Balancing Priorities: Historic Preservation, Affordable Housing, and Life Safety

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BALANCING PRIORITIES: HISTORIC PRESERVATION, AFFORDABLE HOUSING, AND LIFE SAFETY

Milton Marks III

A THESIS

in

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MASTER OF SCIENCE

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David Hollenberg, Lecturer, Reader

David G. De Long, Professor of Architecture
Graduate Group Chairman and Advisor
To everyone who had to listen to my complaints for the past two years.
# TABLE OF CONTENTS

Acknowledgement ii  
List of Photographs iv  
Introduction 1  
Chapter I: The Importance of the Expansion of Preservation 6  
Chapter II: Why Housing Activists Mistrust Preservation 14  
Chapter III: Housing Developers and Their Objections 26  
Chapter IV: Where to Turn: State, City, and Private Resources 48  
Chapter V: Seismic and Fire Safety vs. the State Historical Building Code. 63  
Conclusion 79  
Appendix: Case Studies: 91  
  Mercy Family Plaza, San Francisco 93  
  Madrone Hotel, Oakland 111  
  Hotel Don, Richmond 121  
  California Hotel, Oakland 135  
Map: residential Unreinforced Masonry Building areas and pending historic districts 148  
Interviews 149  
Bibliography 151
LIST OF PHOTOGRAPHS

Mercy Family Plaza:

1. Historic photograph of main hospital building
2. Main hospital building after rehabilitation. Sandblasting of exterior had lost Investment Tax Credit on this original project (April 1991)
3. Huntingdon Social Hall (April 1991)
4. Nurses Annex (April 1991). Paint colors in the rehabilitation were not dictated, but had to maintain original tonal balances. Window trim is dark blue.
5. Powerhouse, east elevation (July 1988)
6. Powerhouse, east elevation with windows and doors preserved (April 1991)
7. Huntingdon Social Hall, masonry deterioration (Part 2 application)
8. Huntingdon Social Hall, masonry cleaned, repaired, and repainted.
9. Powerhouse smokestack without metal extension (1909)
10. Metal extension which the SHPO thought had gained significance and wanted retained (July 1988).
11. Smokestack after extension was removed and retrofitted seismically.
12. All replacement aluminum windows were removed and replaced with wood sash to match the original (April 1991)
13. Fixed steel windows with wire mesh to meet code on the ground level were designed with similar profile as wooden (April 1991)
16. Detail of interior of Nurses Annex prior to rehabilitation (Part 3)
17. Annex interior post-rehabilitation (Part 3)
18. Powerhouse doors to units. Much of the original fabric of the windows was repaired and integrated into the new design for the doors. (April 1991)
19. Powerhouse doors to units. Much of the original fabric of the windows was repaired and integrated into the new design for the doors. (April 1991)
20. Powerhouse interior prior to rehabilitation. Window at issue in insertion of second floor in to left (Part 2)
21. Powerhouse interior prior to rehabilitation. (Part 2)
22. Powerhouse interior showing moveable metal grate in down and upright positions with light behind. A compromise solution to preserve original function of the window. (Part 3)
23. Powerhouse exterior with recessed doors to units and metal grate barely showing (Part 3)
24. Seismic reinforcing - gunnite on interior walls (Part 3)
25. Seismic reinforcing - wall bracing on roof (Part 3)
26. Seismic reinforcing - balustrade (Part 3)

Madrone Hotel:

27. Main facade before rehabilitation (August 1987)
28. Main facade after rehabilitation (April 1991)
29. Main facade after rehabilitation (April 1991)
30. Chicago Style Windows, Metal Italian-Renaissance Cornice, and Prism Glass Transom before rehabilitation (Part 2)
31. Chicago Style Windows, Metal Italian-Renaissance Cornice, and Prism Glass Transom after rehabilitation (Part 3)
32. Reconstructed storefront which had been taken down by contractor due to dryrot (April 1991)
33. Reconstructed storefront which had been taken down by contractor due to dryrot (April 1991)
34. Entry stairs before rehabilitation (August 1987)
35. Entry stairs after rehabilitation (April 1991)
36. Corridor and doors showing wainscoting before rehabilitation (August 1987)
37. Corridor, doors, and stairs showing preserved wainscoting after rehabilitation (Part 3)
38. Corridor showing sprinkler and emergency light (April 1991)
39. Skylight in ground floor store which SHPO required to have an overhead grate to appear less modern (April 1991)
40. Store without drop ceiling (April 1991)

Hotel Don:
41. Drawing by James Plachek, architect, on proposed building (1925)
42. Street facades as they appeared c. 1929
43. Exterior showing changed storefronts (n.d.)
44. Main facades showing demolished storefronts and missing windows (February 1989)
45. Remnant of interior tile floor (Part 2)
46. Ground floor interior showing extensive loss of interior fabric by previous owner (Part 2)
47. Rehabilitated exterior (April 1991)
48. Detail of metal windows on rehabilitated exterior (April 1991)
49. Lobby tile floor (April 1991)
50. Lobby tile floor (April 1991)
51. New windows on interior facade showing partially blocked openings (April 1991)
52. New windows on interior facade showing partially and fully blocked openings (April 1991)
53. New windows on interior facade showing partially blocked openings (April 1991)
54. Seismic bracing installed and brick being repaired (April 1991)
55. New corridor with fire doors by elevator (April 1991)
56. New kitchen and sprinkler head (April 1991)
57. Lobby with replicated paneling - original to right (April 1991)
58. Original stair rails and posts (April 1991)
59. Manager's office off lobby showing the only drop ceiling on ground floor (April 1991)
60. Transom window showing reinstalled muntins. Drop ceiling will block light from entering manager's office against SHPO's wishes (April 1991)

California Hotel:
61. Historic photograph of exterior (n.d.)
62. Main street facade (April 1991)
63. Freeway immediately in front
64. North facade facing freeway with new windows (April 1991)
65. Interior facade prior to rehabilitation
66. Interior facade with repaired windows and ground floor seismic bracing (April 1991)
67. Deteriorated windows (August 1988)
68. Repaired windows (April 1991)
69. Marquee with chain supports
70. Marquee with seismic bracing (April 1991)
71. North facade facing freeway with contentious replacement windows. Although wood and of similar profile to historic, the SHPO does not like the double-glazing. Note also the white interiors of the frames which were also for sound insulation.
72. Storefronts prior to rehabilitation (March 1988)
73. Storefronts with diagonal cross-bracing, reconstructed tile bases, and plate glass windows (April 1991)
74. Interior facade with seismic bracing (April 1991)
75. Limited masonry repair on interior facade (April 1991)
76. Lobby after rehabilitation (April 1991)
77. Lobby ceiling with recessed sprinkler head where beams cross (April 1991)
78. Rehabilitated corridor. Note sprinkler heads recessed in wall to left (April 1991)
79. Apartment door. While SHPO had wanted original doors saved, they were replaced with similar ones. The SHPO does not like the natural finish (April 1991)
80. One of recast, inlaid bronze bears throughout on terrazzo stairs and floors (April 1991)
81. Plaster was required to have texture (April 1991)

NOTE: All April 1991 photographs by author
All others are copies from Park Service Project Files
This thesis will examine the ability of preservation and affordable housing to coexist. Chapter One begins with an overview of current preservation philosophy as it relates to rehabilitation through the Investment Tax Credit, administered by the National Park Service and the Internal Revenue Service. It concludes by showing how restoration is not the only valid preservation treatment. Chapter Two highlights the consensus of housing activists toward historic preservation. Chapter Three presents the objections to historic preservation by developers. Chapter Four reviews State and City policies and programs on preservation and housing, and presents selected private organizations whose resources have focused, in part, on these two areas. Chapter Five discusses the combination of issues which makes this thesis valuable to California. The Conclusion reviews questions raised in the preceding chapters with particular focus on case studies from the San Francisco Bay Area which illustrate how developers have managed to combine historic preservation and affordable housing. It is hoped that the result will be an analysis of practice and suggestions for improvement.

As preservation has gained acceptance in the past twenty-five years, preservationists have begun to develop a philosophy. Every few years another committee has met, deliberated the current practices, and suggested the course of the future. Most of these forums resulted in the publication of books or entire issues of journals.\(^1\) Preservation has gained a level of prominence, and "preservation has become a national goal; it reflects a national consensus."\(^2\)

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Concurrently, the last quarter century in the United States saw, first, a sharp increase in federal funding for cities and housing, followed, in the 1980s, by reductions as the Reagan administration sought to curtail domestic spending. Under Reagan, states and individuals were expected to assume the burden cast off by the federal government. One result of this shift in policy where the federal government abandoned its role in housing provision was the high incidence of homelessness across the country and the lack of affordable of housing for those with low or moderate incomes. Recent housing policy has acted inversely to historic preservation. While there is great discussion about the problems of housing, there is little consensus on direction.

In its May 1989 draft report entitled "An Affordable Housing Action Plan for San Francisco," the Mayor's Housing Advisory Committee estimated that over 70,000 housing units were in need of rehabilitation. The proposed and revised Residence Element of the City's Master Plan adds that 56% of San Francisco's housing stock was built prior to 1940 with new construction since 1980 accounting for only three percent. While the merit of these buildings was not discussed, one can assume that a number of these have architectural and/or historical significance and that preservation interests should be involved in their appropriate rehabilitation and use. A related assumption is that many of these units house tenants of low and moderate incomes. Clearly, a considerable housing stock is available for work.

Yet, historic preservation is perceived routinely as the province of the elite in which the poor always lose. In order for preservation to assist with the affordable

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4. City of San Francisco, Residence Element of the Master Plan of the City and County of San Francisco, Proposal for Adoption, July 1990, 14.
housing shortage, there needs to be a dramatic shift both in the way preservation does perform as well as in the way people think it performs.

Conversations with housing advocates are disheartening - Helen Dunlap of the California Housing Task Force: "If you want to do something with affordable housing, don't even mention the word preservation." Michelle Wortum of Northern California Non-Profit Housing: "I always think of preservation as being beyond most people's reach." An advertisement for Freddie Mac: "Who's preserving something more important in Washington than history?" Doug Yates of the National Low-Income Housing Coalition: "We made things very uncomfortable for students from the University of Virginia who came to survey our town for preservation importance. We didn't want them to start the process which would lead to displacement." Housing advocates are aware that the renovation of neighborhoods has led to great uprooting of the existing population as new owners and tenants move in. All too often, the following scenario occurs, leading to great disfavor with preservation interests:

... once the neighborhood is stabilized and its character unequivocally defined and legally defended, it is identified as a safe investment and a desirable place to live. The result is a neighborhood renaissance. Deterioration gives way to restoration and preservation, and poverty gives way to affluence.

Among other objections to preservation are that there are too many regulations which cause low-income tenants undo economic hardship, or which slow down government
assistance for rehabilitation. Clearly, preservation must change its image and respond to this dilemma.

This thesis focuses on historic preservation for the use of existing buildings in San Francisco for affordable housing rather than on historic preservation as a means to revitalize through increased property values or tourist dollars. Given California's high real estate prices, reasonably priced housing in the State's cities is beyond the reach of the majority of the population. High housing costs with low vacancy rates cause much different problems in this state than in others where housing lays abandoned. While gentrification and displacement are serious problems, this thesis addresses the possibility of using existing historic resources to provide and preserve affordable housing by concentrating on existing tools which require no legislative action.

San Francisco has been chosen, more specifically, since the Historic Rehabilitation Tax Credits have not been used widely, and the preservation community is still small relative to older, East coast cities. Part of the problem is that people's inexperience causes them to feel insecure about attempting projects. Additionally, the rule requiring that rehabilitation costs exceed the cost basis of the building means that rehabilitations will be quite expensive in San Francisco. Some methods to reduce the cost basis of buildings while still qualifying for the Tax Credits are presented.

Another crucial reason to study the interaction between preservation and affordable housing is that California has a great number of Unreinforced Masonry Buildings whose retrofitting for seismic stability must be addressed. The State has mandated that municipalities survey their existing stock of Unreinforced Masonry Buildings and propose a plan for their seismic upgrading. Of San Francisco's 2,080 unreinforced masonry buildings, 770 contain 21,000 residential units. According to

10. Ibid.

this study, unreinforced masonry buildings, called UMBs or URMs, are defined as "a structure of brick, or other masonry, bearing walls that have no steel reinforcement incorporated in them or added to them as a retrofit." Since many of these buildings provide low- and moderate-income housing and given that only 700 rehabilitated and 300 new affordable housing units are produced each year, the City clearly cannot afford to lose these resources. New construction is not the only answer; there is limited open land available, and new construction plans are contested violently.

Housing and preservation interests must make compromises and concessions for San Francisco's future. Without an understanding of both constituencies, many buildings which define San Francisco's history will be lost and sufficient affordable housing will not be produced to meet the demand. The link with past historical events and building traditions is enriching. Without a significant stock of older buildings, a city loses a sense of its identity, and, for cultural and economic reasons, "there is something inherently wrong about destroying or abandoning existing infrastructure." 

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CHAPTER I:
THE IMPORTANCE OF THE EXPANSION OF PRESERVATION

A National Register of Historic Places containing listings significant on the state and local as well as national levels is important to this thesis. Programs which could be used to rehabilitate buildings for affordable housing in San Francisco depend on recognition of significance in a historic survey. Since the restrictive powers of local landmark commission often are fought more strenuously by property owners, however, the National Register should be used as the instrument for recognition. Care must be taken to avoid abuse.1 It is important for preservation advocates and preservation opponents to have a clear understanding of preservation theory, logic, and practice.

While preservation theory still encourages minimal intervention and retention of existing building fabric, that cannot always occur given the realities of the real estate market, the American ideal of individual property ownership, and the limited support for preservation. Preservationists have to determine when to fight and when to compromise; every battle is different. While the protection of museum-quality buildings and sites was once the main arena of preservation activity, today's efforts have to be broader in scope to encourage participation. Strict preservationists help to set the philosophy, but have not always been aware of how their philosophy impacts upon a community.

One important development in preservation practice in the United States has been the recognition that vernacular buildings share importance with monumental buildings. Early preservation efforts emphasized association with historical events or high-minded architecture. This led to what some considered a presentation of history which has been narrow in focus2 and tending toward "the unique and spectacular."3


Perhaps the most wide-ranging reaction of preservationists to combat these complaints has been the new emphasis on "thematic" nominations to the National Register of Historic Places which "reflect a growing sophistication . . . about the contexts of individual historic properties and the need to look at historic resources in relation to other examples of their building type." The idea is that "folk culture and popular culture are just as important as high or institutional culture . . . (with) the products of popular culture . . . also worthy of protection and attention."

A practical realization is that the number of truly outstanding buildings most obviously deserving of "landmark status" is small. Even James Marston Fitch, the dean of American historic preservation, has recognized "that the vast majority of buildings in American cities will not, when individually considered, have any great historic or artistic significance." In addition to the interpretive argument that buildings can be better appreciated when they relate to their settings, since few museum quality buildings exist in cities, most buildings which meet National Register criteria will have to be used adaptively in order to survive. "Uniformity, as expressed by rigid adherence to historical periods or by demolition and rebuilding of entire districts, has lost precedence


to visual harmony based on scale, materials, and compatible activities." 8 This is preservation reflecting a broader vision.

In a related way, the legislation introduced in March 1966 following recommendations made in With Heritage So Rich, provided for an expansion of the National Register to include resources down to the level of local significance. What has resulted particularly from state and local surveys is a National Register which is becoming more comprehensive in the range of resources if not in completeness in number. By 1987, only 13% of the items in the National Register were of national significance. 9 "If we accept . . . that those things in the local communities collectively constitute the national patrimony, then we have to reassess our traditional thinking in preservation." 10 That change in thinking has occurred.

The criticism of the direction that the National Register has taken reflects the belief that the inclusion of those resources not fully significant nationally has a devaluing effect on those resources which are the most important. Perhaps, say the critics, in the effort to dispel their reputation for elevating the elite over the common, preservationists overreacted by eliminating any ordering system for the National Register. One highly subjective but representative observer, a scion of a New York real estate development family, noted a flaw in placing all history on an even-footing. "This coupling of historic preservation with democratic social history has made it difficult to disqualify any aged structure." 11 Another more qualified and friendly critic, Barry

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Mackintosh, historian of the National Park Service, took care to note the feeling within the Park Service and Congress "that the Register was becoming overly inclusive." Staff members of the House Appropriations Committee in 1979, examining Congressional intent of the National Historic Preservation Act in creating the National Register, questioned whether the criteria of the National Register ensured appropriate selectivity. "If all the built environment ends up listed in the National Register, it is obvious that the significance of such listing will be demeaned."13

Clearly, the concern was premature. Jerry L. Rogers of the National Park Service makes an important point that the 593,397 buildings which were the individual listings and the listings which were part of districts as of 1987 "represents only about 3 percent of the building stock in America over fifty years of age."14

In a 1987 article appearing in the National Trust's Preservation Forum, Carol Shull, Chief of Registration for the National Register, noted that critics maintained that passing on the power to review nominations to the states contributed to the problem of weak listings.15 According to William Murtagh, former Keeper of the National Register, this criticism does not acknowledge why the Secretary of the Interior, acting with responsibility granted by Congress, decided to decentralize and give greater review power to the states.16 "The National Register is thus essentially a state and local program


14. Jerry L. Rogers, "The National Register of Historic Places: A Personal Perspective of the First Twenty Years," Public Historian vol. 9, no. 2 (Spring 1987): 95, note 4. See also National Conference of State Historic Preservation Officers, National Park Service, and American Association for State and Local History, National Register of Historic Places 1966-1988 (Nashville, TN: American Association for State and Local History, 1989), xii; "... while the Register has grown tremendously, it is not nearly a comprehensive list of the Nation's historic resources."

in which the federal government reacts to those identifiable man-made resources which the states and localities recommend as worth preserving. In turn, the federal government gives the states and localities a degree of protection from threats to these resources" by the federal government.\textsuperscript{17} The Federal government has authorized tax credits as an incentive for preservation, as well.

