



# Novogradac Journal of Tax Credits

News, Analysis and Commentary On Affordable Housing, Community Development and Renewable Energy Tax Credits

December 2014 • Volume V • Issue XII

Published by Novogradac & Company LLP

## HISTORIC TAX CREDIT TOOL BOX



### Successful Incorporation of New Interior Openings in Historic Tax Credit Projects

JOHN TESS

HERITAGE CONSULTING GROUP

Certain building types inherently contain expansive interior spaces. Department stores, warehouses and factories, for example, can have footprints that extend a full city block. A central challenge in rehabilitating buildings with large footprints is the absence of daylight into the inner core. The adaptive reuse of such buildings, particularly for hotel or apartment use, often hinges on the ability to create interior openings or atria within the volume of the interior to allow for the introduction of light and fresh air or to create two-story spaces in areas where only one-story exists. A number of opportunities and challenges exist when incorporating atria into expansive interior spaces in historic tax credit (HTC) projects.

#### Assessing Options for Atria Insertion

It is not uncommon in a HTC project to have interior areas that are set far in from the perimeter walls and for which reuse poses a significant or insurmountable challenge. Office tenants in today's market seek well-lit interiors, so dark inner-office space can be difficult to lease. Hotel and apartment conversions have code requirements that mandate natural light for each unit. While there have been instances where the perimeter of large buildings have been redeveloped—leaving the unusable interior space mothballed—the economics of a project may not support the retention of large amounts of unleaseable square

footage. Options should be considered for introducing a new opening into a vast interior space, as such a solution may, in fact, be attainable.

In its review of HTC projects, the National Park Service (NPS) applies the Secretary of the Interior's Standards for Rehabilitation, a general framework intended to ensure that the distinctive features of a building are retained. To assist property owners in understanding how these standards are applied, the NPS issues additional guidance in the form of briefs or bulletins, which offer technical assistance and recommendations that can assist the project team in its decision-making concerning specific changes to a historic property. The NPS has issued guidance that is useful in understanding the possibilities for the insertion of new interior openings into buildings seeking HTC certification and this guidance should be reviewed in the early stages of a project where a new interior opening may be contemplated.

The Standards require that properties be reused in a manner that minimally changes the defining characteristics of a building, thereby retaining the overall historic character. Changes proposed to the floor plan, interior features and finishes are assessed by the NPS in its determinations of whether proposed work is appropriate and ultimately

continued on page 2

continued from page 1

approvable for HTC certification. In assessing the significance of interior spaces to determine whether insertion of an atrium is ultimately approvable, the NPS examines the floor plan, hierarchy of spaces and the level of finish within each space. Public and circulation spaces are typically recognized as more important than spaces that were not historically seen by the public. These spaces are often architecturally distinguished and typically assigned a higher level of significance than more mundane or utilitarian spaces. Most commonly, there will be greater opportunity for change in less-significant and less-architecturally distinguished areas of the building than in primary public spaces.

When assessing the potential for creation of an atrium in a space, the NPS will evaluate the role of that space in defining the overall character of a building. If the space is determined to be of particular significance to a building, such as the executive offices in a downtown office building, it is unlikely that the NPS would approve such a significant alteration of such a space. The NPS also takes into consideration the level of integrity of the space. Spaces that are original in form and finish may not be

approved for such a dramatic change, since the proposed change may necessitate the loss of historic fabric. Spaces that have previously been altered by the removal of original features may present a greater opportunity for such change.

**Design Considerations**

In evaluating proposed new interior openings, the NPS will take into consideration the size, form and design of the atria. An experienced project team that understands these design considerations can save time in the review process by eliminating unnecessary back-and-forth with a succession of design iterations.

In assessing whether a new opening is approvable, the NPS will evaluate the size and location of the atrium. Most commonly, the NPS approves smaller-sized openings to avoid having the new space dominate the interior. Typically, an atrium must be set back from the perimeter so that the opening is fully contained within the interior and not visible from the street. It is generally required that the building’s structural organization be respected, with the new opening following the existing

continued on page 3

*Photo: Courtesy of Heritage Consulting Group*  
**The 52-story IBM Building’s ground-floor lobby was considered a character-defining space.**





Photo: Courtesy of Heritage Consulting Group

In 2013, the five-star, 268-room The Langham opened in Chicago in the lower 13 floors of the 52-story IBM Building

continued from page 2

column lines. The introduction of new shapes, such as a large round opening in a building organized with a grid of columns, is not likely to be approved. Depending on the building's structure, the NPS may require the retention of the structural members, such as joists and beams, so that the atrium is recognizable as having been derived from an interior space.

