donaldson, CA; Mike Jackson, IL; David Duvall, IN; Dan Elswick, SC

To ensure input from a wide range of program stakeholders, while complying with the Federal Advisory Committee Act regulations that allow for public input in specific ways, the NPS invited the following eight individuals, on behalf of the organizations they represent, to comment on draft materials at several stages in the development of the materials presented with this document:

Peter Bell, Executive Director, National Housing and Rehabilitation Association Barbara Campagna, FAIA, National Trust for Historic Preservation, and President, Association for Preservation Technology International Brian Goeken, President, National Association of Preservation Commissions Melinda Higgins, Executive Director, Preservation Pennsylvania Heather MacIntosh, President, Preservation Action Julianne Polanco, Director, Cultural Resources, Actus Lend Lease Carolyn Toth, Executive Director, Landmarks Association of Saint Louis Jack Williams, Member, Advisory Council on Historic Preservation

Initial consultation with the SHPO team members resulted in working papers outlining the scope of guidance and other products to be developed. These papers were shared with the SHPO team members, sent to the eight commentators, and posted on the NPS web site. NPS staff presented this material to the National Conference of State Historic Preservation Officers during its annual meeting in Washington, DC, in February 2007.

In May and early June 2007, the NPS sent draft guidance documents on interpreting the Standards topics; proposals for new publications and training aimed at first-time users and small project owners; and new guidance for very large, functionally-related, multiple-building complexes to SHPO team members for review. These materials were also posted on the NPS web site. SHPO team members' comments were incorporated into the second drafts, which were sent to all State Historic Preservation Officers, Deputy State Historic Preservation Officers, and SHPO tax credit program staff on June 27, 2007.

These second drafts were the focus of discussion at the NPS-sponsored biennial training for SHPO tax credit program staff, which was held in Milwaukee, WI, July 10-12, 2007, and attended by 68 staff from 46 states and NPS tax credit program staff. SHPO staff submitted written comments on the materials after the workshop.

The NPS used these comments to further revise the materials and prepare a third draft of the material for comment in August 2007, as mandated in the Committee's implementation timeline. The NPS sent these drafts to all State Historic Preservation Officers, Deputy State Historic Preservation Officers, and SHPO tax credit program staff on August 1, 2007. The materials also were sent to the eight invited commentators listed above, and were posted on the NPS web site. The NPS requested that all comments be submitted via e-mail or in hard copy by September 14, 2007, which allowed 45 days for comment.

The comments received included a range of perspectives on how the NPS should revise its interpretation of the Standards. The NPS has accommodated these comments to the extent possible within the Committee's recommendations. One comment cited the Federal Rehabilitation Tax Credit Program as "one of the most successful Federal programs in history," which "more than any other government program, is responsible for revitalizing historic cities, towns, and landscapes across the country." For thirty years the NPS has administered this important program on behalf of all the American people. The implementation of the Committee's recommendations will enable it to continue doing so for years to come.

Actions Taken to Improve Clarity and Increase Flexibility in the Historic Rehabilitation Tax Credit Program

The Tax Reform Act of 1976 established the first Federal tax incentives for rehabilitating historic buildings. In its report on this law, the Joint Committee on Taxation of the United States Congress declared, "Congress believes that the rehabilitation and preservation of historic structures and neighborhoods is an important national goal."

The Historic Rehabilitation Tax Credit program is a rehabilitation program. Program regulations define rehabilitation as "the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the Secretary [of the Interior]." (36 CFR 67.2(b)) And, as the Committee stated in its report, this rehabilitation program has fulfilled Congress' original intent and "has been very successful in leveraging private investment in historic buildings, preserving historic resources, stimulating economic growth, creating housing and revitalizing communities."

The process of implementing the Committee's recommendations has brought into sharp relief one of the primary challenges the NPS has faced in administering the tax credit program since its recentralization to the Washington office from five regional offices in 1995 – reconciling differing regional and state interpretations of the Standards and nuances of program administration. In the first several years after recentralization, the NPS made every effort to accommodate these differences to the extent allowable by the Standards, in order to allay many states' concerns that their particular challenges and circumstances would not be understood and supported by the NPS central office in Washington as they had been by their respective regional offices.

The NPS efforts to unify the program administration over the past decade led some SHPOs and program constituents to perceive "shifts" in NPS interpretation of the Standards. Prior to 1995, the program's primary written guidance was direction provided by the Washington office to the regional offices on how to administer the program. Regional offices made this guidance available to SHPOs and program users informally and, generally, only on an as-needed basis.

As part of the program's recentralization, the NPS realized the importance of ensuring that all SHPOs received the same information and, accordingly, began developing and distributing guidance on specific rehabilitation treatments and concerns. However, this guidance remained essentially materials shared by partners in administering the tax credit program; it was not widely distributed to program users. The Internet makes wide distribution of program guidance possible, and the guidance materials prepared to implement the Committee's recommendations will be posted on the NPS web site so that they will be easily accessible to program users. Guidance developed in the future also will be available online. This will greatly enhance the consistency of project review nationwide and improve predictability for program users, particularly those who work in more than one state.

During the past year, the NPS has taken the actions outlined here to implement the Committee's recommendations, and, as the Committee stated in its report to "provide greater ease and clarity for applicants to meet the program's requirements as well as help expand the benefits of historic preservation and economic development." Actions have been taken in three areas:

Clarification of guidance and increased flexibility in interpreting and applying the Secretary of the Interior's Standards for Rehabilitation;

Education, training, and written and web-based guidance; and

Policy on very large, functionally-related, multiple-building complexes.

The NPS has also completed implementation of the list of related tasks appended to the report, which the Committee recommended would further improve the program.

Clarification of guidance and increased flexibility in interpreting and applying the Secretary of the Interior's Standards for Rehabilitation

Recommendation 1

1. The Committee recognizes the inherent tension in carrying out a program that seeks to accommodate more than one public policy goal. The Committee also recognizes the inherent tension in seeking to balance the goals of historic preservation with the ever-increasing market pressures for more intense use of land and buildings. The Committee finds that the Secretary of the Interior's Standards for Rehabilitation remain appropriate for addressing this inherent tension, and therefore recommends that there be no change to them.

The Secretary of the Interior's Standards for Rehabilitation serve as the regulatory criteria by which the National Park Service determines whether rehabilitation projects qualify as "certified rehabilitations." Adopted for use in the Historic Rehabilitation Tax Credit Program in 1977, and revised only slightly in 1990, the Standards have served the program well. They have proven to be both sound and flexible. The "Secretary's Standards" have become one of the central documents in American preservation philosophy and practice. Adopted by State and local governments and historic district commissions throughout the country, their influence extends far beyond the tax credit program.

The Committee found that the Standards remain as useful and appropriate today as they have proven to be in the past and recommended that no change be made to them.

Recommendations 2 and 3

2. The Committee finds that the Federal Historic Rehabilitation Tax Credit Program's application of the Standards is already marked by considerable flexibility to address this inherent tension. Nevertheless, the Committee finds that in some cases reconciling interpretation of the Standards with other public policy goals, such as smart growth, energy efficiency, and affordable housing, can be problematic. The Committee finds further that in some cases reconciling interpretation of the Standards with market pressures inherent in large and complex projects or in projects where a building's historic function, design or condition makes adaptive use especially difficult can be problematic.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reexamine and revise as appropriate its interpretation of the Standards in order to provide some greater measure of flexibility in addressing especially challenging projects. The NPS review should focus in particular on windows, interior treatments, new additions and related new construction, modern-day requirements, life safety requirements, energy efficiency improvements, green building features and use of new technologies and materials.

3. The Committee finds that in some cases the NPS interpretation of individual treatment issues such as window replacement, interior alterations, new construction, and new building technologies is unclear. There is also a lack of accessible guidance concerning the significant flexibility that already exists in the program to meet today's challenges. This lack of clarity has led to uncertainty and errors on the part of project designers.

The Committee recommends that the NPS, in consultation with its historic preservation partners, revise and expand its current guidance materials as appropriate, so that the NPS interpretation of the Standards is clearer to project designers, and so that the outcome of the NPS review is more predictable.

Comments received on the August 1, 2007, draft guidance represented a wide spectrum of opinion and practice concerning historic preservation, from those who felt that the guidance did not represent sufficient revisions to the interpretation of the Standards, to those who believed the guidance presented revised interpretations that went beyond what could be accommodated by the Standards. The NPS carefully considered all viewpoints and has revised the guidance accordingly.

The NPS examined its interpretation and application of the Standards and the process used by the SHPOs and the NPS to evaluate overall rehabilitation projects and has clarified that:

A project meets the Standards when the overall effect of all work on the property is consistent with the property's historic character, even when some individual features may not have been given "recommended" treatments. Each property exhibits a unique set of conditions; therefore, evaluation of any single aspect of the proposed work can be made only in the context of those conditions and all the other work that constitutes the project.

Determination that a project meets the Standards is based on the cumulative effect of all the work in the context of the specific existing conditions.

The NPS has revised and clarified its guidance and established some new and more flexible policies with regard to the rehabilitation issues that were of particular concern to the committee: windows; interior treatments; new additions and related new construction; and modern-day requirements, including life safety requirements, energy efficiency improvements, green building features and use of new technologies and materials.

Windows

NPS policy on the evaluation and treatment of windows has accommodated a great deal of regional and state variations. For some states, deterioration has been the only justification for replacing historic windows. The NPS will take a broader view nationwide that:

Other factors may be considered, in addition to deterioration, in determining that historic windows may be replaced.

The NPS has also identified the following specific situations where windows that are not deteriorated may be replaced:

Historic windows that do not meet safety code requirements may be replaced with matching windows.

Replacement of a very small percentage of the total number of historic windows does not need to be justified by deterioration.

Many states, with the support of the NPS, have required a complete window survey to justify replacement. To reduce the burden to applicants, the NPS will require the minimum amount of documentation required to justify window replacement and, accordingly, clarifies that:

A full window survey is not required to document deterioration.

Historic documentation, such as photographs, can be a useful basis for the design of replacement windows where no historic windows exist. The fact that the NPS and SHPOs have often encouraged the replication of the specific historic windows when such documentation was available has apparently resulted in a perception that replication was required. To correct any misunderstanding about what is required when historic windows are missing, the NPS clarifies that:

Existing windows that are not historic may be replaced with compatible new windows that are not required to replicate missing historic windows.

Until recently, it was often difficult to achieve a good quality match when a window was replaced using a substitute material. Consequently, the use of substitute materials in replacement windows was generally understood as not acceptable. However, better quality replacement windows are increasingly available, partly in response to the needs of the growing rehabilitation market. The NPS clarifies the situations where substitute materials will most often be acceptable for window replacement:

Substitute materials may generally be used for replacement windows on secondary elevations of buildings, and above the base on all elevations of tall buildings.

Interior treatments

There appears to be a perception by some that the program allows very limited change to any interior space. The NPS has prepared the following policy statements to provide greater clarity and to specify to the extent possible where flexibility exists regarding compatible interior treatments in rehabilitation projects:

Great flexibility is provided in the treatment of extremely deteriorated or previously altered historic interior spaces. Their surviving historic character as finished or unfinished spaces must be maintained, but such spaces are never required to be restored or reconstructed.

Considerable flexibility and the opportunity for change and alteration are provided in the treatment of secondary historic interior spaces.

Considerable flexibility, including shortening or truncation, is provided in the treatment of historic corridors.

Considerable flexibility and the opportunity for alteration or subdivision is provided in the treatment of assembly spaces that are not primary in defining the historic character of the building or assembly spaces that are secondary in historic significance to other assembly spaces in the same building or property.

New additions and related new construction

In the past, the NPS approach to new additions and new construction was understood as favoring a particular style over another. That style was a simplified version of the historic building, rather than a frankly modern or a more traditional approach. The NPS has made clear that:

New additions and new construction can be in any style – modern, traditional, or an adaptation of the historic building style – provided that the criteria in Standards 9 and 10 are met.

Previously, the NPS has considered subordination of a new addition to an historic building to be an essential component of compatibility. To illustrate an exception, the NPS makes explicit that:

The compatibility of new additions and new construction within urban or densely built environments will be viewed in a wider context and may allow greater flexibility of size and design than would be appropriate for stand alone buildings.

Modern requirements and new technologies and materials

Code and other performance requirements and new technologies and materials are somewhat more complicated than the other topics the NPS was asked to examine by the Committee. The issues involved are constantly in flux; cities and states adopt new codes; new demands for energy-efficiency and adapting green building practices become increasingly important. The fact that historic buildings are often rehabilitated for uses they were not designed to support further adds to the complexity. Considerable flexibility is available to make modifications to buildings in order to meet code and other performance requirements as long as these changes do not compromise the historic character of the building. The NPS can identify no case in which the code requirements and the Standards have been irreconcilable; creative solutions are virtually always available if consultation begins early in the project planning process.

Evaluations for code and other performance requirements must be done on a building-by-building basis after a careful code and performance analysis is completed. The NPS will continue to encourage early consultation to deal with specific issues and to ensure that rehabilitation projects are both code compliant and meet the Standards.

The NPS will continue to work with national code and other regulatory organizations and representatives of other preservation organizations to seek solutions that take into consideration the preservation of a building's historic materials and features.

The NPS will actively seek new areas of flexibility and will highlight creative treatments in the continually changing areas of modern requirements and new technologies and materials. The NPS will update guidance as new approaches are identified to clarify the full range of alternatives available to program users.

Rehabilitating an existing historic building, rather than constructing a new one, embodies the philosophy of environmental sustainability and "green" building practices. Several NPS staff will become Leadership in Energy and Environmental Design (LEED) Accredited Professionals within the next 18 months in order to better serve program constituents.

There is great flexibility allowed in the use of compatible substitute materials to replace historic building materials that are too deteriorated to repair. As new technologies evolve, improvements in the appearance and performance of substitute materials increase, as does the availability of compatible substitute materials that can be used in rehabilitation projects.

Education, training, and written and web-based guidance

Recommendations 4 and 5

4. The Committee finds that there is a high level of consistency between the NPS and SHPOs in the interpretation and application of the Standards. However, in an approval process that requires review at two levels of government and that involves multiple and constantly changing individual project reviewers, examples of lack of clarity, inconsistency and professional disagreements are inevitable.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review and enhance its existing training sessions and materials and enhance and refine guidance in an effort to provide the highest possible level of clarity and consistency among all project reviewers in their application of the Standards.

The Committee further recommends that, during its review of particularly complex projects, the NPS ensure the fullest communication with state staffs, so as to foster consistency and to ensure that SHPOs have adequate opportunity to participate by phone or in person in the review process.

5. The Committee finds that the "learning curve" for how to negotiate the application process successfully is steep. There is much for an applicant to know concerning both the requirements and the flexibility of the Standards, when to file an application, and even how to prepare the application form and supplementary materials.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review and enhance its guidance materials to make those materials and the application process, itself, more accessible and user-friendly to first-time users and small project owners. In particular, the Committee recommends that the NPS continue to emphasize the importance of early involvement of the NPS and the SHPO in project planning, and that the NPS promote more widely the use of "preliminary consultation" on complex and difficult projects.

The NPS continues its commitment to developing high-quality education materials and written and web-based guidance. The NPS has taken the following actions to make its guidance materials and, consequently, the application process, more accessible and user-friendly; to provide materials aimed specifically at first-time users and small project owners; and to continue its long-standing practice of encouraging consultation with the SHPO and the NPS early in the project planning process.

Developed and published *Technical Preservation Services' Publications and Online Materials*, a 50-page index to printed and web information pertaining to the Historic Rehabilitation Tax Credit Program and technical information about the treatment of historic materials and buildings. Organized by subject, each entry identifies whether a document is available in hard copy and/or on the web.

Created a search-by-topic web site map to lead users to all materials on the Historic Rehabilitation Tax Credit Program and technical information about the treatment of historic materials and buildings on the NPS web site. The site map can be accessed from www.nps.gov/history/hps/tps/tax/index.htm and www.nps.gov/history/hps/tps/index.htm.

Developed and published *Introduction to Federal Tax Credits for Rehabilitating Historic Buildings – Rowhouses*, a guide to the tax credits and the application process for first-time program users and small-project owners, using rowhouses as sample projects. Additional guides focusing on other types of small projects are in progress and will be published in 2008.

Developed and posted two supplemental forms designed to assist applicants in preparing complete applications – *Supplemental Information Guide* and *Transmittal Sheet/Checklist* – on the NPS web site at www.nps.gov/history/hps/tps/tax/admin/index.htm.

Developed and posted *Guidelines for Preliminary Consultations and Meetings* on the NPS web site at www.nps.gov/history/hps/tps/tax/admin/index.htm in January 2007.

Made and will continue to make, within workload constraints, every effort to accommodate requests for conference calls and meetings on complex and difficult projects. SHPO program staff will be offered the opportunity to attend or to participate by conference call.

The NPS also continues its commitment to training SHPO tax credit program staff and the public. In the past, the NPS formally assessed the consistency of decision-making between individual SHPOs and the NPS and provided feedback on specific differences. Since those individual reviews are no longer undertaken, the NPS has implemented a regular program of biennial training for all SHPO tax credit program staff in an effort to ensure consistent interpretation of the Standards. The 2007 training held in Milwaukee July 10-12, 2007, brought together 68 SHPO staff from 46 states. One-half day of training for SHPO staff new to the program preceded the meeting. The national workshop will be held again in 2009. In 2008, the NPS will invite new SHPO staff to Washington for introductory tax credit program training.

In addition to training for SHPO staffs, the NPS has participated and will continue to participate, as time and finances permit, in historic preservation conferences and will explore options for organizing conferences and training sessions for historic building owners and tax credit program users. The NPS has:

Continued to participate in national and state conferences to discuss the Historic Rehabilitation Tax Credit Program, including the National Trust for Historic Preservation annual conference, the Traditional Building Conference, and many statewide historic preservation meetings.

Developed a draft model agenda for a potential 2-day workshop for first-time applicants, small-project owners, architects, and other program users designed to familiarize attendees with the basics of the Historic Rehabilitation Tax Credit Program, the Secretary of the Interior's Standards, program regulations, and common rehabilitation issues.

At the request of the SHPOs, began exploring ideas for packaging talks on common rehabilitation concerns for use by SHPO staff in their training activities.

Recommendation 6

6. The Committee finds that large and complex projects can involve problematic treatment issues, and that coming to a successful resolution of those issues very often benefits from a site visit involving SHPO or NPS staff. The Committee finds further that the current level of program funding allows for few visits to project sites. Finally, the Committee finds that large project sponsors would willingly pay increased fees in return for improved service from SHPOs and the NPS.

The Committee recommends that the NPS investigate how increasing and restructuring the fees charged to process Historic Preservation Certification Applications could facilitate and expedite review of project applications. The Committee recommends that this investigation include mechanisms for sharing some portion of fee revenues with SHPOs.

The current application review fees appear in the program regulations, published in 1990. Because the regulations set forth the fees in specific dollar amounts, a technical correction must be made to the regulations before the fees can be raised. The NPS has drafted this technical correction, which has begun its way through the review process within the Department of the Interior and the Office of Management and Budget. When the rule is published in the Federal Register, it will remove all dollar amounts, and state that the fee levels will be set in accordance with a periodic notice in the Federal Register. A notice with new fee levels will then be published. The revised fees will allow the NPS to improve the program in a number of ways: to hire more professional and administrative staff to expedite application review, to finance more frequent project site visits and consultations with owners, and to develop more publications and other products to assist applicants. Increased fees will also permit the NPS to conduct more training for SHPO staff and to subsidize more of the costs incurred by those attending. The NPS also will explore ways to use money from revised fees to allow the SHPOs to increase staff travel to project sites.

Policy on very large, functionally-related, multiple-building complexes

Recommendation 7

7. The Committee finds that the current NPS policy for review of rehabilitation work within functionally-related, multiple-building complexes in single ownership inhibits use of the tax credit program for phased projects and for projects carried out by multiple long-term lessees on buildings within the complex. Current policy makes tax credits for such individual projects within the complex dependent for five years upon acceptability of any other rehabilitation work done elsewhere in the complex.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reevaluate and revise its current policy to lessen the dependence of projects within such a complex on each other for purposes of eligibility for the tax credits.

The Committee's report discussed the problem of rehabilitating multiple-building properties in the context of the military Base Realignment and Closure process. This process in particular highlights the difficulties inherent in treating the rehabilitation of multiple buildings as a single historic property, as required by program regulations. Previous policy dictated that all such buildings be understood as constituting a single project. The NPS recognizes the difficulties inherent in these unique properties and has implemented the following policies.

These very large, functionally-related, multiple-building complexes will be treated as historic districts, which allows the NPS to limit the definition of "functionally-related buildings" to distinct usage-related groupings.

Long-term lessees in these very large, functionally-related, multiple-building complexes will be treated as owners.

Conclusion

This document details the steps taken by the NPS to implement the recommendations of the National Park System Advisory Board Committee following its review of the Federal Historic Rehabilitation Tax Credit Program. The document mentions the guidance papers, publications and other materials created to make the historic rehabilitation tax credit process clearer, more flexible, and easier to access. The full list of documents follows. These documents are available on the NPS website at www.nps.gov/history/hps/tps/tax/index.htm.

In adopting this Implementation plan, the NPS has attempted to meet not only the concerns and recommendations of the Committee, but of the many parties and constituents that spoke before the Board and commented on the draft papers. They include property owners, historic preservation consultants, and others who use or promote the use of the historic rehabilitation tax credit. The NPS recognizes and values their contributions and concerns. At the conclusion of this process, the NPS is confident that it has met their concerns, as well as fulfilled its obligation to administer this program on behalf of all the American people.

Materials Developed to Implement Recommendations

Guidance on interpreting and applying the Secretary of the Interiors Standards

Interpreting and Applying the Secretary of the Interior's Standards in the Historic Preservation Tax Incentives Program

Windows

Evaluating Historic Windows for Repair or Replacement
Replacement Windows that Meet the Standards

Documentation Requirements for Proposed Window Replacements

Interior treatments

Identifying Primary and Secondary Interior Spaces in Historic Buildings Changing Secondary Interior Spaces in Historic Buildings Subdividing Assembly Spaces in Historic Buildings Retaining Corridors and Other Circulation Spaces in Historic Buildings

New additions and related new construction

New Additions to Historic Buildings New Construction within the Boundaries of Historic Properties

Modern requirements and new technologies and materials

Codes and Regulatory Requirements for Rehabilitating Historic Buildings Energy Efficiency, Sustainability, and Green Building Practices in Historic Buildings Evaluating Substitute Materials in Historic Buildings

Education, training, and written and web-based guidance

Technical Preservation Services' Publications and Online Materials index
Web topical search to Historic Preservation Tax Incentives and Technical Assistance materials
Introduction to Federal Tax Credits for Rehabilitating Historic Buildings – Rowhouses
Supplemental Information Guide and Transmittal Sheet/Checklist
Preliminary Consultations and Meetings guidance
Draft workshop agenda

Very large, functionally-related, multiple-building complexes

Very Large and Diverse Historic Properties Listed in the National Register as Historic Districts Functionally Related Structures – General Criteria

Aligned for Success...

Recommendations to Increase the Effectiveness of the Federal Historic Preservation Program









Preservation Action | Preservation Action Foundation
National Conference of State Historic Preservation Officers
National Trust for Historic Preservation | National Trust Community
Investment Corporation | Historic Tax Credit Coalition
National Alliance of Preservation Commissions
American Cultural Resources Association | Alliance of National
Heritage Areas | US/ICOMOS | Society for Historical Archaeology



Task Force Partners

Alliance of National Heritage Areas

American Cultural Resources Association

Historic Tax Credit Coalition

National Alliance of Preservation Commissions

National Conference of State Historic Preservation Officers

National Trust for Historic Preservation

National Trust Community Investment Corporation

Preservation Action

Preservation Action Foundation

Society for Historical Archaeology

US National Committee of the International Council on Monuments and Sites

A special project of the Preservation Action Foundation whose mission is to:

- Facilitate and promote understanding about the federal policies and programs that affect our nation's historic and cultural resources.
- Encourage informed and scholarly discourse about preservation policy that lays the groundwork for effective action.
- Develop educational programs and resources that will inspire and inform a new generation of preservation advocates.

PRESERVATION
FOUNDATION

401 F Street NW, Suite 331 Washington, DC 20001 www.preservationaction.org







Foreward

In March of 2010, Preservation Action issued a call to those who care about America's historic resources to join together to examine the federal historic preservation program. The stakes could not have been higher, as only weeks earlier the Obama Administration had called for devastating – nearly 40% -- cuts in the program's funding. These cuts were ultimately implemented, with another round of double digit cuts now proposed for 2012.

The cuts bewildered those who know American preservation and its vast potential. Amidst difficult economic times, real estate developers and state historic preservation officers alike had been busy trying to turn loose the explosive job creation potential of historic rehabilitation. From local preservation commission staffs to national heritage area managers, preservationists were hard at work on not only historic documentation and education but rural heritage tourism, energy modeling for older buildings and smart growth among other things. In short, Preservation was and is succeeding at addressing America's most pressing issues.

Why then, did preservation sustain among the deepest budget cuts meted out to any domestic program? That was the core issue at the heart of the Preservation Action call. Answering it was the task taken up by the Federal Historic Preservation Program Task Force formed by the dozens of organizations and individuals who responded.

The Task Force has now completed its deliberations and we are pleased to submit our report: "Aligned for Success. . . Recommendations to Increase the Effectiveness of the Federal Historic Preservation Program." In it, we conclude that misalignments in the administrative structure of the federal program prevent it both from adequately supporting the vital work of state, local, tribal and private preservation partners and from broadly quantifying and disseminating their successes. In short, the structure keeps preservation's light under a bushel.

Our report builds on the earlier excellent work of an expert panel convened in 2008 by John L. Nau III, then Chairman of the Advisory Council on Historic Preservation, and P. Lynn Scarlett, former Deputy Secretary of the Interior. Their recommendations for improving the structure of the federal preservation program unfortunately remain largely unimplemented.

Today's report is also the product of extensive new work. We thank all the members of the public who answered our survey, made donations or attended our listening sessions; the partner organizations and their staffs, Dr. Carroll Van West and his students for their research, and especially the members of the Task Force themselves. In all, the Task Force's work involved over one thousand persons – a statistic that bears testament to the importance of these issues.

On a personal note, it has been a pleasure to serve as co-chairs of this effort, which we hope will indeed better align the federal historic preservation program for success.

Sincerely,

Andrew Potts

Chair

David Morgan

Chair

National Historic Preservation Act of 1966, Section 1

The Congress finds and declares that

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
- (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
- (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of federal and federally assisted projects and will assist economic growth and development; and
- (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.







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ACRONYMS

Advisory Council on Historic Preservation ACHP

Certified Local Government CLG

Department of Commerce Commerce

Department of Energy DOE

Department of Housing and Urban Development HUD

Department of the Interior DOI or Interior

Historic Rehabilitation Tax Credit Program HTC

National Academy of Public Administration NAPA

National Center for Preservation Technology and Training NCPTT

National Conference of State Historic Preservation Officers NCSHPO

The National Environmental Policy Act of 1969 NEPA

The National Historic Preservation Act of 1966 NHPA or the Act

National Park Service NPS

NPS Technical Preservation Services TPS

National Preservation Conference NPC

National Register of Historic Places NRHP

National Trust for Historic Preservation NTHP

Office of Management and Budget OMB

President's Council on Environmental Quality CEQ

Senior Policy Officer SPO

State Historic Preservation Office SHPO

Tribal Historic Preservation Office THPO











Executive Summary

The National Historic Preservation Act of 1966 (the "Act" or the "NHPA") established a national preservation program based on a federal partnership with States, Indian Tribes, Native Hawaiians, local governments, nonprofit organizations and the private sector. These partners carry out the bulk of preservation in the United States. The Act tasked the federal government with encouraging their work and ensuring that America's vital legacy of not just the "cultural, educational, aesthetic [and] inspirational" but also the "economic and energy benefits" of historic resources "be maintained and enriched for future generations of Americans." Congress delegated these federal responsibilities to the Department of the Interior ("Interior" or "DOI"), who in turn assigned their administration to the National Park Service ("NPS").

In the past 45 years the American historic preservation and heritage partners have remade themselves into the multifaceted movement envisioned by the Act and proved the power of preservation to serve as a catalyst for job creation, community revitalization, energy conservation, and enhancement of community and national pride. But while the preservation partners have made great strides in realizing the ideals of the Act, the federal component of the national preservation partnership has not kept pace. In order to create an effective partnership for unleashing the potential of the nation's heritage resources to contribute to meeting America's most pressing national goals and to further realize the intent of the National Historic Preservation Act in the 21st century, the federal historic preservation program must change.

The Vision

The Task Force envisions an administrative structure for the federal Historic Preservation and Heritage Partnership Programs ("Partnership Programs") that propels these programs into a leadership role in job creation, energy independence, better international relations through public diplomacy, heritage conservation and the forging of efficient and effective public-private partnerships to advance these goals.

The Task Force defines the "Partnership Programs" as the federal preservation activities that require the regular involvement of non-federal participants such as those defined in Title I of the National Historic Preservation Act and carried out by States, Tribes, local governments, and the National Heritage Areas movement, and federal agency preservation programs related to these activities. These programs include the National Register of Historic Places, the Federal Rehabilitation Tax Credit Program, and federal Grants-in-Aid programs among others.

To be effective, leadership of these Partnership Programs should:

- Be accountable for the performance of the national preservation program
- Enable collaboration across program constituencies
- Advocate for the national preservation program, particularly with regard to funding
- Achieve innovation and flexibility
- Make historic preservation visible at all levels.

Effective leadership of the Partnership Programs will result in greater leveraging of heritage-related private investment, streamlined regulatory and grant application reviews that remain true to national preservation standards, an effective voice for the Preservation and Heritage Partnership Programs within the Department of the Interior, and in the development of preservation-based public policy related to community and economic development, energy independence and environmental sustainability across the federal government.

Why Is Change Needed?

A strong consensus has emerged from the work of the Federal Historic Preservation Program Task Force and recent studies undertaken by the National Academy of Public Administration and the Preserve America Expert Panel that the current federal structure for administering the Preservation and Heritage Partnership Programs (what the NPS has called "External" or "Community Assistance" programs) is not adequate to realize the potential of heritage conservation to advance national goals in the 21st century.

The recommendations of the Task Force are based on the following findings:

- The current administrative structure of the federal historic preservation program does not provide for the levels of leadership, public and private partnership, advocacy, innovation, and visibility required to realize the transformative vision for historic preservation set forth in the 1966 Act.
- The breadth of the preservation vision set forth in the 1966 Act reaches into the nation's communities and policy
 making arenas related to economic development and community and environmental sustainability, extending
 far beyond National Park boundaries. It is critical that the federal government realign the administration of the
 Partnership Programs to provide leadership capable of achieving the vision of the 1966 Act, with the expertise,
 flexibility and accountability needed to advance them.
- Closer integration of the Preservation and Heritage Partnership Programs into the administrative structure of insidepark cultural resource management will not serve either the individual parks or the Partnership Programs well. The
 goals and cultures of these two areas of activity are very different. Placing both of these responsibilities under a single
 leader puts parks and the Partnership Programs in competition with each other for resources, and it puts curatorial
 preservation concerns ahead of efforts to harness the nation's heritage resources for the broad array of public goals
 envisioned by the 1966 Act.

A diverse segment of the public and the preservation community believes that transferring the Partnership Programs to an independent federal preservation agency or a separate bureau within the Department of the Interior would be the best structure to empower property owners and local agencies to use heritage preservation to create jobs and advance community sustainability. However, the Task Force believes that in keeping with the current fiscal imperative to do more with less, positive change can be accomplished through the realignment of current resources, with the understanding that the preservation community will revisit the results of these changes in two years to determine if they have been effective.

Recommendations

Deep budget cuts exacted in 2011 and proposed again for 2012 have created both an imperative and an opportunity to revitalize the Partnership Programs so that Congress, the Administration and the American people unambiguously see them as realizing the promise of the National Historic Preservation Act and meeting the urgent needs of the 21st century. To do this, the Federal Historic Preservation Program Task Force posits that the federal component of the Partnership Program currently administered by the NPS must be realigned and strengthened to create a structure fully aligned with the provisions of the Act and of furthering the economic development, energy and resource conservation and community-strengthening potential of historic resources. The Task Force's recommendations are:

1. Make historic preservation visible and accountable by realigning responsibilities for Preservation and Heritage Partnership Programs within the National Park Service under a Deputy Director for Historic Preservation and Heritage who reports to the Director of the National Park Service. The Task Force findings indicate that the Partnership Programs will not thrive in NPS unless they gain a more elevated and independent position within the NPS hierarchy. This is not an issue that individual leadership can overcome in the long term, but one of structural necessity to institutionalize and elevate historic preservation within the federal government so that true national leadership again becomes feasible. The Task Force envisions a single Deputy Director who reports directly to the Director of the National Park Service. The sole responsibility of this Deputy Director would be overseeing the various Partnership Programs described in Title I of the 1966 Act and administered with Tribes, States, and localities, as well as National

Heritage Areas. This approach will provide leadership that is accountable solely for the advancement of the outward focused preservation Partnership Programs.

Further, to insure success, the Deputy Director for Historic Preservation and Heritage needs expanded staff expertise in the areas of economic development, energy efficiency and environmental sustainability to complement existing resource protection expertise. Together, these actions will facilitate more efficient and effective administration of local designation activities, tax credit investment projects, and National Heritage Area administration. The Task Force believes that these changes can be accomplished at minimal expense and with the existing number of personnel through the reassignment and reorientation of existing positions.

2. Designate a Senior Policy Officer for Historic Preservation and Heritage in the Department of the Interior to serve as a Special Advisor for Heritage to the Secretary of the Interior. The Task Force strongly believes that it is time for the Department of the Interior to take a strong leadership role in historic preservation. As steward of the federal preservation program, and as the Agency designed by Congress to be responsible for much of the National Historic Preservation Act, Interior needs to become a true leader and advocate for historic preservation across the agency and throughout the administration.

The Senior Policy Officer for Historic Preservation and Heritage in the Department of the Interior and Special Advisor for Heritage to the Secretary of the Interior will oversee the implementation of the National Historic Preservation Act throughout the Department of the Interior's bureaus and offices, as required under Executive Order 13287 (Preserve America). This officer will advise the Secretary of the Interior on all matters related to heritage preservation, including preservation's ability to contribute to departmental, national and international goals and ensure that heritage partnership programs have a place in departmental priority setting and resource allocation. The information gathered by this officer will also allow the Secretary to introduce preservation-based strategies to solving national issues into the deliberations of the Domestic Policy Council. Designation of this officer will provide the agency-wide cultural resource coordination initially sought by the 1966 Act.

3. Make the Advisory Council on Historic Preservation Chairman a full-time position. The Task Force has identified a need to strengthen leadership and increase visibility for historic preservation and heritage at the federal level: a full-time ACHP Chairman appointed by the President will help accomplish this. It will allow the Council to fulfill its Congressionally-mandated responsibilities to advise the President and Congress on matters relating to historic preservation and improve coordination of preservation activities of Federal, State, and local agencies and private institutions and individuals, while also carrying out its critical responsibilities for administering the Section 106 review process.

A full-time ACHP chair would be in a better position to work closely with the leadership of the Partnership Programs to facilitate more inter-agency cooperation in their administration, and with the Secretary of the Interior to provide leadership and advocacy for historic preservation within the Administration. The full-time chair will also initiate a process to identify opportunities for greater efficiency in how preservation responsibilities are allocated and carried out between the ACHP and the NPS. Furthermore, a full-time chairperson will be better positioned to engage in government-to-government consultation with tribes; international agencies and organizations; and with other key Executive Office initiatives, panels and councils. Designation of a full-time Chair should be pursued initially as an administrative action by the President, evaluated, and if successful, be established statutorily at a later date.

4. Designate a senior staff position for historic and cultural resources on the President's Council on Environmental Quality ("CEQ"). The National Environmental Policy Act of 1969 (NEPA), which CEQ helps to implement, promotes a national policy designed among other things to "preserve important historic, cultural, and natural aspects of our national heritage." The fact that NEPA has always included cultural and historic resources has often been overlooked. Natural resource programs have had an Executive Office champion in the CEQ but the agency with comparable responsibilities for the preservation program (the ACHP) is not currently represented in the Executive Office. Having a voice for historic preservation and cultural resources at CEQ will ensure that historic preservation and the roles it plays in energy savings, sustainability, and environmental quality are part of Council deliberations as intended by NEPA.



The Federal Rehabilitation Tax Credit Program, managed by the National Park Service, which in 2010 created more than 41,000 jobs and leveraged over \$3.4 billion in private investment should be touted as a model program during these challenging economic times. It not only facilitates the restoration of historic buildings, but it spurs additional construction and investment. Pictured is the Enterprise Mill in Augusta, GA, which has been adaptively reused for office space, housing, and the Interpretive Center for the Augusta Canal Heritage Area.

The Task Force envisions an administrative structure for the National Preservation Partnership Programs that propels these programs into a leadership role in heritage conservation, job creation, energy independence, public diplomacy and the forging of efficient and effective public-private partnerships to advance these goals.

Chapter One: Introduction

Genesis and Scope of this Report

The National Historic Preservation Act of 1966 is the fundamental charter of federal historic preservation policy. It is premised on an explicit choice by Congress that the outright ownership of key national landmarks by the U.S. Government should not be the chief end of federal preservation policy, as it had been before the Act. Instead, Congress laid down a new mandate in the Act that the aim of the federal government should be to encourage the "private preservation" of "all useable elements of the Nation's historic built environment," as well as to provide for the stewardship of federally-owned assets. To effectuate this shift, Congress established a new program of federal policies and financial incentives designed to "contribute to the preservation of non-federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means."

This national historic preservation program, Congress said, was to be implemented through partnerships with States, Indian tribes, Native Hawaiians, local governments, nonprofit organizations like the National Trust for Historic Preservation and, of course, the private sector. Administration of the federal component of these partnerships was assigned by Congress to the Department of the Interior and by Interior to the National Park Service. And, while cultural and educational aims were to be important parts of this program, the Act's remaking of federal historic preservation continued with an innovative declaration that America's vital public interest in historic preservation lies in "maintaining and enriching" not only the aesthetic and inspirational but also the "economic, and energy benefits" of historic resources.

Today, the American historic preservation movement has been remade in the image of the multifaceted approach championed by the Act. The movement concerns itself with preservation craft but also job creation, historic documentation and energy modeling, education and smart growth, alike. From historic preservation nonprofits to local preservation commissions, preservation staffs and professionals embrace the spectrum of skill sets necessary to meet this interdisciplinary mandate. A few statistics highlight the complexity and diversity of preservation efforts achieved in 2010 across the U.S. by States and local governments, nonprofits and private building owners:

^{1. 2010} Historic Preservation Fund Report, http://www.preservationaction.org/Reports/2010 HPF Report.pdf (accessed May 12, 2011).

- Private sector owners of historic buildings used the Federal Historic Rehabilitation Tax Credit Program to generate over \$3.42 billion of private investment, while creating more than 41,000 estimated jobs and 5,514 low and moderate income housing units.
- State Historic Preservation Offices reviewed 242,000 Federal undertakings, compared to 106,900 in 2009, providing 112,000 National Register eligibility opinions. Tribal Historic Preservation Offices reviewed 34,600 undertakings and made 7,150 eligibility opinions.
- 49 new communities became Certified Local Governments, bringing the cumulative total to 1,763 CLGs throughout the nation.
- The incidence of LEED platinum and gold-rated historic rehabilitations has continued to grow as did interest in introducing alternative energy strategies to historic buildings.
- Over 87 million people visited National Heritage Areas, where innovative approaches to partnering
 have resulted in a 5:1 ratio of private to federal dollar investment while strengthening local ecnomies
 and enhancing local pride of place.²

So too has America changed. When the Act was passed, it was widely believed that communities had to choose between preservation and economic development. Older and historic business districts at the core of almost every American city were experiencing job loss and large scale de-population. Older and historic residential neighborhoods were becoming homes to stubborn concentrations of poverty, even while historic preservation was traditionally equated with a concern for only a handful of stately homes. In 1966, the impact of buildings on energy use and the environment was less well understood. Focus was often on new construction and modern technologies with historic buildings negatively viewed as outdated energy hogs.

Today many reject the old "preservation versus development" paradigm. They understand that city centers and older neighborhoods have unique attributes that lend themselves to the new economy, including walkable streets, well developed infrastructure, public transit, dense employment centers, and rich social and cultural amenities. Led by nonprofits, local governments and private developers, preservation-based economic development strategies have revitalized neighborhoods and downtowns across America and provided thousands of jobs nationwide. Privately-owned historic buildings have been widely adaptively reused for affordable housing, while heritage tourism has provided added stimulus to communities, particularly in rural areas. Moreover, these areas of heritage are important centers of regional identity; their distinctive feel fosters a civic "Pride of Place," which often acts as a catalyst for change. Communities are hungry for data and strategies on how to leverage their own historic assets as a positive component of development.

The advent of the 21st century, and its focus on energy conservation has sparked a new paradigm of sustainable growth and progress centered on the conservation and recycling of existing building resources. Rather than demolishing billions of square feet of our current building stock and sending the resulting waste to landfills, much of that space can be adaptively reused thereby conserving not only materials, but their embodied energy. Meanwhile, a combination of new technologies and traditional design strategies has established that the oldest buildings can perform at the most demanding standards of energy efficiency. Further research, development, product innovation and the establishment of best practices and rating systems for retrofitting historic buildings are consequently in increasing demand.

In short, the accomplishments of the preservation movement in the forty–plus years since the Act was adopted have been remarkable, while the potential for future accomplishments is resoundingly strong. Moreover, the core values of America's "irreplaceable heritage" identified in the National Historic Preservation Act – cultural inspiration and economics, energy and education – reflect almost perfectly the core concerns of America at the moment. Such

^{2. &}quot;2009 at a Glance," http://www.nationalheritageareas.com/docs/ANHA At a Glance.pdf (accessed May 12, 2011).

promise twinned with such relevance prompted many to expect new heights of achievement for the partnership programs as we approach the 50th anniversary of the 1966 Act.

And yet, in 2010 and 2011 Congress and the White House unambiguously signaled that the case for this has not been adequately made. Federal funding for the national historic preservation program was not only reduced as might be expected in a time of budget deficits, but reduced in a manner vastly out of proportion to the cuts decreed for other areas of domestic spending. No new initiatives at either the congressional or the agency level were proposed. The prospects for 2012 remain equally difficult:

- Funding for Save America's Treasures brick-and-mortar restoration initiatives and Preserve America heritage tourism programs was eliminated in 2011, and it has been targeted for elimination again in 2012.
- Funding for National Heritage Areas has been targeted for a 50% decrease.
- Despite enormous growth in responsibilities, the funding for State Historic Preservation Offices, when adjusted for inflation, has not changed since 1983. SHPOs would benefit greatly from the streamlining of federal/state procedures.
- With growth in the number of CLGs, the average grant amounts awarded to support local preservation initiatives are ten percent less than they were in 1995 and 65 percent less than in 1986.
- The Historic Preservation Fund, established in 1976 to be the dedicated source of funding for the federal historic preservation program (generated via lease revenues from the Outer Continental Shelf), authorized at \$150 million per year, has rarely seen an appropriation greater than 50%.

What could account for this disconnect? At the same time that our economy, job loss, foreign wars, energy dependence and other issues remain pressing, the current era is witness to a significant focus on reducing federal spending and wringing more value out of every dollar spent on federal programs. It is clear that every federal program must widely demonstrate its vitality, relevance and ability to contribute to addressing the most pressing issues of the day. With the historic preservation program, this means proving every day that the program does indeed maintain and enrich in a cost effective and vital way the cultural, educational, aesthetic, inspirational, economic, and energy benefits of America's historic resources.

Based upon years of study and discussion and numerous earlier blue ribbon reports, many suspected that if the potential of preservation programs was not being fully realized or perceived, that this failing might be a consequence of structural issues and misalignments in the formal organization of the federal administration of the programs themselves. While historic preservation across America has evolved into the multifaceted approach promoted by the Act, the function and organization of the federal component has not seemed to keep pace. In recent years, it has suffered from severe budget cuts, key management posts being left unfilled for months or years, the shifting of staff and resources to other programs, a lack of coordination with other departments and a general lack of positive visibility. Attention to the economic and environmental benefits of historic resources, although passionately pursued by preservationists at other levels, has lagged at the federal level.

For example, as suggested above, as the need for energy efficiency has become even greater and concerns of energy independence stronger, the challenges and opportunities facing America's historic and older building stock are also greater than ever. Congress's decree that the preservation programs be managed to ensure the "vital legacy of . . . energy benefits" embodied in historic resource looms even larger. Preservation partners have been looking to the NPS to join them in addressing the role that the reuse of older and historic buildings plays in energy and environment policy, in championing the retrofitting of historic buildings to meet national building performance objectives, and to provide leadership in addressing research and development needs.

On June 16, 2009, the EPA, HUD and US DOT joined together to form the Interagency Partnership for Sustainable Communities. The Partnership's "Livability Principles" read like a preservation primer. It calls for coordinating federal policy to "increase community revitalization and the efficiency of public works investments and safeguard rural landscapes," and to "enhance the unique characteristics of all communities by investing in healthy, safe, and walkable neighborhoods." Expanding location- and energy-efficient housing and reorienting infrastructure and transportation priorities are other goals. Historic preservation should be at these tables with Interior/NPS as a contributor to federal interagency sustainability policymaking, but as currently organized NPS Partnership Program managers are not positioned to participate on an inter-agency basis and the NPS is not equipped with enough subject matter expertise.

Preservation creates jobs, and spurs downtown revitalization, heritage tourism and sustainable rural development. While construction materials are purchased from across the country or across the ocean, the labor is purchased from across the street and as a result, rehabilitation is a potent job creation strategy. Given this potential, and particularly during this time of economic need, it is critical that the federal preservation program live up to Congress's decree that the programs be managed to ensure the "vital legacy of . . . economic benefits" embodied in historic buildings. To many, this means a federal program that would at a minimum serve as a repository for expertise on preservation-based economic strategies, and spur the development of generally accepted metrics for rehabilitation, historic preservation and heritage tourism that can be used to measure and analyze the direct and indirect economic and environmental impacts of preservation.

While these domestic issues loom large, it should not be forgotten that the framers of the Act also understood the role that historic preservation could play in international relations. The Act specifically directs that the historic preservation program should provide "leadership in the preservation of the prehistoric and historic resources of the international community of nations." Although it is not currently, historic preservation could be a key component in America's public diplomacy efforts. For example, encouraging, assisting, and supporting each country's identification, protection and enhancement of its historic resources is an excellent use of American "soft power." Valuing local heritage resources is a tangible way to show respect for those cultures.

The foregoing discussion is not meant to provide a detailed work plan or a comprehensive set of policy prescriptions. Rather, it is meant to provide concrete examples of the difference between expectation and outcome and to illustrate how profound are the unrealized opportunities at hand.

It was against this backdrop that Preservation Action established the Federal Historic Preservation Program Task Force in March, 2010. The Task Force is composed of individuals and eleven partner organizations who share the common goals of:

- 1) Studying and reporting on the current and past structures of the federal component of the Partnership Programs;
- 2) Producing recommendations for creating an adequate and effective federal preservation program management structure;
- 3) Conducting a grass-roots advocacy campaign to enact these recommendations; and
- 4) Attaining a structure that enables the federal Preservation and Heritage Programs to succeed in realizing the goals of the National Historic Preservation Act.

The National Historic Preservation Act and the Preservation and Heritage Partnership Programs

Congress assigned federal leadership for most national historic preservation responsibilities created by the 1966 Act to the Department of the Interior. Most of this responsibility was in turn delegated by Interior to the National Park Service. Later, some NPS responsibilities were transferred to a newly independent federal agency, the Advisory Council on Historic Preservation.

The Task Force's mandate extended only to the subset of the historic preservation programs administered by the NPS that require the regular involvement of non-federal participants in the creation of a public/private partnership to further historic and heritage preservation at the State, local and Tribal levels. These include the activities defined in Title I of the National Historic Preservation Act and carried out by States, Tribes, local governments, and the National Heritage Areas movement, and federal agency preservation programs related to these activities. Core functions included are the National Register of Historic Places; the National Historic Landmark Program, the Federal Rehabilitation Tax Credit Program; administrative and oversight functions of federal Grants-in-Aid programs; federal agency preservation programs; the Save America's Treasures, Preserve America and National Heritage Area programs; the Certified Local Government program and other similar programs.

These programs have generally been referred to by the NPS as the "External Programs." Many Task Force members felt that the use of the term "External Programs" furthers the perception that these programs are extrinsic to the core NPS mission. The NPS itself has more recently used the term "Community Assistance Programs." The Task Force prefers the term "Preservation and Heritage Partnership Programs." That term, or "Partnership Programs" for short, is used in this report.

Search for a Workable Structure

The management structure of the Partnership Programs within NPS has been reorganized many times over the past 45 years, yet tension has persisted between the self-defined "core" mission of the NPS to manage and interpret federally-owned resources on the one hand and the aims of the Partnership Programs on the other. This nearly perpetual state of discomfort has resulted in a prolonged search for more effective, sympathetic and dynamic management structures. Over the years, many dramatic organizational changes have been proposed via congressional legislation, commissioned studies, or by preservation organizations such as the National Conference of State Historic Preservation Officers (NCSHPO) and the National Trust for Historic Preservation (NTHP). The current structure owes its chief characteristics to a reorganization effectuated in the early 1980s. As that structure has outlived its usefulness, the last five years have seen a series of proposals for reorganization and reform. To our knowledge, none of these modern proposals has received active consideration by the NPS or DOI.

From the very beginning, as Congress drafted the National Historic Preservation Act, a bureaucratic tug of war occurred between the National Park Service, tasked with historic preservation duties for federally-owned sites since its foundation in 1916, and the Department of Housing and Urban Development (HUD), which could play a vital role in historic preservation with its broader focus on quality of life and the built environment. The National Park Service won out and the historic preservation and heritage Partnership Programs have been housed there ever since with the exception of a brief period in the late 1970s when they were moved to an independent bureau elsewhere in the DOI. Despite its longstanding responsibility for historic preservation, in the minds of both the public and most NPS staff, the core mission of the NPS remains the protection and administration of the parks, national monuments, national sites and battlefields which the NPS directly oversees and, more specifically, those which contain more natural versus cultural resources.

As a result, a several decade-long battle for a functional and ideological home for the Partnership Programs, including several reorganizations and a brief stint in the Heritage Conservation and Recreation Service (a short-lived bureau within the DOI), has led to their position today under the Associate Director for Cultural Resources, who manages both internal and external historic preservation and heritage programs for the NPS and reports to the Deputy Director of Operations. The historic preservation and heritage program managers are seven organizational levels below the Secretary of the Interior; while the Associate Director is five levels from the Secretary and two levels from the NPS Director.

Meanwhile, both NPS historic preservation program leaders and interested parties outside of the NPS have advocated numerous times over the past four decades for dramatic changes to the management of the "external

programs" (and frequently the "internal" historic parks and programs as well). A brief timeline displays the many efforts to realign the programs in order to allow them to better achieve the goals of the NHPA:³

1973-74: Ernest Connally proposed a new agency, an "Administration of Cultural Affairs," that would incorporate the Office of Archaeology and Historic Preservation (OAHP), NPS historical parks, the Smithsonian Institution, the National Endowments for the Humanities and Arts, the National Archives, and the performing arts administration. A separate bureau within DOI would be formed as an interim step. When this proposal was rejected, Connally suggested a compromise Historic Sites and Monuments Service within the office of the Assistant Secretary of the Interior.

1976-77: The National Conference of State Historic Preservation Officers proposed the creation of a Bureau of Historic Preservation within the Department of the Interior. One year later, the National Trust for Historic Preservation recommended that the historic preservation functions be moved to either an independent entity within DOI, or "perhaps even preferably" to a more sympathetic agency.

1977-80: Representative John F. Seiberling of Ohio introduced a bill that would move the Partnership Programs out of NPS and DOI to the newly independent ACHP. Two years later, Rep. Seiberling introduced a second bill, this one proposing an independent Historic Preservation Agency. Although several important amendments to the NHPA proposed by Rep. Seiberling were passed in 1980, his efforts to move the programs to the ACHP were overtaken by the foundation of the Heritage Conservation and Recreation Service bureau within DOI in 1978.

1978-1981: Under the Carter administration, the Heritage Conservation and Recreation Service (HCRS) was founded in 1978 as a new bureau within the DOI. The Secretary of the Interior moved the Partnership Programs out of the NPS and into the HCRS where they were partnered with former Bureau of Outdoor Recreation programs. HCRS was disbanded in 1981 under the Reagan administration and the Partnership Programs were merged back into the NPS.

1986-88: NCSHPO again advocated for an independent agency. Senator Wyche Fowler introduced legislation to establish a Historic Preservation Agency in 1988.⁴

1994: The NPS Advisory Board made recommendations to improve all aspects of program administration, but most of these were not implemented.

2003: President George W. Bush signed Executive Order 13287 of 2003 (Preserve America) with the goal of strengthening preservation efforts across the federal government and the United States. Subsequently, First Lady Laura Bush and the ACHP convened a Preserve America summit in New Orleans to evaluate the program and to suggest improvements to the federal preservation program in preparation for the 50th Anniversary of the NHPA.

2006-07: The National Park Service Advisory Board issued a series of recommendations for improving the administration of the Federal Historic Rehabilitation Tax Credit Program (key aspects of which may remain unrealized).⁵ Meanwhile, the NPS commissioned the National Academy of Public Administration (NAPA) to conduct an independent review, resulting in the December, 2007 publication of "Back to the Future: a Review of the National Historic Preservation Program." The NAPA panel recommended "improvements to build capacity, enhance performance and strenthen national leadership."⁶

^{3.} All drawn from Barry Mackintosh, *The National Historic Preservation Act and The National Park Service: A History* (Washington, D.C.: History Division, National Park Service, Department of the Interior, 1986), http://pawst.com/post/199244-mackintosh-barry-the-national-historic-preservation-act-and-the-national-park-service-a-history-national-park-service-1986 (accessed March 30, 2011).

^{4.} Senator Wyche Fowler, Jr., S. 2912 (100th Congress), September 1988.

^{5.} National Park Service Advisory Board, Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better, September 2006.

^{6.} National Academy of Public Administration, "Back to the Future: a Review of the National Historic Preservation Program" (December, 2007), p. iii.

2008-10: Following further decline in the programs' funding, visibility and administration, an Expert Panel was formed by the ACHP and Deputy Secretary of the Interior in 2008 to again study the organization and make suggestions for improvement. The Expert Panel's report, containing seven recommendations for change, was issued in February, 2009. Meanwhile, the NPS once again commissioned NAPA to review the state of cultural resources programs within the NPS. NAPA's 2008 and 2009 reports concluded that there was dramatic need for improvement, and specifically recommended that management of Parks' internal cultural resources programs be separated from the management of the external Partnership Programs. And, finally, in 2010, the National Parks Second Century Commission issued several recommendations for improving NPS cultural resources management and Partnership Programs' capabilities. 8

2010-11: Preservation Action and the Preservation Action Foundation convene the Federal Historic Preservation Program Task Force and enlist national preservation organization partners to study the programs from a grass-roots perspective, make recommendations for positive change, and to lobby for implementation of those recommendations. The Task Force's goal is to move quickly to impact the 2013 budget cycle in early 2012. Research and outreach began in August 2010; recommendations were drafted in February, 2011, and the report is now written. Lobbying for an improved federal historic preservation and heritage program will begin in June, 2011.

Study Methodology

The Federal Historic Preservation Program Task Force undertook four distinct research initiatives to document the history and trajectory of the Partnership Programs as well as to solicit opinions and assess organizational options to improve the effectiveness and efficiency of the federal program as a whole. These included producing three white papers, convening several discussion sessions with partner organizations and constituents, conducting fifty-five subject matter expert and stakeholder interviews and, finally, administering an online survey completed by 811 individuals. The methodology of these efforts is described below. The findings are excerpted and incorporated in chapters one and two of this report.⁹

White Papers

The Task Force commissioned three white papers to be researched and written on the following topics:

- Paper One: Defines the concept of "federal external preservation programs" and introduces the vision of those involved in the Historic Preservation Act of 1966 for how the "external programs" would work and how they would be organized.
- Paper Two: Establishes what issues have been identified in regard to the organization of the federal historic
 preservation function in the past and introduces solutions that have been proposed for improving the program's
 organization.
- Paper Three: Presents quantitative analysis regarding the staffing and resources devoted to external preservation
 programs over the defined period both in absolute terms and in comparison to the overall funding and staffing of
 the National Park Service.

These papers were undertaken by Professor Carroll Van West and his doctoral students in Public History at Middle Tennessee State University in summer 2010.

^{7.} National Academy of Public Administration, "Saving Our History: A Review of National Park Cultural Resource Programs" (October, 2008); and Towards More Meaningful Performance Measures For Historic Preservation (January, 2009)

^{8.} National Parks Second Century Commission, *Advancing the National Park Idea* (2010), p. 44. Specific recommendations included enhanced funding and full use of NPS's portfolio of community assistance programs; "reaching beyond park boundaries to deliver technical and financial aid for locally important natural, cultural, and historic landscapes"; and developing a multi-year strategic effort "to prepare the Park Service's heritage preservation and cultural programs to meet the challenges of the new century."

^{9.} Task Force white papers, interview and survey findings are available in their entirety online at http://www.preservationaction.org/taskforce.htm.

Outreach and Discussion Sessions

Outreach and discussion sessions were held at historic preservation and heritage professional meetings in Salem, Massachusetts; Philadelphia, Pennsylvania; and Austin, Texas. The goal of these sessions was to assess preservation and heritage professionals' opinions about improving the current organizational structure of the Partnership Programs within NPS and the relative merits of possible new structures. In particular, discussion sessions evaluated interest in:

- 1) Creating a new agency devoted solely to historic preservation
- 2) Merging the Partnership Programs with the Advisory Council on Historic Preservation
- 3) Creating a new bureau within the Department of the Interior
- 4) Making leadership improvements but leaving the current structure the same

Subject Matter Expert and Stakeholder Interviews

The Task Force interviewed subject matter experts and stakeholders with a diverse array of experiences in historic preservation, cultural resources and heritage, in person or via telephone in order to:

- 1) Learn about their experiences, both positive and negative, with the preservation and heritage Partnership (aka "external") Programs within NPS
- 2) Gather feedback on other possible organizational structures
- 3) Assess opinions on the key criteria necessary to an adequate federal preservation program
- 4) Solicit ideas for how to enact the recommendations of the Task Force
- 5) Provide qualitative input to assist in the creation of the Task Force's quantitative survey

A list of individuals interviewed can be found in Appendix B and a copy of the Interview Questionnaire in Appendix C.

Quantitative Survey

The Federal Historic Preservation Program Task Force created a survey to gather quantitative data regarding the attitudes of preservation and heritage professional and interested parties across the U.S. about the federal program and its possible reorganization. The survey consisted of 15 questions addressing:

- 1) information about survey respondents
- 2) the criteria used by the Task Force to evaluate the effectiveness of the current program and possible alternative organizational structures
- 3) the current program and alternative organizational structures
- 4) Ranking the various alternative organizational structures
- 5) And implementation of the task force recommendations

A copy of the survey questionnaire is included in Appendix E. The Task Force survey was conducted online at surveymonkey.com between Monday, November 29 and Friday, December 17, 2010. Invitations to participate were distributed via the Task Force's member organizations and the Preservation Action and Preservation Directory websites. 1,282 respondents participated in the survey. 63% (811) of these participants completed Questions 2-12, the main body of the survey. These 811 responses were analyzed and reported in the Survey Findings available online at www.preservationaction.org.

Five Key Criteria for Effective Leadership

A significant aspect of the Task Force's endeavor has been to gain an understanding of the characteristics of an effective federal preservation program in relation to the objectives outlined in the National Historic Preservation Act

of 1966. With this understanding, the Task Force was able to not only produce a baseline image of how the current program is performing but also to evaluate proposals for reorganization. Looking forward to enactment of the Task Force's recommendations for structural realignment, these criteria will be used to judge the effectiveness of the reorganized program in the future in comparison to its effectiveness today.

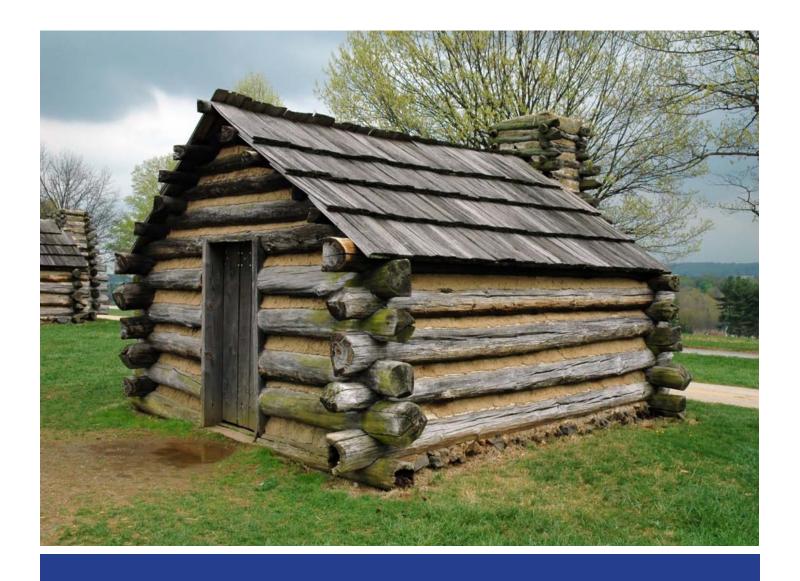
Employing criteria developed by the Preserve America Expert Panel as a starting point,¹⁰ the Task Force posits that effective program leadership is leadership that possesses the standing, authority and wherewithal to:

- 1. Be accountable for the performance of the federal component of the Partnership Programs as well as for the effectiveness of the entire system of Partnership Programs (as implemented by all partners including tribes, states, local governments and citizens).
- 2. Enable collaboration and partnership with other federal agencies, with state and local governments, Indian tribes and native organizations, and with organizations and individuals undertaking preservation by private means.
- 3. Advocate successfully for the national historic preservation program across the federal government, particularly advocacy that sustains and increases investment in historic preservation and funding for national, State, local, and Tribal partnership programs.
- 4. Achieve innovation and flexibility while setting national standards that remain true to the purposes of the National Historic Preservation Act of 1966.
- 5. Make historic preservation and the Preservation and Heritage Partnership Programs visible to the public and at all levels of government, including within the program's home agency and across the federal government.

Subject matter experts, stakeholders and survey participants agreed that these are reasonably accurate measures of an effective federal preservation program. 71% of survey respondents felt that the characteristics described an effective program "well" or "very well." 18% were neutral (or didn't know), while only 11% believed that the five key characteristics described an effective program "badly" or "very badly." Many respondents and interviewees stressed that the fifth trait regarding visibility was the most significant indicator of a successful program and perhaps ought to be listed first. Most criticism leveled at the five traits evoked skepticism regarding the ability of federal program managers to be accountable for the performance and effectiveness of non-federal participants in the programs. Others who commented on the five key criteria questioned the legality of federal program management's advocacy for funding for the programs.

Given the strong majority support of the five key characteristics, the Task Force advocates their adoption as measures of the functionality of the federal component of the Partnership Programs.

^{10.} The Preserve America Expert Panel's key criteria were 1) Enhancing coordination, 2) Nurturing partnerships and local preservation efforts, 3) Raising public awareness of historic and cultural preservation, 4) Generating and attracting funding for program implementation, 5) Enhancing program efficiencies, 6) Improve Leadership, and 7) achieve outcomes. "Recommendations to Improve the Structure of the Federal Historic Preservation Program" (February, 2009).



Few question the NPS's role in preserving historic buildings in our National Parks, which are owned by the Federal Government - such as in Valley Forge, PA, pictured above. But recognizing our government can not purchase every asset, our national historic preservation program was deliberately designed to do more.

"Stewardship of park cultural resources involves direct fiduciary responsibility for, and management of, structures, sites, and objects under NPS custody and control. In contrast, the national historic preservation program involves making grants, creating incentives, and issuing regulations designed to mitigate adverse consequences to historic resources that are under the control of others. The policies and skills required for the former are very different than the policies and skills required for the latter."

Saving Our History: A Review of National Park Cultural Resource Programs, NAPA, 2008

Chapter Two: Research Findings

A strong consensus has emerged from the work of the Federal Historic Preservation Program Task Force and recent studies undertaken by the National Academy of Public Administration (NAPA) and the Preserve America Expert Panel that the current federal structure for administering the Preservation and Heritage Partnership Programs is not adequately aligned to realize the full potential of heritage conservation to advance national goals in the 21st century. In its research, the Task Force has identified three primary findings, regarding 1) the current administrative structure of the federal historic preservation program, 2) the realization of the goals of the National Historic Preservation Act, and 3) the integration of "external" and "internal" cultural resources management. These findings, described in detail below, have guided the Task Force recommendations for improving the federal preservation program, which will be presented in Chapter 3 of this report.

1. The current administrative structure of the federal historic preservation program does not provide for the levels of leadership, public and private partnership, advocacy, innovation, and visibility required to realize the transformative vision for historic preservation set forth in the National Historic Preservation Act of 1966.

Federal historic preservation programs are generally led by one of two federal organizational entities that work with State and Tribal Historic Preservation Officers and the other Partners: the NPS and the Advisory Council on Historic Preservation, both of which have important roles to play in the federal, State, local, Tribal and private partnerships envisioned by the National Historic Preservation Act. The Task Force's research concentrated primarily on the structure of the Partnership Programs within the National Park Service. However, time was also spent looking at other potential or current participants in the federal preservation activities (ACHP, DOI, CEQ, for example) to identify possible enhancements to their organizational structures to the extent it had bearing on the performance of the Partnership Programs.

NPS and the Historic Preservation and Heritage Partnership Programs

Within the NPS, the Associate Director for Cultural Resources manages both internal and external historic preservation and heritage programs. S/he reports to the Deputy Director of Operations, who in turn reports to the Director. The actual managers of the Partnership Programs themselves each report to one of three Assistant Associate Directors and are located seven full organizational levels below the Secretary of the Interior, while the Associate Director is five levels below the Secretary.

In its survey of preservation and heritage professionals and interested parties, the Task Force asked respondents to assess how well the current structure of the federal component of the Partnership Programs ("External Programs" in survey) meets the five key characteristics of effective leadership described below:

How well does the existing structure of the External Programs meet the following leadership objectives?					
Answer Options	very poorly or poorly	Neutral	very well or well		
Is accountable for performance of national preservation program	41%	38%	22%		
Enables collaboration across all preservation constituencies	53%	30%	17%		
Advocates for the national preservation program, particularly in regard to funding	59%	29%	12%		
Achieves innovation and flexibility	52%	36%	12%		
Makes historic preservation visible at all levels	57%	28%	14%		

"Poorly" and "very poorly" dominated opinion for all five key characteristics of effective managment, although neutral ratings were quite high as well (in part due to the fact that "neutral" served as the response choice for "don't know"). Respondents felt, in particular, that the current structure does not lend itself to advocating for the national preservation program nor does it make historic preservation visible at all levels. These opinions were borne out as well in the Task Force's subject matter and stakeholder interviews.

As the history of the programs indicates, issues stem from the misalignment of the Partnership Programs within the National Park Service and the larger entity of the Department of the Interior. Very few interviewees or respondents believed that the NPS and the Department of the Interior were a "natural fit" for historic preservation programs built around State, local, Tribal and private partnerships. In fact, the stewardship and interpretation of even federally-owned historic resources under the control of the NPS has been an issue. The Organic Act of 1916 established the National Park Service to "conserve the scenery and the natural and historic objects and the wild life therein," while the National Historic Preservation Act mandates that property-owning agencies "administer federally owned, administered or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations." Even so, many believe that the NPS's greatest areas of interest have been the aquisition and protection of park lands and environmental resources, not the stewardship of its own historic buildings, let alone the management of federal preservation policy, grants or the preservation of privately owned resources.

The National Academy of Public Administration's 2008 report entitled "Saving Our History" addressed issues with the management of federally-owned historic resources for which the NPS is responsible. It found that while the number of cultural resources for which the NPS is responsible has increased, funding and personnel resources have decreased. This is in stark contrast to natural resource programs. According to the report:

...inflation-adjusted funding for park cultural resource programs decreased by 0.2 percent per year from FY 1995 to 2008, while over the same period inflation-adjusted funding for natural resource programs increased by an annual average of 4.2 percent. While there was real growth in funding for park cultural resource programs FY 1995-2002...[F]unding for natural resource programs today is double that for park cultural resource programs, notwithstanding the fact that two-thirds of the 391 national parks were created because of their historic and cultural significance.¹¹

Staffing levels for cultural resource versus natural resource programs within the NPS mirror the financial picture painted above over the past decade and a half, with Cultural Resources staff shrinking 27% while Natural Resources expanded 31%.¹²

STAFFING LEVELS FOR SELECTED NPS PROGRAMS FY 1995-2007

Fiscal Year	Park Management	Cultural Resources	Natural Resources
1995	15,548	1,079	1,072
1996	14,997	1,023	1,045
1997	15,289	1,035	1,060
1998	15,638	1,088	1,133
1999	15,919	1,107	1,164
2000	15,417	991	1,147
2001	15,737	1,044	1,262
2002	15,865	1,043	1,397
2003	15,740	1,030	1,459
2004	15,419	958	1,405
2005	15,534	932	1,426
2006	14,997	912	1,394
2007	14,595	859	1,387
2008	15,161	785	1,407
Change in FTE 1995-2007	-387	-294	+335
Percent Change in FTE 1995-2007	-2.5%	-27.2%	+31.2%

The fact that the Partnership Programs are service programs devoted to cultural resources within a larger land-management bureau and agency, respectively, has a very real impact on funding, advocacy for and visibility of the programs. It is both difficult for the general public to understand why the NPS is involved with these programs and second nature for Parks management to favor natural resources within the NPS.¹³ Furthermore, the highest leader

^{11.} NAPA 2008, ibid. xi.

^{12.} ibid. p. 95.

^{13.} This is true even when the funding ultimately comes from a different source, as is largely the case for key portions of the Partnership Programs which are generally funded via the Historic Preservation Fund, not through tax dollars or the NPS regular operating budget. This is even more of a problem for the National Heritage Areas and the Preserve America programs, which are not funded via the HPF and directly compete with Parks resources for resources.

and presumed advocate for historic preservation within the Department of the Interior is the Associate Director for Cultural Resources in the NPS, a position far down on the organization chart tasked with managing both "internal" parks cultural resources and "external" historic preservation and heritage programs. S/he is not in a position to gain the attention of the Agency Secretary, the cooperation of other agencies, or even necessarily the Director of NPS. Interviewees stressed again and again that this is a matter of structural deficiency not one of lack of good will or management capability on the part of the current or past NPS Associate Directors for Cultural Resources. ¹⁴

NPS scrambles to get parks considered. This is what "they use their chips for," not necessarily for historic preservation. It's not that [the Associate Director of Cultural Resources] doesn't talk to [the Deputy Assistant Secretary for Fish, Wildlife and Parks, DOI]; it's that she's not at his elbow when he's making deals and drafting policy. Organizationally, that's the way it is.—Interview

From a structural perspective, the National Park Service's strong brand identity and close association with scenic natural parks, makes its administration of community-based historic preservation programs that much more challenging both internally and externally:

There is a noticeable difference in the NPS external and internal programs – in terms of local perception and the delivery of services by NPS. From the local perspective, the general public doesn't associate NPS with non-park historic preservation activities and asks questions like 'Why does NPS have to approve things at [the] local level?' There's a lack of clear identity for the external programs. The public might know some of the individual programs, but has no idea how the overall program works or is structured. -Interview

Dedicated NPS professionals administer the programs well under difficult circumstances, yet how much more efficient and effective could the programs be if they were better positioned to succeed?

Regarding the placement of the Partnership Programs within the Department of the Interior, most subject matter expert and stakeholder interviewees expressed the opinion that, although it wasn't a particularly good fit, there was no clear and favorable alternative agency. Housing and Urban Development and Commerce were mentioned frequently as alternatives but generally dismissed as viable options. Task Force research participants believe that the advantages of remaining within the DOI are that it provides a measure of protection and consistency (versus being an independent agency); and that it has a long history with the historic preservation programs and a large and experienced support staff already in place.

The primary disadvantage of the Department of the Interior's current management structure is that no one within the Secretary's office serves as an advocate for historic preservation both within NPS, where the Partnership Programs are housed, and across the many bureaus of the agency, many of whom are the caretakers of numerous historic resources. As noted earlier, the NPS Associate Director for Cultural Resources is five organizational levels below the Secretary of the Interior. An organizational structure that both creates focus within the Secretary of the Interior's office and raises the standing of the Partnership Programs within NPS, could create a positive scenario for substantive change in regard to strengthened leadership and its attendant goals of increased visibility; funding; inter-agency, state, local and organizational collaboration and cooperation; innovation; and accountability. In one interviewee's words, such a structure would enable its leaders to "fight for the programs in their domain" and be "real advocates for what they're in charge of."

Increased collaboration and cooperation at all levels is desperately needed. Survey respondents, interviewees and discussion session participants noted the many ways in which collaboration might be improved and preservation could lead or become involved in important inter-agency initiatives. Through years of diminished funding, NPS Partnership Program staff "buried deep within the Park Service" have been afforded little opportunity for interagency cooperation or initiative. Survey respondents noted that they "do not see the external reach of the programs to other agencies," stating "Preservation should be part of other agencies as well, such as housing, and economic development."

^{14.} Subject matter expert, stakeholder interviewee and discussion session attendee comments are paraphrased and italicized throughout the report. Direct quotations, generally gathered in the online survey, appear in quotation marks.

The current structure prevents Partnership Program staff from effectively positioning the programs to address these vital cross-agency and multi-partner needs. For example, with an organizational structure incorporating historic preservation leadership at a higher level within the NPS and DOI, the Green Historic Preservation Initiative - designed to be a multi-agency initiative to examine the intersection of energy efficiency policy and historic preservation - could have been convened by the National Park Service rather than the Environmental Protection Agency as it was. Preservation leadership within the Office of the Secretary of the Interior, representation on the President's Council on Environmental Quality and a full-time ACHP Chair who could devote more effort to expanding inter-agency cooperation would effectively open channels of communication that NPS Partnership Program staff have not been able to implement alone.

When asked to rank other possible organizational options on their individual merit (regardless of the current economic climate) in the Task Force survey, historic preservation and heritage professionals and advocates overwhelmingly ranked "independent agency" the most preferable organizational option to achieve a functional federal preservation program. A "separate bureau within DOI" was the second most popular organizational option, while creating a "higher-level division within NPS" ranked third:

Rank	Organizational Option	Rating Avg.
1	Independent Agency	3.07
2	Separate Bureau within DOI	3.11
3	Higher-level Division within NPS	3.39
4	Elevate Preservation Leadership	4.01
5	Full-time ACHP Chairman	4.12
6	Consolidate into ACHP	4.37
7	No Change	5.93

Note: a lower rating average corresponds with a higher preference ranking.

The same group, when asked to take the current economic and political climate into account, ranked the options as follows:

Rank	Organizational Option	Rating Avg.
1	Higher-level Division within NPS	2.91
2	Separate Bureau within DOI	3.36
3	Eleavate Preservation Leadership	3.69
4	Full-time ACHP Chairman	3.92
5	Independent Agency	4.25
6	Consolidate into ACHP	4.30
7	No Change	5.57

A Higher-level Division within NPS was strongly preferred to the other options, with "Separate Bureau within DOI" and "Elevate Preservation Leadership" ranked relatively closely in second and third place. "Independent Agency" falls to fifth place out of seven. Yet "No Change" was still the strongly least-preferred option. It should be pointed out that despite the strong feelings expressing a preference for change, the Task Force heard over and over again in its research about the many dedicated professionals within NPS and DOI and their tireless efforts under very

challenging financial and institutional constraints on the behalf of historic preservation and heritage in America. In other words, this was clearly not a problem of personalities or individuals, but truly a problem of structural alignment.

The Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation was addressed in the Task Force's research under the auspices of "Elevating Preservation Leadership." The National Historic Preservation Act designates many roles for the ACHP:

"[T]he ACHP serves as the primary federal policy advisor to the President and Congress; recommends administrative and legislative improvements for protecting our nation's heritage; advocates full consideration of historic values in federal decision-making; and reviews federal programs and policies to promote effectiveness, coordination, and consistency with national preservation policies." ¹⁵

However, the primary activities of ACHP staff involve encouraging other federal agencies to act as responsible stewards when their actions affect our nation's historic resources.

The ACHP's regulatory responsibilities have generally overshadowed its role as primary federal policy advisor and advocate for administrative and legislative improvements for historic preservation. These responsibilities specifically belong to the presidentially-appointed part-time Chairperson and the 22 statutorily-designated council members who meet quarterly to conduct council business. Although the ACHP's mission is broad in terms of policy guidance and the promotion of historic preservation and heritage in the U.S., the general perception of what the ACHP accomplishes is very narrow: i.e., the mediation of Section 106 disputes. The Preserve America Expert Panel as well as many of those who participated in the various research initiatives of the Task Force felt that strengthening the leadership of the ACHP would serve to strengthen historic preservation and heritage within the NPS and DOI, across the federal government and consequently the United States:

A full-time ACHP chairman would be great if nominated by the president and approved by the Senate because it would elevate it and give more import to federal agencies and what they do. It could resonate with a lot more people about the importance of historic preservation. -Interview

Although some research participants feared the possible politicization of the role of the ACHP Chairperson, there was general consensus that a full-time Chairperson appointed with the advice and consent of the Senate would present a much-stronger platform for policy and legislative action along with much higher visibility for the federal historic preservation and heritage programs. It was also noted that the appointment of a full-time Chair could be accomplished via a short-term appointment within the Executive Office and need not require the amendment of NHPA in the near term, although if the position is a success, such an amendment would ultimately be sought.

President's Council on Environmental Quality (CEQ)

The President's Council on Environmental Quality was established within the Executive Office as part of the National Environmental Policy Act of 1969 (NEPA). Its role is to coordinate Federal environmental efforts in the development of environmental policies and initiatives. NEPA, which CEQ helps to implement, promotes a national policy designed to "preserve important historic, cultural, and natural aspects of our national heritage." Unfortunately, NEPA's inclusion of cultural and historic resources has often been overlooked. Given the importance of historic preservation both to issues of environmental and community sustainability, the preservation community feels that it should play a significant role within CEQ.

^{15.} http://www.achp.gov/aboutachp.html, accessed April 7, 2011. The composition and responsibilities of the ACHP are described in NHPA sections 201-15.

From their position deep within NPS, the Partnership Programs are not in a position to play a meaningful role in the implementation of NEPA. The Preserve America Expert Panel and those Task Force research participants who understood the possibilities of having a voice on the CEQ believed that it would not only raise awareness for historic preservation, but would allow historic preservation to make an important contribution to sustainability and environmental quality across the United States, a goal shared by the National Historic Preservation Act, NEPA, preservationists and communities large and small.

2. The breadth of the preservation vision set forth in the 1966 Act reaches into the nation's communities and policy-making arenas related to economic development and community and environmental sustainability, extending far beyond National Park boundaries. It is critical that the federal government realign the administration of the Partnership Programs to provide leadership capable of achieving the vision of the 1966 Act, with the expertise, flexibility and accountability needed to advance them.

As the 50th anniversary of the National Historic Preservation Act of 1966 approaches, the preservation and heritage community finds itself deeply immersed in furthering two critical components of the Act: the economic and energy benefits of historic resources. In order to assist the national movement, the Partnership Programs within the NPS must gain deep knowledge and competency in these areas. This will allow the federal program to complement the work of private organizations such as the National Trust for Historic Preservation which have developed programs (the very successful National Main Street program, for example) and policy and education initiatives (such as educating the public about the embodied energy in extant buildings and building materials) to further the goals of the NHPA and maintain historic resources for the future.

It is necessary for the NPS to further develop competency in these arenas and serve as a true federal partner to States, Tribes and local communities in order for historic preservation to play a powerful role across the nation, particularly via collaboration with federal agencies that make economic and energy conservation central tenets of their policy and actions.

The economy is the worst problem we have right now. It's devastating to me that preservation isn't considered to be an economic development tool. -NPC Session

There needs to be an increased focus on making stronger connections between sustainability and preservation and to raise the profile of historic preservation as an economic development and sustainability tool. -Interview

The Task Force heard in forum after forum that the movement as a whole has long recognized the key roles that historic properties, communities and landscapes can play in economic revitalization. The NPS, with its expertise in parks (and in wilderness parks, in particular) has neglected urban areas and has not fully developed the Certified Local Government program. Combined with a lack of visibility for the programs, the movement suffers at a time when historic preservation should be at the center of urban economic revitalization policy.

Historic preservation in its current form, on the one hand, stresses urban and economic renewal and revitalization. Heritage conservation and the National Heritage Area program, on the other hand, stress the integration of natural resources, heritage sites, folkways and the development of heritage tourism, all areas that also have been difficult to fully develop within the NPS. One interviewee noted that heritage areas see themselves as partners to the parks, but that some NPS staff perceive the heritage areas as interlopers that "steal funds" from the parks. Rather than discouraging growth and hindering the success of heritage areas, better leadership alignment within the NPS would create a stronger base of operations for these local and often rural economic and preservation engines.

The NPS's lack of subject matter expertise in heritage-based economic strategies has impacted the administration of the Partnership Programs in many ways. One of the most dramatic has been in its ability to support the programs in the annual appropriations process. As the Office of Management and Budget has demanded metrics to gauge the success of all federal programs, those without the ability to prove their economic worth have been particularly

vulnerable to budget cuts. This has been the case for the Save America's Treasures program, the only federal historic bricks-and-mortar grant program in the United States; Preserve America, a program designed to promote historic preservation through heritage tourism, education and historic preservation planning; and the National Heritage Area program, all of which have come under attack during the budgeting process. As became clear in the Task Force's public meetings and subject matter and stakeholder interviews, a lack of economic and other data has played a major role in marking programs to de-fund:

We have met with OMB and know what they are looking for: we need more metrics and evidence that these programs are effective in educating the public. [We] will be altering the application and reporting process to build in the measurement tools that we need. OMB understands that we don't have the information now but we have made a pledge to make sure we will going forward. -Interview

The Task Force believes that an improved administrative structure with significant expertise in economics, data gathering and analysis would better position the Partnership Programs for success in these difficult economic times and enable the programs, which are public/private partnerships, to better leverage the federal dollars that they do receive to spur private investment.

Economic and quantitative expertise would help Partnership Program administrators make a stronger case for the preservation of these programs when confronted with internal arguments that the heritage programs are outside NPS's "core mission," as occurred in *The National Park Service FY 2011 Budget Justifications* rationale for de-funding (or cutting the funding in half, in the case of the Heritage Areas) of the Save America's Treasures, Preserve America and Heritage Area programs: "This proposed reduction would allow the Park Service to focus on *those park activities that most closely align with its core mission.*" Recognizing that it might take many more years for historic preservation to be accepted as nearer to the core mission of the NPS, the Partnership Programs need quantitative and economic data now to combat those who believe that their benefits to communities and to America as a whole are unquantifiable and thus not worthy of further support.

The federal Historic Rehabilitation Tax Credit program ("HTC"), administered by NPS, implicates each of these issues. To date, consistent with the broad mandate of the Act, the HTC program has indirectly contributed to the federal government's influence on development, urban revitalization and affordable housing—all while achieving the correlative goal of stewarding our nation's heritage. Nonetheless, Task Force research also demonstrated that the HTC Program would be greatly enhanced by the development of expertise within the NPS in the dual arenas of real estate economics and sustainability. Real estate economics have always played a central role in redevelopment, and, as such, have been a key factor and cause for concern in NPS administration of the Historic Tax Credit program from the time of its origin. Sustainability issues have come to play a much more significant role in recent years.

Subject matter experts and survey respondents felt that the National Park Service has largely not addressed these demands of the NHPA, preferring a "curatorial" approach that has had adverse results for historic structures whose developers were either denied funding due to relatively minor preservation issues or chose not to participate at all due to the complexity and unpredictability of the process:¹⁷ As one discussion session attendee expressed it, "We need to balance the voice of the historian with the voice of the CFO." Further, the program would benefit greatly from streamlining and simplifying the process, which would benefit both State Historic Preservation Offices and developers.

[NPS is] good at protecting landmarks, but that's not what the tax credit is about, which is keeping old buildings in service. The program itself ought to be 30 times what it is. ...
-Interview

As an end user of an historic tax credit, if we knew how much time and how complex the program was we would not have opted to use the historic tax credits. It's too complicated to make it easy for real estate developers. A lot of good could come if the program was useable. –NPC Session

^{16.} Emphasis added. The Heritage Area justification also mentions that cutting funding "would comply with the FY 2010 Congressional directive for Heritage Areas to work towards becoming self-sufficient." National Park Service FY 2011 Budget Justifications, NR&P-51.

^{17.} See also the National Park System Advisory Board Report "Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better," September 2006.

Lack of leadership has also been an issue. The post of branch chief administering the HTC program was left vacant for three years. Even now that it has recently been filled, questions remain about access of NPS and Interior-level decision makers. All of this is occurring at the same time that HTC administration needs updating to meet the challenges of the 21st century. The HTC is often paired with the New Markets Tax Credit, run by the Treasury Department's CDFI Fund, which has been named as one of the government's top innovators. The dynamism with which that program is administered, its vigorous outreach and constant management innovations pose a counterpoint to the static, isolated administration of the HTC. Issues include the need for effective interface between the HTC program and complementary federal housing, energy and transportation goals, and for improved data collection, metrics and online interface.

The Partnership Programs also would benefit from a firmer grounding in energy independence, environmental sustainability and the role that historic preservation can play in these arenas. A lack of understanding of and knowledge about sustainability issues on the part of NPS were often mentioned as a matter of grave concern to users of the Historic Rehabilitation Tax Credit program:

My main concern is with the historic tax credit program and technical services program not being up to date on current challenges such as solar energy, energy issues therefore, we don't have a strong preservation voice with the appropriate skills and expertise addressing these issues. -Interview

Since this interview took place, the Secretary of the Interior has updated the Standards for Rehabilitation with new Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings, the "first set of official guidelines on how to make changes to improve energy efficiency and preserve the character of historic buildings." As the NPS notes, the new guidelines replace material not updated since 1992, indicating the difficulty that the NPS has encountered in staying current, let alone in addressing energy issues. Moreover, while the new Guidelines are a first step, more is needed. For example, there have been calls for a release of "best practices" or recomended treatments usable by owners of millions of historic buildings seeking to meet new efficiency standards called for by the DOE. There should be a way to measurabely tie specific strategies to these standards, factoring in climate zone and building type. To do this, the NPS should be actively seeking a collaboration with the DOE and the EPA.

The preservation community envisions a future in which the NPS is able to fully participate in interagency initiatives and to develop educational and other programs of its own to protect historic resources from the onslaught of builders advocating new "greener" building at any cost and, in particular, historic window replacement in the name of increased energy efficiency. In the arena of window replacement, an entire industry has developed to replace old windows when in many cases the original windows would be more energy efficient to restore. If the federal preservation program was organized more effectively, the widespread destruction of historic windows might have been averted and might yet be slowed. In addition, the economic benefits of restoration, preservation and historic resources could be linked to both window restoration and preservation in general, to give only one example of the many contributions that historic preservation can make to this issue.

A stronger voice on the part of the ACHP and a presence on the CEQ would also assist the NPS in increasing interagency interaction in the administration of the Partnership Programs, and developing and pursuing economic revitalization and sustainability-related goals in program administration.

3. Closer integration of the Preservation and Heritage Partnership Programs into the administrative structure of parks-based cultural resource management will not serve either the individual parks or the Partnership Programs well. The goals and cultures of these two areas of activity are very different. Placing both of these responsibilities under a single leader puts parks and the Partnership Programs in competition with each other for resources, and it puts curatorial preservation concerns ahead of efforts to harness the nation's heritage resources for the broad array of public goals envisioned by the 1966 Act.

In 2008, the National Academy of Public Administration recommended that either the Associate Directorate for Cultural Resources become a high-performing organization or that it be reorganized in order to better manage the historic parks and cultural resources under its care, noting that:

Stewardship of park cultural resources involves direct fiduciary responsibility for, and management of, structures, sites, and objects under NPS custody and control. In contrast, the national historic preservation program involves making grants, creating incentives, and issuing regulations designed to mitigate adverse consequences to historic resources that are under the control of others. The policies and skills required for the former are very different than the policies and skills required for the latter.¹⁸

The Task Force's findings support a similar conclusion: the co-management of the parks-based cultural resources and the external Partnership Programs ultimately benefits neither entity.

Since their placement in the NPS in 1966, the Partnership Programs have frequently suffered from their perceived competition with parks and parks-based cultural resources. For the past 25-plus years, the "external" programs have been managed alongside the parks' "internal" (i.e. federally-owned) cultural resource programs. The historic preservation and heritage community generally believes that this has not benefited the Partnership Programs due to the priority that parks' resources take in the time, focus and advocacy of NPS cultural resources leadership:

Based on my experience and all those things that have been tried, from a bureaucratic point of view the core mission of the NPS will always be overwhelming. The external programs will always be much lower in priority than the parks. —NPC Session

"I think it would be self evident that of the three missions for Cultural Resources in the NPS, the park-centered programs receive the majority of attention (and I think that is probably valid given the needs and priorities of the parks.) Therefore it might make sense to have Director of External programs who reports directly to the Park Service director without having to compete with the internal park issues at three levels before reaching administration." –Survey

As alluded to in the NAPA 2008 report and echoed in Task Force survey comments, a primary detriment of the internal/external program alignment is a structural inability on the part of NPS leadership to fully develop and pursue the particular skills needed by the Partnership Programs. Rather than spending much of his or her time looking *inside* to Parks and mastering the bureaucracy and politics of internal parks administration, a Deputy Director for Historic Preservation and Heritage could focus time and resources on understanding the needs of the States, Tribes and local communities and organizations served by the grant programs; furthering the economic development and sustainable potential of historic resources as demanded by the NHPA; and visiting non-federal sites of significance in order to raise the visibility of the programs. In short, the outward-focused and multi-disciplinary nature of historic preservation will be much better served by a leader and management team devoted solely to realizing its potential:

"Many people have argued that the way historic preservation is nestled in the NPS doesn't make a whole lot of sense considering the broader scope of preservation issues in the country. Surely, there must be a better organizational structure that expresses the multidisciplinary quality of preservation." —Survey

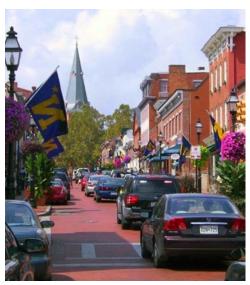
"... [I]t has been my experience that cultural resources within NPS parks are dominated by Internal Programs and Superintendents of the parks. The current structure does not

^{18.} NAPA 2008, Op. cit.,p. 55. The report continues: "The Panel urges NPS to weigh the overall advantages, disadvantages, and tradeoffs involved in creating a separate Associate Director for Park Cultural Resources. In the Panel's view, there is a strong argument for the equal organizational status of park cultural resources with natural resources."

operate in a way that is constructively collaborative even within the Park Service itself, to say little of the visibility and collaborative engagement of other federal agencies." –Survey

Throughout its research, the Task Force was urged by research participants to encourage close cooperation between parks cultural resources and the Partnership Programs, especially in order to protect standards that need to be held in common between the two. Certainly, the Task Force strongly advocates close and sustained communication between inside-park and historic preservation Partnership Programs. Nonetheless, our findings, similar to NAPA's, suggest that a separate organizational structure would improve the efficiency and effectiveness of both the Partnership Programs and cultural resources within the National Park Service.













There is no shortage of opportunity regarding historic buildings. Vacant, deteriorating or underutilized buildings either on the National Register of Historic Places or in National Register Historic Districts, such as the Vanity Ballroom in Detroit, Michigan are in need of rehabilitation. Strong leadership in the administration of our federal historic preservation program can help leverage existing programs as well as private investment to return these buildings to service.

"...external programs are not a good fit with management of park units. The issues, stakeholders, clients, relationships with local governments and constituencies are very different."

Interview

Chapter Three: Recommendations

The deep budget cuts exacted in 2011 and proposed again for 2012 have created both an imperative and an opportunity to revitalize the Partnership Programs so they are unambiguously seen as realizing the promise of the National Historic Preservation Act and meeting the urgent needs of the twenty-first century. To do this, the Federal Historic Preservation Program Task Force posits that the federal component of the program currently administered by the NPS must be realigned and strengthened to create a structure fully supportive of the provisions of the Act and of furthering the economic development, energy and resource conservation and community-strengthening potential of historic resources.

The Task Force firmly believes that significant improvements in these critical areas can be achieved at little cost through the reallocation of existing resources. The Task Force's goal is not to criticize NPS for its prior administration of the programs under its care, but rather to provide the dedicated preservation and heritage professionals at NPS a new platform better adapted to accomplish the nationally important goals declared by the 1966 Act and more relevant today than ever.

The Task Force envisions an administrative structure for the Preservation and Heritage Partnership Programs that propels these programs into a leadership role in heritage conservation, job creation, energy independence, and the forging of efficient and effective public-private partnerships to advance these goals.

A broad consensus exists within the preservation community that transferring the Partnership Programs to a separate federal preservation agency or a separate bureau within the Department of the Interior would be the best structure to empower property owners and local agencies to use heritage preservation to create jobs and advance community sustainability, develop heritage tourism, and inspire citizens with a pride of place and sense of history. However, the Task Force and preservation community as a whole also believe that in keeping with the current imperative to do more with less, benefits will derive from less dramatic changes that can be accomplished with the realignment of current resources. Therefore, the Task Force proposes four essentially budget-neutral improvements that work within existing agencies and councils.

Our member organizations and constituents are in agreement about the need for these changes and will work together to see that they are enacted. Optimally, the individuals tasked with the positions described below will

meet on a monthly basis to coordinate work more efficiently and effectively across the federal government and raise awareness of the contributions that heritage preservation brings to the life of this nation. The preservation community will revisit the results of these changes two years after implementation to determine if they have been effective.