According to Mackintosh, a debate occurred within the Park Service on the development of a ranking system with an anticipated growth in the number of listings on the Register. In the end, however, the concern that to do so "would signal that those in the lower categories were expendable," prevented any change.\textsuperscript{18}

All the debate disregarded the reality that "had the National Register criteria been limited to nationally significant properties, the impact of the financial incentives and protective devices . . . would have been severely limited."\textsuperscript{19} Without the tax credit, many rehabilitation projects could not reward their investors adequately.\textsuperscript{20}

The basis for this discussion is that only those properties listed individually on the National Register or contributing to a National Register District can qualify for the

\textsuperscript{16} William J. Murtagh, Keeping Time: The History and Theory of Preservation in America (Pittstown, N.J.: The Main Street Press, 1988), 72. See also Beth Grovesnor, "Historic Preservation Programs of the National Park Service: Trends of the 1980s," in Cultural Resources Management, Ronald W. Johnson and Michael G. Schene, eds. (Malabar, FL.: Robert E. Krieger Publishing Company, 1987), 126 - "Consequently, NPS preservation programs from their inception have been characterized by efforts to decentralize authority from NPS to other members of the preservation community, especially from the federal level to the state and local participants; to establish consistent standards by which to conduct preservation activities; and to prepare guidance materials in response to a continual analysis of current issues and concerns in the historic preservation field."

\textsuperscript{17} Ibid, 73.

\textsuperscript{18} Mackintosh, National Preservation Act, 26.

\textsuperscript{19} Fowler, "Federal Government as Standard Bearer," in Stipe and Lee, The American Mosaic, 51. See also William Penn Mott, " . . . most of the projects would not have been undertaken without the tax credits," in Austin J. Jaffee, "The historic preservation movement: The myths," Real Estate Accounting & Taxation vol. 2, no. 4 (Winter 1988): 79.

\textsuperscript{20} Jaffee, "The historic preservation movement: The myths," 78 - " . . . a 1985 Wall Street Journal column reported one study that found that without the 25 percent tax credit, many investors would have earned a rate of return of less than one percent."
Investment Tax Credit for Historic Rehabilitation (ITC) if their rehabilitation follows certain prescriptions. An expansion of San Francisco listings on the National Register should be pursued to encourage use of the ITC. There are many more buildings could be added to the National Register without impacting negatively on property values as may local designation. The National Register cannot prevent demolition or alteration in the way that a local ordinance can. Property owners with a building on the National Register and not on local registers can alter their properties as they wish provided they are not applying for Historic Rehabilitation Investment Tax Credits or if local zoning ordinances permit.

The focus here is the practical use of historic resources for affordable housing. Changing the use of a building, cutting openings, or other interventions should not, by themselves, be acts which denigrate a building's historic designation. Particularly if the significance is local or if the buildings are contributing structures in a historic district, more radical interventions might be appropriate and would aid in neighborhood stability or improvement. Since a goal for preservation should be to demonstrate that preservation techniques can be cheaper, however, any proposed changes should not be the more expensive choice. Preservationists who attempt to apply a rigid code of practice to prohibit some interventions should recall that their efforts to persuade building officials to act more liberally in applying building codes, for example, are based on the concept that historic buildings need to be viewed on a case-by-case basis.

It is important to dispel the notion that rehabilitations equal restorations. This misconception is reflected in the statement that "today, historically certified properties must adhere to rigid standards designed to accurately preserve buildings as they were, not as they might become if adapted to other uses." Few, if any, of the type of project discussed in this thesis are projects which could be considered restorations.

By definition, restoration is "the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work." Preserving a past architectural style, building tradition, or historical context does have an educational purpose. Restoration is rarely the correct answer as the Secretary of the Interior's Standards imply.

First, restoration means a conscious recognition that some changes past the target date can be sacrificed. Certainly before the rehabilitation tax credits, the government "stressed 'restoration', an approach which may meet educational needs but usually sacrifices historical evidence . . ." Current preservation thought and the Secretary's Standards encourage recognition and protection of changes to a building's fabric provided that the changes themselves have achieved significance.

Second, restorations can produce a building which appears to be as it once existed, but is devoid of spirit. Rehabilitation is meant to enable a building to continue in practical use.

Third, by encouraging restoration, the Park Service has often brought about the demolition of buildings when owners would not, for whatever reasons, meet the high standards. Some critics of preservation believe the reviewing agencies go too far with some demands; this should be of concern to all preservationists.


25. Ibid, 2 - "... the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which significant to its historical, architectural, and cultural values."
Some people still complain that Tax Act and other adaptive use projects cause serious damage to historic fabric. They look to the Charter of Venice and other documents to advocate that preservation should rest exclusively on history.\textsuperscript{27} Even the Charter, however, recognizes that "the conservation of monuments is always facilitated by making use of them for some socially useful purpose."\textsuperscript{28}

The National Park Service and other government agencies have the responsibility of protecting historic resources, but cannot always insist that restorations take place. Short of funding all preservation projects or disallowing any development in built areas, this would be neither practical nor desirable. The Economic Recovery Tax Act of 1981 and the Tax Reform Act of 1986 provided for government subsidy of rehabilitation. Without the Historic Rehabilitation Tax Credit, many buildings would not have survived. While historians press for accuracy and truth, "the principle of authenticity often gives way to practical solutions because it becomes a question of, to be or not to be, for the monument."\textsuperscript{29}


\textsuperscript{28} Article 5

CHAPTER II:
WHY HOUSING ACTIVISTS MISTRUST PRESERVATION

Housing advocates have some fundamental objections to historic preservation. Since they hope to create a climate where the provision of housing is not in any way restricted, they have come to consider historic preservation as yet another obstacle to be overcome. It is typical to find that critics of preservation feel that "... incentives and controls require the extension of government bureaucracy, cause confusion and delays, and add to the cost of rehabilitation."¹ By viewing historic preservation only as detrimental without regard for the potential which it has for the retention of neighborhood character and people, housing advocates have rarely wanted to work with preservationists even when the goals of both groups intersect or when there is a sympathetic preservation agenda. As an example, "To the extent that seismic upgrading could be assisted by the historic tax credit, that could help to sustain Chinatown's existence as a dynamic community."² Preservation can work with community needs, and should not be presumed to conflict. "Whatever the circumstances, the objective of preservation policy should be to maintain the physical and aesthetic integrity of the module, on the one hand, and the well-being of the resident population, on the other."³

The production of housing was curtailed during the Reagan administration as drastic budget cuts took place. The federal government withdrew from its role as the producer of housing for the poor. Housing advocates were forced to use strategies such

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3. Fitch, Historic Preservation: Curatorial Management of the Built World, 41. See also William E. Parrish, "Management of Cultural Resources at the Local Level," in Johnson and Schene, Cultural Resources Management, 156 - ""From the beginning attempts should be made to see that all viewpoints are represented in the preservation program, that the concerns of the low income renters are taken into account as fully as the technical questions of historical accuracy.""
as the formation of non-profit development corporations to fill some of the gap left by the federal government which wanted to rely on the efforts of the private sector by offering Low Income Housing Tax Credits (LIHTC) to encourage the construction of housing.4 "Public subsidies, direct or indirect, are essentially a carrot approach to the problem. They take the costs . . . and divide them among the larger community, reducing the owner's burden by a corresponding amount."5

For many housing advocates, as well as independent observers, this program has not met its expectations. Among the criticisms are that "the programs accomplished with them do not help people of low-incomes. [The] . . . programs help low-moderate income people."6 Another observer has noted that the LIHTC in practice serves not as the incentive it was designed to be, but as a reward. Of the low-income units produced using the Credit, three-quarters would have been done anyway because the municipalities were so committed or the rents in the market were high enough to allow the projects to operate.7 A strong proponent of the rehabilitation tax credit, hoping to convince people to use that credit, holds that "people still distrust the low income credit because of its complexity and the fact that it delivers no cash flow."8

The Investment Tax Credit for certified Historic Rehabilitation (ITC) is similarly

4. Internal Revenue Code of 1986, Section 42, Low Income Housing Tax Credit.


dependent upon private activity. While the success of the LIHTC to produce a large number of affordable housing units has been questioned, the success of the rehabilitation tax credit program, particularly prior to 1986, is evident. "Indeed, this is perhaps a classic example of the power of fiscal policy toward stimulating economic behavior." Since the ITC seeks to encourage rehabilitation by offering an economic incentive of a tax credit against income rather than through direct grants, there has to be an economic justification for any project to occur. Private interests will want to have an adequate return on their investment. Short of this, they will put their money to use in other investment vehicles. In any event, the rental aspect of both tax credit programs makes them difficult to sell to the private sector for ". . . even with appreciation in property values, rental housing is a difficult investment to justify in comparison to alternatives." The relative cost of grants versus credits continues to be debated.

Some housing advocates reject the notion of profit from housing, and argue that housing needs cannot be met from tax credit programs. They press, instead for collective ownership of housing - "Socially-owned housing" - and want to see expanded federal support of housing programs rather than the promotion of tax credits. "Housing financed through direct grants . . . will be permanently debt-free, with no mortgages or bonds to repay, and with no need to raise cash through the costly sale of tax shelters to private investors." There appears to be no imminent change in federal policy, though.

Housing advocates today have one critical item on the agenda: the continued existence of subsidized housing units for low- and moderate-income people. Owners of these properties have agreed to maintain them as affordable for a specified period in

exchange for Department of Housing and Urban Development mortgages. "As restrictions expire, the owners will be free to prepay their mortgages, rent to anyone they choose, convert the property or demolish it." As many as 900,000 units, almost half of the total in the country, could be lost to market-rate conversion or demolition. With this potential crisis, it is difficult to get housing advocates to discuss the contribution of the rehabilitation of older buildings toward easing the housing crisis. This seems shortsighted since the regulatory and political process for the approval of rehabilitation projects is considerably shorter than it is for new construction. "The government is eager to find measures to persuade owners to extend the period of low-income use and to defer conversion. The LITC would be ideal for this purpose, but it is not being used." Also, William Apgar of the MIT/Harvard Joint Center for Housing Studies has stated that while the existing subsidized housing stock needs to be preserved, the effort to provide affordable housing cannot end there as that will not be enough.

Preservation must combat elements of its reputation which place it unfairly as diametrically opposed to housing concerns. The split in the viewpoints between housing and preservation activists is exacerbated by generalizations. "The premium which the

12. Phillip L. Clay, At Risk of Loss: The Endangered Future of Low-Income Rental Housing Resources (Washington, D.C.: Neighborhood Reinvestment Corporation, May 1987), 11. See also California Debt Advisory Commission, The Role and Use of California Housing Bonds (Sacramento: CDLAC, March 1990), IV-2 - "There are many viewpoints on the crux of the housing affordability problem, including . . . The lack of extended life of affordable units due to the expiration of federal, state and local regulatory agreements and housing subsidy programs geared toward household support rather than housing unit finance."

13. H. Thomas Jones, City of San Francisco, Mayor's Office of Housing, interview with author, San Francisco, March 12, 1990 - "All else being equal, it is much easier to reuse an existing building than to try to get all parties to accept a new one." See also Donald J. Canty, "Lessons in Civility," Architectural Record vol. 178, no. 3 (March 1990): 84 - "In San Francisco, where the planning process is particularly exhaustive, each neighborhood has a great deal of control over its own destiny, and a single objection can bring a project to a halt for months if not forever. Clearing a site and building from scratch frequently involves going through a regulatory gauntlet. . . ."


middle class [has] placed on historic preservation . . . in contrast to lower-income groups' concerns with decent housing, [has] led to the accusation that rehabilitation used public subsidy to cater to the aesthetic interests of the well-to-do."17 This does not happen all the time, but it has happened frequently enough to cause housing advocates to be suspicious of any hint of preservation interest in a low-income neighborhood.18

Even though preservation has made an effort to change, critics still view historic preservation disparagingly. Certain critics argue that "Despite all the talk about the principles of preservation, it is hard to escape the conclusion that these principles are based on nothing more solid than the current aesthetic preferences of the upper middle class."19 Others argue that preservation organizations and commissions have favored the preservation of architecturally significant structures and districts or which have been associated only with important historical events or personages. "By and large, those appointed to the [San Francisco] Landmarks Preservation Advisory Board and activists in the Heritage [Foundation, a private preservation organization,] are upper-middle class whites . . . ."20 However, the composition in 1991 is quite different representing racial

16. Thomas Mills, the Program Officer of the San Francisco office of the Local Initiatives Support Corporation, knows these generalizations; the public perception is that preservation activists are the elite who control the resources and who are looking to preserve those resources for the few while the public perception of the housing activists is that they are for those who have little, that their efforts are grassroots-based, trying to create opportunities for many, and who speak for the people. Thomas Mills, 15th Annual California Preservation Conference, San Francisco, April 27, 1990.


minorities, professionals, political appointees, and others. Too often in the past, the contributions of the less well known have been neglected by preservationists. It would probably be incorrect to label this a planned neglect, and is certainly being rectified as the preservation movement moves to include broader areas of cities and towns in preservation districts.

The elitism charge is most vehement when placed in the context of affordable housing. Often, those neighborhoods which are in need of work and which have important physical elements worthy of preservation are inhabited by the poor. "There are many urban neighborhoods that contain architecturally and historically significant housing stock occupied by people on the lower end of the socioeconomic scale."\(^{21}\) One of the side-effects of revitalizing an area is that the residents many times are priced out of the improved housing and must move.\(^{22}\) Thus, goes the argument, by "gentrifying" a neighborhood, preservation has caused displacement.

Gentrification is defined as "the process of upgrading and revitalizing that prices tenants out of the market in a given neighborhood and leads them to move."\(^{23}\) Whether speculators buy up recently designated properties in the hope that they can turn a profit or whether the preservationists in a community press for designation when they perceive that development and speculation pressures have become evident is a matter for interpretation. Clearly, preservationists and housing activists see the chain of events differently. 


\(^{22}\) "... the price of rehabilitation and new construction soon pushed housing values and tax assessments sharply upward." Paul R. Levy and Roman A. Cybriwsky, "The Hidden Dimensions of Culture and Class," in Laska and Spain, Back to The City: Issues in Neighborhood Renovation, 149.

\(^{23}\) Chester Hartman "Comment: on 'Neighborhood Revitalization and Displacement: a Review of the Evidence,'" Journal of the American Planning Association vol. 45, no. 4 (October 1979): 488-91. See also p. 490, "... the psychological and social effects of forced uprooting and relocation are likely to be quite severe, particularly for older people, those with long-term residence in a given home or neighborhood and close ties to the area's institutions and people."
revitalization of an area." It may seem contradictory for preservationists to show that preservation activity can raise the property values and the tax base on the one hand and to insist that preservation does not cause displacement from rising property values and the resulting increase in rents, on the other hand. Both are possible, and the effect of historic preservation has to be planned carefully. To say, however, that preservationists are unconcerned about this problem is a gross misrepresentation. At one time, the Chairman of the Board of the National Trust for Historic Preservation could say about the ITC, "We have targeted historic structures. It's a different value than providing housing for the poor." Preservationists do not see this separation as clearly any more. "Preservation efforts can be most effective when they address local needs, perceptions, and concerns."

An ideal example of how preservation actions have been misinterpreted in San Francisco was the proposed local historic district for Chinatown. Located next to the downtown Financial District, the area contains mainly low-rise brick buildings for small businesses and low-income elderly residents. Opponents of the plan were concerned


26. Ibid, 15-16. From the Fall of 1989 to the Spring of 1990, there were at least three separate conferences sponsored by preservation organizations which had as the only or central theme the issue of affordable housing and preservation. The conferences were: "Preservation in the '90s: the Human, Environmental, Historical and Regional Context," 15th Annual California Preservation Conference, California Preservation Foundation, held in San Francisco, April 25-29, 1990; "Preservation and Affordable Housing: Accomplishments, Constraints, and Opportunities," Rutgers University, Center for Urban Policy Research and Preservation New Jersey, held in Newark, N.J., May 22-23, 1990; and "Affordable Housing in Older Neighborhoods: Multiple Strategies," 43rd National Preservation Conference, National Trust for Historic Preservation, held in Philadelphia, October 12-13, 1989.


about government oversight of minor repairs and inability of property owners to realize
the best use of their property. Recognizing the importance of the structures and the
fragility of the housing, the plan was "part of a strategy formulated by non-profit housing
developers and preservationists aimed at saving the buildings of Chinatown and retaining
their current occupants." Though the National Park Service encourages the
preservation of significant building elements with sympathetic treatments it recognizes
that "change is inevitable in buildings and neighborhoods . . . ."

To keep low-income residents in their historic buildings while addressing
rehabilitation needs is the crux of this thesis. While few could argue that putting
resources to work in a decayed or blighted neighborhood helps to repair the physical
fabric, housing advocates for the most part see nothing positive from the replacement of
low-income people with high-income people. This transformation has done nothing to
remove the poor from substandard living conditions; in fact, they may have had to move
to even less well-maintained property or may have to travel even further to work.
"Private upper-income rehabilitation decreases the supply of low-cost housing without
decreasing the demand." The latter is particularly critical in California which has few
blighted areas relative to the eastern United States. "In San Francisco, unlike Detroit or
New Haven, the threat to low-income occupancy is investment rather than
disinvestment."