Beyond the size and form, the NPS will also evaluate the design of the new space. The NPS typically requires that the new atria walls and fenestration be compatible with the building's overall historic character. The wall material and the window type should be harmonious with the existing style, as the NPS discourages new features that make design statement. A roof or cover may be required to maintain the appearance of an interior space; glass is usually determined to be acceptable and perforated covers may also be approved to avoid having to condition atrium spaces. Generally, the NPS requires that covers be low profile, to minimize visibility from the surrounding streets.

### Introduction of Double-Height Spaces at the IBM Building

Some HTC projects wish to introduce a two-story opening in a space that was previously a single story. One successful example was the Langham Hotel at the IBM Building in Chicago in 2013.

In 2013, the Langham Hospitality Group, which operates luxury hotels worldwide, opened the five-star, 268-room The Langham Chicago in the lower 13 floors of the 52-story Meis van der Rohe-designed IBM Building. The building's ground-floor lobby, largely in original condition, was considered a character-defining space. To fulfill Langham's needs, the hotel lobby was then located on the second floor. To enhance the drama of the space, the lobby was redefined as a two-story space. A similar approach was employed in the ballroom.

### New Atria at the Meier & Frank Department Store

The obstacles facing Portland's Meier & Frank Department Store were quite different. Once the largest building in Oregon, the 13-story building occupied a full city block. Rehabilitated in 2009, the department store was located on the lower six floors, while the remaining upper floors

continued on page 4

continued from page 3

were adapted to hotel use. In order to allow a double-loaded corridor and to capture natural light on the interior rooms, a six-story atrium, 70 by 104 feet, was carved out of the center.

### Conclusion

Buildings with large footprints being rehabilitated using HTCs might be good candidates for the insertion of interior openings. Early consultation with SHPO and the NPS is critical to obtaining approval, while avoiding delays in the process. Greater opportunities for new openings can be realized in spaces that are less significant, less architecturally distinguished, or in spaces that were

previously altered. The design and materials should be carefully considered and it is important to present the proposed appearance of the new opening for review and approval. A creative design team that understands the parameters of the HTC review can often obtain approval for the insertion of new atria in large buildings. ❖

.....  
*John M. Tess is president and founder of Heritage Consulting Group, a national firm that assists property owners seeking local, state and federal historic tax incentives for the rehabilitation of historic properties. Since 1982, Heritage Consulting Group has represented historic projects totaling more than \$1 billion in tax credits. He can be reached at 503-228-0272 or [jmtess@heritage-consulting.com](mailto:jmtess@heritage-consulting.com).*

---

*This article first appeared in the December 2014 issue of the Novogradac Journal of Tax Credits.*

© Novogradac & Company LLP 2014 - All Rights Reserved

*Notice pursuant to IRS regulations: Any U.S. federal tax advice contained in this article is not intended to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties under the Internal Revenue Code; nor is any such advice intended to be used to support the promotion or marketing of a transaction. Any advice expressed in this article is limited to the federal tax issues addressed in it. Additional issues may exist outside the limited scope of any advice provided – any such advice does not consider or provide a conclusion with respect to any additional issues. Taxpayers contemplating undertaking a transaction should seek advice based on their particular circumstances.*

*This editorial material is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding property compliance or any other material covered in this article can only be obtained from your tax advisor. For further information visit [www.novoco.com](http://www.novoco.com).*