The Task Force's recommendations are:

1. Make historic preservation visible and accountable by realigning responsibilities for the Preservation and Heritage Partnership Programs within the National Park Service under a Deputy Director for Historic Preservation and Heritage who reports to the Director of the National Park Service.

The National Historic Preservation Act provides that it "shall be the policy of the Federal Government . . . to provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments."

The Task Force findings indicate that the Preservation Partnership Programs will not thrive in the NPS unless they gain a more elevated and independent position within the Parks hierarchy. This is not an issue that individual leadership can overcome in the long term, but one of structural necessity to institutionalize and elevate historic preservation within the federal government so that true national leadership again becomes feasible. The Task Force envisions a single Deputy Director who reports directly to the Director of the National Park Service. The sole responsibility of this Deputy Director would be overseeing the various Partnership Programs described in Title I of the 1966 Act and administered with Tribes, States, and localities, as well as National Heritage Areas.

The Task Force envisions a Deputy Director who will:

- Engage with States, Tribes, local communities, and non-government organizations to fully realize the goals of the
- Initiate and participate in interagency projects reflecting the multidisciplinary nature of historic preservation and heritage
- Focus on urban, suburban, small town and rural sustainability and revitalization needs and the heritage tourism potential of historic resources
- Develop a culture of innovation within NPS responsive to the economic needs and potential of historic resources
- Provide leadership on international preservation matters
- Engage historic preservation in the national quest for energy independence
- Work closely with Parks Cultural Resources to ensure consistent standards and adherence to the vision and principles of the NHPA
- Advocate and be accountable for the Partnership Programs
- Raise the visibility of historic preservation and heritage in the United States and the world

A director solely responsible for Partnership Programs will provide leadership that is accountable solely for the advancement of the outward-focused preservation partnership/assistance programs. Further, to insure success, this department will need expanded staff expertise in the areas of economic development, energy efficiency and environmental sustainability to complement existing resource protection expertise. This can be accomplished in a budget-neutral manner by reassigning some existing staff positions. Together, these actions will facilitate more efficient and effective administration of local designation activities, tax credit investment projects, and Heritage Area administration.

The establishment of such a Deputy Director position can be accomplished in various ways that do not require additional full time equivalent employees. For example, parks-based responsibilities could be consolidated under another existing Deputy Director. Or, inside-park cultural resource management responsibilities could be assigned

to either a new Associate Director for Parks Cultural Resources, if this can be done in a budget-neutral manner, or to the Associate Directors of Park Planning, Facilities and Lands and of Partnerships and Visitor Experience. Then the existing Associate Director for Cultural Resources could be elevated to a Deputy Director position, with the responsibility for the Partnership Programs. Either of these would serve to integrate inside-park cultural resource protection with other inside-park management activities and could be carried out in a way that responds to inside-parks cultural resource program issues identified in the NAPA 2008 "Saving Our History" report but not yet addressed. The reorganization should achieve greater efficiencies at current staff levels in light of the current challenging economic climate. Further, the Task Force stresses the need for continued close coordination between the Partnership Programs and internal parks historic and cultural resources in order to maintain the integrity of the Secretary of the Interior's Standards for Rehabilitation.

2. Designate a Senior Policy Officer for Historic Preservation and Heritage in the Department of the Interior to serve as a Special Advisor for Heritage to the Secretary of the Interior.

The Task Force strongly believes that it is time for the Department of the Interior to take a strong leadership role in historic preservation. As steward of the federal preservation program, and as the Agency designed by Congress to be responsible for much of the National Historic Preservation Act, the DOI needs to become a true leader and advocate for historic preservation across the agency and throughout the Administration.

The Task Force has identified a need for a dedicated historic preservation and heritage official within the office of the Secretary of the Interior. In their role as Senior Policy Office for Historic Preservation and Special Advisor for Heritage to the Secretary, this person will oversee the implementation of the National Historic Preservation Act throughout the Department of the Interior's bureaus and offices, as required under Executive Order 13287 (Preserve America). This officer will advise the Secretary of the Interior on all matters related to heritage preservation, including preservation's ability to contribute to departmental and national goals and ensure that the Partnership Programs have a place in departmental priority setting and resource allocation. The information gathered by this officer would also allow the Secretary to consider preservation-informed strategies when addressing national issues and to bring this knowledge to the deliberations of other executive entities such as the Domestic Policy Council.

Designation of this officer will provide cultural resource coordination across the bureaus of the DOI as initially sought by the 1966 Act. The current structure attempts to accomplish a piece of this by combining Partnership Programs with parks-based cultural resource management within the NPS, but the Task Force believes that the Partnership Programs need to have identity and resource allocation separate from inside-park functions, as described above. A SPO/Special Advisor to the Secretary would accomplish coordination between stewardship of Interior-managed resources and the Partnership Programs while at the same time maximizing the effectiveness of these separate programs.

3. Make the Advisory Council on Historic Preservation Chairman a full-time position.

The Task Force has identified a need to strengthen leadership and increase visibility for historic preservation and heritage at the federal level. The Task Force believes that a full-time ACHP Chairman appointed by the President will help accomplish this. It will allow the Council to fulfill its Congressionally-mandated responsibilities to advise the President and Congress on matters relating to historic preservation and improve coordination of preservation activities of Federal, State, and local agencies and private institutions and individuals, while also carrying out its critical responsibilities for administering the Section 106 review process. Furthermore, a full-time chairperson will be better positioned to engage in government-to-government consultation with Indian tribes; international agencies and organizations; and with other key Executive Office initiatives, panels and councils.

A full-time ACHP Chairperson will work closely with the Deputy Director for Historic Preservation and Heritage to facilitate interagency collaboration and policy coordination in the administration of the Partnership Programs. The

full-time Chair would also be better positioned to work with the Secretary of the Interior to provide leadership and advocacy for historic preservation within the Administration and across agencies. In order to accomplish the goals of the National Historic Preservation Act in a budget-sensitive manner, the Task Force recommends that the full-time chair initiate a process to identify opportunities for greater efficiency in the allocation and execution of preservation responsibilities between the ACHP and the NPS.

In the Task Force's research, several opportunities for cost-saving and redundancy-elimination were identified between the ACHP and NPS. For example, the administration of the Preserve America program could be undertaken by the NPS via the Certified Local Government program, whereas the Federal Preservation Institute could be located within the ACHP in keeping with the ACHP's daily interactions with Federal Preservation Officers. A full-time chair will be able to address issues such as these which the part-time nature of the position until now has rarely permitted.

The Task Force recommends that consideration be given to initially pursuing a full-time ACHP chairmanship through an administrative action by the President under Section 5317 of Title 5 of the US Code authorizing the President to create Executive Level IV and V positions "when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in the Executive Agency." This approach would allow the appointment of a full-time Chairman in the immediate future and without amendment to the NHPA.

After an evaluation period, the full-time chair if successful, could then be established statutorily in a legislative amendment to the National Historic Preservation Act. The amendment would be simple and of a largely technical nature: it would establish the position as full-time and permanent, subject to appointment by the President and confirmation by the Senate, and set the compensation on the Executive Level Scale. Obtaining the necessary appropriations would be the obligation of the ACHP through the normal appropriation process. The amendment could be introduced as stand-alone legislation, with the likelihood that congressional action would come as part of a larger legislative package.

4. Designate a senior staff position for cultural and historic resources on the President's Council on Environmental Quality.

The National Environmental Policy Act of 1969 (NEPA), which the President's Council on Environmental Quality (CEQ) helps to implement, promotes a national policy designed to protect both the natural environment and to "preserve important historic, cultural, and natural aspects of our national heritage." The fact that NEPA has always included cultural and historic resources has often been overlooked. Natural resource programs have had an Executive Office champion in the CEQ but the agency with comparable responsibilities for the preservation program (the ACHP) is not currently represented in the Executive Office. Having a voice for historic preservation on the CEQ would ensure that historic preservation and the roles it plays in energy savings, sustainability, and cultural resource preservation are part of Council deliberations as intended by NEPA.

A senior officer for cultural and historic resources at CEQ would gain a voice for these areas of concern within the Executive Office of the President. This officer would also correct the lack of coordination between natural, cultural and historic resources present since the groundbreaking environmental and historic preservation legislation of the late 1960s. The position could be accomplished at minimal cost and without legislation as the CEQ Chairperson "may employ such officers and employees as may be necessary to carry out [the Council's] functions under this Act."

We have no doubt that on the front lines there are talented professionals. But, like a plant, these individuals need the roots to support the bureaucratic structure.

- NPC Discussion Session









APPENDIX A:

Task Force Members and Staff

CO-CHAIRS

David Morgan

Board Member, Preservation Action; Former Kentucky State Historic Preservation Officer and

Vice-Chair, Preserve America Expert Panel

Andrew Potts
Board Member, Historic Tax Credit Coalition, Preservation Action, US/ICOMOS and Partner, Nixon Peabody LLP

PROJECT STAFF

Erik M. Hein President, Preservation Action

Camille Smiley
Program Manager, Preservation Action

Jennifer Spreitzer
Task Force Project Manager, Preservation Action Foundation

MEMBERS

Peter Benton
Board Member, Preservation Action and Principal, Heritage Strategies

Alan Downer Board Member, Preservation Action and Tribal Historic Preservation Officer, Navajo Nation

Paul W. Edmondson
Vice President and General Counsel, National Trust for Historic Preservation

Brian Goeken (resigned as of May 6, 2011)
Past-Chair, National Alliance of Preservation Commissions and Deputy Commissioner, Historic Preservation Division, Dept. of Zoning and Land Use Planning, City of Chicago

Elizabeth Hebron
Government Relations Director, National Conference of State Historic Preservation Officers

Aimee Jorjani Board Member, Preservation Action

John Leith-Tetrault
President, National Trust Community Investment Corporation, and President, Historic Tax Credit Coalition

Nellie Longsworth

Founding President, Preservation Action and Consultant, Society for Historical Archaeology

William MacRostie

Board Member, Historic Tax Credit Coalition, and Principal, MacRostie Historic Advisors

Thomas Moriarty

Board Member, Preservation Action Foundation; Founder, Main Street Program, National Trust for Historic Preservation and Principal, The Eisen Group

Ellen Moyer

Former Mayor of Annapolis, Maryland and Member, Preserve America Expert Panel

Loretta Neumann

President, Takoma Theatre Conservancy and Former Board Member, Preservation Action

Ruth Pierpont

Chair, National Conference of State Historic Preservation Officers and Deputy NY State
Historic Preservation Officer

Allen Sachse

Board Member, Alliance of National Heritage Areas and Executive Director, Delaware and Lehigh National Heritage Corridor

Nancy Schamu

Executive Director, National Conference of State Historic Preservation Officers

Katherine Slick

Former New Mexico State Historic Preservation Officer and Former Executive Director US/ICOMOS

A. Roy Smith

Board Member, Preservation Action and Treasurer, Preservation Action Foundation

Lola Spradley

Board Member, Preservation Action

Will Tippens

Chairman, Preservation Action and Vice-President, Related Midwest

Jeanne Ward

Vice-President for Government Relations, American Cultural Resources Association and President, Applied Archaeology and History Associates

Shanon Shea Peterson

President, Preservation Action Foundation; Vice-Chair Preservation Action; Historic Preservation Officer, San Antonio and Board Member, National Alliance of Preservation Commissions

Carroll Van West

Board Member, Preservation Action Foundation and Director, Center for Historic Preservation at Middle Tennessee State University

Bradford J. White

Citizen Member, Advisory Council on Historic Preservation and Principal, Brad White & Associates

We would also like to acknowledge the efforts of staff of both the Advisory Council on Historic Preservation and the National Park Service who attended many of our meetings and provided valuable insight and observations.

APPENDIX B:

Subject Matter Expert and Stakeholder Interviewees

Brenda Barrett, Director of Recreation and Conservation, Pennsylvania

Janine Bowechop, Tribal Historic Preservation Officer, Makah Tribe, and Executive Director, Makah Cultural and Research Center

Peg Breen, President, New York Landmarks Conservancy

Allyson Brookes, State Historic Preservation Officer, Washington

August R. Carlino, President, Steel Industry Heritage Corp. and Rivers of Steel National Heritage Area; Board Member, Alliance of National Heritage Areas

Pratt Cassity, Director, Community Design Center, University of Georgia

Linda Dishman, Executive Director, Los Angeles Conservancy

Wayne Donaldson, Chairman, Advisory Council on Historic Preservation; State Historic Preservation Officer, California

Alan Downer, Tribal Historic Preservation Officer, Navajo Nation and Board Member, Preservation Action

John Fowler, Executive Director, Advisory Council on Historic Preservation

Annie C. Harris, Executive Director, Essex National Heritage Area and Board Member, Alliance of National Heritage Areas

Alferdteen B. Harrison, PhD, Director, Margaret Walker Alexander Research Institute, Jackson State University

Eric Hertfelder, Executive Director, Fort Adams Trust; former Executive Director, National Conference of State Historic Preservation Officers

Audie Huber, Intergovernmental Affairs Manager, DNR, Confederated Tribes of the Umatilla Indian Reservation

Russell V. Keune, FAIA, Longtime historic preservation leader at the National Park Service, the National Trust for Historic Preservation and the United States Committee, International Council of Monuments and Sites (US/ICOMOS)

John Leith-Tetrault, President, National Trust Community Investment Corporation; President, Federal Historic Tax Credit Coalition

David Lindsay, Manager of Government Affairs, Society for American Archeology

J. Rodney Little, State Historic Preservation Officer and Director, Division of Historical and Cultural Programs, Maryland

Nellie Longsworth, Government Affairs Consultant; Founding President, Preservation Action

Bruce MacDougal, Executive Director, San Antonio Conservation Society; Board Member, Preservation Action

William MacRostie, Principal, MacRostie & Associates; Board Member, Historic Tax Credit Coalition

Bobbie Greene McCarthy, Director, Save America's Treasures, National Trust for Historic Preservation

Marty M. McCune, Chair, National Alliance of Preservation Commissions; Principal, Skylark Consulting, LLC

Elizabeth Merritt, Deputy General Counsel, National Trust for Historic Preservation

Vincent L. Michael, PhD. John H. Bryan Chair in Historic Preservation, The School of the Art Institute of Chicago

Hugh Miller, Former Chief Historical Architect, National Park Service

Mark Mitchell, Tribal Historic Preservation Officer, Tesugue Pueblo

David W. Morgan, Former State Historic Preservation Officer, Kentucky; Vice-Chairman, Preserve America Expert Panel; Co-Chair Federal Historic Preservation Program Task Force

Ellen Moyer, Former Mayor of Annapolis, Maryland

William Murtagh, First Keeper, National Register of Historic Places, National Park Service

Joseph K. Oppermann, Architect

Theresa Pasqual, Executive Director, Historic Preservation Office, Pueblo of Acoma; Site Director, Acoma-Sky City, National Trust for Historic Preservation

Suzi Pengilly, Deputy State Historic Preservation Officer, Idaho

Ruth Pierpont, President, National Committee of State Historic Preservation Officers; Deputy State Historic Preservation Officer, New York

Constance Ramirez, Director, Federal Preservation Institute, National Park Service

Jerry Rogers, Former Associate Director of Cultural Resources, National Park Service

Donovan Rypkema, Principal, PlaceEconomics

P. Lynn Scarlett, Former Deputy Secretary and Chief Operating Officer, U.S. Department of the Interior

Nancy Schamu, Executive Director, National Conference of State Historic Preservation Officers

Carol Shull, Chief, Heritage Education Services, National Park Service; Former Keeper, National Register Historic Places,
National Park Service

Timothy Slavin, State Historic Preservation Officer, Delaware

Katherine Slick, Former Executive Director, US/ICOMOS; Former State Historic Preservation Officer, New Mexico

Jon C. Smith, Assistant Associate Director, Heritage Preservation Assistance Programs, National Park Service

De Teel Patterson Tiller, Former Deputy Associate Director for Cultural Resources, National Park Service

Ron Tipton, Senior Vice-President for Policy, National Parks Conservation Association

Stephanie Toothman, PhD., Associate Director for Cultural Resources, National Park Service

Alicestyne Turley, PhD., Director, Underground Railroad Research Institute, University of Louisville

James A. Turner, Owner, Turner Restoration; Board Member, Preservation Action; Advisor, National Trust for Historic Preservation

Jay D. Vogt, State Historic Preservation Officer, South Dakota; immediate past President, National Conference of State Historic Preservation Officers

Emily Wadhams, Former Vice-President of Public Policy, National Trust for Historic Preservation

Shanon Shea Peterson, Historic Preservation Officer, San Antonio; President, Preservation Action Foundation; Vice Chair, Preservation Action

Douglas P. Wheeler, Partner, Hogan and Hartson; Chair, Preserve America Expert Panel

Bradford J. White, Citizen Member, Advisory Council for Historic Preservation; Principal, Brad White & Associates

APPENDIX C:

Subject Matter Expert and Stakeholder Interview Questionnaire

- 1. How have you been involved with or exposed to the National Park Service's so-called "External Programs" for historic preservation?
- 2. What does NPS do well within your area of expertise?
- 3. What does NPS not do well or could do better within your area of expertise?
- 4. Regarding leadership and policy development in historic preservation, who, if anyone, currently provides this?
- 5. What is your perspective on the current structure of the "External Programs" within the NPS? Within the Department of the Interior?
 - 5.1. If you have experience with past structures, please tell us more about these
- 6. Several options for reorganizing or improving the National Historic Preservation function have been proposed in the past. We would like to hear your assessment of these:
 - 1) **Create an independent agency** for all federal preservation activities (separate from the Department of Interior)
 - 2) Consolidate all federal preservation programs into Advisory Council for Historic Preservation (ACHP)
 - 3) Create a freestanding bureau within Interior Department for federal preservation programs
 - 4) Keep organizational structure the same but create stronger leadership structure for federal preservation programs: for ex., Full-time ACHP Chairman; Associate Director for Cultural Resources within the Council on Environmental Quality; Associate Director for Historic Preservation within NPS; Oversight Office within DOI
 - 5) **No change**: keep the structure as is
- 7. What do you think would be the ideal organization for these programs?
- 8. What do you think, given the current climate, would be a realistic way to organize or improve these programs and their management?
- 9. In your opinion, what traits are necessary for an improved Federal Historic Preservation Program? Some suggestions include:
 - 1) Supports interagency, tribal, state, local and non-governmental organization engagement and coordination
 - 2) Sustains and increases funding for adequate resource management
 - 3) Encourages innovation and flexibility
 - 4) Increases accountability
 - 5) Dynamic leadership and program visibility

Do you agree with these? Are there other characteristics that you would add?

- 10. [If applicable]: Within your organization or constituency, how do we go about winning consensus regarding the Task Force's Final Report and Recommendations? What should we be aware of?
- 11. Do you have any suggestions for how to generate political support for the Task Force's recommendations?
- 12. Is there anything you would like to add?

APPFNDIX D:

Discussion Session Guide

Purpose: Seek participants' thoughts on strategies for enhancing the effectiveness of the Federal Historic Preservation Program's organizational and leadership structure

Introduction to the Discussion Session

- introductions and brief history of the issue/problems
- current Task Force: role, assumptions, activities, timeframe
- questions?

Topic #1: Proposals for Improving the Functionality of the Federal Historic Preservation Programs' Leadership/Organizational Structure

Options being considered to enhance effectiveness:

- **Independent Agency:** Create an independent agency for all federal preservation activities (separate from the Department of the Interior)
- **Consolidate into ACHP:** Consolidate all federal preservation programs into Advisory Council for Historic Preservation (ACHP)
- **Freestanding Bureau within Interior:** Create a new bureau within the Department of the Interior for federal preservation programs separate from the National Park Service (NPS)
- Same Structure with Leadership Adjustments: Keep organizational structure the same but create stronger leadership structure for federal preservation programs: for ex., Full-time ACHP Chairman; Associate Director for Cultural Resources within the Council on Environmental Quality; Oversight Office within DOI; Associate Director for Historic Preservation within NPS

Key questions: What are your thoughts on the strengths, weaknesses and feasibility of these options? Are there other options or variations on these the task force should consider?

Topic #2: Identification of Key Selling Points

Key question: What are the most compelling arguments for change that should be considered in developing and seeking support for our "proposals for change?"

Topic #3: Other Issues/Possibilities

Key question: What other issues/possibilities should the Task Force consider as it seeks consensus and moves into the implementation phase of the effort?

APPENDIX E:

Survey Questionnaire

Background

The organizational structure and effectiveness of the federal government's core historic preservation and heritage programs have been the subject of study for years. These are the programs that support historic preservation and heritage activities at the state, tribal and local levels, such as the National Register of Historic Places, historic tax credits, funding for State and Tribal Historic Preservation Offices, the Certified Local Government program, national heritage areas and other programs.

Most of these programs were created under the National Historic Preservation Act of 1966 and some are funded in part via the Historic Preservation Fund. The management and implementation of these programs is the responsibility of the Department of the Interior, which has delegated them to the National Park Service.

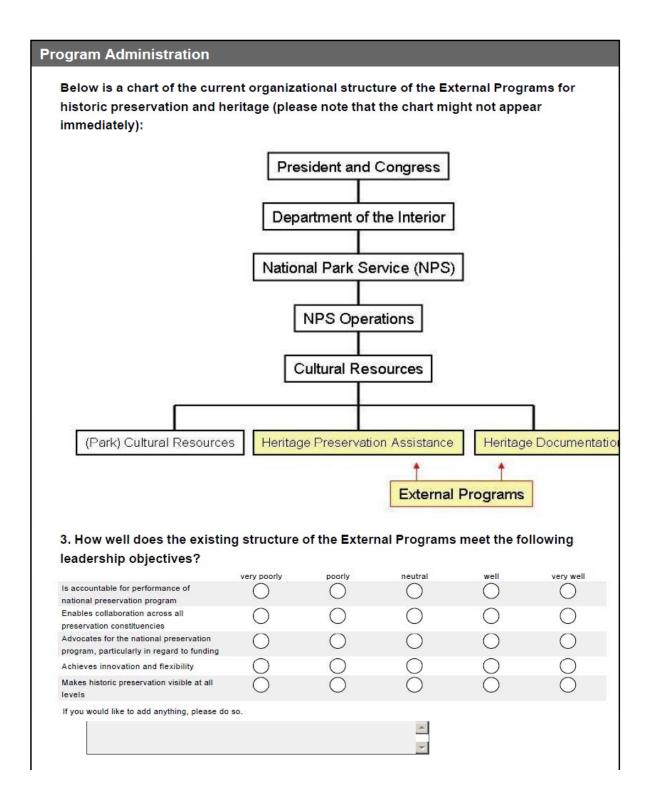
Dubbed "External Programs" by the NPS, these programs have been neglected as evidenced by budget cuts, key management posts being left unfilled for months or years, the shifting of staff and resources to other programs, a lack of coordination with other federal initiatives and a general lack of visibility.

The mission of the Federal Historic Preservation Program Task Force is to document the condition and trajectory of the External Programs; to arrive at a consensus plan for structural improvement of these programs; and, finally, to engage with our partners in an advocacy campaign for implementation of this plan.

In an effort to gain consensus and to build on the important work of the past (in particular, that of the Preserve America Expert Panel, which conducted a similar survey in 2008), the Federal Historic Preservation Program Task Force would appreciate your input.

Occupation
We would like to better understand different perspectives on the federal historic preservation and heritage programs and their administration. Please select a category below that best describes your role:
Educator or student
Preservation professional service provider (i.e. architect, archeologist, etc.)
Owner/Developer of an historic property
Private/non-profit preservation organization staff or volunteer
Local government staff, commission member or elected official
State government staff, review board member or elected official
THPO or other Tribal or Native American staff, review board member or elected official
Federal agency staff
Heritage area staff or commission member
Interested Individual
Other: please describe below
If you chose "Other" above, please describe your involvement in historic preservation and/or heritage:

Criteria
The Task Force proposes 5 key criteria of effective federal preservation program management.
Effective program leadership is leadership that possesses the standing, authority and wherewithal to:
1. Be accountable for the performance of the federal component of the national historic preservation program and for the effectiveness of the entire national preservation partnership (as implemented by all partners including tribes, states, local governments and citizens).
2. Enable collaboration and partnership with other federal agencies, with state and local governments, Indian tribes and native organizations, and with organizations and individuals undertaking preservation by private means.
 Advocate successfully for the national historic preservation program across the federal government, particularly advocacy that sustains and increases investment in historic preservation and funding for national, state, local, and tribal partnership programs.
4. Achieve innovation and flexibility while setting national standards that remain true to the purposes of the National Historic Preservation Act of 1966.
Make historic preservation and the External Programs visible to the public and at all levels of government, including within the program's home agency and across the federal government.
2. In your opinion, how well do these 5 criteria describe effective leadership objectives
for the federal preservation program?
very poorly
poorly
ncutral
well
very well
If you would like to add anything, please do so:
▲



Organizational Options					
Many ideas for organizing the federal his next several questions we would like yo merit rather than on their feasibility, whi	ur input on seve	ral of these option	ns. Please rate		
Using the 5 criteria listed below on the lobjectives.	eft, please rate t	he following orga	inizational optio	n's ability to ach	ieve these
4. Create a new agency for	historic pres	servation and	l heritage ar	nd centralize	all historic
preservation and cultural h	eritage prog	rams in this a	agency, incl	uding the Ad	lvisory
Council on Historic Preserv					
National Endowment for th	e Humanities	s and the Nat	ional Endov	vment for the	Arts.)
	very unhelpful	not helpful	neutral	helpful	very helpful
Is accountable for performance of national preservation program	0	0	0	0	0
Enables collaboration across all preservation constituencies	0	0	0	\circ	0
Advocates for the national preservation program, particularly in regard to funding	0	0	0	0	0
Achieves innovation and flexibility	0	0	0	0	0
Makes historic preservation visible at all levels	Ŏ	Ŏ	Ŏ	Ŏ	Ŏ
Organizational Options					
Using the 5 criteria listed below on the le	eft, please rate th	ne following orga	nizational optio	n's ability to ach	ieve these
objectives.					
5. Consolidate all External F	Programs for	r historic and	cultural pre	eservation co	urrently
administered by the Nationa	al Park Servi	ce into the A	dvisory Cou	ıncil on Hist	oric
Preservation (ACHP). (The	ACHP serves	s as the prima	ary federal p	oolicy adviso	or to the
President and Congress; re	commends	administrativ	e and legisl	ative improv	ements for
protecting our nation's heri	tage; advoca	ates full cons	ideration of	historic val	ues in
federal decisionmaking; an	d reviews fe	deral progra	ns and poli	cies to prom	ote
effectiveness, coordination	, and consis	tency with na	ational pres	ervation poli	cies.)
	very unhelpful	not helpful	neutral	helpful	very helpful
Is accountable for performance of national preservation program	0	0	0	0	0
Enables collaboration across all preservation constituencies	\circ	\bigcirc	\circ	\bigcirc	\circ
Advocates for the national preservation program, particularly in regard to funding	0	\circ	0	0	0
Achieves innovation and flexibility	0	0	\circ	\bigcirc	0
Makes historic preservation visible at all levels	Ō	Ō	Ŏ	Ŏ	Ŏ

currently a part-time positio	n appointed	by the Presid	lent, a full-ti	me position	appointed
by the President with the ac	lvice and co	nsent of the S	Senate.		
	very unhelpful	not helpful	neutral	helpful	very helpful
Is accountable for performance of national preservation program	0	0	\circ	\circ	\circ
Enables collaboration across all preservation constituencies	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc
Advocates for the national preservation program, particularly in regard to funding	\circ	0	\circ	\circ	\circ
Achieves innovation and flexibility	\bigcirc	\bigcirc	\bigcirc		
Makes historic preservation visible at all levels	Ŏ	Ŏ	Ŏ	Ŏ	Ŏ
ing the 5 criteria listed below on the	left, please rate	e the following or	ganizational op	tion's ability to a	achieve these
rganizational Options ing the 5 criteria listed below on the lectives. 7. Create a separate burea coordinate all of the extern	u within the	Department preservation	of the Interi and heritag	or (DOI) to r e programs	manage and currently
ing the 5 criteria listed below on the lectives. 7. Create a separate burea coordinate all of the extern housed in the National Pa	au within the nal historic p rk Service. (Department preservation Examples of	of the Interi and heritag other burea	or (DOI) to r e programs aus within D	manage and currently OI are the U
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ing the 5 criteria listed below on the lectives. 7. Create a separate burea coordinate all of the exteri housed in the National Pa	au within the nal historic p rk Service. (Department preservation Examples of	of the Interi and heritag other burea	or (DOI) to r e programs aus within D	manage and currently OI are the U k Service.)
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ing the 5 criteria listed below on the lectives. 7. Create a separate burea coordinate all of the externate housed in the National Pa Geological Survey, the But Is accountable for performance of national preservation program Enables collaboration across all	au within the nal historic p rk Service. (ureau of Land very unhelpful	Department preservation Examples of d Manageme	of the Interi and heritag other burea nt and the N	ior (DOI) to r e programs aus within D lational Parl	manage and currently OI are the U k Service.)
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Organizational Options

preservation programs, it should (choose one):

include the Advisory Council on Historic Preservation

NOT include the Advisory Council on Historic Preservation

rganizational Options					
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9. Create a higher-level div coordinate ONLY external this division could report of park cultural resource man	historic pres directly to the	ervation and NPS directo	heritage pro r and would	grams. (The	e head of
	very unhelpful	not helpful	neutral	helpful	very helpful
Is accountable for performance of national preservation program	0	0	0	0	0
Enables collaboration across all preservation constituencies	\circ	0	\circ	\circ	\circ
Advocates for the national preservation program, particularly in regard to funding	0	0	0	0	0
Achieves innovation and flexibility	0	0	0	\circ	0
Makes historic preservation visible at all	Ŏ	Ŏ	Ŏ	Ö	Ŏ

rganizational Options						
ng the 5 criteria listed below on the I ectives.	eft, please rate th	he following orga	anizational optio	n's ability to ach	nieve these	
10. Keep the organizationa example, create posts dedi and the Office of the Secret	cated to pres	servation and	d heritage w			
	very unhelpful	not helpful	neutral	helpful	very helpful	
Is accountable for performance of national preservation program	0	0	0	Ó	0	
Enables collaboration across all	\circ	0	\circ	\circ	\circ	
preservation constituencies						
preservation constituencies Advocates for the national preservation program, particularly in regard to funding	0	0	\circ	0	0	
Advocates for the national preservation	0	0	0	0	0	

Organizational (Options
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- 11. Please rank the organizational options in your order of preference. Rank the options on their individual merit: political, fiscal and other factors affecting feasibility will be considered in the next question.
- A. Create an independent agency for historic preservation and heritage.
- B. Consolidate all programs into the Advisory Council on Historic Preservation (ACHP).
- C. Make the Chairman of the ACHP a full-time position appointed by the President with the advice and consent of the Senate.
- D. Create a separate bureau within the Department of the Interior (DOI).
- E. Create a higher-level division within the National Park Service (NPS) to house the External Programs for historic preservation and heritage.
- F. Keep the structure the same but elevate preservation leadership: for ex., create heritage posts in the White House and/or the Office of the Secretary of the Department of the Interior (DOI).

G. No change

	1st choice	2nd choice	3rd choice	4th choice	5th choice	6th choice	7th choice
Independent Agency	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	
Consolidate into ACHP	\bigcirc						
Full-time ACHP Chairman	\bigcirc						
Separate Bureau within DOI	0	\circ	\circ	0	\circ	\circ	\circ
Higher-level Division within NPS	\bigcirc						
Elevate Preservation Leadership at White House and/or DOI	\circ	0	\circ	0	\circ	0	0
No Change	\circ	0	0	\circ	\circ	\circ	

Organizational Opti	rganizational Options						
12. A number of those interviewed by the Task Force expressed support for the concept of major structural changes in the system, but suggested that more limited and more targeted changes should be considered in light of the current political and fiscal climate. Taking the current climate into account, please rank the organizational options in your order of preference.							
	1st choice	2nd choice	3rd choice	4th choice	5th choice	6th choice	7th choice
Independent Agency	\circ	\circ			\circ	\circ	
Consolidate into ACHP	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc
Full-time ACHP Chairman							
Separate Bureau within DOI	0	0	0	0	0	0	0
Higher-level Division within NPS	\circ	\circ			\bigcirc		
Elevate Preservation Leadership at White House and/or DOI	\circ	\circ	\circ	\circ	\circ	0	\circ
No Change	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	\bigcirc	

pler	nentation
	What other issues or possibilities should the Task Force consider as it seeks
cons	sensus on any proposals for change?
	Do you have any suggestions for how to generate grassroots and/or political
sup	port for the Task Force's recommendations?
	<u></u>
15. \	Would you like to assist the Task Force in its efforts to improve the federal historic
pres	servation program? If so, please provide your email address below.
Thank	you very much for your input!
Please	visit preservationaction.org to learn more about the Federal Historic Preservation Program Task Force and its activities.

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Atlas Theatre, a historic rehabilitation tax credit project in Washington, DC, photograph courtesy of NCSHPO.

6th Street Historic District, Austin, TX, photograph by Preservation Action.

The famous (one if by land, two if by sea) Old North Church in Boston, MA. by Ben Franske, used under the Creative Commons Attribution-Share Alike 3.0 Unported, 2.5 Generic, 2.0 Generic and 1.0 Generic license, obtained via the Wikimedia Commons, a freely licensed media file repository. (Recipient of a Save America's Treasures Grant.)

Amazing masonry and jacal structure at Moon House in Utah, by Matt Peeples, used under the Creative Commons Attribution-Share Alike 2.0 Generic license, obtained via the Wikimedia Commons, a freely licensed media file repository. (Recipient of a Save America's Treasures Grant.)

Malden Towers, a historic rehabilitation tax credit project in Cook County, IL, a public domain photograph obtained via Wikimedia Commons, a freely licensed media file repository.

Discussion Session, Austin, TX, October, 2010, photograph by Preservation Action.

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A street in Annapolis, Maryland, by Dan Smith, used under the Creative Commons Attribution-Share Alike 2.5 Generic license, obtained via Wikimedia Commons, a freely licensed media file repository. (National Register Historic District.)

Ebenezer Baptist Church in Atlanta, where Martin Luther King Jr. preached, by Erin McDaniel, used under the Creative Commons Attribution 3.0 Unported license, obtained via the Wikimedia Commons, a freely licensed media file company. (Recipient of a Save America's Treasures Grant.)

Enterprise Mill, by Stacie Wells, used under the Creative Commons Attribution-ShareAlike License 2.0; obtained via the Wikimedia Commons, a freely licensed media file repository. (A Historic Rehabilitation Tax Credit project.)

A replica of a cabin at Valley Forge in which soldiers of George Washington's army would have stayed during the winter of 1777-1778, by Dan Smith, used under the Creative Commons Attribution-Share Alike 2.5 Generic license, obtained via the Wikimedia Commons, a freely licensed media file company.

The Railway Exchange Addition and Railway Exchange New Building, located at 1715 Champa Street and 909 17th Street in Denver, Colorado, by Jeffrey Beall, used under the Creative Commons Attribution-Share Alike 3.0 Unported license, obtained via the Wikimedia Commons, a freely licensed media file company.

Looking down Filbert Street in North Beach, San Francisco, by Daniel Schwen, used under the Creative Commons Attribution-Share Alike 2.5 Generic license, obtained via the Wikimedia Commons, a freely licensed media file company.

A street in Annapolis, Maryland, by Dan Smith, used under the Creative Commons Attribution-Share Alike 2.5 Generic license, obtained via Wikimedia Commons, a freely licensed media file repository. (National Register Historic District.)

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Audobon Building, New Orleans, LA, photograph courtesy of National Trust Community Investment Corporation. (A Historic Rehabilitation Tax Credit project.)

Delano, National and Sagamo hotel fronts on Collins Ave. - Miami Beach, used under the Creative Commons Attribution-Share Alike 2.5 Generic, 2.0 Generic and 1.0 Generic license, obtained via Wikimedia Commons, a freely licensed media file company.



The Task Force held a series of Listening Sessions in Philadelphia, PA, Austin, TX and Salem, MA. Photos courtesy of Preservation Action.



Results of Program Review - Recommendations and Action Plan

The Tax Reform Act of 1976 first established Federal tax incentives for rehabilitating historic buildings. In its report on this law, the Joint Committee on Taxation of the United States Congress declared, "Congress believes that the rehabilitation and preservation of historic structures and neighborhoods is an important national goal."

The Federal Historic Preservation Tax Incentives Program has been instrumental in promoting historic preservation and community revitalization through historic rehabilitation, and it is the largest and most effective Federal program specifically supporting historic preservation. Since its inception in 1976, the program has generated over \$66 billion in private investment in historic rehabilitation, counting over 38,700 completed projects.

The program provides for a 20% tax credit (commonly referred to as the Federal Historic Tax Credit) for the substantial rehabilitation of income-producing historic buildings. The program is administered by the National Park Service and the Internal Revenue Service, in partnership with the State Historic Preservation Offices. The National Park Service certifies that a building is a historic structure, and therefore eligible for the program, and that its rehabilitation is consistent with the building's historic character. The Secretary of the Interior's Standards for Rehabilitation are the basis for this determination. Developed by the National Park Service, these Standards are widely used throughout the country at the local, state and national levels. Only rehabilitations consistent with the property's historic character can qualify for the Federal tax incentive. The Technical Preservation Services office administers the program on behalf of the National Park Service.

Through the program, abandoned or underutilized schools, warehouses, factories, commercial buildings, churches, retail stores, apartments, hotels, houses, agricultural buildings, and offices throughout the country, and particularly in economically depressed areas, have been given new life in ways that maintain their historic character. Properties in the program have often been vacant for years, or even decades, and are in highly deteriorated condition. A recent analysis found that about two-thirds of all projects nationally were in neighborhoods at or below 80% of area median family income.

The program stimulates economic growth and supports community revitalization, job creation, affordable housing, small businesses, farms and Main Street development, among other economic benefits. Over 2.2 million jobs have been created by the program since its inception, and these jobs tend to be local, and more high skilled and higher paying than new construction. Over 118,000 low and moderate income units have been created under the program.

Introduction

On January 25, 2013, Secretary of the Interior Ken Salazar and Senator Carl Levin hosted a meeting in Detroit, Michigan, with economic development, real estate and design professionals and other stakeholders to discuss ways in which the Federal Historic Preservation Tax Incentives

Program can help spark development in communities that have faced significant long-term economic challenges. The Secretary was also joined by Federal Housing Administration Commissioner Carol Galante, National Park Service Deputy Director Peggy O'Dell and Associate Director Stephanie Toothman, Michigan State Housing Development Authority Director Scott Woosley, and Brian Conway, the Michigan State Historic Preservation Officer.

At the meeting, Secretary Salazar announced that he had requested that the National Park Service conduct an internal review of the tax incentives program by March 1, with the intent of ensuring that the program is maximizing opportunities to use historic preservation to promote economic development and revitalization of communities, especially in urban areas.

The Secretary asked that the review consider how the highly successful program might be improved, and specifically that it focus on ways to better promote the program to broaden the public's understanding of its benefits and eligibility requirements; to strengthen program partnerships with the State Historic Preservation Offices and local communities; and to consider additional opportunities to increase the program's utilization and effectiveness.

At the meeting the Secretary also announced to the attendees that additional comments could be provided in writing and submitted to the National Park Service for further consideration as part of this internal review. Written comments were received from developers, economic development, real estate and design professionals, preservation partners, and other stakeholders. Comments made at the meeting as well as those subsequently received by the National Park Service were considered as part of its internal review of the program.

Recommendations and Action Plan

The Secretary called for the greater promotion and utilization of the Federal Historic Preservation Tax Incentives Program in economically depressed areas, and asked that the National Park Service conduct an internal review focused on additional opportunities to improve the program and help revitalize these areas.

The National Park Service and the State Historic Preservation Offices, with whom the program is administered in partnership at the state level, already undertake a number of activities each year to promote the program and provide education and training on the program benefits and eligibility requirements for program users and the general public. More than half of the states also have a companion state historic tax credit program, and the State Historic Preservation Offices distribute promotional materials, hold workshops and training activities, provide technical assistance, and coordinate with local communities in support of both programs.

The National Park Service publishes program materials, first-time user guides, a widely-circulated annual report with statistics on the program and its benefits, and other information in support of the program, and makes presentations and offers training at several national and state conferences each year. In 2011, an expanded and redesigned website was launched by the Technical Preservation Services office (which administers the tax credit program for the National Park Service) at www.nps.gov/tps with additional and detailed information on the historic tax

incentives for program users and the general public, and much new guidance on sustainability and historic preservation has been released over the last two years. These activities continue.

This year, the National Park Service entered into a cooperative agreement with the Rutgers University Center for Urban Policy to undertake a report, to be issued later this spring, on job creation and other economic impacts of the Federal historic tax credits program for Fiscal Year 2012 and since the program's inception. A new fillable PDF version of the certification application will be released, and additional content will be added to the website, including an online training version of the Sustainability Guidelines, additional tax credit project case studies, and a "Preservation-by-Topic" linked index to program guidance and publications. To mark the 35th anniversary of the first certified historic building to receive Federal historic preservation tax incentives, the National Park Service will also produce a special report highlighting how the program has benefited communities both small and large across the nation.

In response to the Secretary's call for the greater promotion and utilization of the Federal Historic Preservation Program in economically depressed areas—especially urban areas with high concentrations of historic properties whose rehabilitation could have a positive and catalytic impact—the National Park Service makes the following eight recommendations.

The recommendations include some additional targeted program promotion, outreach, education, and training; strengthened partnerships with other Federal agencies, State Historic Preservation Offices, local communities and stakeholders; and possible changes to program guidance and other service delivery improvements for program users. In developing the recommendations, consideration was given to the intent of the review, the actions likely to have the most positive impact, and the need to prioritize and take into account existing resource levels.

Among the recommendations, the National Park Service will partner with the Strong Cities, Strong Communities Initiative (SC2) on the tax incentives program, beginning with an initial partnership effort to promote greater use of the program in Detroit as part of that city's pilot SC2 Community Solutions Team. If effective, this effort could be repeated in other SC2 pilot communities, as well as other economically depressed communities. The National Park Service will also discuss with the Department of the Treasury and the Internal Revenue Service issues related to the tax incentives program and its utilization and effectiveness, especially in economically depressed areas.

A number of the recommendations could be implemented immediately. Some of the recommendations involve further consultation with the respective Federal agencies, the State Historic Preservation Officers, and other preservation partners and stakeholder representatives before final implementation.

Action 1

Additional Webinars and Training. Beginning in 2013, the National Park Service will offer a series of webinars in support of the tax incentives program for program users, State and local partners, and the general public, as well as (dependent upon budgetary and travel limitations) additional training and workshops. (January 2013 and continuing)

Action 2

Strong Cities, Strong Communities Initiative. The National Park Service will partner with the White House Council on Strong Cities, Strong Communities and the Department of Housing and Urban Development on the tax incentives program as part of the Strong Cities, Strong Communities Initiative (SC2), beginning with an initial partnership effort along with the Michigan State Historic Preservation Office to promote greater use of the tax incentives program in Detroit as part of that city's pilot SC2 Community Solutions Team. If effective, this initial partnership effort with SC2 could be repeated in other SC2 pilot communities, or in other economically depressed communities generally.

This effort is anticipated to predominantly consist of webinars and training under Action 1, as well as additional technical assistance. One such workshop, jointly sponsored with the Michigan State Historic Preservation Office, was already held on January 25th in Detroit to coincide with the Secretary's meeting. (Spring 2013 and continuing)

Action 3

Tax Code Issues. The National Park Service will meet with the Department of the Treasury and the Internal Revenue Service to discuss the issues raised as part of the January 25th meeting, as well as in other forums, related to tax policies that may restrict appropriate usage of the historic preservation tax incentives. (Spring 2013)

Action 4

HTC Federal Inter-Agency Group. The National Park Service will form a historic tax credit inter-agency group with the Department of Treasury, the Internal Revenue Service, the Department of Housing and Urban Development, the White House Council on Strong Cities, Strong Communities, the Department of Energy, and the Environmental Protection Agency to better coordinate, as necessary, on issues related to the tax incentives program. (Spring 2013 and continuing)

Action 5

Certified Local Governments and Local Partners. The National Park Service will look for additional opportunities to strengthen its partnerships with State Historic Preservation Offices, local communities and the Main Street program and promote the tax incentives program in economically depressed areas, particularly through the Certified Local Government (CLG) Program. The National Park Service will also promote the program to local communities through its 50-state America's Great Outdoors initiative. (2013 and continuing)

Action 6

Clarification of Guidance in Interpreting and Applying the Secretary of the Interior's Standards for Rehabilitation. The National Park Service, in consultation with the State Historic Preservation Offices, historic preservation partners, and other stakeholders, will reexamine and revise as appropriate its interpretation of the Standards with the goal of identifying additional opportunities to provide greater clarification and/or flexibility in addressing especially challenging projects in the following areas (December 2013):

- Differentiating between levels of significance in interior spaces and making changes to secondary spaces
- Making changes to certain types of assembly spaces as part of adaptive reuse projects
- Applying Standard 1 in cases of continuing historic use, where modern needs may necessitate specific interior changes
- Identifying changes to a historic building that have occurred over time and have acquired historic significance in their own right
- Applying Standard 2 to interior spaces, features and materials in highly deteriorated condition

Action 7

Policy on Buildings Functionally Related Historically. The National Park Service, in consultation with the Internal Revenue Service, State Historic Preservation Offices, historic preservation partners, and other stakeholders, will reexamine and revise as appropriate its policy, and possibly regulations, regarding the review of rehabilitation work within large, functionally-related multiple-building complexes in single ownership. (December 2013)

Action 8

Administrative Guidance. The National Park Service, in consultation with the State Historic Preservation Offices, historic preservation partners, and stakeholder representatives, will reexamine and revise as appropriate the following policies and administrative guidance (December 2013):

- Improving the preliminary consultation process
- Reducing review times for routine project amendments

It is also worth noting that the National Park Service strongly encourages that tax incentive applications for proposed work be submitted early and that applicants wait to receive approval from the National Park Service prior to starting work. The majority of denials under the program are due to construction work well underway or completed prior to review. Applicants who undertake rehabilitation projects without prior approval from the National Park Service do so at their own risk. Some states with state tax credit programs, as well as other local, state and federal programs, require prior review of applications before work is begun.

Also, additional incentives, either at the Federal or state/local levels, may be necessary in economically depressed areas. In areas where the Federal tax credit has been increased for a period following a natural disaster, and in areas with a new or expanded state or local tax credit, Federal tax credit application activity has typically increased. In areas where a state or local tax credit has been eliminated or its use restricted, Federal application activity has typically decreased.

National Park Service U.S. Department of the Interior Technical Preservation Services www.nps.gov/tps



Final Report on the Implementation of Program Review Recommendations and Action Plan

The Tax Reform Act of 1976 first established Federal tax incentives for rehabilitating historic buildings. In its report on this law, the Joint Committee on Taxation of the United States Congress declared, "Congress believes that the rehabilitation and preservation of historic structures and neighborhoods is an important national goal."

The Federal Historic Preservation Tax Incentives Program has been instrumental in promoting historic preservation and community revitalization through historic rehabilitation, and it is the largest and most effective Federal program specifically supporting historic preservation. Since its inception in 1976, the program has generated over \$78 billion in private investment in historic rehabilitation, counting over 41,250 completed projects.

The program provides for a 20% tax credit (commonly referred to as the Federal Historic Tax Credit) for the substantial rehabilitation of income-producing historic buildings. The program is administered by the National Park Service (NPS) and the Internal Revenue Service, in partnership with the State Historic Preservation Offices. The NPS certifies that a building is a historic structure, and therefore eligible for the program, and that its rehabilitation is consistent with the building's historic character. The Secretary of the Interior's Standards for Rehabilitation are the basis for this determination. Developed by the NPS, these Standards are widely used throughout the country at the local, state and national levels. Only rehabilitations consistent with the property's historic character can qualify for the Federal tax incentive. The Technical Preservation Services (TPS) office administers the program on behalf of the NPS.

Through the program, abandoned or underutilized schools, warehouses, factories, commercial buildings, churches, retail stores, apartments, hotels, houses, agricultural buildings, and offices throughout the country, and particularly in economically depressed areas, have been given new life in ways that maintain their historic character. Properties in the program have often been vacant for years, or even decades, and are in highly deteriorated condition. Past analyses of the program have found that about two-thirds of all projects nationally were in neighborhoods at or below 80% of area median family income.

The program stimulates economic growth and supports community revitalization, job creation, affordable housing, small businesses, farms and Main Street development, among other economic benefits. Over 2.36 million jobs have been created by the program since its inception, and these jobs tend to be local, and more high skilled and higher paying than new construction. Over 146,000 low and moderate income units have been created under the program.

Introduction

On January 25, 2013, then-Secretary of the Interior Ken Salazar and Senator Carl Levin hosted a meeting in Detroit, Michigan, with economic development, real estate and design professionals

and other stakeholders to discuss ways in which the Federal Historic Preservation Tax Incentives Program can help spark development in communities that have faced significant long-term economic challenges. The Secretary was also joined by Federal Housing Administration Commissioner Carol Galante, NPSNPS Deputy Director Peggy O'Dell and Associate Director Stephanie Toothman, Michigan State Housing Development Authority Director Scott Woosley, and Brian Conway, the Michigan State Historic Preservation Officer.

At the meeting, Secretary Salazar announced that he had requested that the NPS conduct an internal review of the tax incentives program with the intent of ensuring that the program is maximizing opportunities to use historic preservation to promote economic development and revitalization of communities, especially in urban areas.

The Secretary asked that the review consider how the highly successful program might be improved, and specifically that it focus on ways to better promote the program to broaden the public's understanding of its benefits and eligibility requirements; to strengthen program partnerships with the State Historic Preservation Offices and local communities; and to consider additional opportunities to increase the program's utilization and effectiveness.

At the meeting the Secretary also announced to the attendees that additional comments could be provided in writing and submitted to the NPS for further consideration as part of this internal review. Written comments were received from developers, economic development, real estate and design professionals, preservation partners, and other stakeholders. Comments made at the meeting as well as those subsequently received by the NPS were considered as part of the internal review of the program.

On March 21, 2013, Secretary Salazar formally announced the results of the internal review conducted by the NPS internal review—eight recommendations to maximize opportunities to use historic preservation to promote economic development and community revitalization, especially in urban and economically depressed areas. The eight recommendations and action plan have all been implemented, and this final report documents the actions taken and new guidance issued in their implementation.

Recommendations and Action Plan

The Secretary called for the greater promotion and utilization of the Federal Historic Preservation Tax Incentives Program in economically depressed areas, and asked that the NPS conduct an internal review focused on additional opportunities to improve the program and help revitalize these areas

The NPS and the State Historic Preservation Offices, with whom the program is administered in partnership at the state level, already undertake a number of activities each year to promote the program and provide education and training on the program benefits and eligibility requirements for program users and the general public. More than half of the states also have a companion state historic tax credit program, and the State Historic Preservation Offices distribute

promotional materials, hold workshops and training activities, provide technical assistance, and coordinate with local communities in support of both programs.

The NPS publishes program materials, first-time user guides, widely-circulated <u>reports</u> with statistics on the program and its benefits, including an annual <u>report</u> by Rutgers University Center for Urban Policy on job creation and the economic benefits of the program, and other information in support of the program, and makes presentations and offers training at several national and state conferences each year. Since the release of the program review recommendations, a new fillable PDF version of the certification application has been made available, review fees are now billed electronically using the U.S. Treasury Department's Pay.gov website, and a subscription email service for frequent program users has been launched.

The NPS is also issuing an updated version of *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*, last issued in 1995. The Treatment Guidelines have been revised and fully illustrated to ensure that they continue to reflect best practices in historic preservation, apply to 20th-century building types, materials, and systems now considered historic, and incorporate modern methods and technologies.

An expanded and redesigned website was launched in 2011 by TPS at www.nps.gov/tps with additional and detailed information on the historic tax incentives for program users and the general public, and new and updated guidance and information continues to be added to it. New content added in the last several years includes an online training version of the Sustainability Guidelines, additional tax credit project case studies, and a "Preservation-by-Topic" linked index to program guidance and publications. In the coming year, TPS will be launching a new webbased version of its *Interpreting the Standards* (ITS) publication series and moving new, revised and expanded content into the new format ("Digital ITS").

In response to the Secretary's call for the greater promotion and utilization of the Federal Historic Preservation Program in economically depressed areas—especially urban areas with high concentrations of historic properties whose rehabilitation could have a positive and catalytic impact—the NPS made eight recommendations and an action plan.

The recommendations included some additional targeted program promotion, outreach, education, and training; strengthened partnerships with other Federal agencies, State Historic Preservation Offices, local communities and stakeholders; and possible changes to program guidance and other service delivery improvements for program users. In developing the recommendations, consideration was given to the intent of the review, the actions likely to have the most positive impact, and the need to prioritize and take into account existing resource levels.

What follows summarizes the actions taken in the implementation of each action item. A number of the recommendations were implemented soon after their release. Others have involved further consultation with the respective Federal agencies, the State Historic Preservation Officers, and other preservation partners and stakeholder representatives before final implementation.

Action 1 Additional Webinars and Training

The NPS (NPS) launched a regular webinar series in 2013 for tax incentives program users, State and local partners, and the general public. The series includes quarterly webinars on the tax incentives program intended for first-time users as well as regular webinars on related topics, guidance, and other technical preservation information. Some 2,500 people have participated in the webinars to date. In the coming year, recorded versions of webinars will be also available from the website to download anytime.

The NPS also increased the number of trainings and workshops it conducts in support of the tax incentives program, typically now presenting at about two dozen different conferences and other events each year at the local, state, and national levels. In the past year alone the NPS participated in the National Preservation Conference, the National Main Street Conference, the National Alliance of Preservation Commissions' 2016 Forum, two tax incentive industry events, and numerous state and local preservation conferences and workshops.

<u>Action 2</u> Strong Cities, Strong Communities Initiative

The NPS partnered with the White House Council on Strong Cities, Strong Communities (SC2) to promote greater use of the NPS tax incentives program. Specifically, the NPS worked with the SC2 Community Solutions Team in Detroit, which partnered with the Michigan State Historic Preservation Office and held well-attended workshops for interested local partners and program users. The NPS offered technical assistance to the SC2 program and cities as requested and will continue to do so as the work of SC2 and other relevant place-based programs continues under the auspices of the newly-formed Community Solutions Council.

In 2015, the NPS launched an "Urban Agenda" for developing more intentional, collaborative, and sustainable working relationships between national parks, NPS partnership programs, and cities that can be shared across the country. The Urban Agenda highlights youth connections, outdoor recreation, historic preservation, economic vitality, health, and urban design and sustainability. The NPS selected ten cities to be model cities as part of the program, each with an Urban Fellow to work in the cities and serve as a catalyst and connector for the cities, parks, and programs. TPS has been providing training, technical support, and assistance on the tax incentives program to the Urban Fellows.

Action 3 *Tax Code Issues*

Immediately after the issuance of program review recommendations, the NPS reached out to the U.S. Department of the Treasury and the Internal Revenue Service (IRS) to discuss the issues raised at the January 25th meeting, as well as in other forums, related to tax policies that may restrict appropriate usage of the tax

incentives. The NPS has continued to meet and communicate regularly with Treasury and the IRS, including participating in joint-meetings with stakeholder groups. Since the release of the program review recommendations, the IRS issued new guidance in support of the tax incentives program—a much-requested revenue procedure establishing "safe harbor" for partnership allocations of Internal Revenue Code Section 47 rehabilitation credits by a partnership to its partners; and, most recently, temporary regulations relating to the income inclusion rules under Internal Revenue Code Section 50(d)(5) that apply to a lessee of investment credit property when the lessor elects to treat the lessee as having acquired the property

<u>Action 4</u> HTC Federal Inter-Agency Group

After further consideration, the NPS determined that a historic tax credit interagency group was not needed. Instead, the NPS has established stronger partnerships and more regular communication with the U.S. Department of Treasury, the IRS, the Department of Housing and Urban Development, the White House Council on Strong Cities, Strong Communities, the Department of Energy, and the Environmental Protection Agency to better coordinate, as necessary, on issues related to the tax incentives program. The NPS has also been working with these departments and agencies on specific projects and initiatives when the opportunities arise.

Action 5 Certified Local Governments and Local Partners

The NPS has strengthened its partnerships with State Historic Preservation Offices, local communities and the Certified Local Government Program (CLG), and the Main Street program to promote the tax incentives program in economically depressed areas. The NPS holds regular trainings and webinars in support of the program for the State Historic Preservation Offices (SHPO), and this year is launching a new training and several small-group, topic-specific workshops in addition to the regular, in-person program training held for NPS and SHPO staffs every other year. SHPO staffs also participate in the development and review of program and other guidance as well as in training, workshop, and webinar presentation on the program.

The NPS has offered training on the tax incentives program and technical preservation topics at the national conferences for the National Trust for Historic Preservation, the Main Street Program, the National Alliance of Preservation Commissions, and the American Institute of Architects. The NPS has also conducted webinars on the tax incentives program for Certified Local Governments (CLG) and National Heritage Areas, and, in a pilot effort, several CLGs attended the biennial training that the NPS holds for the SHPOs.

<u>Action 6</u> Clarification of Guidance in Interpreting and Applying the Secretary of the Interior's Standards for Rehabilitation

The NPS, in consultation with the SHPOs, historic preservation partners, and other stakeholders, reexamined its interpretation of the Standards with the goal of identifying additional opportunities to provide greater clarification and/or flexibility in addressing especially challenging projects in the following areas:

- Differentiating between levels of significance in interior spaces and making changes to secondary spaces
- Making changes to certain types of assembly spaces as part of adaptive reuse projects
- Applying Standard 1 in cases of continuing historic use, where modern needs may necessitate specific interior changes
- Identifying changes to a historic building that have occurred over time and have acquired historic significance in their own right
- Applying Standard 2 to interior spaces, features and materials in highly deteriorated condition

After further consideration, the NPS decided to issue new guidance for four of these five topic areas. This guidance is available on the program website and is included as an appendix to this report. The NPS will conduct trainings on this new guidance for the SHPOs and other stakeholders in the coming months.

The NPS determined that for the fifth topic area, pertaining to adapting assembly spaces to new uses, no new guidance was needed. Based on comments from the SHPOs, partners, and other stakeholders, what was instead needed is more information on applying the existing guidance and examples of what has been approved pursuant to it. As part of the new "Digital ITS" to be launched in the coming year, additional information and examples for this topic area will be developed and included.

<u>Action 7</u> Policy on Buildings Functionally Related Historically

The NPS, in consultation with the IRS, SHPOs, historic preservation partners, and other stakeholders, reexamined its guidance on how rehabilitation work within large, functionally-related multiple-building complexes in single ownership is reviewed and certified by the NPS. After further consideration, and working closely with these different partners and stakeholders, the NPS issued new guidance on when buildings functionally related historically may be treated as separate projects. This guidance is available on the program website and is included as an appendix to this report.

Action 8 *Administrative Guidance*

The NPS, in consultation with the SHPOs, historic preservation partners, and stakeholder representatives, reexamined its guidance as it pertains to the following:

- Improving the preliminary consultation process
- Reducing review times for routine project amendments

The NPS revised its guidance on the preliminary consultation process, clarifying when preliminary consultations are appropriate and how the process works. Regarding review times for routine project amendments, due to the continuous increase in program activity over the past several years and the limited staffing resources at both the NPS and SHPO levels, no change is possible in this area, but NPS and SHPO staff are strongly encouraged to expedite the review of routine individual project amendments whenever possible.

In concluding this report, the NPS reiterates the importance of applicants submitting tax incentive applications for proposed work early and waiting to receive approval from the NPS prior to starting work. The majority of denials under the program are due to construction work well underway or completed prior to review. Applicants who undertake rehabilitation projects without prior approval from the NPS do so at their own risk. Some states with state tax credit programs, as well as other local, state and federal programs, require prior review of applications before work is begun.

Also, the NPS notes that in areas with a new or expanded state or local historic tax credit, Federal tax credit application activity has typically increased; in areas where a state or local tax credit has been eliminated or its use restricted, Federal application activity has typically decreased. State and local tax credits, when available, generally improve the utilization and effective of the Federal historic credit in economically depressed areas.

National Park Service
U.S. Department of the Interior
Technical Preservation Services
www.nps.gov/tps



A Call to Action

Preparing for a Second Century *of*Stewardship and Engagement



2015 Update

ACTIONS at a glance

V	completed	V	previously	completed

CONNECTING PEOPLE TO PAR	RKS	
 1 Fill in the Blanks 2 Step by Step 3 ✓ History Lesson 4 ✓ In My Back Yard 5 ✓ Parks for People 	 6 ▼ Take a Hike, Call Me in the Morning 7 ▼ Next Generation Stewards 8 ▼ Eat Well and Prosper 9 ▼ Keep the Dream Alive 	10 Arts Afire 11 Focus the Fund 12 Follow the Flow 13 Stop Talking and Listen 14 Value Added
ADVANCING THE NPS EDUCA	TION MISSION	
15 A Class Act	17 Go Digital	19 V Out with the Old
16 Live and Learn	18 Ticket to Ride	20 Scholarly Pursuits
PRESERVING AMERICA'S SPEC	CIAL PLACES	
21 Revisit Leopold	25 What's Old is New	29 Posterity Partners
22 Scaling Up	26 Back Home on the Range	37 Crystal Clear
23 Go Green	27 Starry, Starry Night	38 Enjoy the View
24 Invest Wisely	28 Park Pulse	
ENHANCING PROFESSIONAL	AND ORGANIZATIONAL EXCELLE	ENCE
30 Tools of the Trade		26 Value Disconite
30 loois of the frade	33 Home Grown	36 Value Diversity
31 Destination Innovation	33 Home Grown 34 Team Buyin	39 V Lead the Way

2011 2012 2013 2014 2015 2016

A Call to Action

Preparing for a Second Century *of*Stewardship and Engagement

A call to all National Park Service employees and partners to commit to actions that advance the Service toward a shared vision for 2016 and our second century.

WE THE PEOPLE OF THE UNITED STATES, IN ORDER TO FORM A MORE PERFECT UNION, ESTABLISH JUSTICE, INSURE DOMESTIC TRANQUILITY, PROVIDE FOR THE COMMON DEFENSE, PROMOTE THE GENERAL WELFARE, AND SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY, DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA.

PREAMBLE TO THE CONSTITUTION, 1787



1819 JOHN TRUMBULL / ASSEMBLY ROOM INDEPENDENCE HALL

WE HOLD THESE TRUTHS TO BE SELF-EVIDENT, THAT ALL MEN ARE CREATED EQUAL, THAT THEY ARE ENDOWED BY THEIR CREATOR WITH CERTAIN UNALIENABLE RIGHTS, THAT AMONG THESE ARE LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS.

DECLARATION OF INDEPENDENCE, 1776

2016 National Park Service CENTENNIAL

100 YEARS of SERVICE

OUR ORIGINS ARE GROUNDED IN A BELIEF

The aspirations of the Declaration of Independence and the rights protected for all citizens in the Constitution are based upon our founders' belief that every individual has the right to life, liberty, and the pursuit of happiness. These ideas were formed from the lessons of history shaped by struggles with governments in former homelands. The founders and subsequent generations also knew that the grandeur of the American landscape compared equally to the cathedrals and castles of the Old World. So it was inevitable that an institution to preserve both the lessons of history and the best of the land be conceived and established. That institution, the National Park Service, will be 100 years old in 2016.



NPS

FIRST-CENTURY legacy



First NPS badge

In its first century, the National Park Service focused on stewardship and enjoyment of special places, reflecting the core mission articulated in the NPS Organic Act. The result is a National Park System that encompasses America's exceptional places, including those where civic engagements—often confrontational and sometimes violent—have shaped who we are as a people: Selma to Montgomery, Brown v. Board of Education, Manzanar, the Statue of Liberty, and Flight 93, to name a few. In these national parks we learn not only of people who left their marks on the present, but how individuals can offer the next generation a better future. From the solemn battlefields of Yorktown and Gettysburg to the silent waters that embrace the USS *Arizona*, national parks also include places where we learn about honor, bravery, patriotism, and sacrifice. In the cathedral forests of Redwood, in the call of the Denali wilderness, and in the quiet of Grand Canyon, we are reminded of the wonder of nature, of the breadth of park resources, and of our stewardship responsibilities.

The National Park System inspires conservation and historic preservation at all levels of American society, creating a collective expression of who we are as a people and where our values were forged. The national parks also deliver a message to future generations about the experiences that have made America a symbol of freedom and opportunity for the rest of the world. To visit our national parks is to witness American values on full display in extraordinary places that embody certain "unalienable rights" and inspire our nation to succeed. To actively ensure conservation of national parks, public lands, wilderness, and historic places for the enjoyment of future generations is a priceless gift to our children.

"THE HISTORICAL AND CULTURAL FOUNDATIONS OF THE NATION SHOULD BE PRESERVED AS A LIVING PART OF OUR COMMUNITY LIFE AND DEVELOPMENT IN ORDER TO GIVE A SENSE OF ORIENTATION TO THE AMERICAN PEOPLE."





NPS / TONY DEYOUNG

SECOND-CENTURY vision



NPS badge 1970–present

America has changed dramatically since the birth of the National Park Service in 1916. The roots of the National Park Service lie in the parks' majestic, often isolated natural wonders and in places that exemplify our cultural heritage, but their reach now extends to places difficult to imagine 100 years ago—into urban centers, across rural landscapes, deep within oceans, and across night skies.

In our second century, the *National Park Service must recommit to the exemplary stewardship and public enjoyment of these places*. We must promote the contributions that national parks and programs make to create jobs, strengthen local economies, and support ecosystem services. We must leverage and support a multisector workforce, parks community, and volunteer network to magnify all successes. We must use the collective power of the parks, our historic preservation programs, and community assistance programs to expand our contributions to society in the next century.

A SECOND-CENTURY NATIONAL PARK SERVICE

Connects People to Parks and helps communities protect what is special to them, highlight their history, and retain or rebuild their economic and environmental sustainability.

Advances the Education Mission by strengthening the NPS role as an educational force based on core American values, historical and scientific scholarship, and unbiased translation of the complexities of the American experience.

Preserves America's Special Places and is a leader in extending the benefits of conservation across physical, social, political, and international boundaries in partnership with others.

Enhances Professional and Organizational Excellence by adapting to the changing needs of visitors, communities, and partners; encouraging organizational innovation; and giving employees the chance to reach their full potential.

IN OUR SECOND CENTURY, we will fully represent our nation's ethnically and culturally diverse communities. To achieve the promise of democracy, we will create and deliver activities, programs, and services that honor, examine, and interpret America's complex heritage. By investing in the preservation, interpretation, and restoration of the parks and by extending the benefits of conservation to communities, the National Park Service will inspire a "more perfect union," offering renewed hope to each generation of Americans.

our STRATEGY

2016 marks the 100th anniversary of the National Park Service—a defining moment that offers an opportunity to reflect on and celebrate our accomplishments as we prepare for a new century of stewardship and engagement. Several reports over the last 10 years have provided a vision for the Service's second century. A Call to Action draws from three major initiatives—America's Great Outdoors: A Promise to Future Generations (2011); the National Parks Second Century Commission Report, Advancing the National Park Idea (2009); and The Future of America's National Parks (the Centennial Report, 2007).

A CALL TO ACTION charts a path toward that secondcentury vision by asking our employees and partners to commit to concrete actions that advance the mission of the Service.

These actions are not intended to cover the full breadth and scope of the work the NPS and its partners accomplish. Rather, we must continue the great work happening every day across the Service while transforming the organization to meet the changing needs of our country. We must integrate the work of the 401 national parks with all the National Park Service programs that support community-based conservation and historic preservation.

Through the support of the American people, partners, volunteers, and employees, the National Park Service is having a profound effect on the lives of our citizens. *A Call to Action* seeks to expand those impacts, even in these times of fiscal constraint, by strategically focusing our efforts and aligning our existing resources on powerful actions that advance our mission.

It is an exciting time for National Park Service employees and partners as we celebrate 100 years of service in the preservation and enjoyment of the national parks. As we look to our anniversary and beyond, let us renew our commitment to the fundamental stewardship of our nation's stories and treasured places with energy, creativity, and passion.

Note: Throughout this document "parks" connotes not only the 401 units of the National Park System but national heritage areas, affiliated areas, wild and scenic rivers, and national trails as well. The term "national parks" refers only to units of the National Park System. The term "Service" refers not only to the employees but also to the wide range of programs the NPS administers.

Ferron Naranjo



© AURORA PHOTOS / BLAKE GORDON

Our Path TO ACTION

specific goals and measurable actions. Through these actions, we will work together to set a new direction for the National Park Service in its second century.

The *Call to Action* website at **www.nps.gov/calltoaction** provides in-depth background information for each action item and a forum for sharing ideas, strategies, and successes on these actions.

The heart of the plan includes four broad themes supported by

The implementation strategy emphasizes **CHOICE**. While some of the actions require the involvement of every park and program, most do not. Program managers and superintendents will select actions that best fit the purpose of their program or park, workforce capacity, and skills, and that generate excitement among employees. Managers must also evaluate and prioritize current functions to decide which may be altered or discontinued in order to implement this plan.

FLEXIBILITY and **CREATIVITY** are encouraged. The plan identifies what to accomplish, but allows employees and partners to determine how to achieve the objectives through innovative strategies and approaches. The actions create opportunities for employees to share successes and learn from each other. The plan will be a living, breathing document on the path toward 2016 that will evolve as we learn together about the effectiveness of these approaches.

The work of the National Park Service is too dynamic and extensive to be fully reflected in this set of actions. The day-to-day business of running parks and programs across the Service will continue. *A Call to Action* should not limit us but instead serve as a catalyst for further creative steps on the path toward the second century of stewardship and engagement.

Themes Goals

ACTIONS



YOSEMITE NATIONAL PARK



There is nothing more satisfying than helping community groups realize their dreams of having better recreation opportunities in their hometowns. Sharing the NPS expertise locally helps conservation everywhere.

Lisa Holzapfel Alaska Region Rivers, Trails, and Conservation Assistance Program

A SECOND-CENTURY NATIONAL PARK SERVICE will be relevant and valued by citizens as a source of discovery, economic vitality, renewed spirit, and deepened understanding of our individual and national identity. We will harness the collective power of program and park staffs to better serve communities beyond parks in order to strengthen local conservation, cultural heritage preservation, and recreation efforts. We will invite new publics into the parks, from recent immigrants to those serving in our Armed Forces to young people.

THEME

Connecting PEOPLE TO PARKS

GOALS: TO CONNECT PEOPLE TO PARKS IN THE NEXT CENTURY, THE NPS must

DEVELOP and nurture lifelong connections between the public and parks—especially for young people—through a continuum of engaging recreational, educational, volunteer, and work experiences.

CONNECT urban communities to parks, trails, waterways, and community green spaces that give people access to fun outdoor experiences close to home.

EXPAND the use of parks as places for healthy outdoor recreation that contributes to people's physical, mental, and social well-being.

WELCOME and engage diverse communities through culturally relevant park stories and experiences that are accessible to all.

ACTIONS: TO ACHIEVE THESE GOALS BY 2016, THE NPS will

Fill in the Blanks 1 Identify a national system of parks and protected sites (rivers, heritage areas, trails, and landmarks) that fully represents our natural resources and the nation's cultural experience. To achieve this we will work with communities and partners to submit to Congress a comprehensive National Park System plan that delineates the ecological regions, cultural themes, and stories of diverse communities that are not currently protected and interpreted.

Step by Step 2

Create deep connections between a younger generation and parks through a series of diverse park experiences. To accomplish this we will collaborate with education partners and youth organizations to create a pathway to employment with the NPS, with a focus on diversifying the workforce. We will involve at least 10,000 youth each year in a multi-year progression of experiences from education programs to internship/volunteer opportunities to employment.



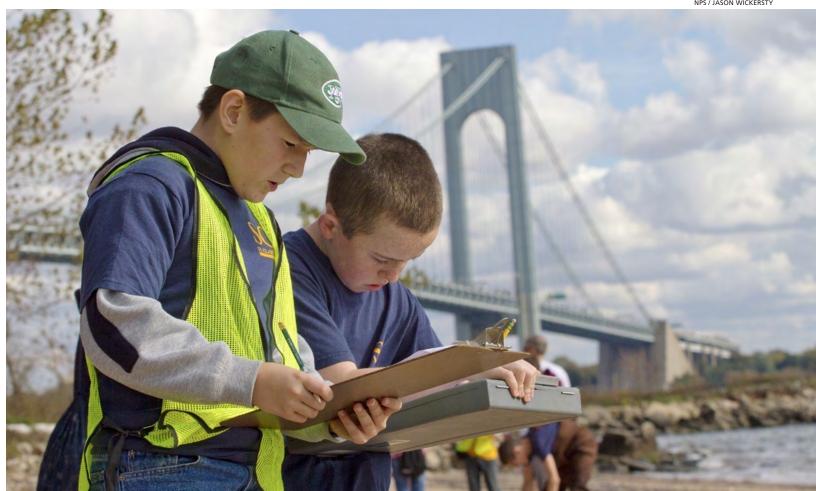
- **V** History Lesson 3
 - Excite and involve new audiences in the exploration of the full diversity of the American experience by conducting history discovery events, projects, and activities that invite them to explore and share their heritage, using a variety of participatory methods, in at least 100 parks and programs.
- **✓** In My Back Yard 4
 - Improve urban residents' awareness of and access to outdoor and cultural experiences close to home by promoting national parks in urban areas and ensuring safe and enjoyable physical connections from parks to a variety of sustainable transportation options aligned with urban populations' needs.
- Parks for People 5
 - Enhance the connection of densely populated, diverse communities to parks, greenways, trails, and waterways to improve close-to-home recreation and natural resources conservation. We will achieve this by proactive Rivers, Trails, and Conservation Assistance Programs and collaborative park-based programs that develop a deeper understanding of communities' needs and connect citizens to the outdoors in the 50 largest urban areas and those with the least access to parks.
- **▼** Take a Hike, Call 6 Me in the Morning
 - Expand the health community's use of parks as a healing tool and increase citizen recognition of the value of parks to improve health and well-being by establishing 50 formal partnerships with health and medical providers across the country.
- **V** Next Generation 7 **Stewards**
 - Create a new generation of citizen scientists and future stewards of our parks by conducting fun, engaging, and educational biodiversity discovery activities in at least 100 national parks, including at least five urban parks.
 - V Eat Well and Prosper
- Encourage park visitors to make healthy lifestyle choices and position parks to support local economies by ensuring that all current and future concession contracts require multiple healthy, sustainably produced, and reasonably priced food options at national park food service concessions.
- **▼** Keep the 9 **Dream Alive**
 - Foster civic dialogue about the stories of the civil rights movement found within the parks. The NPS will conduct a coordinated series of special events to commemorate significant 50th anniversaries of the civil rights movement (Civil Rights Act passage, "I Have a Dream" speech, etc.).
 - Arts Afire 10
- Showcase the meaning of parks to new audiences through dance, music, visual arts, writing, and social media. To do so we will launch 25 artistled expeditions that involve youth in creating new expressions of the park experience through fresh perspectives and new technology.
- Focus the Fund 11
- Increase the benefits of NPS community assistance by strategically focusing on the difference Land and Water Conservation Fund projects make in meeting outdoor recreation needs, especially close to where people live, for under-served communities and protecting lands, trails, and waterways. To do so we will expand online information and tools with our state and local partners, and provide to Congress a comprehensive report on the benefits and impacts of the Land and Water Conservation Fund in its first half-century.

- ▼ Follow the Flow 12
- Support communities' efforts to expand access to water-based recreation and to protect and restore waterways across the country by establishing a national system of water trails.
 - Stop Talking 13 and Listen
- Learn about the challenges and opportunities associated with connecting diverse communities to the great outdoors and our collective history. To accomplish this we will conduct in-depth, ongoing conversations with citizens in seven communities, one in each NPS Region, representing broadly varied cultures and locations. We will create and implement work plans at each location, which explore new approaches for building and sustaining mutually beneficial relationships with diverse communities.
- Value Added 14
- Develop awareness among the American public of the many ways national parks contribute to the economic vitality of our nation. To do so we will complete a study on the economic value of the full range of NPS activities and programs (visitor spending, ecosystem services, community assistance, tax benefits, etc.) and promote the results.

Students from St. Clare's School on Staten Island collect data during the annual "Day in the Life of the Hudson River" event at Fort Wadsworth in Gateway National Recreation Area. Over 3,000 students at 65 sites

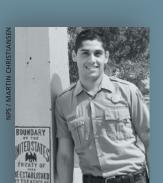
measure the health of the Hudson River Estuary. The unique location of Fort Wadsworth allows students to observe the river as it spills into New York Harbor and the Atlantic Ocean

NPS / IASON WICKERSTY





NORTH CASCADES NATIONAL PARK



My job consists of helping people increase their knowledge of other cultures through performing arts. National parks not only preserve our nation's natural and cultural resources, they also inspire us to be better people.

Jesus Guzman Chamizal NM

A SECOND-CENTURY NATIONAL PARK SERVICE will actively engage diverse communities and strengthen partnerships to develop innovative communication and education strategies. We will embrace a larger education role, building an understanding of our country's shared heritage and preparing American citizens for the duties and responsibilities of citizenship.

THEME

Advancing the NPS EDUCATION MISSION

GOALS: TO ADVANCE THE NPS EDUCATION MISSION IN THE NEXT CENTURY, THE NPS must

STRENGTHEN the Service as an education institution and parks as places of learning that develop American values, civic engagement, and citizen stewardship.

USE leading-edge technologies and social media to effectively communicate with and capture the interest of the public.

COLLABORATE with partners and education institutions to expand NPS education programs and the use of parks as places of learning.

ACTIONS: TO ACHIEVE THESE GOALS BY 2016, THE NPS will

A Class Act | 15 | Help students develop a deep understanding of park resources and the relevance of parks in their lives through a series of park education programs. To do so we will adopt a class of 2016 graduates (grade school, middle school, or high school) at every national park and develop a series of fun, educational, and engaging activities culminating in the NPS Centennial in 2016.

Live and Learn 16

Provide multiple ways for children to learn about the national parks and what they reveal about nature, the nation's history, and issues central to our civic life. We will accomplish this by reaching 25 percent of the nation's K-12 school population annually through real and virtual field trips, residential programs, teacher training, classroom teaching materials, online resources, and educational partnerships.

Go Digital 17

Reach new audiences and maintain a conversation with all Americans by transforming the NPS digital experience to offer rich, interactive, up-to-date content from every park and program. To accomplish this we will create a user-friendly web platform that supports online and mobile technology including social media.



Ticket to Ride 18

Expand opportunities for students to directly experience national parks, where natural and historic settings inspire powerful learning. To achieve this we will provide transportation support for 100,000 students each year to visit national parks through collaboration with the National Park Foundation and other park fundraising partners.

Out with the Old 19 Engage national park visitors with interpretive media that offer interactive experiences, convey information based on current scholarship, and are accessible to the broadest range of the public. To that end we will replace 2,500 outdated, inaccurate, and substandard interpretive exhibits, signs, films, and other media with innovative, immersive, fully accessible, and learner-centered experiences.

Scholarly Pursuits 20

Sponsor excellence in science and scholarship, gain knowledge about park resources, and create the next generation of conservation scientists. To do so we will establish, through partner funding, an NPS Science Scholars program enabling 24 Ph.D. students from biological, physical, social, and cultural disciplines to conduct research in national parks each year.

Volunteers from the Boys and Girls Clubs of Yucca Valley and Desert Hot Springs and U.S. Marines from the Marine Corps Air Ground Combat Center in Twentynine Palms, California, work to restore soils and trailside

environments at Joshua Tree National Park. Participants learn about desert ecology as they help revitalize park natural areas through a partnership sponsored by the National Parks Conservation Association.





FLIGHT 93 NATIONAL MEMORIAL

REPRINTED WITH THE PERMISSION OF THE PUBLISHER TRIBUNE DEMOCRAT / JOHN RUCOSKY



It is natural and fitting to dedicate myself to work toward continuing to preserve the superlative natural and cultural values of the Pu'uhonua through my own cultural heritage.

Rae ('lana) Fujimori Godden Pu'uhonua o Honaunau NHP A SECOND-CENTURY NATIONAL PARK SERVICE will manage parks as cornerstones in protecting broader natural and cultural landscapes. Threats unforeseen a century ago have emerged beyond park boundaries and demand solutions that are large in scope and require collaboration with partners. We will be recognized as a world leader in integrated resource stewardship and sustainability of our facilities and operations using the latest technology.

THEME

Preserving AMERICA'S SPECIAL PLACES

GOALS: TO PRESERVE AMERICA'S SPECIAL PLACES IN THE NEXT CENTURY, THE NPS must

MANAGE the natural and cultural resources of the National Park System to increase resilience in the face of climate change and other stressors.

CULTIVATE excellence in science and scholarship as a foundation for park planning, policy, decision making, and education.

ACHIEVE a standard of excellence in cultural and natural resource stewardship that serves as a model throughout the world.

COLLABORATE with other land managers and partners to create, restore, and maintain landscape-scale connectivity.

ACTIONS: TO ACHIEVE THESE GOALS BY 2016, THE NPS will



Create a new basis for NPS resource management to inform policy, planning, and management decisions and establish the NPS as a leader in addressing the impacts of climate change on protected areas around the world. To accomplish this we will prepare a contemporary version of the 1963 Leopold Report that confronts modern challenges in natural and cultural resource management.

Scaling Up | 22 | Promote large landscape conservation to support healthy ecosystems and cultural resources. To achieve this goal we will protect continuous corridors in five geographic regions through voluntary partnerships across public and private lands and waters, and by targeting a portion of the federal Land and Water Conservation Fund to make strategic land acquisitions within national parks.

Go Green

Further reduce the NPS carbon footprint over 2009 levels, and widely showcase the value of renewable energy. To accomplish this, we will foster sustainability in our parks and with our partners by reducing greenhouse gas emissions by 20 percent, including on-site fossil fuel usage and emissions due to electricity consumption.

Invest Wisely 24

Focus investments from all maintenance fund sources on high priority national park assets to address critical deferred maintenance and code compliance needs. By doing so we will correct the health and safety, accessibility, environmental, and deferred maintenance deficiencies in at least 25 percent of the facilities that are most important to park visitor experience and resource protection.

What's Old is New 25

Modernize historic preservation methods and technologies, show how historic structures can be made sustainable, and support efforts to rebuild the economic vitality of rural and urban communities by updating the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties in consultation with historic preservation partners.

Back Home on the Range

Return the American bison, one of the nation's iconic species, to our country's landscape. To achieve this we will restore and sustain three wild bison populations across the central and western United States in collaboration with tribes, private landowners, and other public land management agencies.

Starry, Starry Night 27

Lead the way in protecting natural darkness as a precious resource and create a model for dark sky protection by establishing America's first Dark Sky Cooperative on the Colorado Plateau in collaboration with other federal agencies, partners, and local communities.

Park Pulse 28

Assess the overall status of park resources and use this information to improve park priority setting and communicate complex park condition information to the public in a clear and simple way. To accomplish this, we will complete 50 "State of the Park" reports that synthesize monitoring information, resource inventories, facilities condition data, and visitor surveys.

Posterity Partners 29

Engage the power of philanthropy and volunteerism to provide legacy support for the NPS, both nationwide and at the individual park level. To do so we will launch a public campaign linked to the Centennial, and develop new tools, such as local or national endowments, to leverage sustainable philanthropic support from individuals and partnerships.

Crystal Clear 37

Protect the health of our watersheds by improving water quality, aquatic habitat, and ensuring adequate flows for public enjoyment. To do so we will work with partners to complete at least 30 research, restoration, water management, and flow protection projects that provide for public enjoyment and improve water quality and habitat.

Enjoy the View 38

Protect clean, clear air and spectacular scenery now and for future generations. To do this we will lead collaborative efforts in 10 parks creating Viewshed Cooperatives with other federal agencies, tribes, and local partners to assess air pollutants and preserve treasured viewsheds and natural and cultural resources.



© BRIAN PETERSON

Minneapolis Public School kids paddle the Mississippi River on the Urban Wilderness Canoe Adventures (UWCA) program. A cooperative effort between Mississippi National River and Recreation Area and Wilderness Inquiry, the UWCA introduces 10,000 kids a year to the National Park System by paddling voyageur canoes through the heart of the Twin Cities.



MARSH-BILLINGS-ROCKEFELLER NATIONAL HISTORICAL PARK

Working for Everglades National Park has provided me an exciting range of new opportunities. I have been lucky to work with supportive leadership that believes in my abilities and continues to nurture my personal and professional growth!

Leslie Velarde Everglades NP

A SECOND-CENTURY NATIONAL PARK SERVICE and its partners will

develop a multi-sector workforce that can adapt to continuous change, think systemically, evaluate risk, make decisions based on the best science and scholarship, work collaboratively with all communities, and maintain our characteristic esprit de corps in the face of new challenges. We will create an environment where every employee can reach his or her full potential.

Enhancing Professional and

ORGANIZATIONAL EXCELLENCE

GOALS: TO ENHANCE PROFESSIONAL AND ORGANIZATIONAL EXCELLENCE IN THE NEXT CENTURY, THE NPS must

DEVELOP and recruit NPS leaders at all levels with the skills to lead change, collaborate with partners, ensure employee safety, and seek new ways to accomplish goals.

BUILD a more flexible and adaptive organization with a culture that encourages innovation, collaboration, and entrepreneurship.

RECRUIT and retain a workforce that reflects the diversity of the nation, from entry level employees to senior leaders.

MODERNIZE and streamline NPS business systems and use leadingedge technology to enhance communication.

ACTIONS: TO ACHIEVE THESE GOALS BY 2016, THE NPS will

Tools of the Trade 30

Provide employees the tools, training, and development opportunities needed to reach their full career potential. To accomplish this we will launch the NPS career academy with an online career planning tool and course offerings that teach essential competencies in 12 career fields. The academy will contain a leadership track common to all employees and focused on innovation, adapting to change, collaboration, and stewardship.

Destination 31 **Innovation**

Accelerate the spread of ideas, encourage innovation, and inspire peer-to-peer collaboration across the Service. To achieve this we will create a network for innovation and creativity to rapidly share new insights and solve mission-critical problems using online tools such as blogs, discussion forums, and "wikis."





Empower employees to use critical thinking skills in daily risk management decisions and encourage employees to embrace safety as part of their professional identity. To that end we will ensure that all NPS employees complete Operational Leadership training, implement Operational Leadership principles at parks and offices servicewide, and create an evaluation system to measure the effectiveness of Operational Leadership.

Home Grown 33

Recruit candidates to provide a source of diverse, motivated, and welltrained employees that reflect local communities by expanding the successful ProRanger and similar recruitment programs to all seven NPS Regions and to additional disciplines beyond visitor and resource protection.

Team Buyin' 34

Create contracting solutions better oriented to customer needs by designing, implementing, and evaluating a streamlined contracting and cooperative agreements process, using a team approach, in at least seven of the major acquisition and buying offices across the country.

Welcome Aboard 35

Create a more inclusive workplace where new employees can quickly navigate our organization to become highly productive. To do so we will implement an orientation and mentoring program for all new NPS employees that will complement the NPS Fundamentals course, use online tools, and provide individual support.

Value Diversity 36

Develop a workforce that values diversity and an inclusive work environment so that we can recruit and retain diverse employees and respond to the needs of the American public. As a first step, we will conduct a servicewide cultural diversity assessment and complete cultural competencies training for all supervisors.

Lead the Way 39 Engage our workforce by leveraging strong employee commitment, exceptional leadership, and improved management practices. To achieve this we will provide up to 50 parks or programs with customized assessments with tailored strategies for communications, recruitment, recognition, and career development.



NPS / CAMERON SUMPTER

Volunteers at Booker T. Washington National Monument portray residents of the Burroughs Plantation receiving the news that they are free with the reading of the Emancipation Proclamation at the annual Juneteenth event, 2011.

Take the LEAP

Be a part of the vision for a second-century National Park Service.

Start by reviewing all the action items with your coworkers and partners. Visit the *Call to Action* website. There you can view in-depth information for each action item and share strategies and ideas. Then select the actions that offer opportunities for your park or program to make a difference.

The next century and a new NPS legacy are about to begin.

How will you answer the call?

www.nps.gov/calltoaction

NPS Internal Site



Acknowledgments

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We also want to thank the following groups who provided timely, extensive, and insightful feedback during the drafting of the plan:

Administrative Advisory Committee

Communications Council

Cultural Resources Advisory Group

Deputy Regional Directors

Healthy Parks Steering Committee

National Education Council

National Interpretation and Education Leadership Council

National Leadership Council

National Park Foundation

National Park System Advisory Board

National Partnership Council

Natural Resources Advisory Group

Network for Innovation and Creativity

Regional Chief Rangers

Servicewide Maintenance Advisory Committee

Superintendents Focus Group

Tourism Council

Wilderness Leadership Council

Workplace Enrichment Team





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ON THE COVER

North Cascades Wild is a 12-day outdoor program at North Cascades National Park that offers high school students an opportunity to explore Ross Lake and surrounding wilderness areas. Participants also complete conservation service projects for the National Park Service while learning about leadership, community building, and natural and cultural history.

APPENDIX E

ADVISORY COUNCIL ON HISTORIC PRESERVATION CALL FOR COMMENTS

The Advisory Council on Historic Preservation used the following language in July 2023 in its call for comments on the application and interpretation of federal historic preservation standards:

- (1) Are you aware of any substantive or procedural issues (e.g. uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts? Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g. adaptation or mitigation) concerns related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?
 - Review of "undertakings" (such as renovations of federal buildings) covered by Section 106 of the National Historic Preservation Act
 - Review of activities involving or affecting tribal resources or traditional cultural properties
 - Review of private development projects seeking federal or state historic preservation tax credits
 - Review of private development projects by local historic preservation boards or commissions
 - Identification by any reviewing authority of substitute materials (i.e., specific materials that may be substituted for historic materials) deemed to be consistent with the Secretary's Standards

If you are aware of such issues at a particular site, please identify the city and state, the type of historic property, the specific Standard (of preservation, rehabilitation, restoration, or reconstruction) applied to the property, the entity applying such Standard, and the issue or issues presented. Please try to keep site-specific descriptions to half of a page; large sets of documents or lengthy case studies will not be reviewed.

(2) How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change related (e.g. adaptation or mitigation) concerns?

APPENDIX F

COMMENTS RECEIVED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION IN 2023

The following comments were received by the Advisory Council on Historic Preservation in response to its July 2023 call for comments.

July 18, 2023

Ms. Druscilla Null Director, Office of Preservation Initiatives Advisory Council on Historic Preservation 401 F Street, NW, Suite 308 Washington, DC 20001

Sent via email: dnull@achp.gov

Dear Ms. Null:

On behalf of the Big Cities Preservation Network, a coordinating network of the historic preservation officers in the nation's 21 largest cities, we greatly appreciate the opportunity afforded by the ACHP to offer comments on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties, with a particular focus on the Standards for Rehabilitation.

Our municipal historic preservation officers felt that it was important to participate in this process in part because the Standards are referenced within many – though not all – of our cities' local historic preservation ordinances or regulations. Many of our cities also regularly conduct local reviews of proposed projects that are undergoing review for Standards compliance by our State Historic Preservation Officer (SHPO) and National Park Service (NPS) in pursuing Federal Rehabilitation Tax Credits. And because we lead historic preservation programs within the nation's most diverse and complex urban settings, we frequently grapple with how the application of the Standards may impact equity outcomes, accommodation of growth and density, local housing goals, and climate adaptation and mitigation.

While discussions related to the Standards have arisen frequently since our Network began meeting virtually in 2019 to share best practices among our municipalities, we focused our July 2023 meeting on the ACHP's call for comments, in order to provide more specific feedback from the perspective of the nation's largest city governments. In offering these comments, we caution that these should not be taken as representing official or adopted policy positions of our individual city governments, but instead as constructive suggestions representing general observations and overall points of consensus among our Network's big city historic preservation officers.

Our Network participants felt that a substantial update to the Guidelines and NPS guidance documents, rather than to the 10 Standards themselves, might offer the most constructive opportunities for addressing some of our cities' most pressing challenges, as summarized more specifically in the comments below:

Big Cities Preservation Network Comments:

- The Standards' Flexibility: Many of our historic preservation officers have long valued the Standards for their flexibility, since they help enable project reviews that can offer multiple alternative paths to address the goals of an applicant, while creating positive preservation solutions. But flexibility can bring inconsistency in how the Standards are interpreted and applied across our municipalities. Many of our city officials have also observed that the Standards are typically interpreted with more flexibility by local commissions and staff than by SHPO or NPS reviewers.
- Deference to local governments/CLGs: In such situations where there may be potential differences in Standards review between local commissions/staff and SHPO/NPS review, NPS could consider implementing a more systematic policy to defer to Certified Local Governments (CLGs). In some states, such as Colorado, CLGs are already conducting reviews of certain types of state tax credit projects. CLGs have received validation that they are capable of conducting Standards reviews, since they must maintain a qualified local commission and professional staff. They also have detailed local knowledge of their jurisdiction's historic resources, together with a fuller understanding of the broader community context within which rehabilitation projects are being pursued.
- Learning from past appeals cases: In formulating recommendations for future
 adjustments to the Standards or Guidelines, it would be beneficial for the NPS to
 conduct a systematic review of past appeals on denials of tax credit certification to
 identify emerging patterns, particularly on cases where determinations were reversed by
 the Chief Appeals Officer.
- The trend toward "objective standards": The Secretary's Standards have been becoming less relevant within many local programs due to increasing mandates from State governments, particularly in California, that design review of new housing developments must be limited to "objective standards" that utilize fixed or quantifiable measures. The inherent flexibility of the Standards or local design guidelines rooted in the Standards makes them unusable in settings where objective standards are mandated. Local governments are therefore beginning to explore how to translate the most important principles or expectations of the Secretary's Standards into a more "objective" structure. Support and guidance from the ACHP and NPS on this emerging challenge would be welcomed by our city governments.
- Interior Corridors and Adaptive Reuse Projects: In many of our cities, the postpandemic decrease in demand for commercial office space has created new opportunities for adaptive reuse of historic office buildings for housing. Often, NPS reviewers have been stricter in insisting upon the preservation of interior corridor

configurations, even when these are typically the same from floor to floor. NPS should consider additional flexibility when updating guidelines or guidance documents on the review of interiors for adaptive reuse housing projects.