30. Jim Buckley, "Housing Developers and Preservation Groups Search For Some Common Ground,"

Brief 14 (Washington, D.C.: U.S. Department of the Interior, National Park Service, Preservation Assistance Division,

Laska and Spain, Back to the City, 152.
It becomes difficult, then, to tell if there is any value in the revitalization of a community. "Gentrification . . . can be viewed either as detrimental to the overall quality of urban life or as a positive force in cities today." Some observers feel that gentrification is "a natural evolution for neighborhoods" and that "it is the rate of turnover in a neighborhood that causes problems." Perhaps preservationists can help by keeping that rate down through such mechanisms as encouraging community groups to control property before speculation can occur. If housing advocates and community activists insist that any improvement in housing condition in areas of historic preservation interest will lead to the displacement of the residents, then those people will fight the improvement at all costs unless they can exact concessions from the preservationists in return for their support. In any event, gentrification of a decayed neighborhood is not the problem in San Francisco. The challenge is, instead, how to keep low-income residents in the City since the cost of living is so high, the open land is so limited, and cheaper housing more available on the periphery of the Bay Area. Without a diverse population, San Francisco's vitality will suffer.

Even with the great number of examples where "government and private-sector programs are actually decreasing the availability of low-income housing since they also encourage gentrification, preservation and revitalization through capital

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37. Richard Fusch, "A Case of Too Many Actors?: Columbus," in Laska and Spain, Back to the City, 170 - "Policies which encourage inner-city revival on a large scale will only further exacerbate those problems currently faced by low-income populations."
improvements," housing activists should not rule out any options as they seek more low- and moderate-income housing. "Why should low-income persons be limited to meat-and-potato housing? Why shouldn't they have some beauty in their environment too?" They should also remember that their work encompasses much more than just the building of individual homes. "... affordable housing is not just about the provision of housing but it is also about the opportunity to strengthen, and indeed renew, the nature of cities and communities."

In many urban situations, the goals of preservation and low-cost housing are not at odds.

There is no reason why adjoining construction cannot include affordable housing, provided that it is incorporated into structures of the proper size and outward appearance. Nor are the higher densities that are often necessary for affordable housing necessarily incompatible with historic neighbors, particularly where ... the historic use is fairly dense itself.

In their quest for low-cost housing, housing activists can lose sight of the importance of design and scale in the success of neighborhoods. Particularly with the prevalence of hostility to any change in a neighborhood, the well-documented NIMBY or not-in-my-backyard, "failures of design have ultimately led to the erosion of political support for affordable housing."


41. John M. Payne, Associate Dean, Rutgers Law School, "Balancing Preservation and New Affordable Housing: Cranbury, New Jersey Case Study" (Paper presented at Preservation and Affordable Housing: Accomplishments, Constraints, and Opportunities Conference, Newark, New Jersey, May 23, 1990), 4-5. See also Buckley, "Housing Developers and Preservation Groups Search For Some Common Ground, Heritage Newsletter: 5 - "Just as the architect Meyer understood and used classical architectural vocabulary, he also understood the vocabulary of dense, downtown living.' As a result, Meyer's building is a better living environment today than many contemporary developments for low-income tenants."

42. Rawn, "Patterns of Place," 3. See also, Herbert Oppenheimer, FAIA, in Greer, The Creation of Shelter, 126 - "'In the rush to resolve our housing crisis we must not sacrifice design. We must not sacrifice quality.'"
It is true that some structures with great symbolic value should not be rehabilitated and should only be restored. With some, such as Mount Vernon, "The inviolable essence of a symbol is its genuineness." Many of the recognized landmarks have already been identified and protective measures put in place. The equally important goal of protecting broad swathes of cities which have intact areas of significance should not be equated with landmarks and the stricter efforts used with them. "Continued 'use' in the normal sense of the word is always preferable to mere preservation as a monument, museum, or simply part of the scenery, since it enables the building to continue to play a full social role and provides the best guarantee of continued attention and proper maintenance care."44

Housing and preservation can work together and should not be kept apart. A proposed housing project using a vacant malt factory in San Francisco has been portrayed as a battle between housing and preservation.

Some participants readily accepted the view that the landmark preservation was making the project more expensive thus limiting the amount of money available for affordable housing.... It is a divide and conquer move. If developers can set citizens who seek affordable housing against citizens who seek to preserve city landmarks then we all lose. The truth is that there are a multitude of factors that make projects costly, all those costs must be met, and none is an excuse to ignore the affordability policy. Would we compromise fire safety, for example, to make more affordable units?"45

In San Francisco, the stock of affordable housing is facing destruction both from market forces and seismic reinforcement legislation. A great deal of this stock has historic or architectural significance. By saving these buildings and continuing their use,  

43. Pamela Thurber, Controversies in Historic Preservation: Understanding the Preservation Movement Today," (Washington D.C.: National Trust for Historic Preservation, Fall 1985), 93. See also Bernard M. Feilden, Between Two Earthquakes: Cultural Property in Seismic Zones (Rome: ICCROM and the Getty Conservation Institute, 1987), 91 - ". . . there are also buildings or remnants of buildings with an important future use as physical embodiments of past cultures or examples of supreme past achievements which must be conserved."

44. Feilden, Between Two Earthquakes: Cultural Property in Seismic Zones, 91.

both preservation and housing needs can be served.46 As Brad Paul, San Francisco's Deputy Mayor for Housing, has said, "I'm not sure we can build enough affordable housing for everyone. Which is why we have to preserve the existing affordable housing stock . . ."47 Housing activists should recognize that if these buildings are lost, which could employ techniques reserved for historic buildings, they most probably would be replaced with market rate housing.48 Not all of this housing has formal subsidies; much just serves low-income people. Housing and preservation "advocates . . . must undertake to take a pragmatic search for reasonable accommodations. The preservation movement should not want insensitive elitism or avid nostalgia to be its hallmark. The affordable housing movement cannot literally bulldoze other important social goals out of its way."49

46. "Historic context is important to the livability of the neighborhood . . . ." Richard Livingston, Manager of the Cadillac Hotel, San Francisco in Buckley, "Housing Developers and Preservation Groups," Heritage Newsletter 5.


48. William Delvac, attorney and Board Member of the California Preservation Foundation, telephone interview with author, April 2, 1990.

A goal of this thesis is to examine the negative assumptions about historic rehabilitation clearly, and, by looking at case studies of actual projects, to bring fallacies to light. What seems to be abundantly clear from the literature is that rehabilitation and new construction need not be that far apart in cost and that a non-historic rehabilitation can be competitive in price. By bringing in historic review, however, the picture changes dramatically in some people's minds.

A direct comparison of new construction and rehabilitation is inherently unfair for it cannot give any weight to the quality of the end product. New construction is often inferior to older buildings; to try to replicate that quality would be prohibitively expensive today\(^1\) and would be impractical for affordable housing. This thesis urges the use of historic buildings, not just older ones, which can take advantage of programs and incentives reserved for significant buildings.

If one believes "that the core of the problem of preserving old buildings and neighborhoods is simply a matter of economics,"\(^2\) then the concerns of developers should not be discounted. It would be useful to know, first, how much the added cost of historic review at various governmental levels contributes to the failure to attract investors, second, if a historically certified rehabilitation costs less or more than new construction, and third, if the 20 per cent credit granted for a certified rehabilitation is exceeded by the additional costs imposed by the reviewing agencies.\(^3\)

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Developers who have considered historic rehabilitation are inhibited by several major factors. Trying to prepare cost projections which will be accurate often are illusive. Banks and other financing bodies are reluctant to lend to rehabilitation projects so rehabilitations usually entail the syndication of the tax credits to raise equity. With the passive loss rules, it has become more difficult to syndicate. Even with the reduced proceeds, however, to write off this source of equity is an error.

Proposed originally in the Revenue Act of 1978, the Investment Tax Credit (ITC) for qualified rehabilitation expenditures on historic buildings was codified most strongly in the Economic Recovery Tax Act of 1981. Generally, ERTA was shaped "to ensure economic growth in the years ahead." The provisions relating to the depreciation of real property and the investment tax credit "needed to be replaced because they did not provide the investment stimulus that was felt to be essential for economic expansion." Congress saw that earlier laws favoring demolition of older buildings and their replacement by new ones would not always lead to economic growth.

Investments in new structures and new locations do not necessarily promote economic recovery if they are at the expense of older structures, neighborhoods, and regions.

Accordingly, the increased credit for rehabilitation expenditures is intended to help revitalize the economic prospects of older locations and prevent the decay and deterioration of distressed economic areas.

that the costs of the level of work required to meet these standards more than offsets the additional tax advantages." This concern became more crucial when the ITC was lowered from 25% to 20% in 1986.


5. Ibid.


8. Ibid, 81.
It could be argued that the provision of low-income housing is a method of economic revitalization and neighborhood preservation.\(^9\) According to H. Ward Jandl, Chief of the Technical Preservation Services Branch, Preservation Assistance Division of the National Park Service, however, the law says that his department cannot approve a project if it is not consistent with the historic character of a building. The approval cannot give additional consideration because it is a low-income project.\(^10\) While recognizing his historic preservation responsibilities, he knows, nevertheless, that "the intent of the law is clear: the revitalization of our cities and towns, not historic preservation per se."\(^11\)

Unfortunately, just as projects were undertaken because of the benefits provided in ERTA, preservation activity after the Tax Reform Act of 1986 has been curtailed since a lower rate of return could be gained from these activities.\(^12\) "Economic parameters . . . are virtually certain to impact the rate at which preservation takes place."\(^13\)

Thomas Coughlin, a noted preservation lawyer, concurs that preservation activity using the ITC is down from its high levels of use before 1986 and that the average size of the projects has increased considerably. He contends, however, that the tax rates are still

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9. Ibid, 113


12. H. Ward Jandl, "Viewpoints," Preservation Forum vol. 2, no. 2 (Summer 1988): 8. Steade Craigo, California Deputy State Historic Preservation Officer, letter to author, July 26, 1990 - his "understanding is that Congress intended the historic tax incentives to enhance the investment attractiveness of historic buildings in declining and downtown urban areas."


high and will increase, that people and corporations continue to look for ways to shelter income, and that the rehabilitation tax credit is practically all that is available.  

Developers, both for- and not-for-profit, maintain that historic rehabilitation costs more than other construction. "... there are some situations in which attempts to meet the requirements for the credit result in rehabilitation costs which exceed the credit to be generated." Peter Werwath of the Enterprise Foundation estimated that rehabilitations through the ITC add 25-30%. The extra costs may stem from inexperience, from inappropriate requests from reviewers, or from lack of direction from the State Historic Preservation Office (SHPO) or the National Park Service.

A major problem is that developers often seek to transform historic properties rather than allowing the contemporary uses to fit the existing building; this radical treatment can increase costs. Since "it appears that the real determining factors of the overall cost of adaptive use construction will be in the architectural and mechanical work," these costs need be controlled. The Enterprise Social Investment Corporation's Mark Sissman noted that the costs of traditional rehabilitation are dependent upon the building and the design. He believes that the historic rehabilitation credits have value which is worth exploring, and that developers who hire capable architects can work through the process. This should help both with a reduction in demolition and

15. Coughlin, "Rehab Tax Credits Still Alive And Kicking."


construction costs and with diminished processing time and requirements by government agencies responsible for oversight. It should also help to avoid philosophical issues raised with radical changes proposed for historic buildings. Many of the buildings considered in this study already have a residential use so the cost factor of architecture can be limited. It is also advisable to use an architect who has had experience with Tax Act projects.

Developers who insist that historic rehabilitation is quite expensive may be considering only a heavy investment such as "gutting." They may be listening to contractors who insist that this technique is preferable regardless if the new use is harmonious with the existing plan. "They maintain that it is easier for them to start putting completely new materials back into a bare shell so they do not have to worry with fitting new against existing on a daily basis." One way to avoid code problems is not to do a "gut rehab." In that case, new materials merely have to meet construction codes. Once a building is gutted, code officials have more justification in requiring that the rehabilitation meet modern standards.

Proponents of rehabilitation maintain that "renovating what is already built can prove substantially less costly - up to one-third less - than building anew."


23. Werwath, "The Price of Regulation."

Interestingly, Donovan Rypkema found that preservation advocates were overstating the cost differential between rehabilitation and new construction. While there is a savings in rehabilitation, particularly when the cost of demolishing an existing building is included in new construction estimates, "This saving seems to be much less than the '25 to 33 percent' that has been the conventional wisdom of preservationists, however." Citing instead a savings of 5 to 10%, Rypkema asserted that he could find no savings to favor rehabilitation over building on an unbuilt site. Of course, in San Francisco, as in many cities, this comparison is largely irrelevant. Rypkema concluded that:

The components of the building process that can add significantly to rehabilitation costs are: interior construction, mechanical systems, elevators, architect, and contingency.

The components of the building process that are likely to be less expensive in rehabilitation are: foundations, superstructure, roof, and exterior walls.

"The data confirm that, although adaptive use is not always cheaper than new construction, the cost of adaptive use falls within the range of new construction costs."

While all Tax Act projects must receive certification, "the fact [is] that the lucrative financial benefits in the investment tax credit . . . may attract investors and developers whose experience with and sensitivity to renovating historic buildings are less than optimum." Projects seek to use the building in a way which makes economic sense, but which may lead to the destruction of historic fabric. Since the purpose of the program was economic recovery, and "most of the projects would not have been

27. Ibid, 94.
30. Bruegmann, "What Price Preservation?,” 16 - "...many of the new uses require great changes in the building's original fabric and character."
undertaken without the tax credits," state and federal reviewers have to mediate between often conflicting goals of encouraging the use of the ITC and discouraging projects which may make economic but not preservation sense. The Park Service and SHPO should provide alternatives rather than just turning down projects. For example, since rehabilitating a historic structure for the ITC has as a primary goal "Restoring visual integrity," the reviewers must recognize that there are times when deterioration, removal, or past repairs of architectural detailing is so severe that "the inability to find proper replacement materials, the high cost of original materials, and the lack of suitable craftsmanship may hinder a project." Reviewers should consider that costs can be reduced by using proper substitute materials, when appropriate, while "maintaining a structure's architectural character." Both installation and manufacturing costs can be reduced.

Some of the perception regarding higher rehabilitation costs might be the confusion between "restoration" and "rehabilitation." While there are some similarities, particularly when undertaking a certified rehabilitation, the high cost of restoration should not be applied universally to rehabilitation efforts. A recent article in *Historic Preservation News* reminded that "Preservation . . . is not synonymous with restoration,

31. Austin J. Jaffee, "The historic preservation movement: The myths," *Real Estate Accounting & Taxation*: 79. See also William E. Parrish, "Management of Cultural Resources at the Local Level," in Johnson and Schene, *Cultural Resources Management*, 150 - In a survey conducted by the Park Service in 1983, prior to the reduction of the ITC from 25% to 20%, 64% of the developers who had completed historic rehabilitations said they would not have attempted their project without the ITC.


33. Ibid, 38.

34. Ibid.

35. Fitch, *Historic Preservation: Curatorial Management of the Built World*, 84 - "Until recently, the terms 'preservation' and 'restoration' have been used almost interchangeably." See also Jaren, "Passive income and tax changes curtail activity; but renovation, reuse viable in overbuilt urban areas," *National Real Estate Investor*: 110 - James Levi, President of Value Properties, Inc., New York, "is quick to note the difference between restoration, rehabilitation and adaptive use - all types of renovation."
and that keeping the supply of dense, urban houses, "may . . . require flexibility on the part of authorities." The certification process for the ITC will, in practice, allow some room for compromise over economic issues, particularly when the choice is between rehabilitation through the ITC and no rehabilitation at all. "Both state and federal reviewers would much rather grant a variance to the Secretary's Standards than cause a project to be abandoned because of the cost of compliance."

While it would seem logical to combine the low-income and historic preservation credits, "the 1986 Tax Reform Act provisions made joining of these two tax credits economically unattractive." This point is a little too simple, for the two credits can provide different economic benefits. While it is true that there needs to be some reduction in credit granted if both credits are used and the full value of each cannot be realized, "this allows a developer of low-income housing to realize the amount of the rehabilitation credit in the first year rather than over 10 years." If developers consider using the LIHTC alone, there are also problems in combining federal subsidies or tax-exempt bond proceeds with the LIHTC. If these two forms of support are used, the LIHTC's present value is reduced from 70% of a building's qualified basis to 30%. Joel Rubenzahl, Executive Director of Community Economics, Inc., points out that the LIHTC is not sufficient to do affordable housing rehabilitation in California. With the


39. Sally G. Oldham, Jayne F. Boyle, and Stuart M. Ginsberg, A Guide to Tax-Advantaged Rehabilitation, Washington, D.C.: National Trust for Historic Preservation, October 1986), 16 - "The basis with respect to which the credits are allowed must be reduced by the amount of any rehabilitation credit for which the property is eligible."

40. Buckley, "Housing Developers and Preservation Groups Search For Some Common Ground," Heritage Newsletter: 7

State LIHC, this can be increased to a more beneficial level. He estimates that the ITC pays for about 9-10% of construction costs. In 1990, twelve per cent of the ITC projects also used the LIHTC.

