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Rest Assured: Capturing HTCs on a Delayed Timeline



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Built around 1903 in the village of Monroe, New York, the historic Rest Haven retreat house was a prime candidate for historic tax credits (HTCs)—and yet, it almost missed out on them in a recent rehabilitation.

Construction was already well underway on both the exterior and interior (neither rest nor retreat were happening for a time) when the owner's CPA alerted him to the possibility of using HTCs. In many cases, this might have been too late, but Rest Haven's owner was able to capture the credits despite the unusual timeline. When it comes to HTCs, when does a "late" opportunity actually mean "not too late?"

Typical HTC Process

In a typical and ideal HTC undertaking, the owner decides to pursue the credits early in the process, before any construction starts. Their team would follow the traditional three-step application (Parts 1, 2 and 3) in sequence, securing approval from their state historic preservation office (SHPO) and the National Park Service (NPS) at each stage before completing the next step. In practice, this means submitting a Part 1 application to confirm that the building is a "certified historic structure" listed in the National Register of Historic Places, and therefore eligible for the HTCs; if it is not already listed in the National Register, then the Part 1 application initiates the process. In the Part 2, the owner submits the intended scope of work for SHPO/NPS review, to ensure that the rehabilitation meets the Secretary of the Interior's Standards for Rehabilitation (which

are informed by published design guidelines and best practices for such undertakings). Construction would then proceed, and once complete, the owner would submit a Part 3 application, demonstrating that the finished scope aligned with the designs presented and approved in the Part 2 application and any subsequent amendments.

Potential Pitfalls

In adhering to this traditional process, the owner mitigates the risk of amendments or denial that might put the HTCs in jeopardy. An experienced team can anticipate these risks and ensure a smooth process. Such hazards might come in the form of a few different pitfalls associated with each stage of the process.

For the Part 1, the owner might submit the application too late, not realizing that it must be certified before the property is placed in service. For the Part 2, the owner might not include sufficient pre-rehabilitation photographs to demonstrate the condition of the property before construction; a handful of photographs will not pass muster. Moreover, the Part 2 application might put the credits at risk if the proposed scope of work does not align with the Secretary of the Interior's Standards for Rehabilitation; the SHPO and/or the NPS may not

approve the application if the rehabilitation would fall too far outside the lines of established best practices. Finally, even in the Part 3 application, the credits are contingent upon sufficient documentation of the completed work, and consistency between the proposed and completed scopes of work.

Learning from Rest Haven

Given these complexities, then, how did Rest Haven's developer capture the HTC's at such a late stage and still manage to mitigate his risks? The answer is both specific to Rest Haven's designation history and rehabilitation and also a model for other owners and accountants who might consider HTC's for projects with unconventional timelines.

Rest Haven was built around 1903 on behalf of Charles G. McKendrick (a "hop broker," according to the 1900 census) and his family. He commissioned architect Arthur C. Longyear to design a grand Colonial Revival home in the village of Monroe, 40 miles northwest of New York City. Although the house was impressive from the time it was constructed, it was not until the 1920s that it took on heightened significance as a place of retreat and respite for the blind and visually impaired, with deep ties to nationally renowned advocate Helen Keller.

In 1923, silk merchant Moses C. Migel purchased the house. Having already achieved success in business, Migel became a tireless advocate for the blind, inspired by his encounters with American soldiers and sailors who were blinded in World War I. In 1921, Migel helped found the American Foundation for the Blind; two years later, he purchased the McKendrick estate with the intention of creating a retreat house known as Rest Haven for blind women and girls. Helen Keller was both a close collaborator of Migel's and a frequent visitor to Rest Haven. For more than 40 years, Rest Haven was a summer escape for blind women and girls from all over

the state of New York; the summer of 1967 marked its last season of operation according to Migel's original vision.

Rest Haven changed hands several times in the second half of the 20th century. By the first two decades of the 21st century, its first floor was vacant while the upper floors contained bedrooms and bathrooms. In 2016, a new owner, Pamela Lee purchased the property and planned to complete a major rehabilitation campaign with contractor Timothy Jon Mitts.

The \$2.7 million scope of work would create a museum on the first floor to interpret the history and significance of the site, along with new event space, while the upper floors would receive updates and improvements. New mechanical systems were installed throughout. On the exterior, the scope of work would include window repairs, extensive reconstruction and repairs to the deteriorated porches, roof repairs, repainting and some ADA improvements.

By the time the owner realized that HTC's were a possibility, construction was well underway. Nevertheless, he was able to avoid the typical pitfalls, beginning with the complexities of the Part 1 application. In this case, Rest Haven was already individually listed on the National Register (it was listed in 2017); thus, this undertaking could bypass a formal Part 1 application and steer clear of that snag. For the Part 2, the typical risks were mitigated because of two factors: the owner had taken a considerable number of photographs before starting construction, establishing clear documentation of the pre-rehab conditions; *and* the owner and his team had taken such a sensitive approach to the rehabilitation's scope of work and had used historic photographs to guide the rehabilitation. Thus, even at a late stage, they could demonstrate that the venture conformed to the Secretary of the Interior's Standards for Rehabilitation. Indeed, when the Part 3 application was submitted, the SHPO and NPS agreed that the rehabilitation met the

Standards and was eligible for HTCs, with no necessary remediations or changes.

Conclusion

Although it has a unique history and ties to Helen Keller, Moses Migel and other internationally renowned figures, Rest Haven offers lessons that are applicable to plenty of other HTC endeavors. Under the right circumstances,

it is possible to pursue HTCs even late in the process or after a project is already complete (but before it is placed in service). With thorough documentation at the start of an undertaking and a thoughtful, sensitive approach to the scope of work, developers can make the most of their HTC opportunities. ❖

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Cindy Hamilton is president of Heritage Consulting Group.

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