- Enhanced guidance on infill development: The Secretary's Standards often prove most pertinent to our local design reviews in addressing the compatibility of new additions to an individual historic resource, rather than in assessing a larger-scale infill project within a historic district or a complex urban setting. New infill housing development represents a central challenge in many of our cities, and the Standards or Guidelines could provide more nuanced guidance on how to address the relationships between buildings of varying heights and densities as our cities continue to grow and evolve.
- Alternative Materials: Many of our local programs have begun to adopt policy language or guidance documents to address our interpretation of Standard 6, to clarify how or where our cities will accept the use of alternative materials, particularly for non-visible or less visible elevations. These approaches aim to make the Standards more equitable to diverse communities, especially those with lower incomes, where purchasing original replacement materials may be economically challenging. Standard 6 could also better address mid-century historic resources that are constructed from materials unsuited to ongoing repair, in-kind replacement, or sustainable retrofits. Additional guidelines or resource documents from the ACHP or NPS on alternative materials and Standard 6 would provide helpful best practices for our local programs.
- Guidelines for vernacular buildings of social/cultural significance: Increasingly, our local historic preservation programs are emphasizing the identification and designation of buildings that are modest architecturally but reflect the larger social and cultural movements that have defined our communities. While physical features can be important in helping to convey important historic associations, integrity considerations can often be applied with greater flexibility when resources are significant primarily for their social or cultural meaning. Recognizing this flexibility in the Standards through enhanced guidelines for such resources could assist our local communities in managing reviews of historic resources that are not primarily significant based upon architecture.
- Climate adaptation and mitigation: The Big Cities Preservation Network has frequently discussed the interrelationship of climate change and the Standards, starting with a 2019 peer exchange hosted by the City of San Antonio, with representatives from New York, Boston, and Los Angeles. Many historic buildings will need to accommodate changes to historic features in order to withstand future climate-related threats. As an example, some cities subject to sea level rise are adopting guidelines allowing for flexibility on rooftop additions to accommodate the relocation from lower levels of significant features or mechanical equipment at risk of inundation. In other situations, city

sustainability policies are seeking to accommodate energy-efficiency retrofits in ways that preserve buildings' significant historic features. Cities are also identifying ways to enhance the circular economy while maintaining embodied cultural value through deconstruction and the reuse of existing material to extend the life of other historic resources. As with the topics noted above, more detailed Guidelines addressing "climate heritage" would represent a significant contribution to the field.

We hope that these suggestions are helpful to the ACHP's review, and we would be happy to have a follow-up discussion with ACHP staff or Council members to discuss these points in greater detail. Thank you for your consideration.

Sincerely,

Shanon Shea Miller

Historic Preservation Officer and Director San Antonio Office of Historic Preservation Ken Bernstein

Principal City Planner

Los Angeles Office of Historic Resources

[External] SOI Standards

Beth Savage - PAB <beth.savage@gsa.gov>
Thu 7/20/2023 5:19 PM
To:Dru Null <dnull@achp.gov>
Dru,

GSA's experience in project implementation is that the SOI Standards are generally sound. Our performance baseline is the Standards for Rehabilitation, while often used selectively in combination with those for Preservation, Restoration and Reconstruction in many projects, as applicable. Although we may have had some challenges with incorporating sustainability measures into historic building projects, they are not the norm and we have had sufficient success in working through these to mostly reasonable and balanced preservation results.

Although we do encounter differences of opinion on the application or interpretation of the Standards; we also encounter differences in the interpretation or application of the determination of effects under the Section 106 process; often these two issues are linked. Sometimes this results in others' split determinations of effect within a single project, which poses challenges to navigate.

In GSA's experience, Standard 1 and Standard 9 pose the most variable interpretations in general, which is not surprising in that Stnd 9 has been debated since its inception. Under Standard 1, GSA works incredibly hard trying to extend the service life of some highly specialized legacy building types, namely courthouses and land ports of entry (formerly known as border stations), yet the degree or type of change to meet security and energy efficiency mandates pose challenges meeting the Standards and avoiding adverse effects. Guidance on application of the Standards and the accompanying guidelines state that they will be applied taking into consideration the economic and technical feasibility of each project, and this sometimes gets overrun in Section 106 negotiations.

GSA is always interested in collaborative discussions with the NPS on the continuing evolution of the interpretation and application of the SOI Standards, such as the relatively recent flood adaptation and rehabilitation and Modern curtain wall rehabilitation information. I'm including reference to *The Timeline of the History of the Standards*, which documents updates and guidance added to the SOI over time: https://www.nps.gov/articles/000/treatment-standards-history.htm as it illustrates a long history of NPS producing guidance documents to apply the Standards in consideration of climate, housing, and economic concerns.

Regards,

Beth

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Historic Preservation and the Federal Historic Tax Credit

* * *

Addressing Challenges of the 21st Century

September 2023

The <u>Historic Tax Credit Coalition (HTCC)</u> is an organization of industry stakeholders who recognize the importance of the federal Historic Tax Credit and work to improve and expand the use of this important economic development tool.



FOREWORD

Congress of the United States Washington, DC 20515

September 2023

As members of Congress keenly interested in community development, preservation, and improving the federal historic tax credit, we are grateful for the Historic Tax Credit Coalition's work in producing this report on the state of the program. For decades, the federal historic tax credit has improved our communities, created jobs, and contributed to a sense of place and belonging. We have fought to maintain this vital tool in Congress and have long supported enhancements to the federal credit. These changes are needed now more than ever before, as this report demonstrates.

While more than 2,000 miles apart and reflecting different constituencies, the cities, towns, main streets, and rural areas of Illinois' 16th District and Oregon's 3rd District have benefitted tremendously from the credit. But there are many more buildings waiting to be rehabilitated. It is past time for new tools to improve the credit for the next several decades and beyond.

The changes outlined in this report and contained in our Historic Tax Credit Growth and Opportunity Act (HTC-GO) would add significant value back to the credit after years of lost value and uncertainty. These legislative changes, however, are not all that is needed. It is crucial that our partners in the administration work to update the program as well so the tax credit can continue to be a success.

We hope as interested parties read this report they will consider ways to improve the credit and support our efforts.

We look forward to continuing to work to enact HTC-GO and make the historic tax credit an even strong economic driver for Illinois, Oregon, and the entire country.

Sincerely,

Darin LaHood Member of Congress Earl Blumenauer Member of Congress

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INTRODUCTION

The proponents who encouraged it, the legislators who enacted it, the presidents who oversaw it, the hard-working administrators and leadership and staff of the National Park Service, State Historic Preservation Offices and the Internal Revenue Service who administer it, the program consultants, professional advisors, and project sponsors who work with it, and especially the communities that use it to save thousands of our great buildings and give them renewed lives as the anchors of community development, that also increases housing and creates jobs are all very rightly proud of the outsized economic development and preservation need served by the historic tax credit.

At the same time, changes throughout the last decade in how the credit is administered, in the provisions of the Internal Revenue Code, and in the financing marketplace have buffeted the historic credit, affecting its utility, ease of use, value, reach, and impact.

With that in mind, the Historic Tax Credit Coalition studied the industry and produced this report that highlights the successes as well as the growing difficulties and recommendations for 21st century modernization.

We hope that reading this report, and especially its recommendations, will help fuel the changes needed to keep the historic credit as the integral development and preservation tool it has been in America for more than five decades.



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BACKGROUND

The federal rehabilitation tax credit, better known as the historic tax credit (HTC)¹, originated in the late 1970s as one of America's first "investment tax credits.²" The HTC facilitates the rehabilitation of historic buildings and structures by providing a tax incentive based on a percentage of "qualified rehabilitation expenditures" (QREs).

The incentive has proven to be a powerful tool for preserving our nation's historic properties while generating community redevelopment and reinvestment and ultimately economic growth. The HTC has preserved tens of thousands of historic buildings, facilitated the creation of a nearly 200,000 low- and moderate-income housing units and supported the rehabilitation and reuse of almost 50,000 buildings, many blighted, from the country's urban core to its small-town main streets³. It has been utilized in the redevelopment of former factories, airport terminals, office buildings, mills, schools, theaters, and any number of other building types. It has accomplished all these worthy goals while creating hundreds of thousands of jobs and advancing environmental protection through reuse of existing structures and materials.

The HTC is uncommon in that it is administered by two federal agencies that operate independently:

- The National Park Service (NPS), a bureau within the U.S. Department of the Interior, works together with state historic preservation offices (SHPOs) in the 50 states to address compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68, 1995) (the Secretary's Standards).
- The Internal Revenue Service (IRS) interprets and administers the Internal Revenue Code of 1986, as amended (Code), specifically addressing matters of tax credit entitlement and compliance.

The workings of each agency greatly impact the success of the HTC program and, ultimately, whether the program's objectives of community redevelopment and revitalization,

³ Data from the National Park Service's most recent annual report available at https://www.nps.gov/subjects/taxincentives/upload/report-2022-annual.pdf



www.historiccredit.com

¹ Internal Revenue Code §47.

² An "investment tax credit" (ITC) is an incentive for business investment. An ITC allows a taxpayer to claim a credit against its federal tax liability for a percentage of the investment. In the case of the HTC, a tax credit is taken over five years equal to 20% of the "qualified rehabilitation expenditures," as explained later in this report.

rehabilitation, preservation and adaptive reuse of historic buildings and economic growth can be achieved.

The most recent Annual Report of the NPS refers to the HTC program (which the NPS calls the Federal Historic Preservation Tax Incentives Program) as:

[T]he nation's most effective program to promote historic preservation and community revitalization through historic rehabilitation. With over 48,000 completed projects since its enactment in 1976, the program has leveraged over \$122.90 billion in private investment in the rehabilitation of historic properties — spurring the rehabilitation of historic structures of every period, size, style, and type in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.⁴

Despite decades of great success and accomplishment under the HTC program, steps can and should be taken to improve the efficiency and appeal of the program, particularly as the program confronts the challenges of the 21st century. Present-day factors impacting modern historic preservation efforts include the following:

- During the past 40 years, construction practices have evolved considerably to adapt to changing global environments.
- Costs have risen exponentially.
- Labor, trade, and material resources have become scarce and expensive.
- The focus of the commercial real estate markets has shifted, as have the demands of building occupants.
- There is pressing need to create more sustainable buildings, particularly in the face of climate change.
- The country faces a housing crisis and there is urgent need to create more affordable housing.
- Construction codes and other permitting requirements have evolved.
- The global pandemic resulting from COVID-19 will continue to impact American economic and socioeconomic culture for years to come.

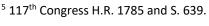
With changing times in mind, the Historic Tax Credit Coalition (HTCC) was founded more than a decade ago to represent the industry, advocate for the preservation and improvement of the HTC, and serve as a central voice for those who use and care about the HTC. In addition to its work as an advocacy organization and trade association and in response to current market conditions, the HTCC undertook a survey of historic consultants,



⁴ Ibid.

preservation leaders and other users of the incentive to identify programmatic areas that would benefit from adaptation in the 21st century. The HTCC's experience and research has revealed that many aspects of the HTC program, particularly the legislative contours of the program, SHPO and NPS review and some guidance, have not yet adapted to modern-day challenges. These items have made use of the HTC more difficult and have made successful rehabilitations harder to accomplish.

The HTCC is pleased to offer this review of the program, the results of its survey and the recommendations set forth in this report. The report is divided into three sections. The first section provides a brief legislative history of the HTC program and a description of its successful past. The second section includes a summary of the HTCC survey and recommendations based on survey findings. The third section speaks to the financial challenges credit transactions face, including recommendations for legislative improvements to the HTC program, primarily through the Historic Tax Credit Growth and Opportunity (HTC-GO) Act.⁵



PART I - DECADES OF SUCCESS FOR HISTORIC PRESERVATION

National Historic Preservation Efforts Begin in 1965

In 1965, President Lyndon B. Johnson convened a special committee on historic preservation. Interest in saving our nation's heritage was a response to the demolition of swaths of historic buildings under urban renewal programs of the 1950s and the loss of significant buildings like New York's Pennsylvania Station in the 1960s. The committee released a report entitled *With Heritage So Rich*, which solidified the rationale for why preservation is important to American society and culture. The federal historic tax credit program grew out of this report with the adoption of the National Historic Preservation Act of 1966 (NHPA).

The NHPA focused on federally licensed or funded projects and their impact on historic resources. To monitor such impacts, the NHPA created SHPOs for each state, the Advisory Council on Historic Preservation (ACHP), the National Register of Historic Places (National Register), and the Section 106 review process. Section 106 of the NHPA requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country. If a federal or federally assisted project has the potential to affect historic properties, a Section 106 review must take place.

Origins of the Historic Rehabilitation Tax Credit

The NHPA's purview was federal involvement in historic resources; but it offered little to support private-sector investment in preservation. The first attempt to motivate private investment in historic resources came in 1976 in the form of 60-month accelerated depreciation for the rehabilitation of old buildings. Soon thereafter, as part of The Revenue Act of 1978, the first historic tax credit was made part of the general investment tax credit and provided a tax credit equal to 10% of rehabilitation expenditures for buildings 20 years old or older. The federal Historic Tax Credit in the form known today was enacted in 1981 as a bi-partisan effort of the Reagan Administration and a Democratically controlled Congress to stimulate the American economy struggling to emerge from a deep recession. It was an effort to promote private investments in existing buildings as part of a broader package of incentives to promote economic growth. The legislation created a 25% credit for certified historic rehabilitations, a 20% credit for rehabilitations of buildings at least 40 years old, and a 15% credit for rehabilitations of buildings at least 30 years old.



The 1981 law was retained and modified as part of the 1986 Tax Reform Act, providing for 20% and 10% credits for certified and pre-1936, but not certified, rehabilitations. The report of the Ways and Means Committee stated these reasons for its continuing support of the HTC:

The Congress concluded that the incentives granted to rehabilitations in 1981 remain justified. Such incentives are needed because the social and aesthetic values of rehabilitating and preserving older structures are not necessarily considered in investors' profit projections. A tax incentive is needed because market forces might otherwise channel investments away from such projects because of the extra costs of undertaking rehabilitations of older or historic buildings.

The 10% credit was removed in 2017 as part of the Tax Cuts and Jobs Act (TCJA), leaving a 20% credit for certified rehabilitations of certified historic structures. In addition, the TCJA extended the HTC from being claimed in one year (which had been the standard since 1979) to being claimed over 5 years (that is, 20% per year). The industry reports that this change resulted in a reduced value for the credit on a present value basis.

The NPS and the IRS

The HTC program is administered by the NPS and the IRS, two federal agencies that act independently but play key roles in the success of the program. In order to qualify for Historic Tax Credits, a building must:

- 1. Have been previously placed in service;
- 2. Be listed in the National Register (NR) or located in a registered historic district and certified as being of historic significance to the district;
- 3. Be eligible for depreciation;
- 4. Accrue Qualified Rehabilitation Expenditures of at least 100% of its adjusted basis at the start of some 24-moth or 60-month period in accordance with more specific requirements of the Internal Revenue Code; and
- 5. Have the rehabilitation certified by the National Park Service.

The Code designates the Secretary of the Interior as the authority to determine historic districts, certifications of significance, and certifications of rehabilitation in connection with certain tax incentives involving historic preservation. The Secretary has delegated these certification responsibilities to the Technical Preservations Services of the NPS.



To receive the HTC, a project must meet the Secretary's Standards. The four standards are rehabilitation, preservation, restoration, and reconstruction. The Standards were originally published in 1977 and revised in 1990 and 1995 as part of Department of the Interior regulations (36 CFR Part 67). The Secretary's Standards have not been modified since 1995.

The Secretary's standard for *rehabilitation* is defined as:

the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.⁶

Since the beginning of the program, the NPS has shared administration of the preservation aspects with SHPOs from all states and territories across the country. SHPO offices undertake the early part of the review process, adding their expertise on local history and preservation. For states with state credits, the SHPO will usually also handle review of state credit approvals if they are separate from federal approval.

Finally, once a project receives all its approvals from NPS, the taxpayer will claim a credit with the IRS by including the NPS approval with its tax return. At this point, the IRS will have jurisdiction over tax matters — computation of the proper amount of qualified rehabilitation expenditures, including whether particular expenditure relate to capitalized costs or deductible expenses, and many aspects related to the role of an investor, such as whether the investor was an owner of an interest in the building at the time it was placed in service, whether the QREs are properly allocated to the investor, whether any limitations imposed by the passive activity or at-risk rules apply to limit the ability to claim or use the credit, and others.

The coupling of tax incentives and NPS review was successful from the start, with over 5,000 projects reviewed and approved between 1976 and 1982 under the provisions in effect in those years.

In 1986, extensive changes to the Code made passive investments in tax-favored transactions largely unusable by individual investors. This led to the rise of corporate investors using partnership and master lease structures. Transactions involving corporate investors grew through the 1990s and the HTC became a more common source of financing



-

for older buildings. This change also increased the financial size of projects and, in many ways, the complexity.

Program Statistics

Overall, the program has been successful in securing the longevity of thousands of historic resources. The Rutgers University Edward J. Bloustein School of Planning and Policy (Rutgers) and the NPS together publish an annual report on the economic impact of the HTC. The 2021 report concluded that the HTC was responsible for significant job creation and other benefits, as detailed in the following table:

	FEDERAL HTC-ASSISTED R	REHABILITATION	
National Total Impacts 2021 \$ billion	\$199.1 billion CUMULATIVE (FY 1978–2021) ² historic rehabilitation expenditures results in:	\$8.0 billion ANNUAL FY 2021 historic rehabilitation expenditures results in:	
Jobs (person-years, in thousands)	3,042	135	
Income (\$ billion)	\$157.3	\$5.6	
Output (\$ billion)	\$428.4	\$15.0	
GDP (\$ billion)	\$213.8	\$7.7	
Taxes (\$ billion)	\$60.7	\$2.1	
Federal (\$ billion)	\$42.9	\$1.3	
State (\$ billion)	\$8.8	\$0.3	
Local (\$ billion)	\$9.0	\$0.4	
The benefits of investment in HTC-relat production in nearly all sectors of the in 2021 are illustrative. During that period, \$19 \$213.8 billion in GDP, about 30% of which one would expect, given the share of such poeneficiaries were the service sector (550,00 in GDP), and the retail trade sector (427,000 due to the interconnectedness of the nation agriculture, mining, transportation, and pub of the most recent economic benefits of the Feapproximately 135,000 jobs, including 48,00 in GDP, including 43.5 billion in construction	ation's economy. The cumulative effects f 9.1 billion in HTC-related rehabilitation inve 940,000 jobs and \$63.6 billion in GDP) ware projects that require the employment of bull 10 jobs, \$28.4 billion in GDP). As a result of bull jobs, \$15.1 billion in GDP). As a result of bull al economy, sectors not immediately associated ici utilities, benefit as well. (see Exhibit 3.1). sederal HTC are also impressive. In FY 2021, 100 in construction and 30,000 in manufacts	or the period of FY 1978 through FY stment created 3,042,000 jobs and s in the construction sector. This is as diing contractors and trades. Other majcuring sector (642,000 jobs, \$56.7 billior oth direct and multiplier effects, and atted with historic rehabilitation, such as HTC-related investments generated uring, and were responsible for \$7.7 billior.	

Annual Report on the Economic Impact of the Federal Historic Tax Credits for Fiscal Year 2021.

The Rutgers report notes, among other things, the HTC is responsible for the creation of more than 3 million jobs and \$7.7 billion in gross domestic content. In addition to positive

financial and economic impact, the HTC has successfully created and preserved a significant number of affordable housing units during its history with over 192,000 low- and moderate-income housing units being created using the HTC program. The creation of the Rental Assistance Demonstration program (RAD) by the U.S. Department of Housing and Urban Development (HUD) in 2011 allowed sources like the HTC to also be used for the preservation and rehabilitation of public housing. Since 2011, large and small public housing authorities have utilized the HTC to support the preservation of affordable housing and address decades of deferred maintenance.

The success of the federal HTC also led many states to enact state historic tax credit programs. Existence of a state HTC often encourages use of the federal HTC program in that state. Some state programs require a federal approval while others have an independent process. Some state programs include benefits unavailable under the federal program, such as flexible program requirements or transferability of the state credit. There are 39 states with some form of state historic tax credit, many of which have a proven track record of their return on investment.



Map Source: National Trust for Historic Preservation

⁷ Testimony of Garrett Watson, Senior Policy Analyst and Modeling Manager, Tax Foundation before the US Senate Committee on Finance, March 7, 2023, <a href="https://files.taxfoundation.org/20230306162624/Testimony-Tax-Policy%E2%80%99s-Role-in-Increasing-Affordable-Housing-Supply.pdf?gl=1*gpi166*ga*MTMyNjk1MzExMC4xNjg2NTc0NDQ5*ga FP7KWDV08V*MTY4NjU3NDQ00S4xLjEuMTY4NjU3NDk0MS41NC4wLjA."}

Tax-Policy%E2%80%99s-Role-in-Increasing-Affordable-Housing-Supply.pdf?gl=1*gpi166*ga*MTMyNjk1MzExMC4xNjg2NTc0NDQ5*ga FP7KWDV08V*MTY4NjU3NDQ00S4xLjEuMTY4NjU3NDk0MS41NC4wLjA.



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With state credits replicating the success of the federal program, statistics also show that HTC projects are concentrated in the places that need development the most. For example, NPS statistics show that 78.9% of applications approved between 2002 and 2017 were for projects in census tracts with incomes of 80% or less of area median or which have poverty rates greater than 20%. Fifty percent of all transactions support the development of either market-rate apartments or low-income housing.

Relative Success of the HTC

Because the HTC is paid in full only upon the building's placement in service, a significant amount of the HTC-related revenue is generated for the Treasury even before the credit accrues to the investor – exactly the way a tax credit meant to spur economic activity should be structured. Of course, significant tax revenues are also generated by adding a productive building for business or residential use.

The HTC's relative efficiency is also demonstrated by its exceedingly low recapture rate. In general, a transfer of ownership within the 5-year compliance period triggers tax credit recapture. Recapture can also result from mortgage foreclosure, if the building's architectural character is altered, or if the building is lost because of a natural disaster. However, the recapture risk burns off 20% per year over 5 years. The firm Novogradac & Company LLP undertook an HTC recapture survey for the National Trust. It can be found here: https://www.novoco.com/products/historic-rehabilitation-tax-credit-recapture-survey. The study found a cumulative recapture rate of the HTC over the 2001-2011 measuring period was just .73%, reflecting a better than 99% project success rate. Note that the study's measuring period includes the years of the recession in the early part of the century.

The effectiveness of the HTC is also reflected in its rate for capital contributions. Historically, corporate investors have invested an average of \$.90-\$1.05 per tax credit dollar for the LLC or Limited Partnership ownership interests that allow them to claim the credits. Other investor benefits include the after-tax benefit of any taxable losses generated by depreciation, and a modest share of the company's operating cash flow and a share of the value of the property. Despite the historical value of the HTC, it should be noted that following the implementation of the 5-year credit and other changes, the HTC's investment value has fallen by 20 to 30%.



PART II -- WORKING WITH THE NATIONAL PARK SERVICE

Introduction

The NPS and SHPOs play an important role in the administration of the HTC. To qualify for the HTC, a building must secure three stages of approvals from these agencies:

- "Part 1" Approval of the building as a certified historic structure (that is, a building individually listed on the Register or determined to be significant to a registered historic district)
- "Part 2" Approval of the plans to rehabilitate the building
- "Part 3" Approval of the actual rehabilitation

As a result of several factors, including tax structuring, tax rules, and market conditions, most HTC projects with over \$5 million in QREs have an equity investor. The NPS and SHPOs are key to ensuring the economics of a project work out. For a project to attract the interest of investors, obtain a commitment to invest and actually receive an investment, file a tax return claiming the HTC so that it can be allocated to an investor, and then getting the period for possible IRS challenge to run and expire requires that these steps be accomplished within reasonable periods of times and with a reasonable amount of work on the part of the taxpayer. For example, investors are very likely to want preliminary approval, if not Part 1 Approval before they will commit to investing in a project. And IRS rules require an extended statute of limitations for the tax return on which the credits were claimed if the Part 3 is not timely received.

For many years, the HTC community found its dealing with the NPS and SHPOs to be fair, predictable, consistent, and flexible. In surveying the community in 2023, the HTCC found a change in that perception over the past several years, and an uncertainty in the program that creates significant obstacles to successful rehabilitations.

Previous Recommendations for Change

At this point, there is about 50 years of history of the historic preservation community working with SHPOs and the NPS. Starting in the early 2000s, the community began making recommendations for how to improve the process.



In 2003, the *Tax Act Review Reform Policy Paper* was published by the National Conference of State Historic Preservation Officers (NCSHPO) and *Recommendations for Improving Administration of the Certified Historic Rehabilitation Tax Credit Program* was published by the Historic Preservation Development Council (HPDC). In 2004, the NPS considered input from constituents of the program, and published its own recommendations, entitled *Improving the Administration of the Federal Historic Rehabilitation Tax Credit Program*, and it decided to establish the National Park Service Advisory Board (NPSAB).

The 2004 Report identified the following recommendations:

- The HTC should be administered as a rehabilitation program rather than a preservation program.
- Program redundancy between SHPO and NPS review could hinder the HTC.
- Establishment of a demonstration program for small projects (no more than \$500,000 in tax credits or \$2.5 million in QREs).

In 2007, NPSAB produced a report, *Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Program Better* (the 2007 Report), which was unanimously adopted by the National Park Service in 2007. The focus of the 2007 report was to answer two questions:

- 1. Are the requirements of the Federal Historic Rehabilitation Tax Credit Program clear to program users? Do program users have realistic expectations when they undertake projects? If the process is not clear, how can it be made clearer?
- 2. How can the interpretation of the Secretary of the Interior's Secretary's Standards for Rehabilitation be made more user-friendly so that program users and the preservation community can better understand them?

The report noted that the recentralization of the review staff of the NPS from five regional offices to a centralized office in 1995 "...led some SHPOs and program constituents to perceive 'shifts' in NPS interpretation of the Secretary's Standards."

The 2007 Report included recommendations to "provide greater ease and clarity for applicants to meet the program's requirements as well as help expand the benefits of historic preservation and economic development," and it noted the commitment of the NPS to implement the Committee's recommendations.



To that end, NPS developed materials and guidance on interpreting and applying the Secretary of the Interior's Standards on several subjects including:

- Windows
- Interior Treatments
- New additions and related new construction
- Modern requirements and new technologies and materials
- Very large, functionally related, multiple-building complexes

The NPS also committed to more education, training, and written web-based guidance. Although some of the guidance was produced, many of the concerns expressed in 2004 remained and continued through the next decade.

Several years later, in 2013, then Secretary of the Interior Ken Salazar asked NPS to conduct an internal review "...with the intent of ensuring that the program is maximizing opportunities to use historic preservation to promote economic development and revitalization of communities, especially in urban areas." NPS released a *Final Report on the Implementation of Program Review Recommendations and Action Plan* in December of 2016 (the 2016 Report).

The 2016 Report outlined eight "action steps" that NPS was taking to address the concerns expressed by Secretary Salazar including:

- Action 1 Additional Webinars and Training
- Action 2 Work with White House Council on Strong Cities, Strong Communities
 Initiative
- Action 3 Tax Code Issues
- Action 4 HTC Federal Inter-Agency Group
- Action 5 Certified Local Governments and Local Partners
- Action 6 Clarification of Guidance in Interpreting and Applying the Secretary of the Interior's Secretary's Standards for Rehabilitation
- Action 7 Policy on Buildings Functionally Related Historically
- Action 8 Administrative Guidance

As you will see from the survey data below and the anecdotes provided, many of these issues remain today. While the NPS has undertaken some recommendations from previous reports, such as undertaking webinars and training, and guidance on functionally related complexes, many other recommendations have gone unaddressed or in the case of



functionally related complexes the guidance has either been inadequate or inadequately followed to solve the problems identified.

HTCC Survey Results

Plainly, there have been several times in this century when the NPS or affiliated entities have announced that steps are being taken to make the HTC program work better. However, the historic tax credit community has continued to express significant concerns that the steps taken have not accomplished the goals set before the NPS by others, or even those goals set forth by the NPS itself.

Now, in 2023, the HTCC has completed a survey of users of the program to determine the state of historic rehabilitation considering the concerns expressed in 2003, as well as the recommendations made in the 2007 and 2016 Reports.

The survey was provided to more than 50 historic consultants, and 32 completed it. Over 85% of the respondents have more than 10 years of experience with the program. Approximately 56% of the respondents have worked on more than 75 historic rehabilitation projects, representing more than 1,300 historic preservation certification applications (HPCAs).

The survey consisted of 23 questions. It focused on the current state of NPS review based on review timing, interpretation of the Secretary's Standards and Guidance and consistency of that interpretation and documentation required as part of the review. There were also some questions regarding to the Part 1 of the application as it relates to the National Register process. The results of that survey show that many of the issues that were concerns over the last 20 years remain as relevant today as they did then with the additional concerns of timing and a much more conservative and arduous process.



A key question was an overall evaluation of the NPS process. Here's that question and the responses:

Overall, how satisfied are you with the SHPO and NPS review process for historic projects?

- Very good to excellent (1 response, 3%)
- Good, but there are modest problems that can be handled at a reasonable cost in time and money (25%)
- Fair; the problems are a significant burden on the cost and time to develop historic projects (65%)
- Poor; the problems threaten to undermine the rehabilitation of historic projects (7%)

Many responses were consistent with the responses to that first question. For example:

- 83% of the respondents reported that some of their clients had decided not to go forward with a project due to issues with the program.
- 87% of the respondents felt that there has been a change in the interpretation of the Secretary's Standards over the last five years for Part 2 applications with 69% experiencing an increase in "the number of amendments requested/required" during that same period.
- 84% of the respondents have experienced an increase in review time, with most noting an additional level of requested documentation.
- 75% noted a lack of consistency between review of similar elements.
- 75% of respondents have experienced an increase in the level of requested documentation in Part 2.
- 87% of those survey stated that additional drawings were the most requested items
 with MEPs and additional photos being a close second and third. Respondents also
 noted elements like ownership documentation, renderings, site-line studies, samples
 (such a flooring, shingles, or color samples), and mock-ups.

When asked the three most pressing issues facing HTC projects today, the top answers were:

- 69% selected "Conservative interpretation of the Secretary Standards."
- 63% selected "Hold/Requests for more information."



- 59% selected "Inconsistent Review as compared to previous projects."
- 56% said they have not experienced an increase in the level of documentation for Part 1s, but
- 79% have experienced an increase in the level of documentation for preliminary determinations of individual listing (PDILs).
- 75% noted that there has been an increase in the rigor in which PDILs and National Register nominations are reviewed.

The full statistical results of the survey are attached as Appendix B.

The Review Process Significantly Affects Projects

In addition to the specific questions on its survey, the HTCC encouraged respondents to provide illustrations, both positive and negative, and members of our NPS Committee had many conversations with the community to get more specific examples. We have included over 40 examples in the attached Appendix A.

These responses reflect a widely held perception of delays and inconsistency in the SHPO and NPS processes which makes it challenging for developers to utilize the program. These delays and inconsistencies can significantly extend the time required to arrange both conventional financing and tax equity, as well as significantly increase the time required to rehabilitate and finish the project, which can materially increase costs. Based on the survey results, there is consensus in the industry and our Coalition that the NPS and SHPO review process for the program has become *both more stringent* and simultaneously *less consistent*, especially in the last 10 years. Indeed, even with the hiring of additional NPS staff, the process has become more cumbersome representing a significant departure from past practices.

This more stringent/less consistent review practice hasn't just increased costs. It has resulted in many developers and their financing sources turning away from the program. This pattern is resulting in a steady reduction in the use of the program and its continued viability (See the HTCC's June 2022 letter to NPS-TPS, attached as Appendix C).

Illustrative Results from the HTCC Survey

As noted above, responses to the survey captured a widespread frustration with perceived changes in the administration of the program, as evidenced both in responses to the survey's



multiple-choice questions and accompanying comments. Additionally, as a follow up to the survey, we contacted a large number of HTC consultants and asked them to share specific examples illustrating both successes and challenges on recent projects. For obvious reasons, these project examples were made anonymous by removing project names, locations, and other identifying factors.

The project examples submitted convey that the more conservative administration of the program at the state and federal levels has negatively impacted both the predictability of outcomes and the timing of reviews. The adverse impacts to project schedules and the added costs to projects have been contributing factors in the continued erosion in value of the credit causing developers to question the logic of using the program.

The examples provided by the consultants, along with some comments and suggestions offered, were remarkably consistent in identifying the central challenges that projects across the country are facing. As a very general summary the consultants conveyed these sentiments:

Increased Stringency. "The NPS review process for the program has become increasingly more stringent, especially in the last 10 years. Even with the hiring of additional NPS staff, the process has become more cumbersome signifying a significant departure from past practices."

Loss of Collegiality. Many consultants observed that, over many years, the program reflected a partnership between the private and public sectors, whereas in the current climate, it has become more adversarial in nature. Indeed, a substantial number of consultants conveyed their belief that the reviewers appeared to have an inherent distrust of consultants, something that was not the case historically.

Discouraging Users. "The more stringent review practice continues the current pattern of users turning away from the program".

Discouraging Consultants. Professionals have heard first-hand from NPS that they hold larger projects with consultants to a different standard.

Discouraging Developers. Feedback from developers has been many more "never again" experiences and the conclusion that forgoing HTCs in the future is the preferred alternative, because simply not using the credit is many times more attractive.



Snowflakes. "Every project is considered a snowflake with not enough consistency in the application of the standards according to building type."

The more detailed examples are organized in Appendix A, as follows, recognizing that some examples did not fit into the identified categories and are included at the end of the appendix:

Part 1 – Evaluation of Significance

- Increased level of documentation, which delays review timeframes
- Increased rigor in evaluating integrity

Part 2 – Description of Rehabilitation

- More conservative interpretation of the Standards
- Extended review timeframes due to hold letters and RFIs
- Inconsistent reviews, including inconsistency from comparable/previous project reviews, inconsistency between SHPO and NPS, and inconsistency between NPS reviewers

HTCC Recommendations for NPS and SHPOs

There is not one solution that will overcome the impacts of the above, but as previous reports have noted, there are several items we believe can be addressed to make the program stronger, more user-friendly and grow the number of projects that utilize the HTC therefore saving more of our historic assets.

We acknowledge that a quick review of our recommendations can suggest that we "want it both ways." For example, we simultaneously call for (a) giving reviewers greater authority to resolve questions without having to go to a committee form of review, and (b) greater consistency across reviewers in resolving similar problems. We suggest more respect be given to SHPO reviews at the same time as we seek more uniform application of the Secretary's Standards⁸ by those same SHPOs. We do not see these recommendations as inconsistent. In many situations, we think that updated and clearer rules and regulations, regular trainings, and speedier reviews and appeals can achieve these multiple objectives.

Here are our recommendations:

⁸ https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm

HISTORIC TAX CREDIT

Secretary of the Interior's Standards for Rehabilitation. The ten Secretary's Standards are broadly written to accommodate many different building types and design elements, which leaves them up to interpretation. The Secretary's Standards for Rehabilitation were last updated in 1995 and most guidance on the Secretary's Standards published by NPS has been not revised in the past 18 years. This past February (2023) the AIA's Historic Resources Committee organized a colloquium around the Secretary's Standards (*Taliesin Colloquium 2023: The Evolution of Preservation Secretary's Standards and Guidelines*) which examined "Are the current policies and practices of historic preservation still valid or must they mature to meet the current challenges?" We agree that the Secretary's Standards have not kept pace with the current building stock and the requirements of current financing sources. As noted above, 87% of the respondents feel that there has been a change in the interpretation of the Secretary's Standards over the last five years, even though there have been no formal changes to the Standards. With that in mind, the HTCC recommends:

1. Guidance. It is important that new and predictable guidance is issued to address today's challenges, such as (i) modern movement buildings with fewer character defining features, and (ii) meeting the requirements of other funding sources, such as qualifying for funding sources associated with renewable energy and energy conservation. Development of this guidance should be undertaken in partnership with the users of the program that understand the real-world challenges of rehabilitating a building. The NPS should have a "guidance plan" in which it describes plans for the issuance of guidance in the coming year, and it should solicit suggestions from the historic community for what should be on that plan. It should then have a comment period and seriously consider comments received when it publishes guidance.

Timing. Real estate developers are entrepreneurial by nature and willing to take risks, provided the risks can be managed within a predictable timeframe. As noted in the survey responses, timeframes for review have become extended due to holds for requests for information as well more amendments and more stringent review. This makes it difficult to arrange financing, like traditional loans, tax equity, and other sources. The HTCC recommends:

2. <u>Application Checklist</u>. The NPS should provide guidance and a checklist to enable applicants to have confidence that they are submitting a "complete application" reducing the number of holds placed on projects for additional information and



- reinforcing that the narrative supersedes the drawings. There should be a two-week timeline for the NPS to conclude that a submitted application is not complete, and a similarly short, reasonable timeline for an applicant to provide any additional information that the NPS requests.
- 3. Resolving Discrepancies. The NPS should adhere to the principal of 36 CFR §67.4(5): "In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description in the application form shall take precedence." We observe that this provision appears intended to discourage project sponsors from submitting excess documentation by saying that written submissions will control. However, in the experience of many users of the program, it has instead been used by the NPS to request supporting drawings and additional information even where the written submission is clear. This results in a corresponding cost and delay in review time. Indeed, many project developers and consultants have found that SHPOs, anticipating such requests from the NPS, have requested drawings and other items in advance of the matter being submitted to the NPS. Showing greater respect for the written submission would reduce the number of drawing and requests for information and reduce cost and save time.
- 4. Prompt Review of Applications. NPS should establish clear and consistently applied standards for the total review time of completed applications by NPS and SHPOs. 36 CFR §67.4(4) currently says the following: "Generally reviews of certification requests are concluded within 60 days of receipt of a complete, adequately documented application, as defined §67.4 and §67.6 (30 days at the State level and 30 days at the Federal level)." Barring a clear and substantial reason for delay, the total review by both, should stick to that 60-day timeline, and in any event, should take no more than 90 days, including non-business days and not adding any "tolling" while the application is being processed. In the experience of many developers and consultants, this general standard is not being met, and the term "days" is being interpreted differently than the plain wording of the regulation.
- 5. <u>Conditions and Amendments</u>. NPS should refine the "condition" and "amendment" processes to make responses easier and the process more streamlined, including actual contact with the applicant or their consultant in advance of placing a project on hold or issuing an RFI. Historically this has led to a more streamlined review by avoiding the need for multiple written exchanges.
- 6. <u>Kickoff Meeting for Larger Projects</u>. For projects over \$10 million of qualified costs, NPS should provide the option of an initial one-hour virtual kickoff meeting with the



- project team, the SHPO reviewer, and the NPS reviewer. Many of the delays are due to misunderstandings or the written nature of the program filings.
- 7. Reliance on Preliminary Reviews. In its preliminary reviews, the NPS should endeavor to provide sufficient certainty that a developer can move forward with the rehabilitation of the Project allowing them to obtain loan and tax equity financing. Many developers find that they cannot convey the confidence required to move these aspects of project development forward, increasing development time and cost.

Consistency with SHPOs. A large number of respondents noted that the SHPO process called for far more conditions and far larger submissions, with the SHPOs stating that the NPS would not otherwise approve the project. At the same time, the HTCC is aware of the NPS claiming that it is not seeking such submissions. The HTCC recommends:

- 8. NPS Training. NPS should provide regular training and guidance that encourages reduced, less costly submissions. We recognize and applaud the NPS training for advanced users of the program this fall (September 2023). At the same time, we recommend that this not be once only, and that similar programs be held at least annually to support new staff at NPS and SHPOs, as well as new users of the program. As we noted above, we believe that regular trainings will assure consistency across the country, while not slowing down the review process or limiting the authority of SHPOs.
- 9. <u>Deference to SHPOs</u>. With consistency across the country established by better guidance and trainings, NPS should show greater deference to the recommendations and approvals of SHPOs. 36 CFR §67.1(1): "State comments are recorded on National Park Service Review Sheets (§67.2 168 (d) and (e)) and are carefully considered by the Secretary before a certification decision is made. Recommendations of States with approved State programs are generally followed, but by law, all certification decisions are made by the Secretary, based upon professional review of the application and related information." Respondents noted that despite SHPO approval of a project or approval with conditions, NPS staff often override or add more conditions or request more information, even after lengthy review at the SHPO. We recommend that the NPS standard be modified to provide, "In general, significant deference should be given to the decisions and recommendations of states unless they are plainly wrong."
- Funding of SHPOs. We observe that some SHPOS are underfunded as compared to others. We recommend a study to determine best practices for funding and staffing SHPOs.



Understanding the interplay of Financial Constraints. Many survey respondents reported that NPS reviewers failed to take into account the impracticality of their requirements. Indeed, several observed that the NPS seemed to not appreciate that their requirements would cause a developer to conclude that simply demolishing an existing historic structure would be preferable to undertaking a rehabilitation. Presumably, this is not the intention of the program. The HTCC recommends:

- 11. <u>Financial Training</u>. NPS should develop a training program for NPS staff to appreciate the financing issues relevant to closing and completing an HTC rehabilitation. The HTCC would be pleased to work with the NPS to develop a program. Alternatively, there are formal programs designed for government officials. For example, NPS staff could participate in Urban Plan for Public Officials presented by the Urban Land Institute (ULI) for NPS staff to better understand the "trade-offs and risk at play in the entitlement and negotiation process."
- 12. <u>Taking Cost into Consideration</u>. NPS should require its reviewers to consider the effect of their decisions on project financing, including where they may result in significant increases in the cost of projects and/o adverse impact on lender and tax equity funding sources.

National Register of Historic Places. As discussed above, to qualify for federal historic tax credits, a building must be a "certified historic structure," one that is either individually listed on the National Register or found to be of historic significance to a NR district. The National Register process has become more difficult than in prior decades and requires a higher level of scholarship and details and the process does not consider the importance of the building to the community. This limits the type of buildings that can be listed due to the investment needed and a narrow interpretation of what is eligible. This is especially impactful in underserved communities of color or with buildings that have a stronger cultural than architectural history, but as equally important in their communities. The HTCC recommends:

13. <u>Limiting Additional Documentation</u>. NPS should address the required level of documentation in National Register Nominations, which has increased significantly over the last ten years. Guidance should include specific recommendations as to the appropriate amount of documentation. For projects that have cultural significance (versus architectural significance), especially those in underserved communities, the NPS should provide greater flexibility with respect to the level of building integrity and needed documentation for projects.



- 14. <u>Preliminary Determination of Individual Listing</u>. NPS should revise regulations 36 CFR §67.4(f), which provides guidance on preliminary determination of individual listing (PDIL). It now reads: "Applications must contain substantially the same level of documentation as National Register nominations, as specified in 36 CFR part 60 and National Register Bulletin 16, "Guidelines for Completing National Register of Historic Places Forms." The revision should allow for PDILs to have less information but make the case why the structure or district meets the criteria under which it will be ultimately listed.
- 15. <u>Better National Register Predictability</u>. NPS should revise its National Register guidance to provide a more predictable process, and greater clarity to SHPOs. This is especially true for listings related to historic tax credit projects, and the timing of listings as related to Part 3. The absence of this clarity can result in significantly delayed issuance of Part 3s, which creates significant issues for both lenders and tax equity.

Consistency and Repeatability. The NPS should endeavor to have consistency and repeatability in its approval process. The HTCC recommends:

- 16. <u>Difficult Issues List</u>. At least annually, NPS should compile and publish a "difficult issues" list and assure that both reviewers and participants in the program are aware of how these issues get resolved.
- 17. <u>Case Studies</u>. As noted above, we believe that great efficiency could be achieved if reviewers have greater authority to approve applications without the need of committee approval. With this objective in mind, at least annually, NPS should publish case studies which illustrate approved processes for reviewing and approving certain types of structures (e.g., school buildings), and treatments (e.g., ceilings, floors, corridors), and assure that these processes are the primary considerations used in evaluating submissions where these issues arise. While special circumstances may call for additional items to be considered, the intention should be to bring consistency to the process and avoid the "snowflake" problem.

Respect for Other Considerations. In the 21st century, it is appropriate to consider evolving needs and problems facing America. The HTCC recommends:

18. <u>Housing</u>. Facilitating the use of historic structures to provide housing. For example, the rehabilitation of existing affordable housing or buildings into affordable housing



- should be better established, and not hindered by impositions of overly difficult rehabilitation standards.
- 19. Environmental Considerations and Energy Use. NPS standards and reviews should pay close attention to environmental and energy reducing solutions in materials and construction. Where a significant reduction in energy usage can be accomplished or is required by local building codes with minimal loss of historic character, the energy-savings solution should be adopted. This is another area where an actual numerical or percentage standard might be adopted.



Part III – OTHER CHALLENGES IN THE PROGRAM

In addition to the issues identified in the 2007 and 2016 reports and the HTCC 2023 survey, changes in real estate development and the Internal Revenue Code have also impacted historic rehabilitation. This part of the report addresses these concerns.

The past two decades have seen significant shifts in the real estate industry, but the historic tax credit has managed to stay consistent during these economic downturns. It has not been as successful at growing during economic prosperity or the growth of the overall real estate market. The HTC like all other development incentives and projects suffered from the real estate/financial crisis of the late 2000s. Most HTC projects froze in those years and the industry took a few years to recover. In particular, we have become aware that the growth of amounts spent on traditional construction has risen at a far higher rate than amounts spent on HTC projects.

Historic Boardwalk Hall and Administrative Guidance

On Aug. 27, 2012, the U.S. Third Circuit Court of Appeals issued its ruling in the Historic Boardwalk Hall (HBH) case. The court concluded that the investor in New Jersey's Historic Boardwalk Hall project did not have a meaningful stake in the success or failure of the partnership that owned the project and generated the HTC. As a result, it wasn't a bona fide partner, and it was not entitled to the claimed losses and tax credits. Because certain features of the investment structure resembled the features of many HTC investments, the decision chilled the HTC market.

The Coalition asked for and eventually received guidance at the end of 2013 from the Internal Revenue Service, Revenue Procedure 2014-12. While this revenue procedure helped free up a completely frozen industry, it did weaken the value of the HTC by placing stricter rules on investors and their partners in HTC transactions.

Similarly, the IRS issued guidance in 2016 determining that so-called "Section 50(d) income" (associated with the popular master-tenant deal structure) was taxable to the investor without a corresponding increase in basis that would offset the tax consequences. As a result, the tax benefits to investors were once again reduced, making the HTC less valuable.



Further Legislative Changes and Comparisons to Other Tax Credits

In 2017, as part of the TCJA, the HTC was again adversely affected by negative changes to the program. Ultimately, the 20% historic credit was modified from a one-year to a five-year credit, once again reducing the value of the credit.

In the Inflation Reduction Act of 2022 (the IRA), renewable energy credits were substantially enhanced in value, with direct pay from the IRS for government and tax-exempt project owners, ability to sell the credit for others, increased credit percentages in a variety of situations, and other sweeteners. Investors in Section 42 low-income housing tax credit transactions that are subject to the Community Reinvestment Act (CRA) get automatic credit from their regulators under this law for their investments, as do many investors in New Markets Tax Credit transactions. Thus, in addition to the adverse judicial and administrative impacts described above, the HTC has seen other credits be improved and gain advantages.

Legislative Recommendations

The Historic Tax Credit Growth and Opportunity Act (HTC-GO)

Senators Cardin (D-MD) and Cassidy (R-LA) and Representatives LaHood (R-IL-18) and Blumenauer (D-OR-3) introduced the Historic Tax Credit Growth and Opportunity Act (HTC-GO) in the 118th Congress (S. 639 and H.R. 1785).

The bill would make long overdue changes to the program to further encourage building reuse and redevelopment in small, midsize, and rural communities. The bill sponsors have recognized some of the needs of the program and designed improvements to make the HTC more attractive. While there are myriad examples of projects in rural and suburban areas, there is significantly more inventory that has yet to be rehabilitated. Additionally, HTC projects in these areas have a significant catalytic effect and a great influence on the community.



Here is a summary of the provisions in the HTC-GO legislation:

INCREASE THE REHABILITATION CREDIT FOR CERTAIN SMALL PROJECTS

HTC-GO would create a 30% credit for smaller deals to make sure rural towns and all non-urban areas have an equal opportunity to take advantage of the credit. This small deal credit would be capped at Qualified Rehabilitation Expenses (QREs) of \$2.5 million, changing the credit allowed from \$500,000 to \$750,000 on the largest projects. There is a provision that transitions the credit rate downward where QRES are between \$2.5 million and \$3.75 million to avoid a credit "cliff."

Policy Rationale

Small deals are the toughest to get done with compliance costs and other soft costs. Hard costs – dry wall, labor, etc. – are the same per square foot, regardless of the size of the project, but rents vary by geography and project size so this provision would help incentivize smaller projects by improving the economics of those transactions. An increased credit would make up some of these differences and encourage use of the Historic Tax Credit in rural and Main Street communities.

INCREASING THE TYPE OF BUILDINGS ELIGIBLE FOR REHABILITATION

HTC-GO would change the definition of substantial rehabilitation. This provision would change the threshold to qualify for the credit as the greater of \$5,000 or 50% of adjusted basis.

Policy Rationale

Under current law, the substantial rehabilitation test requires building owners to spend 100% of their adjusted basis on the rehabilitation. Moving the threshold to 50% will better reflect the term "substantial" (as opposed to total) rehabilitation and will increase the universe of buildings eligible for the credit. This adjustment would allow the credit to be a catalyst for the rehabilitation of the next tier of buildings before they fall into total disrepair. The current rule disadvantages pre-rehabilitation sales to new owners because of the step up in basis. In addition, the current basis adjustment rule disadvantages both the HTC and the Low-Income Housing Tax Credit (LIHTC) in twinned deals because the LIHTC portion must follow the HTC basis adjustment, devaluing both credits.



ELIMINATING BASIS ADJUSTMENT

HTC-GO would eliminate the depreciable basis adjustment associated with the HTC.

Policy Rationale

This provision would increase the value of HTCs to users and investors at a very low cost to the Treasury. In particular, this provision would also allow the HTC to work better with LIHTC, where that credit may be reduced due to the HTC basis reduction, and Opportunity Zones, where the investor already starts with a zero basis which can make a further basis reduction complex. For each of these, the HTC basis adjustment has an unintended effect on the other benefit, leading to unnecessarily complex deal structures. It would also give the HTC parity with the LIHTC. This change would reduce or eliminate the taxation of the HTC when the investor exits the transaction, something that decreases the value of the federal incentive. Changing this provision would make it significantly easier to use the HTC to create affordable housing, including the conversion of office buildings to housing.

MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT USE PROPERTY

HTC-GO would eliminate the disqualified lease rules for all non-government properties. The disqualified leases that would be eliminated under the bill would include those with purchase options, leases in excess of 20 years, prior use rules, and leases in buildings that use tax-exempt financing.

Policy Rationale

The current rules, while well-intentioned, severely limit the ability of community impact projects to use the federal HTC. Eliminating these rules would make community health centers, homeless shelters, arts and cultural facilities, community service centers, and other similar projects better able to use the HTC. It would reduce the amount of overhead and complexity in transactions for entities that are already on constrained budgets.

This class of projects is by far the most impactful and the least likely to provide a return, so flexibility is needed. Many times, these types of projects are in the first phase of reinvestment in economically distressed communities and catalyze foot traffic, economic activity, and downtown residency to pave the way for other projects that require more return on investment and profit to be feasible. In the case of the disqualified lease rules, it makes it prohibitively difficult for the current nonprofit owners of a building to use the credit.



TEMPORARY CREDIT INCREASE (*House version only)

HTC-GO would increase the credit to 30% for all projects for the next five years and then step it back down to 20% over three years.

Policy Rationale

This provision would give a temporary boost to the credit at a time when it is suffering so many challenges. It would allow projects to make up for the many disruptions of the last few years and allow some of the hardest buildings to be completed.

OTHER POLICY IDEAS NOT IN HTC-GO

The HTCC has also offered other policy ideas that could enhance the HTC. While they are not currently in a piece of legislation, they could be worth exploring as policymakers look for ways to help:

- Making HTC projects eligible for CRA credit amending the CRA rules to provide one
 or more illustrations of HTC projects as eligible would significantly enhance the
 investor market for the HTC.
- Return to a one-year credit There is no doubt that reinstating the one-year credit would be a significant enhancement. However, this currently does not have universal political support.
- Adding a bonus to the credit for low-income housing or other policy priorities e.g., a 10% bonus for certain kinds of favored activities would boost the use of the credit. This kind of credit strategy was widely adopted in the energy credit provisions of the Inflation Reduction Act of 2022.
- Provide a transferable credit certificate for smaller projects. Smaller HTC projects
 are challenged to find equity investments and face costs similar to those for larger
 projects despite their smaller size. Consistent with both recent changes to
 renewable credits (which can now be sold following adoption of the Inflation
 Reduction Act) and prior HTC proposals, Congress should explore ways to leverage
 more investment to smaller HTC projects.
- In lieu of, or in addition to, the recommendations made in Part 2, legislatively revise the Secretary's Standards, review times, and other aspects of the regulatory process, using the foregoing data and evidence to make changes to the review of projects to make them more consistent, predictable, and user friendly.



Conclusion

As described above, in recent years the HTC has become more difficult to use, as well as less valuable, both in an absolute sense and compared to the other tax credits that are available to potential investors. It also faces stringent underwriting by HTC investors, as well as higher costs and more challenges to meet building code and sustainability requirements. All of this combines to make the rehabilitation of historic buildings a more challenging undertaking and reduces the effectiveness of the HTC in incentivizing private development in our nation's existing historic buildings. In short, the HTC needs improvements to help it continue to do the great work of the last 40 years.

The Coalition would be pleased to discuss any of these ideas further.



Appendix A

PROJECT EXAMPLES

As discussed in the main body of the Report, the examples provided by the consultants, along with some comments and suggestions offered, were remarkably consistent in identifying the central challenges that projects across the country are facing, which can be categorized as follows, with examples that did not fit into the identified categories and are included at the end of this section:

Part 1 – Evaluation of Significance

- Increased level of documentation, which delays review timeframes
- Increased rigor in evaluating integrity

Part 2 – Description of Rehabilitation

- More conservative interpretation of the Standards
- Extended review timeframes due to hold letters and RFIs
- Inconsistent reviews, including inconsistency from comparable/previous project reviews, inconsistency between SHPO and NPS, and inconsistency between NPS reviewers

Project examples provided by consultants are included below illustrating each of the issues. In the following project examples, a summary of the example is provided in bold followed by the full response from the consultant in italics.

PART 1 – EVALUATION OF SIGNIFICANCE

The survey respondents identified two central issues with respect to reviews of Part 1 Applications including: increased level of documentation which impacts the cost and schedule of a project and increased rigor in evaluating integrity.

Increased Level of Documentation

<u>Example 1</u>: A Part 1 was submitted c. 2010 for a warehouse building and was approved at that time by the NPS. A subsequent applicant submitted a new Part 1 Application and the SHPO required three substantial revisions to the nomination before they would forward the application to the NPS. The NPS then approved the Part 1 Application within



30 days. This example highlights the increased level of documentation required over the past ten years.

I recently took 6 months to get Part 1 approval for a large 20th century concrete warehouse. A Part 1 had previously been approved for the property c. 2010, but the current SHPO staff did not agree with that assessment. This should have been a quick and efficient process for the developer. Instead, a full nomination was submitted with a new Part 1 in mid-July per SHPO requirements. Because SHPO "doesn't like warehouses," they required three substantial revisions to the nomination before they would consider forwarding it to NPS (including one that questioned the extent of historic walls extant within the building). A new Part 1 approval was received from NPS within 30 days after they received the Part 1.

<u>Example 2</u>: SHPO required a Determination of Eligibility (DOE) in lieu of a Part 1 Application (if SHPO denies a DOE the application is not sent to the NPS and the application does not move forward).

We have several projects where we are trying to figure out if the buildings could be individually eligible for listing in the NRHP. Rather than submitting a Part 1 the SHPO office is requesting the preparation of a DOE with the requirement that the level of detail and historic context information is essentially an NR nomination. After submitting the DOE, the SHPO reviewer took three months to respond, and came back with many comments and required additional research far above what a normal DOE requires. The requirement by the SHPO to submit a DOE, not a HPCA Part 1, is problematic because if they deny eligibility, we have no ability to get NPS to weigh in. Taking three months to even get to a point where we can move forward with a Part 1 has caused extreme delays in the project.

<u>Example 3</u>: A Preliminary Determination for Individual Eligibility (PDIL) was submitted for a property that had received a Determination of Eligibility (DOE) seven years ago and a second DOE within the past year. The SHPO required two rounds of revisions, with the majority of comments related to NR-related, state-specific grammatical revisions and formatting. SHPO indicated that a fully developed and complete National Register nomination was required in order to submit to the NPS.

A project involving the headquarters of a nationally recognized manufacturer received a DOE seven years ago and a second DOE within the past year. The building retains integrity and has not been altered since the DOE decisions. A new owner wanted to move forward with historic tax credits and a Part 1 draft



nomination submitted. The nomination contained a fully developed statement of significance with criterion assessment. The SHPO reviewed and responded with a number of questions that they required be addressed for the Part 1 to advance to the NPS. The majority of their comments were NR-related, state-specific, grammatical revisions and formatting. The SHPO indicated that a fully developed and complete NR was required in order to submit to the NPS. A revised Part 1 was submitted and the SHPO issued another RFI requesting additional research and added context to the significance statement. This delayed process caused uncertainty in whether this site was ultimately going to be listed and impacted the overall schedule of the project.

<u>Example 4</u>: Part 1 Preliminary Determination of Individual Eligibility (PDIL) was submitted for a mid-century modern building. The SHPO required several rounds of revisions so that the final Part 1 transmitted to the NPS would be a fully developed National Register nomination. The developer was operating at risk during the rounds of Part 1 revisions with \$70,000/month in carrying costs. The cost of the delay eroded the benefit of the credit.

We submitted a Part 1 application for a Preliminary Determination for Individual Listing (draft nomination). The SHPO required several rounds of revisions so that the final Part 1 transmitted to the NPS would be a fully developed National Register Nomination (as SHPO believes this is the NPS requirement). The building was a midcentury modern building and there was uncertainty as to whether the NPS would ultimately issue a Part 1 approval, so the developer was operating at risk during the rounds of Part 1 revisions and had to hold off on advancing the Part 2 application/drawings. This back-and-forth with SHPO during the Part 1 review extended more than 120 days, all without the benefit of any input from the NPS. In addition to the cost of the nomination, the developer was paying \$70,000/month in carrying costs. The actual cost of delay significantly eroded the benefit of the credit.

<u>Example 5</u>: SHPO required a revised Part 1 Application for a district building, requiring additional documentation addressing the architectural and historical themes during the period of significance. This caused a delay in the project. Historically the documentation requirements for Part 1 Applications in district buildings were more minimal.

We submitted a Part 1 for a district building. For the application we prepared a typical architectural description and building history and statement of significance. After a 30-day review period, the SHPO responded that they needed a revised application with an argument that makes the case for why the building is



contributing to the district, and specifically addressing the architectural and historical themes during the period of significance. This additional documentation requirement is unnecessary for a district building and caused a 30+ day delay in the project.

Increased Rigor in Evaluating Integrity

<u>Example 6</u>: An apartment building was nominated for listing. The building was largely intact with minor alterations. SHPO determined that the compromised integrity and the fact that there were other examples of apartment buildings in the city would preclude listing. The consultant was awaiting NPS response at the time of writing.

We nominated an apartment building under an MPS that has extensive discussion in the registration requirements about integrity. The building is probably 85% historically intact, inside and out, and was determined potentially eligible under the MPS by City staff a few years ago. It has its front porches with some replaced railings, all of its historic windows on the front and side elevations, and most of its simple decorative pieces, as well as intact apartments inside. On the exterior, it is missing its simple cornice, and its back porches were enclosed early on. These two items were enough for SHPO to declare that its integrity is compromised. This coupled with the fact that it is "just one of several apartment buildings in the city" made SHPO say it was ineligible for individual listing. SHPO did suggest we look at a historic district for the neighborhood, but that is not feasible. We submitted a Part 1 to get NPS's say and are awaiting a response.

<u>Example 7</u>: SHPO raised an integrity issue on a warehouse project citing that the existence of temporary walls and the presence of stored goods detracted from the "open floor plans" of the warehouse. The NPS ultimately listed the building illustrating inconsistency between SHPO and the NPS.

SHPO took issue with the integrity of a very large, early 20th century warehouse. Items we debated included whether temporary walls and the presence of stored goods actually detracted from the "open floor plans" of the warehouses and whether the rehab of the one-story loading dock bays inhibited the ability of the building to read as a relay station as well as a warehouse. The building was listed earlier this year.



<u>Additional Part 1-Related Issues Raised in Project Examples -- Inconsistency in Reviews</u> between SHPO and the NPS

<u>Example 8</u>: SHPO and NPS disagreed on the eligibility of a building; resolution caused extreme delays in the Part 1 process.

The Park Service expressly stated they wanted a building to be included in the tax credit submittal, but the SHPO is denying its eligibility, so SHPO and NPS are not on the same page, and we are currently going back and forth with both causing extreme delays in our ability to move forward with a Part 2 submittal.

PART 2 – DESCRIPTION OF WORK

The survey respondents identified three central issues with respect to the review of Part 2 Applications including: more conservative interpretation of the Standards, extended review time-frames due to hold letters and RFIs, and inconsistent reviews.

Conservative Interpretation of the Standards

<u>Example 9</u>: A mill complex received a Part 2 conditional approval with one condition ten years ago. The same applicant is resubmitting a Part 2 Application, but the scope of work approved in 2012 is no longer approvable by the NPS. This example highlights the more conservative interpretation of the Standards.

We are working with a developer who is renovating a mill complex for which the HPCA Part 2 was approved by the NPS ten years ago. The approval included one condition (submittal of window drawings). The project was put on hold and now the same owner is resubmitting an updated HPCA Part 2 application. The 2012 scope of work included window replacement, drywall ceilings, 5 ½" of insulation at perimeter walls, and pouring a new layer of cement underlayment with carpeting or vinyl flooring installed. Other than replacement windows, none of the previously approved 2012 work would be approved under today's interpretation of the Standards.

<u>Example 10</u>: An affordable housing developer is rehabilitating a small school. The anticipated level of scrutiny on projects that involve intact buildings with many original features creates uncertainty for applicants. As a result, this developer is considering forgoing the historic tax credits.



We are just starting to work with an affordable housing developer on a small schoolhouse, for which they want to provide 6-8 units of affordable housing in the school and additional units in new construction on an adjacent parcel. The units are planned to be one/classroom, plus an additional unit on each floor in space occupied by one of two identical staircases. Potential issues facing the developer include flooring replacements (currently covered with LVL, but NPS may require hardwood or engineered wood), tin ceilings and mechanicals (NPS prohibits dropping ceilings for mechanicals in the units or corridors except in kitchens and baths), windows (single glazed and so large they cannot be opened, but NPS will likely require they be retained), wood trim (NPS now requiring all trim, cabinets, blackboards, closets, communicating doors be kept in all living areas), removal of the one stair of two matching stairs to accommodate a studio apartment (and NPS will likely require to somehow keep the door, sidelights, and transom within a small studio unit), insulation, and slate roof. What should be a straightforward rehabilitation project is now faced with countless questions of how the NPS will review the project, in light of the stricter interpretation of the Standards. The developer is considering not pursuing historic tax credits.

Example 11: The building was constructed in the 1930s with additions in the 1960s and 1970s. The 1970s addition was not structurally sound and had to be removed. The NPS would not permit new construction matching that footprint. Following receipt of Part 2 approval, the NPS reviewer indicated that the project would be reviewed as two projects (1930s and 1950s) and the 1950s may not qualify as it was outside the district's period of significance. This had not been mentioned in the Part 1 or 2 reviews. Accountants and attorneys determined that the NPS was incorrect, but this caused angst for the applicant.

A recent project converted a gas station into a bar/restaurant. The gas station is a contributing resource in a NRHD (period of significance ends 1947), with the original 1930s building, a 1950s addition, and a 1970s addition (located in between and connecting 1930s and 1950s). The proposed scope included removing the 1970s addition, which was not structurally sound, and rebuilding it almost exactly to the same footprint. NPS determined that because the 1970s portion was non-historic, removing and rebuilding in the same footprint did not meet the Standards because the reconstruction would be reviewed as new construction. NPS required the "new construction" to be set back from the primary facade farther than the existing 1970s addition, creating a space issue for code-required bathrooms. A heritage tree occupies the lot behind the gas station, so the new construction could not be moved to the rear of the building. Constructing bathrooms in the new portion of the



building rather than the historic portions seemed the best way to meet the Standards. When negotiating the setback requirement, the NPS reviewer brought up the fact that they were reviewing the project as 2 separate buildings (1930s and 1950s), and that the 1950s addition may not be eligible for HTCs at all due to the NRHD cutoff date of 1947, even though the building is listed as 1 address in the NRHD, and the project had received no such feedback during the Part 1 and 2 reviews (and the Part 1 approval made no mention of dividing the building into separate resources). Through consultation with tax credit accountants and attorneys, we were able to confirm that, because NPS never indicated in the Part 1 or Part 2 that the 1950s wing would not be eligible for HTCs that it is, in fact, eligible, but this side remark by the NPS reviewer seriously concerned the Applicant. Further, the arbitrary nature of the period of significance in the NRHD, created simply by using the 50-year cut off, makes these determinations fraught and, at times, not reflective of the actual history of the building.

Example 12: The project had a secondary elevation that required an approximately 12" x 24" masonry infill where a former thru-wall air conditioning unit had been located. The mason could not find a matching brick and proposed salvaging from a less conspicuous location or applying a masonry stain to match the surrounding condition. The SHPO rejected these solutions but ultimately approved a stain. The back-and-forth delayed the Part 3 approval.

The applicant successfully rehabilitated a warehouse building for use by numerous nonprofit organizations. The work was completed according to all approvals with the exception of one small patch of brickwork (approximately 12" x 24") on a secondary elevation. The brickwork was infill of a patch where an AC unit was installed in the wall. The contractor could not find brick to match the size and color of the existing masonry, and installed brick that closely matched the size of the surrounding masonry but was not a color match. The applicant searched numerous salvage yards for brick to no avail. The State reviewer would not let the applicant mitigate the brick by painting or staining it or by salvaging brick from a less conspicuous location within the building and placed the Part 3 review on hold. The applicant found a long-term brick stain and proceeded to have a craftsperson paint the brick so that it was imperceptible. Upon showing it to the reviewer and documenting that the stain was intended to last for up to twenty years, the State reviewer agreed that this was an acceptable approach and lifted the hold. The monthlong delay in trying to negotiate an acceptable solution with the reviewer resulted in significant delay of the Part 3 certification.



<u>Example 13</u>: The applicant wanted to replace a non-original storefront to match the original based on historic photographs. The SHPO required retention of the existing as it was installed during the district's period of significance. Criteria beyond age should be considered in decision making. This example demonstrates that decisions are frequently arbitrary.

The storefront of a late 19th Century commercial building had been replaced during the period of significance for the downtown district to which it contributes. The original storefront had a single Richardsonian brick arch and a recessed wooden storefront, which were demolished during this earlier renovation. Good historic photographs were available of the original. The owner wished to recreate the original brick arch and wood storefront, SHPO recommended denial because the existing, non-original storefront dated to within the period of significance. Criteria for preserving or demolishing inappropriate and unsympathetic changes of the midto-late 20th century should be considered beyond just age. Similar situations have popped up on other buildings with long periods of significance and multiple rounds of change. It is difficult to know what the right path is. Especially as period of significance now often extends into the 1960s and 1970s, we are asked to preserve those later changes which may have damaged or covered over original features, such as dropped grid ceilings covering over original decorative plaster on another project.

<u>Example 14</u>: The applicant installed a new compatible storefront system and did not specify a finish color. The applicant painted the storefront a bright blue. The NPS required that the applicant repaint the storefront.

NPS approved a Part 2 application and subsequent amendments for a typical midsized commercial building along a busy commercial corridor in a city. The reviewer approved a compatible and contemporary new storefront system without specifying any conditions regarding finish color. The applicant selected a bright blue paint finish for the new assembly, which the Park Service reviewer rejected. The owner was required to re-paint the new storefront panels.

<u>Observation 1</u>: The SHPO/NPS views on storefront design is pushing streetscapes to a sameness and limiting architecture to the lowest common denominator.

New storefront assembly requirements limit good design. More and more we are seeing reviewers only allow either full-on restorations of missing historic storefronts or bulky new aluminum systems. The bulky new systems NPS and the State consider



compatible and contemporary kill the vibrancy of historic commercial corridors and hamstring good design. The variety of glazing types, storefront recesses, and other configurations gave historic commercial streetscapes a liveliness that is being eroded by the aluminum systems that are being replicated over and over again. The tax credit program is pushing streetscapes to a sameness and limiting architecture to the lowest common denominator.

Example 15: A project was required to use a replacement window that had a matching exterior muntin grid in addition to a matching interior grid and spacer bars. Historically, the NPS required only an exterior grid and spacer system. There was no notification from NPS of this new requirement, which caused confusion. This requirement added cost to a project.

A recent project requirement was to use a replacement window that had a matching exterior muntin grid in addition to a matching interior grid and spacer bars. We have had many of successful HTC projects where the replacement windows had only an exterior grid and spacer system. The use of an interior grid was not required in any of our projects over the past few decades. There was no notification of this new requirement, and it came to a great surprise to our experienced project team. The cost of adding an interior grid is significant. This change represents yet another example of the more conservative interpretation of the Standards and an unnecessary new requirement and burden.

<u>Example 16</u>: The project involved replacement of non-historic windows. The NPS rejected the proposed window and required a replacement window with different dimensions based on conjecture. The review process for the replacement window was very lengthy and impacted the schedule. The applicant had to purchase and install 30 temporary windows to get the TCO.

Within the last three years, we had a project that was completed with State and Federal tax credits which included replacing existing façade windows with new aluminum clad wood. Traditionally, when calling for replacement windows, our design will do its best to capture the existing conditions, profiles, and details ensure the manufacturers replacement window types are within acceptable tolerance. However, what was unique to this project was all windows including their framing had been replaced with 1x1 1970s style vinyl. We had no historic window or dimension to match to minus a center wood mullion that we called for repair or



replacement in kind. The façade was a Tudor revival style and the design wished to reintroduce that feel with the replacement windows. As such, our Part 2 drawing set included details of a certain manufacturer with proposed dimension and all existing dimensions that we could disclose (opening, sill heights, brick mold, center mullion). A conditional approval was achieved but, as standard protocol, final window shop drawings had to be provided for review and approval prior to fabrication. After some coordination with the SHPO, they approved the drawings however, the NPS took large issue with some of the proposed dimensions. Keep in mind, we had limited existing dimensions to match to. Come to learn, the NPS's review was conducted in a manner than placed the building within the context of what they would traditionally expect of a Tudor style window. Quite literally we were trying to design and match something that did not previously exist. This resulted in numerous emails between our office and the NPS including multiple conference calls all while construction was ongoing while we attempted to come to a resolution. After presenting what we felt was more than sufficient detail explaining why we believed the submitted window met the Standards for Rehabilitation, the NPS ruled nearly two (2) months into coordination (roughly seven months into construction) with them that the proposed window did not have an appropriate blind stop detail because it was too large. The NPS stated that we had to change window manufacturers and provided us with two (2) examples that they felt would be appropriate. In this specific instance, it felt like the NPS had a certain type of window in mind that they wanted furnished for the project and no matter what evidence was presented in favor of our proposed window, they would not accept. Having no choice but to pivot, we examined the provided options and reached out to each manufacturer. We felt one was better than the other and ultimately had shop drawings made for review and approval. The NPS approved the window however, given the construction timeline and the Owners need to have a Temporary Certificate of Occupancy (TCO) by a specific date because of their funding structure, the Owner purchased roughly thirty (30) temporary windows so occupancy could be had. This cost, coupled with the upshot of roughly \$45,000.00 for the alternate windows was incredibly detrimental.

<u>Example 17</u>: This consultant has also observed a more rigorous review of window shop drawings over the past 2-3 years. While the NPS maintains that shop drawings are not required for purposes of HTC review, securing more preliminary proposal drawings can be logistically challenging. There is confusion in the industry regarding NPS requirements for window replacement submission.



The review of window shop drawings has become monumentally difficult and time consuming. In years past, a typical window elevation detailing the most common type, annotated with dimensions, and supplemented with four or five section drawings, was approvable. As of the last two to three years, comprehensive shops of every type and section detail are required. These packages can easily exceed 50 pages depending upon the vendor and easily triple NPS review time. What are the NPS & SHPO expectations? Can they be the consistent throughout the country?

<u>Example 18</u>: Part 3 was placed on hold due to SHPO concern for nine exterior light fixtures. Multiple submittals were required to resolve. The applicant incurred additional costs and a seven-month delay.

Part 3 for the Commercial Building was submitted to SHPO in July 2021, following an extensive rehabilitation of the dilapidated and previously modified office building that was converted to affordable housing. The project included: retention and restoration of all exterior windows; full reinstatement of the historic cornice, nearly all of which was missing pre-rehabilitation; restoration of the heavily modified base levels of the building, exposing and preserving remaining historic fabric and restoring missing elements consistent with their historic appearance; preservation of 100% of remaining historic corridors; reinstatement of historic corridor patterns where previously modified, including uncovering and preserving historic mosaic tile flooring; and substantial preservation and repair of historic wood flooring. The review was placed on hold by SHPO due to concerns about the location, size, and color of 9 exterior light fixtures. Further clarification and justification of the light fixtures was submitted to SHPO but again placed on hold for the same concerns. A third submittal offered numerous comparable examples of similar fixtures installed on previously approved HTC projects, along with side-by-side comparisons of Part 2 and Part 3 photos highlighting the extensive preservation and restoration work that was completed and the minimal visual impact of the fixtures on the overall appearance. The Part 3 was ultimately approved by SHPO and NPS with no changes to the work, but not until November 2021 and January 2022, respectively. The seven-month review process cost the project tens of thousands of dollars in additional interest charges and professional services, over a very minor issue on an otherwise exemplary project.

<u>Example 19</u>: In a factory to loft apartment conversion, the NPS required a flooring survey to document the conditions of the floors and to document dimensions, species, and direction of the floorboards. The submission of specification sheets on the proposed



replacement flooring and the installation of mock-ups was also required. This level of documentation was not historically required and is costly and time-consuming to produce.

A recent project converted a 19th century factory to loft apartments. One of the key challenges the project faced was related to flooring. There was a requirement to produce a flooring survey to document the various conditions of the floors and we had to document flooring specifics such as dimensions, species, and direction of the boards. This level of documentation was not historically required as part of an HTC project and was time consuming and costly for the developer. The NPS then required the submission of flooring specification sheets and mock-ups for each floor type to assess the colors and dimensions of replacement products. The back-and-forth with the reviewers took many months and significantly impacted the project schedule.

<u>Example 20</u>: The Part 2 included a condition that required that any uncovered historic wood flooring must be preserved or replaced in kind matching species and width dimension. The uncovered wood was a rare species that was challenging and expensive to match. This had cost and schedule implications for the applicant and impacted the tenants. The rigor in the review of flooring has dramatically increased in recent years.

Within the last two years, we had a project that was completed with State and Federal tax credits. A portion of the project was the moderate rehabilitation of multiple 'perfect sixes' that each had three (3) apartment units. Unlike gut rehabs, moderate rehabs consist of cosmetic upgrades to a building. As such, the project budget is traditionally smaller and construction schedule far more aggressive. We received Part 2 Conditional Approvals from each the SHPO and NPS, however, the NPS tacked on a conditional item that any uncovered historic wood flooring must be preserved or replaced in kind matching species and width dimension. This item created both negative cost and schedule ramifications. We had to document and key the existing flooring conditions when they were uncovered during demolition to show the NPS that the conditions warranted replacement. What made this more challenging was tenants were being moved from their units and temporarily housed while the rehabs were conducted. The initial construction schedule allowed about 6 - 7 weeks per unit, so delays impacted tenants' lives amongst the financial implications. We as the architect had to move in rather quickly to document and quide the contractor appropriately so to not slow them down, however, this proved more challenging than imagined. We determined that the existing hardwood flooring was a rare southern yellow pine, which to have milled for replacement



would have terminated the project before it could get off the ground because of the financial ramifications. The alternative to this was submitting an Amendment (60+ day delay while we waited for approvals) to install a prefinished hardwood that mirrored pine. The prefinished material would be installed when existing flooring was beyond the ability of repair or non – existent. This flooring was also custom milled (thought slightly cheaper than traditional wood), had a long lead time, and was over budget compared to the specified prefinished oak, but the Owner had no choice in the matter or risk jeopardizing their tax credits. Further, the Owner went as far as ordering enough prefinished pine flooring to replace each of the thirteen (13) buildings in its entirety to ensure the contractor did not run out of materials given how long the flooring took to mill. As such, on top of the material upcharges and delays, the Owner was left with about 5,000.00 square feet of flooring attic stock that they had nowhere to store and paid for unnecessarily. Lastly, the refinishing of existing hardwood floors was not in the contract budget so, anytime conditions warranted repair/refinishing, this became a change order and add.

<u>Example 21</u>: Increased scrutiny of new flooring, required extensive research beyond what was previously required. Resolution took a year and impacted project schedule and cost.

An ongoing project is a 1925 historic hotel that was converted to offices in the late 1970s. The 1970s modernization removed almost all historic fabric in the interior of the building. The current rehabilitation is converting the space back to a hotel. One of the key challenges the project has faced is related to flooring. Historic photographs showed tile in the lobby, but the assumption was that wood flooring had been used in other areas of the first floor including the dining room. There was a requirement from the reviewer to provide physical evidence that there had been wood flooring on the first floor to propose using wood floor. The historic hotel was part of a chain and extensive historic photographs of other hotels in the chain showed the presence of wood flooring on the first floor. With extensive additional research historic drawings and specifications were uncovered that showed wood floor existed. Reviewers did not find enough detail in the additional documentation for specific rooms in the building where wood was present to approve the use of wood flooring. Additionally, the historic photographs from other buildings were not allowed as comparative examples of how the other hotels in the chain were finished. This level of specific documentation and justification has never been historically required as part of an HTC project where no historic fabric existed and was extremely time consuming and costly for the developer. Ultimately the wood



flooring was not approved, and reviewers required the project to use tile based on the documentation that showed tile in the historic lobby. This back-and-forth took nearly a year to work through and significantly impacted the project schedule and cost.

<u>Example 22</u>: The owner purchased a building that had exposed brick walls and intended to retain that condition. The SHPO required that the walls be finished. The consultant alerted SHPO that NPS guidance currently available confirms that if a historic feature is missing at the time of Part 1 certification, its replacement cannot be a requirement of the Part 2. The SHPO indicated that the guidance is outdated and required that the walls be finished. The applicant decided to forgo the historic tax credits.

A recent project involved a new restaurant going into an existing restaurant space in a typical Main Street commercial property. Previous owners many years prior had removed all historic wall finishes, leaving brick walls exposed. The new owner wished to maintain the existing exposed masonry walls. The consultants advocated for the owner, noting that, "Park Service guidance is fairly consistent in not requiring an owner to restore features and finishes entirely removed by a previous owner. Their 'Applying the Standards' page includes a memo summarizing tax credit evaluation of previously altered historic buildings

(https://www.nps.gov/subjects/taxincentives/upload/deteriorated-damaged-previously-altered.pdf) The memo notes that if a historic feature is missing when Part 1 certification is issued, its replacement cannot be a requirement of the Part 2." The consultant found information in a historic assessor property card that indicated the wall finish in this space was originally metal panels. The restaurant owners were willing to install a compatible yet contemporary metal panel over the brick as a way of meeting the State's requirement. The State review team rejected the request, noting that the guidance from NPS was "fairly old"," and that the guidance applies more to not requiring the recreation of missing features such as trim and fireplace mantels. The review team also rejected the metal panel option, believing that drywall would be more appropriate than a compatible and contemporary metal panel. The applicant chose not to continue with tax credits on this project because of the requirement.

<u>Example 23</u>: A YMCA was rehabilitated into a boutique hotel restoring many spaces and features that had been lost to previous renovations. The historic pool was retained and the SHPO required an on-site meeting with the tile maker to review tile color and crazing patterns, which were historically an imperfection. This added unnecessary time and cost



and effectively penalized the developer for reusing a historic element of the building which is frequently mothballed.

Conversion of an early 20th century YMCA into a boutique hotel restored many features that had been lost to previous renovations (open spaces, plaster ceilings, etc.) and retained significant elements like the two gymnasiums and the elevated running track. The project also incorporated the historic pool into the new spa and fitness facilities, restoring it to continue functioning as a swimming pool. While the team anticipated discussion with the NPS and SHPO about replacement wall tiles, the SHPO reviewer insisted on a meeting with the architect and a representative from the tilemaker on site to review not only color but also crazing patterns, an imperfection in the glazing of the original tiles. This added an unnecessary amount of time and money to the project, effectively penalizing the developer for reusing an important historic element of the building that is frequently infilled or mothballed during a rehab. This was just one of many challenging components of this project, which was compounded by the fact that both NPS and SHPO reviewers changed midway through the Part 2 review.

Example 24: The applicant removed modern finishes in a commercial space exposing a pressed metal ceiling, which was disclosed to the SHPO/NPS. The applicant reinstalled the pressed metal ceiling 6" lower than the historic ceiling to conceal plumbing lines. The SHPO/NPS required that the ceilings be removed and reinstalled at the historic height with the plumbing exposed in areas and concealed in drywall in areas. The 6" drop was not readily perceivable and the exposed plumbing is not aesthetically desirable. This example illustrates what consultants have characterized as punitive conditions.

A commercial building in an urban area had heavily modified commercial spaces and storefronts on the first floor, including non-historic flooring, dropped tile ceilings, covered storefronts, non-historic partitions, and wall paneling. The applicant removed all non-historic material and partitions and disclosed and retained discovered historic fabric at the storefront. The uncovered tin ceilings were dropped approximately 6" from their historic height (tight to the joists) to conceal plumbing lines for the apartments above. The State and NPS reviewers required the tin ceilings be removed, plumbing be exposed in some areas and enclosed with drywall in others, and tin reinstalled tight to the joists. Dropping a ceiling 6" did not compromise the historic character of the space, and as originally implemented was a vast improvement over the existing condition at the start of the project. The final (mitigated) product will have exposed systems in a finished commercial space when a 6" drop would have not been perceived by the average person.



<u>Example 25</u>: Over the past five years the bar has been raised regarding the requirements for ceiling treatments. This more rigorous requirement has implications on design and construction.

Lowered ceilings in corridors & units are becoming increasingly problematic. Just five years ago, the rule of thumb was to ensure there is more square footage of exposed ceiling surface in units than lowered or soffited ceilings. The bar has been raised, again over the last two to three years with and NPS now requiring viewsheds from the unit entry to unit windows documenting uninterrupted/original ceilings heights - this is not feasible on most/all projects when the units are stacked, and bathrooms and kitchens are positioned adjacent to the common corridors.

<u>Example 26</u>: A former school was converted for low-income senior housing. Most of the historic coat closets remained but had been defaced with graffiti and carvings with obscenities. The applicant retained the coat closets and coated them with a more opaque stain to conceal the markings. The SHPO denied the project and it was subsequently overturned on a state-level appeal.

A former school building was converted into housing for low-income seniors. Most classrooms retained historic chalkboards and coat closets. These features were preserved within new apartment units. Many of the coat closets had been defaced with graffiti, and some obscenities were carved into many of the closets. The applicant chose to re-stain the preserved closets with a more opaque stain that would conceal the obscenities and other markings. The State reviewer placed the Part 3 on hold and ultimately denied the project when the applicant was unwilling to move the seniors out of the new units to mitigate the unapproved stain. The completed work was an otherwise classic tax credit project that the reviewer described as "exemplary." The applicant won on appeal to the head of the State program.

Observation 2: *Interpretation of atrium quidance is getting more and more restrictive.*

Extended Review Timeframes Due to Hold Letters and RFIs

Example 27: A rehabilitation received conditional Part 2 approval, which included approval of replacement windows. The NPS applied a condition requiring review of the few additional window types that were not submitted. The NPS reviewer reopened



review of all windows and resolution took a year. This resulted in significant project delays and costs.

The rehabilitation of connected commercial buildings received a conditional Part 2 approval, with a condition requiring review of the few additional window types that had not already been submitted. When those drawings were submitted, a new NPS reviewer reopened review of all of the windows and put the owner into a year-long reiterative cycle of reviewing and revising window drawings that required six amendments and multiple calls with NPS staff to understand what was being requested, despite the majority of the windows having already been approved. It resulted in significant project delays and costs.

<u>Example 28</u>: A school rehabilitation received a Part 2 hold. Following the submission of the additional information, the conditional approval included 21 conditions and subconditions. The increase in the number of conditions requires additional Amendment submission to achieve resolution. This increases risk to developers and extends project timelines.

A recent school rehab Part 2 application was put on hold with a request for additional information. Following the submittal of the requested information, the conditional approval included 21 conditions and sub-conditions.

<u>Comment 1</u>: The number of Amendments has risen from 3-4 per project to upwards of 15 on straightforward projects. This has resulted in extended project timelines and increased cost to owners/developers.

The number of amendments has exceeded the typical three or four and is now upwards of 15 for a single project. These are not overly complicated projects, typical school or mill rehabilitations, buildings we've all successfully completed dozens of times. The effort and time required by the consultant, architect, contractor, and subs to compile these amendments is upwards of 30 hours, depending on the scope and not including the countless internal calls conducted to ensure the amendments are being compiled and tracked.

<u>Example 29</u>: The SHPO required remedial work to address a stair railing, which required proof of the means of mitigation and delayed Part 3 certification.

A new stair from the commercial space to a basement was built to match the historic. The State reviewer required remediation of the stair rail at the Part 3. The applicant proposed enclosing the rails with drywall to create a knee-wall railing as



shown in an example provided by the Part 3 reviewer as an acceptable solution. The State reviewer originally required the rails be removed and drywall installed. The reviewer eventually relented and allowed the drywall to enclose the rails. Remediation work at the Part 3 is often very difficult as contracts may have run out and tenants now occupy the space. The concern is not that the stair required mitigation, but that the reviewer was requiring proof of the means of mitigation when the result was visually appropriate.

<u>Example 30</u>: The project required the construction of a new elevator tower to accommodate a gurney sized elevator necessary to meet life safety requirements. The local historical commission approved this scope item, but the SHPO/NPS required extensive additional information to prove there were no alternative solutions. This caused significant schedule delays. The SHPO/NPS did not take the opinion of the local historic commission into account.

A recent project converted a senior living apartment back into a hotel which was its original use. The conversion back to public occupancy required a gurney sized elevator to be provided and was one of the key challenges the project faced from the inception as it relates to fire life safety. The city was a certified local government with trained staff. A Certificate of Appropriateness (COA) was required to be issued as well as approval from the Cultural Heritage Commission and the Coastal Commission, both with extensive timelines for public hearings. The owner needed to develop the plans in stages to address the different committees' comments on the elevator tower expansion that was required in order to bring the building back to hotel use. The owner applied for the 20% Rehabilitation Tax Credit as a way to help offset the costs of project conversion and without the tax credit the project was not financially viable. The SHPO and NPS did not give any weight to the extensive design review process the owner had to go through and the owner's consultant was required to redocument and prove that the elevator tower could not go in any other location. Even after providing the same information that was used to obtain the COA the NPS still did not "believe" the professionals of the project team that there were no other solutions and put the project on HOLD for additional information and more complete drawings. Once those complete drawings were provided as well as the supporting information on why the location of the elevator tower was chosen the NPS reviewer reluctantly stated that they would accept the location of the new elevator tower, but they denied the project for other reasons and treated this item in the "cumulative effect" discussion as if it wasn't acceptable. In this example the



owner has no choice but to comply with fire department requirements or a certificate of occupancy would not be granted.

SHPO/NPS reviewers could reduce their review time on projects that have city historic designation by requiring copies of the project application, relevant correspondence and approvals, as well as an addendum from the architect that would cite the code requirements that are driving the design decisions. SHPO/NPS review process should respect & adopt the local authority's decision related to a project meeting the Secretary of the Interiors Standards whenever possible. NPS should have a database of cities and communities that have CLG status or equivalent status, that they acknowledge to be "preservation educated" communities as a way of expediting the review process. Staff can also take comfort in knowing that local city staff is looking after the project while construction is commencing. If NPS could require the owner of a landmark to transmit the Part 1, 2, and 3 to the local agency as a way of connecting the federal with the local review process more effectively.

<u>Suggestion 1</u>: Standardize Part 2 submission requirements for projects that have specific code issues so that the applicant knows what to include, and RFIs can be avoided.

Building Code requirements that projects must adhere to should have more definition to the standardize documentation request so the preparer of the application can collect the required/standardize information upfront, and a Request for Information (RFI) item can be avoided. This may need to be customized by State or Region. In California extensive full seismic upgrades are required on a majority of projects. Historic buildings are always very challenged meeting local code requirements, and the structural engineer has very little flexibility. Sometimes the corridors retain a high degree of historic fabric, while other buildings are very ordinary and have been altered over time. Historically hOllow clay tile was used for wall infill material. This material is very unstable and heavy. The structural solution is often to remove the upper floor corridor, and room dividing walls, and replace them with drywall. This scope of work also triggers the removal of all the ceilings, doors and hardware, sidelights and or transom windows, baseboards, and door trim. Original flooring can be protected in place and reused. NPS quidance could state: Architectural and MEP drawings are required to justify and describe the scope. If corridors are required to be demolished the new walls must be reinstalled in the same location as the historic corridors. The dividing walls on the interior of the room have flexibility for a new layout. Each doorway location must be documented on as-built plans and photographed. The new door layout plan should



match the rhythm of the previous door layout unless conditions will not allow. If necessary, provide justification as to why the door layout was chosen. Historic doors and hardware, sidelights and transom windows modified for fire life safety code, baseboards, and door trim should be reinstalled. Or, if the level of historic fabric is minimal, the new doors should be a similar size as well as the door trim and baseboards. Corridor ceilings should be the same height as historic conditions unless the new MEP and fire sprinklers require modification of this height. If the ceiling is lowered, the applicant must provide MEP and Sprinkler drawings to support the new ceiling height.

<u>Suggestion 2</u>: Many local municipalities have professional staff that have qualifications equal to the SHPO/NPS staff. Yet, SHPO/NPS often have conflicting reviews from the local municipalities, which can force an applicant to forgo the historic tax credits or incur significant delays to resolve. SHPO/NPS should respect the local municipal review.

The NPS does not recognize the local city agencies historic property inventory and the local design review process for historic buildings. Many city agencies have greatly advanced their historic inventory records and policies and procedures for protecting their historic assets. Many of them have become CLG's – Certified Local Governments and received funding to train staff as well as accept requirements that they will implement the Secretary of the Interior's Standards in their design review process. This is very different than when the HTC program was created and currently the SHPO and NPS reviewers do not ask, or review any of the local correspondence. However, these departments often have a Cultural Heritage Commission and permitting staff members that are required to issue a Certificate of Appropriateness for a project in order for a building permit to be issued. This process is going on in conjunction with the property owner applying for the Federal Rehabilitation Tax Credit. Conflict arises when the property owner received approval from the local authority only to have the SHPO /NPS take a different position. The owner is left with a conflict that can only be resolved by walking away from the federal tax credits as the other is tied to receiving the building permit and sign off for the project. Reviewers currently take the position that they do not need to consider the decisions of the local authority. This results in irreconcilable differences that cannot be overcome and it results in delays in the project as the SHPO/NPS reviewer issue an RFI for items that should be required upfront and considered in the SHPO/NPS review.



Inconsistent Reviews

<u>Example 31</u>: A Part 2 Amendment was placed on hold by SHPO, citing numerous perceived issues and requiring substantial design revisions. The application requested that the design be presented to the NPS for informal review and the NPS determined the proposed work was acceptable. This example highlights the inherent subjectivity in reviews and the inconsistency in reviews between SHPO and NPS.

A Part 2 Amendment was placed on hold by SHPO, citing numerous perceived issues with the design of a proposed addition and requesting substantial revisions. At the applicant's request, the design was subsequently presented to NPS for informal review, with NPS confirming that the design of the addition was acceptable as proposed. The Amendment was ultimately approved by SHPO and NPS with no changes to the design of the addition. This example highlights the lack of clarity regarding what is or is not compliant with the Standards, even for highly experienced SHPO reviewers, adding to the uncertainty facing applicants and the associated risks.

<u>Example 32</u>: The project proposed the replacement of a modern storefront on an industrial building with a new aluminum storefront to match the configuration illustrated in historic photos. SHPO recommended a condition requiring new wood storefronts, stating that aluminum is not an acceptable replacement material. This is not consistent with prior projects where the NPS has long supported the use of aluminum storefronts. Ultimately the NPS permitted replacement with an aluminum storefront, highlighting the inconsistency between the SHPO and NPS reviews.

The rehabilitation of a two-story light industrial building proposes to reinstall a storefront system that mimics the design of historic storefronts and vehicular doors. The original doors and storefront windows are no longer extant, although there are historic photos that document their original appearance/configuration. SHPO recommended a condition on the Part 2, stating that "components historically constructed of wood should be reconstructed of like material." The condition specifically states that "[a]luminum is not an acceptable replacement material." NPS had long supported the use of aluminum with a painted finish for situations like this where we know general appearance of the storefront elements, but the original materials are long gone. This has freaked out the developer who is new to HTCs. The NPS ultimately permitted replacement with an aluminum storefront.



<u>Example 33</u>: New balconies were proposed within lightwells on the rear elevation of an early 20th century social club. NPS denied this feature, which was not consistent with earlier projects where the NPS permitted balconies on secondary and tertiary elevations.