To dismiss the historic rehabilitation tax credit out-of-hand is a mistake, for there are recognizable benefits even post-1986 tax reform. Many "soft" costs and fees associated with a rehabilitation can be counted toward the substantial rehabilitation requirement including construction interest and taxes, architectural and engineering fees, legal and professional fees, developer's fee, and general and administrative costs. ITC reviewers are concerned about the quality of the rehabilitation, and do not worry about the money spent as long as the substantial test is met. LIHTC reviewers, on the other hand, may not allow some expenditures if they exceed low-income standards. By selecting carefully, expenditures can be allocated to the credit most likely to approve their inclusion. There are some real financial incentives to historic rehabilitations such as that the effective savings rate increases with higher qualified expenditures, the ITC combined with depreciation exceeds the benefits of depreciation alone, the 20% credit allows additional expenditures without incurring any real additional costs, and the ITC reduces equity at risk.

Explanations of how these techniques work are provided in the


44. David C. Grunenwald and Judy Kitchen, "Preserving America's heritage: The rehabilitation tax credit," Real Estate Accounting & Taxation vol. 2, no. 3 (Fall 1987): 7.


46. Grunenwald and Kitchen, "Preserving America's heritage: The rehabilitation tax credit," 9-10:

The more the qualified expenditures, the greater the effective savings. If acquisition is constant at $100,000:
footnotes. The "Economic Analysis of Chinatown Historic District Designation" concluded that:

* The rehabilitation of the building and the use of the historic tax credit increased the value of the investment for the owners.

* The value of the tax credits increased as the amount of passive income of the building owner increased.

* Corporations, without the restrictions on active and passive income, enjoyed the largest benefit from the tax credit.47

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The ITC plus depreciation is greater than the benefits of depreciation alone. The present value of tax benefits:

Building 1.
$1 million of new construction, 31.5 year straight-line depreciation, without the ITC - $80,638.

Building 2.
$250,000 of acquisition cost, $750,000 historic rehabilitation, 31.5 year straight-line depreciation, 20% ITC, and 100% basis reduction of ITC - $204,906.

Spend a little more at no real additional cost:

Plan A: Buy a historic building for $100,000 and spend $80,000 to renovate. The cost is $180,000.

Plan B: Buy the same building and spend $100,000 on renovation. The cost is $200,000 less 20% or $20,000, leaving the cost at $180,000.

The ITC reduces equity at risk:

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In discussion both with developers and preservationists, it became apparent that the need to exceed the cost basis in order to qualify as a substantial rehabilitation is a problem.48 By requiring the rehabilitation for the ITC to be equal to the cost basis of a building or at least $5,000, whichever is greater, developers can over-restore a building. This can be detrimental for the developer may spend more than he needs to attract tenants.49 It may also mean that overly intrusive work may damage important historic fabric.50 An important point to remember when contemplating the usefulness of the ITC is that the adjusted basis which needs to be exceeded includes the building but not the land value. In San Francisco, where the land value generally is a high percentage of property, this is especially critical. Chinatown, for example, has a land to value ratio approaching 75% land and 25% improvements.51

Fortunately, there are ways to reduce the cost basis of a building in order to meet the substantial rehabilitation requirement of a historic rehabilitation. Tools include facade easements through which a landowner claims an income tax deduction and reduces the value of the property by an amount approaching 10% in giving up development rights and agreeing to maintain the facade in perpetuity,52 and Mills Act contracts which provide owners property tax relief for agreeing to maintain a property in its existing state for a ten year period.53 Facade easements and local property tax

48. McGuire, 17 - "... the tax law is biased against recently acquired buildings, regardless of their historic or architectural merit. The tax advantages are easier to claim for properties which have been in current ownership for a substantial time. Thus it is more difficult for an investor to purchase a building at the market price, and then attempt to rehabilitate it and get the historic tax credit."


50. Richard W. Longstreth, "Preservation and Design," OZ vol. 4 (1982) - "Over the past few years, thousands of buildings have been butchered in the name of preservation, retrofit, and other trendy labels."


abatements were combined with the ITC in thirty-one per cent of the projects in the most recent compilation of statistics. One reason not to designate historic buildings locally is that doing so could prevent the tax benefit of donated facade easements. If local protective measures reduce a property's value by limiting the development potential, then it would be difficult to argue that the placement of a facade easement on the property would cause any further reduction. Other ways to reduce the cost basis involve control of the property. Examples are an in-kind exchange, partnership with the building's current owner rather than purchase, buying a building that has recently been partially rehabilitated, and taking a long-term lease on a building rather than buying it. The point is that there are ways to work with the ITC.

Placing restrictions on property may cause a liquidity issue as credits, either for the historic preservation or for low-income housing, include provisions preventing sale, transfer, or change in use or include recapture or other unattractive penalties. Most housing loan, grant, and tax-credit programs mandate that a certain proportion of units be restricted to low-income residents with both the California and federal LIHTC having to be in place for 30 years even though the federal has a 15 requirement in other states.

Only by having an open communication, can project sponsors and reviewers hope to avoid arguments. Steade Craigo of the California State Historic Preservation Office feels that developers do not provide his office with enough or timely information to prevent disputes. "In many instances, developers are not fully cognizant of the program's

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56. Avi O. Liveson, "Rehabilitation of older buildings can still result in a substantial tax credit," Taxation for Accountants vol. 40, no. 1 (Jul 1988): 28-32. See also Jaffee, "The historic preservation movement: The myths." 79 - ". . . it is also possible for tax-exempt organizations such as colleges and universities to qualify for rehabilitation credits through a sale-leaseback arrangement."
historic preservation requirements; some assume that it is only a rehabilitation program. Such an incorrect assumption normally leads to misunderstandings and complaints."57 Michael Crowe, Architectural Historian in the Western Regional Office of the National Park Service and a member of San Francisco's Landmarks Preservation Advisory Board, worded it more confrontationally: "It is a preservation credit, and if the developers aren't interested in preservation they should not be applying for it."58 This belligerence has caused problems as individuals and organizations cannot deal with a bureaucracy which is unwilling to deal. "It would be tragic . . . if . . . our own preservation disciplines were to succumb to the intellectual rigidity and conservatism which so often follows acceptance and success."59 The Park Service has recognized that there is a problem of consistent application of the Secretary of the Interior's Standards60 in the different regional offices of the National Park Service. In an effort to correct this problem, the Park Service publishes technical bulletins and other guidelines and holds national training sessions for its staff.

Just as there is confusion with the ITC, restrictions and conditions of historic commissions help to raise the cost of housing in some people's minds. Art Sullivan of Bridge Housing, Inc. related that, by following the wishes of a commission to retain a building for a community center, fewer units of low-cost housing could be built on the land. While he recognized that other social goals have an importance, he wanted to be


58. Michael Crowe, National Park Service, Western Regional Office, interview with author, March 14, 1990. He also stated that the complaints people have about the ITC are not about preservation, but about other elements of the law.


sure to make the point that respecting one meant that the other could not be met as fully.61

One of the frequent complaints is that historic commissions insist on the retention of entire buildings or portions of buildings. Depending on the area of a city, the more appropriate target for criticism would be zoning regulations which may limit development potential.62 Many times, those not used to the decisions of historic commissions see the actions taken as capricious or arbitrary. However, some of the standards are meant to protect the buildings from long-term damage or decay. Examples include sandblasting of exterior brick walls, removal of plaster on interior walls, painting of historically unpainted surfaces, and installation of artificial siding. The ways these harm a building are demonstrable.63

Is it true that historic designation means that there will be greatly increased governmental review? Local historic review commissions are included in governmental land use controls which are considered to raise housing costs through fees, processing time with duplications, and arbitrary interpretation of ordinances and codes.64 Doug Yates of the National Low-Income Housing Coalition said that he helped to disrupt the activities of University of Virginia architecture students when they began a project of


62. McGuire "Economic Analysis of Chinatown Historic District Designation," 4. See also Redmond, "Brad Paul's burden," The San Francisco Bay Guardian, 16 - "By rezoning the Tenderloin and Chinatown for residential, with a reasonable height limit, we took some of the speculative air out of these markets."


recording the historic areas of Richmond. The fear was that such studies would lead to historic designation. Nevertheless, a study of applications to the San Francisco Landmarks Preservation Advisory Board shows that the average time for approval of projects was three weeks in 1987 and that the various departments responsible can conduct their reviews simultaneously.

The National Register has assumed a reputation of hindering ITC projects. "... it appears ... that the register's chief strength is its ability to cause long and costly delays." The federal and state reviewers operate under time limits which could last as long as 120 days; these time limits are not mandatory, though. "Qualified states" under federal regulations can conduct the entire review process in 45 days. Willis Baird, who replaced Art Sullivan as the development project manager of the Hotel Don, stated that "the name of the game is responsiveness." His complaint involved problems he had with the masonry restoration on the Hotel Don. As soon as he noticed that a wall was bulging, he began working on how to make appropriate repairs. Even though he was assured that the process on approving mortar would take a month, he could not find gravel which met the standards of the SHPO and the delay lasted six months.

Even when past decisions have been published, as in the case of Interpreting the Secretary of the Interior's Standards for Rehabilitation, there is a disclaimer that past


66. McGuire, "Economics of Chinatown Historic District Designation," 5. See also Listokin Living Cities. 45 - "Action on these applications is reportedly swift. It usually takes less than one month for a petitioner to receive a Certificate of Appropriateness, although considerably longer periods of from four to six months and beyond have been reported. Eighty percent of those surveyed reported that almost all applications were approved; in the remaining cases the percentage approved was considerably less. The reasons for delay or denial range from petitioners not being prepared correctly to red tape to substantive issues such as the planned alterations not being in conformity with the governing standards."


decisions should not be taken as a guide for future action. The developer of Mercy Family Housing in San Francisco has stated that, given his acknowledged inexperience with historic rehabilitation, he would have appreciated a "pro-active" State Office of Historic Preservation which would have told him in advance allowable interventions which would not risk losing the ITC. Instead, he had to produce several different possibilities to be chosen by the State Historic Preservation Office, incurring increased design costs all along the way.  

Ward Jandl of the National Park Service acknowledged that "problems with the Western Regional Office are well known. Often the office has been too strict, not flexible, and has not given enough guidance." Peter Werwath has also called for more explicit standards to be produced so that developers can know what a commission insists upon.  

Taken to an extreme, nationally prominent architect Stanton Eckstut "believes you can get any developer in America to do anything as long as you give them certainty. Give them exact specifications of brick or window type and they will do it." The issue is that they are not certain they will get approval if it is left too open.  

Others have warned against publishing standards or giving too explicit instructions. "In a period when there is little consensus about what constitutes good design, reducing architectural concerns to any kind of rule system is exceptionally tricky." One area which could become more uniform without significant problems is


73. Stanton Eckstut, interview with author, Philadelphia, February 28, 1991. See also Meeting America's Housing Needs Through Rehabilitation of Existing Housing and Vacant Buildings, 21 - "The program needs to be expanded, regulations simplified and interpretations rendered consistently to encourage private investment."

the financial packaging. Most projects need to secure multiple layers of financing and the process should be made "rational."  

Still, publications from the Park Service do give a sense of how one should proceed with a rehabilitation. There are general rules which apply and which are embodied in the Standards including: (1) have documented evidence, (2) do not try to add where the addition might appear as falsely historic, (3) retain character-defining elements, and, (4) make work consistent with the historic character of the building. "If it is a historic building . . . you want to preserve those qualities that made it historic, whatever its new use is."  

Perhaps it would help to have more illustrations included with the Standards, but that type of explanation seems to be more appropriate in other Park Service publications.

Others have complained that "the review process can slow down federal and local rehabilitation programs, and designation can cause inflation in the housing market."  

There is no need for this if the planning process works in advance. Critics who complain about the costly delays of governmental review at all levels are mistaken in their belief that preservation commissions cause undue hardships. "In reality, it is relatively easy to qualify older buildings for the ITC."

Critics also believe that historic preservation seeks to stand in the way of all development and to protect all old buildings at the exclusion of contemporary structures.


79. Jaffee, "Myths of Preservation," 79. See also McGuire, 5 - "It would take a very unusual set of circumstances, and a protracted time period, for the cost of delay for historic review to equal or exceed the value of the 20 percent credit.
This is a mistaken belief for "National Register listing does not mean that an entire building or district is frozen in time and that no change can be made without compromising the historical significance. It also does not mean that each portion of a historic building is equally significant and must be retained intact and without change."\(^\text{80}\)

The Hotel Don, one of the case studies presented here, is an ideal example. Though the final certification has not been received, some the wall openings for the new windows were blocked in entirely or were closed partially to accommodate new windows. The architect, Terry Cox, did not know that this would be happening. The work is, unfortunately, rather sloppy.\(^\text{81}\) If a project does not receive approval from the Park Service, the negative decision can be appealed to Washington, D.C. William Penn Mott, Jr., former director of the National Park Service, has noted that "only 8 percent of those (projects) submitted were denied certification . . . ."\(^\text{82}\) On Part 2 appeals, the decision will be made within 30 days.\(^\text{83}\)

A third area of contention, the application of building codes, can raise costs of both new construction and rehabilitation. To provide low-cost housing, developers must be able to keep costs to a minimum or to have sufficient subsidies to enable them to offer affordable rents. As a result, housing advocates have been trying to demonstrate that some housing standards are unnecessary for life safety.

Building codes were instituted to help raise living conditions to those fit for human habitation; there is a place for their enforcement.\(^\text{84}\) In the United States, 9.5

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82. Jaffee, "Myths of Preservation," 79 - "Clearly qualifying for rehabilitation tax credit status has not been difficult."

million units or 10% of the housing stock is sub-standard in terms of habitability. Since most of these are occupied by very poor people, poverty is an important function in the loss of historic and older buildings since their occupants cannot afford the maintenance costs. 85

Building codes can impact negatively on rehabilitation efforts both for affordable housing and historic preservation 86 by raising the costs greatly through the following:

A. A trigger mechanism can require a major reconstruction of a building as a condition of completing a relatively small renovation project.

B. The code can contain material or technique specifications which are either more expensive than comparable materials and techniques or likely to be beyond the skills of the average do-it-yourself remodeler. 87

Local building officials rely on codes which have a contemporary focus. As codes are revised, out-of-date material is discarded. Without these references, "building officials have no information regarding the fire resistance or structural capacity of archaic materials." 88 Often, conditions based on modern building types are applied to historic buildings. 89 As a result, though the enforcement of building codes is meant to bring violating properties into code compliance and to establish a greater degree of life safety in existing buildings, the result may be quite different. "Present building codes . . . rather


85. Werwath, "The Price of Regulation."


than supporting improvement efforts can often frustrate and even prevent carefully planned upgrading."  

A 1975 committee whose purpose was to review the Massachusetts State Building Codes found that "owners often opt to demolish rather than face the ordeal of clearing the Code barrier." The thought of entering into a rehabilitation project is daunting as "many of the code issues have gotten well beyond health and safety." In addition, life safety issues have not been applied with uniformity. It is difficult to provide truly affordable housing or to justify any rehabilitation, historic or not, on economic grounds if the cost of code compliance increases the project's costs greatly higher. "... often the stumbling block is not financing or marketing the end product, but rather the building code." The Park Service advises sponsors of rehabilitations to work with code officials to find methods of saving significant features and finishes. This warning should be heeded for while the Secretary's Standards cannot override local health and safety codes, "the Department of the Interior - by law - cannot approve rehabilitation projects if significant interior spaces, features, or finishes are lost as a result of such code-required work and, in consequence, the rehabilitation is not consistent with the historic character of the buildings."

It is important to distinguish between building codes for life safety and standards and guidelines for building construction as determined by governmental bodies such as


91. Ibid, 27.

92. Meeting America's Housing Needs Through Rehabilitation of Existing Housing and Vacant Buildings, 6. See also, Greer, The Creation of Shelter, 129 - "We have developed a housing standard that is beyond the reach of affordable housing in any way, shape, or form."


the United States Department of Housing and Urban Development. Structural stability and fire protection are examples of the former while lighting, plumbing, electrical outlets, and cabinet space are the latter. Preservationists concerned with affordable housing can help by addressing the issue of whether "building codes and standards reflect current housing needs, especially among people with low incomes."\(^{96}\)

The code compliance issue is particularly serious in California with both the practical and political need for seismic upgrading. "For the most part, the neighborhoods [with the highest concentration of UMBs in San Francisco] have higher-than-average shares of the population at the lower-end of the income distribution and higher-than-average shares of sub-standard housing."\(^{97}\) As can be seen by the map following this chapter, there is also an overlap with recognized historic areas for historic districts which have been proposed for the Bush Street Corridor and Chinatown.\(^{98}\) Unfortunately, the mandated seismic upgrading of the 20,000 housing units in all the residential UMBs in San Francisco would cause the loss of affordable units either through passed-on costs or through demolition. Additionally, "About 3,000 people work in the commercial space in residential UMBs."\(^{99}\) There needs to be both an adjustment of codes and a high level of public subsidy to finance these strengthening measures. The mere application of new construction codes in retrofitting buildings will not necessarily mean a total protection of life safety.

Even with the burst of rehabilitation activity in the 1980s, there are "many, many historic buildings that are still crying out to be renovated and preserved, maybe through

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98. Chinatown Local Historic District and Lower Nob Hill Apartment Hotel District, nomination applications at San Francisco Department of City Planning.

adaptive use, maybe through continued use. . . . Right now there are some economic constraints, but that probably will change again."100 Until that happens, reviewers have to be sensitive to the needs of developers and housing groups. Still, reviewers have to remember that the ITC reduces tax revenue. The public is entitled to something in return, which is the preservation of an important building. Preservation staff have to be aware of all mechanisms and tools in place at all levels which can help to make a project financially feasible without damaging to the building.

