



# Novogradac Journal of Tax Credits

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## HISTORIC TAX CREDIT TOOL BOX



### Three Historic Tax Credit Developers' Plans for the Future

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Since 1976, federal tax incentives have been provided to encourage developers to rehabilitate historic properties rather than replace them. Over the years, the preservation tax incentives program has seen significant changes in incentives. The current federal historic preservation tax incentives program provides a 20 percent historic preservation tax credit (HTC) for qualified rehabilitation expenditures (QREs) incurred by property owners rehabbing certified historic structures for nonresidential or residential rental uses. A 10 percent HTC is available for older buildings placed in service prior to 1936. In addition, because of the success of the federal program, many local and state incentives have been created throughout the country to assist in rehabilitating historic buildings.

It is generally acknowledged that the federal HTC program has been one of the nation's most successful and cost-effective urban revitalization programs. The National Trust for Historic Preservation reports that since 1981, the HTC has leveraged nearly \$106 billion in private investment, created more than 2.35 million jobs and adapted more than 38,700 buildings.

However, the program's decades of accomplishment faced a significant challenge in 2012, when a federal appeals court denied federal HTCs to an investor in what has become known as the Historic Boardwalk Hall Case. The Internal Revenue Service (IRS) added fuel to the fire when, shortly after the court case, it issued Office of Chief Counsel Memorandum (CCM) 20124002F, which disallowed tax credits claimed by an HTC investor. These two decisions upset the program's history of success and disrupted many HTC developers' plans.

#### **Historic Boardwalk Hall and CCM 20124002F**

The Novogradac Journal of Tax Credits and other publications have covered the two decisions extensively, but industry stakeholders are still exploring the implications of the latest development, Revenue Procedure 2014-12. In Rev. Proc. 2014-12, released Dec. 30, 2013 and updated Jan. 9, the IRS provided the long-awaited guidance that establishes a safe harbor for HTC equity transactions. As the HTC community reviews that guidance, three major developers share their plans for the future and discuss how the safe harbor affects those plans.

#### **Kimpton Hotels and Restaurants Plans for Growth**

Kimpton Hotels and Restaurants was founded in San

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Francisco in 1981 by Bill Kimpton, an investment banker turned hotelier. Kimpton is generally credited with the introduction of the first boutique hotel and specialty hotel collection in the United States. While Kimpton initially invested in San Francisco, the brand eventually moved into the Pacific Northwest and then across the country. Today, Kimpton owns or manages 62 hotels; more than half of the hotels are in old or historic rehabilitated buildings. Not initially a user of the HTC, Kimpton has found the tax credits to be an essential ingredient in its rehabilitation projects. One of Kimpton's major historic renovations was the 2000 renovation of Washington, D.C.'s Tariff Building, which is a National Historic Landmark.

Kimpton is in the midst of a period of expansion and growth under the leadership and oversight of CEO and President Michael Depatie. "The time is right to grow our footprint; we will have twice the number of hotels in the next five years," says Depatie. "Our growth will continue to focus on urban locations and the preservation and restoration of old or historic buildings through adaptive reuse, a practice that has allowed Kimpton to develop and restore prime real estate at the center of bustling urban locations."

Ben Rowe, Kimpton's chief financial officer, welcomed the IRS guidance and noted the importance of the HTC in the company's work. "The Boardwalk situation created a lot of uncertainty in the marketplace, but did not keep us from looking for deals. It's good to have this situation largely resolved. We expect to see more equity players coming back into the market. Hotel construction is challenging to



Photo: Courtesy of Heritage Consulting Group  
**HRI Properties is rehabilitating a property at 225 Baronne Street in New Orleans, La.**

finance and our historic building conversions would not be feasible without the help of historic tax credits," Rowe said.