## EDITORIAL BOARD

PUBLISHER

**Michael J. Novogradac, CPA**

EDITORIAL DIRECTOR

**Alex Ruiz**

TECHNICAL EDITORS

**Michael G. Morrison, CPA**

**James R. Kroger, CPA**

**Owen P. Gray, CPA**

**Thomas Boccia, CPA**

**Daniel J. Smith, CPA**

## COPY

ASSIGNMENT EDITOR

**Brad Stanhope**

STAFF WRITERS

**Teresa Garcia**

**Mark O'Meara**

EDITORIAL ASSISTANT

**Elizabeth Orfin**

CONTRIBUTING WRITERS

**Michael Carr**

**Scott Michael Dunn**

**Jim Kroger**

**Peter Lawrence**

**Forrest Milder**

**Brent Parker**

**John Tess**

**Phil Wang**

## ART

CARTOGRAPHER

**David R. Grubman**

PRODUCTION

**Alexandra Louie**

**Jesse Barredo**

## CONTACT

CORRESPONDENCE AND EDITORIAL SUBMISSIONS

**Alex Ruiz**

**alex.ruiz@novoco.com**

**415.356.8088**

ADVERTISING INQUIRIES

**Tyler Perrotta**

**tyler.perrotta@novoco.com**

**415.356.8062**

EDITORIAL MATERIAL IN THIS PUBLICATION IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED OTHERWISE.

ADVICE AND INTERPRETATION REGARDING THE LOW-INCOME HOUSING TAX CREDIT OR ANY OTHER MATERIAL COVERED IN THIS PUBLICATION CAN ONLY BE OBTAINED FROM YOUR TAX ADVISOR.

## ADVISORY BOARD

### LOW-INCOME HOUSING TAX CREDITS

**Bud Clarke**

BOSTON FINANCIAL INVESTMENT MANAGEMENT

**Jana Cohen Barbe**

DENTONS

**Tom Dixon**

BOSTON CAPITAL

**Rick Edson**

HOUSING CAPITAL ADVISORS INC.

**Richard Gerwitz**

CITI COMMUNITY CAPITAL

**Rochelle Lento**

DYKEMA GOSSETT PLLC

**John Lisella**

U.S. BANCORP COMMUNITY DEV. CORP.

**Philip Melton**

CENTERLINE CAPITAL GROUP

**Thomas Morton**

PILLSBURY WINTHROP SHAW PITTMAN LLP

**Mary Tingerthal**

MINNESOTA HOUSING FINANCE AGENCY

**Rob Wasserman**

U.S. BANCORP COMMUNITY DEV. CORP.

### PROPERTY COMPLIANCE

**Michael Kotin**

KAY KAY REALTY

**Michael Snowdon**

HIGHRIDGE COSTA HOUSING PARTNERS

**Gianna Solari**

SOLARI ENTERPRISES INC.

**Kimberly Taylor**

HOUSING DEVELOPMENT CENTER

### HOUSING AND URBAN DEVELOPMENT

**Flynnan Janisse**

RAINBOW HOUSING

**Ray Landry**

DAVIS-PENN MORTGAGE CO.

**Denise Muha**

NATIONAL LEASED HOUSING ASSOCIATION

**Monica Sussman**

NIXON PEABODY LLP

### NEW MARKETS TAX CREDITS

**Frank Altman**

COMMUNITY REINVESTMENT FUND

**Merrill Hoopengardner**

ADVANTAGE CAPITAL

**Scott Lindquist**

DENTONS

**Matthew Philpott**

U.S. BANCORP COMMUNITY DEV. CORP.

**Matthew Reilein**

JPMORGAN CHASE BANK NA

**Ruth Sparrow**

FUTURES UNLIMITED LAW PC

**Elaine DiPietro**

ENTERPRISE COMMUNITY INVESTMENT INC.

### HISTORIC TAX CREDITS

**Jason Korb**

CAPSTONE COMMUNITIES

**John Leith-Tetrault**

NATIONAL TRUST COMM. INVESTMENT CORP.

**Bill MacRostie**

MACROSTIE HISTORIC ADVISORS LLC

**John Tess**

HERITAGE CONSULTING GROUP

### RENEWABLE ENERGY TAX CREDITS

**Bill Bush**

BORREGO SOLAR

**Ben Cook**

SOLARCITY CORPORATION

**Jim Howard**

DUDLEY VENTURES

**Forrest Milder**

NIXON PEABODY LLP

© Novogradac & Company LLP

2014 All rights reserved.

ISSN 2152-646X