Conversion of an early 20th century social club into apartments proposed adding balconies within lightwells on the rear elevation of the W-shaped building. This façade faces an alley and a non-historic parking garage. Even though the balconies would not be visible from the street, NPS denied the inclusion of this feature. HTC projects have a long history of including balconies on secondary and tertiary elevations, particularly when they are not readily visible to passersby. The developer felt this was an important feature for units that lacked nice street views.

Example 34: In a project where a church sanctuary was being redeveloped for community space, the Applicant proposed partial-height walls. The SHPO indicated that the NPS would not approve this treatment in spite of guidance that suggests otherwise. The project timeline was such that it was decided not to pursue as to risk schedule delays. On the same project, the SHPO communicated that the NPS would require that the chapel in the parish remain open with no subdivision. Ultimately the project team asked SHPO to forward the Application and the NPS ultimately approved. This example highlights the inconsistency between SHPO and the NPS.

We had a recent project at a neighborhood church where the sanctuary is being reused as a community space with housing in the attached parish house. During design development, the project team proposed installing two partial-height and partial-width partition walls to subdivide the large sanctuary space into usable amenity spaces. SHPO indicated that any permanent subdivision in the Sanctuary would be denied, even though ITS 6 and 44 and the white page on Subdividing Assembly Spaces in Historic Buildings clearly allow for modest subdivision of these types of spaces. Because of the project timeline, the team elected to remove this item from the scope rather than risk extended negotiation with SHPO and TPS that would delay Part 2 approval and project financing.

On the same project, SHPO communicated that a multi-use chapel in the parish house would also need to be retained as one large volume. The chapel occupies half of the first floor and historically had movable accordion walls to subdivide it into smaller meeting rooms. SHPO gave the project team same reasoning—that TPS would deny the subdivision. Keeping the chapel as one volume would have eliminated multiple units from the project, risking critical financing that was tied to the number of affordable units. Because of the high stakes, the project team asked SHPO to submit the plans to TPS with the proposed subdivision. TPS overruled



SHPO's suggested condition denying the subdivision. While this was a good outcome for the project, the unclear—and ultimately inaccurate—information from SHPO caused a delay in the Part 2 approval.

<u>Example 35</u>: The NPS made a change in their requirements for corridor ceilings which has increased MEP costs. There is no guidance on this issue, which creates uncertainty for consultants and applicants.

NPS no longer allows lowered ceilings in corridors. There is no guidance detailing what is acceptable, which leaves consultants speculating as to the appropriate scope and has created massive cost increases and MEP modifications that are unprecedented.

<u>Example 36</u>: Mechanicals required to be in units rather than corridors, which was inconsistent with previous reviews. Better guidance is needed on mechanicals.

A recent project proposed the adaptive reuse of a vacant and deteriorating elementary school for use as an affordable senior housing community. The biggest challenge faced involved the incorporation of new mechanical systems to meet the needs of the proposed residential use. Initially a pre-existing dropped ceiling grid was proposed to be retained to conceal new mechanical systems; however, the ceiling required partial replacement due to a fire in the building. The proposal was rejected by SHPO who noted that if it could not be retained in its current condition it needed to be removed to restore the historic ceiling height. SHPO also conditioned that new dropped ceilings could not be placed within the corridors and had to be limited to closets and bathrooms within units. This decision was inconsistent with other similar projects and lacks understanding of mechanical system requirements. Better guidance and parameters for both maintaining/repairing non-historic elements and inserting new systems within historic buildings is needed.

<u>Example 37</u>: Wood-look LVT flooring was denied by SHPO/NPS for installation in a midcentury office tower being converted to apartments. Wood-look LVT flooring was approved in two other mid-century office towers that were converted to apartments in the same state, including one owned by the same applicant. This example highlights the inconsistency in reviews from one project to the next where the projects have similar fact patterns.

Part 2 approval for the proposed rehabilitation of a mid-century office tower being converted to apartments included a condition prohibiting the installation of new



flooring with a wood-like appearance within apartment units (the applicant had proposed wood-look LVT). Wood-look LVT flooring was subsequently approved for all apartment interiors in two other comparable projects (mid-century office towers being converted to apartments) in the same state, including one owned by the same partnership that was denied the use of wood-like flooring. SHPO and NPS reviewers offered no explanation for the different treatment of comparable proposals, and there are no clear factors that would justify different decisions. The applicant was understandably confused and frustrated by the conflicting and seemingly arbitrary outcomes.

<u>Comment 2</u>: A common cause of project delays is unclear or inaccurate information provided by SHPO that is subsequently overruled by the NPS. This creates risk and confusion for project teams. Written guidance from NPS and more transparency in reviews is needed.

In general, one common cause of project delays is unclear or inaccurate information SHPOs give to project teams on behalf of the TPS. We frequently hear from SHPO that design revision is needed because TPS won't approve a project otherwise. On multiple Part 2 applications within the past 3 years, however, significant recommended conditions from SHPO have been overruled by TPS. This creates intense confusion for project teams and makes is increasingly difficult for consultants to provide accurate advice. We appreciate that TPS has tried to communicate with consultants more directly in the last year via webinar updates. We're also looking forward to the in-person training in D.C. in September. At the moment, many of the SHPOs act as if their discussions with TPS are secret. When SHPO recommendations are overruled by TPS, it adds risk and frustration to an already challenging process. Written guidance from TPS and more transparency in reviews at all levels is greatly needed.

Additional Part 2-Related Issues Raised in Project Examples

1) Unwillingness of Reviewers to Dialog with Consultants

Example 38: A preliminary review was submitted proposing reconfiguration of a driveway on a campus and there were few comments received in the feedback. The Part 2 Application then was placed on hold. The preliminary review did not provide sufficient comments and the NPS reviewers would not agree to a call to discuss.



A recent project involved a campus with multiple buildings organized around a central driveway and cul-de-sac, not original but within the period of significance. We submitted a preliminary review to SHPO and NPS that included reconfiguration of this driveway and received very few comments. We addressed those comments when submitting the Part 2, which was then placed on hold due to proposed changes to the landscape. The issue with this project is threefold: (1) the preliminary review did not provide us with substantial enough comments to anticipate the review that would come with the Part 2; (2) NPS reviewers declined to schedule a conference call to discuss the comments; (3) guidance on landscape features has been muddy at best from NPS reviewers. Taking into consideration, as well, that, in this case, NPS requests the retention of extensive asphalt, this is not in keeping with sustainability goals of the program and also made compliance with local permeable surface requirements difficult. Furthermore, considering that landscape and site work are not QREs, it seems silly to threaten denial of an otherwise very good preservation (in some areas, restoration) project over the reconfiguration of a driveway. We understand that NPS has review authority over an entire property, but items that are not QREs could receive a less strict review, which would provide necessary flexibility. Additionally, and more broadly, the preliminary review process varies widely state-to-state and reviewer-to-reviewer. In some cases, we're able to get real, substantive feedback and, even, have a conference call with SHPO and/or NPS to discuss the proposal. In other states, they're reluctant to complete the reviews at all or do not do so in a timely manner (two months in this case!) and we receive small comments and no interest in substantive conversation in a conference call. We use preliminary reviews often but receive mixed results and wish for more consistency.

2) <u>Expectation for Exploratory Demolition</u>

<u>Example 39</u>: SHPO required the Applicant to pull up carpet and remove ceiling tiles in an occupied building, which is not always reasonable.

In occupied buildings, we are constantly asked to remove ceiling tiles, pull up carpet, etc., which is not possible in an occupied building. The SHPO claims this is an NPS requirement. Either way, it's unreasonable.



3) Arbitrary Decision Making

<u>Example 40</u>: The project had a stair partially blocking a bricked-in window. The applicant wanted to remove the stair and restore the window. The applicant was permitted to remove the stair enclosure, but not the actual stair. The decision appeared arbitrary.

A commercial building in an urban area had been modified multiple times, some within the period of significance. The applicant was making great strides in restoring original window openings which had been bricked in. A simple, corner stair partially blocked a bricked-in window which was planned to be restored. The stair had an enclosure, which met a brick chase, which interrupted the historic window opening. The applicant received approval to remove the brick chase and the stair enclosure, but not the actual stair. While the applicant has maintained the corner stair, it seems arbitrary to retain the stair while being able to retain the other associated features to restore the window.

Example 41: The SHPO objected to a treatment at a non-historic garage entrance on a secondary elevation as shown in a Part 3 Application. SHPO required remedial work, which was ultimately approved by the NPS. The extended review period and unnecessary delays added substantial costs. The evaluation of such work is frequently based on personal design preferences and is a highly subjective interpretation.

Part 3 for a Motor Sales Company building was submitted to SHPO in December 2020. The project included work to a former garage entry bay on the rear portion of a side (alley-facing) elevation that had been heavily modified post-period of significance and pre-rehabilitation including infill of the opening with stucco-coated walls and a recessed central entry. No historic fabric remained and no historic documentation of its appearance existed. In the rehabilitation, the existing nonhistoric infill walls were retained, with the non-historic entry door replaced in its existing location and wood trim applied to the stucco walls to create a more compatible and attractive appearance. Despite its location at the rear portion of a secondary elevation, and the lack of historic fabric pre-rehabilitation, SHPO objected to the altered appearance of the non-historic infill walls. At SHPO's suggestion, select areas of the stucco wall were painted a darker, contrasting color, after which the Part 3 was recommended for approval and ultimately approved by NPS in June 2021. Although the remediation itself was relatively simple and inexpensive, the extended review period added substantial interest costs to the project in addition to the time and effort required to reach an acceptable solution. This experience highlights how worthy projects can be subjected to unnecessary delays and



remedial work over very minor details, even of non-historic features in secondary locations, based on personal and highly subjective interpretations of compatibility.

<u>Example 42</u>: SHPO placed a Part 2 Amendment on hold, expressing concern about certain scope elements. The applicant believed the concerns were not justified and refused to revise the proposal. SHPO issued three hold memos repeating the same issues resulting in months of delay. NPS ultimately approved the scope. Reviewers often leverage their review authority to push applicants beyond what is actually required to meet the Standards to meet their own personal objectives.

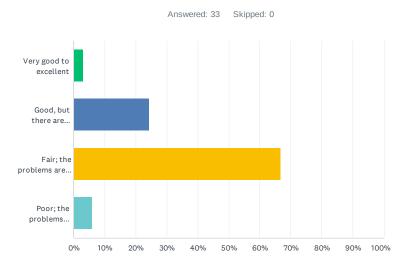
A Part 2 Amendment was placed on hold by SHPO, expressing concerns about certain elements of several proposed work items, indicating that all would need to be revised in order to secure approval of the Amendment. The applicant believed the concerns were wholly unjustified and refused to revise the proposal, except to agree to shift a single wall (approximately 10 feet in length) one additional foot back from the exterior wall. The Amendment was ultimately approved by SHPO and NPS with no other changes, but only after three hold memos repeating the same issues and encouraging the applicant to make additional changes to their proposal, resulting in months of unnecessary delays when the project was already under construction. This represents a common example of efforts by HTC reviewers to push applicants beyond what is actually required to meet the Standards, unfairly leveraging their review authority and ability to delay progress in order to pursue personal objectives.



Appendix B

HTC Survey 2023

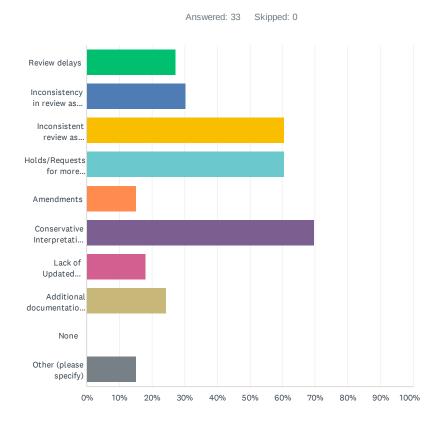
Q1 Overall, how satisfied with the SHPO and NPS review process for historic projects?



ANSWER CHOICES	RESPONSE	S
Very good to excellent	3.03%	1
Good, but there are modest problems that can be handled at a reasonable cost in time and money	24.24%	8
Fair; the problems are a significant burden on the cost and time to develop historic projects	66.67%	22
Poor; the problems threaten to undermine the rehabilitation of historic projects	6.06%	2
TOTAL		33



Q2 What are the three most pressing issues that HTC projects are facing today (choose 3)?





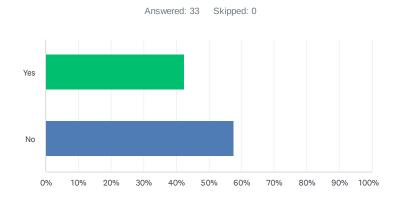
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HTC Survey 2023

ANSWER CHOICES	RESPONSES	
Review delays	27.27%	9
Inconsistency in review as compared to other current projects	30.30%	10
Inconsistent review as compared to previous projects	60.61%	20
Holds/Requests for more information	60.61%	20
Amendments	15.15%	5
Conservative Interpretation of the Secretary's Standards	69.70%	23
Lack of Updated Guidance	18.18%	6
Additional documentation requirements	24.24%	8
None	0.00%	0
Other (please specify)	15.15%	5
Total Respondents: 33		



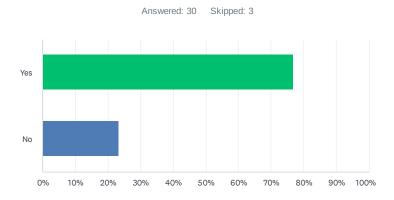
Q3 For Part 1s within an existing historic district, have you experienced an increase in the level of requested documentation?



ANSWER CHOICES	RESPONSES	
Yes	42.42%	14
No	57.58%	19
TOTAL		33



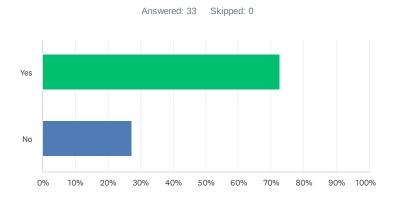
Q4 For Part 1 PDILs, have you experienced an increase in the level of requested documentation? Yes/No. If yes, please explain.



ANSWER CHOICES	RESPONSES	
Yes	76.67%	23
No	23.33%	7
TOTAL		30



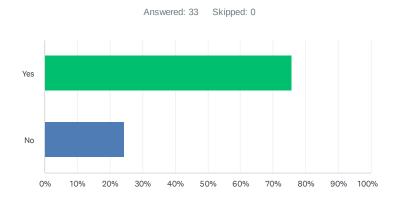
Q5 For Part 1 applications and NR nominations, have you experienced an increased rigor in evaluating integrity?



ANSWER CHOICES	RESPONSES	
Yes	72.73%	24
No	27.27%	9
TOTAL		33



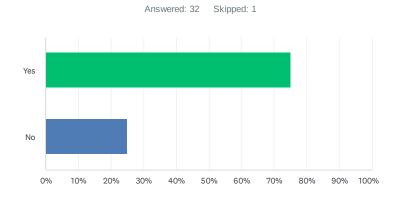
Q6 For Part 2 applications, have you experienced an increased level of requested documentation?



ANSWER CHOICES	RESPONSES	
Yes	75.76%	25
No	24.24%	8
TOTAL		33



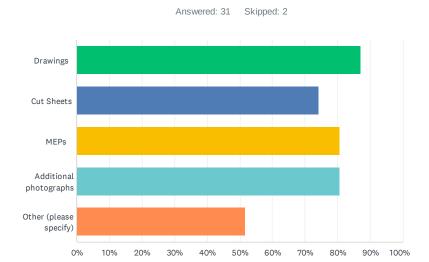
Q7 Have you experienced a lack of consistency between reviews of similar elements of a Part 2?



ANSWER CHOICES	RESPONSES	
Yes	75.00%	24
No	25.00%	8
TOTAL		32



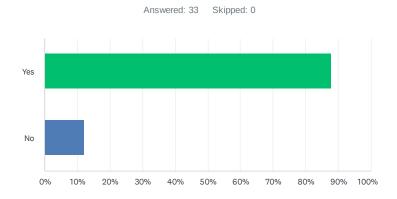
Q8 What kinds of additional documentation have been required?



ANSWER CHOICES	RESPONSES	
Drawings	87.10%	27
Cut Sheets	74.19%	23
MEPs	80.65%	25
Additional photographs	80.65%	25
Other (please specify)	51.61%	16
Total Respondents: 31		



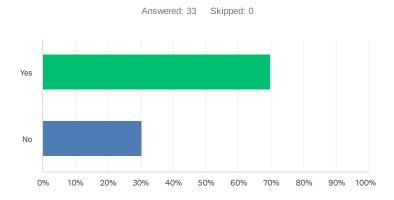
Q9 For Part 2 applications, have you experienced a change in the interpretation of the Standards over the past 5 years?



ANSWER CHOICES	RESPONSES	
Yes	87.88%	29
No	12.12%	4
TOTAL		33



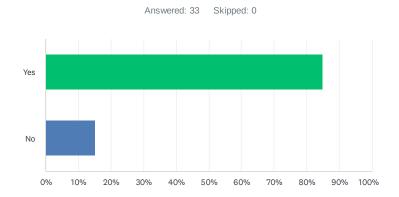
Q10 Have you experienced an increase in the number of amendments requested/required by NPS or SHPO in the past 5 years?



ANSWER CHOICES	RESPONSES
Yes	69.70% 23
No	30.30% 10
TOTAL	33



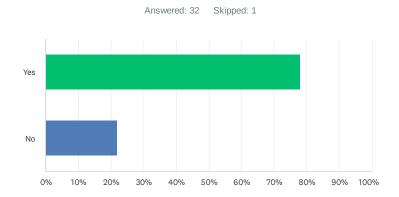
Q11 Have you experienced an increase in review timeframes?



ANSWER CHOICES	RESPONSES	
Yes	84.85%	28
No	15.15%	5
TOTAL		33



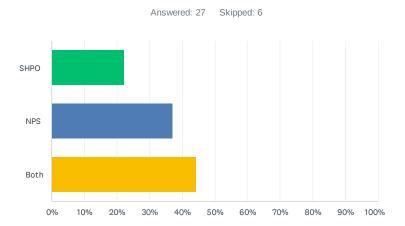
Q12 Have you experienced an increase in project holds?



ANSWER CHOICES	RESPONSES	
Yes	78.13%	25
No	21.88%	7
TOTAL		32



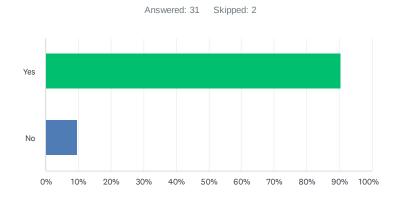
Q13 Have holds been more frequent at the state or federal level?



ANSWER CHOICES	RESPONSES	
SHPO	22.22%	6
NPS	37.04%	10
Both	44.44%	12
Total Respondents: 27		



Q14 Have you experienced an increase in requests for additional information?



ANSWER CHOICES	RESPONSES	
Yes	90.32%	28
No	9.68%	3
TOTAL		31



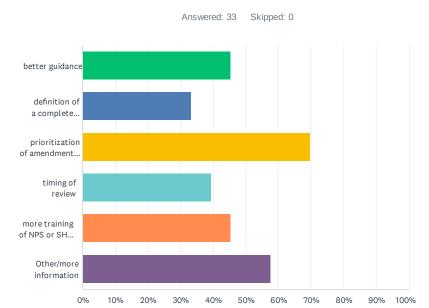
Q15 If yes, can you quantify?

Answered: 12 Skipped: 21

#	RESPONSES	DATE
1	SHPO reviews much less rigorous and allow for review to continue; SHPO will convey information and have a conversation about a hold or potential hold. Some holds from NPS are for minor items when it almost seems like and excuse not to continue the review. How about reviewing the entire submittal and putting the missing or requested items in the conditions or comments. Our previous SHPO reviewer relayed that NPS directed the SHPOs to put on HOLD rather than ask for more info in the conditions/comments. This is unreasonable.	6/20/2023 6:05 PM
2	Roughly 30% of our workload	6/20/2023 10:37 AM
3	roughly 2 out of 3 Part 2s are getting additional info requests.	6/14/2023 10:53 PM
4	As noted in multiple questions above.	6/13/2023 8:46 PM
5	Two to three amendments was average 5 plus years ago. Feels like most projects now have a minimum of 10 and some larger projects have more than 20.	6/13/2023 2:36 PM
6	Don't know question	6/13/2023 12:36 PM
7	Almost every Part 2 and amendments have a request for additional information, often in the form of "conditions."	6/13/2023 10:10 AM
8	No. It is so integrated into the way I operate. I am so conscious about submitting as much information as I can from the beginning. Including all items listed in item #8. It has become standard practice.	6/13/2023 9:52 AM
9	Anytime there is a physical rooftop element a mockup is required. When we debate with NPS the size and make reductions we often get asked to redo the physical mockup, sometimes months after the initial mockup was completed. We get asked for modeling and renderings on projects that do not have that design expertise. Window detail elements from the manufacturer where the manufacturer does not control that specific element. And details for window products that have previously been approved on similar buildings by the same architectural and development team.	6/13/2023 9:49 AM
10	We routinely have projects put on hold by SHPO as many as 3 or 4 times with requests for additional information, often when the scope is clearly presented but SHPO is seemingly pressing for further changes.	6/12/2023 6:45 PM
11	Nearly every project has an RFI from SHPO before going on to NPS	6/9/2023 10:15 AM
12	Estimate 20%. Many of the RFIs are now from the SHPO offices. When there is an RFI from the SHPO followed by an RFI at the NPS this can be very problematic for a project schedule.	6/8/2023 4:24 PM



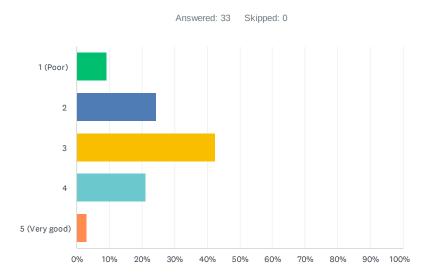
Q16 What are the top three changes that you think would help improve the program, such as:



ANSWER CHOICES	RESPONSES	
better guidance	45.45%	15
definition of a complete application	33.33%	11
prioritization of amendments during construction	69.70%	23
timing of review	39.39%	13
more training of NPS or SHPO staff?	45.45%	15
Other/more information	57.58%	19
Total Respondents: 33		



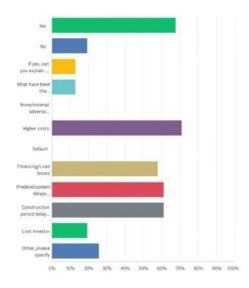
Q17 How would you rate the National Park Services administration of the HTC?



ANSWER CHOICES	RESPONSES	
1 (Poor)	9.09%	3
2	24.24%	8
3	42.42%	14
4	21.21%	7
5 (Very good)	3.03%	1
TOTAL		33



Q18 Based on the above question, has your rating changed over the past 5 years? If yes, what have been the consequences of these issues on your projects:



HTC Survey 2023		
ANSWER CHOICES	RESPONSES	
Yes	67.74%	2
No	19.35%	
If yes, can you explain or quantify?	12.90%	
What have been the consequences of these issues on your projects?	12.90%	
None/minimal adverse consequences	0.00%	
Higher costs	70.97%	2
Default	0.00%	
Financing/Loan Issues	58.06%	- 1
Predevelopment delays, including HTC review	61.29%	1
Construction period delays, including supply chain	61.29%	1
Lost investor	19.35%	
Other, please specify	25.81%	
Total Respondents: 31		

Due to a formatting error, two questions were combined into Question 18. Accordingly, we have reformatted this question and the answers to properly display the data:

Q 18A: Based on the above question, has your rating changed over the past 5 years:

Yes 25 No 6

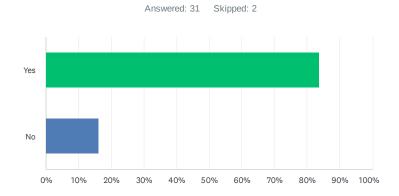
Q 18B: If yes, what have been the consequences of these issues on your projects:

Response	Number	Percentage*
None/minimal adverse consequences	0	0%
Higher Costs	22	88.00%
Default	0	0%
Financing/Loan Issues	18	72.00%
Predevelopment delays, including HTC review	19	76.00%
Construction period delays, including supply chain	19	76.00%
Lost investor	6	24.00%
Other, please specify	8	32.00%

^{*}Percentage is based on 25 yes responses.



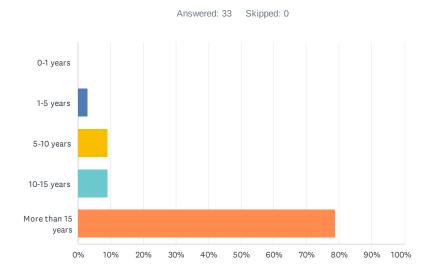
Q19 Have any of your clients decided not to go forward with a project due to any of the above?



ANSWER CHOICES	RESPONSES	
Yes	83.87%	26
No	16.13%	5
TOTAL		31



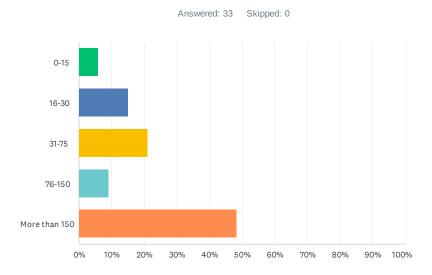
Q20 How many years has your firm worked on HTC projects?



ANSWER CHOICES	RESPONSES	
0-1 years	0.00%	0
1-5 years	3.03%	1
5-10 years	9.09%	3
10-15 years	9.09%	3
More than 15 years	78.79%	26
TOTAL		33



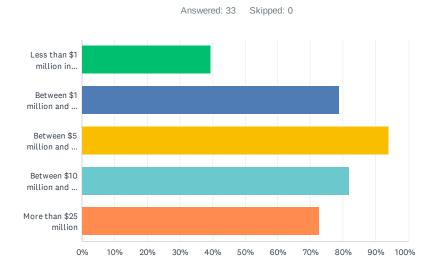
Q21 How many HTC applications has your firm submitted?



ANSWER CHOICES	RESPONSES	
0-15	6.06%	2
16-30	15.15%	5
31-75	21.21%	7
76-150	9.09%	3
More than 150	48.48%	16
TOTAL		33



Q22 Please check the box for each of the project sizes for which you handle a significant number of projects (you can check more than one).



ANSWER CHOICES	RESPONSES	
Less than \$1 million in total development costs	39.39%	13
Between \$1 million and \$5 million	78.79%	26
Between \$5 million and \$10 million	93.94%	31
Between \$10 million and \$25 million	81.82%	27
More than \$25 million	72.73%	24
Total Respondents: 33		



Q23 Are there any additional comments you would like to add?

Answered: 19 Skipped: 14

,,	DECRONGES	DATE
#	RESPONSES	DATE
1	Primary issues we see are 1. Lack of consistency between NPS reviewers, inexperienced SHPO reviewers and NPS not able to implement a true national program. NPS reviewers need to conduct more site visits to projects and communicate with applicants far better. A phone call can go a long way in resolving issues.	8/1/2023 1:45 PM
2	Current NPS reviews are causing significant delays, increased costs and killing projects.	6/22/2023 8:14 PM
3	Morale is not improving. The best and the brightest will not want to stay in this field. Consultants and developers are SHPO and NPS partners!!! We are not the enemy. There are real life consequences of the conditions.	6/20/2023 6:05 PM
4	Inconsistencies at SHPO offices regarding SOI and eligibility cause significant project delays and result in projects not being forwarded to NPS in a timely manner	6/20/2023 2:18 PM
5	Inconsistency from NPS makes investors nervous, requiring amendments for conditions of approval to be approved before closing on construction. This did not happen on my projects 5 years ago or earlier.	6/14/2023 10:53 PM
6	It would be nice if the federal phasing requirements were more flexible like Virginia's program.	6/14/2023 3:21 PM
7	I've been doing HTC work for more than 20 years, in my own firm for 9 years, and working within the Standards for more than 35 years. The HTC program is a federal program that should be reviewed uniformly from state to state and at NPS. But it's not. Reviews are so different from state to state and within NPS. That is a failure of leadership and training at every level. Our state views a project as not meeting the Standards until we prove that it does. That's a much higher bar than it meets the Standards accept forwhatever. It seems our SHPO reviewers go to NPS training every year and then come back and tell us what NPS said, what the new guidance is, blah, blah, blah, which is there interpretation of what NPS said. We've gotten different direction on the same topic in another state. NPS training should be open to all consultants anytime it's held. That way we can hear directly from them and talk to them about real world issues rather that having a reviewer who can barely read drawings hold up a project because they don't know there have been ten other projects just like it approved.	6/13/2023 8:46 PM
8	The program has always ebbed and flowed. At times, the NPS has been preferential to work with than the SHPO and even vice-versa. However, over the last 5-10 years there has been such a conservative grip on the interpretation of the Standards and a lack of "customer service" from the NPS that it has become increasingly burdensome. More hand-in-hand collaborative efforts between the NPS and applicants, in coordination with the SHPOs, would make a world of difference. The NPS has far too often felt closed off and at the end of the process. We all need to work together more often because at the end of the day, we should all be in this to see historic buildings repurposed and not end up in the landfill. This program is meant to be adaptive reuse, not conservation and flexibility needs to be built into the fabric of these reviews. The program has great potential to be more impactful and run more smoothly, but that needs to come directly from the leadership. While we have had some clients exit the program and not return, given the state of the economy, inflation, etc. more people should be looking to the program for the value of the subsidy it provides and the NPS should be interested in provided the best possible experience for applicants while of course still being sensitive to the buildings and Standards.	6/13/2023 3:20 PM
9	It feels much more combative and a lot less collegial then it use to. There is a sense from long-term users of the program, both consultants and developers, that every project hard and unpredictable.	6/13/2023 2:36 PM
10	Interested to see how the implementation of digital submissions at NPS helps to streamline the application process and how that will interact with SHPO. NPS has also suggested that, with more staff, new guidance is being issued, which would help a lot	6/13/2023 1:10 PM
11	program desperately needs NPS Standards and process updated.	6/13/2023 12:36 PM



HTC Survey 2023

12	The length of review (including time to prepare a complete application and preliminary reviews) is daunting, especially to new developers, and doesn't exactly align with the usual sequence of construction documentation/permitting. But, knowing what is likely to be approved, anticipating problems and submitting complete applications usually results in few amendments and few questions/problems during construction.	6/13/2023 11:21 AM
13	An area not previously referenced is climate change and sustainability. TPS, falling back on the Standards, constrains projects from implementing measures that are required to comply with stricter energy codes, as well as affordable housing and other requirements. Treatments that are not allowed or severely limited, but may be required by other programs and codes, include insulation, solar, and triple glazed windows. TPS has to get in line with the changing world environment.	6/13/2023 10:10 AM
14	Thank you for doing this survey. After many frank discussions over the years, it is nice to see that the Coalition is taking action. Also, please note that the folks at CT are doing a superb job and the reviewers at NPS that I have worked with over the years are very knowledgable and are adding value to these projects. There is a balance	6/13/2023 9:52 AM
15	I have spent much of my career convincing skeptical real estate developers and investors that historic preservation can be applied reasonably and that HTC reviews offer sufficient flexibility and certainty to be practical and reliable. That has become a difficult position to defend in recent years, as the perspective taken by SHPOs/NPS is increasingly narrow, unforgiving, and subjective. Where we used to be reasonably confident about where SHPO/NPS decisions would ultimately land, they are now incredibly difficult to predict and nothing feels safe. It has become difficult to appreciate the immensely powerful and transformative community impacts of HTC projects due to anxiety over SHPO/NPS decisions at all stages.	6/12/2023 6:45 PM
16	This work used to be fun and collaborative. Now it is a constant battle. At some point, NPS/SHPOs lost trust in consultants and developers. We need to be policed, rather than seen as a ally/partner in saving historic building	6/12/2023 12:50 PM
17	"policies" need to be written down – for example, have often been told at trainings that there is a 2-out-of-3 rule for interior finishes (more modification allowed to 1 if other 2 are retained), some consultants have never heard of that, and reviewers hold to it inconsistently	6/9/2023 10:15 AM
18	There is far more scrutiny of individual elements of the project at the Part 3 application which has resulted in more project denials or requirements for remedial work. There is too much uncertainty and risk in the program compared with the other community development incentives. The NPS has a selective interpretation of the period of significance and how the period of significance is applied to the scope of work of the project. The NPS has a lack of trust in consultants and frequently requires consultants to provide additional documentation to prove attestations in the application. This takes additional time and money. The application process and documentation requirements are too complicated and costly for smaller size projects. National Register listing is become a significant burden to developers. There is a lack of guidance for building features such as floor and ceiling treatments. The functionally related guidance is a disincentive for a developer to tackle large complexes.	6/8/2023 4:24 PM
19	I would like to say that I have been blessed with some excellent individual NPS reviewers in states I work in. It's not everyone at NPS who is a problem.	6/8/2023 10:02 AM



Appendix C



June 2, 2022

Serena Bellew Deputy Associate Director Preservation Assistance Programs National Park Service 1849 C Street, NW Washington, DC 20240 Brian Goeken Director Technical Preservation Services National Park Service 1849 C Street, NW Washington, DC 20240

Dear Ms. Bellew and Mr. Goeken,

It has been sometime since our last meeting and many things have happened since that time, including the continuing pandemic, environmental concerns, and inflationary pressures on construction costs. All these factors have had a direct impact on the Historic Tax Credit (HTC) program and will continue to into the foreseeable future. It is the belief of the committee that, as in the past, the HTC program can play a large role in rebuilding America's big cities, small cities, and towns.

However, this can only happen if a smoother operation of the program is immediately implemented. As you are aware, many of these issues we have been discussing in our periodic meetings are the same issues that we have been discussing for years. As a result, we strongly urge that all the changes that we have requested be implemented as soon as possible. Many, if not all, can be implemented administratively and will lead to the smoother operation and wider use of the program.

There is consensus in the industry and our Coalition that the NPS review process for the program has become increasingly more stringent, especially in the last 10 years. Even since our last meeting and the hiring of additional NPS staff, supported by the Coalition, the process has become more cumbersome signifying a significant departure from past practices. We believe as this more stringent review practice continues so too will the current pattern of users turning away from the program. This pattern is resulting in a consistent reduction in the use of the program and its continued viability.

Increased scrutiny of project details, the more conservative interpretation of the Standards, and the prolonged review timeframes have directly impacted project costs and schedules. The REHAB Act (H.R. 1483) that has gained traction in the Congress in recent months, and the introduction of the Revitalizing Downtowns Act (S. 2511), could pose a direct threat to the historic tax credit program. The emergence of these legislative efforts reflects growing frustration with the HTC program on the part of users looking for alternative legislative options. Stakeholders compare reviews from a decade ago with those issued today, and it is

 $\begin{tabular}{ll} The Historic Tax Credit Coalition | Washington, DC \\ \underline{www.historiccredit.com} \end{tabular}$



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evident that increased scrutiny, particularly relating to interior design items such as flooring and ceiling materials selections are leading to overly burdensome reviews.

Our membership has also expressed that the recent review practices create uncertainty for applicants. It is not uncommon for the NPS to now require exploratory demolition in buildings that applicants have yet to acquire for the NPS to assess whether there are historic materials beneath existing finishes that may require preservation or even restoration.

Historically, an owner could purchase a building with assurance that the NPS would accept existing conditions as the project starting point. Similarly, applicants are now routinely asked to expend significant dollars in advance of closings to provide advanced drawings of such items as MEPs and RCPs to be included in initial Part 2 applications. In the past, it was acceptable to discuss the overall approach to the mechanicals in the application narrative; with submission of these drawings provided in later amendments as detailed plans were prepared. These more rigorous requirements and the requirement for their early submittal have had significant impacts on the feasibility of projects and has created uncertainty for applicants.

In our May 24, 2021 memorandum, we identified seven issues that were voiced by our membership as industry priorities. As we indicated, this list had been culled and was not intended to be exhaustive. At our May 26, 2021 meeting you requested that we identify two issues for the NPS to address.

After considerable thought, discussion and taking into consideration what has occurred in the world since our last meeting we believe that our list of issues can be divided into two categories, namely those that NPS should act upon and affect change immediately and those which may require further discussion.

In addition to the issues discussed below, our committee notes that in deliberating the original historic rehabilitation provisions in the Tax Reform Act of 1976 and subsequent revisions to the incentives, Congress made clear its intention for the provisions to encourage community revitalization as well as historic preservation. We believe that the community revitalization emphasis of the law has been increasingly overlooked by NPS in its administration of the program, and a discussion of the importance of this aspect of the law is warranted as the specific elements outlined below are discussed.





IMMEDIATE ACTION ITEMS

1. CONSISTENCY, REVIEW TIMES, AND INTERPRETATION

<u>Issue</u> – More stringent interpretation, inconsistent application, and review times come up in every conversation we have. They are having a significant impact on HTC projects in every corner of the country. As the industry has weathered a number of regulatory and statutory challenges over the last decade plus, the number one concern of users of the credit is the regulatory review process. The uncertainty is driving people out of the market in droves and the program is suffering as a result. The HTC never took advantage of real estate booms or revitalized downtowns and remains almost the same size as it was a decade ago with significant increases in activity and costs.

Recommendation

We would like for the Agency to share or publish data on the following topics:

- Review times by year to include time "on hold," so in short time from application submission to final action for Part I, II, or III;
- A review of the interpretation of the Secretary's Standards over the life of the program; and
- A review of the actions taken across geographies both at the state level and the federal level over the last decade.

In each case we hope the Agency would be willing to break down the data by project size. We would suggest categories of (1) under \$1 million in Qualified Rehabilitation Expenditures (QREs), (2) \$1M-\$5M in QREs, (3) \$5M-\$20M in QREs, and (4) over \$20M in QREs. This will help users and the public better understand how the program is working for all types of projects and whether some types are seeing different treatment to help understand where any log jam is.

2. FUNCTIONALLY RELATED COMPLEXES

<u>Issue 1</u> – While the 2017 guidance set out by NPS provides some useful paths for separating out buildings owned by a single or related developers into separate projects for purposes of certification, it does not provide broadly applicable paths for many types of projects in multiple building sites. As the program has matured, multiple building projects have become more complex and the equity market is paying much more attention to recapture issues.

It is our understanding that the NPS has experienced relatively few problems with inappropriate work involving multiple buildings during recapture periods. Often larger projects are drawn out over longer timeframes and there is a need to identify additional





circumstances where buildings in multiple building complex can be treated as separate projects. The regulatory language under 36 CFR 67.6(b)(4) that undergirds the policy to include all buildings in a related project reads:

For rehabilitation projects involving more than one certified historic structure where the structures are judged by the Secretary to have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house, rehabilitation certification will be issued on the merits of the overall project rather than for each structure or individual component.

Recommendation

Providing more flexibility for multiple building projects will require a change to this language or, at least, a change in the definition of "project". We would propose that "project" be defined as work on an individual building being undertaken by a discrete partnership or LLC, regardless of the makeup of that entity's membership, with no potential effect on other projects in the complex. This approach would reflect the increasing complexity of development entity structuring as the HTC industry has matured and is consistent with legal the frameworks observed by the IRS as well as lenders and investors in HTC transactions.

<u>Issue 2</u> – Situations where an owner/HTC applicant sells one or more buildings in a functionally-related complex have become an increasing area of concern as NPS has become less flexible in dealing with this fact pattern. For example, in prior years the sale of discrete buildings within a complex in an arms-length transaction where the seller has no relation to the buyer, work on a building undertaken by the purchaser was treated completely separately in the certification process, with no impact back to the seller's certification.

Recommendation

We believe that a project with this fact pattern should continue to lead to un-connected certifications for buyer and seller.

3. AMENDMENT PRIORITIZATION

<u>Issue</u> – Amendments vary widely in their make-up and complexity, ranging from a change in the applicant entity name or TIN, to substantial changes in the scope or design of a project.





Recommendations that could be immediately implemented

- Prioritization of amendments by the SHPO or by a more professionalized front office at TPS might be a way to address this issue.
- Given the need for quick turn-around of change orders during project construction, we request construction period amendments be placed in a similar prioritized category.

Implementation of the recommendations above would solve some of the day-to-day challenges being faced by users. Many of the recommendations in fact just revert to previous procedures followed earlier in the program.

ADMINISTRATIVE PROCEDURAL CHANGES

Our membership has identified three items where positive change could be attained for the program through simple procedural changes that could be undertaken administratively:

1. WHITE BOXING SPACES

<u>Issue</u> – White boxing spaces has been a requirement for Part 3 approvals in recent years where historically finished space has not been completely fitted out. This requirement leads to unnecessary projects costs and a waste of resources. Since white-box finishes are likely to be substantially altered or removed as tenant fit-out is completed after Part 3 approval, those finishes no more represent part of a "completed project" than that space left raw until tenant fit-out is complete. With 5-year inspection of all finishes, NPS has the ability to enforce Standards-compliant work after Part 3 approval.

Recommendations that could be immediately implemented

Given current economic conditions, environmental concerns, and project delays, it is recommended that the white boxing practice be eliminated or substantially scaled-back.

2. PART 1 REVIEWS

Over the last few years, there has been a disconnect in some instances between approved PDIL Part 1 HPCA applications and ultimate National Register listings, where approved PDILs were not leading to National Register listings in every case. We appreciate actions taken by NPS on this issue and believe there's an improved understanding on the part of NR staff of the critical role reliable Part 1 approvals play in the successful administration of the tax credit program.





<u>Issue</u> – Like the ever-increasing scholarship demands for NR nominations, our members are seeing a similar trend of increasing scholarship demands for historic district Part 1 applications. 36 CFR 67.4(c)(6) states that Part 1 applications for buildings in historic districts should include:

[A] Brief statement of significance summarizing how the property does or does not reflect the values that give the district its distinctive historical and visual character, and explaining any significance attached to the property itself (i.e., unusual building techniques, important event that took place there, etc.).

Recommendations that could be immediately implemented

The regulations clearly contemplate a <u>brief</u> account of a building's contribution to its district without the need for extensive historical research. We recommend that this approach be communicated to and taken by TPS staff.

3. PROJECT PHASING

Issue - 36 CFR 67.6(b)(8) relating to phased projects states in part:

If complete information on the rehabilitation work of the later phases is not described in the initial part 2 application, it may be submitted at a later date but must be clearly identified as a later phase of a 60-month phased project that was previously submitted for review.

As a practical matter—particularly in large, complex projects—the ability to provide detailed plans and specifications for "out-year" phases is very problematic. The concept of putting off the cost and time of preparing detailed plans for a phase that is likely not financed and may not be built for years is central to a successful phased project. In the past, a detailed Part 2 for early the phase(s) and a general description of later phases was accepted by NPS. More recently, detailed plans and Part 2 descriptions for future phases are being required by NPS, placing unreasonable logistical and financial strain on the early project phase(s).

Recommendations that could be immediately implemented

NPS should revert to the prior approach following the above regulatory language relating to phased projects, with only an outline account of future phases of work.





BROADER TPS ISSUES

Our membership has identified two issues that would bring significant positive change, but we recognize that these issues are broader NPS Preservation Assistance Programs issues. We ask that NPS undertake a review of the following two items:

1. NATIONAL REGISTER REVIEWS

<u>Issue</u> – The demands by the National Register of Historic Places regarding the level of scholarship required for nominations to the National Register have been ever-increasing, causing ongoing challenges in terms of the time and expense to building owners seeking Certified Historic Structure status. More recently, this barrier has been especially apparent for those nominations relating to women and people of color.

In addition, the fragmented nature of the National Register program administration by various SHPOs places a burden of uncertainty, lost time, and cost on program applicants.

Our specific recommendations are:

- 1. Timeframes should be set by NPS for review of nominations at the state level and the states should be held accountable in meeting those timelines.
- 2. NPS should stipulate that nominations not be held up for completion of rehabilitation projects.

2. APPEALS

<u>Issue</u> – As more decisions from the Chief Appeals Officer have been rendered with referral back to TPS from the hearing officer, an important feature in NPS regulations regarding the appeal process have come into focus. The regulations provide an option for the hearing officer to send an issue appealed from back to TPS for further consideration. There are recent instances where a decision by the hearing officer containing guidance for compliance with the Standards has been ignored by TPS staff upon resubmittal by the hearing officer, ultimately leading to the potential need for re-appealing an issue contained in the initial denial.

Recommendations

 A solution to this problem would require a change in the regulations, with no option for the hearing officer to remand decisions back to TPS, but rather require the hearing officer to either uphold or overturn the original decision, with no further potential involvement by TPS.





2. It is further recommended that once an appeal has been acted upon by the hearing officer, the hearing officer completes review of the project through Part 3 Certification.

Again, the changes we are requesting are not new and can easily be achieved administratively. It is important that the HTC program be enhanced by these changes, and we look forward to working with you to move these issues forward.

The Coalition looks forward to discussing these issues soon. Patrick Robertson of Confluence Government Relations can be contacted by email at probertson@confluencegr.com or by phone at 202-302-2957 to discuss matters further.

Sincerely,

Cohn Reznick LLP **Cross Street Partners LLP EHT Traceries** Heritage Consulting Group J. Jeffers & Co. Klein Hornig LLP Kutak Rock LLP Moran Construction Consultants, LLC **National Trust Community Investment Corporation Novogradac Consulting LLP** Powers & Company Roth Law Firm, L.L.C. Rogers Lewis Jackson Mann & Quinn, LLC Rosin Preservation Ryan, LLC Stonehenge Capital, LLC Tax Credit Capital, LLC Twain Financial



To: Sarah Bronin, Chair, Advisory Council on Historic Preservation **From:** Hannah White, Interim President and CEO, Main Street America

Date: July 20, 2023

Re: Comments on the Application of the Secretary of the Interior's Standards for Historic Preservation

Main Street America appreciates the opportunity to respond to the Advisory Council on Historic Preservation's (ACHP) call for comments on the application of the Secretary of the Interior's Standards for Historic Preservation (Secretary's Standards). The Secretary's Standards impact Main Street redevelopment projects primarily through the Historic Tax Credit (HTC) process, and our comments consider ways in which projects can be either supported or stymied through the application of the standards. Increased education, guidance, and flexibility are important to realize the benefits of the Secretary's Standards to Main Street projects and achieve climate and equity goals, specifically in disinvested communities who lack access to preservation processes and the capacity to participate.

Main Street America Background and Role in Utilizing the Secretary's Standards

Main Street America (MSA) leads a collaborative movement with partners and grassroots leaders that advances shared prosperity, creates resilient economies, and improves quality of life through place-based economic development and community preservation in downtowns and neighborhood commercial districts across the country. As a subsidiary of the National Trust for Historic Preservation, a core element of this work is redeveloping existing buildings to bring active use back to disinvested downtowns and neighborhoods, with over 325,000 buildings rehabilitated since 1980. We do this through a network of 46 Coordinating Programs at the state, county, or metro city level, with 1,287 neighborhood and downtown affiliates committed to a preservation-based economic development methodology. Our network seeks to utilize the standards to achieve a balance of preservation of the built environment in historic downtowns and commercial corridors and increased economic prosperity for disinvested communities, with 60% of the Main Street America network located in low-income census tracts.

The professionals involved in this network include those working in or with State Historic Preservation Offices (SHPO), including specific downtown design specialists bridging the SHPO and the Main Street program. Main Street Coordinating Programs also frequently contract with licensed architects to provide design services and training to communities. At the local level, Main Street practitioners wear both preservation professional and economic developer hats, working to incorporate preservation best practices into redevelopment projects and utilizing other federal programs as well as state and local incentives to rejuvenate the downtown or neighborhood economy. Main Street practitioners at all levels act as intermediaries and negotiators to achieve positive community outcomes through the Standards.

A major challenge – and an opportunity – in any Main Street community is bringing older and historic buildings back to life to create a thriving downtown. Unfortunately, 70% of Main Street leaders report that the lack of built-out space holds back economic development in their Main Street district. Despite the long-term success of Main Street programs in spurring the rehabilitation of downtown buildings, Main Street leaders face ongoing challenges:

- 95% report having vacant buildings in their districts
- 47% report having 6 or more vacant buildings
- 45% report challenges accessing capital to rehabilitate buildings

The Secretary's Standards most frequently come into play with these redevelopment challenges through the Historic Tax Credit (HTC) process, though Main Street practitioners utilize the Secretary's Standards in several ways, including as the basis of design guidelines and in local preservation commissions.

Main Street America, as the national nonprofit convener of this network of practitioners, seeks to support the current approaches to revitalization through the Main Street Approach and to address emergent challenges related to equity and resilience. Our comments in response to ACHP's questions have been generated through bottom-up listening and our recent research focused on specific issues facing downtowns and neighborhood corridors.

Q1: Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts? Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?

A lack of flexibility in the application of the Secretary's Standards may reduce economic development opportunities in Main Street districts, including the creation of workforce housing.

As conveners and collaborators, Main Street practitioners interact with several different audiences to create workable capital stacks for corridor buildings, but prevailing attitudes within these groups can lead to poor outcomes for projects. Developers may be reticent to approach rehabilitation projects utilizing HTC because of fears about design review and control, especially with the subdivision of interior spaces for new uses. While education and compromise can sometimes lead to workable outcomes, Main Street practitioners find that those administering tax credit programs may not be interested in broader community objectives, and that the lack of flexibility in the application of the Secretary's Standards can increase review timelines during the HTC process, leading to financing issues and failed projects. Prioritizing the Secretary's Standards without consideration for the project's economic viability may lead to developers abandoning use of the HTC or the project completely.

For example, flexibility is a key need for the creation of upper-floor housing in downtown districts. Housing is a crisis throughout the country, and underutilized upper-floor space offers the opportunity to solve this problem while promoting dense, walkable, climate-friendly communities. Currently, 87% of Main Street practitioners indicate that they are concerned about the state of housing in their Main Street districts and 75% indicate that there is not enough housing to accommodate those who want to live in the district.

Main Street leaders cite issues with the creation of housing where a narrow interpretation of the Secretary's Standards conflicts with the need to adapt spaces for modern uses. Examples of this often deal with the subdivision of interior spaces, such as upper floors that previously served as meeting spaces into apartment units, large interior spaces of historic churches, or the treatment of interior corridors. In smaller-scale projects specifically, one element of the building – such as a tin ceiling or storefront window – can stall the entire project and/or make the project no longer viable. An inability to proceed with a project that would add valuable housing or other income producing space leaves the community without an asset and heightens the risk of demolition by neglect.

The application of the Secretary's Standards is a process that can create confusion and may involve unclear levels of discretion.

In some circumstances, Main Street leaders working to utilize the Secretary's Standards find that meeting expectations may be a moving target, which creates unclear expectations and timelines. Main Street leaders have expressed uncertainty about what level of discretion state tax credit reviewers have relative to National Park Service staff or existing guidance. Main Street leaders view discretion in the application of the Secretary's Standards as a beneficial feature to allow for mutually agreeable compromises within

existing guidance, but that emphasis on discretion also creates a focus on relationship development rather than clear interpretation of guidance. From MSA's vantage point, we have seen circumstances in which similar projects are handled in different ways during review processes in different states, creating a lack of clarity and an unnecessary challenge to understanding national best practices.

The application of the Secretary's Standards can have a gatekeeping function that negatively impacts preservation projects and has outsized impacts in capacity-limited and historically disinvested communities.

We observe major barriers to the equitable implementation of the Secretary's Standards in capacity-limited communities, especially historically disinvested communities, who often lack access to preservation processes. The application of the Secretary's Standards – through unevenly applied discretion, time constraints, and cost of participation–limits the utilization and impact of preservation incentives such as the HTC in these communities. Additionally, a lack of organizational capacity, training, and expertise accentuates these limitations. In many places, the Main Street program provides capacity building to support preservation-based revitalization. In places where Main Street programs or other forms of capacity do not exist, there is limited access to understanding and utilizing preservation as an economic development tool.

The application of the Secretary's Standards may both support and inhibit climate change goals.

MSA is committed to the future-focused resiliency of our communities, one which we know requires action to combat climate change nationwide. The reuse of existing buildings is a potential solution to climate change, but adaptive reuse itself is insufficient to address the climate crisis. The Secretary's Standards can support decarbonization in the built environment by helping make possible more reuse of existing buildings. In addition to reducing the carbon burden associated with these buildings, energy efficiency improvements and the integration of renewables reduce the operating costs of building and support community resilience long-term.

However, Main Street leaders indicate that there is sometimes tension between preservation requirements and the need to improve the energy efficiency of buildings and integrate renewable technology such as solar panels. Project sponsors may encounter conflicts between the application of the Secretary's Standards and energy efficiency upgrades or renewables, whether through local commission review or in pursuit of HTCs for a project. Building owners must be allowed to make needed improvements to building envelopes and systems to minimize or eliminate reliance on fossil fuels.

The application of the Secretary's Standards may interact negatively with other federal programs.

Successful downtown redevelopment projects require several forms of financing to create a capital stack offering return rates to make the project feasible, but different forms of federal financing may conflict. In utilizing all possible public resources, Main Streeters have found that competing priorities between federal programs wherein requirements for one program conflict with requirements of another, including the Secretary's Standards. Federal and state HTCs are an essential piece of the redevelopment puzzle, as are other programs such as Low-income Housing Tax Credits (LIHTC) and Community Development Block Grants (CDBG). Beyond the federal government scope, Main Street leaders find inconsistent or conflicting alignment with the International Existing Building Code (IEBC).

The Main Street network frequently interacts with the Secretary's Standards and can provide more specific feedback related to commercial district rehabilitation for consideration.

On specific Standards, the Main Street network has broad experience and can offer detailed feedback on specific issues that are recurring themes in our work. Main Streeters have expressed interest in issues such as new additions (the extent to which the addition does or does not reflect the buildings architecture); slipcovers (in circumstances where the slipcover itself can be considered historic); fire separation (utilizing intumescent paint on interiors); and storefront windows (a key feature for revitalization related to restaurant industry). These issues highlight a need for continued conversation around specific elements of the Secretary's Standards, where guidance and education can be helpful.

Q2: How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns?

Education at every level and across different constituencies related to preservation and economic development is key to utilization of the Secretary's Standards.

Main Street leaders understand the value of the Secretary's Standards and see increased education as key to better utilization across the varying groups that interact with them. To best enable the Secretary's Standards to serve their role in guiding preservation projects, increased education is needed across multiple groups:

- In local communities: Main Street leaders are often those educating members of the public about the value of preservation utilizing the Secretary's Standards. Increased broad educational opportunities, particularly for building and business owners, can offer opportunities for participation in the process and compromises that create successful preservation projects.
- Amongst preservationists: Learning networks, Communities of Practice, or other cohort
 opportunities between preservationists and specifically those involved in the review of HTC
 projects at the state and federal level can help develop case studies and shared understanding of
 HTC implementation, which can be distributed to broader networks.
- Across government agencies: Shared understanding of the Secretary's Standards across other agencies (such as HUD and USDA at the federal level) can help expose and ameliorate issues with competing priorities that can delay projects.

Especially in circumstances where discretion is at play, increased education throughout the preservation community can generate solutions oriented towards improving the federal response to equity and climate concerns.

Guidance on specific Main Street-related concerns can create clearer pathways for the success of Main Street projects.

Main Street leaders express interest in increased written guidance, including updated visual guidance and white papers, on best practices for specific project elements that are recurrent themes in Main Street redevelopment projects.

- Rooftop additions specifically in two-story commercial buildings, rooftop additions, from solar
 panels to recreational spaces, increase the economic value and sustainability of a property. A
 rooftop addition to multi-story buildings can also be essential to the economic viability of
 projects, and to maximizing density in a way that supports positive climate outcomes.
- Operable storefronts guidance on these features that Main Street property owners seek for restaurants and bars.
- Slipcover removal balancing the potential conversion of upper floors to housing with historic slipcovers, particularly when those slipcovers cover windows.
- Substitute materials specifically materials that may reduce maintenance needs.

- Reversibility the extent to which several forms of intervention, including those above, can be considered reversible.
- Murals best practices on enlivening public spaces through creative placemaking aligned with the Secretary's Standards.
- New and innovative approaches as they emerge.

New or increased guidance on these issues could spur more successful Main Street projects.

Increased flexibility and guidance in the application of the Secretary's Standards - can help prioritize equity, housing-supply, energy efficiency, renewable energy, and climate-change-related concerns.

Main Street leaders understand the need to collaborate with multiple parties to find compromises that meet the Secretary's Standards and economic development goals. But the current state of compromise sometimes does not address key social and economic concerns shared by stakeholders across the federal government. Potential innovative solutions through guidance and flexibility include:

- To align the application of the Secretary's Standards with community and economic development goals, increased flexibility in the application of the Secretary's Standards should be based on the project's economic viability.
- To promote more upper floor housing in historic Main Street buildings, guidance on the Secretary's Standards could delineate between treatments in a building's public interior spaces and its private, residential sphere. Creating more flexibility in spaces for new, residential use could alleviate issues around subdivision of spaces, and egress, safety, and accessibility concerns.
- To ensure climate change goals are met, every reasonable accommodation should be made through the Secretary's Standards for the integration of renewables, even when the visual impact of such technology cannot be mitigated. Renewables reduce reliance on fossil fuels, make building operations more affordable in the context of increasingly unstable energy markets, and are almost always reversible.
- To promote equity through preservation, engagement with disinvested communities and more research into the application of the Standards within those communities should be undertaken. The Justice40 Initiative, established by President Biden in Executive Order 14008, directs federal agencies to consider the dual impacts of equity and climate change in the administration of certain programs. Though application of the Secretary's Standards is not covered through the Initiative, the Executive Order offers a framework through which to view the application of the Secretary's Standards, including through the engagement of stakeholders and reporting of data and benefits directed to Justice40 communities.

Thank you for the opportunity to share our thoughts on the application of the Secretary of the Interior's Standards in the Main Street context. MSA would welcome additional opportunities to provide feedback on how to create more impactful Main Street preservation projects through the application of the Standards. Due to the timing and time of year of this comment period, we believe our network – and others - could offer more substantial feedback on these processes. To fully understand the impacts of the Secretary's Standards, particularly in historically disinvested communities, more extensive outreach and engagement is needed. We recognize a diversity of thought and opinion on these issues throughout the network and the preservation field, but we are committed to ensuring that the Secretary's Standards are aligned with and can support the goals identified by ACHP to creating more equitable and sustainable communities.



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July 19, 2023

Dear Chair Bronin,

The National Alliance of Preservation Commissions (NAPC) thanks you for the opportunity to provide comments related to the application and interpretation of the SOI Standards (Standards). NAPC's membership includes communities from across the nation that largely rely on the Standards for Rehabilitation to guide decision-making at the local level. Our goal at NAPC is to help build strong local preservation programs and leaders through education, training, and advocacy. This includes providing communities with an understanding of best practices related to the application and interpretation of the SOI Standards in order to support consistent and defensible outcomes.

Local commissions, many of which are Certified Local Governments (CLG), are often at the forefront of the application of preservation policy. Thousands of decisions impacting historic properties are made every year by local government preservation programs. We know that preservation programs are most successful when requirements are clear, predictable, and consistently applied. Most communities have adopted the Secretary of the Interior's Standards for Rehabilitation as evaluation criteria. Ongoing preservation of our communities requires a thoughtful balance of preservation and adaptation. However, the interpretation of these treatment concepts can often lead to variation or inconsistency in application.

We applaud the ACHP for opening the conversation about this topic. We have offered some initial comments below in the hopes that this conversation will continue and will result in changes that support flexibility and adaptability, address modern-day issues, and provide additional support through new or expanded guidance. We ask that this dialogue about this important and complex topic continue and take into consideration the potential for positive impacts to preservation practice at the local level.

• Non-traditional Property Types: The practice of historic preservation is ever-evolving and expanding to capture a broader collection of properties and histories that offer a better representation of diverse and historically underrepresented communities. It is not uncommon for properties to possess cultural significance, which is not solely interpreted by physical building fabric. In these instances, communities may struggle to apply traditional standards, which were intended to preserve the architectural and material integrity of a property. There are no widely understood treatment standards which respond to issues surrounding intangible heritage, experiential qualities, public memory, and traditions which allow communities to be better stewards of properties where historic building fabric is not the priority.

Application in Historic Tax Credit Reviews: The Historic Tax Credits (at both the State
and Federal Levels) are a powerful tool for communities with historically underutilized
or vacant building stock in need of investment. The properties often represent a wide
range of building types and uses including industrial or manufacturing which have
become obsolete. Projects requiring adaptive reuse in order to prolong the life and use
of historic properties often present conflict with the Standards, in particular standard #1
regarding changes to use and building features which are required for adaptation.

Special consideration or flexibility should be given for certain properties that must be adapted to accommodate new uses, especially where the original building forms and characteristics are no longer viable for modern day use. A rigid application of the current standards will often disqualify these properties for Historic Tax Credits, leaving them at risk of continued neglect or demolition. This in turn is potentially harmful for communities seeking to leverage historic resources for economic growth and cultural continuity.

- Changes in Material Production, Advances in Technology: The recent lumber supply chain crisis highlighted an issue in historic preservation: the quality and affordability of quality, in-kind materials. When original wood features must be replaced, replacement wood is often of poor quality and requires significant treating and maintenance in order to last. Substitute materials may be a lasting and sustainable option in some applications such as porch elements or exterior features. More and more composite materials are beginning to feature recycled content or upcycled waste products which may be more environmentally sustainable than relying on virgin lumber. The Standards should be updated to explicitly state that substitute materials may be appropriate within certain applications and which are visibly compatible with historic materials.
- Diversity, Equity, and Inclusion: The practice of preservation has expanded (for the better) to access new communities which were historically excluded from preservation efforts, including working-class neighborhoods or those with predominantly minority populations. It is important that preservation policy works as a living and evolving tool for underserved communities and that the standards themselves consider impacts to historically marginalized groups. This includes consideration of economic hardship and the feasibility of traditionally-applied standards in economically disadvantaged communities.
- Climate Action and Adaptation: Our built environment plays a critical role in climate action and adaptation. The Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings is an important contribution to the practice of preservation, but more is needed to address the changing climate and position preservation to be part of the solution. The SOI Standards and related guidance should be updated to reflect the importance of preservation and building reuse and a strategy in addressing climate change. Depending on the unique regional impacts to a property, adaptation and



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retrofit will become a more critical strategy when considering the longevity and resiliency of historic building stock.

• Flexibility and Negotiation: Reviewers and professionals at different levels of government must understand the importance of adopting solutions-driven policies that reconcile the Standards with real-world challenges of implementation and adaptation. The Standards and related guidance should authorize professionals and staff to find the best path forward with the priority being supporting investment in our historic resources. Specifically, interpreting the standards, consulting to reach a consensus, and negotiating when the ideal cannot be achieved will serve the interests of affected portions of the public and support consensus decisions in Section 106 and historic tax credit reviews. However, hierarchy in government roles and inflexible interpretation of standards often preclude opportunities for interpretation, negotiation, and consensus. Broadening the goals of the Standards in their application to allow for informed, place-based decision-making would strengthen pathways for success and allow for negotiation at all levels of government for streamlined results.

Thank you for this opportunity to offer preliminary comments on this complex topic. The National Alliance of Preservation Commissions looks forward to continuing the discussion and identifying ways that we all can practice preservation in a way that is more inclusive, sustainable, and effective.

Sincerely,

Paula Mohr

Chair, National Alliance of Preservation Commissions



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July 20, 2023

Dru Null Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Via email: dnull@achp.gov

RE: ACHP's call for comments on the Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties.

In response to the Advisory Council on Historic Preservation's (ACHP) call for comments on the application and interpretation of the Secretary of Interior's Standards (the Standards), the National Conference of State Historic Preservation Officers (NCSHPO) submits the following thoughts, observations, and ideas. State Historic Preservation Officers (SHPOs) are fundamental stakeholders and practitioners in the interpretation of the Standards and, perhaps more than many preservation constituencies, are required to utilize them daily as foundational principles. As such, while we always appreciate the opportunity to examine aspects of our national historic preservation program, we urge measured care when examining specific aspects of the Standards for study when, as a whole, they are so integrated into many different parts of the federal historic preservation program as both regulatory and philosophical foundations.

Given SHPOs' unique position, the NCSHPO has established a working group to take a more deliberative look at the Standards, consider the overlapping and complex roles they play in various aspects in our national program, and to invite input from a variety of stakeholders. We, therefore, provide the following general comments with the caveat that we believe the thirty-day comment window the ACHP has opened is but a start to evaluating the Standards in the fashion they deserve. We think a broader, intentional effort, which would necessarily involve the National Park Service and other stakeholders (both within and beyond the preservation community) is a more desirable path forward. As a result, these comments are largely preliminary and general in nature. The subject is nuanced and complex.

Generally speaking, we find the Standards to be inherently flexible, as they should be. They are informed by almost 50 years of experience and conscientious practice and have been successfully used by thousands of practitioners in a multitude of regulatory and advisory settings to help preserve and rehabilitate countless historic properties all over the United States. In regards to the ACHP's line of inquiry concerning what actions may be appropriate to "improve the federal response to equity, housing

supply, energy efficiency, renewable energy or climate-change concerns," we sincerely hope that the effort is not intended to be mutually exclusive. In our view the preservation of our historic places is of equal public benefit – so we look forward to hearing how federal housing-supply, energy efficiency, renewable energy and climate-change related policies can be improved to include the preservation of our heritage. Historic preservation itself is a worthy societal objective, and too often has to compete and stand aside compared to just as worthy competing interests. We strongly believe that historic preservation can exist in harmony with other concerns, missions, and needs.

Background and Applicability of the Standards

The Secretary of Interior's Standards cover four different treatments – restoration, preservation, rehabilitation and reconstruction. It is important to note, specific to the ACHP's primary interest in "rehabilitation," that "rehabilitation," specifically, is covered in two ways in regulation:

- 1. The Secretary of Interior's Standards as a whole are codified in 36 CFR Part 68. According to these regulations, these Standards are NOT regulatory except for "...all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund," although this requirement is not explicit in the National Historic Preservation Act (NHPA).
- An additional version of the Rehabilitation Standard, although nearly identical, is additionally
 included as a requirement for Historic Tax Credit projects, codified in 36 CFR Part 67 for
 "certified historic structures."

The Secretary's Standards For Historic Preservation Projects appeared as a final rulemaking in the Federal Register in December of 1978 and were "...for planning, undertaking, and supervising historic preservation grant-in-aid projects under the provisions of the National Historic Preservation Act of 1966 as amended through the creation of a National Historic Preservation Fund." Guidelines for applying the standards were first published in 1979. The Standards were substantially revised in 1992 (codified in 1995) and were renamed the Secretary of Interior's Standards for the Treatment of Historic Properties, however the intent was the same – to set standards for "...all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund."

Applicability to Federal Agencies and Local Governments

Regarding a Federal agency nexus, it is important to note that the Act charges the Secretary of Interior with establishing standards for historic property in Federal ownership, *in consultation* with other agencies:

c) PROFESSIONAL STANDARDS FOR PRESERVATION OF FEDERALLY OWNED OR CONTROLLED HISTORIC PROPERTY.—The Secretary shall establish, in consultation with the Secretary of Agriculture, the Secretary of Defense, the Smithsonian Institution, and the Administrator of General Services, professional standards for the preservation of historic property in Federal ownership or control.

It does appear that when the Standards were published as a notice in the Federal Register in 1983 to address the 1980 amendments to the NHPA that more explicitly articulated federal agency requirements, that these agencies, in addition to the ACHP, State Historic Preservation Officers (SHPOs) and the National Trust for Historic Preservation were consulted. Rather than issuing completely separate standards for federal agencies or for federally-owned properties, however, the NPS states in the

"Purpose," that this single set of standards was to "integrate the diverse efforts of many entities performing historic preservation..." They go on to "encourage" federal agencies to utilize them to meet their Section 110 responsibilities under the National Historic Preservation Act — though noting that additional guidance was in development. In addition to encouraging SHPOs, they further encourage their use by "local governments wishing to establish a comprehensive approach to identification, evaluation, registration and treatment of historic properties within their jurisdictions." This period would appear to be when local governments began using the standards for the basis of local ordinances, coinciding with the NHPA amendments that created the Certified Local Government as the third governmental preservation partner next to the federal government and the States.

By the time the Standards were revised again in 1992, and codified in 1995, they were substantially rebranded as the *Secretary of Interior's Standards for the Treatment of Historic Properties* and simplified to the format familiar to users today. According to the 1995 Federal Register notice, consultation took place with NCSHPO, the National Trust and "a number of outside organizations," and no comments were received during the 60-day public comment period. While no specific federal agency consultation was noted for this version of the Standards, by that time, the ACHP had began altering their regulations to comply with the 1992 Amendments to the NHPA. A 1996 version published in the Federal Register named the Secretary's Standards as a "Standard Treatment," by which an "adverse effect" can be avoided. By 1999, however, the Final Rule, which *did* note substantial consultation with Federal agencies, SHPOs, tribes and many preservation groups, defined any alteration of a property not consistent with the Secretary's Standards (36 CFR 68) as an adverse effect. This time would appear be the moment when the Secretary's Standards took on a regulatory role, rather than an advisory one, for federal agencies – despite not being regulatory themselves and despite being the domain of another federal agency. By default it would seem to, in some cases, lead to conflicts over the interpretation of the Standards relative to adverse effect determinations.

This overlapping jurisdiction, at times, can create inconsistencies. For example, the ACHP specifically calls out "removal" of a property from its original location as an adverse effect, regardless of circumstances. This principle does conflict with the NPS Guidelines on Flood Adaptation for Rehabilitating Historic Buildings – which acknowledges, due to sea-level rise and other climate hazards, that relocation may be necessary and can be achieved while meeting the Standards.

Recommendation: Examine the intersection of the Secretary's Standards with ACHP regulatory references and develop mechanisms to assure consistency and, if necessary, to explore whether and the degree to which every action that is considered as not meeting the Standards (which of themselves are advisory and open to interpretation) must be treated as an adverse effect.

Reasonable Manner, Economic and Technical Feasibility

Beyond the limited regulatory function of the Secretary's Standards for projects funded via the Historic Preservation Fund and Tax Credit projects, the primary intent is "...to provide general guidance for work on any historic building." Underscoring this approach is an often-overlooked statement located both in the regulations (36 CFR 67 and 68), and in the printed text: "The Standards will be applied taking into consideration the economic and technical feasibility of each project." The language in 36 CFR 67 covering Historic Tax Credit projects takes it a step further by stating the "...Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility."

Recommendation: This issue, in particular, arises in Historic Tax Credit projects. What is absent at this time is any guidance on what this "reasonable manner" language means and, as a consequence, these statements are interpreted on a case-by-case basis. While this scenario provides abundant flexibility, it may also be the source of conflict and may further complicate a process that by design relies upon individual interpretation. A specific piece of guidance with examples and/or case studies – similar to what the IRS offers for various tax law situations – would enhance the understanding of how practitioners could/should approach this topic from different access points – federal agency projects, historic tax credit projects (which already include "reasonable manner" as an additional instruction), HPF grant projects, and local commissions. Such guidance could also help contextualize interpretation relative to the nature of the resource at hand.

Guidance versus Regulation

While the Standards are designed to be regulatory for projects funded via the Historic Preservation Fund (HPF) and for Historic Tax Credit projects, they are simultaneously meant to be advisory for everyone else. Over the years, they have been regarded as the "gold standard" by which historic properties are approached and, in many cases, at the early suggestion of the NPS, have in turn been adopted as regulatory by local preservation commissions all over the country. Therefore, an inherent tension can exist in their interpretation – reconciling how various approaches can be both required and recommended.

Recommendation: Consider whether one set of standards is still the best approach if they are to be used as both advisory and regulatory and, if they are, perhaps providing clearer introductory language on exactly how the standards should be approached depending upon the access point.

One-Size Fits All

Shortly after passage of the NHPA, discussion took place on whether or not there should be a "grading" of historic properties that would inform level of significance and corresponding treatments. For a variety of reasons, both practical and philosophical, the only differentiation that has been maintained has been between listings on the National Register of Historic Places and National Historic Landmarks — with the latter being awarded a higher standard of care and consideration. For everything on the National Register, however, no such gradation exists, and for good reason. This fact however means that when applying the Standards, there is really no formal distinction between a highly significant individual National Register listing and a rowhouse that is simply a contributing building in a historic district. While 36 CFR 68 states "one set of standards...will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available, and interpretive goals, when applicable," the reality is that other than steering users towards the "rehabilitation" standard, the application of the standards relative to significance has become the subject of art rather than science.

We do not disagree with an earlier generation of preservationists that following the "grading" model could deem some properties of a "lower" grade expendable. Conversely, the "grading" metric may change depending on rarity from century to century, and indeed, what certain buildings represent positively or negatively within society at a particular time. Those are indeed valid concerns, but we believe that the Standards could bear examination in this regard.

We also recognize and acknowledge that some practitioners value the elastic nature of the Standards, and believe that they do allow for these distinctions to be made as is, relying instead on the character defining features on a building-by-building basis.

Recommendation: Develop additional guidance, case studies and examples on how to apply the standards relative to significance and how to define character defining features.

Preservation Briefs and Bulletins

Because of the necessarily broad nature of the Standards and the panoply of building types, periods, and styles throughout United States, it has been necessary for the National Park Service to develop 50 Preservation Briefs and 22 Tech Notes covering a range to topics from masonry to the identification of character-defining elements. In some cases, those documents have not been updated in more than 40 years. While some technologies may not change, many certainly do. The ACHP specifically expressed in this call for comments an interest in Substitute Materials – a topic that has been raised by federal agencies and private developers alike. Preservation Brief 16: The Use of Substitute Materials on Historic Building Exteriors, for example, has not been updated since 1988. Fortunately, a revision to this Bulletin is already underway by the NPS and, hopefully, will address some of the questions raised by current practitioners. Other issues, such as lead paint treatment, however, are more complicated. As EPA standards evolve and individual Federal agencies develop their own policies, they be in conflict with guidance relative to the Standards. The Army, for example, citing a requirement to remove any interior trim, window or door that had even trace amounts of lead present, contradicts current preservation practice that recommends paint removal and encapsulation.

Recommendation: With additional funding and more staff capacity, the NPS would be able to dedicate the resources necessary for us to simply recommend that Preservation Briefs and Bulletins are always current and feature the most up-to-date scholarship. Short of that eventuality, we would recommend the development of a regular publishing schedule so that there can be consistent and regular updates at appropriate intervals.

Leveraging Expertise

When the Secretary of Interior was tasked via the NHPA to develop "...training in, and information concerning, professional methods and techniques for the preservation of historic property and for the administration of the historic preservation program at the Federal, State, and local level," historic preservation as a field in the United States had yet to be formalized or professionalized as we now know it. In its early days, the federal historic preservation program relied upon the NPS for resources and expertise that agencies, states and local governments did not yet have for themselves. Today, however, after almost 60 years, the professional landscape is very different. Preservation professionals work at virtually every level of government, within Tribal governments, private practice, and in allied industries. This growth of the discipline means that the profession does not necessarily look solely to the NPS as the definitive expert on historic preservation practice in the way it used to.

Within the NPS, the responsibility for the Standards and corresponding guidance rests within an underfunded Technical Preservation Services (TPS) whose primary daily responsibility is the administration of the Historic Tax Credit program, which is tied to 36 CFR 67. At the same time, the NHPA established the National Center for Preservation and Training which, despite its name and

responsibilities, appears to operate siloed in relative obscurity. Additionally, in a completely different directorate, the Historic Preservation Training Center is the NPS in-house team that provides hands-on training and technical assistance directly for preservation projects yet they have no formal relationship with TPS either.

With all of this expertise, there would seem to be an opportunity to expand and augment the capacity and knowledge base that informs the Standards, and to help foster a more collaborative environment for maintaining the currency of the Standards.

Recommendation: The creation of an Advisory Committee comprised of representatives of NPS (including their internal competing preservation divisions), ACHP, the National Trust, NATHPO, NCSHPO, Federal Agencies, The American Institute of Architects, and the Association for Preservation Technology that can convene regularly to provide input into changing trends, materials and approaches relative to the treatment of historic properties. Structured properly, this could take some of the burden off of TPS as the sole entity responsible for the Standards in helping them remain current, prioritize updates, and identify any coverage gaps. We realize that such committees provide a challenge to comply with the Federal Advisory Committee Act – but perhaps there is a way to leverage some existing structures within the National Park Service Advisory Board, through the Board established in statute for NCPTT, or short of that, as an independent effort. Whatever the mechanism, we feel that the Standards and corresponding guidance could benefit from and be renewed by additional input and experience.

Flexibility By Design

Too often we hear criticisms aimed at the "inconsistency" with which the Standards are applied or interpreted. A Federal agency or private developer who works in multiple states may state that there are differences between how two SHPOs review projects or question why one treatment was considered appropriate for one project but not another. However, such statements overlook the fundamental structure of our national historic preservation program - which is by design and intent decentralized. Instead of a top-down "ministry" or similar arbiter of historic preservation, our system is dependent upon our larger American model where we find participation of multiple levels of government, federal and state partnerships, an Advisory Council, Tribal governments, and substantial guidance. Very little of it is compulsory (save for the police powers of many local preservation commissions), very much of it is grounded in people-oriented consultation, and most of it by design is subject to interpretation. Early on there was a recognition that the Federal government could not be present in every state and community to the extent necessary to evaluate solely every historic property and that state and local significance, in particular, could be best evaluated by states and local governments. The delegation of certain functions to state and local governments combined with the many calls in the NHPA for consultation, advice, and cooperation, pretty clearly suggests a program that is meant to be variable depending upon a variety of circumstances and including the input of multiple stakeholders, and without doubt, with a strong vein of accountability. Rather than viewing this structure as a weakness or shortcoming, we view this as a strength – meaning for every project for which there appear to be obstacles, there is another one that manages to reach consensus. A strict and consistent approach without flexibility would generally not provide a net gain – eliminating flexibility for one project but providing certainty for another.

Recommendation: Celebrate the inherent flexibility of both the Standards and our national historic preservation program rather than bemoan their lack of "consistency." We can strive for greater training,

guidance and understanding to achieve better outcomes without undermining the validity of our entire program.

Conclusion

There is no question that there are a number of competing policy goals that intersect with historic preservation. Federal agencies must balance their individual missions with the requirements of the NHPA. Policy decisions driving federal approaches to climate change, affordable housing, energy efficiency and other issues run the risk of development in a vacuum – each focused on their own area of concern without taking into account other societal priorities.

Unfortunately, historic preservation frequently is still overlooked or considered only as an afterthought, leaving it to be characterized as an inconvenient barrier or nuisance rather than a part of the solution. One can certainly dive into the minutiae of the Standards to see where policy tensions may lurk, however this effort only begins to address the underlying conundrum – how historic preservation should be considered *along with* other policy goals on equal footing rather than subordinate to them. In our view, this question underlines the rationale for the ACHP's very existence.

Respectfully,

Erik Hein

Executive Director



July 20, 2023

The Honorable Sara C. Bronin Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Dear Chair Bronin:

The National Trust for Historic Preservation appreciates the opportunity to offer comments on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties (*Secretary's Standards*). For the purposes of this inquiry, the National Trust will address its comments on the rehabilitation standard with a focus on buildings, as suggested in the request for comments by the Advisory Council on Historic Preservation (ACHP).

The ACHP presented two questions concerning the *Secretary's Standards*, including identification of any substantive or procedural issues associated with their application and interpretation, and the role that guidance and training might have in improving the federal response to equity, housing supply, energy efficiency, renewable energy, or climate change-related concerns. The National Trust will focus its comments on the application and interpretation of the *Secretary's Standards* as it relates to the Historic Rehabilitation Tax Credit (HTC), at 36 C.F.R. Part 67, but we would offer additional comments on the broader scope of the *Secretary's Standards* should an extended review be undertaken.¹

The National Trust has long called for the application and interpretation of the *Secretary's Standards* to be sufficiently flexible to produce positive preservation outcomes while maintaining a clear set of expectations for satisfying those standards. As the ACHP noted in its request for comments, the Standards are regularly referenced by multiple federal agencies for a variety of purposes. The *Secretary's Standards* are also used at the state and local levels to protect historic places when planning for rehabilitation that is regulated or funded at the state and/or local level. State agencies, for example, use the *Secretary's Standards* to regulate state historic tax credits and other grants. The National Trust also requires that entities receiving our bricks and mortar grants adhere to the *Secretary's Standards*.

¹ The National Trust's comments are substantially influenced by the work of our subsidiary, the National Trust Community Investment Corporation (NTCIC), Since 2000, NTCIC has provided over \$1.3 billion in equity for HTC and multi-tax-credit projects, becoming one of the country's leading tax credit syndicators. *See* https://ntcic.com.

Perhaps nowhere are the *Secretary's Standards* more actively referenced and implemented than through the certification process to qualify for federal historic tax credits. Through this program, the *Secretary's Standards* are utilized daily as owners of historic buildings endeavor to rehabilitate these properties while retaining the buildings' historic character. The HTC represents the federal government's largest investment in the rehabilitation of historic properties and is often appropriately described as a highly successful community investment strategy, with more than 48,000 historic properties rehabilitated over the course of four decades and a direct economic investment of \$181 billion. Simply stated, our nation would not look or feel the same without this longstanding and successful economic incentive. One need look no further than the 39 states that now offer some form of state-level historic tax incentive, modeled after the federal historic tax credit, to understand the broad and lasting success of this incentive, which relies so heavily on the application and interpretation of the *Secretary's Standards*. The agencies regulating these state tax incentives also rely on the application of the *Secretary's Standards* as required by state law.

The historic preservation field acknowledges the success and all that this incentive has accomplished, where the *Secretary's Standards* have served at the center of the certification process. It is also appropriate to ask, however, how this incentive might be improved, particularly as it relates to the application of the *Secretary's Standards*. How could this incentive spur even greater investment in historic preservation? There are more than 129 million existing buildings in the U.S., with approximately half of those buildings having reached 45 years old or older.² The number of federal HTC projects certified by the NPS averages roughly 1,000 projects each year. How could this tax incentive be expanded to help fund the rehabilitation of even more of our nation's older building stock?

The National Trust is committed to the idea that the HTC should maximize opportunities to use historic preservation to promote economic development and community revitalization. We recognize that, while the Standards have served to inform historic preservation activity for generations, today there is a greater emphasis on how historic preservation functions as a solution to pressing social issues, like equitable development, affordable housing, environmental sustainability, and other social objectives. Toward this end, it is reasonable and appropriate to periodically conduct a peer-reviewed examination of the application of the *Secretary's Standards* as it relates to federal historic tax credit to ensure the program is effectively incentivizing private investment in the rehabilitation of historic buildings. After nearly fifty years of program implementation, the National Trust believes it is an appropriate time for the National Park Service to evaluate, in consultation with a broad and diverse set of historic rehabilitation stakeholders, whether changes to the application and interpretation of the *Secretary's Standards* would help to increase the effectiveness of the program in the future.

Over the course of several years beginning in 2003 and concluding in September 2006, the National Trust participated in the development of recommendations to the National Park Service seeking to improve the administration of the federal historic tax credit. The National Trust participated in this

² Department of Energy, Office of Energy Efficiency & Renewable Energy, "Around half of the nation's more than 123 million homes and 5.9 million commercial buildings were built before 1980, prior to the existence of today's efficient products and most equipment standards and building codes. These buildings represent a significant opportunity to unlock energy savings through efficiency improvements, and this means local jobs." https://www.energy.gov/eere/buildings/about-building-technologies-office

process as a member of the Historic Preservation Development Council, where part of the objective was to improve the federal historic tax credit by making it more sensitive to the realities of the real estate development process.³ The recommendations, as they pertain to the application and interpretation of the *Secretary's Standards*, include the following findings, which are just as relevant and applicable today as they were 17 years ago:

The Committee finds that the Federal Historic Rehabilitation Tax Credit Program's application of the *Standards* is marked by considerable flexibility. Nevertheless, the Committee finds that in some cases reconciling interpretation of the *Standards* with other public policy goals, such as smart growth, energy efficiency, and affordable housing, can be problematic. The Committee finds further that in some cases reconciling interpretation of the *Standards* with market pressures that are part of large and complex projects or in projects where a building's historic function or design makes adaptive use especially difficult can be problematic.

The Committee recommends that the NPS, in consultation with its historic preservation partners, reexamine and revise as appropriate its interpretation of the Standards in order to provide some greater measure of flexibility in addressing especially challenging projects. The NPS review should focus in particular on windows, interior treatments, new additions and related new construction, modern-day requirements, and use of modern technologies and materials.⁴

In thinking about how to address uncertainty in the application of the *Secretary's Standards*, the Historic Preservation Development Council noted the importance of clear and accessible guidance:

The Committee finds that in some cases the NPS interpretation of individual treatment issues such as window replacement, interior alterations, new construction, and new building technologies is unclear. There is also a lack of accessible guidance concerning the significant flexibility that already exists in the program to meet today's challenges. This lack of clarity has led to uncertainty and errors on the part of project designers.

The Committee recommends that the NPS, in consultation with its historic preservation partners, review, revise and enhance its guidance materials as appropriate, so that the NPS interpretation of the Standards is clearer to project designers, and so that the outcome of the NPS review is more predictable.⁵

Federal regulations governing the application and interpretation of the *Secretary's Standards* for purposes of certifying historic tax credit projects include a "reasonableness" standard that is intended to guide the decision-making process. The regulations specify, "The following Standards are to be applied to specific rehabilitation projects *in a reasonable manner*, taking into consideration economic and technical feasibility." It is noteworthy that this directive is not included in the subsequent chapter, The Secretary of the Interior's Standards for the Treatment of Historic Properties, which states, "The standards will be applied taking into consideration the economic and technical

⁵ Id. at page 22.

³ National Park System Advisory Board Report, "Federal Historic Rehabilitation Tax Credit Program, Recommendations for Making a Good Program Better" 2006.

⁴ Id. at page 19.

⁶ 36 C.F.R. 67.7(b), Standards for rehabilitation (emphasis added).

feasibility of each project," without the reference to "reasonable[ness]". This distinction is presumably intended as necessary to ensure that the historic tax credit is adequately incentivizing private investment in the complex work to rehabilitate historic buildings. By including a reasonableness standard to the application of the *Secretary's Standards* for purposes of certifying HTC projects, the regulations emphasize that the totality of circumstances, including economic and technical feasibility, is a fundamental governing principle.

A key policy objective of the National Trust is building support for the idea that reusing and retrofitting existing buildings is an effective and impactful strategy to promote sustainable community development and reduce carbon emissions. In 2013, the National Park Service produced, "The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings," which seeks to enhance overall understanding and interpretation of basic preservation principles. A number of challenges remain, however. Updated guidance could address areas where the Secretary's Standards frequently come into conflict with energy efficiency goals, such as wall insulation, windows, and solar panels. The June 2023 National Trust report, State Historic Tax Credits: Opportunities for Affordable Housing and Sustainability summarizes the results of conversations with more than 30 practitioners engaged in the work of preservation, development, housing, sustainability, and climate action. The majority of practitioners recommended "address[ing] conflicts between energy efficiency requirements and interpretation of the Secretary of the Interior's Standards. Given advancements in building technologies and the adoption of increasingly rigorous building codes, electrification requirements, building performance standards, and other climate policies in a growing number of communities, the economic feasibility of adaptive reuse projects that utilize HTCs is likely to be reduced unless we develop a way to reconcile and align these important objectives.

Recognizing that rehabilitation, as distinct from the restoration treatment, allows some alterations to be made to historic buildings that are necessary to accommodate modern uses, a consistent program of producing technical guidance will help to ensure that the historic tax credit program is performing as intended. To clarify the intended flexibility in the program, the NPS, in consultation with its historic preservation partners, should continue to develop and prioritize publishing guidance to enhance understanding of how to apply and interpret the *Secretary's Standards* with a particular focus on how project reviewers and applicants should understand the reasonableness standard. Guidance should seek to explain the project review analysis that allows a finding that the project as a whole meets the *Secretary's Standards*, even where satisfying a specific standard in isolation may prove problematic.

The Secretary's Standards have served at the center of the preservation movement for 46 years and have guided the successful completion of rehabilitation projects in every state in the nation. The National Trust believes the Secretary's Standards are sufficiently flexible as written and that it is their interpretation and application that requires periodic evaluation to ensure they are working as intended. A regular cadence of guidance is necessary on a variety of issues to position the Secretary's Standards for the future. The National Trust recognizes the work of the National Park Service to produce guidance including sustainable development and flood adaptation and encourages the agency to prioritize its stated intention of producing guidance on the interpretation of the Secretary's

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⁷ 36 C.F.R. 68.3, Standards (emphasis added).

Standards with an opportunity for national preservation partners to offer suggestions on how to reconcile historic preservation standards with important policy objectives like ensuring equitable preservation outcomes for underserved communities, affordable housing creation, and sustainable and less carbon-intensive development.

As was understood nearly two decades ago, there is an inherent tension in carrying out a rehabilitation program that seeks to accommodate more than one public policy goal. It is important, however, that we endeavor to balance the goals of historic preservation, real estate development pressures, and other social objectives. A review of the *Secretary's Standards* and subsequent guidance would help facilitate eliminating barriers that will lead to increased use of the historic tax credit program and the preservation of more of our nation's historic buildings. The National Trust is committed to working with our federal partners in support of a strong historic preservation program that is well positioned for the future.

Thank you for the opportunity to offer these comments.

Sincerely,

Shaw Sprague

Vice President of Government Relations



SOCIETY FOR AMERICAN ARCHAEOLOGY

July 19, 2023

The Honorable Sara Bronin, Chair Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 2000

Dear Chair Bronin,

The Society for American Archaeology (SAA) is pleased to provide the following comments to the Advisory Council on Historic Preservation (ACHP) on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) and their accompanying guidelines. This is an important issue, but one that is part of a much larger panoply of policy matters associated with the SOI standards and guidelines that should be considered in tandem. The SOI standards were published in 1983, and have not been revised since that time, even though the practice of historic preservation, whether that be archaeology or historic architecture, has undergone tremendous change. We would like to emphasize that while ACHP is requesting comments on the SOI standards, the National Park Service is the agency that establishes them. The SAA would appreciate additional information on how the two agencies will coordinate on potential changes to the Standards after comments are received.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With more than 5,500 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

As noted by the National Park Service, the purpose of the Standards is "to provide guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers prior to beginning work" to restore and rehabilitate structures eligible for inclusion in the National Register. The standards consist of four sections, including preservation, rehabilitation, restoration, and reconstruction. Over time, the Standards have helped provide valuable guidance to those performing the planning and work to preserve the historic built environment for future generations. We agree with the ACHP that it is time to update the Standards to reflect lessons learned over time and to reflect current practices.

Nevertheless, while the information that the ACHP is gathering on this subject is important, the SAA feels strongly that such a survey must be holistic in nature. To accurately reflect the entire

scope of historic preservation as practiced through Section 106, which is the purview of the ACHP, the inquiry should incorporate feedback from the full range of practitioners in historic preservation, not just historic architecture. Many such structures are adjacent to, or are built directly upon, archaeological sites. Further, a substantial portion of preservation work, including that dealing with archaeological sites, does not involve the built environment at all.

Additionally, descendent communities may have deep associations with a structure that has gone through multiple structural changes, and with resources (including archaeological sites) that the structures were built on top of. The cultural association of the structure may sometimes outweigh the physical building's characteristics. As such, we encourage the ACHP to remember to consult with descendent communities, tribes, and Native Hawaiians to ensure any recommendations take seriously their feedback, concerns, and needs.

If the goal of this review is to improve ACHP's oversight of projects under Section 106, then the Council should consider all of the issues impacting Section 106 implementation, including workforce development, the Secretary's Standards on Professional Qualifications, and cultural landscape preservation, to name just a few. And again, as stated above, the goals must be conducted in coordination with the National Park Service in order to implement change.

We also encourage the ACHP to work closely with preservation organizations on this effort, such as the National Trust for Historic Preservation, the National Association of Tribal Historic Preservation Officers, the National Conference of State Historic Preservation Officers, Preservation Action, the Society for Historic Archaeology etc., as they might be able to help. The SAA, for example, is engaged in a multi-year effort on building programs around archaeological workforce development, which includes bringing greater inclusivity to the profession. The information that professional organizations can provide would greatly inform the ACHP's efforts.

We look forward to closely working with you on this effort.

Sincerely,

Daniel H. Sandweiss, Ph.D., RPA President

[External] ACHP Request for Comments SOI Treatment of Historic Properties

Brighton, Nancy J CIV USARMY CEHQ (USA) < Nancy.J.Brighton@usace.army.mil>

Thu 7/20/2023 3:04 PM

To:Dru Null <dnull@achp.gov>

1 attachments (14 KB)

USACE Comments SOI Treatment Standards 20 July 2023.xlsx;

Good Afternoon -

Attached please find comments from the US Army Corps of Engineers regarding the SOI Standards for the Treatment of Historic Properties.

If you have any questions or need additional information, please contact me.

Thank you

Nancy

Nancy J. Brighton
Deputy Federal Preservation Officer
U.S. Army Corps of Engineers, Headquarters
3G88
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Washington, D.C. 20314-1000

(202) 891-8653 (cell) Nancy.J.Brighton@usace.army.mil



Торіс	Comment
General	Overall the guidelines keep things relatively static and do not create space for adaptive re-use. Ultimately the healthiest building is one that remains occupied.
General	The Standards are a necessary foundation. Rehabilitation is the standard used almost exclusively.
Review of Undertakings	Rehabilitation as a concept is relatively straightforward. Rehabilitation applied in practice across the nation is less so. Two substantially similar projects come to mind: National Cemetery Administration Caretaker Lodge rehabilitation efforts at Beverly, NJ (Beverly National Cemetery) and Maxwell, NE (Fort McPherson National Cemetery). Both buildings are Second Empire and were built to the same floorplan designed by Office of the Army Quarter Master; the lodge at Beverly NC was built in 1879 and Fort McPherson in 1876. Although each building has received distinct modifications over the years and currently serves different functions (residence versus office), the NJ and NE SHPOs have responded differently to the projects. One aspect in particular is in regard to the front porch. Both front porches were originally open but have been modified to be enclosed. The tenants at each location have requested that they remain enclosed and we've worked to do so in a sympathetic manner. At Beverly, we are utilizing sliding glass door enclosures with screens; although a seam is visible in between columns, the doors will remain largely unseen and it will read as a standard, open porch. At Fort McPherson, we are utilizing a recessed glass and aluminum storefront, keeping the aluminum frames behind the columns so that it will read as continuous open space and keep the feel of the open porch. The NJ SHPO concurred with our determination of No Adverse Effect; the NE SHPO is still reviewing the project but after several discussions over email and telecom, they are not wanting to concur with our determination of No Adverse Effect due to the use of mixed materials and changing the intent and use of the porch. It is difficult, since these are substantially the same feature and change, to explain why one SHPO had no issue and the other does.
Substitute Materials	There is a concern regarding substitute materials without substantial guidance from NPS regarding their appropriate use. It is not always feasible to have a 1:1 original: substitution for everything [e.g., slate tile roof can be substituted for imitative slate made out of ceramic to similar thickness and color variation (preferred) or composite slate of similar thickness and color variation (acceptable, but not preferred)] but guidance on this topic should be developed for both private and public sector use. Lack of guidance may become a barrier for many non-professionals who are sympathetic to historical preservation but who are not trained in its nuance. The appropriate use of substitute materials should not a roadblock to obtain tax credits, as those are vital to maintaining the historic built environment outside of the federal inventory.