### HRI Properties Expects Market to Normalize

Founded in 1982 by Edward B. Boettner and Pres Kabacoff, HRI is headquartered in New Orleans, La. HRI is a full-service real estate development company and is considered a national leader in the historic preservation development community. HRI says it is dedicated to the pursuit of rebuilding neighborhoods and recreating entire communities. Through its subsidiaries, HRI has completed 61 large-scale projects. The projects include 4,854 apartment units, 3,911 hotel rooms and more than 1.2 million square feet of office and retail space and have a total funding value of \$1.8 billion. HRI continues its mission by developing technically innovative and aesthetically pleasing landmarks in cities throughout the country.

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Photo: Courtesy of Heritage Consulting Group  
**Gorman & Company's rehabilitation of Coffelt Lamoreaux public housing will create fresh affordable housing units in Phoenix, Ariz.**

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Hal Fairbanks, HRI's vice-president of acquisitions, says HRI continues to be aggressive in the marketplace. During the time between the original Boardwalk Hall decision and the release of Rev. Proc. 2014-12, HRI continued to pursue deals under the assumption that the guidance would clarify rather than undermine the ability to use HTC. That is not to say that the market did not slow during the period between the Boardwalk Hall decision and the IRS guidance. Fairbanks noted that while HTC deals continued to be available, the ability to close was tough. Now that the guidance is out, Fairbanks looks forward to the market going back to normal, with some certainty. However, he does note that some investors have been slow to reenter the market place.

Fairbanks says that HRI continues to look for mixed-use projects in urban areas. HRI's main focuses are the residential and hospitality markets with specialized retailing to support those activities.

### Gorman & Company Welcomes Certainty

Gorman & Company was founded in 1984 by Gary Gorman, an attorney turned developer. After graduating from law school in 1980, Gorman represented developers and syndicators who were raising capital from investors. He gained a reputation for crafting complex financial arrangements. Gorman & Company has grown steadily and today the company employs 235 people nationwide with a development portfolio of approximately \$560 million. The firm owns and manages nearly 4,000 housing units and manages another 1,100 for other owners, with satellite offices in Phoenix, Miami, Chicago and Milwaukee.

Gorman & Company has carved out a national reputation for downtown revitalization and historic renovations using HTCs and other creative financing vehicles. The firm often finds itself approached by cities interested in the renovation of old factory districts or troubled inner-city neighborhoods.

Tom Capp, Gorman & Company's chief operating officer, said that the diversity of the company's projects protected it somewhat from the effects of the Boardwalk Hall case and that he did not notice it to the same extent as other developers. "Every one of our deals generally have quite complex structures with many funding sources," Capp

said. "With resolution of the Boardwalk issues and the new guidance we are sure that it will help put more certainty in our historic deals. Without the credits it makes many of these difficult, if not impossible."

Regarding growth, Capp said "over the last several years we have been expanding our market area. While we do new construction, we especially like historic deals." Gorman & Company is continually looking for new deals. The company likes public-private partnerships and prefers housing, although the company finished its first hotel deal in Milwaukee at the Old Pabst Brewery site last year.

### Conclusion

It's safe to say that developers will be developers. Being the chameleons and risk-takers they are, developers will adjust to the marketplace and continue to develop regardless of market condition changes. With respect to the rehabilitation of historic properties, the developers quoted here are optimistic about the market. However, they also feel that historic rehabilitation projects would

*Photo: Courtesy of Heritage Consulting Group*

**The Hotel Monaco in Philadelphia, Pa. was rehabilitated by Kimpton Hotels and Restaurants.**



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not occur if not for the federal HTC program. While other incentives are helpful in making these projects work, without the federal HTC program, they could not fill the critical financing gaps involved in rehabilitation projects. Although the Boardwalk Hall case may have temporarily cooled investors' appetites for HTCs, it does not seem to have changed developers' appetites for deals. The IRS' safe harbor ruling has provided the framework for future deals and should foster a period of new projects. ❖

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*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 \$3 billion in rehabilitation construction. He can be reached at 503-228-0272 or [jmtess@heritage-consulting.com](mailto:jmtess@heritage-consulting.com).*

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