The critical goal of preserving the qualities of historic buildings should not diminish the quality of the homes that are created. The Park Service should apply the Standards for Rehabilitation in a manner that encourages developers to provide a financially sound housing unit that the respects the needs of future tenants.101


CHAPTER IV:
WHERE TO TURN: STATE, CITY, AND PRIVATE RESOURCES

Since the federal government now is doing little to encourage the production of housing except for its tax credit programs, those interested in rehabilitation for affordable housing have been forced to look to states and cities for assistance. While it would be helpful to have the passive loss rules of the Tax Reform Act of 1986 rescinded for the ITC as it was for the LIHTC in 1989, that desire may not be satisfied for some time though there is legislation pending in Congress.¹

Even where there are federally funded programs which could be used, the money is being allocated by the State and cities. Department of Housing and Urban Development programs which continue to assist low-income housing, but which have limited value, include Section 8 certificates issued by a local housing authority to aid with tenant rent subsidy² and the Community Development Block Grant (CDBG). HUD has recognized that CDBG money is a mechanism for combining both preservation and housing interests. "It provides significant resources and maximum discretion to local officials for shaping local programs to meet important national objectives in community development. Historic preservation is one of these..."³ Eligible activities include planning, engineering and design costs, acquisition, property rehabilitation, and code enforcement. The 1990 Request for Proposals for the San Francisco CDBG program had as its first objective, "Increasing and Preserving Affordable Housing."⁴ There was no

¹. Community Revitalization Tax Act, H.R. 796 (Kennelly).

². State of California, Debt Advisory Commission, Role and Use of California Housing Bonds (Sacramento: California Debt Advisory Commission, March 1990), III-16 - "Section 8 certificate programs do not finance housing production; they presume that sufficient numbers of units are available at fair market rents."

indication from this that the $15 million available could not be directed toward the rehabilitation of historic buildings. To assist with securing private financing, HUD also offers insurance to private lenders for historic preservation of residential properties listed or determined eligible for the National Register.\textsuperscript{5}

California recognizes the need for the provision of affordable housing in order to maintain a work force to sustain the state's economic growth and expansion,\textsuperscript{6} and San Francisco recognizes the need for preserving neighborhood character\textsuperscript{7} and for providing enough housing to meet demand.\textsuperscript{8} To integrate housing activists' goal of preserving low-income housing with historic preservation's interest of keeping building stock intact and useful would seem to respond to these governmental priorities.

\textbf{STATE HOUSING PROGRAMS}

Much of the recent housing production in California has, for economic reasons of lower costs and available land, taken place away from "\textit{the major metropolitan areas with the lowest vacancy rates}\textsuperscript{9}" and has focused on new construction. With the ever-growing problems of transportation and loss of open space and with older housing in

\begin{footnotesize}
\begin{enumerate}
\item "Public Notice, Request for Proposals, 1990 Community Development Block Grant Program," Copy received at City and County of San Francisco Planning Department, July 19, 1990.
\item California Debt Advisory Commission, \textit{Role and Use of California Housing Bonds}, IV-3 - "The housing affordability problem is a two-edged sword: while it represents the negative side effect of a growing economy, the persistence and expansion of the housing affordability problem may eventually stunt economic growth, or cause major realignment of where people work and/or live through natural market and economic forces." See also Rosen, \textit{California Housing Markets in the 1980s: Demand Affordability, and Policies}, 6 - ". . . a set of housing policies that reduces the relative cost of housing in California can increase economic growth in the state."
\item Proposition M.
\item San Francisco, Mayor's Housing Advisory Committee, "Affordable Housing Action Plan," 11 - ". . . there is common agreement that the economic and environmental health and vitality of San Francisco depend upon developing housing solutions. At their core, the primary contributor to the problems has been a complete imbalance in the supply of and demand for affordable housing . . . ."
\item California Debt Advisory Commission, \textit{The Role and Use of California Housing Bonds}, III-5.
\end{enumerate}
\end{footnotesize}
need of rehabilitation, there needs to be a fundamental shift in favor of directing financing toward urban areas both for new construction and rehabilitation. The California Statewide Housing Plan recognizes the importance of rehabilitation of existing housing stock which "represents a major established resource,"10 for "New construction represents less than five percent of the total housing stock, even in years when new construction has achieved record levels."11 Many federal, state, and local policies do, in some ways, coincide with a preservation and affordable housing combination. Particularly in San Francisco with such high housing costs, a large number of older buildings in need of rehabilitation and seismic retrofit, and so little land area available for new construction, the use of existing housing and conversion of non-residential buildings could help to meet the State's goals. Since so much of the older housing stock is occupied by low-income people, major repairs cannot be financed from rental income.12 The State can continue to assist since "... virtually all of the targeted units financed since the 1986 Tax Act are for very low income households."13

The Division of Community Affairs (DCA) is the principal housing and finance branch of California's Department of Housing and Community Development (HCD).14 The 27 programs of loans, grants, and technical assistance allocate over $225 million per year. Some programs provide relief for disasters such as the 1989 Loma Prieta Earthquake, some allocate funds from state grants, while others administer voter-approved bond programs such as the California Earthquake Safety and Rehabilitation Program (Proposition 77) and the Housing and Homeless Bond Act of 1988 (Proposition

11. Ibid.
12. Ibid.
14. State of California, Department of Housing & Community Development, "Loan and Grant Programs for the Division of Community Affairs," i.
The programs run by DCA can be instrumental in reusing historic structures since so much of the money is geared toward bringing aging buildings up to code, correcting seismic insufficiency, or rehabilitating low-income housing. Some of the funds go directly to sponsors of housing projects while others are intended for local agencies which then disburse the funds. The programs most appropriate for use in providing low-income rental housing within the ITC program would be:

* California Natural Disaster Assistance Program for Rental Properties (CALDAP-R)
* California Housing Rehabilitation Program - Rental Component (CHRP-R)
* Predevelopment Loan Program (PLP) and Natural Disaster Component

There are also programs for special populations such as handicapped (Permanent Housing for the Handicapped Homeless Population - PHHHP), senior citizens (Senior Citizens Shared Housing Program - SCSHP), and families (Family Housing Demonstration Program - FHDP). The CALDAP-R program has an additional preservation focus for it reduces the likelihood of demolition of historically significant buildings following a natural disaster. Developers can use these State grants and declare the expenditures toward the substantial rehabilitation requirement of the ITC.¹⁶

The use of state funds do have some restrictions, still, such as that "the CALDAP-R loan is limited to the amount necessary to cover costs not fully covered by other available funding sources."¹⁷ Margaret Dole, a loan officer with CHRP-R,

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¹⁵ Ibid, 5.

¹⁶ While federal subsidies and proceeds from tax-exempt bonds do lower the LIHTC which can be claimed, use of state funds and the bonds financing has no such negative impact on the ITC. Expenditures made with these funds can be claimed as qualified expenses. William Delvac, interview with author, May 3, 1991. See also Paul E. Klein, "The Rehabilitation Investment and the Low-Income Housing Credit After the Tax Reform Act of 1986," The Journal of Real Estate Taxation vol. 14, no. 3 (Spring 1987): 291-92.

¹⁷ State of California, Department of Housing and Community Development, Division of Community Affairs, "Guidelines for Rental Property Rehabilitation Loans: California Natural Disaster Assistance Program for Rental Properties (CALDAP-R)," May 1990, 3.
acknowledged that if a project raises equity for the ITC through the syndication of a limited partnership, her department will ask the owner to lower the CHRP-R or some other loan by having the equity flow back to the project to lessen the debt and make the endeavor more fiscally sound.\textsuperscript{18}

Another State agency, The California Housing Finance Agency (CHFA), was created by the State Legislature in 1975 "to assist in meeting the State's need for decent, affordable housing to low- and moderate-income persons and families."\textsuperscript{19} The money raised by issuing tax-exempt bonds is lent, either indirectly through private lenders or directly to individuals at low interest rates.\textsuperscript{20} By receiving a lower interest rate on the financing, sponsors can be persuaded to build low-income rental housing and can offer lower rents to the tenants.\textsuperscript{21} In this way, rehabilitations financed through tax-exempt bonds can serve to replace the subsidized housing at risk of loss discussed in Chapter II by requiring owners to offer reduced rate rents in exchange for bond proceeds.\textsuperscript{22}

Although the CHFA works mainly with new construction and in the majority of instances with the purchase of single-family homes, there are programs of particular interest to rehabilitation of buildings for rental housing. Among these are Multi-Unit Rental Housing Revenue Bonds, Multifamily Rehabilitation Revenue Bonds,\textsuperscript{23} and

\begin{itemize}
\item \textsuperscript{18} Margaret Dole, loan officer, California Housing Rehabilitation Program - Rental Component, Division of Community Affairs, California Department of Housing and Community Development, interview with author, May 3, 1991.
\item \textsuperscript{19} California Housing Finance Agency, Annual Report 1988-1989, 6.
\item \textsuperscript{20} The CHFA 1988-1989 Annual Report states that $586 million in bonds were sold in the fiscal year which ended June 30, 1989. (p. 8)
\item \textsuperscript{21} California Debt Advisory Commission, \textit{Role and Use of California Housing Bonds}, III-1, IV-1, IV-3, and IV-9.
\item \textsuperscript{22} Linda M. McKenna, "New Financial Packaging Keeps Affordable Housing," \textit{Mortgage Banking} vol. 49, no. 1 (October 1988): 129-30 for an example of low-income housing which was preserved using tax-exempt bonds.
\item \textsuperscript{23} CHFA Annual Report 1988-1989, 34.
\end{itemize}
Housing Revenue Bonds (Insured). While the CHFA "Multifamily Lending Manual" does contain warnings that the IRS will not allow money from tax-exempt bonds to be used for the acquisition of existing property, "Federal tax law does allow the utilization of tax-exempt bond proceeds in a rehabilitation provided that at least 15% of the total development cost is for expenses related to the rehabilitation." CHFA is financing a 41-unit rehabilitation in Los Angeles from its Housing Assistance Trust program which means that the proceeds will derive from the Agency's own resources rather than by the issuance of tax-exempt bonds.

As important as bonds can be, some caution is necessary. "Housing bond authority, by itself, will not result in the production of any housing unless there is demand for the debt capital that the program offers." When the ITC was reduced from 25% to 20% by the Tax Reform Act of 1986, the allowable limit for bonds was also restricted, making the competition for bond allocation severe and the ability to raise money this way restricted. "It should be noted that multifamily housing bond issues on behalf of qualified 501(c)(3) nonprofit corporations are not included under the private activity bond ceiling and thus do not require an allocation . . . ." Even a for-profit developer of low-income housing will earn priority in the allocation process, for the Allocation Committee wishes to promote multi-family developments which provide long-term affordable housing.

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24. Ibid, 35.


26. Frederick H. Noteware, Director of Programs, California Housing Finance Agency, letter to author, October 3, 1990. The development, called Columbia House, is in Los Angeles. It is a forty-one unit rehabilitation of an early-1900s luxury hotel which had been converted to residential in the 1940s.


projects which may be beyond the capacity of most non-profit development corporations. Organizing an extensive rehabilitation program of historic resources into a single bond issue could be successful; however, "In many cases, tax-exempt bond financing alone does not make a project economically feasible."  

STATE PRESERVATION GOALS

How do historic preservation and affordable housing goals overlap? Among other State policies, the allocation of state and federal low-income housing tax credits seeks:

To enable substantial rehabilitation of existing rental housing in order to prevent losses to the existing supply of affordable apartments;

To prevent the loss from the existing stock of low income rental housing of those apartments under expiring contracts with federal agencies or subject to prepayment which are at risk for conversion to market rate apartments."  

San Francisco's Unreinforced Masonry Buildings (UMBs) have historic significance and contain "a large proportion of [San Francisco's] . . . lower-rent housing stock."  
The San Francisco Landmarks Preservation Advisory Board holds that "most UMBs are historic structures," while the State Historic Resources Board feels "that 20 to 30 percent of the URM's are historical." These historic resources which provide affordable housing and which could take advantage of the ITC, the State Historical Building Code, and other techniques reserved for historic buildings are at risk of demolition. Of the 2080 UMBs in San Francisco, roughly 1400 are in the State Historic

30. California Debt Advisory Commission, Role and Use of California Housing Bonds. IV-12.


33. Ibid, 1.

Resources Inventory with 16 listed in the National Register and three more determined eligible. 290 buildings have been nominated to the National Register. By reviewing the survey of UMBs issued in November 1990, however, it is apparent that many buildings could qualify for the National Register. Six have been determined eligible and roughly another 400 appear eligible. While it true that some of these buildings would be inappropriate as housing, the historic resources already recognized by the State and the existing and pending district nominations are able to use the historic rehabilitation tax credits and the State Historical Building Code without having to undergo the process of placing a building or a district on the National Register. While not that taxing in many cases, it is one less barrier to overcome to convince developers and housing activists to look to historic preservation.

The 1990 goals for the State Office of Historic Preservation reflect a recognition that to be effective and to have preservation accepted more widely, the SHPO must embrace a broader perspective. Only by joining with other public policy objectives can the limited staff and other resources be used most beneficially. The aims of this thesis are important to the SHPO as well. Priorities include:

- **Historic Preservation and Housing Partnership** - a partnership to expand the supply of low income, transitional and emergency housing using suitable historic properties.

- **Historic Unreinforced Masonry Buildings** - The Loma Prieta earthquake of October 17, 1989 underscored the critical need to establish and implement fiscal and technical strategies for retrofitting and conserving these properties for various purposes including low income housing.


36. J. Randall Cotton, "Carrots and Sticks: Restoration Incentives & Preservation Regulations," The Old House Journal vol. XVI, no. 4 (July/August 1988): 22. See also McGuire, "Economic Analysis of Chinatown Historic District Designation," 6 - "It would take significantly less time and expense to process an application if the building is located in a district which has already been designated" and is on the National Register.

Other State preservation tools are presented elsewhere in this thesis. Briefly, they include the Mills Act for reducing property taxes in exchange for a ten-year contract to maintain a historic property, conservation easements, and the Marks Historic Rehabilitation Act to allow bonds to be issued for rehabilitation of historic commercial property.38

CITY HOUSING PROGRAMS

"The Mayor's Office of Housing does not establish policy, but it is the primary vehicle outside of Redevelopment areas for the allocation of funding and provides the technical assistance required to assist both non-profit and for-profit corporations undertake affordable housing rehabilitation and new construction."39 In addition to operating as the conduit for federal and state programs such as Community Development Block Grants and CHFA housing bonds, the Mayor's Office of Housing administers roughly a dozen other initiatives to assist in housing development and affordability. Some of these are the Office-Affordable Housing Production Program in which office developers are required to contribute to housing construction, the Hotel Room Tax Low Income Housing Fund to maintain the current stock of residential hotels and to provide replacement for those units which have been lost, and the Housing Affordability Fund which seeks to enhance housing where other programs fall short. Recent rehabilitation projects have included the Swiss American Hotel to which the National Trust also contributed, the Whitehall Apartments known also as the YMCA hotel which received the ITC, and the Madrid Hotel.40

40. City of San Francisco, Mayor's Office of Housing, "1988 Housing Division Overview," copy from MOHED.
CITY PRESERVATION

San Francisco's municipal policies have increasingly indicated its broad desire to maintain the cultural heritage of the city and to provide for a quality of life which includes affordable housing. Though battles have been lost on individual landmarks and even on broader areas, the Planning Department does seek to preserve San Francisco without stifling new development completely. From the Downtown Plan\(^{41}\) which controls the development in the City's business district to Proposition M which limits the high-rise office building construction and strengthens neighborhood conservation, the City has instituted policies and codes which have an overtone of preservation theory. The problem is that these policies can be overridden by politics and economics and depend, as well, on adequate budget provisions for implementation and oversight.

Included in the City Codes are Article 10 and Article 11 which give legal stature to preservation concerns.\(^{42}\) The first created the Landmarks Preservation Advisory Board and defines its powers over City landmarks and rated buildings. There are weakness with this Article, the most critical being that stays of demolition or inappropriate renovation last only 180 days, with a one-time 180 day extension possible by action of the Board of Supervisors. The Landmarks Board is advisory to the Planning Commission which can overrule the decisions. Article 11 is the Downtown Plan, which is of less concern to this study since there are few appropriate housing sites located within the area circumscribed.

The San Francisco Master Plan contains elements relating to such factors as transportation, commerce and industry, residence, and recreation and open space. Typical preservation-conscious objectives and policies in the Plan are:

\(^{41}\) Passed in 1985.

\(^{42}\) Passed in 1968 and 1988.
* Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development. (Policy 4, Objective 2 - Urban Design Element)

* Preserve, consistent with life safety, the architectural character of buildings and structures important to the unique visual image of San Francisco. (Objective 2 - Community Safety Element)

* Preserve landmark and historic residential buildings. (Policy 5-5 - Residence Element, Proposal for Adoption)

These preservation policies do have a clear impact on affordable housing concerns. If the City can direct resources toward preserving buildings which house or could house low-income residents, affordable housing goals will be met as well. One of the real flaws in the Master Plan is that the proposed Preservation Element has yet to be adopted even though a draft has existed since December 1987.