Substitute	In practice, the over use of substitute materials particularly in military housing
Materials	has caused condition issues with the remaining historic fabric. Typically this presents as faster failure rates of a new material. Things like vinyl windows separating from brick walls and composite porch posts trapping moisture at the
	foot causing masonry failure and excess vegetation growth. Some recommendations, best practices, and/or guidance would be helpful.
Climate Change	An interesting topic that came out of the recent DoD Climate Workshop was lower-carbon alternative materials and EPDs (Environmental Product Declarations). While this is more applicable to concrete, asphalt, and steel (and are actively being research by the US Army Corps of Engineers, Construction Engineering Research Laboratory, it would be another item for NPS to provide guidance on. Are there acceptable lower-carbon materials to be used? Are there sufficient differences between wood types over their construction material lifespan? Or other materials? Similar with EPDs, will NPS provide guidance stating that although an in-kind replacement is preferred, a replacement material with lower carbon/environmental impact will be acceptable so long as it meets defined criteria? Many historic building materials are likely to be the lower carbon alternative, but as more modern building
	materials becoming historic, this will become more critical to answer.
Climate Change	Stronger, published research from or promulgated by the NPS regarding the net environmental impact of rehabilitation over demolition and new construction would go far to support rehabilitation efforts nationwide. While it is clear that historic preservation professionals understand this, it is also clear that the construction industry at large is still pushing the new construction narrative. Peer-reviewed publications that can be cited to agency project teams and customers regarding the net benefit of rehabilitation and net impacts of new construction (broadly speaking) will be incredibly helpful to drive the conversation to retain existing infrastructure to the maximum extent possible and feasible. Tools for calculating embodied carbon emissions within historic buildings would also be helpful.
Climate Change	The pending Climate Change Policy document from ACHP includes an item (item 10) that states Federal agencies need to be more flexible in how guidance is being applied for the treatment of historic properties. Although Rehabilitation is the most flexible standard, it is still limiting. Assistance with regard to appropriate mitigations for adverse effects could assist in this effort, especially if the Standards are not revised to be more considerate of modern materials and their limitations.
Climate Change	Historic preservation should advance on this topic as it has a critical role to play. Historic resources serve as a great carbon neutral building foundation. This should be clearly spelled out along with concepts like use of local materials being more resistant to environmental factors. Examples: local timber being pest resistant/old lumber having slower burn rates, adobe being a natural temperature regulator. Celebrating daylighting and transoms! Numbers/ statistics and data points are needed.

Comments Regarding the Secretary of the Interior's <u>Standards for Rehabilitation</u> Prepared by the Colorado SHPO, 20 July 2023

Background

NCSHPO invited SHPOs to provide comments regarding a proposal by the Advisory Council on Historic Preservation to revise the Secretary of the Interior's <u>Standards for Rehabilitation</u>. Our understanding is that, at this time, the proposed revisions are very much in their embryonic stage, with no formal ideas or concepts presented. Among the *possible* outcomes of such a revision include:

- Creating a new set of Standards as a stablemate for the existing four (preservation, rehabilitation, restoration, and reconstruction) collected under the Secretary of the Interior's Standards for the Treatment of Historic Properties;
- Amending the existing Secretary of the Interior's <u>Standards for Rehabilitation</u> by revising the ten Standards that make up that document;
- Amending the <u>Standards for Rehabilitation</u> by adding additional Standards to the existing ten.

As the ultimate outcome of this endeavor remain uncertain, we can only offer comments and concerns based on what *might* happen, should any of these plans come to fruition. These are listed below.

Potential Impact of a New Set of Standards

This outcome is the most difficult to predict. Creating a new set of <u>Standards</u>, by itself, does very little. To have an impact on historic properties (and on SHPOs, etc.), the new <u>Standards</u> would have to be entered into the regulatory bloodstream via enabling legislation. It is possible to foresee a future in which, for example, federal agencies are encouraged by ACHP to follow the new <u>Standards for
 standards for
 standards for Rehabilitation</u>.

Such a change would most directly affect how SHPOs, Certified Local Governments, and others provide comments related to Sections 106 and 110 of the National Historic Preservation Act. Although federal agencies already have authority to conduct business largely as they see fit¹, historic properties could be significantly impacted by a switch from Rehabilitation to a new Standard, just as a theoretical switching from Restoration to Rehabilitation would impact properties where historic accuracy is of utmost importance.

We are concerned that this new set of Standards will be designed not with the interests of historic preservation first and foremost in mind, but rather with the goal of providing a sort of "Preservation Lite" standards that would allow federal agencies, applicants for federal funding, and others to meet rehabilitation (with a small r) standards without meeting the SOI <u>Standards for Rehabilitation</u>. This, in effect, would allow them to meet the cliché of having their cake and eating it, too. We are well aware that, in some quarters, even the smallest nods to historic preservation are considered magnanimous², but at present the <u>Standards for Rehabilitation</u> require federal agencies to aspire to something more

¹ Said comments are "advisory only and do not bind" a federal agency to "a particular course of action," see *Concerned Citizens Alliance v Slater*, 176F.3d 686, 696.

² In a well-known Denver example, the developers who demolished the historic Moffat Mansion included a single bay window in their otherwise squat, square, and utilitarian office building to 'honor the history' of the ornate marble edifice they destroyed. Other SHPOs surely have their own, similar stories to share.

than deck chair arrangements. We fear that this will be lost should agencies find cover under a newer, lesser set of Standards, regardless of the good intentions surrounding their creation.³

Our concerns carry over into proposals to revise or expand the existing <u>Standards for Rehabilitation</u>. Federal spending is a major force in the United States. In 2022, the government spent \$6.27 trillion dollars, ⁴ with much of that spending directed at federal agency projects, federally-owned properties, or federal grants to state, local, and private actors. The Office of Housing and Urban Development, for example, directed \$3.5 billion of its 2021 budget to the Community Development Fund, a program "directed towards CDBG (Community Development Block Grants) revitalization activities." Most of this funding is directed through one of two processes overseen by SHPOs:

- (1) Direct consultation pursuant to 36.CFR.800; and
- (2) Activities exempted under a Programmatic Agreement

It is common for Programmatic Agreements to include language that directly references the <u>Standards for Rehabilitation</u>. Standard language in many of our state's agreements with HUD Entitlement Communities, for example, reads as follows:

"For the purposes of this Agreement, the term 'in-kind replacement' is defined as installation of a new element that duplicates the material, dimensions, configuration, and detailing of the original element, as explained and codified by the Secretary of the Interior's <u>Standards for</u> Rehabilitation (36.CFR.67.7)."

Significantly revising <u>Standards for Rehabilitation</u> would throw many of these agreements into uncertain legal territory, as many of the exemptions in these exemption-based Programmatic Agreements are rooted in the Rehabilitation standards. These agreements were signed with the understanding of all signatories that the Rehabilitation standards would be followed.

Rhetorical questions thus abound: if a clause in a signed agreement states that in-kind replacement is "explained and codified by the Secretary of the Interior's <u>Standards for Rehabilitation</u>, and that agreement was signed by consulting parties under the assumption that, for example, it discouraged the use of vinyl windows as a replacement for wood ones, what becomes of the agreement should the <u>Standards</u> themselves be amended specifically to allow such things? Does the agreement need to be terminated and re-negotiated? Would the SHPO have any support in inserting language that continues to discourage what *it* sees as a non-historic treatment? Or would vinyl windows, previously discouraged, suddenly become the norm in Programmatic Agreements?

Such questions have no easy answers. However, we encourage NCSHPO and ACHP to consider the very fact that there *are* no easy answers here, and that modifying or changing the <u>Standards</u> will result in significant disruptions to existing project streamlining measures. This, of course, has the potential to

³ "As a civilization, we suffer a terrible loss if we do not make every reasonable effort to preserve our heritage, which may be enshrined in bricks and mortar as well as in books and manuscripts. We think... that Congress was delivering this message primarily to the federal agencies..." *Concerned Citizens Alliance* @696.

⁴ Joint Statement of Janet L. Yellen and Shalanda D. Young on Budget Results for Fiscal Year 2022, as published by the U.S. Department of the Treasury (https://home.treasury.gov/news/press-releases/jy1043)

⁵ Community Development Fund, Office of Housing and Urban Development (https://www.hud.gov/sites/dfiles/CFO/documents/18_2022CJ-CommunityDevelopmentFund.pdf)

create the very same significant project delays, legal challenges, and other "roadblocks" that ACHP is presumably endeavoring to reduce.

Potential Impact to State Historic Preservation Tax Credit Programs

Our concerns here are based on any proposals that might amend or expand the existing <u>Standards for</u> Rehabilitation.

Amending the <u>Standards</u> will directly affect the administration of statewide historic preservation tax credit programs.⁶ By our count, 27 states directly reference the <u>Secretary</u> of the Interior's <u>Standards</u> in statute. Three additional states do not reference the <u>Standards</u> directly, but require that successful projects meet the federal requirements for obtaining federal tax credits, creating a *de facto* requirement nearly equal to those of the other twenty-seven. According to the National Trust for Historic Preservation⁷, seventeen of these states also have a limited pool of funding available for historic tax credits.

An immediate concern thus presents itself. Changes to the <u>Standards</u> would directly affect how states conduct their business, and how they administer state funds, barring a change in state statute. If the changes to the <u>Standards</u> are meant to increase the number of successful projects (by, for example, allowing treatments that currently do not meet the <u>Standards</u> as written), it will correspondingly increase the number of successful state projects, and increase competition among state property owners for said credits.

Although we cannot speak for every legislature, we note that our own representatives and senators are well-read on the <u>Standards</u>. They are also, like politicians everywhere, keenly aware of the competition for limited dollars. They also face the usual political and social divide between urban and rural areas of the state. We note that some of the proposed changes to the Rehabilitation standards seem to be aimed squarely at the large developer market (indeed, large property developers have long advocated for such changes). We fear that the most immediate result in a change or 'loosening' of the <u>Standards</u> would be a dramatic increase in the number of large, expensive projects in our urban areas (particularly the Denver metro area) *without* a corresponding increase in the number of corresponding rural projects, which compounds the difficulty in securing statewide support for the funds needed to extend the program.

Moreover, we note that if the Colorado State Legislature shared ACHP's desires to amend, loosen, and/or expand the <u>Standards for Rehabilitation</u>, they would have written the statute differently. The Colorado State Register Act gives the State authority to create its own 'standards' for rehabilitation and preservation, but it chose not to do so, instead trusting the federal government to continue enforcing and promulgating the standards already in existence.

As such, we are concerned by two possible outcomes:

⁶ For example, Colorado Revised Statutes 39-22-514.5(2)(c) defines a "certified rehabilitation" as "repairs or alterations to a certified historic structure that have been certified by the historic society or other reviewing entity as meeting the standards for rehabilitation of the United States secretary of the interior."

⁷ State Historic Tax Credit Resource Guide, 2023

⁸ See Colorado Revised Statutes, 24-80.1-108(2).

- In one, the rural areas of the state find themselves crowded out of the pool of yearly funding for our tax credit program by large urban projects- projects that previously would have been denied state rehabilitation tax credits because they did not meet the SOI <u>Standards for Rehabilitation</u>. Colorado's commercial historic tax credit is first-come, first serve, with no mechanism to promote a rural project over a competing urban one. One wonders if legislators from rural areas will continue to support a program if their constituents rarely benefit from it.
- In the other, possibly related, we note the increased difficulty of promoting a program if all of the most recent rehabilitation projects are those that are now deemed to meet the <u>Standards</u> when previously they did not. We assume that at least some of our legislators, policymakers, and members of the public will take notice, and react negatively (it is also possible, although to a smaller extent, that they will react positively). A recent (2022) audit of our tax credit program expressed concerns that tax credits were potentially flowing to projects where the applicant "would have done it anyway," (e.g., they did not 'need' the credit), and weakening the Standards will only exacerbate this potential problem.

Potential Impact to Certified Local Governments

We note that NCSHPO has also flagged this as a significant issue, and it is quite a large one. Colorado has 335 government entities⁹ (towns, cities, counties, and city-counties); of these, 127 currently¹⁰ have a preservation ordinance in effect. Of these, 67 are Certified Local Governments¹¹ that have been certified by the National Park Service pursuant to the National Historic Preservation Act.

Certified Local Governments play a very important role in the preservation world. They encourage historic preservation on the local level, and encourage private property owners and their own county/city/town departments to be good stewards of historic properties. In Colorado, Certified Local Governments also review and approve applications for the state's residential historic tax credit program. Design review guidelines created and administered by these local governments helps to protect the character of communities and neighborhoods in circumstances where the federal and/or state government is powerless.

We note that "(i)n 1980, encouraged by the success of SHPOs throughout the nation, Congress created a federally-funded, state-administered grant program for local governments interested in historic preservation and willing to comply with federal and state preservation standards (emphasis ours)" Accordingly, National Park Service requires CLGs to base their design guidelines (which are used to review all projects covered under their ordinance, regardless of funding) on the SOI Standards. It is not uncommon for a CLG to create its own design guidelines rather than simply state that "rehab work must meet the Secretary of the Interior's Standards for Rehabilitation."

⁹ A list of "active Colorado municipalities" can be found at https://dola.colorado.gov/lgis/municipalities.jsf ¹⁰ History Colorado, "Certified Local Governments," https://www.historycolorado.org/certified-local-governments

¹² Certified Local Government Handbook, History Colorado, April 2016 (https://www.historycolorado.org/certified-local-governments)

¹³ Some states go a step further by also requiring under state regulations that CLGs be "the equivalent to" the SOI <u>Standards for Rehabilitation</u>. See Fla. Admin. Code R. 1A-38.007 as an example of this.

As with the tax credit program, amending or changing the <u>Standards</u> here places CLGs in a particular bind. While the State of Colorado may, for example, choose to create its own set of Rehabilitation standards and amend state statute to allow for it, CLGs cannot necessarily do the same with their own municipal codes, because the National Park Service requires that their design guidelines resemble the <u>Standards</u> as written. Accordingly, if the <u>Standards</u> abruptly change, so do the design review guidelines in 67 Colorado communities, and in many other across the country- with no input from those communities, and with no recourse should they disagree.

Potential Impact to Other Non-Federal Programs

The state of Colorado offers residents access to a statewide grant program known as the State Historical Fund. This is a competitive grant program that is funded by revenue from limited-stakes gambling. Applicants looking for funding to physically repair or restore their properties are required to "adhere to the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOI or Standards)" in addition to meeting other guidelines developed by the State. We note that the SHF guidelines here reference the umbrella "Treatment" standards, rather than the more specific "Rehabilitation" standard, because grants can be awarded for reconstructing lost historic properties and/or restoring (to the Restoration standard) house museums and the like. When applicants apply for a grant to do rehabilitation/restoration work, the SOI <u>Standards for Rehabilitation</u> apply.

Amending the Rehabilitation standard, or creating a new Standard under the Treatment umbrella, would directly impact how the Fund is administered. As with the state historic tax credit program, we are concerned that a significant overhaul of the existing standards could significantly alter how competitive projects are 'scored,' what treatments and techniques are allowed to be funded, and what projects will ultimately receive funding. Such changes will also affect existing grants. All successful applicants enter into a legal contract in which they promise to adhere to their SOI-compliant work plan. In some cases, they must also agree to have a protective covenant placed on the property. Such covenants also rely upon the Standards to ensure that any post-grant work does not inadvertently 'undo' or damage the state-funded rehab work.

Here again, the rhetorical questions that surround previously-signed Programmatic Agreements present themselves. If an applicant legally agrees that all work (whether grant-funded or not) will meet the <u>Standards</u>, upon risk of having to repay the grant moneys should they not- what are their responsibilities if those standards change? How might future covenants and contracts be handled?

¹⁴ History Colorado State Historical Fund Grant Program Guidebook, Summer 2023, p 5 (https://www.historycolorado.org/sites/default/files/media/document/2023/state_historical_fund_guidebook_summer_2023.pdf)

¹⁵ Ibid, 33



July 7, 2023

Ms. Sara Bronin, Chair Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Subject: Request for Comments

Secretary of the Interior Standards

The Connecticut State Historic Preservation Office (CTSHPO) wishes to respond to your request for comments regarding the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. As an agency that operates under state and federal environmental review regulations, administers financial incentives for historic capital projects, and provides technical assistance to constituents, our office has a unique position from which to view the application and interpretation of the *Standards*. CTSHPO routinely employs the *Standards* in their everyday work, while observing others in the preservation field utilize the *Standards* as part of their own preservation toolkits.

CT SHPO frequently encounters the promulgation of a false dichotomy between interest groups and the interest of preservation. Preservation is an equivalent public good to other important interests (e.g. equity, housing-supply, energy efficiency, renewable energy, or climate-change) and the principles of preservation often align with those many of the issues. Considering and incorporating these interests together results in a stronger project that provides more benefits for the public good.

The application of the *Standards* are the result of rigorous review and practical application over five decades and thousands of projects and they have evolved over time. It is precisely due to their flexibility that the *Standards* can be applied to a variety of resources in a consistent manner that is neither arbitrary nor the opinion of a single individual. The National Park Service (NPS) has a library of documents that are presented in an open and accessible manner that any member of the public can access. In this regard, the *Standards are* available and comprehensible to all. While additional education is always a benefit, NPS has done a great service by making much of that education already available and free. In addition, the Technical Preservation Services



Department of Economic and Community Development

State Historic Preservation Office

(TPS) department has produced an entire series on interpreting the *Standards*, based on common conditions and questions. A Preservation Brief about the use of substitute materials is due to be released in the coming months, addressing one of your questions. Building on these existing programs, especially those produced by TPS, will provide greater access to those in need of education. Having the ACHP lend its support to the NPS would be beneficial, as strong advocacy for cultural resources would help combat false narratives and support those who use the *Standards* in both the public and private spheres.

It is always prudent to review processes and guidelines to ensure that they remain not only applicable, but useful to those who employ them. The NPS completed a reevaluation of the Standards in 2006, affirming their use and appropriateness, and updated their guidelines in 2017, adding additional information on materials and topics. In between large revisions to the guidance document, NPS has provided specific guidance on pressing topics, including resiliency. This follows a pattern of NPS's dedication to ensuring the *Standards* remain not only applicable to federally assisted projects, but one that state and local preservation organizations continue to adopt both for their adaptability, and their reputation as the model for best preservation practices.

I hope these comments prove helpful. Please contact me at (860) 500-2380 or <u>jonathan.kinney@ct.gov</u> should you have any questions.

Sincerely,

Jonathan Kinney

State Historic Preservation Officer

Sonathan heaves

Comments on the Secretary of the Interior's Standards for the Treatment of Historic Buildings

The suggestion of a tiered system of Standards and or National Register eligibility to match the level of integrity of the National Register-listed properties is a favorable idea for a number of reasons.

In a tiered system, the Part 1 of the tax credit application could establish a kind of graded system similar to the one used in England. Acknowledging the varying degrees of integrity seen in potential projects makes the process more equitable since the Part 1 review and subsequent tax credit review would be different for the rehab of a gutted box vs.an intact school. Allowing for variable levels of integrity in a structured way will hopefully remove the idea that arbitrary decisions are made as a result of the flexibility found in the interpretation of the current standards.

The key issue is retaining the integrity or most important "character defining features" of the property. If the property still contributes to a district then it should pass the Part 1. If it would be considered to be eligible if reviewed under Section 106, then it should pass the Part 1. If the property will still contribute to a district after the rehab is complete, then again - there should be ways to allow the rehabilitation to succeed despite changes that push the boundaries of interpretation of the current standards.

Previous and often reversible changes to a historic building should not result in outright rejection of the property in the Part 1. In cases where modern windows, doors, or siding has been added, the developer should be given the opportunity to reverse these changes or replace inappropriate features with appropriate/approved ones as part of the project. This should be clarified in the federal standards.

One potential area of flexibility - Changes made to the rear/side of properties in historic districts should be treated more like Local Historic Properties and should not be judged as harshly as tse that are visible from the public right of way. This way a building that has been compromised on the non-principal elevations could still contribute to the streetscape and be put into service using the credits despite changes.

Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts? Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?

• Review of private development projects seeking federal or state historic preservation tax credits

Regarding review of private development projects seeking federal or state historic preservation tax credits. There should be a clear understanding of the project before the federal reviewer

makes a strong case against a SHPO decision. The state reviewers have a thorough understanding of projects in terms of their broad economic and neighborhood impacts. The SHPO program administrators have visited the site and understand the context of the development. We have recently dealt with a situation in which a Federal reviewer rejected a project that was approved at the state level. The developer was forced to redo the work to comply with the Federal reviewer's opinion. There should be a process in place to rectify or mitigate situations such as these instead of being punitive and making a developer remove the work. It is understood that this can be a slippery slope, but if a portion of the incentive could be withheld instead of the entire thing, it could make an already valuable program that much more workable.

The following comments are in relation to the equity issue regarding who can undertake such projects to begin with. The process and costs inherent in meeting the Standards for rehab can preclude entities in economically challenged, typically urban, neighborhoods from applying for historic tax credits. Already burdened by limited financial resources, historic building owners in those neighborhoods struggle to maintain them and over time face increasingly insurmountable costs to rehabbing them.

As important as tax incentive programs are, they assume that applicants have the ability to cover project costs up front. It is no coincidence that many rehab successes are those completed by developers with the resources to use the breadth of funding available (combining different tax credits, using the promise of tax credits to leverage project cash, layering with commercial loans). These projects can be in the very same communities where local entities struggle to maintain buildings, never mind rehab them. And the projects don't necessarily represent the interests of the community's residents.

In applying the Standards for Rehabilitation in these situations could a tiered system (already suggested above) that <u>both</u> acknowledges the loss of historic integrity as a result of decades of economic depression in a Part 1 review (for example, the fact that not all original windows remain) <u>and</u> allows flexibility in the review of work proposed in a Part 2 be implemented? Might the latter focus on the broader character defining features that make a building recognizable as a certain style or type while allowing creative and less costly solutions for features that are reversible?

For projects more generally, even recognizing that every project is different, if the goal of the preservation community is to encourage the reuse of the historic fabric in our cities and towns, can review of proposed projects against the Standards:

- a) offer more specific general guidelines to demystify the process -- for example codify and define the verbal general rule of thumb to retain two out of three interior surfaces
- b) identify those areas/features where the use of substitute materials is acceptable because of reversibility. A modern office building rehab project is now considered a major success but was stymied over several reversable treatments. A greater level of allowed and codified flexibility in these situations or perhaps conditional approvals on Part 3s would be helpful in avoiding delays and/or extra costs and stress.
- c) in urban communities having trouble attracting investment, which may not be a social equity issue, can allowances nonetheless be made on both the Part 1 and Part 2 review sides to allow the use of incentives. We recently assisted with an inquiry regarding the potential use of historic tax credits for several contiguous buildings prominently located in the center of an urban

community. Two of the buildings are contributing resources to the district, but one was remodeled after the 1983 listing and all that remains is the façade, and doubt was cast on its eligibility for tax credits. Two other buildings were considered non-contributing in 1983 as they had by then a new skin with some architectural interest, and the threshold for listing required a compelling urban renewal argument. The uncertainty led the developer to walk away, and the buildings are likely to flounder without access to historic incentives.

[Anonymized at the request of the commenter.]



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July 20, 2023

Druscilla J. Null
Office of Preservation Initiatives
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DE 20001
Sent Electronically to: dnull@achp.gov

Subject: Request for Comments on the Application and Interpretation of the Secretary of the

Interior's Standards for the Treatment of Historic Properties

Dear Ms. Null:

Thank you for providing the opportunity to reflect on the Secretary of the Interior's Standards for the Treatment of Historic Properties. DE SHPO acknowledges the importance of periodic review of critical guidance, responsible for shaping best practices within our field. In reflecting on the questions posed, our Office is not aware of any existing substantive or procedural issues in the application and interpretation of the Secretary's Standards and associated guidelines. In our experience, the Secretary's Standards provide clear guidelines for the treatment of historic properties. The Secretary's Standards are flexible enough to allow for creative rehabilitation solutions that account for cost concerns and energy efficiency, while remaining sympathetic to historic fabric. Existing training and guidance provided by the National Park Service (NPS) to both SHPO staff and the general public are incredibly helpful in interpreting the Standards. While our Office currently does not see a gap in existing guidance, we welcome any additional resources NPS may develop in the future.

The National Conference of State Historic Preservation Officers (NCSHPO) recently formed a focus group to examine the Secretary of the Interior's Standards. Our Office looks forward to future discussions emerging from NCSHPO's focus group. Should the NPS decide to revise or amend any of the existing Standards, our Office would look forward to addressing proposed revisions with the NPS directly.

Sincerely,

Suzanne Savery, Director and State Historic Preservation Officer

ec: Erik Hein, Executive Director, NCSHPO
Gwenyth A. Davis, Delaware Deputy SHPO
Sarah Carr, Cultural Preservation Specialist/Archaeologist, DE SHPO
Emily Whaley, Cultural Preservation Specialist/Architectural Historian, DE SHPO



Good afternoon,

Thank you for the opportunity to provide comments on the above-referenced item.

The attached Word document contains comments from staff members at the Georgia Historic Preservation Division (HPD)/GA SHPO.

If additional information is needed, please contact Stacy Rieke, Environmental Review Program Manager, at Stacy.Rieke@dca.ga.gov.

Thank you.

July 20, 2023

It is HPD's opinion that the current SOI *Standards* are broad and flexible enough to provide reasonable guidance in most situations. It may not be that the *Standards* need a substantive overhaul, but that practioners using the *Standards* would benefit from substantive guidance on their applicability as it relates to cost, equity, housing-supply, energy efficiency, renewable energy, and/or climate-change-related among other issues that arise in the project planning and/or regulatory review processes.

Therefore, the Georgia Historic Preservation Division (HPD)/GA SHPO provides the following comments (in **green font**) in response to the questions posed by the ACHP's related to the application and interpretation of the Secretary of the Interior's (SOI) *Standards for the Treatment of Historic Properties*, specifically the SOI *Standards for Rehabilitation*.

- 1. Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's *Standards* and associated guidelines in the following contexts?
 - Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns related to the application and interpretation of the Secretary's *Standards* and associated guidelines in the following contexts?
 - An area where further conversations, guidance, and training may be helpful is determining to
 what extent existing conditions should be accepted as a starting point for applying the
 Standards and where, within the Standards, are areas of consistent flexibility, project-based
 flexibility, or areas of consistent strict adherence.
 - There is general concern among some stakeholders, particularly in the areas of materials cost, longevity of the replacement materials, and energy efficiency, regarding how to meet the Standards and simultaneously address these issues. If case studies were available to explore how these concerns might be addressed, this area of confusion could be more fully clarified.

Review of "undertakings" (such as renovations of federal buildings) covered by Section 106 of the National Historic Preservation Act

Federal agencies whose projects are planned with input from SOI-qualified preservation
professionals and for agencies whose project materials are prepared for SHPO review by SOIqualified professionals, tend to meet SOI Standards more often and move through the S106
review process more efficiently and in a timelier manner than projects associated with

- agencies that do not require involvement of qualified preservation professionals in any phase of the process.
- Every SOW item that does not meet the SOI Standards could be determined to cause an adverse effect to historic properties. How can the Standards be applied so that an adverse effect determination appears less arbitrary or "out of touch" or "punitive" to stakeholders who are not HP professionals?

Review of activities involving or affecting tribal resources or traditional cultural properties

 There appears to be limited understanding of areas of tribal concern in Georgia by agencies, project proponents, and other stakeholders and even less understanding of what a traditional cultural property is (tribal related or not) and how to take a TCP into account when planning or carrying out a project. This may be an area for additional training.

Review of private development projects seeking federal or state historic preservation tax credits

• When there is additional federal involvement in an HTC project that does trigger a S106 review, the Standards appear to be more closely followed in order to receive/keep the credits.

Review of private development projects by local historic preservation boards or commissions

• In Georgia, there appears to be a great deal of inconsistency with local historic preservation commissions (HPC) apply the current Standards to projects under their purview to review.

Identification by any reviewing authority of substitute materials (i.e., specific materials that may be substituted for historic materials) deemed to be consistent with the Secretary's Standards

Regarding the Army Directive 2020-10 (Use of Imitative Substitute Building Materials in
Historic Housing) dated August 25, 2020, which is a 4 page document, and Implementing
Guidance for Army Directive 2020-10 (Use of Imitative Substitute Building Materials in Historic
Housing), which is a 3 page document. Clarification is needed regarding what an acceptable
substitute could be for various historic materials, in what circumstance a substitute material
will be considered (both interior and exterior, as applicable), and how financial feasibility will
be determined. The wholesale use of substitute materials for NRHP-listed or eligible
resources, may be problematic for historic integrity even with guidance provided in a NPS
Brief related to substitute materials. Additional training on what, if any, wholesale use of
substitute materials would meet the Standards and how the NPS Brief can be applied would
be very helpful.

How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns? Note the Advisory Council on Historic Preservation's pending *Policy Statement on Climate Change and Historic Preservation* and its 2007 *Policy Statement on Affordable Housing and Historic Preservation*.

- An exploration of how resources can be eligible for NR listing if they have been altered to respond to climate change (ex. elevating to buildings to avoid flood waters) would be a timely and helpful training opportunity.
- The removal of historic exterior character-defining features (i.e., windows and doors, etc.) to
 accomplish energy efficiency goals is a typical scope of work (SOW) item in housing
 rehabilitation projects sent to our office for review. This appears to be an area where
 additional training on the application of the Standards and updated guidance provided in NPS
 Briefs may be beneficial.

Given the somewhat transitory nature of SHPO staff, which can be due to a variety of issues, regular and consistent training opportunities would be greatly appreciated. Consistent training opportunities (annual or biennial basis) for new SHPO staff members that are agency specific to cover the use of existing policy statements, program comments, and/or nationwide programmatic agreements would be very helpful. Without first understanding agency standard-operating-procedures, it is difficult to discern the tools available to a reviewer and how the application of the SOI Standards fits within that framework for each agency.



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July 20, 2023

The Honorable Sara Bronin Chair, Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

RE: ACHP Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Via Email: <u>dnull@achp.gov</u>

Dear Chair Bronin:

Thank you for request public review and comment on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOI Standards). Historic Hawai'i Foundation appreciates the opportunity to share some of our experience working with the SOI Standards.

Interests of Historic Hawai'i Foundation

Historic Hawai'i Foundation (HHF) is a statewide nonprofit organization established in 1974 to encourage the preservation of sites, buildings, structures, objects and districts that are significant to the history of Hawai'i. HHF is frequently a consulting party to Federal Agencies and their state and local partners, pursuant to the implementing regulations of the National Historic Preservation Act (NHPA) at 36 Part 800.2(c)(5) as an organization with a demonstrated interest in the undertaking and a concern for the effects on historic properties.

HHF is registered as a Native Hawaiian Organization (NHO) with the U.S. Department of Interior's Office of Native Hawaiian Relations for our focus and support for the preservation of cultural resources and historic sites to which Native Hawaiians attach religious and cultural significance.

HHF uses the SOI Standards in evaluating and responding to federal undertakings subject to Section 106, and also refers to the Standards for review and comment on non-federal development proposals through state, local and private actions.

In addition, Historic Hawai'i Foundation makes charitable grants to owners and stewards of historic properties to support hands-on preservation of historic buildings and sites; compliance with SOI Standards

are a typical condition of releasing the funds. HHF's staff members who conduct technical reviews and comments include a historic architect who meets the SOI preservation professional qualifications and who is often responsible for applying the standards for rehabilitation projects.

ACHP Questions of Special Interest and Focus

- **A. Context:** ACHP is requesting comments on substantive or procedural issues related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts:
 - Review of "undertakings" (such as renovations of federal buildings) covered by Section 106 of the National Historic Preservation Act
 - Review of activities involving or affecting tribal resources or traditional cultural properties
 - Review of private development projects seeking federal or state historic preservation tax credits
 - Review of private development projects by local historic preservation boards or commissions
 - Identification by any reviewing authority of substitute materials (i.e., specific materials that may be substituted for historic materials) deemed to be consistent with the Secretary's Standards.
- **B. Focus:** While the Advisory Council on Historic Preservation will accept comments about all four treatments, the primary focus of this request for comments is understanding the application and interpretation of the Secretary's Standards for the Rehabilitation of Historic Properties. Comments will be accepted about any type of historic property (as defined in 36 C.F.R. 800.16(l)(1)), however, the primary focus of this request for comments is buildings.

Historic Hawai'i Foundation Comments

In evaluating the efficacy and success of applying the SOI Standards, HHF chose to group and identify our comments into three categories: a) issues with interpretation, b) procedural challenges in application, and c) strengths and successful features to retain and expand.

A. HHF Identified ISSUES with the Standards

- DEFINITION OF "IN-KIND": We have found a vast range of definitions as to the meaning of "in-kind"; the range of interpretations varies greatly. In application, we have found that some parties make pretextual claims in disputing the meaning when really they object to the cost or availability of replacements and prefer to use a substitute material or imitative design. Greater clarity both on what is meant by "in-kind" and when it is reasonable to allow for alternatives, and what those alternatives should strive to achieve, would be helpful.
- SUBSTITUTE MATERIALS: In some situations, historic or original materials are not available, not affordable, do not perform as well or lack skilled craftsman or experienced labor to install them. In the circumstances where a substitute material makes sense, the Standards should provide guidance on what kind of material should be used and how to decide. We would like to see discussion of appearance, durability, lifecycle environmental impacts, close match, etc. for comparison to

- performance characteristics comparable to the historic material. It would be helpful to establish a hierarchy of selection of substitute materials.
- NEW ADDITIONS TO HISTORIC BUILDINGS: The Standards attempt to give guidance for additions to historic buildings, but the interpretation of terms "subordinate", "harmonious", "compatible" and "differentiated" varies. We recommend clarity about these terms and also suggest that "subordinate" be elevated to inclusion in Standard No.9 rather than just in the Guidelines.
- INFILL IN HISTORIC DISTRICT: Similar to the issue of new additions to an existing building, there are often confusing interpretations about new construction in a historic context or district. We recommend stronger guidance for application of terms "subordinate", "harmonious" and "compatible".
- ADAPTIVE REUSE: the Standards can be used to support modifications to a building for a different use than the original purpose. This is overall a strength of the rehabilitation treatment type, in that finding a new use can help ensure relevancy, capital investment and timely maintenance. However, the term is fraught with inappropriate applications and can be misused. Greater guidance is needed to determine what kinds of reuse are appropriate and the degree of modification that can be tolerated to support the new use without unreasonably affecting character defining features. We see this issue especially related to new openings or infilling existing doors and windows, finishes, fenestration pattern, etc. For example, an office to residential modification may need to add windows or alter fenestration pattern to accommodate baths and service areas, which may have too great an effect on the historic design, materials or workmanship.
- FENESTRATION "PATTERN": This term has been subject to varying interpretations. Does it only mean the size and rhythm of windows or also mean type of windows? Details of scale, operation (awning vs casement vs double hung) divided lites and glazing are important components that should be included in standards for window repair and treatment.
- SITE AND SETTING: the Standards related to context need strengthening and clarity. While there are some catch-all statements about landscapes and surrounding areas, these standards are often afterthoughts or less robust than those that apply to the building itself.
- MULTIPLE PERIODS OF SIGNIFICANCE: Many historic properties reflect change over time, layers of history and use, and may not be limited to specific period. The Standards are somewhat biased in preferencing certain periods of history over others. This should be addressed and clearer guidance provided for places with several layers of significance or characteristics from multiple eras.
- TREATMENT TYPE: We support the general concept of different treatment types (Preserve, Restore, Rehabilitate, Reconstruct). However, some projects include aspects of more than one treatment. It would be useful to be able to combine or work with more than one set of standards for projects that have aspects of two or more. This is especially relevant for projects that may preserve as-is some features, while restoring and rehabilitating others.

B. HHF Identified CHALLENGES with Procedures/Training Needs

- REFERENCES AND GUIDANCE: Other references and back-up documentation (implementation guidance) are not always clear or available or easy to use, especially if agency-specific (Examples: HUD for affordable housing disregards significant interiors; Army Program Comment for Inter-War Era Housing direction to use substitute materials was not based on preservation impact but on cost and convenience; etc.)
- TERMINOLOGY: Different agencies and professional disciplines use the same terminology with different meanings. For example, "rehabilitation" in SOI Standards is very different from the definition used by bridge and structural engineers; "historic integrity" and "structural integrity" both use the term "integrity" but they do not mean the same thing. The military uses the term "rehabilitate by replacement" when they really mean "demolition and construct new." This vague and contradictory language has caused numerous misunderstanding and conflicts.
- LEAD PAINT and HAZARDOUS MATERIALS: Abatement procedures and solutions have been
 overly destructive and need to have better solutions, particularly based on current condition and
 proposed use. We have seen numerous cases where a proponent will not consider rehabilitation or
 reuse due to concerns about abatement costs or outcomes.
- ASHTO/Highway Safety Requirements: These transportation safety standards are based on engineered solutions for larger, heavier and faster vehicles. Transportation engineers rely on these standards and are reluctant to seek design exceptions or apply non-engineering solutions (like traffic calming, lower road speeds, lower weight limits), which often forces replacement of historic bridge railings, install incompatible guard rails and end monuments, widen rural roads or straighten scenic curves. We need better ways to repair existing and/or provide for compatible replacements in-kind for bridges, scenic roadways and their character-defining features.
- CLIMATE CHANGE ISSUE/SEA LEVEL RISE: As parties are grappling with extreme weather
 and chronic climate issues, many are considering adaptive strategies for infrastructure, buildings and
 landscapes. The success of these adaptation solutions varies greatly. In the Waikīkī area in Honolulu
 we have seen two City projects affecting historic properties (both from the 1920s) with very
 different results:
 - O The rehabilitation design for an historic outdoor salt-water pool on the coast proposes to raise the deck to accommodate higher water levels and tides and to withstand flooding. This project retains the overall appearance and is appropriate for updating and modernizing a historic structure without removing its key characteristics.
 - O A proposed new pedestrian and bicycle bridge over a historic canal has been over-engineered to accommodate a projected three-meter sea level rise, which also requires massive ramps for ADA and bicycle access to move from street level to the deck, increasing the mass and footprint. This results in massive new structure which overwhelms the setting and historic feature and is not appropriate in scale, massing, bulk or footprint. Alternatives to reduce the mass were rejected because the lower deck could occasionally flood during high tide rather than simply designing a less impactful bridge to withstand water overtop in the rare occasions that may occur.

- ENERGY CODE/SUSTAINABILITY MEASURES: These projects often focus on replacement rather than repair or non-destructive solutions. It would be helpful to have more explicit guidance on saving original fabric for historic windows, features and materials with appropriate means to conduct an energy retrofit.
- ANTI-TERRORISM FORCE PROTECTION (ATFP): Standards for security measures on Department of Defense Installations require hardening, standoff distance and occupancy limits, all of which discourage reuse and rehabilitation, predisposing decisions towards new construction and away from rehabilitation of historic buildings and structures.
- ADA/ACCESSIBILITY and EXITING: These requirements drive significant alteration of character-defining features, especially entrances. For example: historic French double doors would have to be converted to single wide door with side panel to meet exiting requirements but destroying a key historic feature.
- CODE COMPLIANCE/FIRE CODE: We have seen examples of a rehabilitation or restoration project that is focused on bringing one building system to code, only to learn that if they do any work at all the entire building would need to become completely code-compliant. This discourages incremental improvements as funds or expertise become available. For example: A historic church that was damaged in an earthquake planned for repairs and a seismic retrofit. Permitting agencies then decided that the project met the threshold to bring entire building to code, which triggered electrical and fire code requirements, which was prohibitive and destructive. It would be extremely helpful to have a universal or model Historic Building Code/Reuse of Existing Buildings with alternative safety solutions which respect historic features and achieve the same level of safety.
- DESIGN-BUILD PROCUREMENT PROCESS: this procurement method is a favorite with Department of Defense and other agencies, but it does not work well with preservation planning or design decisions. The timing is too late and leads to resistance to following SOI Standards.

C. HHF Identified STRENGTHS and SUCCESSFUL FEATURES to Keep or Expand

- FOUR DIFFERENT TREATMENT TYPES: HHF very much appreciates that the SOI Standards are designed for flexibility, based on best practices and principles and do not attempt to impose a singular solution. The four treatments types provide a useful concept for consider the use, condition and future for the property. The different treatment types accommodate a broader range of appropriate maintenance, repair and adaptive uses
- FOCUS ON IDENTIFYING CHARACTER-DEFINING FEATURES FIRST: The SOI Standards are ultimately based on identifying character-defining features through a systematic and disciplined methodology. This system can be applied to different resource types and is extremely useful. and then working with standards based on that identification. This procedural application needs expanded emphasis.
- HIERARCHY OF CHARACTER-DEFINING FEATURES: The Standards acknowledge a
 hierarchy of importance within a property to help guide compromises or areas with greater or lesser
 impact (for example, the overall form/mass/materials is more important than the mechanical

systems; the public spaces and primary elevations are more important than the utility closets or secondary spaces).

- HIERARCHY OF TREATMENT: We appreciate the SOI Standards emphasis on a hierarchy of
 intervention types, which we summarize as "do no harm." The prioritization of actions begin with
 preservation and maintenance, then repair, then replace in-kind, then replace with close
 substitutions. This ranking and order of intervention should be expanded and adapted throughout
 the Standards.
- DECISIONS BASED ON EVIDENCE: We appreciate the requirement that treatments be based on physical and documented evidence, not speculative conclusions. It would be helpful to expand the examples of types of evidence and documentation or how to translate it to a preservation solution.
- GUIDELINES AND TECHNICAL BRIEFS: the guidelines and technical briefs to supplement, expand and explain the standards are valuable and user-friendly. We appreciate the illustrated recommended/not recommended approach.
- RECENT GUIDELINES: We often refer to the recent and more specific Guidelines for Sustainability and for Flood Adaptation. The Guidelines for Cultural Landscapes are useful but dated and need to be updated. We commend the NPS technical services for moving forward with these types of current and urgent issues.

Historic Hawai'i Foundation acknowledges that there is room for improvement, growth, expansion and clarity in the application and interpretation of the SOI Standards. We appreciate the ACHP's leadership in fostering this conversation with the preservation community.

However, we also wish to register our overall satisfaction with the SOI Standards. While certain sections need to be updated or issues addressed, the Standards have served to protect and preserve countless historic properties over the years. They provide a useful conceptual framework and strike a balance between specificity and flexibility. We hope that as this conversation moves into action recommendations and improvements that we will not lose the progress and benefits that have also accrued from the Standards.

Thank you for the opportunity to comment.

Very truly yours,

Kiersten Faulkner, FAICP

Kiersten Jaulhner

Executive Director

[External] Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Heather Gibb < Heather.Gibb@IowaEDA.com>
Thu 7/20/2023 5:14 PM
To:Dru Null <dnull@achp.gov>
Cc:Erik M. Hein < hein@ncshpo.org>
Hello,

Please see the following comments. We would encourage further consultation and discussion regarding the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) with interested parties, such as our office, other State Historic Preservation Offices, Tribes/Nations, agencies, developers, local historic preservations, and other stakeholders.

Regarding Question 1 - Every effort should be made to involve tribal members or appropriate members of a traditional cultural property when evaluating whether work proposed/performed meets the Standards. Consultants, SHPO/NPS staff, etc. likely may not have an appropriate understanding of the resource(s) in a way that enables them to appropriately apply the Standards.

Regarding Question 2 - We recommend the development of guidance, training, etc., with real world examples which concretely show what can be done and the overall benefits to projects completed applying the Standards. Having more examples that cover a range of locations, resource type, etc., would be important.

Sincerely,

HEATHER GIBB | State Historic Preservation Officer

IOWA ECONOMIC DEVELOPMENT AUTHORITY
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NOTICE: Effective June 21, 2023, my address, email address, and phone number have changed. While my previous contact information will forward for a short period of time, please update your address book to include my new address, email address, and phone number to match the signature information above and begin using this new contact information effective immediately. Thank you!



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30 N. Michigan Ave. Suite 2020 Chicago, IL 60602 www.Landmarks.org July 20, 2023

Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

To the Advisory Council on Historic Preservation:

Landmarks Illinois appreciates the opportunity to respond to the Advisory Council for Historic Preservation's call for comments on the application and interpretation of the Secretary of the Interior's Standards for Historic Properties (Secretary's Standards). Through our work across Illinois, our staff has the opportunity to observe the current application of the Secretary's Standards in a variety of real-world scenarios, and we welcome this chance to share the perspective of our experience.

The Secretary's Standards are a framework to preserve history, design and craftwork. They are based on the presumption that materials encapsulate and express a place's historic value and significance. If enough material is altered, significance is viewed as compromised. This presumption overlooks that there are multiple ways to convey importance, and that the story and value of a place is not limited to its materials. It also leaves little room for flexibility or creative solutions. Many of the changes that enable historic buildings to respond to equity, housing-supply, energy-efficiency, renewable energy and climate change-related concerns are made in opposition to the Secretary's Standards, not because of, or in harmony with, them. When assessed as part of the Section 106 process under the National Historic Preservation Act, it is common for these changes to be labelled adverse effects and to be allowed to go forward only with accompanying mitigation. These processes set historic preservation up as an impediment rather than as part of the solution to many of the most pressing concerns currently facing people and the built environment. Preservation can be a solution only when we don't get in the way.

In its pending policy statement on climate change and historic preservation, the ACHP calls attention to the need to reuse older and historic buildings and to encourage the thoughtful retrofit of those buildings to be more energy efficient. But the ability of historic buildings to be part of climate change solutions is limited by the common interpretation of the Secretary's Standards that interventions that are visible to the public constitute an adverse effect. At the Dearborn Homes, a Chicago Housing Authority

(CHA) property in Chicago, the CHA installed rooftop solar panels on a one-story building. This action was taken without proper review, and the Illinois State Historic Preservation Office (ILSHPO) later gave the CHA the opportunity to remove the solar panels to avoid an adverse effect finding. When CHA declined, ILSHPO found that the solar panel installation did not meet the Secretary of the Interior's Standards for Rehabilitation, and would require mitigation. The mitigation requested—a historic inventory process for Dearborn Homes and other CHA properties—will be beneficial, but casting solar panel installation as an adverse effect and requiring mitigation discourages the implementation of renewable energy solutions.

The Secretary's Standards similarly discourage equity in the form of accessibility by deterring interventions that make historic places ADA-compliant. As part of plans to rehabilitate the Van Buren Metra station in downtown Chicago, alterations are proposed to the adjacent Van Buren Street Pedestrian Bridge to add an ADA accessibility ramp at the west end. During Section 106 consultation, which is still ongoing, the ramp has been framed as an adverse impact to the historic bridge, and potentially grounds to consider it no longer a contributing resource to the Grant Park National Register Historic District. This raises the question: If preservation is a public benefit, how can it be an adverse effect to make access to a historic resource more broadly available to the public? As with renewable energy solutions, framing accessibility as an adverse effect discourages its implementation.

Affordable housing conversions for historic buildings are hindered by the higher costs associated with adhering to the Secretary's Standards. Affordable housing developers pair the federal Low-Income Housing Tax Credit (LIHTC) with the Federal Historic Rehabilitation Tax Credit to finance projects, but meeting the standards is reported to increase the per-unit cost. The Illinois Housing and Development Authority (IHDA) administers the LIHTC program in Illinois. Several years ago, IHDA removed the extra point that projects received for reusing a historic building. In our discussions with the agency, it cited the high cost of certified historic rehabilitation projects versus new construction. The IHDA board sees new construction, not historic building rehabilitation, as the best way to build more housing units. By leaving little room for flexibility in the interpretation of the Secretary's Standards, historic rehabilitation projects are no longer seen as a solution for affordable housing.

The aim of our comments is not to cast blame on the preservation practitioners who interpret the Secretary's Standards in the ways described in this letter and who are following accepted approaches. Rather, it is to call for a reconsideration. The Secretary's Standards were published in 1979, and despite their utility to guide our thinking, a strategic conversation about their contents and applicability is warranted. Has the need for, and purpose of, the standards changed? What would we design today that is a more a relevant, responsive and flexible tool? Who would be involved in the process? How could the standards support preservation that is more equitable, more responsive to climate change and energy needs and friendlier to housing reuse? In considering its position toward interpretation of the Secretary's Standards and the opportunity for new educational

approaches, we ask the ACHP to engage in a strategic review of the Secretary's Standards and discourage a blanket interpretation that is applicable to all buildings and undertakings. Landmarks Illinois believes that more flexibility and case-by-case consideration can better position preservation to address the most pressing needs of our society, and allow it to serve more people.

Sincerely,

Bonnie McDonald

Bonnie McDonald

President & CEO



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July 20, 2023

Druscilla J. Null
Director
Office of Preservation Initiatives
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

RE: Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Dear Druscilla,

Maine Preservation is a statewide nonprofit organization dedicated to promoting and preserving historic places, buildings, downtowns, and neighborhoods--strengthening the cultural and economic vitality of Maine communities. We regularly encounter the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards), most notably the Standards for the Rehabilitation of Historic Properties, whether in discussion with historic tax credit consultants, real estate developers, and our SHPO, or providing technical assistance to municipal building and planning staff, elected officials, nonprofit organizations stewarding historic buildings, and private property owners.

While we recognize the important role the Standards have played in shaping historic preservation nationally, the current application and interpretation of the Standards has also restrained, or even prevented, significant rehabilitation projects and limited the use of preservation tools to meet the challenges of our moment--namely a nationwide housing crisis and the existential threat of climate change. We have primarily experienced these challenges in the context of private development projects seeking federal and state Historic Rehabilitation Tax Credits, private development projects under review by local historic preservation boards, and review of capital projects that have received state and federal grant funds. Many of these instances involve the voluntary use of financial incentives that then trigger application of the Standards. In our experience those incentives are the only way to feasibly save and reuse significant historic structures. Our specific comments and suggestions for improvement to the Standards follow:

1. Maine's coastal and inland communities, and accompanying historic resources, are vulnerable to the existential threat of climate change. If we are to continue to forward our mission, we must act to address the root causes of climate change and to adapt our historic buildings, sites, and communities in the face of rising seas, intensified

weather events, and temperature extremes. The Standards must meet this need by rethinking the narrow guidelines concerning if and how a building can be raised or relocated. Existing Standards #2 and #9 in the Standards for Rehabilitation prevent changes to the location (spatial relationships) and new additions or exterior alterations that change or destroy significant characteristics of the building. There are and will be instances where incremental changes, such as raising a building a few feet, will not be enough to protect it from encroaching sea level rise. Allowances in current and future rehabilitation projects should permit these adaptations needed now. In Portland, Maine, we already experience sunny day floods on Commercial Street, which anchors the city's Waterfront Historic District. With upwards of 17 inches of sea level rise projected in the Gulf of Maine by 2030, buildings will need to be adapted, and infrastructure and streetscapes changed to mitigate damage.

Additionally, application of regulations and guidelines must advance to integrate modern technologies that shrink the carbon footprint of historic buildings and permit the generation of renewable energy on site. Minor and reversible alterations to historic buildings (already permitted via Standard #10), whether they are out of public view or not, should be permitted to enhance our ability to address the climate crisis. Solar panels have long been integrated into Historic Rehabilitation Tax Credit projects, but only if the solar arrays are located on flat roofs and shielded by parapet walls or on secondary elevations. Solar panels are removable and increasingly affordable, and thus should be permitted on more areas of historic buildings if historic fabric is not being destroyed. The same can be said for the installation of newer, more efficient HVAC systems, which require small punch holes in walls and an increased presence on the exteriors of buildings.

2. The rehabilitation and adaptive reuse of historic churches, synagogues, and other houses of worship can be difficult due to the limitations set by the Standards, which require minimal change and removal of distinctive materials, features, and spaces. The primary challenge is the large, singular assembly space comprising a majority of the building's footprint that cannot be substantially divided without impacting the architectural integrity of the building. As faith communities shrink and abandon their houses of worship, these landmarks present a prime opportunity for conversion to much-needed housing if the full footprint of the building could be utilized.

For example, the former St. Louis Church in Auburn, Maine, which was included on our 2022 Most Endangered Historic Places List, has been vacant for over a decade. While local developers have successfully rehabilitated buildings using federal and state Historic Rehabilitation Tax Credits, they were unable to find an economically feasible pathway for reusing the National Register-eligible St. Louis Church without repurposing the sanctuary space in a way that would be permissible using the current interpretation of the Standards. The alternative is that these buildings continue to lay fallow and are eventually lost.

4. Historic preservation standards and their application have long been in conflict with building codes that address essential life safety and accessibility needs, which all

too often dramatically reduces or prevents a successful preservation project. That is not to say building codes are perfect and do not need evaluation and reform, too. Rather the rehabilitation and safe reuse of significant buildings by people of all abilities should take precedent over a narrow application of how spaces, such as stairwells, should be treated or how accessible entrances should have a minimal impact on architectural integrity, and thus be relegated away from the front door. In our experience, the fallout from this conflict is most felt by nonprofit organizations who steward historic buildings and individual property owners looking to improve their building or enhance their place of business.

For example, the recent and successful rehabilitation of the c. 1870 Lemont Block in Brunswick, Maine, was delayed for almost a decade in attempts to bring the existing stairs to code while also satisfying the Standards. The upper three floors of the building – used as a Knights of Pythias Hall until 2005 – laid vacant amidst a bustling downtown. As new uses were proposed, access and use of Historic Rehabilitation Tax Credits was critical to the project's feasibility, however conflicts between National Fire Protection Association codes and the Standards stymied momentum. The conflict revolved around the inability to alter the original staircase and its noncompliance with modern life safety codes. The conflict was ultimately resolved, and the project completed, but only through countless hours of negotiation and after several developers had already walked away from the project.

5. The repair and retention of significant, historic fabric is a central tenet of preservation, but too often we have observed inconsistent application of the Standards across projects of varying sizes. Oftentimes, denials to the proposed use of substitute and/or replacement materials and methodologies jeopardize the viability of a project. The most common inconsistencies revolve around Standard #6 in the Standards for Rehabilitation and the retention of existing windows of a similar condition. Often, larger redevelopment projects using federal and state Historic Rehabilitation Tax Credits, such as the adaptive reuse of mills, warehouses, and schools, are given the latitude to use modern replacement windows while physically and financially smaller projects are held to a higher standard for retention and repair of existing windows. A more consistent approach to this standard would be helpful in pre-development work for both the project applicant and reviewer. As buildings are adaptively reused, replacement and/or substitute materials may also be better suited for the conditions of the new use, such as housing.

We thank you for the opportunity to comment and are welcome to provide further specifics on our comments if requested.

Sincerely,

Tara Kelly, Executive Director

Java killy



July 20, 2023

Druscilla Null
Office of Preservation Initiatives
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Re: Public Comment on Secretary of the Interior's Standards for the Treatment of Historic Properties

Greetings,

This is a response to the Advisory Council on Historic Preservation's recent call for comments on the Secretary of the Interior's Treatment of Historic Properties and, in particular, the Standards and Guidelines for Rehabilitation. The staff of the Minnesota Department of Transportation Cultural Resources Unit (MnDOT CRU) reviewed the call for comments and are providing the following comments.

Question #1: Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in [certain] contexts? Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?

MnDOT CRU staff commonly apply the Secretary of the Interior's Standards and Guidelines in three of the contexts referenced in the question. Their review of transportation undertakings under Section 106 often includes the review of activities involving or affecting tribal resources or traditional cultural properties and, in some cases, requires review of substitute materials.

Staff commonly find that the while the Standards and Guidelines are adequately written for use with the physical rehabilitation of buildings, MnDOT CRU more often must apply them to physical alteration of structures (e.g., bridges), sites (archaeological and non-archaeological), and historic districts (both spatial districts, such as rural landscapes, farmsteads, and urban settings, and linear districts, such as roadways and railroad corridors). In the case of bridges, staff have utilized Standard language adapted by Virginia for bridge rehabilitation projects (attached). In the cases of buildings, there are many character-defining features to consider — cladding, windows, roof, porches, applied ornamentation, spatial layout, etc. — which allow small changes without overall diminishment of integrity. Conversely, bridges often only have one or two character-defining features — masonry cladding, concrete with applied ornament, the organization of a truss — which doesn't allow for great flexibility when considering changes to integrity according to the standards. Additionally, a bridge's continued use is driven by loading, the structure's capacity to safely carry vehicular or pedestrian traffic. It could be helpful for the Standards to address addition of reinforcement to keep bridges in transportation use (e.g., reinforcement of truss superstructure with additional members or substructure elements).

Staff also attempt to apply the Standards and Guidelines to activities occurring within the setting of historic properties (i.e., construction adjacent to or near the property, but with no physical effect to the resource). Even when considered in conjunction with *The Secretary of the Interior's Guidelines for the Treatment of Cultural Landscapes* and various preservation briefs, the guidelines inadequately provide guidance in either of these areas. For example, if a roadway is being expanded from two to four lanes adjacent to an archaeological site or a historic farmstead, do the Standards and Guidelines apply or should staff simply assess whether there is a change in the character of a property's use or physical features within the setting [800.5(a)(iv)]?

The language of the Standards and Guidelines are also a point of confusion within the transportation context. "Preservation," "restoration," and "reconstruction" have specific definitions that somewhat differ from an engineer's perspective and from the perspective of many transportation programs. "Preservation" to Minnesota bridge engineers includes activities that slow or stop deterioration or elements and prolong service life. Examples noted in engineering manuals include deck replacement, barrier replacement, and repairs. Replacement of features is not included in the Standards and Guidelines for preservation. Similarly, "rehabilitation" to Minnesota bridge engineers relates to improving condition, geometrics, and load capacity. Examples of rehabilitation in manuals include deck replacement, widening, superstructure replacement, or bridge raising. Depending on the significance of the bridge and the precise scope of work, these activities may not meet the Standards and Guidelines for rehabilitation. (See additional information on the terms in the "Bridge Preservation and Improvement Guidelines under "Additional Resources" at

http://www.dot.state.mn.us/bridge/scoping.html.) MnDOT Cultural Resource staff call out differing definitions during Historic Bridge Training and in any historic bridge rehabilitation project to reduce confusion and increase understanding between historians and engineers. A national recognition of the role these definitions play for differing parties would help further relationships and preservation goals.

Further, while the guidelines and regulations commonly emphasize the importance of maintaining "character-defining features," there is little guidance on how character-defining features differ from fabric that happens to date to the property's period of significance. For example, the pavement on a historic roadway may date to its period of significance, but pavement has traditionally been a sacrificial layer intended to be replaced and improved over time. If the significance of the roadway is not tied to the characteristics of that pavement, is it critical that it be retained as part of meeting the Standards and Guidelines? Another example might be a bridge carrying a historic roadway significant for the connection the roadway made between rural communities. If the bridge dates to the period of significance of the roadway, would replacement of bridge piers that are not visible from the roadway meet the Standards and Guidelines?

Question #2 How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns?

MnDOT CRU staff continue to believe that guidance and training on the Standards and Guidelines—both for preservation professionals and for the engineers, planners, architects, and environmental scientists we work with—is beneficial. Recent guidance for flood adaptation of historic buildings is helpful in the context of historic buildings, but not in the context of transportation resources (e.g., bridges, historic roadways, and railroad corridors). Guidance related to how the Standards can be applied to transportation resources would be welcome.

We appreciate the Advisory Council's effort to begin conversations about the Standards and Guidelines and look forward to seeing the input and eventual results.

Sincerely,

Katherine Haun Schuring

Cultural Resource Unit Supervisor

Minnesota Department of Transportation 395 John Ireland Boulevard, Mail Stop 620 St. Paul, Minnesota 55155-1899

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Katherine.haun-schuring@state.mn.us

CC: Marni Karnowski, MnDOT Office of Environmental Stewardship

Nicole Bartelt, MnDOT Bridge Office

Equal Opportunity Employer

The Secretary's Standards with Regard to Repair, Rehabilitation, and Replacement Situations

Adapted from:

Clark, Kenneth M., Grimes, Mathew C., and Ann B. Miller, *Final Report, A Management Plan for Historic Bridges in Virginia*, Virginia Transportation Research Council, 2001.

The Secretary of the Interior's Standards for the Treatment of Historic Properties, first codified in 1979 and revised in 1992, have been interpreted and applied largely to buildings rather than engineering structures. In this document, the differences between buildings and structures are recognized and the language of the Standards has been adapted to the special requirements of historic bridges.

- Every reasonable effort shall be made to continue an historic bridge in useful transportation service.
 Primary consideration shall be given to rehabilitation of the bridge on site. Only when this option has been fully exhausted shall other alternatives be explored.
- The original character-defining qualities or elements of a bridge, its site, and its environment should be respected. The removal, concealment, or alteration of any historic material or distinctive engineering or architectural feature should be avoided.
- All bridges shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create a false historical appearance shall not be undertaken.
- Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- Distinctive engineering and stylistic features, finishes, and construction techniques or examples of craftsmanship that characterize an historic property shall be preserved.
- 6. Deteriorated structural members and architectural features shall be retained and repaired, rather than replaced. Where the severity of deterioration requires replacement of a distinctive element, the new element should match the old in design, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- Chemical and physical treatments that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the most environmentally sensitive means possible.
- Significant archaeological and cultural resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- 9. New additions, exterior alterations, structural reinforcements, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- 10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.



North Carolina Department of Natural and Cultural Resources North Carolina State Historic Preservation Office

Division of Historical Resources

Ramona M. Bartos, Administrator and Division Director

Governor Roy Cooper Secretary D. Reid Wilson Office of Archives and History Deputy Secretary Darin J. Waters, Ph.D.

July 20, 2023

Dru Null Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Via email: dnull@achp.gov

RE: ACHP's call for comments on the Application and Interpretation of the Secretary of the Interior's

Standards for the Treatment of Historic Properties.

Dear Ms. Null:

Please kindly accept the comments of the staff of the North Carolina State Historic Preservation Office regarding the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties, specifically the Rehabilitation Standards (*Standards*).

Our office's subject matter experts on the *Standards* – charged with aiding public and private constituents alike with accessing the historic tax credit program, providing informed, expert advice to all manner of private and public property stewards for the maintenance of historic properties, providing training for local historic preservation commissions on the Standards, and vetting bricks and mortar projects receiving state and federal funding (including grant funding) – claim at the minimum 15 years, and up to 45 years of individual professional experience in historic preservation. They have helped innumerable North Carolinians in achieving their goals to preserve and reuse historic buildings statewide, while doing so, worked to sustain our shared history and community identity through care for the historic character of the buildings in which that history has taken place and identity has been shaped.

As preservationist professionals, we are as concerned with the future as we are the past and present. The *Standards* are one mechanism to help us retain some vestige of our shared past as we work in the present to advance the future. **Preservationists are futurists bar none,** and we welcome the opportunity to hone and indeed, to rally, the *Standards* to respond to the needs of our communities' historic places as we face new challenges and opportunities, recognizing that the ongoing national opportunities that historic preservation offer are likewise just as relevant and important.

The following comments provide a broad snapshot of our experience and observations from North Carolina as well as some recommendations for further collaborative inquiry within the preservation community.

Overarching observations. The Secretary of the Interior's Standards for Rehabilitation have been in use for nearly five decades, originating in the essential need to vet the multitude of "projects in aid" for historic buildings funded after passage of the National Historic Preservation Act and to do so with a consistent approach grounded in a sound but practical philosophy. The genius of the Standards largely lies in both their elasticity and brevity, focused on fundamentals: to identify, retain, and preserve, protect and maintain, and repair with replacement in limited circumstances. The Standards are respectful of the historic built environment, and by extension, respectful to the craftspeople, designers, inhabitants, and communities created the building and in turn shaped and its historic character and significance. The Standards overall are to our mind extraordinarily humanistic.

Shortly thereafter, the *Standards* were adopted for historic tax credit projects, which function in some ways like the *Standards*' progenitor grants as a proverbial carrot for property owners to access government assistance. The *Standards* have in turn been adopted by the Advisory Council on Historic Preservation – we believe formally in the late 1990s – to offer a "preservation positive" outcome for Section 106 matters, and in doing so, avoid adverse effects.

The reality of the Secretary of the Interior's Standards for Rehabilitation is their practical role in assessing the impact rehabilitation has on a historic resource when the property owner or other entity is receiving a federal benefit. A wide range of possible entities receive those benefits, including developers or owners realizing historic preservation tax credits, non-profit groups being awarded federal grants by the NPS, cities or towns using federal funds to preserve historic neighborhoods or individual homes for housing, or to develop low-income housing in vacant mills, schools, or other vacant large historic buildings, and infrastructure improvements. Although the Standards have been adapted and used by many organizations and state and local governments, the Standards in and of themselves do not require compliance or mandatory review for rehabilitation work by private property owners, towns and cities, or private developers unless they are receiving such benefits.

Our general position is that the *Standards* are of great utility and have encouragingly stood the test of time, and have proven invaluable for retaining and preserving a wide variety of historical places while providing a solid foundation for evolving interpretations. Their inherent flexibility, that is, their uncanny ability to apply to most any building rehabilitation scenario under the sun, makes them particularly well-suited to contexts in which the issues the ACHP raises – cost, equity, environmental performance, etc. – are of foremost importance.

Historic Tax Credit program usage. In our office's decades of using the *Standards* for reviewing Historic Preservation Rehabilitation Federal Tax credits, we have had over 1500 successful projects, representing in the aggregate more than \$3 billion in private investment. These projects are now among North Carolina's most popular and most iconic modern centers of commerce, education, entertainment, and residential life. In Winston-Salem, North Carolina, for example, former cigarette factory buildings now host internationally renowned biological research laboratories, seeking cures to cancer¹; the positive, transformative nature of the *Standards* cannot be underestimated.

As public servants in a State Historic Preservation Office, we have embraced our role as the liaison between the public and the National Park Service (NPS) for the historic tax credit program, and have found the NPS staff to be an excellent partner in these fruitful endeavors. It is important to bear in mind that as stated by NPS, the term "rehabilitation" assumes repair and alteration to provide for an efficient contemporary use while retaining those materials, features, or finishes important to the historic and architectural character of the building. **We**

2

¹ Atrium Health Wake Forest Baptist, "WFIRM researchers create specific cancer organoid system to study bacterial effects on immunotherapy." July 29, 2022. https://www.eurekalert.org/news-releases/960350. More information here about Winston-Salem's Innovation Quarter, largely the former R.J. Reynolds Tobacco factory campus.

note that 36 CFR 67.7(b) provides further guidance that escape the notice of many: "The...Standards are to be applied in a reasonable manner, taking into consideration economic and technical feasibility." (emphasis added)

To that end, we have found that when the applicant, our office, and NPS work together collaboratively in the historic tax credit context, it is indeed a <u>rare</u> instance when a solution to an issue <u>cannot</u> be resolved to meet the *Standards*, thereby resulting in a positive and economically successful project.

Additionally, we have observed that the *Standards* also pay dividends through **environmental sustainability and enhanced resiliency.** Reid Thomas, a veteran of our Restoration Services Branch with over 30 years of preservation experience including internationally as a Quinque International Fellow in Scotland, shares the following anecdotes from his service territory of northeastern North Carolina:

Utilizing the Secretary of the Interior's Standards for Rehabilitation and associated guidelines offers what we refer to as common sense" approach for the rehabilitation of historic buildings. Putting aside preservation of historic fabric, for a moment, there is a practical and sustainable side to the Standards and guidelines that is often overlooked.

Over the past three decades I have seen numerous examples of property owners having to make substantial repairs to or totally replace woodwork, windows, and other fabric they had installed - in some cases just a few years earlier. I have seen replacement porch elements, windows, and even storefronts on historic commercial buildings in need of major repair or replacement constructed out of new wood and composite elements.

Exterior elements such as wood windows, trim, and siding, on older and historic buildings have a proven track record, in most cases, for long life and durability. Lumber, for example, used in the construction of older and historic buildings typically contains more decay-resistant old growth heartwood than what is readily available today. Builders often selected tighter-grain and resin-rich wood for siding, trim, porch elements, windows, and doors. Lesser quality lumber, i.e., sapwood, was reserved for use in drier locations less prone to decay, such as for attic and wall framing. Naturally decay-resistant heart wood is harder to find today and where available is often quite expensive. In the long run, it is generally more cost-effective to repair older decay resistant woodwork if it is in repairable condition vs. wholesale replacement - and retention of repairable historic fabric follows the principals of the Standards.

Decay-resistant wood is also more resilient to flood damage - as is other historic materials such as lime-based mortars and plaster. Tighter-grain wood species is less absorbent that sapwood that tends to warp and expand when exposed to high moisture content. Several historic properties on Ocracoke Island, North Carolina, such as the Will Willis Store and Fish House, Tillman O'Neil House, and Bragg-Fulcher House have withstood numerous, devastating flooding events yet retain most of their original flooring.

We also wish to speak to how the *Standards* help **promote environmental performance for historic buildings**. Every instance in which a previously unconditioned building – or poorly conditioned building (think: systems dating to 1990 or before) – receives new mechanical equipment, sealed ductwork, and new insulation. The *Standards* don't inhibit such alterations; they merely steer building owners to execute such alterations in a way that will not obscure or otherwise camouflage a historic building's visual historic character. For example, industrial-looking, spiral ductwork with an unpainted mill finish is suitable for industrial buildings. Insulation is replaced or installed anew in out-of-sight attics, or above the roof decking, bringing the building interior inside the thermal envelope of the building. And new mechanical equipment, provided it is out-of-sight in primary interior spaces where such an intervention would compete with the building's historic character, can take any form, from the highest-efficiency boiler available, to the latest variable-capacity heat pumps, to ductless mini-split systems with their innocuous little wall-mounted air handlers up on the walls of old bedrooms. Moreover, traditional heating and

cooling technologies derived from historic buildings are increasingly viewed as sources for more sustainable solutions for energy efficiency.²

Section 106 usage. Aside from consultations with the National Park Service for bricks and mortar projects on its assets, our office has largely used the Standards in the Section 106 context for Community Block Development Grant (CDBG) projects (among others). Again, as with our discussion of historic tax credit projects, we are referring to the Rehabilitation Standards.

As part of the implementation of Section 106 of the National Historic Preservation Act, our office has used the Advisory Council's 2006 Policy Statement on Affordable Housing and Historic Preservation, when dealing with such cases/projects. It appears to have and continues to work well in North Carolina. Per that *Policy Statement*, we recommend the use of the Standards "when possible and practicable" and have had little objection from the local governments and communities to our recommendations. We adhere to addressing the exterior of buildings to the extent of "what takes place on the interior affects the building's outward appearance."

To the greatest extent possible, we have worked with local communities to address the presence of lead-based paint and asbestos in all Section 106 projects, not just affordable housing. This approach translates into agreeing to the abatement of the affected materials as safe and "practicable" and to replacement materials that may not meet the Standards but come as close as possible to matching what remains of original materials such as windows and doors.

The hardest decisions in applying the Standards are in historic districts listed in or eligible for listing in the National Register of Historic Places (NRHP) as that requires an understanding of the "characteristics" that make the district eligible for listing. While many districts are eligible under Criterion A for "Community Development," most also are listed for Criterion C for "Architecture" which may not be as well described or accounted for in the nomination and may make the application of the Standards less clear and frankly, more subjective.

The use of Programmatic Agreements with local governments offers a means to address some of these ambiguities and allows local preservation planners, their housing providers, and the SHPO the means to develop local guidelines for acceptable rehabilitation methods. While in-kind replacement/materials are desirable and have generally proven to have longer lives and reduce long-term costs, it is incumbent to understand that the replacement of original and/or later replacement materials may yet do the job and maintain the specific characteristics of a historic district. More important than the treatment of windows and doors is determining the overall characteristics of a building and the character of the historic district when reviewing the in-fill of a building's open spaces such as a porch or the placement, size, and design of an addition. For this, the Standards seem to provide good guidance as they are.

Likewise, the *Standards* in a dual historic tax credit/Section 106 context can often yield **valuable cost-savings**, especially when the need is related to equity concerns and the availability of affordable housing. Restoration Specialist Brett Sturm shared the following anecdote from his Piedmont service territory in central North Carolina:

² Feargus O'Sullivan, "Sustainable Design of the Future is Hiding in the Past: Europe's pre-industrial history provides green building and energy efficiency ideas for the future." June 15, 2023. https://www.bloomberg.com/news/features/2023-06-15/venicebiennale-2023-slovenia-exhibit-finds-sustainable-housing-in-past-

An affordable housing project currently in the pipeline for tax credits, and already under review via Section 106 is City Memorial Hospital, located in Thomasville. Badly burned in the early 2010s, this building was slated for complete interior demolition—i.e., the removal of all interior partition walls—when it first hit our desks. We told the owner, an affordable housing developer, that this proposal was a non-starter per the Standards—that at least the primary spaces would have to be preserved via a substantially intact floorplan, in the name of preserving the building's historic character, or "legibility", as a former hospital. We pointed out that the building was inherently fireproof—a cast-in-place concrete frame with hollow clay tile partition walls—and that smoke-damaged plaster could be removed and replaced with drywall while leaving the lion's share of partitions, which are still viable, in place. Our applicant readily agreed to follow this path not only because his CDBG funding and tax credits depended on it but also because it would fundamentally and vastly reduce the scope and cost of his interior demolition work. As a result, the project is more likely to succeed, more likely to provide affordable housing to Thomasvilleans, and more likely to put an important community landmark back into productive use for the next thirty-plus years.

Local Government usage. The underpinning for most Certificate of Appropriateness decisions by local preservation commissions in our state is the *Standards*, although our state's enabling legislation does not call the *Standards* out by name. The focus of our state's law is to ensure that the commission adopts "principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition" (NC GS Section 160D-947(c)). Most commissions do adopt tailored-to-the-community design standards for use in their quasi-judicial vetting of Certificate of Appropriateness proposals, and these standards are often illustrated with a "do and don't" rubric, similar to NPS guidelines; many of these standards are developed with community input and outreach, and designed to be as "user friendly" as possible.

It is notable that some metropolitan commissions in communities with strong development pressure do allow for synthetic, replacement windows versus replacement in-kind; North Carolina is a "demolition delay" versus "demolition denial" state, and that reality seems to be reflected in a more relaxed approach to some materials' issues at the local commission level.

Our office has a strong training program for our local preservation commissions and their planners, punctuated by multiple regional and community-level trainings annually along with an annual planner workshop. Training on the *Standards* is a core training topic and is presented by members of our Restoration Services Branch.

The National Alliance of Preservation Commissions likewise does important work nationally at the community level to foster *Standards* education for preservation commissioners, constituents, and planners through its Commission Assistance and Mentoring Program (CAMP).

Criticisms, challenges, and opportunities.

Too strict or inflexible? As with any program that requires a certification to access benefits, whether financial or regulatory, standards are a practical necessary. An overarching concern heard from some is that the *Standards* are too strict or inflexible. We believe that this question rests more squarely on applicant expectations as to what the *Standards* do and don't require, or said another way, what is possible. Another element may be the relative fluency of an applicant with the *Standards* versus someone who is undertaking a *Standards* project for the first time (like a homeowner) or with a support team that shifts personnel frequently.

With new building technologies and materials constantly emerging, the answer to this question may need further study and guidance. We applaud the National Park Service's efforts to update its Bulletins and to issue additional guidance, such as the *Flood* standards in recent years. Additionally, **we welcome additional**

training and guidance to foster consistent application of the *Standards*; we understand that NPS will be issuing updated guidance on interpretation of the *Standards and* the use of substitute materials (including a revised Preservation Brief 16), a new Brief on historic buildings and building codes, more case study examples, and new administrative guidance on project phasing, "white-box" treatments, and similar topics, such as a revised Brief on HVAC systems, and a new Brief on wildfires and historic buildings.

Specific tailored training for certain non-preservation-centric disciplines, such as architects, building inspectors, and building contractors, is of particular interest for further inquiry in terms of expanding the core base of *Standards* practitioners. **Case studies**, we believe, can be particularly helpful, although each building and project can present its own unique circumstances in terms of *Standards* interpretation.

Likewise, we also observe that the ability of the practitioner of the *Standards*, particularly SHPOs and local governments, to work with the applicant <u>early and often</u> to shepherd them through the process – often more complex on the applicants' end because of a multi-discipline team comprised of investors, financers, architects, contractors, consultants, and owners – can pay huge dividends in helping the applicant "get to yes" for Section 106, local government Certificates of Appropriateness, grants, or historic tax credits, while still meeting the *Standards*. It bears repeating what 36 CFR 67.7(b) provides "The following Standards are to be *applied in a reasonable manner, taking into consideration economic and technical feasibility*." (emphasis added)

Adaptation and resiliency measures. Although periodic evaluation, updates, and modifications are needed, the *Standards* and associated guidelines, have a proven track record of success and alignment with contemporary needs including sustainability and energy efficiency. However, we believe that key challenges such as continued adaptation to climate change, resiliency measures to guard against natural disasters, clarification on differences in how the *Standards* are applied to a cross gamut of projects from tax credit rehabilitations to Section 106 housing, provide opportunities for further conversations with a broad constituency and groups of stakeholders.

Local government usage. One observation made by our office – and shared by some – is that the *Standards* alone may be inadequate as to how to assess stand-alone new construction on a vacant lot within a local historic district as the *Standards* largely address existing buildings.

An alternative to be considered for infill might be the **FRESH** approach for infill design suggested by Professor Pratt Cassity of the University of Georgia: **F**ootprint, **R**oof, **E**nvelope, **S**kin, and **H**oles (fenestration)³.

Continued and increased training for local preservation commissions and planners together with our shared constituents should be another priority.

Challenges encountered by applicants. In terms of key challenges for an applicant (defined broadly as property owners, project managers, consultants, architects, contractors, and the like), we offer the following additional observations:

1. **Misconceptions, misapprehensions about the Standards.** Common misconceptions heard from applicants regarding the Standards and guidelines often include the following: they are too restrictive, too ridged, require owners to "restore" not rehabilitate, doesn't allow for changes in floor plan or modifications to window and door openings or additions, historic fabric must be preserved regardless of condition, too

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³ An explanation of the FRESH approach can be found here: *Downtown Gainesville, GA: A FRESH Approach, An Instructive Guide to Downtown Infill, 2015.* Available at https://issuu.com/ga_downtowns/docs/fresh_guide_to_urban_infill_pdf_vi.

- complicated, and they can't make energy efficient improvements. (The why of these misapprehensions is an issue meriting further inquiry as well.)
- 2. **Industry marketing of "energy efficient" and "no maintenance" projects.** Applicants planning rehabilitation projects often bring to the table a desire for new "energy efficient" and "no maintenance" products such as artificial siding and replacement windows they learned about through product marketing such as social media, web, television, radio, print, or a contractor/designer not familiar with the Standards.
- 3. **Fait accompli scenarios.** Applicants have already hired an architectural firm and well underway with plans and drawings for a rehabilitation project prior to consultation with the SHPO. This issue has been a particular challenge for Section 106 projects where funding is limited, and the historic tax credit is not applicable. A *fait accompli* is a difficult scenario within which to work for a meaningful Section 106 consultation.
- 4. What are the character defining elements? Or inadequate documentation / inquiry. Despite the availability of NPS guidance on the subject, character defining features and spaces in historic buildings are often difficult to identify by the applicant, and that identification is particularly challenging when features and spaces are obscured by later alterations, the feature is altered, or are in deteriorated condition. Important features and spaces can also be elusive to reviewers (both SHPO and NPS) working from information and photographs of varying clarity and comprehensiveness as provided by the applicant. Complicating this scenario are occasional differing opinions by NPS reviewers, or project reviews placed on hold due to an understandable request to the applicant for additional information.
- 5. **Trades shortages.** A major challenge for applicants has been finding contractors (small to large firms) who specialize in rehabilitation work even though the demand in this field have increased substantially over the past decade. Many contractors who specialized in this field have retired in recent years. The increasing demand along with the scarcity of contractors has led to significant price increases for this work. Even when applicants find an experienced restoration tradesperson, the contractors are often backed-up for months or more than a year with other work.
- 6. **Budget limitations.** Repair cost especially during and post pandemic have risen significantly. For example, estimates property owners are receiving for repair and maintenance for a typical wood window sash have doubled, and in some cases, tripled in cost in recent years likely related to the trades shortage issue. While the applicant might understand the value of preserving historic windows, rising cost for repair along with the difficulty of finding contractors to perform this work is a real issue for many projects. Although the rehabilitation tax credits can off-set a portion of repair expenses for income and non-income projects, it can be a struggle for Section 106 projects such as housing rehabs, operating on a limited budget.

Suggested best practices to address common misconceptions and communicate best practices.

- 1. On-Site Visits by far the most effective and efficient way to provide technical guidance to applicants while learning about their building(s), rehabilitation plans, needs, and challenges. Applicants get to meet a "real person" vs. email or telephone/virtual correspondence and this opportunity often results in a positive professional relationship. The most effective site visit also includes a follow-up email with field observations and resources, such as links to various Preservation Briefs.
- 2. Recent hybrid on-site virtual meetings with the applicant and one or more SHPO staff on-site and other staff joining virtually (for a portion of the site meeting), have proven to be quite effective and efficient taking site visits to the next level. While not necessary for most site visits, hybrid site meetings

are especially helpful (to both the applicant and SHPO team) for challenging and/or complex building projects. A couple of recent examples:

- A mill tax credit project in Greenville, North Carolina, where the tax credit coordinator joined for a virtual walk through (with the architect and restoration specialist on-site) for a discussion on a proposed alteration to a primary space. The applicant used their phone for the virtual connection. This brief virtual meeting resolved a concern expressed by the SHPO and NPS as the applicant was able to clearly show the extent of deterioration. The SHPO team went on to brainstorm with the applicant on creative solutions that would meet the *Standards*.
- For the bi-annual SHPO / NPS Cape Hatteras Group call, our staff participated on-site with the NPS team and two connected virtually. Prior to the meeting NPS staff walked our staff through a few projects discussed during the meeting. On-site staff were able to discuss and address questions and concerns by Raleigh staff.
- 3. Consult early and often through site meetings. Site meetings are frequently coordinated with applicants of tax credit projects in the planning stage prior to work starting. The majority of section 106 site meetings for preliminary project discussion (prior to the preparation of plans and specifications), have been very effective and efficient when they can be arranged. A few examples include the following:
 - CBDG projects meeting with consultants and project officials (City/County) for various projects in Greenville, Roanoke Rapids, Edenton, Hyde and Washington Counties, North Carolina.
 - Senior Housing Elizabeth City, Ahoskie, Woodland, and Edenton, North Carolina.
 - Elizabeth City State University (HBCU) on multiple projects including rehabilitation of student housing, Rosenwald School planning, Moore Hall auditorium, all in Elizabeth City, North Carolina.
 - National Park Service rehabilitation planning for the Cape Hatteras Lighthouse, Wright Brother's Memorial, WPA Housing, Bodie Island Lighthouse, and other facilities along the Outer Banks of North Carolina.
 - Federal grant-funded projects such as the Golden Frinks House in Edenton, North Carolina, which received a 6-digit National Park Service Civil Rights Grant for bricks and mortar work on this Civil Rights leader's home to be incorporated into the Edenton State Historic Site. We frequently work collaboratively with applicants/recipients, often proactively reaching out to them after a grant announcement is made.
- 4. Workshops and Training prove beneficial for applicants meeting a "real person" and the opportunity it presents to learn from the applicant about their project/challenges and to share guidance and similar project examples. Handouts and participation lists for email correspondence is most helpful.
 - Examples of Section 106 workshops include City of Greenville and Roanoke Rapids workshops for CDBG projects and other locally funded projects for discussion on the *Standards* and discussions on windows and lead in historic housing.
 - Standards' training for Local Preservation Commissions. Our office's local government coordinator facilitates training on a regional basis, at least three times a year, augmented by tailored one-on-one commission-focused training, and training regarding the *Standards* are a perennial offering, and conducted by our Restoration Services Branch team.
 - Standards' training for Historic Tax Credit applicants. Our Restoration Services Branch also conducts Historic Tax Credit training statewide, at least a dozen a year, and presentations on the *Standards* are a core topic.

- How to Identify Character Defining Features. NPS and SHPO would be well served to ramp up training on how to identify character defining features, which is the "key" that unlocks the larger *Standards* review; once those features are identified, the review for a rehab project usually proceeds quite smoothly.
- Disaster preparedness and recovery workshops sponsored by local emergency management involving community and governmental agencies, such as Edenton and Ocracoke. Our state's Emergency Supplemental Historic Preservation Fund grant award of \$17 million has in part been spent for two statewide resiliency workshops in 2022 and 2023, sponsored by the National Park Service and conducted by a special trainer cadre of the National Alliance of Preservation Commissions; the target audience has been local preservation commissioners and planners, building inspectors, and local and state emergency management officials.
- Statewide historic preservation resiliency project. Additionally, we are preparing a statewide historic preservation resiliency guide with accompanying training and tailored resiliency-oriented design guidelines based on the *Standards*, using this same funding, in collaboration with the University of North Carolina-Chapel Hill's School of Government and North Carolina State University; we hope to have it "out in the world" in the next 12 months.
- **5. Web sources**. We find that few applicants have taken a deep dive in reading through NPS guidelines or other available materials, watched videos (such as recorded presentations on the *Standards*) most have read a few paragraphs at most or viewed short videos.
 - During the COVID era, we recorded our own *Standards* training video for local preservation commissions, but its utility extends beyond that audience. We've even recorded a video about the *Restoration Standards* for Rosenwald Schools. We have also worked cooperatively through a partnership called Leverage NC with a consortium comprised of the North Carolina Department of Commerce, and our state's Municipal League and Downtown Development Association, to record videos for wide distribution about the historic tax credits, including the *Standards*, in an effort to demystify and encourage; more information here: https://www.leveragenc.org/webinar-archives.
- 6. Study of new materials / substitute materials. Our Restoration Services staff continues to track on an ad hoc, informal basis the performance of various new and substitute materials in historic buildings. The National Park Service was partnering with the US Army Corps of Engineers on a more formal basis to assess that same performance of various materials. We would strongly encourage further inquiry of this work, perhaps through a consortium of preservation partners and industry stakeholders.

Some approaches to address trades shortages and overall applicant coordination.

Efforts in North Carolina present a mixed but encouraging picture.

Edgecombe Community College (ECC) in Tarboro, North Carolina, ran a largely successful historic preservation technology program offering a curriculum program and continuing education classes for over a decade - with the intent to train students for this in-demand field. Although continuing education classes continue, the curriculum program was suspended in large part due to dwindling student interest in the program (a question in and of itself for further inquiry). A grant through the Golden Leaf Foundation made it possible for the college to market the program (outside of normal program marketing) attracting students to sign-up for continuing education classes - and later the curriculum program. What we observed that worked in attracting interest and students to this historic preservation technology program included:

- Trades Shows with multiple trades demonstrations by experienced and highly skilled trades people including traditional and metal roofing, masonry, plaster, stained glass, wood windows, stone and grave marker conservation/repair, paint, woodwork and cabinetmaking, and more. The first and subsequent yearly trades shows (held at different historic sites) included visual programs on before and after rehabilitation projects, historic tax credits, *Standards*, and representatives from our statewide nonprofit Preservation North Carolina and our office. The initial event was well advertised including billboards and radio prior to the growth in social media.
- An advisory board consisting of preservation professional, educators, restoration contractor and trades people. This volunteer advisory group met frequently to provide technical support, vet tradespeople and instructors (recommendations to the program chair) qualified to teach classes/workshops, team brainstorming, participating in the program in teaching classes, outreach and promotion, and more. Several students taking cont. ed. classes and later signing-up for the curriculum learned about the program through advisory board members.
- **Program internships.** Our office, Preservation North Carolina, and preservation contractors and architects encouraged several students to pursue work in the field. The advisory board strongly recommended internship opportunities with contracting firms specializing in preservation work and architects as well as hands-on demonstrations and programs in schools. Several advisors volunteered to talk with contractors, architectural firms, and participate in school outreach. With limited ECC staff capacity and funding, these recommendations were not pursued.

Cape Fear Community College, the local community college in Wilmington, North Carolina, launched pre-COVID a preservation trades track ("Historic Preservation Construction") in partnership with the regional preservation nonprofit, the Historic Wilmington Foundation. Further inquiry into the program's success would be a worthy venture in the future.

Trades apprenticeships have not been analyzed by anyone in the preservation field formally to my knowledge, but this line of inquiry may be very valuable; after all, the trades once heavily relied upon this educational approach with great effectiveness.

Other effective educational approaches

We underline many of our earlier recommendations and augment them with other proven approaches:

- Hands-on demonstrations (H) and workshops held across regional communities. Examples of some of the most successful and well-attended ones include:
 - workshops funded with Certified Local Government grants; we have held such workshops on historic masonry, wooden window repair, metal roofing, and building code compliance for historic buildings;
 - Office-conducted workshops by Restoration Services Branch personnel, including wooden window repair, grave marker repair / conservation, paint, energy savings/weatherization, and the Standards.
 - Local walking tours with a focus on rehabilitation and architecture in historic residential neighborhoods and historic downtowns.
- **Historic Building Showcases.** North Carolina has pioneered an innovative, partner-oriented event designed to highlight the availability and benefits of the historic tax credit program and local investment

⁴ More information about this program is available here: https://cfcc.edu/job-training/construction-careers/historic-preservation-construction/.

opportunities to new audiences including realtors, bankers, investors, and others. The set-up includes a lecture / workshop component (what are tax credits, financial structuring, upper-level residential development, balancing code and rehabilitation challenges including a presentation on the *Standards*, and overview of downtown historic architecture), a lunch provided by the local sponsor (usually the Main Street or local economic development entity), and then an afternoon tour of buildings that were both available for investment and eligible for tax credits. North Carolina's State Historic Preservation Office has partnered with the local communities, Main Street, and economic development organizations to host the events. Four successful building showcases have been held in the northeast region of NC since 2019, and others are being proposed for the future.

Preservation Extension Service. It bears emphasizing that our office's strong engagement with constituents – both individually and as part of group training – reflects a distinct advantage that our office enjoys. Unlike many of our counterpart offices in the national SHPO network, we emplo an eight-person cadre of subject matter experts on building conservation and science among other preservation niches, including a trained architect as our historic tax credit coordinator, as our Restoration Services Branch, and offer what is equivalent to a statewide "Preservation Extension Service" for North Carolinians. This branch reviews and facilitates historic tax credit projects, Section 106 bricks and mortar projects, State Historic Site and Parks projects under state law, grants-in-aid projects from a variety of sources, and local preservation commission-generated requests periodically for "expert advice" under state law for Certificate of Appropriateness cases. In addition, it consults with individual constituents who do not fall under any of these categories but who are just interested in the best practices for caring for a historic building. The branch is divided into service territories of 15 to 25 counties (North Carolina has 100 counties), and the individual Restoration Specialist is able to build and strengthen relationships and preservation partnerships long-term with constituents from a variety of backgrounds and interests. Perhaps our staffing model could be one for further inquiry as well.

National Conference of State Historic Preservation Officers' Working Group on the Standards. Finally, I am honored to serve as current board president of the National Conference of State Historic Preservation Officers, and wish to share that our organization recently created and organized our own working group committee to examine the Secretary of the Interior's Standards; this committee charter is being finalized and committee meetings began this month. We believe this effort by our membership as daily practitioners of the Standards will do much to advance the national preservation movement and to inform this larger national conversation in a productive, meaningful manner.

On behalf of our office, I appreciate the opportunity to offer these comments and to further a deliberative, multilateral, and moreover, collaborative constituent-oriented conversation with peers, agencies, and our constituents to identify means to enhance heightened understanding, fluency of use, and new opportunities for the *Standards*, and in doing so, maximize our nation's preservation efforts into the very far future.

Most sincerely yours,

Ramona M. Bartos, Deputy

MButo

State Historic Preservation Officer

CC: Darin J. Waters, Ph.D., SHPO, North Carolina

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Renee Gledhill-Earley, NC HPO

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Evernorth appreciates this opportunity to provide comments to the ACHP on the Secretary's Standards for the Rehabilitation of Historic Properties.

Evernorth is a regional affordable housing organization that partners with local non-profits to plan, construct, and operate affordable housing for Vermont's most vulnerable residents. Over half of Evernorth's renters earn less than 30% of Area Median Income (AMI), and over 90% of residents earn less than 60% AMI. Both Evernorth and our partners have decades of proven experience developing high-quality, innovative, and transformative projects that give not just residents, but their larger host communities, a leg up. We build sustainable, energy efficient buildings and are always working to implement creative new approaches to reducing the carbon footprint of our buildings and utility burdens on our residents. With 35 years of experience and a portfolio of 3,730 units in Vermont, we take our role as industry and climate leaders seriously.

Within the state of Vermont, Evernorth is also a proven leader in the restoration of historic buildings in our downtowns and village centers. Working closely with the Vermont Division for Historic Preservation, we have renovated over 20 historic buildings, utilizing the federal historic tax credit. Recently Evernorth was awarded the 2022 Preservation Award by Preservation Trust of Vermont for the transformative New Avenue building in downtown St. Johnsbury. Because all of our projects use federal funds, all of our projects are also subject to the Section 106 review process.

