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After the Part 3: Continuing HTC Obligations



CINDY HAMILTON, HERITAGE CONSULTING GROUP

For many historic tax credit (HTC) projects, the Part 3 Request for Certification of Completed Work signifies the culmination of years of planning and construction. With Part 3 approval, the National Park Service (NPS), the government agency that administers the HTC program, certifies that all work has been completed according to the plans submitted with the Part 2 and subsequent amendment applications and that it meets the Secretary of the Interior's Standards for Rehabilitation.

But what happens if the rehab is not complete?

Recent trends in real estate development have resulted in a high number of HTC rehabilitations that have converted buildings to residential use. In rehabilitating a historic building for use as multifamily residential, construction work typically ends when all units and public spaces are completed and ready for occupancy. Regardless of whether a unit is leased, the work is more or less done.

Commercial rehabs, however, often face a different challenge. Tenants of leasable commercial space generally want to control the appearance of their store, restaurant or office to fit their respective needs. When an HTC project nears completion, it is common for commercial spaces to not yet have a tenant. How then do developers attain Part 3 approval with the overall rehab not yet complete?

The NPS allows for certain areas of buildings to be rehabilitated to what is called a "white box" state, which finishes the space in a historically compatible way that also leaves the space as a blank canvas to be fully finished later. HTC projects can receive Part 3 approvals with spaces completed to a white box state.



Image: courtesy of Heritage Consulting Group
Following approval of the Stambaugh Building's Part 3 application, Part 3 amendments were submitted to ensure that tenant fit-out work was completed to meet the Standards.

Following Part 3 approval, the HTC project enters a five-year recapture period, in which the NPS maintains review jurisdiction over all work proposed.

Any new work proposed must be submitted to the NPS as a post-certification, or Part 3, amendment. For any project that requires tenant fit-out following Part 3 certification, Part 3 amendments are necessary to ensure that the work proposed conforms with the Standards and does not result in recapture of the tax credits.

Submitting Part 3 amendments is a frequent occurrence. Excellent examples of this include the Stambaugh Building in Youngstown, Ohio, Bell Laboratories in Holmdel, New Jersey, and the Continental Gin Company Warehouse Building, in Dallas, Texas. In each case, the tenant fit-out work maintained the historic finish and appearance of the three very different buildings.

Post-Certification Tenant Fit-Out

The Stambaugh Building in Youngstown, Ohio, was built in two major building campaigns in 1906 and 1913. Throughout its history, the building served as one of the city's premiere office buildings and it continues to display a distinguished Commercial-Classical style designed by the renowned architect Albert Kahn. Between 2013 and 2018, the 12-story building was rehabilitated for use as a hotel with leasable tenant space on the first floor. Upon project completion in 2018, the first floor was completed to a white box state.

In 2019, a commercial bank leased one of the spaces at the first floor and a post-certification amendment application was submitted to detail the proposed scope of work. As part of the tenant fit-out, historic finishes were retained within the tenant space, including terrazzo flooring and finished walls and ceilings.

Holmdel, New Jersey, is home to the iconic Bell Laboratories, which served as a research and development headquarters. The 2 million square foot building was designed by famed modern-era architect Eero Saarinen and features a sprawling nearly 500-acre campus with landscape designs by Hideo Sasaki. The rehabilitation of the building resulted in a mixed-use hub, with offices and restaurants within.

Unlike the Stambaugh Building, when a post-certification amendment application was submitted for the project in 2023, almost two years after the Part 3 was approved by the NPS, it was not to detail tenant fit-out work. Rather, the development team sought to update the scope of work to an area of the building that was already rehabilitated to accommodate a performing arts school. In the first floor's auditorium, the stage was expanded as it was deemed not large enough for the new use. It is likely that additional post-certification amendments will be filed for the Bell Labs project as tenant fit-out continues during the recapture period.

Both the Stambaugh Building and Bell Laboratories were historically finished, meaning that the buildings did not display their structural elements as is typically seen in industrial buildings. As such, both the white box conditions and finished conditions of the rehabs required the spaces to be finished with new walls and ceilings, as needed. As an example of industrial architecture, the former Continental Gin Company Warehouse Building in Dallas highlights white box finishes and tenant fit-out in industrial buildings.

Completed in 2022, Continental Gin was rehabilitated for use as leasable commercial space. Upon completion, a number of leasable areas were finished to an industrial white box state that included wood floors, exposed brick walls and exposed wood ceiling structure, as was the historic finished condition of the warehouse. In 2023, the first post-certification tenant fit-out was submitted to the NPS for review. Inclusive of a proposed restaurant, bar and laboratory space, the respective tenants were required to maintain the historic exposed structure within their ultimate designs.

Conclusion

Understanding the five-year recapture period and the NPS's review jurisdiction during that time, it is important for developers, investors, and other frequent users of HTCs to impress upon perspective tenants the requirements of the program. Should post-

certification work not meet the Secretary's Standards, it could place the credits in serious jeopardy.

The post-certification amendments at projects like the Stambaugh, Bell Labs, and Continental Gin highlight the importance of submitting even the simplest of proposals (i.e., expanding a stage). When it comes to tenant fit-out, however, understanding the history

of the building and the features that are considered character-defining to it is important in ensuring that the perspective tenant is a good fit. As shown with the tenants secured at the three example projects, each maintained the historic finished appearance of their respective buildings, while ensuring that the credits remained secure. ❖

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