Even though the City has a Master Plan which seems to indicate a general support for preservation, there have been cases where preservation lost to another interest. A 1987 study entitled *Historic Preservation in San Francisco: An Evaluation of Programs Affecting Historic Resources* which was prepared both for the National Trust and the City Planning Department, illustrated the practical limitations of the Master Plan, recognizing that planning involves the compromise between competing interests.43 The study identified objectives and policies supporting historic preservation and those conflicting objectives of the same elements.44 Given the low level of preservation education in the City and the powerlessness of the Landmarks Board relative to the Planning Commission, it is not difficult to recognize that preservation has to fight to succeed. With the inadequate staff and limited surveys, much of the work of the Board involves responding to impending destruction of historic resources rather than long-range planning. Since the City has few designated landmarks, it is often difficult to justify


44. Ibid, Tables 1 through 6 following page 20.
saving a fairly minor building as opponents seek to compare the subject property with a prominent landmark to discredit the landmarking effort. The study concluded that the Preservation Element could help to ameliorate these concerns.

One possible avenue for the encouragement of historic preservation by fiscal incentives has not been taken advantage of by San Francisco even though the State authorization exists. The City Assessor neither offers nor administers a program of property tax breaks which could reduce property tax obligations for a specified time rather than having a property reassessed at a higher immediate rate following rehabilitation.45 There are recognized problems or disincentives to such a program - What properties will qualify? Will the reduction in taxes outweigh the benefits of the rehabilitation? Will displacement and gentrification be encouraged?46 It should be noted that local tax incentives have limited, but important value. "Thus, tax incentives will not be potent enough to turn losers into winners, but can move almost-viable rehabilitation projects into the feasible category."47

PRIVATE ORGANIZATIONS OPERATING NATIONALLY48

The number of private and quasi-public programs is vast; those identified here are a selection which have a commitment to preservation and rehabilitation of housing. In terms of dollar volume of activity for low-income housing, the Federal National Mortgage Association, known as Fannie Mae, far exceeds every other organization.

45. Matthew D. Ashe, Chief Assistant Assessor, City and County of San Francisco, letter to author, October 6, 1989.


47. Ibid, 58.

48. For a more complete listing of organizations devoted to housing development, a good source is the National Trust's Handbook from the 1989 Conference in Philadelphia.
Begun by Congress in 1938 to provide assistance through enhancing financing liquidity as the country experienced the Great Depression, Fannie Mae is now a public company. A 1989 report issued by Fannie Mae states that the corporation is the third "largest is the country in terms of assets and also the largest source of conventional mortgages."

Of particular interest is Fannie Mae's Office of Low- and Moderate-Income Housing. Since 1987, the Office has committed $3.5 billion dollars through various initiatives. Areas of involvement include helping to lower the costs of borrowing funds by public agencies, providing credit enhancement for tax-exempt bonds, purchasing loan packages, short-term lease-purchase programs for rehabilitating tenant-occupied properties, purchasing multifamily loans of rental housing projects, and investing in projects through the purchase of the low-income housing tax credit. Other affordability initiatives are being developed by this office.

Another corporation created by Congress and also existing as a private, for-profit company is NHP, Inc. Through its two main affiliates, the National Housing Partnership and the National Corporation for Housing Partnerships, the corporation develops, owns, and manages multifamily units worth almost $3 billion. NCHP participates in joint ventures by contributing capital and securing financing and other equity. The Chairman, President, and Chief Executive Officer of NHP, Inc., J. Roderick Heller III, is a Trustee of the National Trust for Historic Preservation and is committed to the preservation of low- and moderate-income housing units.

The National Trust for Historic Preservation, organized by Congress and funded in part by federal grants, has moved into supporting the development of low-cost housing. As a response to the long-held charge that preservation is the domain of the

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49. Fannie Mae, "Housing America," 3.

50. Fannie Mae, "Low- and Moderate-Income Housing Initiatives."

elite, the National Trust's 43rd Annual Conference in Philadelphia in October 1989 had as its centerpiece a track entitled, "Affordable Housing in Older Neighborhoods: Multiple Strategies."

The National Trust has been active in providing seed money and other funds for projects which can be leveraged into greater private and public financing. Among the funds operated by the Trust are the Inner-City Ventures Fund, the National Preservation Loan Fund, the Critical Issues Fund, and the Preservation Services Fund. Additionally, the Trust took on a neighborhood revitalization project in Springfield, Florida which, although some displacement occurred, has been regarded as a model for future efforts.

Another organization which assists in fighting neighborhood decline in the Neighborhood Reinvestment Corporation. Established by Congress in 1978, NRC promotes "reinvestment in older neighborhoods by local financial institutions in cooperation with the community, residents, and local government."52 Through its network of local Neighborhood Housing Services, the program operates nationwide and through 1988 claimed to have "directly rehabilitated 88,000 housing units and generated $5.7 billion in overall revitalization."53

Local Initiatives Support Corporation (LISC) was founded by the Ford Foundation in 1980. LISC works with community development corporations toward revitalization by seeking corporate and community funds to support CDC programs. Like NRC, LISC uses the funds it raises to leverage greater resources, "$1 billion of direct investments," through 198854

Other examples of private efforts to assist with the provision of affordable housing include the Community Information Exchange which operates a computer


53. Ibid, 3.

database of technical information on community development in addition to publishing technical bulletins one of which is "Historic Preservation for Low-Income Neighborhoods." The Low Income Housing Fund, based in San Francisco and operating primarily in Northern California with some expansion to the East Coast, helps to identify and secure sources of financing for low-income housing projects. LIHF has a revolving loan fund, packages below market rate loans, guarantees mortgages, subsidizes interest rates, and provides technical assistance to non-profit housing developers.55

CHAPTER V:

SEISMIC AND FIRE SAFETY VS.
THE STATE HISTORICAL BUILDING CODE

One of the most important foci of this study is the immediate need to deal with unreinforced masonry buildings ("UMBs" or "URMs"). The City has surveyed its 2080 UMBs for architectural and historical significance as the preliminary part of an environmental impact report leading to an ordinance on what level of seismic strengthening property owners must achieve. The state has mandated that this occur,¹ and the City's Residential Element of the Master Plan reflects a recognition that this problem must be addressed. "Reduce seismic hazards in unreinforced masonry buildings without reducing the supply of affordable housing,"² may seem to be difficult to accomplish. If the most stringent retrofitting ordinance is passed without sufficient financing assistance, affordable housing will be lost through demolition since the extra costs for retrofitting will be financially infeasible given the City's Rent Stabilization Ordinance and relocation measures.³

A January 1991 letter to masonry building owners from a group called Coalition For Seismic Safety demonstrates that there is resistance to forced upgrading of UMBs.⁴ Whether owners demolish their buildings or can evict tenants in order to carry out


2. City of San Francisco, Master Plan, Proposed Resident Element, Policy 4-2, 87.

3. State of California, Department of Housing and Community Development, "California Housing Rehabilitation Program: Tenant Relocation Guidelines," n.d. See also "Post-Quake Peril to Landmarks," Editorial, San Francisco Chronicle, October 30, 1989, A20 - "... cities have an obligation to provide financial support and tax breaks or they stand to lose an irreplaceable bridge to their past."

4. Copy of letter, January 16, 1991 - "[The City is about to demand that you spend $200,000 - $1,000,000 and more on your building. WHAT DO YOU THINK ABOUT THAT? WHERE WILL YOU GET THE MONEY?! ... WHAT WILL YOU DO WHEN THE LAW TELLS YOU TO COME UP WITH THE MONEY OR ELSE!]"
retrofits, the City's current housing production cannot replace 20,000 units of housing quickly of which ninety-eight percent "are in the higher-density types: apartments and residential hotels." The demolition of these buildings would leave a scar on the fabric of the City and would be quite disruptive for affordable housing. To reiterate, this thesis is limited to examining historic buildings, not for their visual appearance alone, but because these buildings qualify for money or programs which merely old buildings cannot.

As presented previously, preservationists have to contend with building code officials who use outdated, inaccurate, or arbitrary guidelines for determining life safety. "... no historic building should be condemned to destruction or taken out of beneficial use because it does not or cannot comply with the current official code; with expert design and special techniques it can be strengthened." This differs with the belief of many building officials that when a seismic retrofit occurs, "the strengthened building structure should meet the same requirements as prescribed for a new building."

Since "City zoning controls and policies designed to protect the existing housing stock would limit development options open to owners of residential UMBs," and, with the real estate market in the areas with high concentrations of UMBs in San Francisco, the greatest threat to these buildings lies with code enforcement. Unless the City adopts the most stringent retrofitting ordinance, an unlikely scenario where "9,900 housing units would be lost," many of the residential UMBs may not be upgraded given the high costs.

5. Recht Hausrath & Associates, Seismic Retrofitting Alternatives for San Francisco's Unreinforced Masonry Buildings, 33. Additionally, there are 1,125 "small, primarily neighborhood-serving businesses in the ground floors of residential UMBs." Ibid, 26.

6. Feilden, Between Two Earthquakes, 50.


not only of the retrofit but of the Rent Stabilization Ordinance and relocation costs as well.\textsuperscript{10} If there is not sufficient economic incentive and assistance, many of the UMBs at issue in this study may not be strengthened and could be lost through demolition. ". . . as a practical matter, the benefit of the historic tax credit by itself is probably insufficient to cause a Chinatown property owner to rehabilitate a building."\textsuperscript{11} This is why the preservation community must demonstrate how it is possible to use these buildings. ". . . a rehabilitation policy has `good' distributional consequences when it provides for improving housing quality without hindering (and ideally improving) low- and moderate-income people's access to decent rental units and, at the same time, provides the `normal' rates of return to investment necessary to induce landlords to make the improvements."\textsuperscript{12}

Since, as was seen in Chapter IV, so many of the UMBs in San Francisco are historic, this thesis proposes that the focus of the rehabilitation for affordable housing be directed here. Particularly where buildings can employ the variety of tax credits and other programs reserved for historic buildings, it would seem that to dismiss their importance or value is short-sighted. The expense of increasing a property's seismic strength can be prohibitive as there is little economic incentive for property owners. Market rent capability or rent control ordinances may prevent the costs from being passed on to tenants, and financing for the retrofit is a problem. "I have walked into the offices of bank loan officers and they have told me there is no money available for this type of work."\textsuperscript{13} Banks see little reason to lend for this purpose since retrofitting will not

\textsuperscript{9} Ibid, 117.

\textsuperscript{10} Ibid, 77 for how buildings of low rent would be better demolished. California SHPO, "1990 Program Overview," 7 - "Often, retrofitting is an expensive proposition and with land values escalating, many view the seismic enforcement program as an opportunity to demolish an older building and replace it with a facility for which there is a greater demand and a greater margin of profit."

\textsuperscript{11} McGuire, 10.

ensure that a building can be used after an earthquake and does not increase a building's income potential or value.14 While Chinatown leaders fought the local historic district by speaking about life safety and the possibility of imperiling the lives of Chinatown's mainly elderly and Chinese-speaking population if the properties were not strengthened, they disregarded how the existing tax credit programs could be used to bring their buildings to a higher level of safety at a reasonable cost. "Tax credits can ameliorate the expense of retrofitting buildings for seismic safety. The combination of available tax credits, historic, federal low income and state low income, in actual dollars would exceed the required rehabilitation expense."15 There are a vast array of financing mechanisms available. While the competition for these funds may be severe and the bureaucracy unappealing to private property owners, their use needs to be explored.16

The Environmental Impact Report leading to an ordinance in San Francisco on the UMB situation considered the socioeconomic impact of a severe retrofit requirement to increase the level of safety "in the absence of economic assistance that could be considered as mitigation for hardships that are identified."17 There has to be a consideration of displacement of tenants both during retrofit and after as costs may be passed through to pay for the improvements. To mandate the most intensive retrofit for all UMBs without regard for other methods such as filling in windows and tie-bolts might lesson the success of the program. "Requiring reinforcement of buildings can disrupt businesses, displace residents, and force whole neighborhoods into transition. Some


owners will choose to demolish their buildings rather than bring them up to the established standards."18

Building officials should consider the condition of individual buildings and not view all UMBs as a uniform building type. While it is true that UMBs perform less well in earthquakes than other buildings, there are differences in performance based on such factors as level of maintenance, previous earthquake damage, and structure of adjacent buildings.19 "...it has been estimated that some 50 percent of the damage that occurs in an earthquake may be attributed to lack of proper maintenance."20 Less intrusive measures can be employed with these buildings to increase the level of safety in an earthquake without having serious negative impact on the historic resource.21 The survey by the City Planning department illustrates some of the options available to the City and indicates the different performance levels of structures.22

18. State of California, Seismic Safety Commission, California at Risk: Steps to Earthquake Safety for Local Government (Sacramento: California Seismic Safety Commission, Report No. SSC 88-01, January 1988), 14. See also Green, Earthquake Resistant Building Design and Construction, 141: "In each case an effort was made to secure an ordinance that does not create too great a hardship on property owners and still does not involve too great a risk to the general public. Thus these ordinances are a compromise."

19. Feilden, Between Two Earthquakes, 23-24. "The vulnerability of cultural property ... varies widely. This vulnerability derives from the differing characteristics of each particular earthquake, the soil upon which the structure rests, and the characteristics of the structure itself: foundations, intrinsic faults due to form design, lack of bonding, poor workmanship, and extrinsic faults due to lack of maintenance and decay."

20. Feilden, Between Two Earthquakes, 32. See also Alejandro Alva Balderrama, "Earthquakes Problems Related to the Preservation and Restoration of Cultural Property," Paper presented at the International Conference on Soil Dynamics and Earthquake Engineering, July 13-15, 1982, 5 - "...some historic buildings like some modern buildings are weak because they are poorly built or subject to abnormal stress." Copy at ICCROM Library, Rome, Italy.

21. Alva paper. See also Feilden, 52 - "Examination of earthquake damage shows that bonding of walls together at the corners is vital, together with the tying of floors and roofs to walls. The insertion of lightweight tensile reinforcement, with some degree of prestressing to bond elements together, gives the masonry of historic buildings greater earthquake resistant without altering the structural system." See also p. 53, "Considerable strengthening of masonry buildings can often be obtained by grouting procedures of all types using hydrolic limes."

In addition to the financing concerns, the issue of codes has a solution in California. Created originally in 1976 to assist with the preservation of historic buildings in California, the application of the State Historic Building Code (SHBC) is now mandatory for all local building officials. Only by a change of the enforcement provisions in 1985 which made the SHBC mandatory in California, did San Francisco's and Oakland's building officials agree to its use. The Code is promoted as providing relief from strong codes which cause historic fabric to be lost or which raise costs.

The Code is useful in rehabilitation, preservation, restoration, or other work on qualified historic structures for "while existing codes are prescriptive rather than based on performance," the SHBC's "regulations are . . . unique in they are performance-oriented rather than prescriptive." Qualified historical resources include structures "on existing or future national, state, or local historical registers or official inventories, such as the National Register of Historic Places, State Historical Landmarks, State Points of Historical Interest, and city or county registers or inventories of historical or architecturally significant sites, places, historic districts, or landmarks." The number of buildings which could use the SHBC is large.

The Code is intended to give building officials wide latitude in accepting alternative building techniques. The regulations "control and allow alternatives to any and all prevailing codes." Applicants submit requests for use of the Code to local or

23. State of California, Title 24, Building Standards 5, Part 8. Called the State Historical Building Code Board under the establishing legislation, the extension legislation effective January 1991 renamed the Board the State Historical Building Safety Board. The initials "SHBC" will continue to be used for the remainder of this study to indicate the Code.

24. Meeting America's Housing Needs Through The Rehabilitation of Existing Buildings and Vacant Housing, 15.

25. SHBC, 8-2.

26. SHBC, 8-104.

27. SHBC, 8-104.
state building officials which have oversight. A negative decision on applications can be appealed to the SHBC Board which renders a decision. As a result of the few appeals, documentation is limited on the extent of the Code’s use.

Preservationists promote the Code to convince developers and architects that historic preservation can be flexible. Proponents cite that the SHBC can result in lower rehabilitation costs. A promotional flyer issued by the Board states that "the code . . . provides a cost-effective approach to preservation . . . ."\(^{28}\) and one publication noted that "Generally, building owners can enjoy substantial cost savings when rehabilitating a historic structure under the SHBC".\(^{29}\) Since the Board cannot take costs into consideration when making its decision on appeals, however, proof of cost-saving is not available. The current President of the SHBC Board said that to determine the cost savings of the Code would require recalculating a finished project.\(^{30}\)

When asked, architects and developers indicate that there are questions on how effective the Code can be for protecting historic fabric and for lowering costs. Willis Baird, current project manager for the Hotel Don, stated that his rehabilitation was able to take advantage of the Code for retaining an original fire escape, on the narrowness of halls, and on the entrance to the second floor roof. Additionally, the handicapped access requirements were waived.\(^{31}\) Bruce Judd, a former member of the SHBC, argues that the Code does not help as most engineers are unwilling to sign off;\(^{32}\) there is nothing in the Code which limits liability if an engineer were to approve an alternative structural method.\(^{33}\) "Questions of liability for those involved in seismic retrofit have slowed


programs to reduce hazards, and made some design professionals, owners, local
governments, and contractors reluctant to undertake such projects." Judd says the Code
is good on fire exits, corridors, and replacement with archaic materials as long as there is
an equivalent level of safety.

Differences in interpretation of the SHBC do exist. Richard Young of San
Francisco's Bureau of Building Inspection stated that if there is a change in occupancy,
his department can require an upgrade in code compliance. This is a potential conflict
with the Code:

Such change in occupancy shall not mandate conformance with new
construction requirements as set forth in prevailing code, provided the
new use or occupancy does not create a fire hazard or other condition
detrimental to the safety of occupants or of fire fighting personnel.