Much of Vermont and northern New England is in Climate Zone 4; with much colder temperatures during the longer winter months, compared to other parts of the country, paying attention to energy efficiency is vital to the long term sustainability of our properties. In this time of accelerating climate change, this becomes an even more important societal goal.

In every historic building renovation, we are caught in the cross hairs of the Secretary of Interiors Standards for Historic Preservation, and the need to firmly address energy efficiency and therefore reduce our greenhouse gas emissions.

One example of this conflict is found in the renovation of a historic school building (project name is withheld intentionally). The existing walls of this school building included one whythe of brick on the external walls, plaster and wainscotting on the interior, with very little insulation. The R value of the existing walls was R5. Initially, NPS requested that we not remove the wainscotting, and the best we could do for insulating the walls, without removing the wainscotting, was an R12 wall assembly. We did work through a long process to get to an R24 wall. ii



In Vermont's climate zone, no building should be heated with an R12 wall assembly. It is completely untenable not only in terms of operating costs, but also in terms of green house gas emissions.

However, we are reminded often that the Secretary's standards do not include climate change or energy efficiency.iii

The time has come for that to change.

We recommend that baseline R values for walls and roofs are established by climate zone. For example, in Vermont and other northern states, a baseline R-value for walls would be R-24 and for roofs would be R-50. These standards are well below what we achieve in new construction, but would mean that we are able to insulate our buildings in an adequate fashion and therefore reduce the greenhouse gas emissions related to the historic building.

If energy efficiency and climate change considerations do not become integrated into the standards, the result may be that more historic buildings are left vacant. Nonprofit developers, like Evernorth, will choose to bypass historic buildings in our efforts to address climate change and address our housing crisis.

Another area where societal goals collide is the desire to preserve original windows in historic buildings, the energy efficiency of those windows, and the directive from HUD on acceptable lead paint levels for family housing.

In our experience, it is very difficult, and in some cases impossible, to abate the lead paint on the historic windows to a level that is considered safe by HUD. Where the renovation of historic buildings is for the purpose of family housing, the considerations for original windows needs to be weighed against the consideration for creating a lead safe environment.

For example, in Burlington, Vermont there are 7,665 heating days, in Boston there are 5,630 and in Washington DC there are 4,055.



ii The original proposed wall assembly for the former school was to remove interior plaster and lath finish, provide a 2x4 wood stud wall, spaced 2.5" from the existing 4" stud framing, to provide a 10" cavity. Fill the cavity with 10" of dense pack insulation (R40) and a finish layer of drywall. This assembly was not acceptable due to it would require the existing wainscoting to be removed and the walls to be furred out. Not being able to open the wall and expand the insulation cavity greatly impacts the wall performance leaving the project with 4" of dense pack cellulose for an R12 wall. After a few months and several meetings with our historic preservation consultant, design team, SHPO, and NPS, we eventually received permission to remove the wainscotting allowing for the use of spray foam which would result in a R24 wall. Though a compromise, the end wall assembly is far from the original scope and the process of receiving permission to remove the wainscotting resulted in a significant delay for the project.

iii Another project example that explored the balance between the Secretary of Interiors Standards for Historic Preservation and energy efficiency involves the major gut rehabilitation of three historic military barracks buildings. The existing walls of the military barracks buildings included a triple-wythe brick masonry wall with existing interior plaster on wood lath and furring, with painted gypsum wallboard finishes attached to the plaster, with minimal insulation. The estimated R value of the existing assembly was R-6.

A hygrothermal analysis was prepared to analyze retrofit insulation scenarios (types and thicknesses) for changes in moisture content, wetting and drying trends, and condensation within the wall assemblies to best protect and maintain the historic brick. An additional limitation was the Secretary of the Interior's Standards of a maximum 'furred-out' wall thickness of 4" to avoid significantly altering the relationship of the windows to the wall surfaces.

The project team considered multiple scenarios that considered materials, structural performance, cost, envelope performance and energy performance. After many months of meetings with our historic preservation consultant and the project team we received permission to build a wall assembly included 3" of closed cell spray foam insulation applied to the existing plaster wall, a (+/-) 2"air gap, 2.5" metal stud, and 5/8" GWB finished wall surface, resulting in a wall performance of approximately R-24.

While we were able to achieve this wall performance, the historic windows remain a concern. The windows in two buildings were replaced prior to our involvement in the project. The original single-pane windows remain in one building.

The historic windows will be evaluated on a case-by-case basis to determine the restoration scope. The original scope included new storm windows mounted on the exterior at first and second floor locations, however we are now considering reusing and refurbishing the existing storm windows due to budget concerns. We assume the jamb pockets are uninsulated which further compromises the exterior wall performance, as it is unlikely we will be able to afford this work.

This project is an example of where energy efficiency, and climate change progress are compromised due to the desire to maintain a relationship of the windows to wall profile, as well as single pane original windows.

[External] Request for Comments on SOI Standards for Treatment of Historic Properties.

Creger, Charles "Cliff" < CCreger@dot.nv.gov>

Wed 7/19/2023 1:22 PM

To:Dru Null <dnull@achp.gov>

Good Morning,

I'm commenting on activities involving or affecting tribal resources or TCP.

Having done several TCP properties through the process, just a clearer set of regs for the step by step of moving through the tribal resources or TCPs in the S106 process would be easier and greatly appreciated. The general confusion about what's next takes up time and takes away from critical focus on the resources and the process. I would also ask that the regs broaden "the net" by making it clear that the "tribal" resources and TCPs apply to ethnic groups not Native American too.

If you'd like to chat, please contact me.

Sincerely,



Cliff Creger

Chief Cultural Resources Program Manager Chief Archaeologist Nevada Department of Transportation



e ccreger@dot.nv.gov | w dot.nv.gov









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[External] Comments on the Secretary of the Interior's Standards on Rehabilitation

Brazee, Olivia (PARKS) < Olivia.Brazee@parks.ny.gov>

Mon 6/19/2023 11:44 AM

To:Dru Null <dnull@achp.gov>

Dear ACHP,

In my 8 years working with the Standards for Rehab as a technical project reviewer at the NY SHPO, I have noticed that people often confuse Standards 3 and 9.

Specifically, people often cite the second clause of Standard 3 – "Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken" – for design scenarios where Standard 9 is clearly more applicable.

As an example, architects have argued that it is better for them to design something very contemporary in nature when dealing with an intervention to a historic building, rather than trying to design something to be compatible with either missing or extant features of the building in question, because they do not want to "create a false sense of historical development". At the same time, they will point to the language in Standard 9 that says that "The new work shall be differentiated from the old…", ignoring the second part of that clause, which says "…and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

Could language be changed or added to the Standards, to clarify the different intents of Standards 3 and 9?

Thank you for considering my comment.

~Olivia

Olivia Brazee (she/her/hers)

Historic Site Restoration Coordinator
Division for Historic Preservation

New York State Parks, Recreation & Historic Preservation
Peebles Island State Park, P.O. Box 189, Waterford, NY 12188-0189
518-268-2182 | cell - 518-948-2067 | olivia.brazee@parks.ny.gov

https://parks.ny.gov/shpo



[External] Interpretation of the Secretary of the Interior's Standards - from NY SHPO

Cumming, Beth (PARKS) < Beth.Cumming@parks.ny.gov>

Thu 7/20/2023 3:13 PM

To:Dru Null <dnull@achp.gov>

Dear ACHP,

This has been a challenging assignment as many folks in the office are busy helping with summer projects and have various experiences with the use of the Standards. Below are a few comments we thought relevant to share:

- 1. Endangered Building Types:
 - a. Houses of worship are at risk for demolition and demolition by neglect. The Standards need to be interpreted in a way that allows these buildings to be adaptively used more easily. The Catholic Diocese of Buffalo closed 70 Catholic churches between 2005 and 2010. This is just one statistic that illustrates the nationwide impact shifts in the way people worship are having. These buildings are often the most architecturally significant structures in their neighborhoods it is important to address this issue very thoughtfully.
 - b. White elephants, churches and special categories of endangered building types could warrant exemptions to the strict interpretation of the standards. These modifications could permit the buildings to remain in their communities and tell the story of their history. Maybe something could function like the appeal process within the tax program. Buildings could apply to use more flexible standards given their facts and circumstances.

2. Energy

- a. The Standards need to be interpreted with more flexibility regarding energy efficiency.
- b. Another issue that is going to continue to arise is the use of rooftop solar panels. More flexibility on their installation should be considered.
- c. An example, adding wall thickness for insulation: the NPS's three inch "rule of thumb" for wall furring is impractical and seemingly arbitrary. A standard construction unit "2x4" is 3.5" wide. With that and drywall we are looking at 4-4.25 inches. Using a typical 2x4 as a standard or "rule of thumb" would be much easier, allow greater R value, and would still minimally impact to historic interior spaces in most cases.
- d. Data: we need more good data about what are the best sustainable practices or interventions on historic buildings. Windows are a good example: the common perception is that historic windows are inefficient, but preservationists know- or assume- that storm windows with single pane can meet U value on new windows. If we had some clear and easy to understand studies on the subject of windows, insulation, we could more easily make the case to keep historic fabric that is in good condition.
- 3. The needs of under-represented communities need to be addressed when interpreting the Standards in these neighborhoods.
 - a. Example: Hamlin Park Historic District is a large historic district in Buffalo, New York that has strong associations with black history in Buffalo and has predominantly low-and middle-income black residents today. It is difficult for the owners to invest in their buildings beyond basic needs such as roofs and heating. Asking them to restore windows, replace with matching windows or follow the Standards in other ways often creates an economic hardship.
- 4. Standard 9: needs to more specifically describe the meaning of "clearly differentiated from the old" because that phrase is often used by applicants to justify inappropriate design.
 - a. As an example, architects have argued that it is better for them to design something very contemporary in nature when dealing with an intervention to a historic building, rather than trying to design something to be compatible with either missing or extant features of the building in question, because they do not want to "create a false sense of historical development" (standard 3). At the same time, they will point to the language in Standard 9 that says that "The new work shall be differentiated from the old...", ignoring the second part of that clause, which says "...and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."
 - b. A definition of "compatible" would be helpful. It's used in the standards but we find it interpreted differently by different professions.
- 5. Substitute materials: We shouldn't blanket allow all substitute materials in the name of convenience and perceived ease of maintenance.

- a. Historic materials: wood siding is still readily available and is the best replacement in terms of appearance and material match for historic siding. NPS/ SHPO have shown some flexibility in this regard. For example, allowing fiber cement siding on some secondary elevation in place of wood siding. More specific guidance should be considered.
- b. Modern materials: on the other hand some modern materials can be very difficult or impossible to repair replace in-kind and are impractical to retain to the point that a project is slowed/stopped or even abandoned. For example in Binghamton, NY the existing historic metal ceilings have been impossible to source with a reasonable match. Metal ceiling tiles, these are not tin ceilings, once removed are often damaged from the removal process (they must be abated due to hazardous materials in the mastic used to adhere them to the ceiling. In this case it seems like a substitute material that has a similar appearance would have been OK and would not have substantially altered the character of this historic building.
- 6. Building Significance: Like in Europe building significance should be given more consideration in the standards and determining which standard to use for a project. Just like more flexibility is provided to low income housing projects, more flexibility should be considered for locally significant buildings, those designated for events only vs. those that carry the designation of NHL or national significance.
- 7. Finally, the preambles to each of the standards should be given more weight and consideration. Most outside of the SHPO offices don't remember the beginning of the Rehabilitation standard (before #1) "Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values." The ten stated standards listed afterward are all in support of the preamble, but the preamble is often forgotten.

Thank you for your time and consideration of our comments.

Beth Cumming

Senior Historic Site Restoration Coordinator Division for Historic Preservation

New York State Parks, Recreation & Historic Preservation
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518-728-8359 | beth.cumming@parks.ny.gov
https://parks.ny.gov/shpo/

https://cris.parks.ny.gov Please explore the Division for Historic Preservation's Cultural Resource Information System (CRIS) combining a powerful GIS based data management system with an all-digital submission and response platform.

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Advisory Council on Historic Preservation Office of Preservation Initiatives 401 F Street NW, Suite 308 Washington, DC 20001

Attn: Druscilla J Null, Director

RE: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards

for the Treatment of Historic Properties

Heritage Ohio welcome the opportunity to provide suggestions to improve the Secretary of the Interior Standards for Rehabilitation.

Since 1998, Heritage Ohio has been the official, state-wide, non-profit organization for historic preservation, and administers the Ohio Main Street Program (OMSP) under authority of Main Street America.

Heritage Ohio fosters economic development and sustainability through preservation of historic buildings, revitalization of downtowns and neighborhood commercial districts, and promotion of cultural tourism. Our Main Street program is currently working with over 50 communities.

We are key advocates for Historic Tax Credit programs, and we regularly provide technical assistance, site visits, and complimentary preservation guidance to communities and projects across the State. We currently have a professional staff of four full-time employees, and a 20-member Board of Directors.

Heritage Ohio has promoted historic tax credits as a tool for redevelopment since our beginning, and was instrumental as the lead advocate in the creation and passage of the Ohio Historic Preservation Tax Credit Program in 2006. We were also very involved in saving the Federal Historic Preservation Tax Credit program in 2017, and received the National Trust's John H. Chaffee Award for Outstanding Achievement in Public Policy. We also run the Heritage Ohio Easement Program, and currently hold preservation easements on 16 buildings.

We tell you all this because a robust, clear, concise and reliable historic tax credit program is important to Ohio's future. A strong program will result in more buildings being saved, reinvestment in our communities, and is necessary to revitalize our downtowns large and small.

Conversely, an overly complex, unreliable, inconsistent program will increase risk and will drive investment to other approaches: demolition, new construction, or other real estate investments NOT in our Mid-western downtowns.

Finally, it is just good business practice to reexamine the Standards after all this time and review how the program is working, and consider ways to improve it for future generations.



Please consider the following:

In our role as a statewide preservation organization, we work with communities of all sizes to encourage and facilitate historic preservation. Most of these communities are endeavoring to improve their built environment as a means of economic development, in an effort to retain, grow and attract businesses and residents. Most, however, also face significant challenges in realizing these goals, as the rental rates required to cover the cost of improving the building stock - to meet contemporary demands and create much-needed new housing - are well beyond what local markets can support. We have long promoted the Federal Historic Tax Credit (HTC) program as an invaluable tool to fill that financial gap, allowing communities to leverage their existing historic resources in a preservation-centered economic and community development strategy.

Although the HTC program has been incredibly impactful and successful, it is challenging for our constituents to navigate, particularly as it relates to meeting the Secretary of the Interior's Standards for Rehabilitation. Interpretations of the Standards can seem unclear and arbitrary, and often at odds with other requirements and goals of their projects.

We believe the Standards should be clearer and more consistent, accommodating the technical and economic challenges faced on historic rehabilitation and adaptive reuse projects, and make the HTC program more accessible and user-friendly. Such changes would only strengthen the program's appeal and application, resulting in more buildings being preserved and returned to productive use, which are the ultimate goals of the HTC program.

Instead, we have seen and heard increasing concerns from community leaders and preservation practitioners across the state that the program is becoming more difficult to use, and interpretations of the Standards more conservative and counter-productive to the broader aims of community revitalization. We offer some general examples of issues regularly reported to us, and potential adjustments that would benefit our constituents and the HTC program in general.

1. <u>Interpretations of the Standards are often overly focused on idealized preservation practices, without sufficient consideration for the practical challenges and goals of building rehabilitation and adaptive reuse.</u>

Recommended improvement:

- Additional guidelines should be created to better clarify current regulations requiring consideration of "technical and economic feasibility" in interpretations of the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- 2. Interpretations of the Standards can seem arbitrary and capricious, shaped by personal attitudes and opinions without a clear, defensible basis. Projects facing common, comparable issues receive different guidance and review decisions without justification, and with no viable means to challenge such decisions. Of real concern to the viability of the program long term are Part 3 appeals that take months and have resulted in millions of dollars of unnecessary finance charges, undue risk to projects, and future reluctance of investors to participate because of these delays.



Recommended improvement:

- The HTC program needs an improved appeals process, allowing applicants timely access to an impartial third-party review, ensuring that interpretations of the Standards remain consistent with existing precedents and/or the intended goals of the program. We recommend creation of an independent appeals panel independent of the National Park Service (perhaps under the auspices of the Advisory Council on Historic Preservation), This appeals panel should include people with a variety of experience and perspectives on historic rehabilitation projects, mitigating any individual biases and giving confidence to applicants that they are receiving fair consideration. The appeals process should also be expedited as the delayed process is costing millions of dollars in finance costs (and thus increasing the risk and the desirability of the program).
- 3. The Standards are being broadly applied to all features and finishes regardless of existing condition or relative significance to the building. A common example is an increased focus in recent years on new finishes within secondary spaces (i.e. flooring in newly created apartment and hotel room interiors), which are required to be consistent with historic finishes even when those finishes were previously removed, and/or were always intended to be sacrificial and expected to change over time.

Recommended improvement:

- Additional guidelines should be created to clarify what constitutes "distinctive" features and finishes and those "that characterize the property" in interpretations of the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- Reviews should focus on those features that are truly significant to the historic building's design and character, ignoring changes in secondary spaces and to intentionally sacrificial or undefined original finishes.
- 4. Interpretations of the Standards are failing to adequately consider the significant challenges of adapting certain building types. Many communities are facing vacant schools and churches abandoned by their traditional occupants, with no viable option to maintain their current use. Repurposing such buildings in an efficient manner is particularly challenging given their use-specific designs and large common areas. Strict requirements to preserve large open volumes like gymnasiums, auditoriums, and sanctuaries can make adaptive reuse commercially and technically infeasible using HTCs, but economically infeasible without the benefit HTCs, resulting in long-term neglect and demolition.

Recommended improvement:

To support the HTC program's goal of preserving historic buildings for economic development, additional flexibility is needed in building types that are particularly difficult to adapt. Most communities have few options for marketable new uses, and it is critical to devise practical methods for those viable new uses to be incorporated into a greater number of historic buildings. Additionally, many of these schools and churches are in areas in need of affordable housing.



5. <u>Interpretations of the Standards are not sufficiently accommodating of needed improvements to energy efficiency and are ignoring the use of modern but sympathetic materials and systems.</u>

Recommended improvement:

- Historically sensitive energy efficient replacement windows should be permitted replace existing windows without having to prove that the existing windows are beyond repair.
- Exterior walls should be able to be permitted to be furred and insulated.
- When necessary, ductwork should be permitted at windows for proper HVAC.
- In general materials and products that do not impact character defining features should be permitted.
- 6. Interpretations of the Standards and associated review processes are adding unnecessary cost to rehabilitation projects, reducing the amount of funding applied to the rehabilitation itself and increasing the cost to end users, making HTC projects less equitable. Extensive documentation requirements and oversight of minute details extends review timelines at all stages of the process (Part 1, Part 2, Amendments, and Part 3). With HTC proceeds typically financed with short-term loans, extended timelines for reviews and approvals can dramatically increase interest costs. Required design changes and corrections of work deemed incompatible further increase costs, often with questionable benefit to the building's historic fabric or character. These added expenses must ultimately be passed on to the end users, raising rents and reducing the populations to which these projects are accessible.

Recommended improvement:

 Review timelines must be considerably reduced, particularly at the SHPO level, where applications are routinely engaged for 6 months or more before even reaching NPS for formal review and approval. Clearer guidance to SHPOs and applicants, consistent application of the Standards across all states and projects, and substantially reduced attention to new work in secondary spaces would all significantly improve review timelines.

7. Other areas to address:

- The ability to add windows to secondary facades.
- Address accessibility and ADA requirements.
- Update the Preservation Briefs to address modern materials, energy efficiency, etc.



Without changes to the application of the Secretary of the Interior's Standards and associated review processes, we fear that community leaders, building owners, and investors will increasingly turn away from the HTC program.

The additional risk and costs caused by the issues we've outlined, applied to rehabilitation projects that are already economically challenging and risky, only serves to discourage people from investing in historic resources in our communities. This is entirely counter to the aims of the HTC program and completely disproportionate to any minimal preservation gains associated with the increasingly strict interpretations of the Standards being applied.

We fully support reasonable and consistent oversight of historic rehabilitation projects, and we recognize the value of preserving the character of our buildings and communities. However, extending that oversight to insignificant aspects of a building or project, with increasingly strict and inconsistent interpretations, is detrimental to our shared goal of using historic preservation to spur revitalization.

Thank you for your time and consideration of these issues. These are just a few of the suggested changes and we would welcome the opportunity to provide additional input or answer any questions you may have.

Signed,

The Heritage Ohio Board of Directors

July 17, 2023

Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001 Sent via email, dnull@achp.gov

Re: ACHP Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Please find outlined below general comments from the Pennsylvania State Historic Preservation Office (PA SHPO) concerning the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties. Comments were received by PA SHPO staff in our Environmental Review Division as well as from our regional Community Preservation Coordinators in our Preservation Services Division. PA SHPO comments are in no particular order.

- While the Standards are broad concepts to make them flexible in application, there is a very wide range of possibilities as to what is compatible new construction within historic districts, and a variety of opinions on how to best integrate old and new construction into an overall unified design. If there are local review guidelines in place, we ask they consult those. Most communities do not have the knowledge or know how to create design guidelines. Better guidelines for new construction within historic districts with examples are needed. The guidance document developed by HUD and ACHP in 2007 for the rehab of affordable housing should be re-evaluated, with the goal of providing an updated version with more to the point language and/or examples (again understanding that they were written in order to be flexible).
- Following the SOIs for projects such as affordable housing is often much more expensive, there is overall a lack of qualified, affordable craftspeople for some communities this is a hardship that cannot be overcome when the set limit for the cost of rehab to owner occupied homes is something like \$28,000. Because of lack of funding, public interest, and education, many of the municipalities in Pennsylvania end up using federal funds for minor repairs, demolition, or new housing and not rehabilitation. Unless the municipality has made preservation a priority, rehabilitation of historic buildings to the Standards isn't practical or possible given available monies. Preservation happens in the local community years in advance of projects that we review when the community identifies buildings as important. There is a need on HUD/DCED/ACHP's part to highlight/explain rehabilitation projects can happen using federal funds.

- Considering the life cycle of a building (construction to demolition), remodeling historic buildings uses less energy than new construction. But the concept of the greenest building is one that is already built doesn't seem to work well with current energy conservation codes which are designed for new construction. For example, "outsulation", involving covering the exterior walls of historic brick buildings to meet r-value requirements set forth in current requirements has been seen on PHFA projects. Having nationwide examples of projects of similar building types that have met energy requirement standards would be helpful.
- The biggest issue for Section 106 and HUD projects ultimately is the lack of qualified architects or engineers working on applying the Standards to projects receiving federal funding or requiring federal permitting. This results in design solutions that do not consider historic materials or character-defining features which result in the potential for an adverse effect. Having model of assessments/analysis/application from agencies (such as HUD) as part of direction and guidance would be especially helpful.
- Local design review: Of the political subdivisions in the Commonwealth (boroughs, townships, cities aka municipalities) which have enacted local preservation ordinances and design review practices, many utilize the SOI Standards for Rehabilitation. This has the ability to be problematic due to two issues: one being the lack of municipal capacity in most of these political subdivisions- and second, there is often minimal understanding for those who manage design review (largely volunteer commissions) of how to apply the Standards to projects in their respective historic districts or design overlay districts.
- The Standards are sometimes used at the local level as a reason to deny alternative energy solutions (mostly solar panels on roofs) and other NIMBYs and are perceived to contribute to an elitist approach to preservation.
- Local partners routinely raise concerns that the Standards are often unrealistic and lead to
 unaffordable requirements in historic communities, especially those with changing
 demographics. Local design guidelines fill in some voids of preservation policy where Standards
 are too general or where the bar is too high.

Thank you for this opportunity to comment. We support ACHP's efforts to improve the federal response to equity, housing-supply, energy efficiency, renewable energy, and climate-change-related concerns.

If PA SHPO can be of further assistance, please feel free to contact me, 717-787-4215.

Sincerely,

Andrea L. MacDonald,

anchea AT la Donald

Director and Deputy State Historic Preservation Officer

Pennsylvania State Historic Preservation Office

cc: Erik Hein, Executive Director, National Conference of State Historic Preservation Officers



Ms. Druscilla J. Null
Director-Office of Preservation Initiatives
The Advisory Council for Historic Preservation
401 F Street NW, Suite 308
Washington, DC 2001
dnull@achp.gov

Dear Ms. Null:

On behalf of Preservation Virginia's Board of Trustees and staff, I am responding to the Advisory Council for Historic Preservation's request for comments on the application and interpretation of the Secretary of Interior's Standards (the Standards).

Preservation Virginia is the nation's first statewide nonprofit historic preservation organization. Over our 134 year history, we have been involved in saving and preserving more than 500 historic places, including Bacon's Castle (1665), John Marshall's Richmond home (1790) Cape Henry Lighthouse (1792).

Through collaborative efforts with developers, we have utilized the federal and state historic tax credit programs to repurpose unused buildings, effectively leveraging tax credits as economic development tools. Our advocacy for the historic tax credit program has been instrumental in saving many old buildings, and contributing to the revitalization of numerous urban and rural communities.

We have consistently advised individuals embarking on restoration and rehabilitation projects to follow the Standards in their projects, which have provided invaluable guidance throughout our endeavors and have proven to be a vital tool in our preservation efforts.

While we have experienced significant achievements, we have observed a few challenges, particularly concerning the application of the Standards for Rehabilitation (SISR) in historic tax credit projects. Developers now face increasing difficulties when undertaking HTC projects for several reasons.

While more straightforward or moderately complex projects were undertaken in the early and last few decades of the program, many current tax credit projects pose greater challenges as their conversion to other uses and modern standards require flexibility in applying the SISR to ensure habitability and accessibility.

It is important to note that building codes, which are essential for health, safety, and energy

efficiency, evolve over time and are generally non-negotiable. When there is a conflict between the building code and the interpretation of the SISR by the reviewer, developers/property owners face limited options for negotiation, especially in projects intended for public uses, affordable housing, and climate action.

Furthermore, we have observed discrepancies in the application and review of the SISR between federal and state reviewers. This increasing stringency has escalated development costs, making HTC projects less attractive. Developers who possess years of experience in this field and are well-acquainted with the SISR assert that although the SISR have not changed, it is the differing interpretation and application of the Standards that has become a challenge.

Another issue we have encountered relates to the replacement of historic elements with contemporary materials. In many cases the quality of contemporary products that match the original ones (namely wood) are often inferior, necessitating more frequent replacements. To address this concern, we believe that guidance on alternative materials should be expanded, allowing for their use when necessary or appropriate.

Despite these challenges, there is still a significant number of older buildings awaiting rehabilitation and reuse. We have encountered many experienced developers and consultants who are enthusiastic about undertaking these projects. We commend the ACHP for seeking input on these matters, as it will contribute to ensuring the ongoing success and viability of the Standards in the years to come.

Sincerely,

Elizabeth S. Kostelny

CEO, Preservation Virginia

Koolela



Travis Voyles Secretary of Natural and Historic Resources

COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Julie V. Langan Director

Tel: (804) 367-2323 Fax: (804) 367-2391 www.dhr.virginia.gov

July 20, 2023

Ms. Dru Null Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Via email: dnull@achp.gov

Re: Comments on the Application and Interpretation of the Secretary of the Interior's *Standards for the Treatment of Historic Properties*

Dear Ms. Null:

The Department of Historic Resources, which serves as the State Historic Preservation Office in Virginia, welcomes the opportunity to provide comments to the Advisory Council on Historic Preservation (ACHP) on the Secretary of the Interior's *Standards for the Treatment of Historic Properties* (*Standards*; 36 C.F.R. Part 68). Because they provide a foundation for numerous preservation programs at the federal, state, and local levels, the *Standards* warrant periodic and critical review by a diverse group of stakeholders to ensure they continue to meet their intended goal.

In general, it is our opinion that the *Standards* continue to be valid and valuable in the practice of preservation but require further efforts to educate and support practitioners to realize their greatest potential. Given the contracted time frame for this exercise, we are only commenting on *Standards for Rehabilitation* which are used the majority of the time. Our comments are listed below for your consideration:

- 1) It is our opinion that the public comment period set by the ACHP is too short to result in meaningful conclusions. This important topic merits thoughtful discussion among stakeholders and should dovetail with the efforts of the Standards Working Group of the National Conference of State Historic Preservation Officers (NCSHPO).
- 2) The ACHP should be mindful that the *Standards* are embedded in many state regulations and local ordinances, thus any changes to the *Standards* will have impact at the state and local levels.
- 3) As written, the *Standards* provide effective parameters for the evaluation of work proposed for historic properties. Specifically, the *Standards* allow for accommodation of new uses within historic structures, without compromising the very characteristics that lead to their recognition as historic

- resources. They are worded broadly enough that they have endured, and their application results in sound historic preservation outcomes.
- 4) Rather than editing the *Standards*, efforts are best focused on revising existing guidance and providing additional guidance in areas of greatest conflict. Specifically, guidance and case studies are needed on the use of substitute materials and flexibility on treatments intended to address the impacts of climate change. A positive and successful example of the use of substitute materials as a component of a large-scale Historic Preservation Tax Credit project is the application of substitute slate roof shingles to the roof of The Homestead in Hot Springs, VA.
- 5) Flexibility on reversible alterations to interiors, including floor plans, would result in the increased preservation and adaptive reuse of historic buildings.
- 6) Consistent application of the *Standards* and accompanying guidance should be promoted through training among all types of users tailored to accommodate inherent variability across historic property types and geographic regions.
- 7) Oversight of the *Standards* should be the domain of an external and diverse committee separate from the National Park Service's Technical Preservation Services as tax credits are only one of many applications of the *Standards*.
- 8) To the question as to whether the application and interpretation of the *Standards* have raised concerns related to cost, equity, housing-supply, energy efficiency, renewable energy, or climate change, we provide the following:
 - a) Within the Section 106 process, Federal agencies with concerns about the *Standards* have typically failed to appropriately plan for undertakings that will affect historic properties, lacked sufficient survey to identify historic properties and their character-defining features, and underutilized program alternatives that could streamline compliance.
 - b) Several branches within the Department of Defense are averse to findings of adverse effect and unduly blame the *Standards* and the SHPOs for project delays that could be avoided through proactive consultation and programmatic solutions.
 - c) Targeted training to Federal agencies on the application of the *Standards* and coordination of Section 106 with the NEPA process may alleviate much of the misunderstanding and concern.
 - d) The few tax credits projects that have been denied in Virginia were hampered by work started prior to the submission of applications to the SHPO and a reluctance or inability to correct project components incompatible with the *Standards*.
 - e) Regarding the review of private development projects by local historic preservation boards or commissions, we find that the application of the *Standards* is inconsistent at the local level in large measure because volunteer members of review boards lack the academic background, training, or experience to apply the *Standards*.

Thank you for the opportunity to provide comments on this important issue. If you have any questions regarding these comments, please do not hesitate to contact me at (804) 482-6087 or <u>Julie.Langan@dhr.virginia.gov</u>.

Sincerely,

Julie V. Langan, Director

State Historic Preservation Officer

[External] Comments on the Secretary of the Interior's Standards for the Treatment of Historic Properties

Elenga, Maureen (DAHP) < Maureen. Elenga@dahp.wa.gov>

Thu 7/20/2023 10:14 AM

To:Dru Null <dnull@achp.gov>

Cc:Nicholas Vann <nicholas.vann@dahp.wa.gov>

While applying National Register criteria answers the what and the why of preservation, the Treatment Standards should answer the question of how a significant resource should be preserved.

The Standards work well when age and architecture convey its significance; but applying the standards to resources determined eligible for association to historic events, patterns or significant individuals is problematic in the Standards' tailoring to architectural significance. This is a persistent problem with historic resources relating to social justice and equality, including minority neighborhood identity and the Civil Rights and LGBTQ+ movements, as many such resources are not eligible under criterion C. Having one-size-fits-all Treatment Standards does not work in achieving a more inclusive, representative NRHP. The treatment of such historic resources should be tailored to preserving and conveying the story of what happened there with clarity and intention.

As the stories we hope to preserve and convey through these locations are unique, so should be their treatment. In such cases, a process for identifying an appropriate treatment is warranted. Having flexibility built into the Treatment Standards to allow for a process of community engagement would ensure that the story is being conveyed in ways that are not necessarily intuitive to professionals meeting the SOI standards for architectural history, history, or archaeology. Consulting the communities most connected to and affected by the history being conveyed will result in a more meaningful treatment with an enduring impact. Interpretation as a new Treatment Standard may even be warranted.

Some further considerations for evolving the Treatment Standards:

- **Who** is included in decision making? This is just as important as what, how, and why questions. When the National Historic Preservation Act was drafted, there was much emphasis on white-collar professionals being "experts." However, the subject matter expert's role has evolved. A subject matter expert now functions more as a process expert and not an outcome expert. These SMEs have skillsets to coach and assist through exploring alternative paths and design solutions.
- What is being preserved? Which standard is being selected? Who selects the treatment to be applied? What are the project goals? Why is it being preserved? How can the project goals be achieved? Is material reuse being maximized, and if so, how?
- The SOI Standards for Rehabilitation were originally drafted to have some more inherent flexibility than the
 way they have evolved. We encourage viewing this video of W. Brown Morton presenting his thoughts on
 the Standards. (https://www.youtube.com/watch?v=IEnwNh8n4N4)

Maureen Elenga, M.A. | Architectural Historian – Transportation Project Reviewer (360) 972-4539 maureen.elenga@dahp.wa.gov

My work hours are 7:00am – 3:30pm, Mon-Fri

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July 20, 2023

President's Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

RE: Request for Agency Comment on the Secretary of the Interior's Standards

The Port of San Francisco appreciates the opportunity to share with the Advisory Council comment on the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS) with a focus on the areas of sea level rise, sustainability, housing and equity. The Port manages 7-1/2 miles of San Francisco's Bay shoreline subject to the public trust and under the oversight of the California State Lands Commission. Much of the Port's waterfront is historic and contains National Register Historic Districts, including the Embarcadero Historic District, the only largely intact surviving Break Bulk Port in the country. Most of the Port's facilities are pile supported historic maritime facilities including piers that extend 600 feet into the waters of the Bay.

The Port is preparing a Waterfront Resilience Plan to adapt the 7-1/2 miles of waterfront to sea level rise and is collaborating with the Army Corps of Engineers on a Coastal Flood Study that seeks to create a coastal line of defense to protect the Port and the City of San Francisco from coastal flooding. The Port and the Army Corps. are collaborating with federal and state regulatory partners, including the National Park Service (NPS) and California State Historic Preservation Officer. Our planning efforts are informed by policy and regulatory guidance from NPS and the ACHP. Also, the Port has a portfolio of significant historic rehabilitation projects that utilized public/private partnerships and Federal Rehabilitation Tax Credits (FRTC) that were approved by the National Park Service. These past, ongoing and future planning for historic resource stewardship experiences are the context that informs the Port's comment on the SOIS:

- There's a need to reconcile NPS Climate Change policy guidance with the application of the SOIS
 in regulatory contexts including NEPA Section 106 consultation and review of projects receiving
 FRTC's.
- Additional guidance in the application of the SOIS within historic districts where there may be
 localized impacts necessary to meet project sponsor objectives that support larger district wide
 stewardship goals would be helpful. Additionally, the recognition of phased projects that
 exceed the FRTC five-year timeframe for implementation would facilitate longer term resilience
 projects that are likely to occur over multiple decades.
- 3. The application of the SOIS in the evaluation of non- or minimally-visible character defining features (e.g. portions of pier substructures, etc...) and where historic resources are failing and interventions are necessary to maintain safety and the functionality of infrastructure could benefit from additional analysis.
- 4. The application of the SOIS for rehabilitation projects that seek to address sustainability through the utilization of new energy efficiency and technology is an area that would be helpful to the Port.



The Port has offered these general comments because of uncertainty about the ACHP interest and the appropriate level of detail of the specific experiences where the application and interpretation of the SOIS is desired, but can provide further detail if that would be helpful?

The timing of this comment opportunity is of special interest to the Port and we look forward to learning about the breadth of comment received by the ACHP and to following the outcome of this process. The Port's point of contact for these matters is:

Mark Paez Historic Preservation Coordinator Mark.paez@sfport.com (415) 705-8674

The Port hopes that its experiences with the SOIS can help support the ACHP in this important work.

Thank you!

Respectation by:

CC: Army Corps. of Engineers



July 20, 2023

Advisory Council on Historic Preservation 401 F Street NW Suite 308 Washington, DC 20001

Re: Request for Public Comment on Secretary's Standards

Council Members,

San Francisco Heritage (SF Heritage) appreciates the invitation from the Advisory Council on Historic Preservation (ACHP) for public comment on the interpretation and application of the Secretary of the Interior's Standards (The Standards) for the Treatment of Historic Properties and associated guidelines.

Established in 1971, SF Heritage is a nonprofit organization dedicated to preserving and enhancing San Francisco's architectural and cultural identity. We are often asked to review both public and private projects that involve preservation of historic and cultural resources or that might affect resources. We rely on The Standards as a baseline for consistency in evaluating the impact of projects, as well as in organizing our responses to project proponents.

Members of Heritage's Board of Directors have reviewed the ACHP call for comment. While it appears ACHP is seeking specific technical feedback and examples or case studies, the call for comments triggered our thoughts on the application of The Standards in general.

We are interested in understanding how policy guidance periodically released by the ACHP interfaces with the regulatory use of The Standards. We agree with the ACHP that The Standards, "may affect the ability to address the pressing challenge of climate change both through and on behalf of historic properties." Our request to the ACHP is for further guidance in aligning The Standards with issues of climate change, sealevel rise, expanded flood zones, fire safety, energy conservation, social equity, and housing shortages.

We are also interested in more consistent application of The Standards. Project evaluation is highly variable, often with insufficient and/or inconsistent consideration of project goals, economic factors, and other environmental determinants. Identifying how and when certain factors should have priority might bring some clarity to the process. For example, structures in areas susceptible to a range of climate impacts might require the use of non-historic materials or require other structural changes.

We hope that our comments will be considered as you determine next steps.

Sincerely,

Woody LaBounty President & CEO

Woodly Fre Beunsty

Kasey Conley
City of Glendale, Associate Planner
July 19, 2023
Comments on the Secretary of the Interior's Standards

- More homeowners are seeking to replace older single-pane windows with dual pane energy
 efficient windows. Providing guidance and training on how to apply the standards when original
 windows are not necessarily deteriorated beyond repair but cannot do the energy saving job
 needed in today's climate.
- 2. Solar panel review is becoming more frequent. The guidance already provided speaks about putting solar panels at the rear of a building or on flat roofs, but at times this is not possible. Guidance on how to approach solar panel placement on homes with steeply pitched roofs, tile roofs, or roofs adjacent to the street due to topography as it relates to Standard No. 2 and 9 would be helpful.
- 3. Reviewing infill development adjacent to or near historic properties is becoming more and more frequent. Guidance on how to apply Standards No. 2 and 9 when unrelated new construction is being reviewed regarding massing and scale of the new construction would be helpful.
- 4. Historic properties that are associated with significant events and people don't always hold significance related to its architectural features or design and may not retain a high level of integrity when it comes to materials, workmanship, or design. Guidance on how to apply the rehabilitation standards when referencing a resource associated with intangible heritage or for an association with events or people would be useful.

[External] Secretary's Standards Comment

Stephanie L. Rouse <SRouse@lincoln.ne.gov>
Wed 7/5/2023 11:24 AM
To:Dru Null <dnull@achp.gov>
Hello,

I'm writing in regards to the open comment period for the Secretary's Standards. One of the major procedural issues our HPC has been running into is a lack of guidance and coordination among historic preservation and federal funding programs that impact buildings. The current example is the Lead Hazards program which our community received funding for and is now trying to support while also maintaining our historic district character. The problem is the Standards recommend against window replacement and if windows are replaced, against vinyl. HUD's only guidance for this program is to follow the proper Section 106 review without any hierarchy for which program should take precedence. They also have secured a discount on vinyl windows for communities to take advantage of, but not a corresponding wood window product for historic districts. HUD also has strict budgets for each building which get exceeded quickly when wood replacement windows are necessary and finding contractors to strip and repair is challenging given the lengthy courses and certifications contractors are required to take to be HUD certified to work on the program. These types of conflicts make it challenging to proceed with worthy programs like lead abatement and still attempt to meet the Standards.

Thank you for undertaking this feedback project!

Stephanie Rouse, AICP | Planner

Lincoln-Lancaster County Planning Department 555 S. 10th St., Suite 213, Lincoln, NE 68508 (O) 402-441-6373 (C) 531-207-2396 bike.lincoln.ne.gov lincoln.ne.gov/historic

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Sarah Carroll Chair

July 20, 2023

Sara C. Bronin
Chair
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington DC 20001
via email: dnull@achp.gov

re: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Dear Chair Bronin:

On behalf of the New York City Landmarks Preservation Commission (LPC), thank you for the opportunity to provide comments to the Advisory Council on Historic Preservation (ACHP) regarding the application and interpretation of the Secretary of the Interior's Rehabilitation Standards for the Treatment of Historic Properties (Standards).

LPC is the largest municipal preservation agency in the nation. It is responsible for protecting New York City's architecturally, historically, and culturally significant buildings and sites by granting them landmark or historic district status and regulating them after designation. Since its creation in 1965, LPC has granted landmark status to more than 37,929 buildings and sites, including 1,456 individual landmarks, 121 interior landmarks, 11 scenic landmarks, and 156 historic districts and extensions in all five boroughs. New York City faces many of the same challenges as other large cities, including a critical need to increase the housing supply, adapting to changing economic forces in terms of office supply and manufacturing needs, decarbonizing our building stock, and improving the resilience of our buildings in the face of a changing climate. We are confident that historic preservation plays a positive role in addressing these critical issues, but the application of the standards must be flexible to address these critical needs.

While LPC doesn't rely on the Standards for approving and reviewing work on locally designated buildings and sites, we acknowledge their importance and impact on historic preservation in New York City. As a Certified Local Government (CLG), we regularly reference the Standards in our work as an expert agency under local, state, and federal environmental review requirements. They also play a critical role in the Federal Historic Preservation Tax Credit Program. New York State has the highest number of properties listed on the National Register in the nation, with a very large number of those sites located in New York City. In FY2018-2022 New York State also had the highest number of tax credit projects and the largest Qualified Rehabilitation Expenditures in the United States, and New York City had the most tax credits and largest expenditures in the state. According to the National Trust, between FY 2001-2022 there were 193 tax credit projects completed across New York City, with an investment in historic resources totaling more than 6 billion dollars. Through these projects, the city was able to add housing, revitalize neighborhoods and foster the city's economy.

Given their importance, this letter primarily focuses on interpretations of the Standards for the Federal Historic Preservation Tax Credit Program, which we believe should be reassessed to effectively address the growing array of challenges affecting historic resources in our local communities. Our recommendations are drawn from LPC's experience and discussions with experts with deep experience in using the historic tax credit program in New York City. What we heard was the lack of flexibility in the interpretation of the standards made them increasingly challenging to use for projects related to adapting buildings to new uses, including housing, and addressing modern needs for sustainability and resiliency. In some cases, buildings were lost because the tax credit program was the only way to make a project financially viable. Consistently, we heard that the requirements for extensive preservation of interior spaces to which the public will never have access cause consistent issues with the viability of adaptive reuse projects.

Decarbonizing Buildings

Chair

Buildings account for approximately two-thirds of greenhouse gas emissions in New York City, and the City has adopted ambitious laws that require buildings to meet new energy efficiency and greenhouse gas emissions limits. LPC believes historic buildings can and should meet energy efficiency goals.

To promote a wider application of sustainable practices, such as the installation of solar panels, we suggest allowing for greater flexibility in finding visible installations in conformance with the Standards, if they can be easily reversed, as most certainly can be. By placing emphasis on long-term reversibility as an acceptable approach and considering the potential for future technological advancements, we can promote the integration of sustainable solutions while still preserving historic character, and effectively keeping pace with evolving technologies.

Furthermore, for historic buildings to meet current energy code requirements, it is often feasible and preferable to meet these requirements through interior alterations, for example by installing insulation on the interior of masonry buildings as opposed to the exterior. The application of the standards has at times made that approach difficult, and we believe that treatments of the interior private spaces should not be held to the same rigorous standard as publicly accessible spaces when meeting energy code or other requirements. Providing flexibility for energy-related work that preserves overall historic character would greatly facilitate the achievement of long-term energy goals and encourage the adaptive reuse of historic resources.

Climate adaptation

Climate change is causing more frequent and intense flooding from coastal storms and sea level rise, and New York City's 520-mile coastline means our historic resources are increasingly at risk of flood damage. New York City's building stock is not as conducive to elevation as that in other parts of the country, and for masonry historic buildings the most common adaptation strategies focus on floodproofing with gates and other barriers, creating sacrificial ground floors and moving lost square footage to the tops of buildings, and elevating mechanical equipment to the roofs. These approaches require flexibility in historic preservation standards.

New York City is not alone in recognizing the pressing need for creative solutions and clear guidance in mitigating flood risks to historic resources. While the *Secretary of the Interior's Guidelines on Flood Adaptation for Rehabilitating Historic Buildings* provides helpful examples, we encourage the development of more flexible interpretations for buildings in urban environments in which significant intervention is required to mitigate severe weather impacts and sea level rise.

Interpretations are sometimes unclear in explaining when treatments cross the threshold from recommended to not recommended. Considering that all projects will be evaluated on a case-by-case basis, we encourage a wider range of examples of wet and dry floodproofing techniques in urban settings, allowing for maximum flexibility when a resource may be lost without intervention. This includes guidance and examples for new openings for water movement and alterations to visible foundations. Furthermore, guidance on relocating critical electrical and mechanical systems in urban environments, where visible areas on the roof may be the only option, is crucial. We suggest addressing flood adaptation guidelines for additions that recapture floor area lost due to compliance with flood-resistant construction requirements through the construction of a rear yard addition or a penthouse floor at the roof level.

Addressing Critical Housing Needs

Chair

Like many large cities across the country, New York City is in the midst of a critical housing shortage that is making the city increasingly unaffordable to its residents. In the last decade, New York City grew by nearly 800,000 people but added just 200,000 homes. Adapting buildings to new uses is a hallmark of historic preservation, but the application of the standards has not always provided the flexibility that is so critical to a successful project. In particular, we see room for improvement in the conversion of commercial office space to residential uses, which is a major opportunity for housing growth utilizing historic buildings in New York City.

We also encourage the development of a wider range of interpretations that prioritize a balance between meeting local housing needs and maintaining compatibility with infill development within historic districts and allow for greater flexibility in scale, and materials. Based on our experience working with applicants, we are confident that high-density developments can be designed sensitively for historic contexts.

Adapting Non-Residential Buildings for Housing

Some New York City applicants have expressed to us that the required preservation of publicly inaccessible interiors has made some potential tax credit projects infeasible. We encourage a reexamination of interpretations of the Standards for adaptive reuse projects for residential purposes. For example, with changing work patterns affecting the demand for office space, we believe the guidelines should demonstrate greater flexibility for adapting commercial office buildings into residential properties to address housing needs. One common issue is the requirement to retain historic corridors and elevator lobbies on upper floors, which may exceed the width and length needed for current residential purposes, and we believe retention of these areas provides little public benefit. Preserving significant publicly accessible interior spaces, such as lobbies and other publicly accessible floors, can have a public purpose, but we question the necessity for

retaining all interior spaces on upper floors, particularly in cases where repetitive corridors and elevator lobbies are not accessible to the public and preserving a few representative examples of the repetitive corridors could be a successful strategy. A more flexible approach could also help to minimize challenges, such as accommodating new plumbing and HVAC systems, which can be particularly difficult when working with existing structural elements.

Adaptive Reuse of Religious Structures

As in many big cities across the country, the preservation and adaptive reuse of purpose-built religious structures poses special challenges in New York City. LPC has long recognized the importance of religious institutions and their buildings to their communities and has also recognized their unique needs. Many religious properties facing the reality of dwindling congregations, and a lack of resources to maintain the property, seek redevelopment options to remain viable. LPC has approved many adaptive reuse projects for houses of worship and new housing developments on campus properties, which provide sustainable funding for building maintenance, restoration, and mission, while also delivering critical housing units.

To address the special needs of religious institutions, we suggest reevaluating how the Standards are interpreted for two purposes: to provide more flexibility in the preservation of interior worship spaces, and to allow for greater flexibility in the development of adjacent structures. Particularly for the adaptive reuse of worship spaces, we propose embracing flexibility and support for innovative interior spatial arrangements that address the volume of the worship space without excessively prioritizing its preservation at the expense of the feasibility of the overall project.

Visible Additions

Chair

Current interpretations of the Standards discourage vertical additions greater than one story in height, extending to two stories in some select cases, to avoid obscuring and overwhelming the proportions and massing of historic buildings. In general, we believe there are circumstances in which visible additions of multiple stories can be sympathetic to the massing and scale of the historic buildings, particularly in a high-density city. New York City has many examples of thoughtful and dynamic visible additions to New York City Landmarks. We suggest that interpretations of the Standards consider a wider range of possibilities for conformance, such as a nuanced approach that allows for visible additions that balance the massing and volume of the historic building with a strong visual relationship in terms of design, scale, and materials.

Finally, more flexibility should be allowed for nonvisible portions of rooftop additions. While we believe there should be upper limits on the size of a rooftop addition to ensure the integrity of a building's typology and form, dense urban environments offer the opportunity for adding needed housing units, which we believe can be accomplished without compromising the integrity of historic structures.



Sarah Carroll Chair

Substitute Materials

We strongly encourage a reexamination of the framework used to assess the appropriateness of substitute materials to ensure an equitable application of replacement materials, particularly for low-income property owners residing in historic districts. LPC routinely considers a wide range of substitute materials, in some cases on primary facades and frequently on secondary facades whether visible or not, while ensuring the overall visual appearance is maintained. We consider substitute materials for the replacement of deteriorated historic fabric, especially when the original materials are missing and the improvement over what is existing is substantial. This approach considers practical considerations such as lead time, labor costs, and limited resources for manufacturers of traditional building materials.

The recommendations made throughout the document are based on LPC's local experience and expertise, and the issues we face in New York City. To that end, we support procedural changes that provide deference to state and local preservation commission approvals in situations where potential conflicts may arise between local interpretations of the Standards and federal interpretations for the tax credit certification of the same project. CLGs possess specialized expertise in historic preservation, and because of the Standards' inherent flexibility, many CLGs have developed particularized approaches to address specific local issues and needs. CLGs are best positioned to interpret the Standards in a manner that aligns with the unique needs of their community.

Thank you once again for the opportunity to provide our comments on the Standards and associated guidelines. We appreciate your consideration and look forward to engaging with ACHP further on this topic.

Sincerely,

Sarah Carroll

Chair

New York City Landmarks Preservation Commission

Brush audl



July 20, 2023

Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001 ATTN: dnull@achp.gov

RE: Comments on application of SOI Standards

To whom it may concern:

The Landmark Society of Western New York appreciates the opportunity to offer comments related to the application and interpretation of the Secretary of the Interior's Standards. Our comments that follow focus specifically on the SOI Standards for **Rehabilitation**. Founded in 1937, The Landmark Society is a regional nonprofit historic preservation organization, based in Rochester, NY and serving the Finger Lakes / Genesee Valley region.

After almost fifty years of application in the preservation field, the SOI Standards are due for a reassessment. While we do not believe the Standards need to be completely overhauled and we acknowledge that their interpretation and application have evolved as the preservation field has evolved, we strongly believe that the interpretation and application must continue to evolve in order for preservation to remain relevant, become more accessible to diverse audiences, and to foster greater equity in our communities.

We would like to see the Standards evolve in the following areas:

 Adaptive use of historic houses of worship – In general, the current application of the Standards makes it exceedingly difficult to adapt historic houses of worship (especially those with large volumes of space in the sanctuary) to new, economically viable uses. As religious congregations dwindle and vacate large, complex, and expensive religious campuses, we must place a high priority on fostering creative adaptive use solutions.

In our experience, the pace of abandonment and vacancy is particularly alarming in rural areas and in urban neighborhoods that have suffered the effects of generations of racist government-sponsored housing and zoning policies. Exacerbating the crisis, the largest, most high style houses of worship in the city of Rochester tend to be located in these neighborhoods, which have extremely high concentrations of poverty and are predominantly Black and Latinx. If the Standards do not evolve to make it easier to adapt these buildings to new uses that serve the communities in which they are located, not only do we face the loss of important historic resources, those losses will be disproportionately felt by poor, BIPOC communities.

Properties with cultural significance – As the application of National Register criteria
gradually expands to be more inclusive of properties with cultural significance, so too
must the Standards evolve. How will preservation professionals apply the Standards to

properties for which physical building fabric and integrity are secondary to their significance?

Application within historically marginalized communities – As preservationists seek to
enhance the relevance of our field and promote diversity, equity, inclusion, and
accessibility, it is important that we examine how our work impacts marginalized groups
and communities. Not only should we ensure that our work does not continue to
perpetuate harm, we should also seek to help repair harm.

For example, in the context of redlined urban neighborhoods, in which the built environment often lacks a high degree of physical integrity as a direct result of policies imposed by federal, state, and local governments, can we apply the Standards in such a way that allows property owners to more easily access state and federal historic tax credits? Is it appropriate to have a different set of Standards for neighborhoods that have historically suffered from disinvestment and have traditionally been excluded from preservation programs? Should there be a consideration for economic hardship in such communities?

Thank you for the opportunity to comment at this early stage on what will be a nuanced and complex topic. We acknowledge that there are no easy answers to many of these questions.

Sincerely,

Caitlin Meives

Director of Preservation





Advisory Council on Historic Preservation Office of Preservation Initiatives 401 F Street NW, Suite 308 Washington, DC 20001

Attn: Druscilla J. Null, Director

RE: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Thank you for the opportunity to provide suggestions to improve the Secretary of the Interior Standards for Rehabilitation and the program administering it.

As long-time Cleveland Ohio leaders in the field of promoting and encouraging adaptive reuse of our historic buildings as a key component of downtown revitalization, we believe it is time to update and improve the standards to address todays issues of climate change; use of new and improved materials and technology; creation of affordable and market rate housing; addressing permanent downtown office building vacancies; and in general improve the program to make it more efficient, reliable, and to reduce the risk of using the credits.

The Historic Warehouse District Development Corporation (founded 1980) and the Historic Gateway Neighborhood Corporation (founded 1992) have together helped to implement the following:

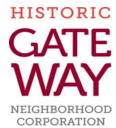
- 1. 10 historic districts in Cleveland resulting in over 100 historic buildings adaptively reused using historic tax credit incentives.
- 2. Increased market rate residential units from 4,200 in 2010 to 9,400 today 70% in adaptively reused historic buildings.
- 3. Increased downtown population from 7,800 people in 2000 to 20,700 today with 30,000 projected by 2030.
- 4. Created and administered a Historic Easement program that protects 75 historic buildings.

Having a robust, predictable, and efficient Historic Tax Credit program is important to our work and frankly to the survival of our historic Midwest downtowns.

While the Historic Tax Credit program has been relatively successful, it is not as successful as it could be. The program can be difficult to navigate, at times is unpredictable and thus risky, and should be revised and improved to run at the speed of business and to promote saving as many buildings as possible in a cost effective manner. Many people avoid redeveloping historic buildings because of the complexity and risk, and one of the goals of the program should be to reduce the risk.

We offer the following comments for improving the program so that we can increase the numbers of buildings we can save and to be able to repurpose abandoned, blighted, or underutilized buildings into fully leased, income producing, tax paying assets.





A clear, concise and reliable historic tax credit program is important to Ohio's future. Conversely, an overly complex, unreliable, inconsistent program will increase risk and will drive investment to other approaches: demolition, new construction, or other real estate investments NOT in our Mid-western downtowns. Finally, it is just good business practice to reexamine the Standards after all this time and review how the program is working, and consider ways to improve it for future generations.

1. <u>Make the Standards less about idealized preservation practices and instead address practical challenges and goals of building rehabilitation and adaptive reuse.</u>

Recommended improvement:

- Additional guidelines should be created to better clarify current regulations requiring consideration of "technical and economic feasibility" in interpretations of the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- 2. <u>Interpretations of the Standards need to be based on facts and not personal opinions</u> without a clear, defensible basis, and Part 3 denials are a real concern.

Projects facing common, comparable issues should receive consistent guidance and review decisions should be justified with a process to challenge decisions. Of real concern to the viability of the program long term are Part 3 appeals that take months and have resulted in millions of dollars of unnecessary finance charges, undue risk to projects, and future reluctance of investors to participate because of these delays.

Recommended improvement:

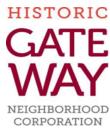
- The HTC program needs an improved appeals process, allowing applicants timely access to an impartial third-party review, ensuring that interpretations of the Standards remain consistent with existing precedents and/or the intended goals of the program. We recommend creation of an appeals panel independent of the National Park Service (perhaps under the auspices of the Advisory Council on Historic Preservation), This appeals panel should include people with a varied experience and perspectives on historic rehabilitation projects, mitigating any individual biases and giving confidence to applicants that they are receiving fair consideration. The appeals process should also be an expedited process.
- 3. The Standards are being broadly applied to all features and finishes regardless of existing condition or relative significance to the building.

A common example is an increased focus in recent years on new finishes within secondary spaces (i.e. flooring in newly created apartment and hotel room interiors), which are required to be consistent with historic finishes even when those finishes were previously removed, and/or were always intended to be sacrificial and expected to change over time.

Recommended improvement:

 Additional guidelines should be created to clarify what constitutes "distinctive" features and finishes and those "that characterize the property" in interpretations of





- the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- Reviews should focus on those features that are truly significant to the historic building's design and character, ignoring changes in secondary spaces and to intentionally sacrificial or undefined original finishes.
- 4. <u>Interpretations of the Standards are failing to adequately consider the significant challenges of adapting certain building types.</u>

Many communities are facing vacant schools and churches abandoned by their traditional occupants, with no viable option to maintain their current use. Repurposing such buildings in an efficient manner is particularly challenging given their use-specific designs and large common areas. Strict requirements to preserve large open volumes like gymnasiums, auditoriums, and sanctuaries can make adaptive reuse commercially and technically infeasible using HTCs.

Recommended improvement:

To support the HTC program's goal of preserving historic buildings for economic development, additional flexibility is needed in building types that are particularly difficult to adapt. Many of these schools and churches are in areas in need of affordable housing.

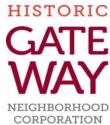
5. <u>Interpretations of the Standards are not sufficiently accommodating of needed improvements to energy efficiency and are ignoring the use of modern but sympathetic materials and systems.</u>

Recommended improvement:

- Historically sensitive energy efficient replacement windows should be permitted to replace existing windows without having to prove that the existing windows are beyond repair.
- Permit exterior walls to be furred and insulated where existing material is common or insignificant.
- When necessary, ductwork should be permitted at windows for proper HVAC.
- In general materials and products that do not impact character defining features should be permitted.
- 6. Interpretations of the Standards and associated review processes are adding unnecessary cost to rehabilitation projects, reducing the amount of funding applied to the rehabilitation itself and increasing the cost to end users, making HTC projects less equitable.

Extensive documentation requirements and oversight of minute details extends review timelines at all stages of the process (Part 1, Part 2, Amendments, and Part 3). With HTC proceeds typically financed with short-term loans, extended timelines for reviews and approvals can dramatically increase interest costs. Required design changes and corrections of work deemed incompatible further increase costs, often with questionable benefit to the





building's historic fabric or character. These added expenses must ultimately be passed on to the end users, raising rents and reducing the populations to which these projects are accessible.

Recommended improvement:

Review timelines must be considerably reduced, particularly at the SHPO level, where
applications are routinely engaged for 6 months or more before even reaching NPS
for formal review and approval. Clearer guidance to SHPOs and applicants,
consistent application of the Standards across all states and projects, and
substantially reduced attention to new work in secondary spaces would all
significantly improve review timelines

7. Other areas to address:

- The ability to add windows to secondary facades.
- Address accessibility and ADA requirements.
- Update the Preservation Briefs to address modern materials, energy efficiency, etc.
- Limit spending time and money on secondary spaces, unimportant or seldom seen features or areas, or retaining insignificant spaces so that limited resources can be applied to areas or features of importance.

Without changes to the application of the Secretary of the Interior's Standards and associated review processes, we fear that community leaders, building owners, and investors will increasingly turn away from the HTC program.

The additional risk and costs caused by the issues we've outlined, applied to rehabilitation projects that are already economically challenging and risky, only serves to discourage people from investing in historic resources in our communities. This is entirely counter to the aims of the HTC program and completely disproportionate to any minimal preservation gains associated with the increasingly strict interpretations of the Standards being applied.

We fully support reasonable and consistent oversight of historic rehabilitation projects, and we recognize the value of preserving the character of our buildings and communities. However, extending that oversight to insignificant aspects of a building or project, with increasingly strict and inconsistent interpretations, is detrimental to our shared goal of using historic preservation to spur revitalization.

Thank you for your time and consideration of these issues. These are just a few of the suggested changes and we would welcome the opportunity to provide additional input or answer any questions you may have.

Signed,

Historic Warehouse District Development Corporation Board

Historic Gateway Neighborhood Corporation Board

PRESERVATION ESTD SOCIETY 1920 of CHARLESTON

July 20, 2023

Druscilla J. Null Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Via email to dnull@achp.gov

Re: Request for Comments on the Application and Interpretation of the

Secretary of the Interior's Standards for the Treatment of Historic

Properties

Dear Ms. Null:

The Preservation Society of Charleston (PSC) appreciates the opportunity to comment on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards). Founded in 1920, the Preservation Society is the oldest community-based organization in the United States focusing on the protection of historic and cultural resources. Serving over 4,000 members, we serve as a strong advocacy leader for all concerned about preserving Charleston's distinctive character, quality of life, and diverse neighborhoods.

We applaud the ACHP for proactively initiating this public input process especially considering its unique authority to recommend to Federal agencies "methods to improve the effectiveness, coordination, and consistency" of historic preservation policies. See 54 U.S.C. § 304102(a)(6). The Standards are deeply influential regulations promulgated by the Secretary of the Interior, relied on by local governments and their review boards and commissions thoughout the country. They are critically important in everyday decision-making processes and deserve a fresh look. Our preservation policy must meet the moment and be consistent with solutions for the key social and environmental challenges of our time.

In recent years, we have noticed a distinct shift in community values and attitudes toward traditional preservation treatments. Charleston is experiencing explosive growth, rapidly changing climate conditions, and surging tourism numbers that collectively put unprecedented pressure on our city's infrastructure and fragile historic environment. We have had to quickly adapt to preserve Charleston's unique character, while also promoting livability for residents. These factors are shared among many historic communities across the country, and the Standards can be revised to better address issues of affordability, resilience, and equity.

The reflections and recommendations below are based on our staff's professional experience working alongside practicioners, policy-makers, and property owners. Our comments focus on the Standards for Rehabilitation, as these have been adopted by local ordinance as the guidepost for the City of Charleston Board of Architectural Review (BAR) to determine appropriateness, and factor most often into our day-to-day work:

Standard 1: A property will be used as it was historically...

This standard is frequently misinterpreted as prohibitive to adaptive reuse projects, contributing to the false perception that preservationists aim to freeze time. It also does not adequately encourage interpretive activities. In Charleston, we have a strong tradition of rehabilitating buildings for new uses and largely do not adhere strictly to this rule. Better latitude in this Standard could reduce barriers to rehabilitation projects to facilitate more affordable uses in historic buildings. Building stewards should also be under fewer restraints to change intensity of use, especially for education and awareness. We believe there are ways to responsibly introduce new uses to historic properties in the interest of promoting preservation, and the Standards could prioritize the interpretation of the stories behind buildings as a provision of rehabilitation.

Standard 2: The historic character of a property will be retained and preserved...

The PSC is witnessing a flood of inappropriate changes to Charleston's historic buildings driven by financially-motivated interests, such as adding square footage to enhance property value. As preservationists, we have grappled with allowing sustainability retrofits of historic buildings, like elevating flood-prone buildings or installing solar panels, and ultimately came to a position of support for making historic properties more resilient to climate change. This Standard should more clearly define what constitutes "character" and "integrity," while providing better structure to guide and encourage sensitive adaptations that will give a building more life and address broader social and environmental goals. As a result, this Standard can serve as a reference to discourage insensitive, market-driven alterations.

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved. In tandem with revisions to Standard 2, this Standard could benefit from an enhanced explanation of what is considered to be a "distinctive" historic element and how this relates to a building's character and integrity. We consistently see inappropriate requests to alter buildings, such as painting unfinished brick, dramatically rearranging fenestration, or obliterating historic roof forms because there is a clear disconnect with the public on where the line is for the appropriate level and type of modifications and why it matters. Bolstered language around the value of retaining existing features and negative impacts to historic integrity if altered insensitively would better lay the groundwork for how to approach a rehabilitation project.

<u>Standard 6:</u> Deteriorated historic features will be repaired rather than replaced....

Without adequate education about the architectural, economic and environmental benefits of retaining historic material, this Standard is often construed by the public as cost-prohibitive and counter to sustainability efforts. The Charleston BAR has started to allow use of compatible substitute materials to prioritize retention of character-defining forms and features, rather than the fabric itself. It is worth considering allowing more flexibility for replacement materials to support preservation as an equitable

practice by reducing perceived barriers to rehabilitation projects, while further reinforcing the principles outlined in Standards 2 and 5.

<u>Standard 9:</u> New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships...

In our experience "compatible" does not go far enough in describing the nature of appropriate new construction. Particularly for additions and accessory buildings, more direction should be given on best practices for height, scale, mass, and siting that reinforces the hierarchy of the historic building. We have also observed difference in opinion over the term "compatible" for stand-alone new construction, and whether it should be interpreted as seamless or distinct from the character of the historic setting. It would be helpful for the Standards to identify a preferred approach for infill development in a historic district.

The PSC commends the Advisory Council on Historic Preservation for taking the lead on gathering public input to help shape updates to the Standards, in response to contemporary challenges and community needs. We deeply appreciate the opportunity to provide comment on this matter. Please feel free to contact me at eminigan@preservationsociety.org or 843.722.4630 x25 should you have any questions or need clarification on any of our points.

Sincerely,

Erin Minnigan, AICP

Frin Miningon

Director of Preservation & Planning

[External] Secretary of the Interior's Standards input

Vincent Michael <vmichael@saconservation.org>

Fri 7/7/2023 10:30 AM

To:Dru Null <dnull@achp.gov>

Dear Advisory Council on Historic Preservation:

I am happy to provide my personal input to the discussion of the Secretary of the Interior's Standards and Guidelines.

The Secretary of the Interior's Standards for the Treatment of Historic Properties and the Guidelines that illustrate and support those Standards have remain largely unchanged for over thirty years. While the practices of architecture, real estate development, community empowerment and museum curation have evolved significantly since 1990, there have been only incremental changes to the Secretary of the Interior's Standards. A thorough review in light of contemporary conditions is needed.

At the same time, the Standards are broad principles, and even the Guidelines are not prescriptive, allowing different interpretations or approaches. I understand the intent of the Advisory Council in asking for these comments is to focus on how approaches and interpretations should be addressed. I have over forty years of experience in heritage conservation, and I have witnessed and dealt with the various interpretations of local landmark commissions, State Historic Preservation Offices, the National Park Service and even the Advisory Council itself, where I presented my ideas for addressing the Diversity Deficit in the National Register in 2015. The most important change in approach and interpretation of the Secretary of the Interior's Standards is to understand the application of standards as a process. The process described in the National Historic Preservation Act (NHPA) has four steps: Identification, Evaluation, Registration and Treatment. Now the immediate discussion here is the final step, Treatment. But to address that step without addressing the steps that got you there would be folly.

The Burra Charter provides an understanding of the heritage conservation process. The process is largely the same as the four steps in the NHPA. The key distinction is that community – however defined – needs to be active in each part of the process, from the beginning. If the community that has chosen to bring a landmark into its future is involved, their insights as to how a property conveys its significance are essential. While this is clearly seen with Native American sacred sites, it is also true of sites that have great cultural or historical significance, like the People's Temple in Chicago or the Maravilla handball court in Los Angeles. Current discussions of preservation commissioners are looking at issues like mural preservation, legacy businesses and intangible heritage that were not instrumental in 1966 or 1990.

The concern about different approaches and interpretations of the Standards would seem to come from a desire for more consistency, but in fact a correct application of the preservation process would do the opposite. Zoning considers buildings, sites and structures as commodities that can be measured and alienated into distinct categories. Heritage conservation/historic preservation considers each site as an individual. The evaluated significance of each site is unique, just as its story is unique. No site is an analogue for another. The correct application of the Standards would thus result in *less consistency*.

At the same time, the application could be *more predictable*. Even thirty years ago, local preservation commissions were working to define specifically what elements of landmark structures need to be preserved in order for the property to convey its story. That is to stay, the process meant that the appropriate treatments were determined at the time of designation. If you keep the community involved, they will have helped IDENTIFY the resource, EVALUATED its significance, REGISTERED it as a landmark, and determined the appropriate TREATMENTS.

To be more predictable would require going back to those properties whose significant elements were not identified during registration and making that determination. Many registrations (National Register nominations) are driven by Section 106 review and applications for tax incentives. In the case of Section 106, there is ample

opportunity for community input, as seen in San Antonio with the recent conservation of the foundations of the 1875 St. James African Methodist Episcopal church, where the resultant treatment came from community input. In the case of tax incentives, the problem is greater, because these negotiations are largely limited to real estate developers and preservation professionals at the state and local level. These groups tend to rely on Criterion C landmarks and formal definitions of integrity.

In terms of practical approaches, several specific steps have been suggested over the last decade:

- 1. Consider integrity a sliding scale rather than an on/off switch, as suggested by Ray Rast in 2013 during creation of the Cesar Chavez National Monument. Integrity matters in the treatment of properties that are architecturally significant (National Register Criterion C) but much less even under current guidance, for properties significant under Criterion A or B.
- 2. For properties that have significance under Criterion A or B, consider focusing the aspects of integrity. For example,. Donna Graves and Shayne Watson in their pioneering 2016 LGBTQ context statement for San Francisco limited the discussion of integrity to Location, Feeling, Association and Design, although "only the very basic features of a property are important, such as original form, and window and door configuration. Integrity of style is not important/"
- 3. Add an eighth aspect of integrity as suggested at the PastForward conference in 2022. The eighth aspect "Use" that would also benefit the preservation of underrepresented stories and resources such as historic public housing.
- 4. For properties that have significance under Criterion A or B, require an interpretive plan rather than a strict adherence to architectural guidelines. Conveying significance to the public is essential to insure that the next generation values the property and will conserve it in turn.

In terms of the Standards themselves, there has been an ongoing conflict between Standard #3, which argues against "Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties", and Standard #9, which requires new additions "to be differentiated from the old" but also "compatible with the historic materials, features, size, scale and proportion, and massing". In the 1960s and 1970s contemporary architecture was distinct from most types of historic architecture. Since 1990 that has not been the case. Indeed, in projects across the country virtually indistinguishable additions to historic properties are frequent and a portion of the heritage conservation community actively endorses an architectural continuity that confounds Standard #3. Barring a comprehensive review, Standard #3 needs redefinition.

While the word "integrity" appears but once in Standard #10, the word "materials" appears in six of the Standards. There should be less stress on materials. A great number of new materials (solar shingles, hardie board, engineered lumber, composite decking, glass fiber reinforced concrete, etc.) need to be considered, and in fact are being considered and approved at the local level. The introduction of appropriate interpretive elements as described under #4 above would leverage an understanding of heritage conservation to a much broader audience than architectural treatments alone can achieve.

Respectfully Submitted,

Vincent Michael

Vincent L. Michael, PhD - Executive Director The Conservation Society of San Antonio 107 King William, San Antonio, TX 78204 210-224-6163 cell 650-521-4262 www.saconservation.org – Join Now!

"You will never reach your destination if you stop and throw stones at every dog that barks" -Winston Churchill



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July 20, 2023

By email: dnull@achp.gov

Druscilla Null Director, Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

RE: Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Ms. Null:

Thank you for the invitation to comment on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties. We appreciate this opportunity from the Advisory Council on Historic Preservation to provide input.

Founded in 1935 in Richmond, Virginia, Historic Richmond's mission is to shape the future of Richmond by preserving our diverse historic buildings, neighborhoods, and places, sparking revitalization, and championing our distinctive architectural legacy. We have worked for almost 90 years as a community stakeholder and nonprofit to revitalize Richmond's irreplaceable historic resources by leading and supporting adaptive reuse projects and partnerships. This work has helped to preserve a diverse range of historic resources – from large civic buildings to neighborhood homes to commercial storefronts to industrial factories and warehouses to infrastructure such as historic canals - dating from the 18th, 19th and 20th centuries.

Over the past 25 years, one of our most successful partnerships has been with our federal and state partners administering historic tax credit programs and the private historic preservation developers who have invested in our community through those programs. We are truly grateful for the impact these programs have had as an effective means of accomplishing the goals of historic preservation and economic development in Richmond and in communities throughout Virginia and the United States. The success of the historic tax credit program – and the Secretary of Interior's Standards for Rehabilitation as the foundation on which it rests – is critical to the long-term stewardship of our historic resources.

EXECUTIVE DIRECTOR

Cyane B. Crump

Our comments are as follows:

1. Preamble: The preamble to the Secretary's Standards provides that "the following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility." This preamble should be applied and interpreted to allow a flexible "common sense" case-by-case approach to facilitate the rehabilitation of a diverse array of historic resources based on the type of resource and its individual characteristics and challenges. The 1990 memo providing guidance for this preamble dates to an era before the implementation of many state tax credit programs and to a time, at least in the Richmond market, when only the least complicated adaptive reuse projects were undertaken. Our region has a diverse array of historic resources, each distinguished by its own architectural characteristics, technical and economic challenges. A modest frame house that contributes to a district but may not be individually eligible for listing on the National Register should not be treated the same as a National Historic Landmark. Similarly, the Secretary provides for different treatment standards for preservation, restoration and rehabilitation, acknowledging that a historic house

In our urban market with rising land values, as historic property developers face increasing costs of rehabilitation, the economics of demolition can appear more favorable than those of preservation, particularly when coupled with the housing market dynamics discussed below. Without a more flexible approach to application and interpretation of the Secretary's Standards, historic tax credit programs will no longer provide meaningful incentives for preservation. Not only will we lose more irreplaceable historic fabric, but preservation will once again become a luxury available only to the wealthy and well-funded who can afford to ignore market dynamics.

museum and a rehabilitated warehouse warrant different levels of oversight.

- 2. Housing: The application and interpretation of the Secretary's Standards should be adjusted to better accommodate housing needs. Like many cities around the country, Richmond is currently experiencing a housing crisis. Historic housing stock can supply a portion of our housing needs, but we must recognize that what might have been considered adequate housing to past generations is considered substandard today. Existing historic housing stock (including the naturally occurring affordable housing styles of bungalows and cottages) will require alterations and additions to foster its utility and vitality. In addition, other types of historic structures, such as warehouses, factories and civic and commercial buildings, could be easily adapted to provide more housing units and more affordable housing; however, several of the Secretary's Standards make adaptive reuse projects for housing significantly more challenging.
 - a. Standard 2, for example, provides: "The historic character of a property will be retained and preserved. The removal of distinctive features, spaces and spatial relationships that characterize a property will be avoided." The adaptive reuse of certain types of structures for modern housing may result in conflicts between this standard and legally mandated local building codes and/or ADA accessibility requirements. The Secretary's Standards should be applied and interpreted to allow for the adaptive reuse of historic structures while meeting these modern-day requirements.

- b. Adaptive reuse for modern housing also requires the insertion of bathrooms, kitchens, HVAC and service equipment. Some of these changes may require a window to be added or removed to meet code. This often can be done in a sensitive manner, but the Secretary's Standards could better facilitate housing projects if they prioritized the treatment of the front façade and public-facing portions of a historic building, while providing more flexibility with the less visible elevations and secondary interior living spaces. For example, the treatment of the interior spaces of a third floor apartment or hallway should be approached more flexibly than the exterior primary façade or public entry space of a multi-unit apartment building. The ACHP has already recognized this necessity in their *Policy Statement on Affordable Housing and Historic Preservation*, in which Implementation Principle III states that, for purpose of Section 106 reviews, the "review of effects in historic districts should focus on exterior features." This policy should be incorporated into the Secretary's Standards to accommodate the realities of modern living.
- c. When housing projects involve the use of Low Income Housing Tax Credits, there may be additional layout challenges and LIHTC requirements that conflict with the Secretary's Standards. In such situations, the Secretary's Standards should be interpreted more flexibly to accommodate LIHTC projects.
- 3. Climate Resilience: In 2011, the Secretary issued The Secretary of Interior's Standards for Rehabilitation & Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings. This guidance is helpful but could be updated to better facilitate the long-term stewardship of our historic resources. Our region sees an increasing number of severe wind and rain events and hotter summer temperatures and colder winter temperatures. This increases costs for heating and cooling and places stress on our electric grid. It also presents more frequent repair and maintenance issues and the need for water mitigation measures. The guidance and the Secretary's Standards could be improved to better accommodate adaptation and mitigation measures, such as the installation of energy efficient equipment, insulation, water mitigation treatments, and renewable energy options.
- 4. <u>Substitute Materials</u>: Standard 6 provides: "Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials." We believe that substitute materials should be viewed more favorably under the Secretary's Standards. In today's world, in many cases, an exact match of the original material is either not possible, or is not feasible for financial or environmental reasons.
 - a. For example, we are seeing owners of historic frame houses struggling with wood siding issues in our hot humid climate. While wood is available, old growth timber is not commonly available and is significantly more expensive than new growth wood, which makes up most of modern-day replacement wood siding. New growth timber does not match the density and durability of old growth timber, having growth rings that are more widely spaced, making it more susceptible to pests, decay, and water intrusion. Limiting property owners to a material that requires more frequent and more expensive maintenance is not only less sustainable from an environmental perspective,

- but it also actively discourages the private market from owning and caring for a historic property.
- b. Substitute materials currently on the market, such as cementitious siding, can be more affordable, more energy efficient and possess greater fire retardancy, and should therefore be acknowledged as a valid option in the Secretary's Standards.
- c. Some historic materials are hazardous, such as lead paint and asbestos, and may require abatement to adequately reactivate the building. Such abatement should be accommodated, and flexibility should be granted in the use of substitute materials.
- 5. **Economic Resilience**: Preservation is often considered only a luxury of the wealthy or well-funded. The federal and state tax credit programs helped to democratize preservation by making it more accessible and saving a more diverse range of historic resources. However, the Secretary's Standards as they are currently written and interpreted can result in prohibitively high implementation costs for homeowners. By encouraging a thoughtful approach to preservation practices, the Secretary's Standards could be improved to support the economic resilience of our communities.
 - a. Reducing the emphasis on repair over replacement, particularly on secondary elevations, could help reactivate historic structures. Richmond's historic redlined neighborhoods suffered decades of disinvestment, creating challenging rehabilitation projects. In our climate, vacant houses suffer burst pipes and radiators necessitating entirely new HVAC systems during rehabilitation, as well as significant structural stabilization. The lack of a sufficient number of experienced historic trades people to maintain and repair historic properties, particularly smaller neighborhood homes, adds an additional challenge. For example, with respect to windows, rotted window cords and lower quality modern woods require more frequent repairs, which may be difficult if there are only a few skilled trades people in the market. All homeowners deserve to have windows that operate and function. For many homeowners, the economics of repair versus replacement may not be feasible.
 - b. To facilitate the long-term stewardship of our historic resources, the application and interpretation of the Secretary's Standards should make it easier to rehabilitate and update historic structures for energy efficiency and reduced operating and maintenance costs. Operating costs of historic homes and of larger structures continue to increase. The Secretary's Standards treat previously replaced windows the same as historic original windows. In these situations, new windows can be more energy efficient, easier to operate, and built to standards that match the historic windows in profile and design. In some climates, aluminum clad wood may be more efficient and sustainable, while retaining a similar appearance as the original wood window. In addition, with respect to siding and other architectural details (such as porch rails), substitute materials may be more sustainable and economical.

- 6. **Equity**: The Secretary's Standards were written many years ago in an earlier wave of the preservation movement. They have helped to successfully save some of the most well-built buildings of the past - those constructed of high-quality materials developed by wealthy individuals or communities. The buildings of underrepresented communities were often built of lesser quality materials that were less durable. Where such buildings survived, they are often more challenging to adaptively reuse from a technical and economic perspective but are all the more important to save because of their cultural and aesthetic contributions to their communities. In addition, the historic buildings important to underrepresented communities may not have been documented as extensively as those in wealthier communities and may not have the necessary documentation to replace missing features. (See Standard 6.) For these reasons, the historic resources of underrepresented communities present more challenges in applying and interpreting the Secretary's Standards. A more flexible approach to the application and interpretation of the Secretary's Standards will more assuredly facilitate the survival and stewardship of more diverse historic resources for the future use and enjoyment of our community as a whole.
- 7. Additions and Infill Encouraging Good Contemporary Design: Standard 9 provides: "New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment." There is opportunity for good contemporary design for new features here, but there is also the risk that an overly strict interpretation could encourage the proliferation of structures built to the lowest common denominator incorporating designs with little distinction. The Secretary's Standards should be applied and interpreted to encourage creativity and distinctive contemporary design.
- 8. **Standards and Underlying Guidance**: In addition to reviewing the Secretary's Standards, the ACHP should review the underlying guidance, such as the National Park Service's Preservation Briefs, so as to update them for the considerations in Sections 1 through 7 above and to ensure consistency.
- 9. **Training**: There are a number of agencies at the local, state and federal levels that employ the Secretary's Standards and related guidance. Federal and state tax credit projects are reviewed by the National Park Service and our State Historic Preservation office, which also oversees an easement program applying the Secretary's Standards. Our local Commission of Architectural Review's guidelines are based on the Secretary's Standards. As multiple agencies review the same standards and guidance, those agencies may take inconsistent positions on the same standards, resulting in a less flexible, more rigorous approach over time. The National Trust's State Historic Tax Credit Resource Guide (2023) notes that the top performing state tax credit programs are predictable for owners, developers and lessees and that design review predictability and programs that advance broad policy goals such as housing and sustainability are key elements. Additional training focused on taking a reasonable, flexible, "common-sense" approach to the application and interpretation of the Secretary's Standards could help save and reactivate more historic structures.

In an ever-changing world, we are encouraged by the ACHP's willingness to think critically about Preservation and ask, "How can we do better?" With respect to the Secretary's Standards for Rehabilitation, the priority should be to reactivate historic buildings and return them to public use. Historic Richmond supports the ACHP's efforts to reform the Secretary's Standards to account for a broader understanding of preservation and its evolving challenges and to provide for the reactivation and long-term stewardship of more historic resources.

Thank you for the opportunity to provide these comments. Please do not hesitate to contact us with any questions.

Sincerely,

Cyane B. Crump

Executive Director

cc: Martha Warthen, President, Historic Richmond Board of Trustees

[External] Response to Call for Comments on Sec. Interior Standards

Steve Stuckey <steves@thetowerheritagecenter.org>
Wed 7/5/2023 3:05 PM
To:Dru Null <dnull@achp.gov>
Good Afternoon,

In response to the specific call for comments, question one, I believe there is a disconnect related to the "Identification by any reviewing authority of substitute materials (i.e., specific materials that may be substituted for historic materials) deemed to be consistent with the Secretary's Standards." A large challenge for those authorities relates to understanding the behavior of materials, specifically, in the context of degradation and the recommendation/desire to replace versus repair. Who measures and therefore determines that material is too severely degraded? It seems too often that items are declared too far deteriorated by individuals serving on these authoritative bodies, or contracted trades, who are simply trying to choose the path of least resistance, or the path of the easiest/cost-effective approach. Techniques are published often in allied organizations, such as the Association for Preservation Technology or the American Institute for Conservation, that could be used to save building elements. It would behoove the ACHP and NPS to create a greater connection/partnership/tie/reference point to these types of publications and organizations for approaches to repairs that are too frequently connected to patching with incompatible compounds and fillers, like epoxy.

Related, another glaring challenge relates to the use of coatings and adhesives when an authoritative body or contracted trade proposes a repair or replacement. The specific clause in the Rehabilitation Standard (number six), references "design, color, texture and, where possible, materials." However, certain modern materials, like latex-based coatings or polyurethane-based adhesives, do not behave in a compatible nature to a lot of historic building fabric. While the replacement, or even repair, can be manipulated to match the historic, its performance and service life does not. At the end of the day, performance and service life matters, as that equates to the actual preservation of the material and building, and is directly linked to cost. The suggestion above--relationships with the allied organizations like APT and AIC-would be a viable solution.

Lastly, in terms of energy-efficiency, question two, there are extremely practical approaches that would be cost effective (in terms of maintenance and benefit) for most historic buildings. Weather-stripping technology, which has been an evolving

industry as early as the 1830s, would help tremendously in terms of managing the appropriate flux of energy in a building, as would general understanding of how historic buildings perform. Many historic designs were created in such a way to accommodate heating, cool, humidity, and the materials' service life. Again, connecting with resources in the allied organizations stated above, plus additional groups, like the Society of Architectural Historians and the Construction History Society of America, would be super beneficial for informing decision-makers.

Overall, the challenges relate to education. Having resources that can be digestible, but still provide sound technical information, would be of huge benefit. I would be happy to have further discussion, if desired.

Thank you,

Steve Stuckey, PM(AIC)

Executive Director & Architectural Conservator

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[External] Comments on the SOI Standards

Lindsey Allen < lindseyal@homeleasing.net>

Thu 7/20/2023 4:45 PM

To:Dru Null <dnull@achp.gov>

I work on tax credit projects that involve the rehabilitation and adaptive reuse of historic buildings into affordable housing throughout upstate New York, I also worked for 10 years in Section 106 compliance. One of the biggest issues we face in meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties in the tax credit world is the lack of flexibility or compromise that is needed in order to *also* meet high standards for energy efficiency. Most of NYS funding is tied to meeting strict energy efficiency standards, including 100% electric buildings. Strict interpretation of the SOI standards leaves little room for these energy improvements – things like furring exterior walls to improve insulation (particularly important on buildings that were never really insulated to begin with) are nearly universally needed to meet these standards, which can impact detailing from baseboards to crown molding and everything in between. And while I understand that cost isn't a metric the NPS cares about, this all comes with substantial cost implications that make it even more difficult to use these buildings for purposes like regulated affordable housing.

Thank you,

Lindsey Allen | Development Coordinator

she/her/hers

I am an ALLY



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[External] Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Ron Anthony <woodguy@anthony-associates.com>

Thu 7/20/2023 4:21 PM

To:Dru Null <dnull@achp.gov>

Cc:Ron Anthony <woodguy@anthony-associates.com>

To Whom it May Concern:

I wish to offer comments on a few key Standards that warrant consideration for revision. My comments focus on the use of wood in historic construction and the need to clarify the intent of the Standards regarding repairs and replacement material. There is confusion about what is intended by the following standards, particularly when people think of "in-kind repair or replacement material". I am a wood scientist that consults on historic preservation projects and conducts workshops, seminars and lectures on wood and wood products in historic preservation applications. I have approximately 40 years of experience. I have listed individual Standards of concern and my comments below.

 The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

This standard is unclear regarding what is meant by distinctive materials. Wood cladding that has developed a texture or patina due to weathering over time would be distinctive, in my opinion, yet often material is replaced with new material (not reclaimed) without consideration for the appearance due to the textured surface, patina or figure in the wood. The interpretation of inkind as "replace white pine cladding with white pine cladding" is often deemed to be sufficient. I believe that this is not the intent of the Standard and should be clarified.

2. Distinctive materials, features, finishes, and construction techniques or **examples of craftsmanship that characterize a property will be preserved.**

Construction techniques, such as use of traditional timber joinery, are often overlooked in favor of modern fasteners - nails, screws, or metal brackets. Notching of log structures is often ignored in favor of whatever method is known to the carpenter. Although stated in this Standard, I believe the Standard should emphasize craftmanship and construction details as being required for an inkind repair or replacement.

3. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

This Standard is frequently violated when the replacement material does not match the design, color, or texture. The explanation given is that the Standard states "...and, where possible, materials." This is taken as an opportunity to replace wood cladding, trim, decking, etc. with non-wood products, often because of cost. The issue became prominent when wood shingles and shakes were outlawed in many jurisdictions due to fire concerns. That resulted in significant discussion of what should be done with roofing, an discussion that has different outcomes in different jurisdictions and under different SHPOs. The recent desire to use cement-based cladding

to replace historic wood cladding is an example that is gaining traction amongst preservation architects and commissions. The logic is that if you do not need to replace wood roof covering with wood, you do not need to replace other wood components with wood. I believe that this is a misinterpretation of the Standard and should be clarified. I do not suggest that the Standard get too prescriptive but, in my interpretation and experience of best practice, in-kind means the same species, the same cut of wood (flat sawn vs. vertical grain), the same structural grade, the same defects (a few large knots, many small knots, no knots, etc.), the same moisture content (to ensure equivalent shrinkage and swelling of the wood for a compatible repair), and similar technical requirements. At a minimum, the same wood species and same cut of wood (for architectural elements) should be required under the umbrella of "in-kind".

4. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

Use of pressure treated or fire-retardant treated wood is not in- kind but may be used when the historic material cannot be replaced with any reasonable degree of durability or expected service life (e.g., sill logs in ground contact or lumber in a foundation). Remedial treatments, such as fire retardants or intumescent paints, applied to wood materials should not be used unless technical data exist that demonstrate that the wood substrate is not altered, i.e., the treatment is reversible. This is not well understood.

I appreciate the opportunity to submit my comments and ask that they be given due consideration for clarification of the Standards. Please contact me should you want additional information or clarification of my comments.

Best regards,

Ron Anthony, FAPT; Harley J. MeKee recipient (APT)
Presedent and Wood Scientsit
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Bruce Redman Becker, FAIA, LEED AP

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To: Advisory Council on Historic Preservation

Date; July 20,2023

Re: Comments on Application and Interpretation of the Secretary of the Interior's

Standards for the Treatment of Historic Properties

Thank you for soliciting input about how National Park Service's Technical Preservation Services (TPS) staff has changed their interpretations of the Rehabilitation Standards and what needs to be done to return the program to its original effectiveness.

Until about 2016, the federal Historic Tax Credit (HTC) program was extremely effective in catalyzing investment in high quality historic preservation projects. The program was heralded widely for meeting its goal of reducing the risks and the net cost of high-quality historic rehabilitations to help create thousands of projects of immeasurable cultural and economic value.

NPS Standards, Bulletins, and published guidance from the 1980s to the present continue to be well-written, easily understood, and reasonable to implement. However, in recent years, the HTC program has been administered differently by TPS staff, in a way that unfortunately now substantially increases the risks and costs of historic rehabilitation – having the opposite effect of its intended purpose. Interpretations, approvals and denials by TPS (and SHPOs they direct), have become arbitrary and capricious. Precedent of prior NPS approvals and guidance in NPS bulletins is now dismissed by staff as irrelevant. Unpredictable and overreaching interpretations are made with a lack of empathy for and understanding of the practical and economic challenges of adaptive re-use, and in a manner that is more appropriate for museum-grade preservation efforts rather than adaptive-reuse programs. There is an urgent need to change how these interpretations are being made or who makes them, to restore the program to serve its original purpose.

Historic preservation consultants and architects are familiar with these difficulties, but since their firms typically have NPS approvals pending and worry about retribution, they are unwilling to communicate frankly about them. Arbitrary and unpredictable interpretations impact the productivity of the entire historic preservation industry, and diminish the protection of our historic and cultural resources. As a result, every year dozens of rehabilitation projects are not pursued or they are delayed, tens of millions of dollars are wasted, and many impactful economic development opportunities and job creation initiatives are thwarted and urban centers and communities in need of investment continue to be depressed and neglected.

These consequences are a failure of HTC program stewardship and this needs to be addressed immediately and directly by replacing current staff with more sympathetic experienced preservation industry professionals, or by removing the absolute authority held by TPS staff. For example, SHPO staff and/or AHCP itself could be granted authority to guide and overrule TPS if their decisions are contrary to precedent, bulletins as well as national sustainability and climate goals, which should take priority.

Historic Tax Credit Project Experience

Over my 35-year career as an architect and developer I have completed seven adaptive re-use HTC projects which resulted in over \$330 million of transformative investment and creation of over 1500 units of housing in distressed communities and blighted urban properties. Each of these seven projects listed below has won City, State and/or National preservation awards. Three of the seven were certified as either LEED Platinum or LEED Silver.

Times Square Hotel Supportive Housing (652 units) – completed 1995

Preservation League of New York State *Excellence in Historic Preservation Award*New York State Office of Parks, Recreation and Historic Preservation, *New York State Historic Preservation Award*

City Club of New York, Albert S. Bard Award for Excellence in Civic Architecture Rudy Bruner Award for Urban Excellence Gold Medal

American Institute of Architecture, Special Citation

Affordable Housing Tax Credit Coalition, *Best Urban Apartment project in the United States*.

Crescent Building, Bridgeport CT (38 supportive housing units) – completed 1997 AIA Connecticut Design Award in Historic Preservation.

Atlantic Park Apartment, Stamford, CT (27 supportive housing units) – completed 1998 Connecticut Trust for Historic Preservation Merit Award

Wauregan Affordable Housing and Retail, Norwich, CT (70 affordable units)- completed 2006 "Restore America" Award from HGTV and the National Trust for Historic Preservation Connecticut Main Street Center Award of Excellence

The Connecticut Trust for Historic Preservation Harlan Griswold Award

Octagon Apartments, Roosevelt Island, NYC (500 units mixed-income) – completed 2006

The New York Landmarks Conservancy Lucy Moses Award

US EPA and NYC DEP "Green Apple" Award

LEED Silver Certified

777 Main Street Mixed-Use Housing, Hartford, CT (285 units mixed income) – completed 2017 Connecticut Trust for Historic Preservation, Preservation Award LEED Platinum Certified

Hotel Marcel (165 room hotel and conference center) – completed 2022

Docomomo Excellence Award

CT Preservation AIA CT Elizabeth Mills Brown Award

LEED Platinum Certified

All seven of these projects were "gut renovations" involving a change of use where most interior walls and finishes were removed to meet new program requirements. For projects prior to Hotel Marcel, NPS imposed no requirements to replicate or restore elements and features not deemed significant in each National Register nomination. Recently however, TPS has imposed extensive and often unworkable mandates on interior features not noted as historically or culturally significant, such as generic window sills and trim, the thickness of exterior wall insulation, the composition of flooring materials, and the color and reflectivity and new materials. TPS has also imposed personal judgements about exterior elements such as canopies, fences and stairs which were never considered significant or defining in National Register nominations. None of the seven projects listed above could have been realized if they were subject to current interpretations by TPS staff and leadership.

