



Novogradac Journal of Tax Credits

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

May 2014 • Volume V • Issue V

Published by Novogradac & Company LLP

HISTORIC TAX CREDIT TOOL BOX



National Register Listing: When Challenges Arise

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Historic tax credits (HTCs) can provide a critical incentive for owners seeking to redevelop historic buildings, and the path to obtaining HTCs begins with National Register listing. For the thousands of buildings already listed in the National Register (either individually or within a historic district), the first step in the tax credit process is usually straightforward. However, those buildings that are not certified must be individually listed. The process to be listed can be circuitous, with hurdles that can detour or derail a project. It is not uncommon for a developer to pursue the redevelopment of a building that is old, mistakenly assuming that its age and architectural character will automatically earn its historic designation. Compounding this confusion is the fact that some buildings may be locally designated as historic, but not listed in the National Register of Historic Places.

Background

The National Register of Historic Places is the nation's official list of properties recognized for their significance in American history, architecture, archeology, engineering and culture. The National Register program was established by the National Historic Preservation Act of 1966 to coordinate and support public and private efforts

to identify, evaluate and protect the nation's historic and archeological resources. National Register properties include districts, sites, buildings, structures and objects. They can be significant to a local community, a state, an Indian tribe or the nation as a whole. Contrary to a common misperception, National Register designation does not impose legal restrictions on a property; on the national level, the designation is primarily honorific.

Application and Evaluation

Each state has a State Historic Preservation Office (SHPO) that serves as the first point of contact for National Register listing. To initiate National Register listing, the building must be determined eligible for listing, and each SHPO has its own process for making preliminary determinations on eligibility. Once a SHPO determines that a property is eligible for listing, submission of a National Register nomination is possible. National Register nominations include a detailed architectural description of the building, as well as a history of the building and a statement of its historic and/or architectural significance. SHPO staff review nominations to evaluate whether the nominated property meets the criteria for listing, as defined by the National Park Service (NPS). If the property does qualify,

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Photo: Courtesy of Heritage Consulting Group

Allegheny Housing Rehabilitation Corporation used HTCs for the rehabilitation of Bellefield Dwellings in Pittsburgh, Pa.

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SHPO forwards the completed nomination to the state review board. Each state has a state review board, which typically meets several times a year with the purpose of reviewing nominations to determine whether nominated properties are worthy of listing. Once a state review board approves a nomination, the SHPO will forward the completed nominations to the Keeper of the National Register at the NPS. The NPS is charged with approving nominations and formally listing buildings in the National Register.

All told, the National Register process can take 12 to 18 months, or longer in some states. This timeframe presents a barrier for most rehabilitation projects. Fortunately, the HTC Part 1 Application, which is typically reviewed in 60 days, results in a preliminary determination on listing by the NPS. Developers seeking HTCs for buildings that are not currently listed in the National Register should seek Part 1 approval early in a project in order to have some assurance that their building will ultimately be listed.

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Scheduling challenges aside, owners seeking National Register listing are often surprised by the evaluation process, because it can seem subjective in nature and arcane at times, particularly when issues such as integrity are debated. Buildings that are clearly old and seemingly of historic or architectural consequence can be determined to have compromised integrity, which presents a barrier to listing. If a building has been altered to the point where it no longer embodies key physical characteristics or associative values, it may be determined ineligible for listing. Assessments of integrity consider not only the exterior, but also the interior of buildings. Thus, major changes that have altered the building's floor plan or character-defining features may impact its eligibility for designation.

Case Study: Bellefield Dwellings

One project that recently faced this challenge was the rehabilitation of the Bellefield Dwellings in the Oakland neighborhood of Pittsburgh, Pa. Bellefield Dwellings was Pittsburgh's first high-rise apartment building, offering incomparable luxury when it was completed in 1904.

In 2009, project developer Allegheny Housing Rehabilitation Corporation (AHRCO) began the process of seeking financing for the rehabilitation of Bellefield Dwellings. Low-income housing tax credits (LIHTCs) were awarded, but the feasibility of the project also relied on obtaining HTC.

To initiate the HTC process, a submission was made to SHPO in early 2011 to obtain a preliminary determination of National Register eligibility based on the building's architectural significance. In evaluating the submission, SHPO determined that the building's significance was based on its status as Pittsburgh's first luxury apartment building. Because the original large apartments had been carved up when the demand for large luxury apartments dwindled in the 1970s, the integrity of the building was compromised and individual listing seemed infeasible.

Initially, this determination seemed like a roadblock to HTC eligibility. However, SHPO staff recognized the importance of the project and worked with the project team to come up with alternative approaches for listing. SHPO staff determined that a four-block expansion of the adjacent National Register Schenley Farms Historic

District could be justified, enlarging the boundaries to include Bellefield Dwellings and 25 neighboring properties. Inclusion within a historic district, rather than individual designation, would lower the burden of integrity for the building. A National Register boundary expansion submission was made and was favorably received by SHPO staff. As the process moved forward, public meetings were held and property owners within the proposed expansion area were notified, as is required for National Register districts. While owner objection during the nominating process is extremely rare, historic district listings can be halted if more than 50 percent of the property owners object to the listing.

It was quickly apparent that the owners in the current district did not support the boundary expansion. The nearby owners did not oppose the inclusion of the Bellefield Dwellings building, but were concerned that the additional multifamily residential and small commercial buildings were not consistent with the character and significance of the original district.

It was clear during the public meetings and the influx of objection letters that a majority of the property owners would object to the listing. This would prevent Bellefield from earning its certified historic structure status and securing the HTCs.

In spite of the obstacles that arose in this process, the project team remained committed to finding a path to approval. Researchers looked for historic evidence to support the district expansion and discovered a 1906 map that demonstrated that Bellefield Dwellings in particular was part of the original Schenley Farms development. While expansion of a district to include only one building is not typically an approvable approach, it was deemed appropriate in this instance, as it was clear that Bellefield Dwellings should have been included in the original historic district nomination.

The Schenley Farms historic district boundary increase was ultimately listed in the National Register in late 2012. The rehabilitation of Bellefield Dwellings was completed in November 2013, and the Part 3 Application was approved by the NPS in January 2014.

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“The unusual aspect of the neighbor opposition was the emphasis on the proper application of the National Register listing criteria rather than the usual fear and misunderstanding of the [impact of] National Register listing on an individual’s property rights,” said Scott Doyle, Division Manager at the Pennsylvania SHPO.

Reflecting on the National Register and HTC processes, Lara Washington of AHRCO said, “Historic tax credits have allowed us to preserve and protect an important asset: affordable senior housing in a vibrant city neighborhood. With historic tax credit funds, we were able to make the building more energy efficient, as well as add amenities that allow seniors to age in place. We are so grateful to the talented and creative professionals we engaged for this project. They were critical in helping us navigate this process to reach our end result.”

Conclusion

In many cases, National Register listing can be a straightforward process, but challenges sometimes arise that can jeopardize project approval. An experienced developer, a qualified historic consultant and a committed project team can manage these obstacles and ensure the success of a project. ❖

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

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ISSN 2152-646X