Repairs, alterations and reconstruction may be made without adhering to
other regulations that deal with full compliance requirements where a
change of use (occupancy) takes place, or where the scope of the work
exceeds any percentage of the present building value.

James Vann found that Oakland has a similarly narrow interpretation and does not truly
recognize the Code. His work on the California Hotel rehabilitation did not involve a
change in use and fewer new construction codes were applied. If the use had altered, his
office would have had to do a great deal of work, particularly on corridors and exits.

33. Kathleen Yates, Counsel, Office of Legal Services in the California Department of General Services,
phone interview with author, March 19, 1991. See also State Historical Building Code, 8-2: "Liability is the same as
for prevailing law." See California At Risk 1989, 41 and 53 "The existence of life-safety standards as well as full-code
standards will provide protection from liability for designers, contractors and building owners." ??

34. Seismic Safety Commission, Reducing Earthquake Hazards, 53.

35. Judd interview March 10, 1990. See SHBC, 8-902, Archaic Materials and Methods of Construction -
"Any method or material that is (or is similar to) the historic fabric of a structure that may have been dropped from
present codes, was a known type of construction in the past, has served a useful purpose in the structure, and was a part
of the historical structure is covered hereunder. These methods and materials may be used or re-used in the structure."

36. Richard Young, San Francisco Bureau of Building Inspection, phone interview with author, March 9,
1990.

37. SHBC, 8-404.

38. SHBC, 8-105.
While the problem of determining whether a change in use does preclude the use of the SHBC, perhaps the controversy could be avoided by maintaining the apartment or residential hotel use and, by extension, low-income residents. "Residential hotel rehabilitation is fast, simple and cheap. For the cost of one typical HUD Section 8 Substantial Rehabilitation program studio apartment, four or five hotel rooms could be rehabilitated in San Francisco (in spite of stringent seismic safety requirements) . . ."40

The most contentious aspects of the Code which affect the costs of rehabilitation are fire safety and structural/seismic. While officials at State agencies with oversight of these areas, the State Fire Marshall and the California Seismic Safety Commission, say they would like to work with the SHBC Board and do have representatives on the Board, efforts to reach agreement have not succeeded. There is no question that there is tension between building officials and preservationists. "Each has tunnel vision in its area of jurisdiction."41

The argument is over what constitutes a safe building and what levels of safety must be achieved. The Seismic Safety Commission wants to bring everything to a level of safety which will make repair of the building following an earthquake possible42 and the SHBC Board wants to show that there is no one way to handle a historic building.43

The Seismic Safety Commission argues that the SHBC has been used to allow a historic building to be selectively rehabilitated, leaving elements of the building unsafe. They point to the Cooper House in Santa Cruz which had been strengthened partially,


42. "The goal of historical building seismic retrofits should be to ensure repairability after a damaging earthquake so that future generations can experience these buildings . . ." California Seismic Safety Commission, Status of California's URM Law 1990, 18.

43. Feilden, Between Two Earthquakes, 51 - "There is rarely a single correct answer to the structural problems . . . "
"suffered extensive damage and had to be demolished after the Loma Prieta earthquake."44 With preservation, however, the only rule should be that there are always alternatives to consider. "Demolition is not the only answer in dealing with the damage inflicted by the quake . . . [I]n many cases careful rehabilitation will make them safe again."45 Local building officials acted precipitously since there were insufficient protections. Senate Bill 3X, introduced in the Special California Legislative Session to address the consequences of the 1989 earthquake, had not yet been passed.46 The National Trust and other preservation organizations attempts to intercede were unsuccessful. The Executive Director of the Seismic Safety Commission appreciates that the SHBC "Board and historical preservationists have much to offer the seismic retrofit industry. Indeed, many of the concepts used to retrofit older buildings were first developed for historical buildings. Moreover, many retrofits on non-historical buildings have been insensitive to the aesthetic qualities of old buildings and our communities."47 Clearly, preservationists must continue to educate.

San Francisco's Planning officials want to reduce the seismic performance level for low-income residential buildings in San Francisco below any other place in the State.48 The Executive Director of the Seismic Safety Commission states that "Some argue that standards should be so low that rehabilitation and retrofit costs will not create


46. Senate Bill 3X (Marks) established the Disaster Housing Rehabilitation Fund and procedures for the assessment of earthquake-damaged historical buildings. Chapter 89-4X.


48. Fred Turner, engineer with California Seismic Safety Commission, phone interview with author, March 18, 1991. Turner contends that current legislation, Assembly Bill 204 (Cortese) which would establish a minimum seismic retrofit standard for all UMBs, will face opposition only from San Francisco.
demolition pressures." This is an accurate reflection of San Francisco's "goal [which] is to define a program that would increase life safety (such as by making the UMBs more resistant to certain types of earthquake damage) without causing unavoidable hardship (in terms of cost and disruption) on the owners, occupants and other users of these buildings." Fred Turner, an engineer with the Seismic Safety Commission, insisted that these are already at the lowest acceptable level. If the City chooses not to mandate a high level of retrofitting, there may not be a significant increase in building safety. "Over the longer-term in the absence of retrofitting requirements, about 85% of UMBs would remain unreinforced...." By helping to finance rehabilitations and by encouraging the use of other tools including the ITC and the SHBC, the City can increase the number of retrofits done. "The tax credits are... potentially valuable in Chinatown for purposes of financing the seismic upgrading of the properties." The State has recognized that it must contribute to the retention of UMBs which contain low-income housing particularly following the devastating 1989 earthquake. "To maximize the value of the federal funds received for housing assistance, the State Office of Historic Preservation has linked the preservation investment with existing multi-million dollar low income rental housing rehabilitation programs...."

It is gratifying that the Seismic Safety Commission seems to agree with preservationists that "complete safety is unattainable, so the issue is how much safety is

52. Recht Hausrath & Associates, 80.
feasible, or conversely how much danger is tolerable." 55 Recognizing the practical limitations of economics, a September 1989 Commission report noted that "A life-safety standard lower than full code will help make retrofitting improvements financially feasible." 56 The Commission does seem to be willing to make compromises on historic buildings for it states that "Alterations or repairs to qualified historical buildings . . . shall comply with the State Historical Building Code. . . ." 57

The State Fire Marshall and the Seismic Safety Commission both contend to be preservation-minded. Their representatives rely on the argument that compliance with their judgement on building safety will extend the life of historic buildings. 58 "Some historic preservationist activists . . . have had the understandable attitude that the architectural and historic significance of the older building is their most important aspect. Yet the elements that ultimately preserve the building are not the facade ornamentation or the history of the building's use, but the nails, nuts bolts and structural components that literally keep it standing." 59 Even Bernard Feilden, an expert in earthquakes and historic

55. Ibid, 22.

56. Ibid, 41. See also California at Risk: Steps to Earthquake Safety for Local Government (Sacramento, CA.: California Seismic Safety Commission, January 1988), 14 - "State law permits local governments to adopt building code standards that are less stringent than those for new construction for upgrading masonry buildings that were constructed prior to the adoption of local building codes requiring earthquake resistant design. Typical codes only require the strengthened building to meet life safety standards."


59. Robert Brenlin, "Identifying Earthquake Hazards In Historic Brick Buildings," UD Review vol. 9, no. 4 (Fall 1986): 21. See also SSC, Reducing Earthquake Hazards, 36 - " . . . building owners tend to focus on utility and appearance when considering alterations and repair, and often take the structural integrity of buildings for granted. In older and potentially hazardous buildings this can be a serious error, since an owner could unknowingly extend the life of an earthquake-hazardous building."
buildings, admits "that money invested in seismic risk reductions will ultimately give a
good return in reduced damage and saving of lives."  

Kenneth Brown, Deputy Chief State Fire Marshall, maintains that preservationists
want to save everything. While preservationists may feel that sprinklers in historic
buildings are inappropriate, their usefulness has been proven. Still, "Are sprinklers,
which are very hard to fit into an old building, really the only alternative?" There are
various levels of fire safety which can be used in existing buildings.

Kathleen Yates, an attorney representing the SHBC with the Office of Legal
Services in the California Department of General Services, commented that the intent of
the SHBC legislation was not to have buildings destroyed merely because of safety
issues. "It is very clear from the legislative history that for historical assets to be
protected, the Code has to be preemptive in some areas." The challenge is to make the
conservative building industry see that there are other appropriate methods and that
improved life safety systems do not have to be installed in the most damaging ways.
Instead of using common techniques of diagonal steel cross-bracing or massive hear
walls at perimeters, the rehabilitation of the former Federal Reserve Bank of San
Francisco employed "a novel hybrid steel frame system [which] acts similar to a shear

60. Feilden, Between Two Earthquakes, 34.


62. Herb McLaughlin, architect, in Walter F. Wagner, "Round Table: The special design and specification

Association, 1988), 866 - "All existing buildings classified as apartment buildings . . . shall meet the requirements of
one of the following options: Option 1: Buildings without fire suppression or detection systems; . . . Option 2:
Buildings provided with a complete automatic fire detection and notification system; Option 3: Buildings provided with
automatic sprinkler protection in selected areas; Option 4: Buildings protected throughout by an approved automatic
sprinkler system."

64. Yates, interview, March 19, 1991. See also SHBC, 8-104 - "It is not the intent [of the SHBC] to protect
property and by so doing adversely affect the historical integrity of the structure."
wall, while retaining the building's original architectural integrity."65 "If a stylistically marred building results from code requirements, the lost value of the building as 'damaged goods' is a cost even when the actual construction costs are not increased."66

The principles of repair should be to restore and improve the building's capacity to resist an earthquake, enabling it to absorb seismic energy without serious damage. The principles of conservation must always be followed. The character of ensembles must be recognized and this includes the way they were lived in and utilized. The value of full documentation as a basis for scientific repair work cannot be overemphasized.67

Historic preservation reviewers can be too strict in applying principles of history and reversibility. On the one hand they want rehabilitations to use innovative safety techniques, but attempts by sponsors are often not accepted. On the other hand, developers fight the SHPO recommendations which they maintain are too expensive, and building officials refuse to make concessions because they prefer to stay with techniques they know well.

The California Hotel rehabilitation contained two procedures which the SHPO feels were incorrect and which reflect this contradiction. One of the recommendations by the SHPO was that "The sprinkler system should be installed in as unobtrusive a manner as possible. This is especially true for the highly ornate ceiling of the lobby."68 James Vann related that he went to great lengths to conceal the sprinklers in the lobby. The floors above were opened, measurements taken of the beams, and the heads placed to be not too visible.69 As with all disputes in the case studies, it is often difficult to weigh whether the SHPO or the architect has the more valid argument. The way Vann

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65. Peter N. Ylvisaker, "Two Embarcadero Center West," Buildings (June 1990): 76.
67. Feilden, Between Two Earthquakes, 48-49.
69. Vann, interview
describes it, he went to great effort to conceal the sprinkler heads. On the issue of seismic reinforcing, a recent draft certification approval for the California Hotel lists as condition that "The installation of through-wall anchor bolts on the walls and parapets shall not be undertaken." Even though the building has architectural significance, to insist upon a less visible solution may be inappropriate at times. The architect, James Vann, said he now has to submit justification to the Park Service as this work has already taken place. The bolts are five stories from the ground and the plates have been painted to match the brick.

"All interventions . . . cause some loss of cultural value in the historic building." Some preservationists seem to be more reconciled to working with building officials. "A seismic retrofit carried out by a team experienced in preservation . . . will not result in damage or serious alteration to the historic fabric of older buildings. In fact, incorporating a seismic upgrade with a general rehab . . . can add many years of safe and profitable use to the life of an older and architecturally significant building."

The Seismic Safety Commission staff complain that the SHBC has taken the position that the Code overrides all other Codes. Kathleen Yates concurs that the SHBC does take precedence. "If it is a qualified historical building, then the Code supersedes anything else."

Even with Yates' interpretation, the enforcement capabilities of the Code Board are limited and other state building officials have not accepted all elements of the Code.


72. Feilden, Between Two Earthquakes, 49?.


Even the Chief Executive Officer of the Board admits there is a problem. "The view by many who have the ability to affect the advancement of the code and the Board, both inside and outside state government, is that it is a dying organization." For now, the ineffectiveness of the SHBC is that there is "no clear enforcement mandate," and there has been no court interpretation which has forced local building officials to recognize the preeminence of the Code. Part of the problem is that there has been no test of the claims of that alternative methods can achieve as high a level of life safety, for until a building has been renovated to the Code against the wishes of local officials followed by a natural disaster, then the fact pattern has not been established.

Preservationists cannot fight all fights with equal intensity. A goal of this thesis is to make preservationists and others recognize that compromise may be necessary and that the reduction of a side's opinion may not be as detrimental as once believed. Whether or not deserved, officials from the Seismic Safety Commission and the State Fire Marshall see preservation as intransigent and uncompromising. Without the support of these agencies, it will be difficult to achieve a SHBC with enforcement capacity. While some life safety requirements may seem intrusive, it is important to step back and view the particular project. Preservationists still must stand behind proven techniques and philosophies. They should be flexible in interpretation, and, at the same time, true to their theories. This may be a difficult task for some.

75. SSC, California At Risk: Reducing Earthquake Hazards 1987-1992, 13 - "To be effective, codes must be well administered and enforced."


CONCLUSION

Certain concerns of developers have become apparent in the course of this study. While Steade Craigo, California's Deputy State Historic Preservation Officer, felt that to limit the discussion to selected items in the case studies was not a good way to interpret if the SHPO and Park Service acted correctly, the isolation of these areas helps to explain the decision-making of the reviewers. In most cases, decisions can be justified by preservation publications and theory, and could prove less costly in the long term.

The first issue is that preservation of remaining historic features raise costs. Examples presented here include windows, the Powerhouse in Mercy Family Plaza, the tile floor of the Don Hotel, and brick conservation.

The treatment of windows has been one of most prominent preservation concerns in the past few years. Where once the reviewers were willing to accept many window replacements, the continuing education of reviewers and the development of alternative products have made dealing with this area less contentious. To say that there is inadequate information for developers or architects is a bit unfair for there was a conference dealing exclusively with windows which added to existing Preservation Briefs and Technical Bulletin issued by the Park Service. While property managers may see old windows only as maintenance headaches, there are established reasons to re-use existing windows in a historic rehabilitation. "... one must consider four basic window functions: admitting light to the interior spaces, providing fresh air and ventilation to the


interior, providing a visual link to the outside world, and enhancing the appearance of a building. No single factor can be disregarded when planning window treatments . . . ."5

Individuals who wish to replace windows usually use one of several arguments to justify their argument:

* Replacing old, wooden windows will help to save energy. This may not be true for new window technology may not be as energy efficient as old window with a storm window attachment.6 Additionally, "attempting to conserve energy by closing up or reducing the size of window openings may result in the use of more energy by increasing electric lighting loads and decreasing passive solar gains."7

* It is less expensive to replace wooden windows than it is to repair them. Again, there seems to be a misconception about the repair of windows which is given to justify replacement as less expensive. "Repair to wooden windows is usually labor intensive and relatively uncomplicated . . . . On larger projects it presents the opportunity for time and money which might otherwise be spent on the removal and replacement of existing windows, to be spent on repairs, subsequently saving all or part of the material cost of new window units."8

* Reviewers are unwilling to allow any changes to a building. "However, if the historic windows are severely deteriorated and their repair would be impractical, or economically infeasible, then replacement windows may be warranted. The new windows, of either wood or metal, should closely match the historic windows in size, number of panes, muntin shape, frame color and reflective qualities of the glass."9 In the Hotel Don, the


7. Ibid, 1.

8. Ibid, 3.
SHPO allowed new windows since most were gone anyway, but the replacement had to be close in design to the original. In Mercy Family Plaza, some liberties were allowed. "Metal replacement windows (Shop and Annex) shall match the dimensions of the existing wood windows as closely as possible. The metal shall be painted or anodized to match the trim color of the wood windows."¹⁰ There also were some first floor windows on secondary elevations which had to use metal wire embedded in the glass to meet code.

The Powerhouse, the only adaptively used building in this study, was an issue of space preservation and appropriate new use. Even though the original interior use was no longer needed, and the project would have had more revenue with additional rental units had a second floor been allowed to be built as planned originally, the SHPO remained convinced that to lose the full interior height would be an error. "... there is a certain discordance when the interior of a building relates very little to the exterior. Certainly there are situations where restoring an interior or recreating aspects of a period interior is appropriate, but in many more instances, time, money or lack of information are the major deterrents."¹¹ The extra costs were in architectural time, and in the materials for the exiting solution. The project manager admitted that the resulting units were more exciting than the original design, but he still lost units.¹²

The tile floor in the Don Hotel raises issues of appropriateness of demands by the SHPO and if these should be modulated in light of the low-income housing nature of the project. Although he took care to praise California's "exceptionally innovative State


Office of Historic Preservation, Kenneth Owens, a historian at California State University, Sacramento, stated that historians had not established a strong sense of history in California and that archaeological thinking tended to dominate in State agencies. "Without adequate scholarly guidance, the authors of historical resources reports have been slow in responding to the new theoretical trends, advanced research methodologies, and changing scholarly concerns that have totally reshaped historical thinking in Europe and America during the last two decades." While this was written in the late-1980s and, hopefully, the situation has improved, the tile floor discussion seems to validate the concern that "the door is left open to an antiquarian obsession with old things just because they are old."13 Bruce Judd believes that a problem exists with reviewing agencies which have an archaeological bias toward archaeology and architectural history rather than architecture.14

Developers who question why they should not be allowed to sandblast need to be aware, for example, that the cleaning technique has "the effect of exposing unprotected brick" which is one of the conditions which have "exacerbated the weaknesses inherent in unreinforced masonry buildings."15 Reviewers have to be careful about appropriate insistence that their directions be followed. "The name of the game is responsiveness," said Willis Baird. He related that the approval of brick repairs depended upon the selection of appropriate mortar, a process he was told would take roughly one month. He contended it took from four to six months.16 Although not universal, since other participants in Tax Act projects have had similar complaints about delays, the SHPO and


the Park Service should make an effort to reply quickly even with budget cuts which have reduced staff.