The most recent project, Hotel Marcel, was only spared from financial ruin as a result of a reversal of TPS's Part 3 denial on appeal by NPS Appeals Officer John Burns, FAIA, FAPT. Mr. Burns, had deeper experience with interpretations of the standards than the current staff and leadership, having overseen TPS appeals from 2005 to 2023. Mr. Burns reversed every major and even every minor basis for TPS's denial, requiring no remedial action prior to issuing final project approvals. His thoughtful and well researched rationale for reversing the staff's decision on all counts is available at this link below and merits review to illustrate how arbitrary TPS interpretations have become: https://www.nps.gov/subjects/taxincentives/upload/appeal-2022-armstrong-rubber.pdf

When TPS issued conditions of approval for Hotel Marcel's Part 2 , TPS excluded approval of the free-standing entry canopy which was needed to provide protection from rain for arriving guests . This condition conflicted with the hotel's brand requirement to provide a canopy. We advised TPS that we would need to appeal this condition but our TPS representative responded that if we filed an appeal for any condition of approval, he would reverse and retract the entire Part 2 approval. We were forced to proceed to complete the project and install the canopy without a formal approval of it. This issue then became a primary reason that Hotel Marcel's Part 3 was denied. We are grateful that Mr. Burns reversed this denial, as the hotel could not operate without a canopy. The canopy issue illustrates the severity of problems currently encountered with TPS interpretations, but there were numerous other surprises, including rejection of vinyl flooring with a wood texture in non-public areas — despite there being no written standards, bulletins or prior communication indicating concerns about this material. Fortunately, Mr. Burns reversed this denial as well together with every other basis of denial.

Hotel Marcel's project's very experienced preservation consultant as well as two members of Congress (Representative Rosa DeLauro and Representative Jim Himes) communicated directly with TPS on behalf of the project to advocate for timely approvals at each stage. Despite this, TPS delayed and imposed unworkable conditions on NPS approvals and then denied the project's Part 3 outright. Given the risks and uncertainty I encountered with recent TPS interpretations and decisions, it would not be rational for me to pursue another HTC project, or recommend that anyone else does, until the changes made by current TPS leadership in the administration of the program are reversed.

[External] Public comment on sois

Mary Brush <mary@brusharchitects.com>

Wed 7/5/2023 12:09 PM

To:Dru Null <dnull@achp.gov>

Hello

I do I Hope that you are being inundated with comments. That means people care. I will be brief.

The focus is on buildings. The view OF and FROM the building can be very important for the context of the historic properties. Landscapes and and should be treated as ephemeral as trees grow or die. That is understood. But the tree should then be replaced at least near the location and if a new species is required due to climate change, then the SOIS could provide guidance for that.

Thanks for doing this. It is nice to see that the SOIS is becoming a 'living document' capable of evolution as the profession grows and changes.

Mary

Mary B. Brush, FAIA BRUSH Architects, LLC WBE

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b2febb98d4a4&u=http%3A%2F%2Fwww.brusharchitects.com%2F

Comments on Interpreting the Secretary of the Interior's Standards – Rehabilitation Treatment

Perspectus is the legacy firm of Chambers, Murphy & Burge Restoration Architects, and Chambers & Chambers Historical Architects, founded in 1963. As a firm we have been working within the guidance of the Secretary of the Interior's Standards since their inception. The architectural staff of our historic preservation studio are qualified preservation professionals, with decades of experience applying the Standards to our projects. The comments here relate to the application of the Standards for Historic Tax Credit projects, as well as to reviews for adverse effects under Section 106. We greatly appreciate this opportunity to share our comments on the Interpretation of the Standards.

- 1. We find the ITS bulletins to be very helpful in guiding project design and illustrating successful examples of treatments. We would welcome more topics in the ITS bulletins
- 2. Additional openings on secondary facades: With the current trend moving toward remote work, we find that many rehabilitation projects are converting existing commercial space to housing as the most viable use. Both from a life safety (code) and habitability standpoint additional window openings are needed on secondary facades. Windows (daylighting) are what make buildings pleasant for people, and the most recent revisions of the building code are requiring egress windows for bedrooms. It has been our experience that the interpretation of the Standards for adding windows seems to be moving in a stricter direction, allowing fewer and smaller windows and no windows in the first structural bay of side elevations. This may result in fewer viable projects. We suggest a review of past projects and consideration of less strict requirements for adding windows on secondary elevations. At least one of the example projects in the ITS bulletins on this topic does have windows in the first structural bay, and was determined to meet the standards.
- 3. Flooring: Replacement of existing flooring also seems to be moving in a direction of stricter requirements. A recent project that had existing carpeting in a corridor was given the guidance that the carpet could be kept, but if replaced had to change to a hard surface flooring. Carpet in a commercial building has an expected wear life of 10 15 years. It is a maintenance material. It is readily replaced without significant floor preparation. Hard surface flooring typically requires more leveling and preparation of the existing material beneath the existing carpet. Also in this category is the recent restrictions on the use of "wood look" LVT. Please provide additional guidance on why this material is not acceptable. Is it because much of the product available in the market place is "rustic" or "distressed" in appearance? While similar in price for material as engineered hardwood, LVT is infinitely easier from an installation standpoint. Installing engineered hardwood, or similarly thick material, typically requires significant adjustment at thresholds, stair landings, and other transitions. Installing thick floor material usually results in the loss of original thresholds and the need to cut the bottoms of historic doors.
- 4. Ceilings: Existing lay-in acoustic ceilings are subject to the "touch rule". Owners have been permitted to paint them, but not to replace the tiles even if they are keeping the grid. This can be a significant issue on a project where no changes are planned for the HVAC system, but the acoustical ceiling tiles are damaged, and water stained.

5. Additions: Additions are typically an area that is challenging for most projects. It has been our experience that some of the most successful addition designs are those that are contemporary to their own period. Like the buildings they are attached to, they can express work of a master, building technology and craftsmanship of their current period, and design fashion of their own era. We have for many years developed a hierarchy of criteria for additions, and published them in guidelines of our own. The criteria should move from the general to the specific, starting with the placement of the addition and the form and massing, then leaving the details to express the period in which the addition was constructed.

We would be happy to provide more details and project examples for these comments. Thank you for the opportunity to comment.

Thank you for the opportunity to comment!

Lauren

LAUREN PINNEY BURGE AIA

Principal

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On the Application and Interpretation of the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties

July 20, 2023

There is a critical need for additional guidance on the meaning of "in kind replacement" as it relates to the Secretary of the Interior's Standards for Rehabilitation, particularly in regards to its application within the rehabilitation tax credit process at the state and federal level. There is also a need for formal guidance on the review of properties that have undergone emergency measures to ensure their stabilization.

As more buildings originally clad in alternative materials, such as asbestos siding, are formally listed in the National Register of Historic Places and seek rehabilitation tax credits, SHPOs, consultants, and developers need additional guidance on how to achieve the "in kind replacement" ideal while using an entirely different material. What elements of historic character and integrity should be maintained in the new material? Should it mimic the look of the original material, its texture, or some other element?

Additionally, consultants and developers could us more specific guidance on the existing interpretation of "in kind replacement" as it relates to the rehabilitation tax credit process. For example, in the replacement of severely deteriorated historic wood windows constructed of old growth lumber, "in kind replacement" has traditionally been interpreted to mean replacement with modern wood windows when repair is not possible. However, the material characteristics of old growth pine and that of modern pine are drastically different. Given the difference in the modern wood and historic lumber, should other materials be more frequently approved as replacements if they better capture the durability of the original material? Additionally, should the reuse of the exact material be encouraged, even when that material was originally in a different historic building? The growing deconstruction movement supplies exact in kind replacements, without removing materials from extant historic buildings. This guidance would move the preservation movement toward greater sustainability. We often hear the preservation line, "the greenest building is the one that is already built." Does that not also mean the greenest material is the material that has already been used?

Specific guidance on the review of buildings that have undergone emergency stabilization would also be of great use to consultants and developers. Working quickly after events such as severe storms or fires, developers sometimes undertake work to stabilize buildings that is not ideal in order to quickly stabilize buildings or prevent demolition. This type of project is often already more expensive than the typical rehabilitation project; however, these developers are often penalized for the work they did to stabilize the building because they are required to reverse and alter the work done to save the building. For example, the building at 506 East 40th St., Savannah, Georgia was severely damaged by a fire that started at the neighboring house in February 2017. The original tin roof on this house was almost entirely destroyed, and the owner of the house at the time only placed plywood and tarps over the structure. By 2021 when the current owner purchased the property, the building was condemned for structural concerns. The current owner quickly installed a new architectural shingle roof in July 2021 to stabilize the building and prevent any further damage. The owner began the historic tax credit process in 2022 and received a condition on the project from the state SHPO that the architectural shingle roof was an inappropriate replacement for the original tin roof and must be replaced with a metal roof in order to meet the Standards. The National Park Service ruled that the existing architectural shingle roof would meet the Standards, but additional guidance in cases such as this one would be helpful to all

parties involved. How does the interpretation of the Standards change when severe damage has led to work that may not be ideal but has saved a building?

KIM CAMPBELL Senior Project Manager

ETHOS PRESERVATION PO Box 3125 SAVANNAH, GA 31402 912 349 9506

Preservation With Purpose

Hon. Sara Bronin, Chair Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

Re: Advisory Council on Historic Preservation Request for Comments on the Interpretation and Application of the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties

Dear Chair Bronin:

We appreciate the opportunity to comment on the interpretation and application of the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties. We are Architectural Historians/Planners with a Cultural Resources Management (CRM) that specializes in historic architecture and archaeological research and documentation, with particular expertise in historic tax credits and National Register nominations. We have worked in the field for almost 40 years and have extensive experience with historic architectural survey, National Register nominations, and historic tax credits, successfully completing hundreds of historic tax credit projects.

When the historic tax credit program started, it was conceived as a program to encourage investment in marginalized and blighted areas where developers often did not want to invest given the inherent costs and risks. Important goals of the program included economic development, community revitalization, and saving buildings that would otherwise be lost to the wrecking ball. The Secretary's Standards were written to be widely interpreted to ensure that these difficult rehabilitation projects succeed. In our experience the program was implemented with predictability, consistency, and reasonableness. The Advisory Council on Historic Preservation's request for feedback is timely. In recent years, the program has gradually changed from a rehabilitation program to one with more emphasis on restoration and a much stricter interpretation of the Standards. We note that this conservative interpretation of the Secretary's Standards is stalling projects and causing developers to question whether the historic tax credit and investing in marginalized areas is worth pursuing. When developers choose not to participate in the program and avoid older, challenging buildings or opt to undertake rehabilitation projects without the credit, countless opportunities to sensitively rehabilitate historic properties and revitalize communities are lost.

We are providing the following feedback on the National Park Service (NPS) historic tax credit guidance documents, individual reviewers' interpretation of the Standards, and documentation requirements.

Guidance Documents

NPS resources include Preservation Briefs and other guidance documents that we frequently consult. In recent years the NPS has been issuing requests for additional information or conditional approvals, noting that specific treatments that have previously been approved, no longer meet the Standards, and for which there are no resources to offer concrete, defensible guidance. For example, in countless projects before 2017, applicants had been approved to install LVP or LVT flooring products. In recent years, NPS reviewers have determined these products no longer meet the Standards, though there has been no clear direction as to why or when this standard practice changed. Projects that historically had wood floors that propose floor replacement are now required to provide detailed documentation on why floors need to be replaced, and if justified, the floors must be replaced with hardwood or engineered wood, matching the

color, width, grain pattern, orientation of the original wood. Some NPS conditional approvals have included a floor-by-floor description of how the new floor needs to be installed, including requiring the orientation of the planks to vary, even in a single floor, if a section of the floor had previously been replaced (which is the typical condition, especially in mill buildings). Nowhere is there a guidance document that specifies this interpretation of the Standards and detailed flooring requirements in order that our clients can predict and understand the current decision-making process. Furthermore, this approach suggests that historic tax credit projects are now expected to replicate original materials rather than rehabilitate the historic condition.

Reviewer Inconsistency

Inconsistency among similar projects and different NPS reviewers' interpretation and application of the Standards can be unpredictable. One example is that an NPS reviewer in one state will approve no more than 3" of furring out a wall to accommodate insulation while another NPS reviewer in an adjacent state will approve up to 4" of furring out before insulation.

The NPS and state reviewers recently have said there "is no such thing as precedent" in the program. Treatments and approaches previously proposed and approved on similar projects are now being denied as not meeting the Standards. This includes previously approved approaches for roofs, replacement windows, alternative exterior materials, floors, ceilings, and subdividing of interiors. This makes it incredibly difficult for applicants to know what is acceptable and for consultants to guide our clients.

Documentation Requirements

A stricter interpretation of the Standards has resulted in the NPS requesting more and more information for most projects. Project approvals in the past typically would include one to five conditions, depending on the building type. In recent years, we are seeing Part 2 approvals with 10-15 conditions and subconditions. The amount of documentation that now is required for a complete Part 2 application far exceeds what was expected and approved even a few years ago. Compiling the information often requires multiple calls with NPS staff and development teams to understand what is being requested. Amendments a few years ago required an average of 4-6 hours to compile, produce, and submit. In recent years, amendments are averaging 20-60 hours to assemble with additional time to produce and submit. The time and money spent preparing and submitting amendments leads to significant delays that take valuable time away from construction and can be detrimental to a project's success. Ensuring amendments are submitted and approved in a timely fashion by the state and NPS while the project is in mid-construction is difficult, at best.

Sustainability

Despite the NPS guidance document *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings*, climate change and sustainability as they relate to historic tax credit projects have a long way to go. NPS and state staff, citing the Secretary's Standards, constrain projects from implementing measures that are required to comply with stricter energy codes, as well as affordable housing and other requirements. Treatments that are required by other programs and codes, but may not be allowed or severely limited in a historic tax credit project, include insulation, solar, and energy efficient replacement windows. For example, PV panels are typically approved only if they cannot be seen from a public way, which is a high bar for most historic properties.

Thank you again for providing an opportunity to comment on the interpretation and application of the Secretary of the Interior's Standards for Rehabilitation. We remain committed to the federal and state historic tax credit programs. We want to be able to provide our clients with solid guidance to ensure a

successful project. We look forward to the ACHP and NPS working together to shape a program that again is predictable, consistent, and reasonable.

[Anonymized at the request of the commenter.]

[External] Public feedback on application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Quentin Collette <collette@newhistory.com>
Wed 7/19/2023 9:22 AM
To:Dru Null <dnull@achp.gov>
Dear,

Thank you for giving the public the opportunity to share feedback on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Please find below two suggested comments in response to Question #1:

- The typical condition requiring applicants to submit storefront and window shop drawings to the National Park Service for review and approval prior to installation is challenging as it can have a significant impact on the construction phase (delays and costs). Shop drawings are generally obtained during the construction phase; therefore, the timeline to have the shop drawings reviewed by the State Historic Preservation Office and National Park Service is a challenge from a construction phasing perspective.
- National Park Service requirements on white boxing treatments can generate a significant additional cost for applicants to "complete" a historic tax credit project and obtain Part 3 approval. Temporary floor, wall, and ceiling finishes being installed to comply with NPS white box requirements are often altered or replaced with new finishes when tenants are secured, which raises questions from a sustainability standpoint.

Sincerely, Quentin Collette

--

Quentin Collette, PhD

Managing Director

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[External] Public Comment on Secretary of the Interior's Standards for the Treatment of Historic Properties

cuba@tfguild.org

Mon 7/17/2023 9:31 AM

To:Dru Null <dnull@achp.gov>

ACHP

Thank you for the opportunity to comment on the Secretary of the Interior's Standards. The Standards have been a source of guidance for my work as a preservation timber framer since I first began about 30 years ago. I have little criticism of the Standards themselves or their philosophical underpinnings. However, conveying the meaning and application of these standards to others has often been quite challenging. For those of us who work in preservation and related fields, the standards are familiar, if not second nature. We have no reasonable expectation that our clients will develop the same familiarity with the Standards if their experience is limited to a single project or instance.

There seems to be no end to the confusion about the interpretation and application of the Standards and their intent by owners, contractors, and officials. There is a huge gap between theory and praxis. While the NPS Bulletins attempt to offer some clarity for practical application, they fall short. I have listened to various traditional tradespeople froth about them at any mention. Many of the Bulletins are anemic at best, while others are simply dated and misinformed. There has always been tension between academically trained historic preservationists and traditional tradespeople. The consequence of this is that many architects, engineers, and SHPO staff have no idea what appropriate, traditional work is supposed look like. When poor repair strategies are approved on projects that are supposed to adhere to the standards, precedents are set and bad ideas are perpetuated.

I say this not to rant or vent but to suggest that opportunities to address these issues are not out of reach. In 2019, Christopher H. Marston, HAER Architect, and Thomas A. Vitanza, Senior Architect, NPS, published the *Guidelines for Rehabilitating Historic Covered Bridges*. This effort was clear and accessible. The *do this, don't do that* approach, along with case studies and notes about mitigation should serve as a template for how to better convey the practical interpretation of the standards to professionals, contractors, and owners.

Organizations like the Timber Framers Guild, with both an engineering council (TFEC) and a historic research and advisory group (TTRAG) have been collaboratively researching and advising on this type of work for decades. Academics and tradespeople inform each other's work with just the right amount of bickering. Why not work with groups like this to help clarify the application of the Standards? We are certainly willing and qualified to help.

Thanks for listening,

Michael J Cuba

Editor, *TIMBER FRAMING*, the quarterly journal of the Timber Framers Guild Board member, Timber Framers Guild Board member, National Barn Alliance Board member and grant program chair, Historic Barn & Farm Foundation of Pennsylvania Chair, Traditional Timber Frame Research and Advisory Group

(860) 389-2873

Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

5 p.m. on July 20, 2023, by emailing dnull@achp.gov.

The Colt Gateway project is the rehabilitation and adaptive reuse of ten buildings remaining from the original Colt's Patent Firearms Manufacturing Company founded in Hartford, Connecticut circa 1855. Over the last two decades, we have successfully utilized Federal and State Historic Tax Credits as we develop one historic building at a time. We developed Colt's North Armory from 2018 to 2020. Issues posed by the National Park Service's review of this building's Federal Tax Credit application will hopefully provide relevant feedback regarding application and interpretation of the Secretary's Standards, specifically, how these interpretations affected cost, housing supply, and our preparedness for continued climate change.

Colt's North Armory is a 66,000 square foot 5 story concrete/brick factory building constructed circa 1918. The building had been vacant for decades and required substantial rehabilitation. Our plan was to build 48 apartments to provide much needed housing for the City of Hartford. The building has very large Hartford Green steel windows that required full replacement. Energy efficient and corrosion resistant windows fabricated from aluminum, rather than steel, are the current standard for historic steel window replacement.

In the case of the North Armory, we submitted aluminum window shop drawings from a company we have successfully use in the past and received written approval from our State Historic Preservation Office. Two months later, Technical Preservation Services at the National Park Service put a hold on our application because they were rejecting some of the details already approved by SHPO. The specific issue with the NPS was that the 2" structural mullions were "too large". In the past, we've rehabilitated buildings to the Secretary of Interior Standards with similar mullion styles, so this rejection appeared to be the technician's interpretation rather than an identifiable standard.

The ultimate resolution took us an additional 6 months thereby delaying the delivery of the apartments, increasing costs, and certainly overlooking the need for increased window integrity and efficiency in the face of climate change. The NPS technician preferred simulated to operable vents (center pivot windows) because of the look. Residential tenants prefer operable windows to office type ventilation. They will often open windows verses turning on their air condition in the spring and early fall. The final approval stated the following: "simulated vents have a much-improved profile" but the "structural muntin is still a concern". To the detriment of the building, we made the changes. Historic photos show the use of the center pivot windows for efficient ventilation and cooling – this iconic look is now gone making the North Armory look more like an office building than an iconic factory.

We have highly regarded consultants, accountants and attorneys who help us through these processes but in this case, it seemed like there was a change in interpretation and we had no way of working through this issue without restarting the whole window design process and changing the building in a way that we, and our tenants, believe diminished the final building and the housing units. Perhaps a review or appeal process that includes individuals with insights into cost, equity, housing supply, energy efficiency, renewable energy and climate change could help to guide the historic reviewer while still maintaining standards.

Larry Dooley

Colt Gateway

[External] Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Meghan Elliott <elliott@newhistory.com>

Mon 6/26/2023 8:03 AM

To:Dru Null <dnull@achp.gov>

1 attachments (16 KB)

Response to Call for Comments.docx;

Please see attached. My contact info is below for questions or clarification.

Meghan Elliott

Founding Principal <u>elliott@newhistory.com</u> (612) 501-6832 (cell)

NEW HISTORY

newhistory.com

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Response to Call for Comments

Question 1:

The comments below are general observations with respect to issues encountered during design reviews of projects seeking federal or state historic preservation tax credits.

- The Standards (and their interpretation) do not accommodate changes in building technology or energy-efficiency. For example, more efficient cooling units tend to be larger (rather than smaller) and are, by definition, more visible. It is challenging or impossible to accommodate these on the roof or the site, thus energy efficiency is sacrificed.
- Adding insulation to exterior walls is generally not approved. In some cases, this is related to
 concealing exposed historic masonry (which is considered a historic feature). In other cases, this
 is related to adding inches to the wall assembly that would change the overall wall depth and
 relationship to window trim or baseboards. Thus, energy efficiency and user comfort are almost
 always sacrificed to meet the Standards.
- Replacement windows are required to meet the <u>exact</u> profile, depth, and thickness of the
 historic window and specifically the mullions, rails, and stiles. This is sometimes impossible, and
 often leads to only one potential vendor that can meet the need of the project. This
 interpretation of the Standard is beyond "the new feature will match the old in design, color,
 texture and, where possible, materials." The interpretation eliminates the potential for
 increased energy efficiency.
- Solar panels are not permitted on the roof (if visible), and often not on the site.
- Climate-resilient landscaping (like native grasses) is not permitted on sites that were historically more manicured or urban.
- The Standards are not well-suited to accommodate post WWII architecture, where buildings are
 machine-built with replaceable parts rather than hand-built. "Deteriorated historic features will
 be repaired rather than replaced" is not compatible with more modern windows, sealants, and
 curtain wall systems with parts that were meant to be routinely replaced.
- Some projects have been subject to paint-color review, but there is no guidance in the Standards, leading to an arbitrary and aesthetic-based review.
- Housing uses, in particular, require smaller spaces (like bedrooms) and more intense building
 systems (mechanical, exiting, etc.). The division of space needed for housing is very challenging
 when a large open floor plate is considered a character-defining feature. Some housing design
 requirements (for funding, health, safety, and welfare) are at odds with the Standards. This
 includes windows and natural ventilation, egress, lead-based paint abatement, among others.
- The requirement to offset walls by 6 inches from existing columns, to highlight columns as a
 historic feature, is structurally challenging, and goes against the natural structural behavior of
 the building.
- Overall, meeting the Standards makes it challenging to keep a building in use.

Question 2:

The comments below are general observations with respect to projects seeking federal or state historic preservation tax credits.

- Additional guidance (and flexibility) is needed for energy-efficiency, and changing building technology.
- Additional guidance is needed for health, safety, and welfare in housing in order to avoid compromised living situations due to the Standards.

[External] comments requested

Rebecca Fenwick < rebecca@ethospreservation.com >

Wed 7/19/2023 8:46 AM

To:Dru Null <dnull@achp.gov>

To whom it may concern,

Regarding concerns related to the Secretary of the Interior's Standards for the Treatment of Historic Properties, the rehabilitation work being undertaken at the <u>Tomochichi Federal Courthouse building</u> in Savannah, located within the Savannah Landmark Historic District, was not completed according to the Secretary of the Interior's Standards. The interior has been gutted to the point that an interior floor collapsed during construction, injuring two persons performing window rehabilitation work. The interior flooring, walls, and associated elements were historic and should not have been removed. On the interior were historic murals, post office boxes, and many marble elements, which have been lost. The federal government is NOT being a leader of historic preservation in Savannah.

Further, more guidance is needed on how to apply the standards to historic districts as a whole. As a practitioner that has performed two integrity and condition studies, the communities that receive these studies struggle to understand how to repair the condition and integrity issues identified. While it is not the reports' job to spell out how to "come into compliance," a NR bulletin on how the standards can be interpreted for historic districts specifically would be useful.

Thank you.

Rebecca

REBECCA FENWICK
Principal

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[External] Secretary of the Interior's Standards for the Treatment of Historic Properties ~ ACHP Review ~ Comments

JohnFidler <johnfidler@jf-pt.com>
Wed 6/14/2023 12:51 PM
To:Dru Null <dnull@achp.gov>
Dear ACHP:

I wish to comment on your review of Secretary of the Interior's Standards for the Treatment of Historic Properties

Background and context

Up until 2006 when I moved to Los Angeles to join my wife (who is a director of the Getty Conservation Institute) I was the Conservation Director of the UK government's *Historic Buildings and Monuments Commission for England* (English Heritage), responsible for technical policy development, research, advisory services, standard-setting, training, and outreach. In this capacity, I was responsible for generating what are now the Historic England *Conservation Principles*, based upon the Burra Charter, a model devised by the Australian Committee of the International Council on Monuments and Sites (ICOMOS) with additional tenets obtained from the ICOMOS Nara Declaration and other international charters.

I am a British and Irish licensed architect and hold both UK and UK passports. I have practiced as an international technical consultant on numerous preservation projects in the USA and overseas, having worked in the private sector (for both large and small entities) and in the public sector (in the UK for local planning authorities). In the States, I have worked on numerous projects concerned with National Historic Landmarks, buildings on the National Register, and those on State and Local Landmark registers. Some projects involved the US National Park Service, the GSA, and the Architect to the Capitol. My project teams and I have won over 30 preservation awards since 2012.

Comments on the Standards

- 1. The Standards are out-of-date: they do not reflect international best practice emanating out of developments since the ICOMOS *Burra Charter*, the *Nara Declaration*, and the Historic England *Conservation Principles*.
- 2. Pedantic interpretation of the standards by SHPO's, RPO's, and local landmark groups obstruct real-world practice and transparency. I cannot recall any projects of mine in the USA where only one class of SOI treatment is sufficient for the best welfare and presentation of the building. Depending upon the inherent fallibilities of certain classes of materials and their deterioration, there are necessarily changes in the mode of repair / replacement available. For example, stone is easier to preserve and repair than wooden shingle, and so on. So, labelling an entire project to Preservation, Restoration or Rehabilitation etc., seems pointless and a waste of time on semantics.

- 3. Historic Structures Reports relating to the above, are also wasteful of efforts and again outdated. See the development of UK Conservation Management Plans and Conservation Statements, based upon the concepts in Kate Clark's book "Informed Conservation." Much of the HSR process, as practiced, is about (socio-economic) architectural history rather than involving practical above-ground archaeology that genuinely records as built designs and analyses previous iterations as a means to inform current and future interventions.
- 4. Finally, as a matter of White House / ACHP policy, since the USA is about to return to UNESCO and its World Heritage Committee in the hope of counterbalancing China's and the Arab States' influences through soft diplomacy, it should reflect upon the country's isolation from international norms in the cultural heritage field. Notably upon concepts and terminology including "Historic Preservation" and the absence of use of the otherwise universally accepted word "conservation". I realise that fundamental issues like this potentially risk undermining the 1966 Act and subsequent Federal Regulations. But the USA will find it tough to influence other nations if it does not speak the same language.

Sincerely,

John Fidler

John A. Fidler BA(Hons) arch, Diparch, MAarch, MAconservation, AAGradDiplconservation

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20 July 2023

Hon. Sara Bronin, Chair The Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington, DC 20001

REF: The Secretary of the Interior's Standards for the Treatment of Historic Properties

The content provided is intended to bring to your attention a discrepancy between historic standards for fenestration and wall insulation and new energy codes in Massachusetts.

1-Background

In accordance with the Climate Act of 2021, Massachusetts has set aggressive statewide goals for achieving 50% greenhouse gas emission reductions by 2030, 75% by 2040, and Net Zero by 2050. Cities such as Boston have also established mandatory carbon emissions limits which begin in 2025 and require existing buildings of a certain size^I to be reported annually.

The Massachusetts energy codes have changed significantly with the updated Stretch Code and the new Specialized Opt-in Code, effective beginning in 2023. The updated Stretch Code now applies to all buildings within Stretch communities which includes existing buildings, and is a stricter code compared to the Base Energy Code. In contrast, the Stretch Code previously only pertained to new commercial buildings primarily over 100,000 SF. The Specialized Opt-in is a new code, which includes additional requirements in conjunction with the Stretch and Base Energy Codes and applies to new construction which includes commercial/multifamily additions over 20,000 SF within Specialized Opt-in communities.

The result of these updated and new energy codes is an increase in stringency for both the building envelope and the mechanical systems. Low-Rise Residential existing buildings with either substantial alteration scope^{II} or change of use^{III} are held to the same HERS Index Score as new construction from 2023-2024^{IV}. After July 2024, the HERS Index Score for new construction becomes stricter and the existing building HERS Index Score remains as is. Commercial/multifamily alterations and change of use buildings are likewise held to the same requirements as new construction, including but not limited to, air leakage testing and thermal bridge derating.

While not a requirement for existing buildings under the updated Stretch Code, efficient and effective electrification of existing buildings is advantageous for various reasons. First, the renovation scope can be quite substantial. It can be advantageous to establish electrical infrastructure and new building systems during extensive renovations because the building may not be renovated again for quite some time. Second, electrification when combined with significant envelope upgrades works towards the goal of "Net Zero Ready". As the electricity grid becomes cleaner through renewable energy sources, efficiently electrified existing buildings can take full advantage of the renewable energy and decouple from gas.

Gas and steam heating have historically been an approach for less performing building envelopes where heating is delivered with high temperatures. The envelope leakiness is countered by the high temperatures of the heating system. Low-temperature hot water systems, such as heat pumps, are advantageous for high-performing envelopes, because



when the envelope is more airtight and insulated, it keeps the heat inside, which in turn requires less electricity for heating. When heat pump systems are coupled with a less performing envelope, the result is a substantial increase in electrical use, putting more financial burden on tenants and extra strain on the electricity grid.

2-Historic Windows + Energy Code Requirements

Balancing high-performance building envelopes and electrification on one side, and historic building requirements on the other, can conflict with one another. One example pertains to windows.

- The updated Stretch Code prescriptive window requirement for Low-Rise Residential buildings is a maximum U-value of 0.30 and a maximum of U-0.30 for fixed/U-0.32 for operable in commercial/multifamily buildings.
- Thermally broken aluminum windows have been a common solution for historic buildings, because aluminum provides sufficient strength for thinner frames and customizable profiles can be achieved. Affordable thermally broken aluminum solutions typically achieve a U-0.40, which does not meet the updated Stretch Code requirements.
- Further research into better performing aluminum window manufacturers is ongoing but likely would necessitate better thermally broken frames or triple glazing.
- In addition, the best practice for low-temperature hot water systems is to not just meet the maximum U-value window requirements, but to exceed the requirements, where possible. Achieving less than U-0.30 for windows is advantageous for decreasing the financial burden on tenants and for providing a long-term resilient solution and thermal comfort.
- Higher performing and affordable window solutions include fiberglass or uPVC frames which tend to have wider frames and less customization when compared to aluminum window frames. Therefore, these products are less likely to meet the historic window intent. Fiberglass and uPVC products can achieve a U-0.30 or lower using either double or triple glazing and are cost effective for the performance that they provide. These windows also provide better airtightness due to the gasketing and sealing design when compared with double hung windows.
- Wood frame or aluminum clad wood frames could be able to match the historic intent, but overall window size is a limiting factor. In addition, wood or aluminum clad wood is a higher cost option and requires future maintenance.
- A fixed over a hopper window configuration is becoming a typical solution for less stringent historically contextual buildings because it more closely emulates a double hung configuration. The window can achieve better performance when compared to a double hung because there is less friction with the gasketing seals, and half the unit is fixed which achieves a better U-value compared to the operable portion.

3-Historic Exterior Walls + Energy Code Requirements

Another area of building envelope focus pertains to insulating the existing exterior walls. The historic building requirement limits the insulation applied to the interior face of the existing walls to 4" maximum from the inside face of the existing wall to the face of the interior finish.

• This is very limiting, particularly, when the Commercial/Multifamily Stretch Code requires the opaque wall assemblies to be derated based on wall intersections with adjoining floors, windows, or other building elements.

- Furthermore, the HERS Index Score may dictate how much insulation is needed under the Low-Rise Residential Stretch Code.
- Again, the best practice for low-temperature hot water systems is to exceed performance and comfort requirements, where possible.

While the Historic Building code language in IECC 2021 Sections R501.6 and C501.5 indicates that code officials may provide waivers for specific requirements within the code that cannot be met because they are proven in conflict or destroy the historic nature of the building, this does not address how important it is for existing buildings to provide better building envelope and systems performance. This is needed so that there is consideration of tenant comfort, less financial burden on the tenants, for meeting long-term resilience goals, and for lessening the strain on the grid. While we strive to provide historically accurate solutions, balancing with sustainability and affordability are also key components.

With the evolution and advancement of energy code requirements, in states such as Massachusetts, and in making concerted efforts to lessen the financial burden on occupants by providing higher efficient envelope design, and for the continuous evolution and relevance of historic properties, it is important for the Standards for the treatment of Historic Properties to likewise adapt to energy codes.

Regards,

Lauren Günther, AIA, CPHC, LEED AP, CDT Director of Sustainability | Associate DiMella Shaffer

Philippe Saad, AIA, NCARB, LEED AP Principal DiMella Shaffer

Greg Alker-Sweeney, AIA, NCARB, LEED AP BD&C Project Manager DiMella Shaffer

Karmen Cheung Senior Developer Pennrose, LLC

¹ Boston's updated BERDO 2.0 (Building Energy Reporting and Disclosure Ordinance) now includes non-residential existing buildings greater than 20,000 SF, and residential existing buildings greater than 20,000 SD or 15+ units.

^{II} Low-Rise Residential HERS Index Score requirements apply to dwelling units in existing buildings with more than 50% of the building area pertaining to alterations, greater than 1,000 SF, or where alterations comprise 100% of the existing building area.

iii Low-Rise Residential HERS Index Score requirements apply to dwelling units in existing buildings with more than 1,000 SF pertaining to change of use.

^{iv} The HERS Index Score requirement is specific to dwelling units. Non-dwelling units (e.g., sleeping units) comply with the Low-Rise Residential Stretch Code prescriptive requirements.

[External] ACHP Invites Public Feedback on Application and Interpretation of the Secretary of the Interior's Standards

hank-hart@att.net
Thu 7/20/2023 5:50 PM
To:Dru Null <dnull@achp.gov>
Sara,

Thank you for this opportunity.

I have been utilizing the Missouri Historic Tax Credit Program since 2005 and am glad that the interpretation of the Standard is being looked at.

In Missouri, the Department of Economic Development uses the program to revitalize neighborhoods that would be in ruin without such incentives.

Over the past four to six years the SHPO in Missouri has been taking a much stricter interpretation of the Standard making the program feel much more like a Restoration program than a Rehabilitation program. Any help in getting a clearer understanding and more consistent path would be much appreciated. The Federal reviewer that was over the Saint Louis area previously seemed much more in step with the program at least as it has to with fulfilling DED's mission to stir Economic Development. The current staff at SHPO seem set on using their department to stall the program out to the point that no one will want to use it and we will truly loose a lot of Historic Fabric in the process. Developers such as I will go away, and less historically minded people will replace us and rip out the majority of the past.

I admire people that hold the past dear and want to restore properties to their former glory, but we must also keep in mind the usefulness of small less historic properties that need Rehabilitating. What I feel has happened is the Historians and Historical Architects have hijacked the program and are killing it for the more pedestrian developer. As the old saying goes, "Don't throw the baby out with the bathwater" lets keep and open mind to the developer that wants to take dilapidated buildings and return them to some semblance of their former glory without making the task so enormous that we just give up. At that point more historic properties will be bulldozed down, and more McMansions will replace them.

Thank you for your consideration.

Regards,

Hank Hart HEH Investments Inc. 4746 West Hill Drive Godfrey IL 62035 618.219.0742

[External] Historic Window Comments - Energy Efficiency vs. Lifecycle Embodied Carbon Calculations

Jackson Hoggard < jacksonh@double-hung.com>

Thu 7/20/2023 12:55 PM

To:Dru Null <dnull@achp.gov>

Greetings,

As a cofounding member of the Window Preservation Alliance (WPA), a non-profit organization aimed at supporting the growth of window restoration focused businesses across North America, we wish to urge those reviewing the standards to avoid making it easier for original windows to be replaced by large replacement corporations. For a bit of background, we are a 25-year-old business that employees 41 craftworkers focused on the restoration of historic windows. Additionally, through the WPA we work with approximately 160 other members to ensure the development and use of best practices to restore windows can become more commercially available throughout North America.

In completing almost 20,000 window restorations, we have learned that well intended project stakeholders routinely make critical errors as it relates to approaching environmental issues and whole lifecycle carbon impacts with historic window scopes of work. In our experience, approximately 99% of the windows we encounter can be restored to meet the guidelines set forth by the Secretary of the Interior. We are seeing more professionals assess windows incorrectly to justify replacement, there appears to be more projects allowing replacement and not being held to account early enough in the process to avoid making poor decision for their building.

A relative example where energy efficiency concerns were used to skirt repairing existing windows is with large mill renovation in Charlotte, N.C that had approximately 100 windows replaced. We were hired to develop a specification, budget, and provide mock-ups to help ensure the original wood windows could be repaired. All windows we observed were in fair condition and completely repairable. During design and the early construction proceedings, incorrect calculations were used in the Building Information Model by an engineer. The HVAC system was sized and purchased based on incorrect values. The model used replacement window metrics instead of restored window metrics and this put the owner in a bad position. Once the problem was identified, it was too late to change without significant cost to the owner and this made replacement of the windows more attractive. If the original, weatherized window system had been modeled correctly, they could have sized the units properly and met their design objectives while preserving the original wood window system. In their effort to move quickly and keep the project moving they fell out of compliance with the secretary's standards and then somehow got approval for replacing the original windows. I do not feel this meets the intent of the standards and is a dangerous precedent to allow; window replacement companies are working very hard to help building owners skirt regulations and justify replacing sound window systems.

In summary, decreasing restrictions in the name of energy efficiency metrics alone should not be a primary driver for updating the standards, particularly as these metrics often fail to fully contemplate and assess critical embodied carbon related items and whole building lifecycle costs around the original windows. History has taught us that over the life cycle of a building and well-maintained historic windows, the data will favor preservation.

Best,

Jackson Hoggard

Jackson Hoggard
DOUBLE HUNG, LLC
2801 PATTERSON STREET
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[External] ACHP - Standards request for comments

Paul Hohmann <phohmann@eplusa-arch.com>

Mon 7/17/2023 1:32 PM

To:Dru Null <dnull@achp.gov>

The following are my comments on application and interpretation of the Secretary of the Interior's Standards:

Changes in both Missouri SHPO and NPS reviewers for Missouri within the last few years have resulted in changes in the interpretation of the Standards for Rehabilitation for historic adaptive reuse/rehabilitation projects using state and federal historic tax credits. In general, there seems to be a shift in mentality of the interpretation and implementation of the Standards for Rehabilitation from Rehabilitation to Preservation or Restoration.

For example regarding interior finishes in secondary spaces in office buildings: The NPS Rehabilitation Guidelines states in Building Interior - Spaces, Features, & Finishes: "Secondary spaces include areas and rooms that "service" the primary spaces and may include kitchens, bathrooms, mail rooms, utility spaces, hallways, fire stairs and work spaces in a commercial or office building. Extensive changes can often be made in these less important areas without having a detrimental effect on the overall historic character.

In a recent project involving the rehabilitation of a highrise concrete framed office building constructed in 1932 that was being converted to residential use, the NPS conditions for the Part 2 work description included the stipulation that no wood-look flooring was to be used anywhere within the former office spaces outside of the historic corridors (which were retained and restored) because there was no evidence that wood flooring had originally been used in the office spaces even though many of the office spaces had been finished with wood-look flooring during more recent interior build-outs. No original flooring except marble corridor and lobby flooring remained in the building.

This is a change from previous similar projects with the previous state and NPS reviewers where specific flooring finishes used within secondary former office spaces was not restricted or limited.

In another project involving the rehabilitation of a former carriage factory for use as office space, a small open interior light court was proposed to make the interior of the building usable due to the large floor plate of the factory. The proposal was to keep the structural columns and beams fully intact including two columns that would be in the middle of the light court. The light court would make use of two original masonry walls that had once been exterior walls prior to the building being expanded. The light court was rejected and it was suggested that this would only be acceptable if it was fully roofed with a translucent material. In previous projects with different reviewers, new limited interior light courts open to the sky have been accepted for adaptive reuse rehabilitation projects in buildings with large floor plates with the stipulation that the structural system is retained within the light court.

In general, the interpretations of the Rehabilitation Standards have become much more restrictive with the change of reviewers at the SHPO and NPS.

Thanks,

Paul G. Hohmann, AIA, LEED AP



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[External] historic preservation tax incentives for houses of worship

Sam Hoyt <sam.hoyt@upstatestrategicadvisors.com>

Thu 7/13/2023 10:34 PM

To:Dru Null <dnull@achp.gov>

To Whom It May Concern

Respectfully, I urge that the ACHP recommend more flexibility in interpreting the Secretary's Standards when applied to threatened historic buildings — especially houses of worship. As the ACHP considers revisions, it is important that the voices of a wider range of persons be included, not only those of professional preservationists. With the force of this tsunami of church closings and the rapid pace of the climate crisis, time is of the essence. Yet, the wheels of regulatory change turn slowly. Perhaps as a next step, ACHP would consider convening a small group of preservation thought leaders, experts in Historic Preservation Tax Incentives and Low-income Housing Tax Credits, National Park Service officials, state historic preservation officers, representatives of the faith community, mayors, and developers with historic-rehabilitation experience and charge them with creating guidelines for flexibility that strike a balance between strict interpretation and preservation-sensitive common sense. ACHP might even go so far as to apply the emerging flexible guidelines in several instances to provide models to encourage hesitant regulatory officials.

Regards,

Sam Hoyt President Upstate Strategic Advisors 716-830-1958 Upstatestrategicadvisors.com

[External] Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Ritika Jharia <rrj42@cornell.edu> Tue 6/20/2023 1:44 PM To:Dru Null <dnull@achp.gov>

Hello,

Thank you for inviting requests for comments on SOI Standards. I am writing to you regarding revisiting the purpose and interpretation of the Standards for Restoration and Reconstruction in the context of modern heritage, especially buildings of the 20th century built with engineered materials such as reinforced concrete.

The life span of reinforced concrete construction as an engineered material is limited by its inherent process of carbonation, the quality of construction, and the materials used. In many cases, reconstruction in reinforced concrete becomes a part of the preservation and maintenance process where the RCC is found to have completely deteriorated. In such cases, most of the building gets reconstructed over time, especially when structural stability takes precedence and preserving the original and deteriorated material is not possible. Now, how does one define preserving the authenticity and integrity of the material and workmanship in modern heritage while applying these SOI standards when the original material has been/needs to be largely recreated?

SOI Standards are also recommended as one of the guidelines in the <u>Heritage Toolkit</u> of the International Scientific Committee on 20th Century Heritage (ISC20C) of ICOMOS. In the context of the World Heritage Convention, and World Heritage USA, will the 'reconstruction' as a solution limit the nomination of eligible modern heritage properties to World Heritage? Since the USA plans to rejoin UNESCO, I felt it was important to point this out, and needs to be discussed and advocated at global heritage forums between state parties and to revisit our global understanding of preserving the authenticity and integrity of modern heritage.

This is not only an issue for the United States but also for other countries in the world.

A very important and large group of modern heritage buildings in India are being planned to be <u>reconstructed</u> **as a whole**; a group of buildings significant to both India and the United States. These buildings are at the <u>Indian Institute of Management</u>, <u>Ahmedabad</u> were designed by the American architect Louis Kahn in reinforced concrete and reinforced brickwork in collaboration with Indian architects BV Doshi and Anant Raje between 1962 to 1974. These historic buildings carry the synergy between organizations, philanthropists, architects, and educators of the United States and India who shared common values in

setting up a business management educational institute in a newly independent India thereby USA contributing to India's nation-building process. Such buildings became important and integral to the World Heritage properties, their significance shared between India and the United States that represent historic collaborations between two state parties post-war, and must be celebrated and preserved. These buildings will face the same question of preserving authenticity and integrity with the method of preservation as complete reconstruction adopted.

I hope you find this helpful, and worthy of considering my request to revisit the Standards in the context of modern heritage, and engineered materials. Please feel free to share your comments/questions if any.

I am a preservation architect from India with 12+ years of professional experience in the field of historic preservation, heritage advocacy, and in conserving 19th-century and 20th-century historic buildings, and currently a final-year graduate student in M.A. Historic Preservation Planning Program at Cornell University.

Regards,

Ritika Jharia

Preservation Architect

MA Historic Preservation Planning '23 | Cornell University

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July 20, 2023

Advisory Council on Historic Preservation
Comments submitted via email to dnull@achp.gov

Re: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

James Hardie Building Products Inc. (JHBP) submits comments in response to the Advisory Council on Historic Preservation's Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties due on July 20, 2023. As fully explained in the below comments, JHBP recommends that factors such as durability, resiliency, carbon impact and affordability should be added considerations adopted in Preservation Briefs promulgated by the National Park Service (NPS) and the Standards of the Secretary of Interior. In modern times, the long-term durability and affordability of building products used by homeowners and building owners is paramount to a housing and building stock that can withstand harsh climatic changes and risks faced by every community and property owner in the United States. A weighted test that maintains respect and reasonable deference to original, historic design and aesthetics of building materials should also account for the durability, resiliency, carbon impact and affordability of building products, which would allow building owners the peace of mind needed in today's modern times, especially considering the recent implications of climatic changes and the availability of property insurance.

Approximately 40 million U.S. homes are currently 40 years old or older¹ and 4% of those homes are estimated by the National Trust for Historic Preservation to be located in a historic district. The replacement of cladding on U.S. residential homes requires about 6.25 *billion* square feet of cladding annually². Assuming each home uses an average 2,300 square feet of cladding, and that 4% of these homes are certified historic or located in certified historic districts, about 108,000 homes each year are potentially subject to the jurisdiction of a historic preservation board or commission.

The external cladding of a historic home is one of the most visible features of the home and is critical to protecting the home from weather and other hazards, which are increasingly severe due to more frequent climatic and disaster events. In many historic districts, the original historic cladding is wood, which is often less affordable than substitute cladding materials, such as fiber cement, and less resilient in the face of natural disasters. Current Briefs and Standards guide historic preservation districts and commissions to make decisions that require the use of historical wood materials, which are often less resilient and more expensive. JHBP suggests revising the governing Briefs and Standards to allow for use of substitute

¹ Na Zhao, "Age of Housing Stock by State," *Eye on Housing*, National Association of Home Builders, March 2021, https://eyeonhousing.org/2021/03/age-of-housing-stock-by-state-3/.

² Source: National Association of Home Builders (NAHB).



materials but only upon consideration of added factors such as durability, resiliency, carbon impact and affordability.

 The Secretary of the Interior's Standards for the Treatment of Historic Properties and the National Park Service's Preservation Briefs permit use of substitute materials but in circumstances that do not account for critical, modern factors of durability, resiliency, carbon impact and affordability.

Standard 6 of *The Secretary of the Interior's Standards for the Treatment of Historic Properties* ("Standards") provides that "where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials." Standard 6, along with complementary Preservation Briefs ("Briefs") issued by the U.S. National Park Service (NPS), are adopted by various governing bodies at state and local levels to govern use of building materials in historic districts and on historic properties.

The Secretary of the Interior's Standards were adopted in the 1970s. Preservation Briefs that serve as additional guidelines on the issue of substitute materials – primarily, with respect to exterior cladding on buildings – were adopted in the 1980s and have not been updated in modern times. At issue in the comments submitted by JHBP is guidance, consideration and approval – or lack thereof - of fiber cement cladding as a more durable, affordable and resilient product in substitution of wood cladding.

Preservation Brief 16 ("Brief 16") entitled, "The Use of substitute materials on Historic Building Exteriors," issued in 1988, identifies four general circumstances that may allow for the use of substitute building materials: 1) unavailability of the historic material; 2) unavailability of the necessary historic craft techniques or skilled artisans; 3) inherent flaws or poor quality of the historic material; and 4) changes necessary due to building code requirements. None of the allowable circumstances include consideration of durability, resiliency, carbon impact and affordability of the substitute or original materials, especially in modern times with increased risk of disaster and climatic events.

JHBP submits that factors such as durability, resiliency, carbon impact and affordability should be added considerations in guidance and Briefs promulgated by the NPS and the Standards of the Secretary of Interior. Given the number of homes in historic districts and those that are on the verge of historic (close to 50 years old or older), homeowners and property owners should have the option to use durable, resilient and affordable products that also honor the historic characteristics and aesthetics of the area and community.

a. Local decisions on the use of substitute materials are inconsistent and do not account for durability, resiliency, carbon impact and affordability of building products.

Despite the flexibility embedded into the Standards and the Briefs, which can be fully satisfied with substitute materials like fiber cement siding, local historic districts and commissions overwhelmingly align with using the original materials and either 1) prohibit use of fiber cement siding installation on public



facing elevations or as a full replacement; or 2) only approve use on a case by case basis, provided the homeowner expends the money and resources needed to justify the use of the substitute material to the local historic commission or board. Currently, durability, resiliency, carbon impact and affordability are not considered factors in most cases, as demonstrated in the following case studies.

Annapolis, Maryland

In its publication <u>Building for the Fourth Century</u>, the Annapolis Historic Preservation Commission (HPC) states:

"The choice of siding for many Annapolis buildings was a deliberate design decision, based on a combination of architectural fashion, availability, and cost. The visual character created by the texture and pattern of light and shadow shall not be altered by the replacement of any historic siding with different siding profiles or non-historic siding materials...

...Synthetic substitutes for wood siding and trim are not appropriate in the historic district.³

Thus, while affordability was a factor in the selection of original cladding materials, it is no longer a factor for the use of substitute materials. This publication does not address resilience or carbon impact as part of HPC's policy. While resilience and sustainability policies are being developed and adopted by the City of Annapolis⁴, to date these have not appeared to impact HPC's published standards.

Mansfield, Texas

The Mansfield, Texas City Council and Historic Landmark Commission have jointly published design guidelines, which disfavor the use of fiber cement, designating it as an imitation material:

"Other imitation materials designed to look like wood or masonry siding, such as cementitious planks or fiberboard, are also inappropriate." ⁵

While these guidelines address some aspects of sustainability, this factor is outweighed by "historical integrity":

³ See https://www.annapolis.gov/DocumentCenter/View/2157/Historic-District-Design-Manual-PDF (original emphasis).

⁴ See Environmental Sustainability | Annapolis, MD.

⁵ See <u>Historic Preservation</u> | Mansfield, TX (mansfieldtexas.gov): Design Guidelines for Historic Mansfield.



"Green building materials, such as those made with renewable and local resources, may be considered for replacement materials where they will not impact the integrity of a building or its key features" 6

Newton, Massachusetts

The Boston suburb of Newton, MA is comprised of four distinct historic districts: Auburndale, Chestnut Hill, Newtonville and Newton Upper Falls. The Chestnut Hill district is noteworthy in that many of its homes were designed by a prominent local architect; use of substitute materials is rarely approved. Current Newton policy states: "Although not appropriate for replacement of historic wood siding, fiber cement siding can often be used at *minimally visible areas* with a high potential for wood rot, and on *new construction*."

While the durability of fiber cement is acknowledged, its use has been relegated to "minimally visible areas," and the policy currently does not address durability, resiliency, carbon impact or affordability. In practice, the number of approvals for using fiber cement cladding as a substitute material is shown below for the period of 2015 - 2017:

Table 1: Certificates of appropriateness issued for historic homes with original wood cladding - 2015-2017

Replacement Cladding	Full replacement	Addition/ New Construction	Total
Wood	4	1	5
Fiber cement	1	3	4
Other	1	1	2
Total	6	5	11

Only 1 full replacement of wood with fiber cement was allowed during this period; all other approvals for fiber cement were for new construction or additions, or to replace vinyl or aluminum siding. From 2020 – 2022, more full replacements were allowed using fiber cement cladding, however the majority of the approvals were granted to replace vinyl siding that was previously installed on the homes, often over the top of original wood siding:

⁶ *Id*.

⁷ See Chestnut Hill Historic District Commission | City of Newton, MA (newtonma.gov)

⁸ See Design Guidelines | City of Newton, MA (newtonma.gov)



Table 2 Certificate of Appropriateness issued for homes with original wood siding: 2020 - 2022

Cladding	Full replacement	Addition/ New Construction	Total
Wood	6	7	13
Fiber cement	11	7	18
Other	0	2	2
Total	17	16	33

Vinyl siding is deemed an *imitative material* under NPS Briefs, as it does not "sufficiently match the visual character and physical properties of the original material," whereas fiber cement cladding is deemed by the district to more closely resemble the wood siding used in the district (and is considered a *substitute material* under NPS Briefs).

Charleston, South Carolina

Policy addressing the use of substitute materials in Charleston, South Carolina is more progressive in that the standards are "intended to be applied in a reasonable manner" ¹⁰. Replacement of wood cladding in kind is subject to "Quick Plan Approval" by City staff, rather than going through a Board of Architectural Review hearing. ¹¹ With respect to substitute materials like fiber cement, the Board has found that use of 5/8-inch thick fiber cement cladding is appropriate, and the use of 5/16-inch thick fiber cement cladding may be appropriate on a case-by-case basis in times of product shortage. ¹²

However, in Charleston, use of fiber cement cladding is still mainly limited to additions or new construction, or as an aesthetic upgrade to vinyl or aluminum siding. From 2020- 2022, there was only one instance of approval for fiber cement as a replacement for wood siding.¹³

⁹ Brian Goeken, *Substitute Materials and the Secretary of the Interior's Standards*, APT Bulletin: The Journal of Preservation Technology, 2022, Vol. 53, No. 2/3, Special Issue: Materials (2022), pp. 49-56.

¹⁰ See https://www.charleston-sc.gov/DocumentCenter/View/10859/BAR-Policy-Statement-Charleston-Standards.

 $^{^{11} \}textit{See} \ \underline{\text{https://www.charleston-sc.gov/DocumentCenter/View/32857/BAR-Policy-Statement-for-Staff-Reviews}}.$

¹³ See https://www.charleston-sc.gov/AgendaCenter/ViewFile/Agenda/ 05082021-6520.



Table 3 Certificates of Allowance for cladding materials - 2020- 2022

Cladding	Full replacement	Addition/ New Construction	Total
Wood	5	1	6
Fiber			
cement	4*	6	10
Other	1	0	1
Total	10	7	17

^{*}Three (3) of the allowances were issued for replacement of imitative materials: vinyl or asbestos based cladding.

As demonstrated through the case studies, utilizing a weighted factor test, as outlined in Section 2 herein, in either the Standards and/or the Briefs would provide consistent application and decisions throughout the U.S. on the use of fiber cement siding versus old growth wood, often the most common siding in historic districts.

b. Fiber cement siding is more durable, resilient and affordable than the most commonly approved siding in historic districts and on historic homes.

The original cladding material commonly used on historic homes and in historic districts throughout the U.S., particularly in the Northeast and Midwest, is old growth wood. Wood is a less resilient, less durable material that is at risk of damage due to floods and storm surges, pests and fires. As shown in the average spot prices¹⁴ below, cedar cladding (commonly used in historic districts) of mid-level quality is 50% to 100% more expensive to purchase than substitute fiber cement cladding options:

Table 4: Comparative wholesale prices for 100 square feet of cladding

Cladding type	Wholesale price
	per 100 sq. ft.
Hardie® plank lap siding, 6 in. x 5/8 in. thick,	\$ 490
primed for field painting	
Hardie® Artisan® lap siding, 6 in. x 5/16 in.	\$ 736
thick, factory-prefinished	
Cedar lap siding, 6 in. x ½ in. thick, primed for	\$1,163
field painting	

¹⁴ Average of spot material prices obtained July 2023 from wholesale building material lumberyards in New England. Installation and finishing costs are deemed to be equivalent for these materials. Material prices will vary from location to location.



Yet, current Standards and Briefs guide local historic districts and commissions to render approvals in favor of old growth wood for use on historic homes and in historic districts and against substitute materials like fiber cement.

Fiber cement, compared to original wood, is more durable, resilient and affordable as demonstrated below, yet historic districts and commissions often do not account for those characteristics when considering whether to allow installation of fiber cement as a substitute material for original, old, growth wood:

Table 5: Durability comparison for wood and fiber cement

Material	Pests	Fire	Weather/Moisture	Warranty	Fade Resistant
Wood	Subject to damage caused by woodpeckers, termites and other pests.	Will burn when exposed to a significant source of heat or flame.	Shrinks and swells more when exposed to moisture, which over time, can cause paint to crack and peel. Requires more frequent upkeep to maintain appearance.	N/A	Paint can crack, peel or lose adhesion on wood faster than on Hardie® fiber cement.
James Hardie® Fiber Cement	Hardie® fiber cement is specifically formulated to better resist damage from the very predators— moisture, humidity, pests and fire—that pose threats to wood products	When there's a fire, Hardie® siding is much better at withstanding damage, while wood goes up in flames.	Engineered for Climate® to withstand wet or freezing conditions in the North and hot, humid conditions and blistering sun in the South.	James Hardie stands behind its siding 100% for a full 30 years.	Paint and other siding finishes applied in the field can fade or discolor substantially over time. James Hardie's ColorPlus® Technology is specifically engineered to help resist damaging UV rays, to help keep your vibrant color

Building materials technologies have advanced significantly since the publication of the Standards and Brief 16 to provide for durability and resiliency in a world subject to the effects of harsh climatic changes. Fiber cement siding was first introduced in the U.S. in the early 1990s and was not available when the NPS published Brief 16. Over the last thirty years, Hardie® fiber cement products have been produced in a wide variety of siding and trim widths, milling profiles, textures and patterns without raising the same aesthetic



concerns as other substitute or imitative exterior siding materials (aluminum or vinyl, as referenced in Preservation Brief 8, for example) that have historically been prohibited as substitute materials.

James Hardie® fiber cement siding is:

- Rated by FEMA as flood resistant (Class 5 highest rating);
- Certified as non-combustible (per ASTM E136) and reduced risk of flame spread from home to home¹⁵ (per ASTM E84);
 - Fiber cement is recommended, along with other non-combustible cladding such as masonry and concrete, by HUD as preferred external cladding in its recently published Resilience Guides for Builders and Developers in order to strengthen wall systems and provide an extra line of defense against fire. ¹⁶
 - IBHS's best practice is to "replace combustible siding with non-combustible material like concrete-fiber board".¹⁷
- Resistant to termites (a green building practice outlined in ICC700 section 602.1.6 and 11.602.1.6);
- Resistant to mold and mildew (per ASTM G21);
- Resistant to salt-spray, as is relevant in coastal regions (per ASTM B117);
- Approved by Miami-Dade County for use in High Velocity Hurricane Zones (includes damage resistance rating for Large and Small Missile impact resistance);
 - Fiber cement is the recommended external cladding of HUD in its Resilience Guide for Builders and Developers relative to wind protection;¹⁸
- Less maintenance-intensive over time due to its durability; and
- Insurance discounts are available but vary by insurance company and geographic areas.

Unlike Hardie® fiber cement products, which are produced in 11 facilities throughout the U.S. (a *Made in America* product), and are available in all regions of the U.S., old growth wood siding is increasingly rare and can be very expensive. Property owners who are required to replace wood siding in-kind due to the Standards and Brief 16 are often forced to use less durable and resilient wood siding while absorbing the *significantly* higher cost of the product and installation cost.

¹⁵ Faraz Hedayati, PhD, Stephen L. Quarles, PhD, Steven Hawks, *Wildland Fire Embers and Flames: Home Mitigations That Matter*, IBHS, April 2023, p.24, https://ibhs1.wpenginepowered.com/wp-content/uploads/Home-Mitigations-that-Matter-FINAL.pdf.

¹⁶ Designing for Natural Hazards, A Resilience Guide for Builders and Developers, Volume 3: Fire, HUD's Office of Policy Development and Research, pp. 13-14, https://www.huduser.gov/portal/sites/default/files/pdf/Natural-Hazards Volume-3-Fire.pdf. "Wood products, such as boards, panels, or shingles, are common noncombustible or fire resistant and not susceptible to melting. Concrete, fiber-cement panels or siding, stucco, masonry, and metal are recommended materials. Those coverings should not ignite and fuel the fire."

¹⁷ Home Preparedness Guide, Insurance Institute for Business and Home Safety (IBHS), https://disastersafety.org/wp-content/uploads/2021/08/WFR-Home-Preparedness-Guide.pdf.

¹⁸ Designing for Natural Hazards, A Resilience Guide for Builders and Developers, Volume 1: Wind, HUD's Office of Policy Development and Research, p. 16, https://www.huduser.gov/portal/sites/default/files/pdf/Natural-Hazards_Volume-1-Wind.pdf.



The outdated guidance in Brief 16 that provides deference to historic, original, historic wood siding ultimately impacts owners of historic properties and homeowners in historic districts by continuing to reinforce a bias against more modern building products like fiber cement siding, despite the fact that the material is made to match the aesthetics of historic wood siding and can better preserve structures.

Fiber cement siding outperforms wood in terms of embodied carbon over its lifecycle.

The expected life span of a building or any of its individual material components is an important variable in the Life Cycle Assessment ("LCA"). The assumed life span for homes tends to be 40–60 years (though actual life spans can be considerably longer), whereas the life span of individual materials is determined by the manufacturer's "reference service life" (which may not correspond to actual replacement timing). ¹⁹ The end of the useful life span of a home is rarely triggered by the failure of any particular material, but rather is due to land use changes, such as land value increases, or owners' reluctance to keep up with the maintenance of older buildings. ²⁰

More than half of the existing housing stock in the United States is already more than 40 years old and is not being retired or demolished. It is important for those making decisions regarding durability to also weigh climate impacts, as the climate impact of material replacements — even over several replacement cycles — may not outweigh the initial climate impact of a durable but high-emissions material. For example, exterior cladding materials protect the walls of a home from the elements and play a crucial role in the overall durability of the structure. The following table compares the emissions for 2,000 ft² of different cladding options by detailing the emissions upon initial installation as well as emissions for subsequent replacements over 100 years. The rankings of the materials after first installation are almost identical 100 years later. Builders will need to include life-cycle embodied carbon considerations in their thinking about durability and replacement costs.

¹⁹ Chris Magwood and Tracy Huynh, *The Hidden Climate Impact of Residential Construction*, RMI, 2023, p. 17, https://rmi.org/insight/hidden-climate-impact-of-residential-construction/.

Anne Power, "Does Demolition or Refurbishment of Old and Inefficient Homes Help to Increase Our Environmental, Social, and Economic Viability?" Energy Policy, Volume 36, Issue 12, 2008, pp. 4487–4501, https://doi.org/10.1016/j.enpol.2008.09.022.
 Na Zhao, "Age of Housing Stock by State," Eye on Housing, National Association of Home Builders, March 2021, https://eyeonhousing.org/2021/03/age-of-housing-stock-by-state-3/.



Table 6

Embodied Carbon Comparison of 2,000 ft² of Exterior Cladding Options

Material	Embodied Carbon Emissions (kg CO ₂ e for 2,000 ft²)	Anticipated Service Life (from EPDs)	Total Embodied Carbon Emissions Over 100 Years (kg CO ₂ e)
Brick (industry average)	8,880	100 years	8,880
Metal panels (industry average)	2,850	50 years	5,700
Vinyl siding (industry average)	1,000	40–50 years	2,000
Engineered wood (product specific)	520	25–35 years	1,800
SPF wood (industry average)	320	20–25 years	1,600

Source: RMI analysis

If you add James Hardie® fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the above analysis, taking into account the CO2 absorbed during recarbonation in the use phase by fiber cement cladding to the control of the contro

Table 7: Embodied Carbon Comparison - Wood vs. Fiber cement

Material	Embodied Carbon Emissions (kg CO2e for 2,000 ft2)	Anticipated Service Life (from EPDs)	Total Embodied Carbon Emissions Over 100 Years (kg CO2e)
SPF wood (industry average)	320	20–25 years	1,600
Hardie® Plank HZ10 (with recarbonation)	661	50 years	1,322
Hardie® Plank HZ5 (with recarbonation)	788	50 years	1,576

²² A1-A3 + B1 from Hardie® EPD, https://www.environdec.com/library/epd5037.



The resilient characteristics of James Hardie® fiber cement are proven, yet many owners of historic buildings or homeowners in historic districts are denied the ability to utilize substitute building materials like fiber cement under the current Standards and Brief 16, as embodied carbon is not considered a factor in the decision-making process.

A Weighted Factor Test in Brief 16 would allow building owners to protect buildings for climatic events and for property insurability if the Test includes factors such as durability, resiliency and affordability.

JHBP submits that factors such as durability, resiliency and affordability should be added to existing factors in Standards and Briefs regarding the use of substitute materials. A more wholistic approach would allow building owners the flexibility needed to honor and respect the historic aesthetics of the building and/or district while better protecting the building in modern, climatic times.

Brian Goeken with the NPS has acknowledged that Brief 16 does not account for factors such as cost:

NPS guidance allows for the use of substitute materials in additional instances aside from the scenarios outlined [in Preservation Brief 16]. For example, the guidance does allow cost and other practical concerns to be considered, but cost alone may not generally be the sole determining factor. Substitute materials are often used to replace particularly expensive materials, like slate, if the replacement material can achieve a reasonable visual match with the historic material. For example, gypsum wall board is routinely used in secondary interior spaces to repair or replace flat plaster walls. Substitute materials may sometimes be used for maintenance reasons, such as in locations not easily accessed and minimally visible, as with tight spaces between buildings or high dormers, or features subject to high wear and tear and exposure, such as porch flooring.

Additionally, while replacement materials may still be available, the modern product may not possess the same physical properties or appearance as the original. For example, newgrowth lumber now available is less resistant to decay or damage compared to its old-growth counterpart; even matching the species, one cannot expect the same performance of the new material as the historic one.

In these instances, matching the visual and other characteristics of the historic material may be the best, if not the only, option.²³

²³ Brian Goeken, *Substitute Materials and the Secretary of the Interior's Standards*, APT Bulletin: The Journal of Preservation Technology, 2022, Vol. 53, No. 2/3, Special Issue: Materials (2022), pp. 49-56.



Mr. Goeken elaborates on the issue of substitute materials by acknowledging that many more building materials are available since the publication of Brief 16:

In the years since the brief was issued, many more building materials and products now available offer the potential for a closer match in terms of the visual, physical, and other properties than was possible when this guidance was issued. Consequently, today there is greater potential for the appropriate use of substitute materials as part of historic rehabilitation projects.²⁴

Further, as a threshold issue, there is often an assumption that wood cladding inherently has historic value simply because it was the original cladding on the building. Wood cladding was often a commodity material produced in another location or state with no historical or cultural ties to the relevant district and community and used in lieu of masonry or stucco because wood was more plentiful and relatively inexpensive at the time. Historic districts where the production of wood cladding was of historical significance, or where unique species or designs were used as cladding, can be deemed as having significant historic value; however, the use of commodity wood cladding available at the time lacks great historic value.

Given the recent commentary on updating the Standards and Briefs with respect to the issue of substitute materials and the need for consistency in application throughout historic districts and commissions in the U.S., JHBP suggests adding the following language and factors to Brief 16:

"In general, four eight circumstances shall be considered and weighed to warrant the consideration approved use of substitute materials:

- 1) the unavailability of historic materials;
- 2) the unavailability of skilled craftsmen;
- 3) inherent flaws in the original materials; and
- 4) code-required changes (which in many cases can be extremely destructive of historic resources);
- 5) durability and resiliency of substitute materials (noncombustible/fire ratings, FEMA flood damage ratings, rot and pest resistance, expected service life and warranty);
- 6) relative carbon impact of substitute materials vs historic materials (embodied carbon, energy savings);
- 7) affordability of substitute materials as compared to original materials; and
- 8) the overall historic significance of the original building material.

²⁴ Brian Goeken, *Substitute Materials and the Secretary of the Interior's Standards*, APT Bulletin: The Journal of Preservation Technology, 2022, Vol. 53, No. 2/3, Special Issue: Materials (2022), pp. 49-56.



Further, a scoring mechanism could be introduced for each factor (on a score of 1-5) to provide for objective criteria in the decision-making process of approving or denying use of substitute materials.

Kind Regards,

Mackenzie Smith Ledet

Director, Government Relations

PAGE&TURNBULL



July 20, 2023

Druscilla J. Null, Director
Office of Preservation Initiatives
Advisory Council on Historic Preservation
401 F Street, NW, Suite 308
Washington, DC 20001
email: dnull@achp.gov

RE: "Comments on the Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties"

Dear Director Null,

Thank you for the opportunity to provide comments to the Advisory Council on Historic Preservation (ACHP) regarding the application and interpretation of the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Page & Turnbull was established in 1973 to provide architectural and preservation services for historic buildings, resources, and civic areas. Our practice specializes in the rehabilitation and re-use of historic buildings through the assessment and treatment of the most significant spaces and features while incorporating the thoughtful application of new design. We regularly guide projects so that they comply with the *Secretary of the Interior's Standards for Rehabilitation* (SOIS) for local, state, and federal agency review.

We wish to address the ACHP's following questions of special interest:

- 1. Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?
 - a) Review of private development projects by local historic preservation boards or commissions

Given the broad make-up of local historic preservation commissions and boards, the range of application and interpretation of the SOIS often varies greatly from jurisdiction to jurisdiction and sometimes within a jurisdiction by project.

We see the need for consistency in application of the Standards regarding:

Imagining change in historic environments through design, research, and technology

- Standard 2: Removal of historic fabric
 - Does the historic fabric proposed to be removed rise to the level of a character defining feature or retain integrity?
 - Consensus on the threshold where removal of historic fabric and/or contributing elements results in a cumulative adverse effect for both individual buildings and historic districts.
 - o Historic window replacement to enhance the energy efficiency of buildings.
 - Removal of wall material at secondary facades to create openings for new windows, fire egress, and/or disabled access.
- Standard 6: Repair rather than replacement of deteriorated features
 - o Consistency in determining when a feature is deteriorated beyond repair.
- Standard 9: Additions and Exterior Alterations
 - Guidance on thresholds relative to massing and aesthetic for infill/additions to historic districts.
 - Appropriateness in densifying historic districts to address social equity and housing shortages.
- There is a need for guidance in interpretation and application of the *Standards* in addressing intangible heritage.

To reduce discrepancies, uncertainties and potential conflicts related to the application and interpretation of the *Standards*, we recommend:

- a) That a federally approved or federally developed training be made available and recommended to local preservation commissions and boards, i.e. through State Historic Preservation Offices, thereby providing the same SOIS education program across the state for both those who meet the Secretary of the Interior's Professional Qualification Standards, as well as those who may not meet those qualifications. Ideally, the training should occur on a regular basis (annually).
- b) That an appeals process be established at the state level, i.e. through State Historic Preservation Offices. This would allow for owners or duly authorized representatives to appeal decisions made by a local preservation board or commission and help ensure consistency in review within and across jurisdictions within a state.
 - A state-wide appeals process would not be unlike 36 CFR 67.10 Appeals which provides for an owner or a duly authorized representative to appeal any of the historic certifications or denials of certification or any decisions made under 36 CFR 67.6(f) by the National Park Service. In that instance, the Chief Appeals Officer, Cultural Resources, National Park Service conducts an administrative review and is the final administrative decision within the Department of the Interior regarding certification for the Federal Historic Tax Credit Program.

We recognize that each state is responsible for granting broad or limited authority to each local branch of government and that states employ one or two guiding principles of governance for local governments: the Dillon Rule and/or Home Rule. We understand the above suggestions would need to be compatible with a state's principles of local governance.

However, we believe that if mechanisms were established to ensure uniform and regular education and the availability of a singular state-wide appeals process, then the application and interpretation of the SOIS within local jurisdictions across a State would avoid discrepancies, confusion, and conflicts.

2. How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns?

We value the National Park Service *Preservation Briefs, Interpreting the Standards* and *Tech Notes* that provide recommended methods and approaches for rehabilitating historic buildings that are consistent with their historic character. We review these guidance materials as part of our daily practice and appreciate the most recent publications of the *Seismic Rehabilitation of Historic Buildings*, the *Illustrated Guidelines on Sustainability* and the *Guidelines on Flood Adaptation for Rehabilitating Historic Buildings*.

To improve the federal response, we recommend the following additional guidance materials be developed:

<u>Housing-supply:</u> We request guidance be developed for applying the SOIS to historic districts and/or very large and diverse, functionally related properties (i.e. large military bases and medical, university, and corporate campuses) in regards to demolition, density/massing/height and spaces and/or spatial relationships of infill and/or new construction required for meeting housing supply needs.

<u>Renewable Energy</u>: New technologies are continuously being developed to address the need for renewable energy use. We request guidance be developed for applying the SOIS to such new technologies, including for example: solar roof shingles/tiles, battery storage systems, distributed variable-volume mechanical systems, and super insulators.

<u>Climate-Change:</u> Provide guidance and expanded training to inform reviewers how to better assess embodied carbon impacts in their analysis, recognizing that operational carbon should not stand alone in their assessment. Considerations of the life-cycle carbon impact of existing and newly

introduced materials within buildings provide a more accurate and holistic picture when considering how to apply the *Standards* to proposed changes in materials.

<u>Equity:</u> Does the cost of the strict interpretation of the *Standards* displace cultural groups? We recommend expanded guidance and training in impacts and implications for cultural groups. For example, replacement in kind may not be a feasible option for certain groups. Is there flexibility in substitute materials?

In conclusion, with the above recommendations implemented, we feel our practice will be able to continue emphasizing the re-use of historic buildings and be best informed on how to ensure compliance with the *Secretary of the Interior's Standards for Rehabilitation* (SOIS) while addressing the significant concerns of today.

Please take these comments into consideration when providing recommendations to the Secretary of the Interior on measures to coordinate activities of federal, state, and local agencies related to historic preservation.

Regards,

John D. Lesak, AIA, LEED AP, FAPT

Principal

Page & Turnbull

[External] Follow up to ACHP Seeking input for the Secretary of the Interior's Standards for the Treatment of Historic Properties

Ariana Makau <amakau@nzilani.com>
Fri 7/21/2023 10:01 AM
To:Dru Null <dnull@achp.gov>
Cc:Nzilani Operations <ops@nzilani.com>
Hello,

I am aware that I missed your deadline to officially have my comments entered into record for the The Advisory Council on Historic Preservation (ACHP) is inviting <u>public feedback</u> regarding application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties.

But, as a longstanding member of the preservation community, past Health & Safety Chair of the Stained Glass Association of America and owner of a Stained Glass Conservation company that specializes in monumental stained glass preservation; **I would very much like to contribute to the updating of the Dept of Interior Standards and Preservation Brief for Stained Glass #33**. In particular, I am interested in the dissemination of health and safety information regarding lead exposure on site and in the workplace.

You can find multiple articles, basic written information and <u>stained glass safety video</u> catered specifically for those working in the preservation field on <u>Nzilani's safety tab</u> of our website.

In particular, you may find this joint article I wrote for the *Synergist Magazine* of the American Industrial Hygiene Association (AIHA) "The Art of Health and Safety" - A conversation between Ariana Makau and David Hicks (CIH, CSP, CHMM, safety and occupational health manager in the federal government, past chair of the AIHA Safety Committee, and president-elect of the Potomac Local Section of AIHA).

Your partner in preservation (people, place & planet),

-Ariana Makau

My work hours may not be your work hours.

Please do not feel obligated to respond outside your work schedule.

Ariana Makau

She | Her | +510.821.2742 President & Principal Conservator

AIC Fellow

<u>SGAA</u> 2nd Vice President | Health & Safety Chair of Stained Glass Association of America - 2017-2023 NZILANI GLASS CONSERVATION **Be Safe. Have Fun. Do Excellent Work.**3246 Ettie St #4, Oakland, CA 94608

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[External] Comment on SOI Standards

Laurie Matthews < lauriem@migcom.com>

Mon 6/19/2023 1:47 PM

To:Dru Null <dnull@achp.gov>

To whom it may concern,

I was hoping this request for comments also applied to the SOI Standards for the Treatment of Historic Properties with Guidelines for Cultural Landscapes, but since it doesn't I will say that more preservation professionals should be aware of those guidelines given how they address historic and cultural resources that are by their very definition dynamic resources.

There is much to learn about addressing other types of historic resources, namely buildings and structures, by understanding and applying the methods associated with cultural landscapes to address the effects of a rapidly changing climate.

For example, understanding how to manage the overall character of a historic resource will help broaden the perspective and put the complexion of changes that may be necessary in better context.

Also, understanding landscapes in general can help develop solutions related to storm surge and sea level rise, by looking beyond the building to its setting and context to see solutions, such as wetlands, where water can go instead of into a historic building or district.

Thank you, Laurie

--

Laurie Matthews

Director of Preservation Planning & Design, ASLA Cultural Places Studio she/her

My office hours are Monday - Friday 8 am - 1pm PT.

Upcoming out of office/in field: June 20 and 27-28; July 4, 7, and 25; and July 31-August 4



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Ms. Bronin,

There's a great deal to unpack here so I apologize in advance for the length of my response. I have worked as a consultant handling state and federal historic tax credit projects for 22 years. In the last several years there have been complaints from across the state about how our SHPO is understanding, interpreting and applying the SOI Standards. One of the single biggest concerns is that certain SHPO staff view this program as a "gotcha game" and their role is to be the preservation police who catch and punish people for doing something wrong rather than advisors who are there to help applicants achieve a successful project. Since the NPS reassigned their review staff I've seen both a shift in approach to the program and significant inconsistency in reviews at the federal level as well.

In Missouri reviews have been delayed for as much as a year and are often driven by the personal preferences of staff. On one project the reviewer insisted we had to keep a cabinet in a kitchen claiming, wrongly, that it was a butler's pantry and, therefore, a character defining feature. While it was, indeed, an old cabinet it was not essential to telling the story of the building. When I pushed back he finally said, "I don't care, I want you to keep it." In some cases reasons for denial appear to be completely fabricated – on one application the expressed reason for denial was the removal of a partial stud wall (in a building that had been largely gutted) at the rear of the first floor. The reviewer never raised that issue during preliminary review and the removal of that wall was noted in the preliminary application.

I've had projects where the reviewer said that the Standards did not permit toilets in front of windows and another where the reviewer (now the head of the review team) said she didn't think there was a precedent for a railing on a second floor porch — building codes be damned! In situations where a missing historic feature might originally have been made of one of several materials (e.g. a porch railing that might have been either wood or metal) SHPO will refuse to accept that there is more than one option for a replacement material. The head of the tax credit review team in Missouri recently visited a project and told the owners that some, but not all, changes made outside the period of significance, can acquire significance in their own right. This goes against everything I've ever been told. What is the point, then, of having a period of significance, if anything done at any time can be considered important? This same reviewer presented an argument to the Keeper of the Register that another property in St. Louis should be removed from contributing status due to changes made after the period of significance. It seems she wants to have it both ways.

The program is becoming less about adaptive reuse through rehabilitation and more about strict preservation/restoration. When the federal tax credit program was created it was only concerned with the exterior of the building – mainly the front. Over time there was a recognition that the interior spaces and features of the building needed to be considered. At the same time there was a clear distinction between primary and secondary space and great latitude was given in those private spaces. When I first started working in this field we were told that the two front rooms on the first floor, the stairhall/foyer and the front room on the second floor (two if the building consisted of flats) were the primary spaces. The further back and up you went in the building the less critical those spaces were and greater change could be accepted. I'm noticing a blurring of the lines with increasing restrictions on changes made in kitchens, bedrooms and the rear of the building. It seems the pendulum is swinging too far in the other direction. We aren't supposed to be making museums here. This elevation of all historic fabric to "preciousness" is driving people away from the program and fuels the characterization of those in the field as "hysterical preservationists". As my mother used to say, we shouldn't let the perfect be the

enemy of the good. In a blog post by Ruth Blair Moyers for the Fairfield Foundation she cited a conversation with the Senior Archivist at the Library of Virginia who said, "Preservation can't tend toward preciousness... A building is only useful if it can be used."

HTCs are also becoming less accessible to average Americans. More and more I'm seeing reviewers require detailed drawings that can only be done by an architect – section drawings, elevations etc. – all of which drive up project costs and make it harder for individuals to take advantage of the tax credits. The insistence, as well, on exactly matching materials and refurbishing existing features can put the rehabilitation of a building out of reach for those with more limited resources. I don't just mean financial resources in the strict sense though that is definitely a factor. Requiring that users replaster walls (even where the existing plaster is deteriorating) and rebuild every original window fails to consider several things. There are a limited number of craftsmen/women who have these skills. That means that wait time is significantly longer and the cost often prohibitive. There are only a few very small contractors in St. Louis with the capability to rebuild windows or do plaster work. Owners have been told it would take 2-3 years before work on their windows could even be started with a minimum of 8-9 months for it to be completed. Add to that the fact that the cost to repair the window is easily 2 times that of a replacement and it becomes unnecessarily burdensome to undertake. This is not to say that I think the replacement of every window should always be accepted but I see a real movement away from a reasonable middle ground of restoring the most visible windows and allowing the replacement of those less visible that are fairly deteriorated. The threshold for what constitutes deterioration beyond repair is becoming stricter such that hardly any window or plaster wall is a candidate for replacement. We also used to be told that replacement flooring, for example, should match the general characteristics of a historic wood floor. Now we are told it has to replicate the board width, the color, the grain pattern and the species of the (sometimes presumed) historic flooring. I agree that flooring that is unique (terrazzo or encaustic tile) or represents exemplary craftsmanship needs to be retained and restored but the ordinary pine or fir plank flooring common here is not essential to the understanding of the building. We are now getting reviews from our SHPO stating that carpet cannot be used anywhere in a building even though the NPS has long accepted carpet in bedrooms.

For many years we were fortunate to have one of the most experienced and knowledgeable reviewers on the NPS staff. John Sandor not only has a background as an architect, but he has also personally rehabbed at least two buildings which gives him an appreciation of what it is he is asking people to do. I'm not sure other reviewers have the same practical understanding of what it takes to complete a project like this. John's first concern is what is necessary to save the building and produce a successful project, looking to preserve that which most defined the character of the building with the understanding that some things can be let go. Now, both our SHPO and NPS reviewers seem unable to determine which features and fabric are truly distinctive and character-defining. Everything, it seems, is now considered to be essential to the character of the building which renders Standard 2 practically meaningless. The hierarchy of importance implicit in the standard has been lost.

Reviewers will often cite cumulative effect as a reason for denying certain changes to spaces/features/material yet they seem to ignore the flip side. While a certain change may, individually, not meet the Standards it must be considered in terms of its overall impact on the project. "In some cases, a single aspect of a project may not be consistent with recommendations found in the Guidelines, yet its impact on the character of the property as a whole is small enough that the overall project meets

the Standards." More and more it seems that every detail, no matter how small, is considered essential to the character of the building.

I recently received a conditional approval from an NPS reviewer who stipulated that the design of a new addition (replacing a previous, badly deteriorated addition) in the dog-leg at the back of the building needed to be modeled on the historic porch of a building down the street. The building my clients are rehabbing was completely renovated in the 1980's. All of the interior fabric as well as the rear addition dates to that renovation. There is no documentary evidence of what the rear porch looked like. It has always been my experience that, once the historic fabric is gone, we are not required to recreate it but can, instead replace it as long as the design/materials are compatible. The cementitious siding my client chose to enclose this proposed new addition has, for years, been the "go-to" product recommended by both our NPS and SHPO reviewers. In the same review we were told that we could not reconstruct the bracketed cornice on the front as proposed because we were modeling it on the building across the street. This building actually has a remaining corbel, identical to those on the model example we cited. In this case, where we actually have physical evidence that matches our model we've been told we need a historic photo as evidence but where we have a completely missing feature we are told to use another building as an example – even within the same review there is inconsistency. The guidelines on cumulative effect state "Similarly, features and spaces that have been so substantially changed outside the period of significance or are so severely deteriorated as no longer to convey historic character can be more readily altered than those aspects of a property that retain a high degree of integrity."

I'm increasingly concerned about the push for perfection and this idealized vision of what the HTC program is intended to accomplish. It is not supposed to be about preservation for its own sake, it is about rehabilitation as an economic development tool. If we continue to set the standard for a good project so high as to be crippling we will lose more than we gain. The burden of the requirements to meet the program is beginning to overwhelm the benefit. Many will opt to forego the credit and, without this incentive to encourage them, will not bother to keep much, if any, historic fabric.

Since our state does not have an appeals process SHPO has all the power and they know it. There is no one to whom we can turn to rein them in when they grossly overstep their role. I expect to see more and more people abandon this program – at least here in Missouri.

Thank you for making the opportunity for those of us in the field to share our thoughts and experiences in the work of preservation.

Sincere regards,

Maureen McMillan

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I previously submitted comments on the interpretation and application of SOI Standards but I have several additional remarks that I'd like to include. I'm trying to fit a great many points in so please understand if this letter is a bit disjointed.

I'd like to address the application of primary and secondary space in single-family dwellings. I submitted a project several years ago for a large single-family residence in St. Louis. This building is three rooms wide but only two rooms deep. All of the rooms on the second floor were bedrooms with two small bathrooms. Like many affluent homes the middle room on the second floor was historically a dressing room which also served as a bedroom. A previous owner removed most of the partition wall between that room and an adjacent bedroom. My client proposed converting one of the front bedrooms into a master bath so that his bedroom could be in the rear away from the street noise. The initial review from our SHPO stated "We can allow modification of this space but placing a private function element such as a toilet in front of a primary window is not acceptable. Try to rework the area to eliminate this issue."

When I responded a short time later asking where the Standards address placement of fixtures I got no response. Months passed during which construction was moving along. Approximately 6 months later I got a call from another reviewer who said "What Doug really meant to say was 'what is the impact on the historic character of the space by turning a bedroom into a bathroom". Clearly that isn't what Doug said and it took months before the issue was resolved to approve the project but specifically excluding the bathroom.

Meanwhile another consultant submitted a project with a similar floor plan, this time turning the middle dressing room (in which a small bath had been added at some time) into a full bath with a tub in front of the window and it was approved without question.

It seems to me that if we think about the spaces as public vs. private as opposed to primary vs. secondary then the entire second and third floors of a historically single-family residential building were private spaces — with the possible exception of the stair hall. Historically, one's guests did not enter the bedrooms. People today expect more and larger bathrooms. They are a significant feature that people look for in a home. I would argue that people should be allowed to convert bedrooms, regardless of location, to other uses based on the way people live today keeping the footprint of the room along with windows, doors and specific features like mantels largely unaltered.

For the last several years our SHPO has tried to circumvent, override or completely disregard NPS decision-making on projects. Recently they agreed to abide by NPS reviews but I continue to see them interfere and try to make additional requirements on projects even when we've already received conditional NPS approval. This creates confusion for applicants who don't know whose feedback they should be following. On a recent project where the building originally had a trough system for water removal (the wall was partially rebuilt some time ago and the trough removed) I called out for new guttering and downspouts. There was no question about that from the NPS reviewer and the guttering and downspouts are already in. SHPO is now telling us we need to provide additional photos so that they can "give us guidance on the guttering". It will be extremely problematic if they try to tell us that we have to remove the guttering that the owner has already paid to have installed. And, on a separate site visit, we discussed the conditions issued by the NPS reviewer and they repeatedly tried to revise what

the NPS reviewer said. When the owners asked me if I could request clarification from the NPS staffer the SHPO reviewer jumped in and said that I needed to run that through them. It absolutely felt like they were trying to control the narrative in order to get the NPS reviewer to change the condition to align with what they wanted - which was different than what was approved. Once a file reaches the NPS we should be able to talk to the reviewer of record. Our former reviewer at the Park Service always called to discuss projects to make sure he had a clear grasp of what was being proposed and any issues that may help his understanding of the project, its objectives and any potential complications. None of our current reviewers reach out which leads to endless rounds of amendments when a simple phone call might settle matters.

I'm generally seeing more and more restrictions placed on these projects. Even in what were always secondary/private spaces like kitchens. The floors, the chimney breasts, the shortening or removal of windows are all coming under scrutiny. I'm being told I can't put carpet in third floor bedrooms or that luxury vinyl tile in a kitchen must look like a historic wood floor. When I began doing this work 22 years ago I was told that people could do whatever they wanted in their kitchens and bathrooms. More and more it seems the ability to make changes that accommodate the way people live and work in buildings is vanishingly small. When clients ask me now what they can change in their building I tell them "not much" and even then I'm uncertain what, if any changes, will actually be approved. In a consultation call with a SHPO reviewer he commented that they are now permitting very few changes to a building and only the most minimal possible to make the building functional. Making something minimally functional and making it usable for current work and living standards are very different things. If we make only the bare minimum of changes but no one wants to live or work in the building because it doesn't meet current needs then what's the point?

One recent example of the ever-moving goal posts is open-sided garage-ports on residential rehabs. I've done countless projects over the years with open-sided garage-ports in St. Louis. Increasingly, people want secure off-street parking but our city yards are small. Some years ago we were permitted to construct open-sided garage-ports because, at least from the alley, they appear as a garage. On the interior side they are open enough that they don't consume most of the usable yard space. They are also significantly less expensive to build than a full garage. Abruptly, SHPO has announced that these garage-ports do not fit the historic character of the building or district that they are in. They insist this is because of the changing interpretation of the Standards at the NPS however, I just received preliminary approval on a federal project with an open-sided garage-port. In his review the NPS reviewer asked for clarification of the height of the garage-port as part of a larger amendment but expressed no issue with its design.

A client of mine had a conversation with our SHPO director the other day. As they were discussing changing interpretations of the Standards she commented that the program is fluid and the interpretation of the Standards is always evolving. At a site visit today, however, the lead SHPO reviewer insisted that the interpretation of the Standards has not changed. That is simply untrue. If you ask any consultant or architect working with this program they will agree that the application of the Standards is getting more and more strict all the time. In a program like this people need stability. They need to know what to expect. Budgets are often developed for these projects before the building is purchased and significant upward revisions to the numbers based on increasingly strict program requirements more than offset any benefit from the tax credit. While the Standards are closed out with a statement that

they are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration technical and economic feasibility that is not what is happening on the ground.

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July 19, 2023

Hon. Sara C. Bronin Chairman Advisory Council on Historic Preservation 401 F St, N.W., Suite 308 Washington DC 20001

Re: Comments on the Secretary of Interior's Standards for Rehabilitation of Historic Buildings

Dear Chairman Bronin,

The Advisory Council on Historic Preservation (ACHP) is to be applauded for leading a long-needed examination of the Secretary of the Interior's Standards for Rehabilitation. The standards have been used since the mid-1980s to regulate changes to buildings on the National Register of Historic Places and, in so doing, guide the use of federal (and many state) historic preservation tax credits. In light of the rapidly accelerating climate crisis, and the vast changes expected over the next decade or so, this is a timely review that one hopes will result in significant modifications.

My comments focus on one building type: houses of worship. A tsunami of church closings is underway. Over the next decade, tens of thousands of houses of worship will close, as the mismatch between small, aging congregations and large, aging buildings becomes even more untenable. The closings will result in a plethora of vacant buildings. Most are not on the National Register, but many are eligible for listing.

The current Secretary's Standards require that large church spaces like sanctuaries and social halls must remain pristine and intact in order to qualify for historic preservation tax credits. As a result, most property owners and developers wishing to undertake adaptive reuse may gain no advantage from proposing church properties for the National Register. Restrictive, inflexible standards serve as a showstopper for most creative reuse and redevelopment projects, especially those involving housing. No one would argue for the mass dividing up of fine, truly architecturally unique spaces, but the majority of church buildings cannot be said to fall into this category and should be given flexibility. In terms of community vitality and economic viability,



giving them new uses while preserving the buildings' exteriors is far more important than the preservation of the interiors.

Many of these houses of worship are in or near downtowns struggling to remain vibrant. The presence of a large, boarded-up house of worship creates a dead zone with a negative impact far beyond the property line. The prospect of having several such buildings in one community is fast becoming reality. The director of planning for Gary, Indiana, estimates the presence of 250 empty churches citywide. Ottumwa, lowa, has closed eight churches in its Main Street area over the past few years, with more potentially on the way. While developers in America's few hot real-estate markets are almost eager for houses of worship to close so their properties can be redeveloped, America's heartland is being littered with empty houses of worship.

The instinctive reaction of most preservationists to the notion of greater flexibility is to fight it tooth and nail, fearing that giving an inch dooms the entire preservation movement. That attitude was born in a different time, when flexibility could lead to total disregard.

But, it is no longer 1970, when preservation's villain was widespread destruction of swaths of cities through urban renewal and highway construction...when federal tax policy was to encourage new development...when a developer could deduct the cost of demolition of historic buildings and then use accelerated depreciation on the new structure.

This untenable situation was changed with the Rehabilitation and Historic Preservation Tax Incentives Act of 1981--no more deduction of demolition, no accelerated depreciation. Plus, developers who chose to rehabilitate rather than demolish buildings on the NRHP were eligible for a 25% investment tax credit. These actions tilted the investment playing field. Almost immediately, mayors and business leaders who had opposed National Register listing leapt on the bandwagon. A growing number of states adopted a similar state historic preservation tax incentives. Today, one can see the positive result in many, many downtowns and neighborhoods around the country, though the original federal 25 percent was lowered to 20 percent.

Fast forward to post-pandemic 2023. The nation is in a housing crisis. Homelessness is rampant. There is a huge need for affordable and low-income housing. Moreover, the rapidly accelerating climate crisis demands greater attention be given to older buildings, the rehabilitation of which has been proven to be more environmentally sound than new development. The Advisory Council's leadership is well-aware of this changed context.



Federal and (where applicable) state historic preservation tax incentives could make the critical difference -- if there is sufficient flexibility in interpreting the Secretary's Standards, especially the prohibition of altering large interior spaces like sanctuaries and social halls. Most potential adaptive reuses involve dividing such large spaces. Keeping them intact--as the Secretary's Standards recommend--is a potential showstopper for reuse: unattractive for private investors.

One can look to Arlington, Virginia, for an example of flexibility. In 2004 I led the consultant team for a historic preservation plan for Arlington. At the time officials were halfway through creating an inventory of historic buildings. Already more than 8,000 were on the list. Arlington's location, across the Potomac River from Washington DC, its excellent public schools, and its superb transit service put the community in the crosshairs of redevelopment pressure. Saving 8,000 buildings — with many more to come — was not plausible. The questions: What should be preserved no matter what? And what to do about the rest?

Our consultant team included Randall F. Mason, chair of the graduate program in historic preservation at the University of Pennsylvania, and David Ames, chair of the graduate program at the University of Delaware, two of the field's respected thought leaders. Our work led to creation of the Historic Resources Inventory, a system for setting priorities based on rational factors specific to Arlington's historic significance, with recommended levels of intervention appropriate to each category. The plan was adopted and is being implemented. Today an update is in process, including the HRI. Arlington's historic preservation program has become more robust, gaining greater public support over the years.

One way to modify the Secretary's Standards would be to take an approach similar to Arlington's. A system to rank a church building's significance and to establish levels of allowable intervention or alteration. Regarding "significance" in terms of its eligibility for tax credits, I would recommend that the focus be on its architectural quality.

Church buildings hold great potential for reuse if private developers can be enticed to invest in them. They need every incentive possible. The obstacles are daunting, among them years of disinvestment and deteriorated conditions, ownership issues (reversionary clauses, adjoining graveyards), outdated zoning and buildings codes, and community acceptance (NIMBYs and resistance to change). Add all of these to the usual pre-development costs, and most developers and investors find it too easy to walk away.

While preservationists may express fear of the federal government facilitating the gutting of church spaces in order to make way for apartments, to do nothing to close the gap for



prospective developers means many downtowns could well have several dead zones, with church buildings that remain vacant, potentially for decades.

I vividly recall the moment as a fledgling preservationist when I clearly saw the forest rather than focusing on tree bark. In the late 1970s, as we struggled to find a way to expand our pioneering work on the pilot Main Street Project, to give smaller communities a way to stem their decline, a colleague in the downtown management field said to me, "Mary, while you folks are trying to preserve three towns perfectly, thousands more are dying." Taking this to heart, we deliberately took a more flexible stance on what constituted preserving a Main Street building. Replacing a sign or peeling off a plastic covering were laudable – and affordable -- steps towards more extensive restoration. By building in flexibility, the lessons of the original three-town pilot have spread widely, with more than 2,000 Main Street communities today preserving – in the widest sense – their town centers. Such flexibility is called for to stem the tide of vacant houses of worship.

Clearly more is needed in the way of incentives than just the historic tax credit. However, it is the single largest incentive to date. When coupled with the Low-income Housing Tax Credit, flexible interpretation of the Secretary's Standards could go a long way towards preserving historic churches and addressing the affordable-housing crisis. As an aside, some of the requirements of the Low-income Housing Tax Credits are in direct conflict with those of the Secretary's Standards. One hopes the ACHP will give attention to this hurdle while the Secretary's Standards are under review.

Respectfully, I urge that the ACHP recommend more flexibility in interpreting the Secretary's Standards when applied to threatened historic buildings – especially houses of worship.. As the ACHP considers revisions, it is important that the voices of a wider range of persons be included, not only those of professional preservationists. With the force of this tsunami of church closings and the rapid pace of the climate crisis, time is of the essence. Yet, the wheels of regulatory change turn slowly.

Perhaps as a next step, ACHP would consider convening a small group of preservation thought leaders, experts in Historic Preservation Tax Incentives and Low-income Housing Tax Credits, National Park Service officials, state historic preservation officers, representatives of the faith community, mayors, and developers with historic-rehabilitation experience and charge them with creating guidelines for flexibility that strike a balance between strict interpretation and preservation-sensitive common sense. ACHP might even go so far as to apply the emerging



flexible guidelines in several instances to provide models to encourage hesitant regulatory officials.

I offer these observations and recommendations as a retired professional whose work of nearly five decades has been given top honors by both the American Planning Association and the National Trust for Historic Preservation. Reform of the Secretary of Interior's Standards for Rehabilitation is long overdue.

Respectfully submitted,

Mary Means

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To: Advisory Council on Historic Preservation (via email dnull@achp.gov)

From: Catherine Easterling, Principal Kathleen Morgan, Principal

Subject: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards

for the Treatment of Historic Properties

Date: July 20, 2023

Established in 1997 by Mimi Sadler and Camden Whitehead, our Richmond-based, women-owned business has focused on historic preservation and adaptive reuse for over a quarter of a century. We are now managed by long-time associates, Catherine Easterling and Kathleen Morgan, who continue the legacy of people-centric preservation. While most of our work consists of tax credit rehabilitations, we also assist our clients with state environmental reviews, Section 106 consultations, and local historic district design overlays.

Sadler & Whitehead has worked with many clients across Virginia and other states to complete state and federal historic rehabilitation tax credit projects for public and private entities. We appreciate the opportunity to comment on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties. We work primarily with the Standards for Rehabilitation ("Standards"), so our comments will reflect their application and interpretation.

We strongly believe the following could be improved when applying and interpreting the Standards:

- 1. Prioritizing the human experience
- 2. Allowing thoughtful, contemporary design for new features and additions
- 3. Providing consistent guidance
- 4. Considering the comprehensive scope of a project

Prioritizing the human experience

The Standards are written in a way that prioritizes buildings over people. We work to preserve, maintain, and rehabilitate historic buildings so people can use them. The Standards need to be flexible enough to reasonably incorporate ADA accommodations, fire-rating requirements, energy efficiency, life-safety requirements, and light and air requirements. We believe the application of the Standards should prioritize the human experience. For example, not allowing a door opening to be widened to fit a wheelchair indicates the door opening is more important than a person wanting to experience the building. This does a huge disservice to the project and the field of preservation.

Allowing thoughtful, contemporary design for new features and additions

State and Federal tax credit reviews have become more conservative over time, making it difficult to incorporate good design into rehabilitation projects. The prioritization of simple, "lowest common denominator" architecture is a disservice to communities, buildings, and the profession. Historic neighborhoods and commercial corridors are vital because of their vibrancy and interplay. Even in areas where historic buildings share similar massing, materials, and proportions, unique design details provide a level of visual interest important to the historic character of a district.

Historic commercial corridors are in jeopardy of losing their vibrancy as a result of the current interpretations of the Standards. New storefront assemblies are one specific area where State and Federal reviewers have applied the Standards in a manner that limits thoughtful, contemporary design to the detriment of historic districts. Reviewers currently allow for either the full restoration of a historic storefront, the retention of an existing storefront, or the installation of a new compatible and contemporary storefront when the historic feature is missing. Most developers opt to install compatible and contemporary storefronts, and State and Federal reviewers consistently direct applicants to install bulky, aluminum assemblies devoid of any visual interest. As more and more of these storefronts are installed along commercial corridors in towns and cities, the once lively interplay of distinctive transoms, recessed entries, and display cases is lost. We see the same simple storefront assembly replicated across these mid-sized commercial buildings, and the streetscapes are becoming monolithic.

The current narrow interpretation of the Standards also stifles innovation. State and Federal reviewers were much more open to creative approaches to preservation concerns ten years ago than they are today. The application of the standards should not limit good design that incorporates unique, modern details that remain respectful of the historic building.

Providing consistent guidance

The interpretation of the Secretary of the Interior's Standards for Rehabilitation ("Standards") has gotten stricter over the years. Rather than using the Standards consistently for their reviews, it seems project reviewers use bad projects as "what not to do". While it is understood that each project has its own unique circumstances, the vague nature of the Standards allows for different levels of interpretation, which creates inconsistencies in reviews and approvals, making it difficult to properly advise applicants on approvable treatments. We find this to be true with both SHPO and NPS reviews. We also find that the nature of the Standards makes it easy for a reviewer's personal bias to come into play. For example, why would a reviewer feel a specific paint color is not approvable when the Standards do not regulate paint color? And what one reviewer may find "compatible", another may not.

Considering the comprehensive scope of a project

State and Federal historic tax credit reviewers must be trained to evaluate a rehabilitation based on the comprehensive scope of work. Part 2 and Part 3 applications are more frequently being placed on hold by reviewers who are stringently applying the Standards to every aspect of a project. Reviewers should consider the overall impact the new work has on a historic building, and not act punitively based on personal aesthetic preferences.

We appreciate the opportunity to comment.

[External] Comments on standards of treatment in historic preservation.

Jim Nail <jdnail78@gmail.com> Tue 7/11/2023 4:31 PM To:Dru Null <dnull@achp.gov>

1 attachments (17 KB)

Comments to ACHP on NPS.docx;

To whom it may concern:

My name is Jim Nail, resident of Medfield Massachusetts and former member of the Medfield Energy Committee. I am no longer on the committee and these comments represent my views alone, not the views of the Medfield Energy Committee or any official town policy or point of view.

While on the committee, I was closely following the rehabilitation and adaptive reuse development of the Medfield State Hospital in Medfield MA (National Historic Register number 93001481). The project will convert 27 1890's buildings that were originally hospital wards into 334 apartments: studio, 1-, 2-, and 3-bedroom units. The developer is heavily relying on historic preservation tax credits and filed their Part 2 HPCA application this spring. It is the largest development Medfield is likely to ever see, and one of the largest in our region and so the climate impacts of it will significantly impact the town of Medfield's ability to meet MA legislated goals of a 50% reduction in greenhouse gas emissions by 2030, and be carbon neutral in 2050.

While the developer, Trinity Financial, has an excellent track record in rehabbing historic properties, a track record in innovating energy efficiency in these properties, and stated to the town in their RFP that sustainability would be a priority, they have apparently run into limitations in the existing guidelines that prevent them from making the development as energy efficient and low-carbon as possible. To their credit, they are planning an all-electric campus and using air source heat pumps for heating and cooling (there is no gas to the property and their current plans are not to bring a gas line in). While heat pumps are the best solution from a climate change perspective, they can be expensive to operate and so minimizing the heat loss of the buildings through better insulation should be a priority.

Specifically, in the 25% complete construction plans they filed with the Town Planning Board, the design only allows for a 4-inch deep interior wall, with only 2.5 inches of insulation and a 1 inch air gap between the brick masonry walls and the insulation. When I asked them why so little insulation, they indicated that their historic preservation consultant said the NPS has a rule that interior walls can be no more than 4 inches thick. I consulted with an energy efficiency expert in the Boston area who is a retired historic rehab developer and he confirmed this appears to be a standing rule; he also stated that it doesn't seem to be grounded in preserving the historic character of the building. Since the interior of the Medfield State Hospital buildings will be radically redesigned from a hospital ward footprint to modern floor plan apartments (including some 2-story units), the interior will be so different that imposing this restriction on the wall depth makes no sense.

In addition to the climate impacts, this minimal level of insulation is likely to result in poor energy performance that will impose a financial burden on future residents, especially the 25% of units that are designated to be affordable.

Next, the limitations on solar should be re-evaluated. This property has dozens of roof areas that have the ideal south-facing orientation for solar. In fact, the philosophy of the "cottage plan" design of the campus intentionally oriented the building this way, believing that sun exposure was beneficial to the mental health of patients. Also, the facility grew most of its own food, had its own water source and even generated its own electricity for much of its history. Maximizing the use of solar power is thus consistent with this approach to independence and resilience that underlay the campus' original intent. Now, there are a number of solar roof tiles that could substitute for the slate roofs on these buildings (many of which must be replaced anyway) with minimal impact of the historic character.

There is also significant area where solar parking canopies could be installed. The plan calls for adding 745 parking spaces and many of the lots are at the periphery of the core campus area, thus would have minimal impact on the character of the most historic area. Increasingly, supporting structures are being designed to be compatible with the surrounding area. One of the parking areas is adjacent to a town water tower that literally towers over the buildings and is visible everywhere on campus. This area would seem to conform with the NPS guideline that locating ground mount solar panels are OK in areas that are industrial in nature, but the developer does not want to spend the time to propose it, anticipating that it will be rejected.

Rejecting these parking canopies on the basis of being incompatible with the historic character of the campus also isn't logical. By themselves, the 745 parking spaces violate the original design philosophy of the campus which believed that mental illness was best treated by putting patients in beautiful, pastoral settings. Parking is a necessary compromise being made to accommodate the needs of 21st century residents, along with many others: dumpsters, electrical transformers, outdoor ASHP units, widening roads to accommodate modern fire engines, mail boxes, etc. The rehab design philosophy is to locate as much of this outside the core campus as possible; locating solar canopies here would be no more impactful on the historic character than all these additions will be.

In fact, the parking canopies have the potential to produce far more electricity than roof-mounted solar and so if they were allowed, the rooftop solar could be reduced or even eliminated while the site could still generate the majority of its electricity.

This experience reinforces what I have heard in a number of presentations at conferences that I have attended: that the NPS guidelines are so inflexible, and the judgment of what affects the historic character of a building are based on very minute differences that it discourages developers from even proposing new solutions. Delays in waiting for approvals, receiving rejections, and having to spend additional time revising building plans cost developers money and so the developers are more likely to propose something that they believe will get approved and not even try to propose a more innovative energy efficient alternative.

Finally, the 2021 International Energy Conservation Code includes a provision that is not yet well known but the NPS could be instrumental in implementing. This provision states:

"The most significant change is how the energy code applies to historic buildings. Previously, historic buildings enjoyed a blanket exemption from the energy code. In fact, although few jurisdictions allowed it, a loophole in the language exempted even additions to historic buildings from the energy code. Historic buildings are still protected, but the blanket exemption has been lifted. The revised requirements are found in R501.6 (residential) and C501.6 (commercial) and only exempts historic buildings from those provisions that would cause

damage to the historic character of the building. Additionally, the exemption is contingent upon the submission of a report (to the code official signed by a registered design professional, the State Historic Preservation Officer or the local preservation authority) that details how compliance with the provision would damage the historic character of the building. It is important to note that this report merely documents the basis for the exemption – it is not an application for the exemption."

In other words, developers must present a plan that complies with current code, and can only be exempted if the historic authority rules that it would violate the historic character. This would open up a dialogue that does not appear to exist today as developers try to anticipate what is sure to be approved. However in the Medfield State Hospital project I have seen no evidence that this process is being followed, perhaps because this provision is not yet widely known. The NPS likely has the authority to incorporate this into its guidelines immediately and has the reach to quickly educate state and local historic authorities in its application.

In closing, climate change is a defining reality of the 21st century. Just as adaptive reuse projects incorporate non-historic features such as parking, HVAC, etc. that are considered essentials for 21st century living, historic preservation standards must allow flexibility to incorporate features that will make the future use of a historic building as low-carbon as possible.

Thank you for this opportunity to submit comments to this important review of historic preservation standards.

Jim Nail 97 Hartford Street Medfield, MA 02052 email: jdnail78@gmail.com

phone: 508-789-6289

PS. These comments are also in the attached Word document in case that is a more convenient format.

[External] Request for Comments on Treatment of Historic Properties

Jonathan Owens <info@lancasterlimeworks.com>
Thu 6/15/2023 1:49 PM
To:Dru Null <dnull@achp.gov>
To whom it may concern,

My name is Jon Owens.

In 2006 I experienced massive masonry failure on a 1775 stone settlers cabin restoration project where we had followed the NPS masonry preservation brief that addresses the standard for proper mortars for use in historic structures. This preservation brief was totally incorrect. Until the preservation brief is corrected, masonry buildings in the USA will continue to be "restored" incorrectly resulting in devastating long term damage.

The failures I had on my project led me down a path to discover what went wrong and how to correct it. The result of my study, research and design led me to change career paths and I started my company Lancaster Lime Works. I reasoned that if the NPS can not get the masonry recipe correct it laid upon my shoulders to begin to offer to the USA public the correct materials, methods and recipes for all historic mortars, plasters and lime washes.

I was able to introduce the correct lime binder for several projects that are under the jurisdiction of the White House GSA Service Center. The Winder Building is one of them. It was stuccoed and lime washed using our lime.

There are several glaring issues with the current NPS masonry brief. Firstly, the Type O mortar recipe is totally incorrect for historic buildings and will cause massive failures like what I personally experienced. Secondly, the current specifications of NHL's for these historic buildings is also incorrect and again will lead to massive failures. My days are spent explaining to Architects, Engineers, Townships, Local Governments and homeowners etc, how the NPS masonry brief is incorrect.

Historic masonry buildings were built using lime as the sole binder in their mortars and plasters. Lime as a material dissolves when it stays wet and damp for long periods of time. The use of Type O mortar traps moisture in the masonry wall causing the original lime mortar to stay wet and damp, which in turn causes this original lime mortar to dissolve. Type O mortars or any type of Portland should never be used in historic mortars.

Furthermore, NHL's do not have the breathability, flexibility and continue to harden during their lifetime, resulting in a mortar that is more impervious, less flexible and much harder

than even modern Portland mortars are. NHL's have a place in historic preservation but their place is very limited.

I have a saying "Lime is not Lime is not Lime". There are hundreds of types of lime and it is of utmost critical importance that the NPS specify the correct type of lime for the historic structures within our America.

It would be wonderful for the saving of historic masonry structures in the USA if the NPS would issue the correct specifications for historic mortars and plasters.

Below I go into more detail regarding important why's and how's of the correct recipe's. While it is not absolutely complete but it does express the basics for making some corrections to the bad specifications that the NPS has for historic mortars and plasters.

At the bottom of this email I have attached a dropbox link with a PDF of this for your convenience.

Historic Mortars

There are major fundamental differences between historic structural masonry buildings and modern buildings. To properly renovate, repair, repoint, and care for these older buildings, it is paramount to have some basic masonry understanding of these old buildings.

Architects, engineers, builders, project managers and workmen who work on these old buildings must have a thorough understanding of what a structural masonry building is, the mortar these old buildings were built with, how water moves through these buildings, how salt affects old masonry, the types of mortars that should be used with these old buildings, and how the bricks and stone foundations work in them. It is asking for failure to apply new construction techniques and materials to old structural masonry buildings.

This introduction covers:

Page

- 2. Brief description of structural masonry.
- 3. A brief history and a basic explanation of what historic lime mortar is,
- 5. Types of binders.
- 9. Brief study of moisture and structural masonry.
- 12. Brief study of salt and structural masonry.
- 14. How to identify and eliminate sources of moisture in structural masonry.
- 16. Structural Sand Specifications for Lime Mortars

Although this is just an introduction and not exhaustive, it does provide the basic summary of knowledge needed to understand historic masonry buildings. More information is available upon request.

What is Structural Masonry Construction

A solid structural masonry building is a building where the exterior supporting walls are built entirely of solid masonry that supports the building and all of the buildings structural components. This is not to be confused with a masonry building using wood or steel as the supporting structure with a single layer of masonry veneer brick or stone applied to the exterior.

Single story brick walls built using the solid structural masonry construction method are at least two wythes of brick thick. Larger buildings that go multiple stories high often have 4-6 (or more) wythes of brick at the lower levels of the building. As the walls of the building extend progressively higher, the number of wythes of brick in them will decrease. For example, a typical two and half story brick farmhouse will have three wythes of brick in the first-floor exterior walls and only two wythes of brick in the exterior second floor and attic walls.

Structural stone walls are generally 22" – 24" wide at the foundation levels and will sometimes narrow to 18" or so in attic gable ends.

These solid structural masonry walls handle moisture and temperature swings in totally different ways than veneer masonry walls. Solid masonry walls hold onto large amounts of moisture. Solid structural masonry wall will also hold temperatures for greater amounts of time when compared to a veneer masonry wall.

Brief Description and History of Lime Mortar

This section does not provide an exhaustive study of lime mortars; however, it does provide a "to the point" introduction. Although this section may seem laborious, it is very important that the basics explained here are understood. This section lays the foundation for the importance of when and why the correct mortar should be used on this structure and why it is critical the building be kept dry

The Law of Lime:

The basic overarching law of chemistry that applies to historic masonry structures built using lime as the binder in their mortar is that lime dissolves when it stays wet or damp. This law is as irrefutable as the law of gravity. If you let go of a rock, it will fall to the ground. If lime stays wet and damp, it will eventually dissolve.

The law of wet dissolving lime is observed often in Lancaster County as sinkholes open when the lime bedrock is dissolved from underground water.

It is because of this law of chemistry that the primary focus for properly renovating and maintaining solid structural masonry buildings that were built using lime putty mortar is to make sure that the masonry walls stay as dry as possible. When these walls do get damp, they must be allowed to dry quickly, or the very mortar they were built out of will dissolve.

The amount of time that will pass before dissolving degradation of the mortar occurs depends on many things which we will not go into great detail in this report. However, it is not a matter of "will" the mortar fail if it stays wet/damp. It is a matter of "when" it will fail.

The abbreviated history of using lime as the primary binder in mortars can be summed up like this:

From the beginning of man first using mortar to build with, lime was the only material used. There is an extremely high probability that a building built in the USA before 1900 was built using a carbonating lime putty mortar.

Structural stone walls before 1900 usually used earth mortars in the interior of the stone wall and with just the exterior being pointed with lime mortar.

Portland cement was widely and commercially introduced in the USA in circa 1900. Although there are a few instances where Portland was used in masonry in the US before 1900 it was extremely rare.

Between 1900 and 1930 we find a mix of historic lime and Portland cement being mixed together in mortars used in the USA.

From 1930 to present day Portland cement is the primary binder that has been used in mortars in the USA. It is rare to find a building built in the USA with lime as the binder in the mortar after 1930.

To sum up, if a building was built in the USA before 1900 there is a very high probability it was built with just lime mortar. Between 1900 and 1930 mortars were often a mix of Portland cement and lime. From 1930 to the present, only Portland cement was used as the binder in mortars.

Lime is not Lime is not Lime

This brief phrase expresses the complexity of lime. There are hundreds and hundreds of types of lime used in almost countless industries and uses. Lime is used in the manufacturing of chocolate and steel. It is used to scrub waste air in factories to meet EPA requirements. Lime is used in waste water and drinking water treatment. Lime is used for soil stabilization. There is garden lime for yards and farmers' fields. There are types S and N lime for adding to Portland cements.

For a lime to act as a sole binder when mixed with sand in the making of mortar or plaster, it must have very particular characteristics. Some of these characteristics are: High PH, high surface area of the lime, high calcium, and a highly reactive carbonating lime.

Now we will explore the main types of binders used in mortar.

Types of Binders for Mortar

Binders:

A binder is a material that will hold aggregate (sand) together when making a material called mortar.

Mortar is the word most commonly used to describe the material used between the bricks and stones of a building.

There are three basic categories of mortar binders for that are available for use in historic buildings. These are: Portland Cement, Natural Hydraulic Lime (NHL) and Carbonating Lime Putty.

These three materials are divided into two categories: Hydraulic and non-hydraulic. The term hydraulic in the masonry field means the mortar will set up underwater. Non-hydraulic means the mortar will never set under water.

Hydraulic binders are like a two-part epoxy with part A being the water and part B being the Portland powder. When the water and the Portland powder are mixed together it starts the setting or "getting hard" process. Hydraulic binders are predictable in their setting times and in their compressive strengths.

Non-hydraulic Lime Putty only sets when it absorbs carbon dioxide. If lime putty stays wet, the carbon dioxide in the atmosphere cannot enter into the lime; therefore, it will never set. If lime putty is kept wet, they will never set even after thousands of years.

Portland Cement and NHLs are hydraulic. Carbonating Lime Putty's are non-hydraulic.

Important characteristics of the three types of binders:

Portland Cement Mortar:

Introduced widely in 1900. From 1930 to present time Portland Cement is the only binder used in new construction.

Portland cements set fast and hard.

The commonly used Portland cements are known as Type N and Type S

The PSI of Portland mortars is usually between 1,500 and 2,500.

The type of sand used in Portland mortars is not overly important because the sand is basically a filler, and the Portland is a glue that both holds the sand and the masonry units together.

Portland mortars do not easily allow moisture to move through them. Portland mortars are very impervious when compared to lime putty mortars. The perm rating of Portland mortar is usually in the 20's.

Portland mortars are not self-healing. These means that once they crack, they are cracked forever. Expansion joints must be used in buildings built with Portland mortar or the expansion and contraction of the building will quickly cause cracking in the building and destroy it.

Portland cement mortars are widely used throughout the USA. A large percentage of masons, architects, engineers and building inspectors don't know that any other mortar besides Portland cement mortar is available.

Natural Hydraulic Lime (NHL):

Introduced widely in the USA starting about 25-30 years ago, NHL was rarely, if ever, used before that.

It has only been manufactured in the UK until just recently. The largest manufacturers of NHL's are in the UK.

NHL's set slower than Portland cements, but they have a predictable setting time and PSI's.

They come in three different types: NHL 2.0, NHL 3.5 and NHL 5.0

NHL 2.0 has the lowest PSI and is used for soft bricks, soft stone, plaster, stucco and limewash.

NHL 3.5 has a higher PSI than the 2.0 is used for harder bricks and harder stone NHL 5.0 has the highest PSI of all three and is used for extremely hard stone, modern brick or block, constantly wet locations such as bridge abutments or wells. They are

also used for skyward facing mortar joints.

The type of sand used in NHL's is not overly important because like Portland cements, NHLs are a glue that both holds the sand and the masonry units together.

NHLs are much more pervious/breathable than Portland cements. NHLs are less pervious when compared to lime putty mortars. The perm rating on NHL's varies depending on the NHL used and how long they have been installed.

NHLs continue to get harder with time and lose breathability as time passes. Reports from the UK are saying that after 25 years NHL's reach the same and greater PSI as Portland cement mortars.

NHL's have a slight ability to "self-heal." This means that when they get wet/damp, the free lime in them will dissolve slightly. When they dry and carbon dioxide is absorbed into the mortar, they will slightly reset. The free lime is the term used to describe the type of lime that can reset when they re-dry. Each of the three types of NHL's have varying amounts of free lime.

NHL's are generally easier for professional masons to learn to use because they are similar to Portland cements in the type of sand used, ratios of lime to sand, installation methods, workability and setting times.

Carbonating Lime Putty:

Carbonating limes have been used since mankind started building things using mortars.

The vast majority of buildings built in the USA before 1900 would have been built using carbonating lime putty as the sole binder in the mortar.

Carbonating limes on a broad/commercial scale have gone extinct in the USA as they are relatively unknown and not widely available.

Carbonating lime is made up of 100% free lime and able to continually offer flexibility. The free lime is the part of the lime that dissolves when it gets wet/damp but will reset/re-carbonate when they dry. Because Lime Putty Mortars use 100% free lime, they are also the most prone to dissolving when they stay wet/damp.

The PSI of carbonating lime putty is impossible to quantify. This is because their PSI is constantly changing depending on what stage of the wet/dry cycle they are in. Are they in the dissolving stage because of a recent rain, or are they in the re-carbonating stage resetting as they are drying? When they are damp, they will be softer, and when they are dry, they will be harder.

The ability of lime putties to dissolve/reset/dissolve/reset seemingly forever is what gives the lime putty mortar its flexibility. Think of a modern Walmart building that is built using Portland cement. These modern buildings have expansion joints every 25' or so. This is because Portland cement is brittle and not self-healing; therefore, unless there are expansion joints every so often, the buildings would quickly crack and fall apart.

Lime putty mortars do not need expansion joints because every mortar joint in a building built with lime putty mortar acts as an expansion joint. When the mortar gets damp, the lime dissolves slightly which allows the sand to "resettle" to the movement of the building. However, when the mortar is allowed to dry, the lime will reset and hold the sand in the new position.

The sand required for Lime Putty mortars is extremely important as they gain the majority of their compressive strength through the sand and not the lime putty. Great care must be taken when choosing sand for use in a lime putty mortar. (we will address sand in more detail in the Mortar Analysis Report)

The more wet/dry cycles a lime putty mortar goes through, the more durable they become without an increase of the PSI.

Lime Putty mortars have the highest permeability with the perm rating usually being in the 70's. The perm rating of Lime Putty mortar is not reduced over time.

Lime Putty mortars require the most cognizance, alertness and skill to use. They are not difficult once learned, but they are different than Portland or NHL mortars. Very few masons in the USA use lime putty mortars.

Is it a Lime or Portland binder?

Here are several ways to determine if lime was the binder in an historic mortar:

- If the mortar is from a building that was built before 1900, it is highly likely to be lime.
- If the mortar is soft and will crumble when scratched or squeezed between fingers, it is highly likely to be lime.
- If there are white lime blebs in the mortar, this indicates a lime putty mortar was used. Lime putty turns into cottage cheese consistency when it freezes, and these cottage cheese blebs appear in historic mortars.
- If the aggregate used in the mortar is weathered deeply, it is likely to be a lime mortar.
- If no "tool marks" are visible, it is highly likely it is a lime mortar.

- If the mortar digests/reacts rapidly when acetic acid is poured onto the crushed mortar, it is a lime mortar. Portland cement has very little or no reaction to acetic acid.
- If the mortar was removed from a building that has been repointed/rebuilt within the last 20-30 years and it digests/reacts rapidly in acetic acid, it would be a NHL.

Brief Study of Moisture

Now that we have explained that lime dissolves when it stays wet and damp, it should be abundantly clear that moisture must be the primary focus for maintaining/renovating historic buildings that were built using lime mortar

I have a saying: "A historic building must have a good hat, good boots and a rain coat to keep the head, feet and body of the building dry."

When working on historic solid structural masonry buildings, it is critical to be cognizant of and have basic understanding of moisture in these two areas:

- Understand how moisture moves.
- Identify and eliminate sources of moisture.

Understanding how Moisture Moves

When initially thinking about how moisture travels, we usually picture water dripping downwards like falling rain or from a leaking roof or gutter.

However, water does not always obey the law of gravity and move downward. Water also moves upward when in the correct environment. This is defined as capillary action. For example, put a dry cloth in a glass of water and hang the cloth over the edge of the glass. The moisture will wick up the cloth and empty the glass of water. It takes approx. 7 hours for a cloth to empty a glass of water this way.

Another example of capillary action of water is a tree. There is no pump that pushes water 150' up into the branches and leaves of a tree. It is the fibrous nature of a tree that allows capillary action to wick water upwards from deep underground to 150' feet in height and higher.

If you pile soil around a mature tree, the tree will die because the excess soil changes the way the tree deals with the moisture.

Moisture and Historic Stone Foundations

Solid structural masonry buildings are built completely differently than modern buildings. Historic buildings were built with stone foundations that were laid directly against the excavated soil and with no footer under them. These stone foundations were laid using earth mortar as the bedding mortar. The earth mortar consists primarily of the subsoil from the excavation with very little if any lime. In other words, the stone foundation was laid in the same soil that surrounds the structure allowing the foundation of the building to move in tune with surrounding soils.

Lime mortar was used to point the inside (exposed basement walls) to keep the earth mortar from falling into the basement. This interior pointing is usually 2" or 3" deep.

Historic solid structural masonry buildings are like trees in the way they handle moisture. Just like trees, these masonry buildings are constantly wicking moisture out of the ground and allowing the moisture to evaporate to the atmosphere. Just like piling soil around a tree will kill the tree, piling soil around an existing building (higher than the way it was built) will change the way the building was built to handle moisture, and it will eventually cause irreparable moisture damage to the building.

Old stone foundations start to fail when the moisture levels in the surrounding soil and in the foundation change. If the earth mortar between the stones of the foundation dries, it will shrink, causing movement in the foundation. If the earth mortar between the stones of the foundation absorbs more moisture, the foundation will swell, causing movement in the foundation.

The stone foundations of brick structures were built having at least 8"-12" of exposed stone foundation with the upper brick wall portion laid on top of the stone. This 8"-12" of above grade/exposed stone area allows ground moisture to evaporate to the atmosphere before wicking into the brick portion of the building.

Tar or other waterproofing membranes should never be applied to the exterior belowgrade levels of solid structural masonry buildings. The earth mortar in these old walls needs to stay in contact with the surrounding earth, so they stay in tune with each other. Remember there is no way to seal moisture out of solid structural walls, especially stone foundations that were laid directly against subsoil, as there is no impervious concrete footer to keep moisture out of the foundation.

A Brief Word about Perm Ratings

Breathability or as it is known in scientific terms - the permeability rating (perm rating) is how the fast moisture will penetrate a material. The perm rating scale goes from 0 to 100 with 100 being the most permeable and 0 being the least permeable. All materials have some type of perm rating, for example glass would have a perm rating of 0 and a sponge might have a perm rating of 100.

Any coating or material that is applied to a historic masonry or plaster surface must have the same or a greater perm rating than the substrate it is being applied onto.

For example historic lime mortars generally have a perm rating in the 70's. This means that any coating, mortar or plaster that is applied over old lime mortar/plaster walls must have a perm rating that equals or is is greater than in the 70's otherwise moisture will be trapped.

Here are some general perm ratings of materials: Limewash - perm in the 80's
Historic lime mortar/plasters - perm in the 70's
Gypsum wallboard 1/2" - 50 perms
Portland cement - usually in the 20's
Gypsum plaster @ 3/4" - 15 perms
Latex paint - usually around 7
30 lb roofing felt - 6 perms
Oil paint with primer - 1.6 perms
Polyethylene @ 6 mils - .06 perms
Aluminum Foil - 0.00 perms

The question should **not** be "is the paint or plaster breathable" but rather the question should be "is the paint or plaster breathable enough".

Structolite, latex paint, oil paint, cements etc can not be used over historic lime structures because the perm ratings are too low.

A Brief Word about Moisture and Historic Bricks

Old historic bricks are normally soft with a PSI of under 500. For comparison, a new modern brick can have a PSI of 13,000 or more. It is rare to find a new modern brick with a PSI less than 7,000.

Old bricks have an open pore structure causing them to be very porous. The high porosity of old bricks allow water to saturate them quickly. When standing an old brick in a pan of water, it takes about 3 ½ hours for the water to wick to the top of the brick. Each old brick will hold about 1 ¾ cups of water. 100 bricks will hold over ten gallons of water. 1,000 wet bricks will hold over 100 gallons of water. If the masonry is sealed on the exterior, this moisture will migrate into the interior of the building or to "dry" areas in order to escape. If the wall is sealed on both sides, the moisture will wick upwards. I have observed moisture that has wicked to a height of 55' when both sides of a structural masonry wall were sealed.

Old bricks will "rot" or turn back into powder when they stay wet and damp for long periods of time. This is one reason to never pile dirt against historic brick walls.

Because old bricks are soft and because they hold a lot of water, they will fall apart quickly when freezing. Water expands when it freezes, and the freezing expansion of water will cause the bricks to spall and "blow apart."

Wet/damp masonry walls also weigh more, and they lower the R-value of the wall.

Piling soil higher against historic structural masonry walls than the way it was built originally is not healthy for the structure and will cause damage long term.

A Brief Word about Salt

Salt often appears on the walls and foundations of historic masonry buildings; therefore, it is important to have some basic knowledge of salt. We will briefly discuss the following three things about salt. First, the characteristics of salt, secondly where salt in buildings comes from, and thirdly how to eliminate existing salt from buildings.

First, let's discuss some of the characteristics of salt.

Salt is hygroscopic which means that salt attracts water. Therefore, knowing that lime mortar dissolves when it stays damp/wet, we should quickly acknowledge that salt in the walls of an historic masonry building will keep the masonry wet/damp causing the very mortar the building was built out of to fail. This principle alone should be enough to generate alarm when observing salt on an historic building. However, it gets worse.

When salt is wet, it is in a dissolved state in the moisture; however, when salt dries, it expands. These crystals will expand up to 45 times their size from when the salt was dissolved in water. This is commonly referred to as the "crystallizing" of salt.

This means on hot dry (low humidity) days when salt no longer has the strength to "hold onto" moisture, the moisture that had been attracted to the salt will evaporate into the atmosphere allowing the salt to crystalize and expand causing the face of soft bricks, mortar and stones to fall off. The salt is left behind during the evaporation process just waiting for lower temperatures and high humidity to attract the moisture right back into the building. This cycle keeps repeating itself. It gets warm and dry, and the salt lets go of the moisture and expands. It gets cool and damp, and the salt absorbs moisture back into the wall.

The constant expansion and contraction of the salt is like having little jack-hammers in the masonry causing massive and continual damage to soft masonry buildings. The salt must be removed in order to stop this process.

Secondly, where does the salt in buildings come from?

A common place salt comes from is deicing. Salt that is spread on sidewalks and driveways to melt ice and snow in the winter will travel into the soft masonry along with ground water.

Cities and towns spread salt all over our streets and roads during the winter. This salt becomes airborne from the tires of traffic stirring it up just like vehicles driving on a dry dirt road will produce clouds of dust. This salt dust will settle down onto all the buildings near the roads. It settles onto roofs, walls, window sills and protrusions around the building. When it rains and if the building does not have proper gutter/spout systems, the salt will be washed off the protrusions and along the foundation and be absorbed right into the masonry. This is just one reason it is so important to maintain gutters, spouts and proper grading around historic buildings.

Salt also is produced by the process of acid digesting lime. Acid and lime are on the opposite ends of the PH scale. Acid digests lime and that digestion process produces Carbon Dioxide and salt. You can experiment with this by crushing some historic lime mortar, placing the crushed mortar into a glass bowl, and pouring white vinegar onto it. The resulting reaction will be lots of foaming bubbles like the reaction of baking soda and vinegar from elementary school experiments. The bubbles consist of carbon dioxide. Put the glass bowl aside and wait a few weeks for the vinegar to dissipate. There will be lots and lots of white salt crystals that develop in the bowl.

It is also important to be cognizant of city water with high chorine content. Chlorine is an acid and must be removed from the water used on historic buildings, otherwise just a gentle washing of a building is potentially introducing salt into the masonry.

The conclusion of this knowledge is that acid cleaners or chlorinated water of any type should never be used on historic masonry buildings that have been built with lime mortar.

Thirdly, how to eliminate existing salt from buildings.

There are a few basic methods and guidelines to eliminate salt from masonry.

First keep in mind that for exterior salt deposits the best time of year to remove salt is in hot dry weather when the salt tends to crystalize the most.

Salt dissolves in water therefore it cannot be washed off using water. This is because the salt will dissolve in the wash water and will absorb quickly back into the pervious masonry.

The simplest method to remove salt is to regularly use a vacuum cleaner whenever the salt crystalizes on the surface of the masonry. Using a brush end of a high-powered shop vac, run the vacuum over the salt areas on the wall very thoroughly. This method should be done on both the interior and exterior of the building. Make certain that the dust collected in the vacuum is disposed of far away from the masonry structure.

After the vacuum has removed as much salt as possible, we suggest thoroughly dampening the masonry using chlorine free water. The water will dissolve the salt in the wall and as this application of moisture evaporates into the atmosphere it will

bring the salt with it which then can be vacuumed just like the first vacuuming. For interior salt, a fan, dehumidifier, and heater will speed up the drying process. For exterior salt the best time of year for removal is the hot dry months of July and August.

This wet/dry process should be continued for as long as it takes to remove all the salt. We have seen walls that have taken 15 wet/dry cycles to remove all of the salt. The salt will have been totally removed whenever the white salt crystals stop appearing when the wall is dry.

Another method for removing salt is to apply a poultice to the salt area of the masonry wall. The poultice is made of a sacrificial material such as clay or even a lime putty plaster. As the poultice dries, the salt in the masonry wall will be absorbed into the poultice which then can be discarded. Another layer of poultice is applied to the salt area and this process is repeated until the salt stops appearing on the surface of the masonry.

Identify and Eliminate sources of moisture

Obvious sources of moisture are things like a leaking roof or gutter. Some not so obvious sources of moisture are things like a broken underground sewer line that is close to the foundation.

A very important but often overlooked moisture culprit is condensation/dew point issues. Much like the outside of a cup of cold water on a warm day will get wet, solid masonry walls will get wet during temperature and humidity swings. It is of paramount importance that historic masonry buildings be allowed to dry as quickly as possible when they get wet/damp.

Although this list is not complete, here are some ways to be sure no moisture enters structural walls:

- Ensure that absolutely no Portland cement mortar, silicone or latex sealants, plasters, vapor barriers or latex/oil paints are used on either the exterior or interior of the masonry wall. These materials will trap moisture within the wall.
- Condensation/dewpoint temperature and humidity changes will saturate the wall and will penetrate impervious coatings
- Grade that is higher than when the structure was built, i.e. face brick covered with soil.
- Be sure all roofing, roof flashing, spouting and gutters are working correctly to carry water away from the building.
- Improperly installed roof drip edges.
- Underground water supply or drainage pipes that are broken underground.
- Old tree stumps that were not properly removed. Every root when it rots can become a "pipe" to carry water into the foundation.

- Ensure all window sills and other protrusions from the building are allowing water to drip free from the masonry and not run down the side of the masonry.
- Electric and cable wires that are sloped towards the building.
- Fire escapes that direct water towards the building.
- Ensure all surface grading is sloping away from the foundation. Flat surfaces against the structure will not work to
- Gravel, stone, sand, or pervious soil/backfill against the building will allow moisture to drain quickly into the masonry wall.
- Do not use asphalt or concrete up against the foundation. This includes basement floors. Concrete and asphalt trap moisture under them, causing the trapped moisture to migrate into the foundation. The stone base under concrete and asphalt provides a "water holding" area.
- Do not use mulch against the foundation. Mulch by design is for trapping moisture in the ground, so plants will get the moisture they need.
- Plant only grass against the foundation. Do not allow or put trees, flower beds or shrubbery against the foundation.
- Sub-soil around the foundation should consist of a sloped clay apron that extends about 6'-8' out from the foundation with 4" of topsoil on top of the clay sub-soil.
- Never use "French drains," gravel or perforated pipes within 15 feet of the foundation
- Ensure all underground pipes near and around the foundation are not cracked or leaking.
- Make sure AC and dehumidifier condensation water is not discharged along the foundation.
- Avoid the use of any de-icing salts around the foundation. Salt will migrate into the foundation. Salt is hygroscopic, which means it attracts moisture; therefore, salt in a masonry wall will stay damp and lime dissolves when it stays damp.
- Avoid the use of acid masonry cleaners. Acid digests lime and produces salt.
- Remove all existing salt from the foundation.
- Avoid interior vapor barriers, spray foam insulation, modern insulation techniques. Use breathable lime insulating plasters. A dry wall provides better R-value than a damp wall.
- When historic masonry walls do get wet/damp, they must be allowed to dry quickly by not applying any modern sealers, mortars, or other materials that cut down on the perm rating of the masonry units or the bedding mortar.

Structural Sand Specifications for Lime Mortars

Lime mortars gain most of their structural strength and longevity from a sand that is sharp and able to pack firmly and tightly together. The lime in a true lime mortar only acts as a binder to hold sand in a packed interlocked state but the binder does not actually contribute structurally other than to hold the sand in place. The sand itself must have a wide variety of particle sizes, be sharp, angular and be able to structurally interlock tightly of its own accord.

The proper sand for lime mortar will not only have the sharp, angular and sub-angular particles but it will also have a wide variety of particle sizes. We describe this wide variety of particle sizes as a "bell curve". You will see this "bell curve" when the sand has been sieved, placed in vials, and the vials are lined up in a row. When the vials are placed in a row according to the weight retained in each sieve, the height of sand in the vials will resemble the shape of a bell. This means there will be a small quantity of sand contained in the vials of larger particles, a larger amount of sand contained in the center vials and lesser amount of sand contained in the vials of small particles. (visual example attached below)

A good bell curve of sharp and angular sand (on a graph it will also be shaped like a bell) will indicate a sand that will pack firmly and tightly. Lack of a distinct visual bell curve (on a graph or in vials) indicates a lime mortar that is structurally weak, that will not compact tightly and will have early failure.

We weigh the particles retained in the standard sieve sizes used for masonry sand which are 4, 8, 16, 30, 50, 100, 200 and pan. For butter joint and super fine mortar, we add in sieve 325.

An example that describes the importance of a wide variety of sand particles is to study gravel for driveways. A ¾" clean stone used on a driveway will never compact. No matter how many times it is driven over or compacted it will always be loose. This is because a ¾" clean stone mix contains stone particles of basically all the same size. The correct stone mix for a driveway is known in this area of Pennsylvania as an A1-Modified Stone. It is a stone mix that has a wide variety of sizes including plenty of stone dust. This mix will compact firmly and create a structurally hard surface for vehicles.

Most naturally occurring creek and river sands have a wide variety of particles sizes for the needed bell curve. The closest manufactured sand that has the proper bell curve is often called a concrete sand and is given the designation ASTM C33 (although most ASTM C33 sands are lacking the necessary fines). An ASTM C33 sand will have very poor workability when mixed with Portland cement masonry mortars, but when mixed with the proper ratio with lime will have beautiful workability.

The most commonly available sand in the USA is known as ASTM C144. This sand is designed and manufactured for use in Portland Cement mortars to allow them to have good workability. However, the ASTM C144 basically has two particle sizes in

it which are usually aggregate retained in sieve 50 and sieve 100. Because of the limited particle sizes in this sand, it will never compact well. Portland Cement provides most of the strength in a Portland mortar. Therefore the structural packing ability of sand for Portland cement is not a major focus.

It is important to keep in mind that the ASTM C33 and the ASTM C144 standards do allow a large leeway on the exact particle size and distribution allowed. Therefore, we recommend that a sand be sieved, and examined, before being used in a lime mortar. If the sieve results are not ideal, the missing particles can often be added into the mix.

It is crucial when reading a sieve analysis chart or looking at the sand in vials is to realize that a smooth and evenly weighted particle size distribution on both halves of the bell curve is best. The mid sieve amounts being the highest in percentage in comparison to the upper and lower sieve amounts. If the fineness modulus number indicates "fail", but the sand has an acceptable curve, we will deem that the sand is acceptable because the strength of the packing will be good. If the fineness modulus "passes", but the bell curve is abnormal, the packing of the mortar will be poor. Keep in mind that it is rare to find a perfect bell curve of sand in a naturally occurring sand. Sands that have "spikes" between the sieves are to be avoided or the sand must be adjusted to achieve an even bell curve.

Lancaster Lime Works does not find it overly important to identify the geological "types" of aggregate that are within the sample. Rather, we determine whether the aggregate is sharp, angular and has the appropriate bell curve for use in a lime mortar. We look for sand that mostly consists of silica and quartz particles. We have found that sand that has greater than 25% of stone particles, especially softer stone such as limestone or brownstone etc. should be avoided. Often the key to finding aggregate to match original aggregate is to look on the building site. Once a sand with a correct bell curve and particle shape is found, it is then very important to perform a void analysis in order to calculate the lime to sand ratio for that particular sand. The lime to sand ratio is not discussed in this paper.

The study of sand needed for lime mortar is vast. We have condensed the basics in this study. As with so many aspects of the historic restoration field, there is great danger of a little knowledge. Reliance of standard ASTM specifications is usually not good enough. The specifier must be involved in the actual work and be very familiar with how the materials used are contributing to the mix in order to ensure that things turn out well. Empirical development of a lime replacement mortar formula may produce a mixture that "sounds wrong" to specifiers but will be structurally correct, strong, durable and historically correct.



Introduction to Historic Masonry

are major fundamental differences between historic structural masonry buildings and modern ngs. To properly renovate, repair, repoint, and care for these older buildings, it is paramount to some basic masonry understanding of these old buildings.

rchitects, engineers, builders, project managers and workmen who work on these old buildings buildings are a through understanding of what a structural masonry building is, the montar these old ultildings were build with. how water moves through these buildings, how set affects old masonry, be types of mortars that should be used with these old buildings, and how the bricks and stone undatations work in them. It is asking for failure to apply new construction techniques and materials old structural masonry buildings.

- Brief description of structural masonry.
 A brief history and assic explanation of what historic lime mortar is,
 Types of binders.
 Types of binders.
 Brief study of moisture and structural masonry.
 Brief study of east and structural masonry.
 Sind study of the structural masonry.
 Sind study of the structural masonry.
 Sindural Sand Specifications for Lime Mortars.

Although this is just an introduction and not exhaustive, it does provide the basic summary of knowledge needed to understand historic masonry buildings. More information is available upon request.

Basics of Mortars for Historic Masonry.pdf

dropbox.com

Thank your for your time and attention to these important details.

Sincerely,

Jon Owens 1251 Beaver Valley Pike Willow Street PA 17584 717-207-7014 www.lancasterlimeworks.com



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[External] Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Erin Que <erin.n.que@gmail.com>
Tue 7/18/2023 4:02 AM
To:Dru Null <dnull@achp.gov>
To whom it may concern,

I am writing to provide comments on the Secretary's Standards, based on my experiences as a historic preservation consultant and a historic preservation planner. My comments address the two questions of special interest.

1. Under Standard #3, the concept of a "false sense of historical development" can be interpreted in a wide variety of ways. A particular challenge at the local regulatory level comes with inadequately defined periods of significance. Minneapolis' local preservation program is about 50 years old. Many of the local landmarks do not have periods of significance. Or the periods of significance only focus on architectural importance and not also cultural importance, and the landmarks are not restudied to consider other areas of significance. Others extend the period to "the present," without much justification. With almost 200 landmarks and 20 historic districts in our program, we don't have the capacity to research all of the landmarks and refine the areas and periods of significance. We have started applying for CLG grants to hire consultants to revisit our oldest historic districts and define the periods. Another challenge is that as technology changes and new materials are developed that are better for the environment, or more durable than what was originally on the building, it can be challenging to approve the use of modern materials because they may create a "false sense of historical development." For example, asphalt shingles are not good for the environment nor do they last as long as other materials. Approving a metal roof on an early 1900s building may be better from a sustainability perspective than requiring the property owner to use historic slate or maintain the existing asphalt shingles.

The process of applying and interpreting the Secretary's Standards inherently creates equity issues. Technical expertise is typically needed to bring certificates of appropriateness through the local regulatory review process. General members of the public are not often able to navigate the process without hiring consultants, which adds time and money to a project. Developers have more resources than individual property owners and can often afford to have assistance to get their projects through. This can discourage individual property owners from wanting to maintain their ownership.

Tax credit and Section 106 review processes are lengthy and can be onerous and add significant costs to the project. Project leads may choose alternate paths to preserving historic buildings.

I would also recommend reconsidering the language of the standards and revising to use more plain language, whenever possible. Improving readability will help make the standards more accessible.

2. A wider availability of financial incentives would be useful. Many property owners love having a historic house but get frustrated because they are expensive to maintain. The tax credit program is great, but it is generally only for income-producing properties. Another idea would be financial incentives to encourage acquisition of historic properties and help people attain homeownership, especially those who have been historically disadvantaged. Another idea would be to offer

preservation expertise at no cost, to help property owners navigate the processes and gain advice when interpreting the Standards.

Further training and guidance on energy efficient materials would be useful. An expanded understanding of historic integrity would also be useful, accompanied by training and guidance. This is often interpreted subjectively.

Thank you, Erin Que

COMMENTS ON SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

07-16-23

Thank you for soliciting comments to the Advisory Council on Historic Preservation about the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties. I am focusing my comments on the relationship between the Secretary's Standards and current wave of emptying and empty houses of worship.

After a career in local economic development and city management in five U.S. cities and one in the U.K., I switched over seven years ago to work for the United Methodist Church. Since then, I have been enmeshed in the issue of reuse and redevelopment of faith properties. Those of us out in the field—from denomination to denomination, in communities large and small, from coast to coast—know what a huge issue declining houses of worships is. My background of working on the municipal side as well as the religious side has given me a unique perspective on the issue.

The mismatch between small, aging congregations and their large, aging buildings is draining houses of worship of their resources. In one mainline Protestant denomination in a Northeastern state, 20 percent of their 530 churches were judged to be in critical condition (small congregations, shaky finances, deteriorated buildings), 40 percent more right behind in serious condition. The planning director of Gary, Indiana, reported that Gary has more than 250 empty houses of worship.

Savvy congregations are attempting to find uses for their underused property, some through renting out space to immigrant congregations, others through social entrepreneurship. Most, however, are on an inexorable journey toward closure. In hot real-estate markets, developers can hardly wait for houses of worship to close so they can be turned into luxury residences or mixed-use developments, though public officials yearn for more affordable housing. In cold real-estate markets, closed houses of worship are liable to remain empty for years if not decades.

In any case, especially those involving community uses and in cold real-estate markets, historic-preservation tax incentives are a critical part of the financing mix. The requirement of the Secretary's Standards that large open spaces in houses of worship, such as sanctuaries and social halls, be kept pristine, discourages property owners from proposing properties for the National Register and tacking church redevelopment projects.

I hope ACHP will consider instilling more creativity into the Secretary's Standards in support of affordable housing and other church reuse and redevelopment projects. Feel free to review my articles on the current situation (linked below). I would be glad to expand on my comments as you see fit or serve on any panel considering changes.

Rick Reinhard 38 Maryland Avenue, #501 Rockville MD 20850-0346 202-669-2205 (cell) Governing 06-05-23 "What Cities and Churches Can Learn from an Urbanist's Vision" https://www.governing.com/community/what-cities-and-churches-can-learn-from-an-urbanists-vision

Planning 05-05-23 "Transforming Empty Churches Into Affordable Housing" (with Dr. Nadia Mian) https://www.planning.org/planning/2023/spring/transforming-empty-churches-into-affordable-housing-takes-more-than-a-leap-of-faith/

Institute for the Study of Law and Religion 05-03-23 "A New Vision for American Houses of Worship" (with Thomas Frank)

https://canopyforum.org/2023/05/03/a-new-vision-for-american-houses-of-worship/

Fw: Standards - Updated Comment from Brian Rich

Dru Null <dnull@achp.gov>
Fri 9/29/2023 11:47 AM
To:Dru Null <dnull@achp.gov>

From: Brian D. Rich <bri>
Sent: Thursday, September 28, 2023 1:09 AM

To: Sara Bronin <sbronin@achp.gov>

Subject: [External] RE: [External] Re: [External] Comments on Application and Interpretation

of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Thank you, Sara – I appreciate the chance to make sure that it is representative of the current situation. Please see revised comments below:

Hello – I wanted to share a couple issues that I've experienced with the implementation of the Secretary's Standards for the Treatment of Historic Properties, per a recent posting on the ACHP website.

- 1. I've experienced inconsistent implementation of the Secretary's Standards in different jurisdictions. I've researched this subject as it pertains to my philosophy of future-proofing historic buildings and implementation of the Principles of Future-Proofing. However, my research points out just how difficult it will be to implement revisions to the Secretary's Standards. Currently, the Standards are sometimes incorporated into local and state codes by reference and sometimes they are hard coded into the language of the local municipal or county codes. This requires changes to codes, laws, and regulations in each of thousands of jurisdictions across the United States a near impossible task due to the political challenges involved. Here is a link to my research on the topic which discusses the issue in more detail: https://principlesoffutureproofing.com/case-studies-research/future-proofing-charters-and-standards-integrating-the-principles-into-practice/.
- 2. There is significant difficulty in accommodating local code requirements when Federal Section 106 and/or Historic Tax Credit reviews are undertaken. While I recognize that there are a variety of codes across the US, the most progressive codes are often resisted or compliance is prohibited by decisions from NPS and SHPOs that don't allow compliance. These are building codes were talking about health, safety, and welfare of the building occupants must be accommodated, or we are not doing our primary duty as architects. This should not even be a question. Building code requirements have always superseded historic preservation. Hopefully, modifications to historic buildings are done tastefully, of course, and in compliance with the Standards as much as possible, by balancing historic character and cultural significance with the modifications needed to extend the service life of a building.

- a. Case in point: A recent project that was required to add insulation to walls to meet current local energy code requirements was delayed by multiple revision cycles by NPS because it increased the thickness of the walls on this Historic Tax Credit project. Ultimately this project was approved by NPS only after the design team reached a point where the local jurisdiction would not give in to further reductions in insulation value.
- 3. Inconsistent implementation and application of the Secretary's Standards has been problematic at both the SHPO and NPS levels. When architects are designing their project, guidance provided during design should be able to be relied upon when formal approval is sought. Unfortunately, changes of personnel or opinions have led to problems in this respect.
 - a. In one project, the proposed design was submitted for approval and conditionally granted. There were a few NPS comments that required response. The revision was submitted and the second response from NPS included more issues that did not meet with NPS approval. Multiple review cycles force significant rework in the design leading to additional cost and schedule delays for the project.
 - b. In another project, a preliminary review of a project was sought from the SHPO and gratefully received. The proposed design was determined to have no adverse effect to the historic resource in the preliminary review. This project was submitted for final approval and was determined to be an adverse effect after a change of personnel at the SHPO's office. The project was over 95% complete when the new determination was received and is costing the project time and money to address the concerns. Through significant effort on the part of the SHPO and project team, an agreeable design was developed and is in the process of approval. Unfortunately, this damages reputations and professional credibility.

I very much look forward to continuing to work as a preservation architect and working with the Standards. If I can be of more assistance, please let me know. Thank you for offering practitioners a chance to offer our input! All the best -

Thanks again! Respectfully submitted -



Brian D. Rich Principal

AIA, APT-RP, LEED BD+C, CCCA, PMP, sUAS

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To Whom it May Concern:

GBX Group, LLC ("GBX") welcomes this opportunity to provide comments on the application and interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties. GBX specializes in acquiring, preserving, and operating historic real estate in urban markets. As of January 2023, GBX has been involved in 196 real estate projects in 24 states. We are frequent users of the Historic Tax Credit program, and as such we are aware of substantive and procedural issues related to the application and interpretation of the Secretary of Interior's Standards for the Rehabilitation of Historic Properties and associated guidelines. Below are our responses to the inquiry from the Advisory Council on Historic Preservation. While we have declined to include site-specific descriptions in our response, we would be happy to discuss specifics with the Advisory Council on Historic Preservation in person. Please let us know if this would be useful, and if so, when you would like to meet.

- 1. This question is focused around identifying issues related to the application and interpretation of the SOI Standards and guidelines, particularly as it relates to cost, income potential, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related items. GBX has recently found that the interpretations from both SHPO and NPS reviewers have been overly strict as compared to years past (4-5+ years ago and earlier), which can cause projects to become financially inviable. More clarity and consistency in guidance between reviewers and states would be extremely helpful. Below is a description of some of the issues we have encountered:
 - **Timing** The timing of reviews and responses at both SHPO and NPS can jeopardize project timelines and budgets. In some cases we have even seen our development partners forego using tax credits altogether because they find the process to be overly difficult and burdensome.
 - Building Code Conflicts Our projects must meet real-world needs such as handicapped accessibility, fire codes, egress requirements, energy efficiency, and other building code requirements which can directly conflict with SHPO and NPS guidance. One example of this is a project where the local authority having jurisdiction required us to install a concrete handicapped ramp at the main entrance of the building, which was on a secondary façade. Though it was required by code, this ramp was still subject to scrutiny from SHPO and NPS reviewers and was very hard to reach consensus on. Codes are going to continue to become more strict and difficult to meet, and it would be helpful to have more guidance on how to achieve these while still maintaining historic fabric. There is a need for more consistency on handling items like ADA compliance.
 - Compatibility with LIHTC Requirements For example, we were unable to do a workforce
 housing project for families due to the low-income housing tax credit program bedroom count
 and size requirements and the geometry and room structure of the historic building. The NPS
 requirements limited the number of units we could fit into the building. The LIHTC requirement
 to maximize units was contrary to the NPS. Overly strict interior interpretation makes the
 housing conversion difficult or even impossible given policy requirements.

- Specific Interpretation Issues The below list identifies several recurring building features that
 have caused us to lose housing units and economic value on projects across the country. Having
 additional clarity into why these are sometimes approved and rejected other times, as well as an
 ongoing engagement with reviewers, would be very helpful. Additional guidance on sizes and
 materials would also be helpful.
 - Adaptive reuse of large interior spaces We often work on historic structures that are YMCA-type historic buildings, complete with ballrooms, gymnasiums, swimming pools, bowling alleys, and other large spaces. From a financial perspective it isn't always feasible to keep all of these spaces intact. One LIHTC project we were working on lost 7-10 units of housing due to a requirement to maintain more of a large interior space. However, some of the earlier YMCA-type projects we have seen kept less of the interior space preserved and still received a Part 3. It is difficult to see the consistency.
 - New window openings One project we were working on lost about 10 units of market rate housing due to denial to add window openings to a blind wall on a façade. As a result that space will be used as a gym, but the lack of rentable square footage is harming the overall economics of the project. Again, there is inconsistency on how openings are allowed or disallowed on façades.
 - Rooftop additions These are often key for adding a few extra units of housing, amenities, or F&B space that is critical to a project. It would be helpful to collaborate with reviewers and get more clarity on the requirements that would lead to a rooftop addition being approved.
 - New atriums Atriums can be used to bring additional light to interior units, allowing creation of more usable interior space and more housing units. We have one project right now that has been given Part 2 conditions due to the request to add an atrium. If denied, this would effectively kill the project. However, we have successfully added an atrium in past projects. Having clarity and consistency in these decisions would be very helpful.
- 2. This question was focused on what types of guidance, training, or other actions might help improve the federal response to the concerns mentioned in question 1 above. We would suggest the following items:
 - Collaboration Opportunities: More engagement and collaboration between NPS and SHPO
 reviewers and developers and other entities using the program would be very helpful. We
 would like the ability to have open preliminary conversations with reviewers and more of a
 rapport throughout the process. This could also include allowing a formal and scheduled
 opportunity for public comment and feedback to the guidelines, perhaps annually. We would
 suggest the creation of a master plan to outline the goals of the HTC program. This would help
 prioritize things like housing creation and encourage all parties to come to creative solutions
 towards those goals.
 - Update Technical Preservation Services Publications Many of the available materials, such as the Preservation Briefs and Interpreting the Standards Bulletins, date back to the 1980s. Many of the photos in these older documents are in black and white, and even blurry. Much of the material isn't current for today's design challenges and building codes. It would be extremely helpful if these documents were updated, and new case studies added. We rely on this

- documentation when considering designs for our historic building projects. In addition to some of the items listed above, infill and additions are areas that would benefit from updated guidance.
- Workshops and Trainings We are aware of the upcoming September 26th NPS Advanced Training for Frequent Tax Incentives Program Users. This is a step in the right direction. We would suggest training sessions on at least an annual basis, including opportunities to meet and network with NPS and SHPO reviewers. This could be done on the national and/or state level. There are annual programs in Ohio, Pennsylvania, New York, North and South Carolinas and other states for LIHTC projects, and something similar for HTC projects would be very helpful.

GBX Group is grateful for the opportunity to give feedback on the Secretary of the Interior's Standards and looks forward to continuing this conversation.

Thank you,

' Klodd

DocuSigned by:

Principal, President of Community Development

[External] Comments on SOIS

kacy.rohn@gmail.com
Thu 7/20/2023 4:55 PM
To:Dru Null <dnull@achp.gov>
Good afternoon,

Thank you for the opportunity to provide comments on the Secretary of the Interior's Standards for the Treatment of Historic Properties. As a preservation planner working at the local government level, I believe we would greatly benefit from the following:

- Improved guidance on climate adaptation strategies the existing <u>Sustainability Guidelines</u> are a good model, but these focus primarily on climate mitigation strategies. Since those guidelines were published in 2011, we have increasingly experienced the effects of climate change in real time. Enhanced guidelines should address acceptable treatments for historic properties facing climate impacts; strategies for equitably prioritizing what gets saved, and helping communities face losses; and better integrating historic and cultural resource professionals into climate and disaster planning.
- Production of guidelines that address housing supply and affordability in response to the national housing affordability crisis. The ACHP's existing <u>Policy Statement on Affordable Housing and Historic</u>
 <u>Preservation</u> (2006) should be greatly updated and expanded upon, and illustrated guidelines modeled after the Sustainability guidelines would give this critical issue appropriate weight and attention.
- Guidance on techniques, materials, and/or strategies that minimize the costs of rehabilitation and maintenance that allow people with lower incomes to participate in historic preservation.

Thank you again for the opportunity to comment.

Kacy Rohn Sent from my iPhone

[External] Secretary of Interior Standards

H S <heathseymour@gmail.com>

Tue 6/20/2023 1:03 PM

To:Dru Null <dnull@achp.gov>

I just heard that you were looking for feedback related to the Secretary of Interior Standards, but I don't have enough time today to add the depth that you are probably looking for, and my apologies if my comments don't relate to the agenda.

I suggest standards which would allow for more flexibility, maybe 3 levels of significance. One would be the highest and most stringent (very important neighborhoods & individual buildings.) Two would be a step down from one, and three could include some of the poorer and more blighted neighborhoods and less significant commercial districts that are still in the process of changing (because of the need for quick changes in a commercial environment). The historic tax credits should be bracketed to match this new system, so more reward for the first level, and less for the lower level.

We are also losing our historic churches and they are difficult to save. The tax credits can help, but maybe lower the standards and the amount of tax credit as an incentive. We have people who are giving up on church renovations due to the rigid standards of the tax credit program and some of the buildings have passed the point of no return, even though they could have been saved not long ago.

Poorer historic neighborhoods should have less stringent standards as well, and I do understand the problem is deciding exactly what areas could be loosened up. Perhaps it is a matter of percentages of historic material, and building parts prioritized related to which parts are most visible (since the tax credits, and similar incentives, are public dollars. Also, those structures that may be third tier today, may go through more changes until the property makes it to a top tier and the design freezes at that point (from a preservationist's point of view.)

Lastly, though we need some examples of the history of our poorest housing, do not let this priority cause us to sacrifice our more important, best built, and most beautiful structures.

Thank You,

Heath Seymour

[External] Comments on the Secretary of Interior's Standards for the Treatment of Historic Properties

Brad White

 bradfordjwhite36@gmail.com>

Fri 6/30/2023 11:37 AM

To:Dru Null <dnull@achp.gov>

Dear Dru,

I hope this finds you well. I have limited direct experience with the Standards; most of the opinions I have formed about the Standards themselves arise from detailed conversations with architects and real estate developers who have participated in historic tax credit projects.

I am sure you will receive numerous comments about windows and interiors, as well as periods of significance. The rigidity of the reviewers around these issues are very frustrating and do not take into consideration the evolution of the tax credit program. While it was originally designed (at least in the view of many) as a way to promote the preservation of our historic resources, it has evolved into an economic development program for our cities, towns, and rural communities. Unfortunately, the reviewers have not kept pace with this evolution and continue to interpret the Standards and associated guidelines in ways that only frustrate individual projects and the regeneration of our communities.

Unfortunately, the rigid way the Standards and guidelines are interpreted by those at the National Park Service and State Historic Preservation Offices has also trickled down to the hundreds of communities across the country enforcing local historic preservation ordinances and has had a deleterious impact on the public's view of historic preservation nationally.

Most historic preservation ordinances have incorporated the National Register criteria for determining what is historic and the Standards for review of locally designated properties. This was done to help provide a legal basis for the ordinances, particularly early on when court decisions questioned the legitimacy of the purposes of historic preservation regulations. The Standards and guidelines provide flexibility as drafted, however, years of interpretation have diminished their flexibility. More important, interpreting the Standards for purposes of a tax credit project where the owner is getting an economic benefit, is and should be different than their interpretation at the local level for changes to designated historic homes and commercial uses where no incentive is available. Each community should be making determinations regarding their historic fabric through the use of design guidelines crafted locally. In addition, training for commissioners and local historic preservation staff is offered by the National Park Service and State Historic Preservation Officers, many who see no difference between the rehabilitation of a historic home and a downtown building benefiting from the historic tax credits when it comes to interpreting the Standards and local review criteria. This rigid view of the Standards and guidelines has been detrimental to public views of historic preservation and implementation of historic preservation programs nationwide.

I greatly appreciate the ACHP's efforts to collect comments and help address these important issues. Please do not hesitate to contact me with any questions or comments.

Best, Brad

Brad White

BradfordJWhite36@gmail.com

Attn: Druscilla J. Null, Director
Office of Preservation Initiatives
Advisory Council on Historic Preservation (ACHP)
401 F Street, NW, Suite 308
Washington, DC 20001
dnull@achp.gov
202-517-1487

RE: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Dear Director Null,

I am submitting this letter in response to the ACHP's request for comments dated June 13, 2023. This letter focuses not on critique of the *Standards* themselves, but offers items for ACHP and National Park Service (NPS) consideration to help guide and improve interpretation and application of the *Standards* based on personal experience. My comments focus on two interrelated areas: sustainability/climate change and the use of modern and substitute materials.

It is already well understood that preservation is, in itself, sustainable, and the current NPS *Standards* acknowledge that "good preservation practice is often synonymous with sustainability." Additionally, the NPS *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings* provides guidance and the basis for sustainable improvements to historic buildings. However, I have found that in practice, the *Standards* are often viewed through a far more restrictive lens than these guidance documents suggest, and interpreted with less flexibility than I believe the *Standards* themselves provide. The modifications and adaptations required for sustainability and to reduce climate change impacts require openness and big-picture thinking. This perspective sometimes seems overshadowed by a focus on particulars to meet a narrow interpretation of the letter rather than spirit of the *Standards*. Making historic buildings more energy efficient and sustainable enhances, rather than threatens, the likelihood of their preservation.

In general, I believe that an enhanced focus on expanded training and on developing a broader understanding of alternate/substitute materials would be extremely valuable in retaining historic character while furthering historic preservation in a sustainable way. Such training would support a greater openness I believe the originators of the Standards intended, and would expand the use of evolved techniques and materials necessary to meet the changing environment historic structures face.

Specifically, expanded trainings could:

- Help to disseminate updated information on interpretation of the Standards and implementation of appropriate strategies relative to sustainability and the use of substitute materials.
- 2. Aid in establishing consistent application and interpretation of the Standards across agencies.
- 3. Provide more technical support to reviewers in evaluating the appropriateness of new technologies and methods for reducing operational carbon, both through building envelope

- improvements as well as new mechanical systems and renewable energy technologies. An expanded understanding of new technologies and more efficient systems will allow informed dialogue between reviewers and preservation professionals on appropriate treatments.
- 4. Inform reviewers how to better assess embodied carbon impacts in their analysis, recognizing that operational carbon should not stand alone in their assessment. Considerations of the lifecycle carbon impact of existing and newly introduced materials within buildings provide a more accurate and holistic picture when considering how to apply the *Standards* to proposed changes in materials.
- 5. Incorporate deconstruction practices and salvage materials for future reuse and to prevent total loss of embodied carbon, materials, and craftsmanship, especially when a building or resource is likely to be lost to the impacts of climate change (sea level rise or otherwise).

Broadening the considerations of alternate or substitute materials could:

- 1. Help reviewers, professionals, and owners to better understand the consequences of using substitute materials and where they are appropriate.
 - a. For instance, what are appropriate compatible materials, and will they adversely affect character or other building materials (or not)?
 - b. Does a reversible use or application provide more flexibility in their acceptability?
 - c. What material choices can be made that are more sustainable?
 - d. When the economics of replacement in kind threatens the viability of a project, what alternatives could be considered, particularly if they are reversible and can allow timely intervention to a historic structure?
- 2. Reduce growing threats to historic buildings due to claims that they cannot meet modern energy standards and codes and therefore must be replaced rather than adapted.
- 3. Enhance the dialogue of acceptable modifications to the growing number of modern buildings considered historic. Such buildings face unique challenges not considered when the *Standards* were developed, such as poor initial construction, experimental materials that fail to meet longevity needs, or monolithic construction techniques that are barriers to adaptation and energy retrofits.

I believe such training and materials developed to support it can be a valuable resource that will benefit historic buildings far beyond those to which the *Standards* are applied. With NPS often considered the premier resource to the broader community dealing with historic buildings, such updated information and guidance would have a lasting and wide-ranging impact.

Sincerely,

Jason K. Wright
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Michael Deemer President & CEO Advisory Council on Historic Preservation Office of Preservation Initiatives 401 F Street NW, Suite 308 Washington, DC 20001

AUG 2 2023

Attn: Druscilla J Null, Director

RE: Request for Comments on Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Thank you for the opportunity to provide suggestions to improve the Secretary of the Interior Standards for Rehabilitation on behalf of Downtown Cleveland, Inc. Downtown Cleveland is the only organization to focus solely on strengthening and building Downtown – the heart of Cleveland itself. We work from sidewalk to skyline and everywhere in between, leading efforts to accelerate engagement in Downtown's Environment, Economy, and Experience.

As long time Cleveland, Ohio leaders in the field of using adaptive reuse of our historic buildings as a key component of downtown revitalization, we believe it is time to update and improve the standards to address todays issues of climate change; use of new and improved materials and technology; creation of affordable and market rate housing; addressing permanent downtown office building vacancies; and in general improve the program to make it more efficient, reliable, and to reduce the risk of using the credits.

Downtown Cleveland, Inc. has helped to implement the following:

- 10 historic districts in Cleveland resulting in over 100 historic buildings adaptively reused using historic incentives.
- 2. 5,000 housing units 70% in adaptive reused historic buildings.
- 3. Over a ten-year period, Downtown Cleveland's population increased by 32%, reaching just under 21k in 2023 and is projected to reach 30,000 by 2030.

Having a robust, predictable, and efficient Historic Tax Credit program is important to our work and frankly to the survival of our historic Midwest downtowns. Although the HTC program has been incredibly impactful and successful, it also often proves challenging for our constituents to navigate, particularly as it relates to meeting the Secretary of the Interior's Standards for Rehabilitation.

Interpretations of the Standards can seem unclear and arbitrary, and often at odds with other requirements and goals of their projects. We believe that interpretations of the Standards should be clearer and more consistent, and more accommodating of the technical and economic challenges faced on historic rehabilitation and adaptive reuse projects, making the HTC program more accessible and user-friendly. Such changes would only strengthen the program's appeal and application, resulting in more buildings being preserved and returned to productive use, which are the ultimate goals of the HTC program.



Instead, we have seen and heard increasing concerns from community leaders and preservation practitioners across the state that the program is becoming more difficult to use, and to community revitalization. We offer some general examples of issues regularly reported to us, and potential adjustments that would benefit our constituents and the HTC program in general.

Interpretations of the Standards are often overly focused on idealized preservation
practices, without sufficient consideration for the practical challenges and goals of building
rehabilitation and adaptive reuse.

Recommended improvement:

- Additional guidelines should be created to better clarify current regulations requiring consideration of "technical and economic feasibility" in interpretations of the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- 2. Interpretations of the Standards can seem arbitrary and capricious, shaped by personal attitudes and opinions without a clear, defensible basis. Projects facing common, comparable issues receive different guidance and review decisions without justification, and with no viable means to challenge such decisions.

Recommended improvement:

- The HTC program needs an improved appeals process, allowing applicants timely access to an impartial third-party review, ensuring that interpretations of the Standards remain consistent with existing precedents and/or the intended goals of the program. We recommend creation of an independent appeals panel independent of the National Park Service (perhaps under the auspices of the Advisory Council on Historic Preservation) that includes a variety of experience with and perspectives on historic rehabilitation projects, mitigating any individual biases and giving confidence to applicants that they are receiving fair consideration.
- 3. The Standards are being broadly applied to all features and finishes regardless of existing condition or relative significance to the building. A common example is an increased focus in recent years on new finishes within secondary spaces (i.e. flooring in newly created apartment and hotel room interiors), which are required to be consistent with historic finishes even when those finishes were previously removed, and/or were always intended to be sacrificial and expected to change over time.



Recommended improvement:

- Additional guidelines should be created to clarify what constitutes "distinctive" features and finishes and those "that characterize the property" in interpretations of the Standards. Such guidelines should include input from multiple stakeholders, including practitioners, academics, and community leaders.
- Reviews should focus on those features that are truly significant to the historic building's design and character, ignoring changes in secondary spaces and to intentionally sacrificial or undefined original finishes.
- 4. Interpretations of the Standards are failing to adequately consider the significant challenges of adapting certain building types. Many communities are facing vacant schools and churches abandoned by their historic occupants, with no viable option to maintain their current use. Repurposing such buildings in an efficient manner is particularly challenging given their use-specific designs and large common areas. Strict requirements to preserve large open volumes like gymnasiums, auditoriums, and sanctuaries can make adaptive reuse technically infeasible if using of HTCs, but economically infeasible without the benefit HTCs, resulting in long-term neglect and demolition.

Recommended improvement:

- To support the HTC program's goal of preserving historic buildings for economic development, additional flexibility is needed in building types that are particularly difficult to adapt. Most communities have few options for marketable new uses, and it is critical to devise practical methods for those viable new uses to be incorporated into more historic buildings.
- 5. Interpretations of the Standards are not sufficiently accommodating of needed improvements to energy efficiency and are ignoring the use of modern but sympathetic materials and systems.

Recommended improvement:

 Additional flexibility is needed for items including window replacement and insulation of the exterior envelope, with less strict requirements to justify the need for such improvements, and accommodation of additional materials and products that do not impact distinctive or character-defining historic features.



6. Interpretations of the Standards and associated review processes are adding unnecessary cost to rehabilitation projects, reducing the amount of funding applied to the rehabilitation itself and increasing the cost to end users, making HTC projects less equitable. Extensive documentation requirements and oversight of minute details extends review timelines at all stages of the process (Part 1, Part 2, Amendments, Part 3). With HTC proceeds typically financed with short-term loans, extended timelines for reviews and approvals can dramatically increase interest costs. Required design changes and corrections of work deemed incompatible further increase costs, often with questionable benefit to the building's historic fabric or character. These added expenses must ultimately be passed on to the end users, raising rents and reducing the populations to which these projects are accessible.

Recommended improvement:

 Review timelines must be considerably reduced, particularly at the SHPO level, where applications are routinely engaged for 6 months or more before even reaching NPS for formal review and approval. Clearer guidance to SHPOs and applicants, consistent application of the Standards across all states and projects, and substantially reduced attention to new work in secondary spaces would all significantly improve review timelines.

Without changes to the application of the Secretary of the Interior's Standards and associated review processes, we fear that community leaders, building owners, and investors will increasingly turn away from the HTC program. The additional risk and costs caused by the issues we've referenced, applied to rehabilitation projects that are already economically challenging and risky, only discourages people from investing in historic resources in our communities. This is entirely counter to the aims of the HTC program and completely disproportionate to any minimal preservation gains associated with the increasingly strict interpretations of the Standards being applied.

We fully support reasonable and consistent oversight of historic rehabilitation projects, and we recognize the value of preserving the character of our buildings and communities. However, extending that oversight to insignificant aspects of a building or project, with increasingly strict and inconsistent interpretations, is detrimental to our shared goal of using historic preservation to spur revitalization.

Thank you for your time and consideration of these issues. We would welcome the opportunity to provide additional input or answer any questions you may have.

Sincerely,

Michael Deemer, President & CEO

Michael Deener

1010 Euclid Avenue, 3rd Floor | Cleveland, OH 44115 Phone (216) 736-7799 | Fax (216) 920-7798 www.downtowncleveland.com

Comments on application of the Secretary of the Interior's Standards

I would like to submit the following comments on the application of the Secretary of the Interior's Standards. These comments are based on my professional experience as a consultant preservation planner/architectural historian, working primarily in the Bay Area and California more broadly.

I am frequently engaged to complete detailed analyses of proposed projects according to the SOIS. Given the geographic area where my projects are located, these are typically private development projects that propose more-than-minor alterations to existing historical resources, and I nearly always apply the Standards for Rehabilitation rather than other treatments. In California, we deal both with intense pressures to construct (particularly housing) and an intense regulatory environment. Some cities require stringent SOIS review for locally designated landmarks. But the California Environmental Quality Act also provides more streamlined environmental review paths for projects that are found to adhere to the Standards—which applies to ANY identified historical resource (i.e., National Register-listed or -eligible), not only those that have been designated at the local level.

The SOIS are by nature flexible and allow for multiple interpretations. I believe this was intentional, and I think that is necessary given how much variation exists among different types of resources—based on property type, physical characteristics, and reasons for significance. However, in my ten years of professional experience, the flexibility (or perceived flexibility) can turn maddening. Different reviewing agencies, or staff within the same agency, interpret the SOIS in wildly different ways. Project sponsors themselves (who are partial in the process) will disagree with a consultant's findings and argue vehemently that we are wrong (obviously with the aim of supporting their project design). I'm even aware of public agency reviewers who aim to be impartial but have received pressure/demands from elected officials to interpret the SOIS more flexibly than they feel comfortable doing. The political nature of the development process feeds on the imprecise nature of the SOIS.

I would very much value further guidance on interpreting the SOIS for different types of properties and different types of rehabilitation projects, with the aim of creating better consistency. Just last week at the Docomomo National Symposium, Sara Bronin shared an idea to craft a manual that provides better guidance on defining appropriate scopes of work for local reviewers who may not be trained in historic preservation. I believe she was referring to guidance on issues such as, say, identifying appropriate replacement materials. Although I think this indeed necessary—we do absolutely need a better definition of "in kind"!—those issues may be most appropriate to analyzing preservation, restoration, and reconstruction approaches.

Even though those same issues come into play for projects we define as rehabilitations, there are broader concepts we deal with in analyzing rehabilitation projects. And rehabilitations are likely to become the focus of our attention in the future. We *need* flexibility because we *need* to leave room for the future. The need for increased housing, urban density, etc., are obviously not going to disappear, and the SOIS should by no means prohibit changes in use and new additions/construction. The perception that the SOIS prevent the evolution of a property has done terrible damage to the reputation of the preservation movement, and possibly to its future relevance.

But the key question that hardly anyone agrees on is, How much change is *too* much change? And are there situations when greater flexibility may be warranted? I'm thinking of energy efficiency and climate change issues, but also: might a scope of work that is not permissible for a Criterion C resource actually

be permissible for a Criterion A resource, given that the resource's significance may be less defined by its physical characteristics? (Granted, even among Criterion A resources there are many shades of significance and its tangibility.) Rehabilitation Standard 9, related to new additions and infill, warrants more guidance as well. What are the true aspects of historic character that need to be considered when designing infill construction?

These comments are a bit rambling, but my overall insight is that I feel we need better a better qualitative understanding of the desired outcomes of rehabilitation projects. Flexibility is very much warranted, but up to what point? We are lacking the guidance that would support *consistency* in how *flexibly* the SOIS are applied.

That sounds like a cinch, so take this and run with it! Thank you for requesting our thoughts.

[Anonymized at the request of the commenter.]

Comments on the Application and Interpretation of the Secretary of the Interior's Standards for the Treatment of Historic Properties

Good afternoon,

I am responding to the call for comments by the Advisory Council on Historic Preservation (ACHP) regarding the Secretary of the Interior's Standards for Rehabilitation. My name is Katie Rispoli Keaotamai, and I am an architectural historian and construction manager based in Portland, Oregon. My work has primarily been focused in the Los Angeles, California region and the Portland, Oregon region, though I have worked with individuals in the preservation practice nationally. My work has centered entirely on the rehabilitation of existing and historic places, with a focus on building relocations (most notably the relocation of the world's first Taco Bell in 2015.) In 2018 I was listed on the first "40 Under 40" publication by the National Trust for Historic Preservation, and I am additionally a current Next-Gen Advisor to the White House Historical Association.

Below are my comments in response to this call from ACHP:

- 1. Are you aware of any substantive or procedural issues (e.g., uncertainties, discrepancies, or conflicts) related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts? Are you aware of cost, equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns related to the application and interpretation of the Secretary's Standards and associated guidelines in the following contexts?
 - Review of "undertakings" (such as renovations of federal buildings) covered by Section 106 of the National Historic Preservation Act
 - Review of activities involving or affecting tribal resources or traditional cultural properties
 - Review of private development projects seeking federal or state historic preservation tax credits
 - Review of private development projects by local historic preservation boards or commissions
 - Identification by any reviewing authority of substitute materials (i.e., specific materials that may be substituted for historic materials) deemed to be consistent with the Secretary's Standards

If you are aware of such issues at a particular site, please identify the city and state, the type of historic property, the specific Standard (of preservation, rehabilitation, restoration, or reconstruction) applied to the property, the entity applying such Standard, and the issue or issues presented. Please try to keep site-specific descriptions to half of a page; large sets of documents or lengthy case studies will not be reviewed.

Response: Yes, I am aware of procedural issues related to uncertainty and potential conflict

during the review of private development projects by local historic preservation boards or commissions, as well as local government agencies with regard to these standards.

Over the last ten years I have permitted dozens of private development projects through local
government agencies, and have appeared before local historic preservation boards,
commissions, and equivalent bodies. I have additionally worked as a government employee
where I have borne witness to both applicant experiences and internal administrative
experiences regarding the review of historic properties.

Based on these experiences, it is clear to me that local government agencies and their staff often do not understand their role and obligation to apply the standards for rehabilitation. In many cases, staff at local government agencies are untrained on the existence of these standards and are unaware of how they relate to state and federal practices. Additionally, staff are unaware of financial programs that support or can support eligible properties, including local, regional, state, or national tax incentive programs.

Because of this, applicants are put through hurdles that should not exist, projects suffer financially in unnecessary ways, financial incentives are not offered, and historic preservation is viewed negatively in the eyes of residents, property owners, and developers.

2. How might guidance, training, or other actions relating to application and interpretation of the Secretary's Standards improve the federal response to equity, housing-supply, energy efficiency, renewable energy, or climate-change-related (e.g., adaptation or mitigation) concerns? Note the Advisory Council on Historic Preservation's pending Policy Statement on Climate Change and Historic Preservation and its 2007 Policy Statement on Affordable Housing and Historic Preservation.

Response: In my experience, there is a significant amount of flexibility at the local level, despite a lack of training and unnecessary procedural hurdles imposed upon applicants by local government agencies. In contrast, projects that require approval by large informed jurisdictions, state bodies, or federal agencies are often held to a purist interpretation of the Standards for Rehabilitation that is often unrealistic.

These standards are well-intentioned, but they do not consider the state of today's construction and development industry, nor the important considerations listed in this question including energy efficiency, housing supply, or impending and unavoidable climate chaos. The standards provide a straightforward guide to treat a historic resource in light of a planned rehabilitation. However, specific standards are problematic when a project aims to accommodate the above-listed considerations:

A property will be used as it was historically or be given a new use that requires minimal change
to its distinctive materials, features, spaces and spatial relationships.
 This is impractical and does not consider the nature of current Building Code, Energy Code, Fire
Code, and other codes which are applied to historic resources in many cases regardless of
designation. To successfully adaptively reuse a historic resource in 2023, a developer must be

willing to essentially spend the equivalent construction cost associated with new construction. If a project can obtain tax incentives, that can reduce the cost to make this venture more profitable than a new construction project. This is a stark contrast to the decades-ago finding that preservation and adaptive reuse are substantially less expensive than new construction. While this was true before modern building codes, it is no longer the case with adaptive reuse. A simple project without a change of use can adjust finishes and clean up a building, and make minor alterations. While it might be expensive, it will absolutely cost less than demolition and replacement. In the case of adaptive reuse, we are almost always forced to gut whole or big portions of historic resources on the interior to fully adapt them to current codes, and this absolutely requires more than "minimal change to its distinctive materials, features, spaces, and spatial relationships."

The historic character of a property will be retained and preserved. The removal of distinctive
materials or alteration of features, spaces and spatial relationships that characterize a property
will be avoided.

This applies under Standard #1 as well, but the "spaces" note within this standard creates a challenge in the adaptive reuse of buildings which cannot successfully be reused without major alteration. For example, converting a bowling alley into a grocery store or a coworking space. Either of these reuses would require significant alteration of interior space, which under this standard would penalize a project which may in fact be saving a valued place in the eyes of the community.

Additionally, the spatial relationship between properties should be less of a priority, though the phrasing of this standard implies that each of these aspects are equally as important. Going forward, bodies which regulate the treatment of historic resources will need to be willing to make significant concessions in their expectations, or else sacrifice the places they seek to protect. For example, whole communities across our nation's coastlines are already lifting existing buildings inches or feet to prepare for sea level rise. Each of these lifts affects the subject building's spatial relationship within its site and its relationship to surrounding buildings. As flooding continues and sea level rise ceases to be incremental, the possibility of relocating buildings further inland entirely may become a reality. When we reach this point in the next few decades on a mass scale, many vernacular resources will be lost first, with priority being given to designated resources, properties belonging to people with means, and properties that benefit from the continued support by insurers who will support these costs (an increasingly unlikely option.) Bodies who assess these projects for their consistency with these standards in order to issue approvals or otherwise support them with grants or tax incentives will need to deprioritize spatial relationships.

3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

I personally do not have experience working on a project which was in conflict with this

standard, but I frequently hear that this can create obstacles in cities like San Luis Obispo,

California, which maintain strict design standards to ensure that new development is aesthetically consistent with the historic character of their district. I suggest ACHP investigate the success or failure of projects meeting this standard in those communities.

- 4. No comment
- 5. No comment
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
 While we attempt to do this on many projects, it is sometimes financially infeasible or even impossible. There is a significant loss in trade knowledge and a lack of influx into trade professions stemming from a higher societal value on white collar work, and as a result we have lost a significant workforce in trades that continues to decline annually. I often have a very hard time finding qualified trade professionals to complete window restoration, masonry restoration and repair, carpentry, and stained glass work. I am currently working on a project where the funder requires 3 bids for each project component over \$10,000. In this instance, the property owner cannot find more than 1 mason and not more than 2 window companies who have been able to provide estimates, so they have not been able to fulfill this requirement.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

 While I think this is well intentioned and generally best practice, there is not enough widespread knowledge of what these treatments are with today's technology, and many contractors generally ignore this standard.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

 In my experience, some completely disregard this standard. They assume it won't apply and therefore they simply do not discuss it with applicants. I previously lived in an area rich with archaeological resources, where professionals often excluded this standard from assessment activities. As a result of that approach, the extent of damage to archaeological resources is unknown.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment. Similar to my comments under #6 above, the ability to comply with this standard is often heavily dependent on zoning code or design guidelines maintained by the local jurisdiction. In many

jurisdictions, they consider work that simply repairs or restores historic features to be of no concern, but additions or alterations that constitute even minor changes to the existing building (such as a widening of an existing door opening) will trigger design review and may be required to meet design requirements prior to approval that directly contradict this standard. In that instance, the applicant is forced to choose between the ability to permit their project and the possibility of additional tax incentives or appeasing a historic review body.

Additionally, the pool of architectural talent that is capable of designing a new addition or major exterior alteration consistent with this Standard is increasingly small. The architectural and general construction professions depend on licensure for the majority of work. However, general contractors in particular are often able to obtain licenses without complete training and the ability to conduct high quality work. The lack of talent in these professions is a constant, ongoing problem in my experience. Generally, architects pursue this profession with the intent of being creative, only to find that their passion for the work is squelched early in their career by a hierarchical and patriarchal work culture combined with low pay and tasks that entirely revolve around their ability to sketch lines in CAD. As a result of this culture and the difficulty in permitting and meeting code, they are strongly deterred from thinking creatively and ultimately arrive at safe, status-quo designs. While these meet design and safety standards for new construction, they are often entirely incompatible with the character of existing historic places and districts, and this poses a direct conflict in that instance.

Lastly, integrity in this standard should not be a consideration. I will refrain from commenting on the practice of integrity, as ACHP explicitly asked that commenters not do so in these responses. However, integrity under this standard assumes that a property has integrity in a conventional sense, and that its integrity and its environment are a high priority. Going forward, I believe that both of these qualities need to be deprioritized to reduce barriers to implementing projects of this nature and to ensure the continued preservation of historic places as sites, surroundings, and environments are heavily altered as a result of increasing natural and manmade disasters.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

No Comment

3. Additional Comments:

- a. **Response:** In addition to my above comments, I would like to suggest that a standard be added or adjusted to reflect a preference for salvage and reuse of existing material. The benefits of this are substantial, including:
 - A requirement to reuse or salvage historic materials can provide significant, consistent business to salvage shops and architectural specialists. Not only do these vendors serve our local communities but they often maintain strong

- relationships with skilled trades workers and depend on those workers to provide material.
- ii. If projects are required to salvage a percentage of material removed from a historic resource, the contractors who do so can easily funnel that supply to the above-mentioned resale vendors. Many of these relationships already exist, and could easily be fulfilled.
- iii. Many salvage and deconstruction contractors will (at no cost) visit job sites of general rehabilitation or demolition projects and provide bins, in which unskilled construction workers can dispose of materials. At that time, the skilled salvage contractor will sort through material to determine viability for reuse and will resell the material to a vendor, such as an architectural salvage shop, for a profit.
- iv. The salvage and deconstruction economy is a significant untapped resource to leverage material taken from buildings that are rehabilitated and support job growth, as well as retain old growth wood and hard-to-find building components.
- b. Response: Lastly, I feel there is an overall culture of gatekeeping associated with those who implement these standards. It is no secret that the real estate development community finds preservation to be an obstacle, and government workers often have no idea what to do with historic resources in smaller jurisdictions. This has been the dynamic for decades. If ACHP, NPS, the state offices, or others were truly invested in saving historic places, at this point they would be addressing that issue and reducing barriers to access resources and creating a welcoming culture for those who are making these investments. Instead we continue practicing in silos with developers attending workshops by ULI, government agencies paying high fees to the US Green Building Council to obtain LEED certification, and meanwhile historic preservation groups do not know how to work with private parties to craft projects that successfully align with these standards and take advantage of available incentives.

Thank you for requesting these comments and considering my responses.

Katie Rispoli Keaotamai

katie@keaotamai.com



An independent federal agency, the Advisory Council on Historic Preservation promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources and advises the President and Congress on national historic preservation policy. It also provides a forum for influencing federal activities, programs, and policies that affect historic properties.

The Advisory Council promotes historic preservation to foster the understanding of the nation's heritage and the contribution that historic preservation can make to contemporary communities and their economic and social well-being.