Though rehabilitating historic buildings for low- and moderate-income housing has occurred in the San Francisco Bay Area, there have been so few that their impact has been negligible. Housing activists, developers, and preservationists have not embraced this type of project. Housing activists remain convinced that their efforts need to be concentrated on the retention of existing subsidized housing units and on fighting historic preservation for the displacement it may cause. Developers stay away from historic rehabilitations because of the difficulty of financing, problems with reviewing agencies, uncertainty of receiving the tax credits, and the question of seismic retrofitting. Preservationists do not do enough to educate either housing activists or developers that this kind of combination can work, particularly in urban settings. Preservation advocates can help by insisting that "Flexibility . . . be maintained in requirements for rehabbing historic properties. Providing low-income housing should be a definite consideration while still maintaining the historic qualities of the building." 17 A goal is to convince the SHPO and the Park Service that low-income housing is important, and that an active recruitment of individuals and organizations willing to undertake Tax Act projects can lead to renewed activity in historic preservation. If it is true that the existing publications of the Park Service do not give a clear indication of how developers should proceed and that some of the delays are due to the developer being unprepared for preservation concerns, then the Park Service should work to correct these problems. Reviewers can also help by showing developers how the Tax Credit can make sense financially.

At the same time, it is important to remember that the National Register program is operated more and more by state and local agencies. It may be impossible to arrive at

17. Meeting America's Housing Needs Through the Rehabilitation of Existing Housing and Vacant Buildings, 22.
a national consensus on significance or permissible intervention. The Park Service can set some standards and retains the right to final interpretation, but some subjectivity will remain. There has to be local input, even though some commentators find this makes the process political and sentimental. This is not a scientific field.\(^\text{18}\)

Several architects in the Bay Area expressed concern with the interpretation of the Secretary's Standards. "Given the number and type of criteria to be applied, the determination of a property's significance necessarily contains an element of subjectivity."\(^\text{19}\) When asked if the Standards play a detrimental role in preventing Tax Act work, Bruce Judd, a participant in the symposium sponsored by the Park Service to examine the Standards in 1986 for possible revision,\(^\text{20}\) replied that the Standards themselves were not the problem even though Standards 3 and 9 have been confusing since architects are forced to make jarring contrasts. He cautioned that this needs to be resolved. Instead, the problem is in the application of the Standards as personalities and bureaucracy become evident. Too often the reviewers are arrogant. Jay Turnbull, a preservation architect at Page & Turnbull, had similar criticism. He, too, feels that the Standards allow for elasticity, but that overall their interpretation has been very conservative. Reviewers are bureaucrats, in for the long-haul and usually unwilling to make risky suggestions.\(^\text{21}\) James Vann, architect for the California Hotel, believes that the Secretary's Standards are quite permissive, but that the State reviewers apply the


\(^{19}\) Kass, LaBelle, and Hansell, Rehabilitating Older Buildings, Law Taxation Strategies, 35.


\(^{21}\) Turnbull, interview with author, April, 1991.
standards as if everything is a requirement. Vann believes the California SHPO is too restrictive.22

While some developers call for consistency, they should also recognize that precision may be limiting.

Inevitably, the need to treat all projects as evenly as possible will tend towards two undesirable byproducts: . . . the tendency to allow principle to overrule common sense, in the delusion that it is more important . . ., [and] the possibility that legal precedent, which becomes ever more confining as case is laid upon case, can become such a straight-jacket as to strangle all initiative.23

Turnbull described that many of his clients bring revolutionary ideas to his firm. He understands, though, that his job is to ensure that projects pass the reviewers, and, while he thinks some of the new ideas should be allowed, he works to tone down the proposals to secure approval.24

Judd also stated that the training of the SHPOs around the country was weighted too heavily toward archaeologists and architectural historians and that there was only one licensed architect in all the offices. Ward Jandl disagreed with this assessment of professional training as he knew of many more architects in SHPOs. Judd also felt that the regional NPS offices operate differently, and, although the Park Service attempts to train their personnel to uniform standards through meetings and publications, these efforts have not been completely successful.25 "Even among those trained in appropriate professional fields there exists varying degrees of knowledge about preservation work and skills."26


24. Turnbull, interview with author, San Francisco,


Hans Kreutzberg, a staff member of California's State Historic Preservation Office, reflected his office's goals for sparking greater activity. Speaking at the 15th Annual California State Preservation Conference in San Francisco in 1990, Kreutzberg provided a list of actions his office could take to promote a strategy of cooperation between housing and preservation. The existing National Register programs and resources could be applied by increased surveying to include more properties, giving priority to the registration of properties devoted to housing.27 The Section 106 process with low-income housing needs to be streamlined. The SHPO can direct sub-grants to combined projects, interacting more closely with non-profits and housing agencies. The State can advocate and pursue an elimination of zoning barriers which prevent housing and building codes which do not deal with life safety. As a reviewing agency for Tax Act projects, his office can advocate minimizing unnecessary rehabilitation perhaps by lowering the substantial rehabilitation requirement which will save building fabric, reduce costs, and allow for more units of housing. Finally, he believes that non-contributing buildings within a historic district should be able to qualify for the tax credits.28

Using the National Register rather than local designation is a key to the success of historic rehabilitation and affordable housing in California. While some commentators believe that local landmarks should qualify for the ITC,29 the reality is that few buildings in San Francisco have local landmark status. San Francisco is not a certified local government, either, which would allow local historic districts to use the ITC. The local landmark laws are far more stringent than the protective powers provided by the National

27. SHPO, 1990 Goals, 14 - "Current Registration priorities for the National Register: 2. Nominations that facilitate the use of historic properties for low-income, emergency or transitional housing projects."


Register. The local Chinatown Historic District continues to be fought because the landowners feel that the restrictive powers of the Landmarks Preservation Advisory Board are too great. A San Francisco Chronicle editorial set the tone of the debate: "Surely, human lives and the quality of life in a community come before sterile, cosmetic prohibitions, whatever their preservationist aims." Chinatown landowners felt that they would compromise by allowing the District to be nominated to the National Register. Since National Register listing by itself cannot protect buildings, however, the State and City need to provide sufficient financial incentives resources and an expedited review process to encourage historic rehabilitation. At the same time, using the National Register rather than local districts helps to avoid criticism raised by some commentators that too much of the past is being preserved in local districts.

Further study of the effectiveness of the State Historical Building Code must be done. The SHBC is isolated from other building safety agencies; there needs to be a reconciliation and an acceptance of the SHBC. The seismic retrofit issue is so important to the preservation of unreinforced masonry buildings and to the low-income tenants housed there, that preservationists should leap at the opportunity of meeting their own needs and the desires of housing activists simultaneously. There has to be a compromise with the Seismic Safety Commission and the State Fire Marshall on what is allowable risk. If the SHBC can be used more widely on some parts of rehabilitation, perhaps the costs of seismic upgrading and sprinkler systems would not be fought so strenuously. The SHBC is a powerful tool for preservation, but it can work most effectively when those agencies with the greatest enforcement capacity begin to advocate its use. Preservationists must educate building officials about alternate methods of construction and that building codes cannot dominate. "Design... means balancing the various


factors that compete for attention in an historic renovation: codes, budget, authenticity, public access, among others."

In the opinion of the project sponsors, was undertaking a historic rehabilitation for affordable housing worthwhile? John Stewart of Mercy Family Plaza, recognized that had he not agreed to rehabilitate, he would have met such stiff community opposition that the time it would have taken to complete a new building would have meant losing the Low Income Housing Tax Credit since projects must be completed within a specified time once the Credits are allocated.33 He is quite pleased, nonetheless, with the quality of the project.

Art Sullivan of Bridge Housing had a lukewarm reflection of his Don Hotel project. "To take on the preservation issue is another layer on already complex projects. While it is not bad, it is another burden."34 Willis Baird, his replacement on the project, admitted that the State Historical Building Code was somewhat helpful, and that taking on the historic rehabilitation made his application for using the Code more persuasive to the local building officials. Baird maintained that while the Low Income Housing Tax Credit is complicated and the allocation limited, the rules for qualification are clearer and a developer can be more certain of receiving them. The ITC is more "onerous" because it is not possible to be certain if the credits will be granted until the work is done and the money expended.35 Deborah Drickerson, who is the current project manager for Oakland Community Housing's California Hotel, believes that the project could not have happened without tax credits, although she found the LIHTC was more beneficial.36


34. Art Sullivan, ibid.


The Park Service can overcome charges of arbitrariness and irrelevance of their demands if they can show developers and housing activists that the requirements for rehabilitation will help to save money by reducing the amount of rehabilitation and maintenance work. The reviewers on all levels cannot maintain merely that fabric has to be preserved because it is significant. The State Office of Historic Preservation must do all it can to promote the State Historical Building Code and ensure that officials with enforcement power accept its use. The SHPO must be flexible in its demands, and should be willing to offer suggestions rather than being reactive at all times.

Preservationists realize that there are many competing interests with historic buildings. While the Park Service contends its reviewers cannot approve a Tax Act project if compliance with building codes impacts negatively on significant historic fabric, other Park Service publications show a more holistic view. "Although preservation of historic building materials and character is a primary consideration in the use and modification of historic structures, it is not the only consideration. Safety, security, handicap accessibility, pest control, and energy conservation are also concerns that must be addressed." Preservationists should continue to press for greater use of the existing tools and mechanisms which may have been overlooked. There is a need to compromise on some  


38. Advisory Council on Historic Preservation, Remember the Neighborhoods, 3 - "Underlying the commitment of preservationists to their goals is a recognition that buildings and neighborhoods should be preserved for reasons that go beyond historic or architectural significance."

39. If it can be demonstrated, for example, that material deterioration is too pronounced and its repair in-kind economically unfeasible, the SHPO should offer the suggestion of substitute materials provided that "aspects of visual, physical and functional compatibility," have been considered. Jill Avra Hittleman, "The Replacement of Historic Ornament with Fiberglass Reproductions Is It a Realistic Alternative," Master's Thesis, University of Pennsylvania, 1987.

issues, and to present a lucid philosophy which represents the views of the entire community. There is no need to feel inhibited about advocating for more historic districts or for placing more buildings on the National Register. These efforts have worked well in the past, and are necessary to preserve the special qualities of San Francisco for visitors and residents. Far from harming a neighborhood, preservation must be shown to be a community goal to be embraced. "It is that sense of place, that quality that is more than the mere sum of parts, more than the individual landmark-worthy structures, but rather the whole rich fabric of a community," that is being preserved.41 People contribute to that fabric, as well, and providing affordable housing cannot be isolated from other preservation goals. The building and the person must be considered inseparable.

APPENDIX:

CASE STUDIES

In order to illustrate how preservation and affordable housing can co-exist, the California State Historic Preservation Office (SHPO) identified the five projects in the San Francisco Bay Area which met the qualifications of this thesis and which had occurred since the Tax Reform Act of 1986.\(^1\) While this thesis looks to San Francisco's available historic buildings, the projects in other Bay Area locations are used, as well, since the building types, the issues, and the reviewers were similar. The one difference with most of the Unreinforced Masonry Buildings in San Francisco is that those buildings are mainly occupied and the relocation of the tenants, even for a short period, will be a difficult issue to overcome. Only four case studies are presented as attempts to reach the developer of the fifth, the YMCA Hotel, were unsuccessful and the Park Service files were limited. These projects serve the purpose both of showing how the disparate interests can be brought together through many levels of government and private support and how the SHPO and the Western Regional Office have interacted with the projects. Information was gathered in interviews and in examining the project files at the Western Regional Office of the National Park Service.

That so few examples could be found is itself a significant point. Some other projects with similar goals of retaining buildings and residents have taken place without applying for the ITC including the Clayton, Swiss-American, and Franciscan Tower. The first two did have support from the National Trust. The reluctance of the real estate industry to utilize the incentives offered by state and federal governments and the inability of the City to encourage their use is of concern to the author. The problem has distinct parts: the misconception of historic preservation, the lack of use of the programs, and the reality of the San Francisco real estate market. There are problems with the

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1. Steade Craigo, Deputy State Preservation Officer, California, letter to author, April 15, 1989.
current tax code which most observers see concentrated in the passive loss rules restricting the investor population although the lessoning of the credit from 25% to 20% also plays a role. While the tax code should be changed to allow for greater historic rehabilitation and low-income housing production, this thesis concentrates, instead, on the use of existing tools which will require no legislative action.

The case studies reflect a narrow range of building types, but their applicability to future project can be considered more widespread. Mercy Family Plaza uses the outbuildings of a hospital complex while the Madrone, California, and Don were built as hotels. As such, these last three had been used as housing, even though the living spaces in some had been changed drastically. They also have different levels of significance in terms of the National Register: Mercy Family Plaza is part of a small, self-contained district; the Madrone Hotel contributes to a local business district and will be placed on the National Register within three years of its completion; Hotel Don was a prominent meeting place in the community; and, the California Hotel is significant as architecture. All are examples that there is room for compromise by reviewers who need to protect historic fabric and developers who want to make maximum use of the property.

Still, though, developers have had specific criticisms about work required or items whose value to the building they questioned. They were not, on the whole, too critical of the process and did not feel that the preservation aspect was too costly in money or time. All were able to work out differences. Two of the projects have received final certification, and the other two have conditional certification.

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Name: Mercy Family Plaza (NPS Project Number 0687-88-CA-89-0550)

Location: San Francisco, California

Date: 1907, 1908, 1911, and c. 1923 for the four buildings

Building Types: The four structures included are of similar rusticated classical vocabulary, being reinforced concrete clad in brick. The buildings are one or two-stories in height.

National Register Significance: Listed as the Southern Pacific Company Hospital Historic District, the fifth structure, the main hospital building having been rehabilitated previously. The district is significant both as the largest medical facility operated by a major transportation company and as an intact, important work of early twentieth-century architecture. As a local landmark, the Landmarks Preservation Advisory Board reviewed the project as well.

Developer: Mercy Family Housing Corporation

Housing Units: 36

Certified: June 22, 1990

If all historic rehabilitations must have a model, this should be the one. It is a blend of private involvement and public policy implementation. The number of participants was high, but the end result was commendable, particularly since the developer had had little experience with tax act projects. The project resulted in the preservation, adaptive use, and seismic retrofit of the four buildings in the historic district which had not been rehabilitated.

Masonry cleaning was the biggest problem as the brick was soft, porous, and difficult to strip. The facades had been painted over the years, and the brick was quite deteriorated. There was a great deal of discussion of how to treat the exterior of the buildings; the SHPO had hoped to have the paint removed and the original yellow brick exposed. A letter from Steade Craigo to David Look of the Park Service was written to

3. Mercy Family Plaza, Groundbreaking program, July 13, 1989 - "Sources of financing included: (1) syndication of the Low-Income Housing Tax Credits, (2) syndication of the Historic Rehabilitation Investment Tax Credit, (3) contribution from Markborough California Properties through the City's Office of Affordable Housing Production Program, (4) grant from the City of San Francisco's Affordable Housing fund, (5) construction loan from Union Bank, (6) permanent financing by the Savings Association Mortgage Company (SAMCO), (7) below-market loan from the McAuley Foundation, and (8) below-market loan from the Low Income Housing Fund."
justify the repainting of bricks due to the deterioration of the masonry and the probability of the consolidant not working. "The recommendation is unfortunate. Restoration of the original exterior masonry appearance of the three historic buildings would have been an important accomplishment, especially since almost no interior historic fabric remains."4 Paint colors were not dictated as long as the project maintained appropriate tonal balances.5

The developer was quite conscious of the importance of correct masonry cleaning. The rehabilitation of the main hospital building had lost its historic tax credit certification when the Park Service reviewers made a site visit to the building while it was being sandblasted in 1983.6 The project file contains a memo stating that "Cleaning of the brick shall be undertaken carefully with conservation analysis, and the proposed method shall be submitted prior to implementation. Damage to the brick as a result of the cleaning process could be grounds for denial."7 Keith Webber, project manager with the John Stewart Company, noted that the method finally used for the cleaning was another demonstration that his inexperience led to decisions which were incorrect for the treatment had to be repeated several times and the dampness of the brick is still causing problems with the paint.8

The reuse of the Powerhouse was another difficult issue which had two components. The developer wanted to take the two-story high interior space and insert a floor to create more units. The original design required placing the floor at the springline of the arch, changing the interior appearance dramatically. The SHPO would not allow


6. Ibid.


8. Webber, interview with author, April 1991
this: "The Powerhouse second floor shall be redesigned so as not to abut the windows. Retention of the original windows, with repair or replacement in kind, is of the highest priority since the windows constitute a major design feature of this building." The other issue emanated from the Fire Department which was concerned about egress. The Fire Department wanted a skywalk installed, but the SHPO thought this would block out the light which had filled this space historically. In the end, a metal-grate walkway with a moveable hatch was devised. This solution involved a considerable amount of time and money.

The developer was successful in demonstrating that the smokestack extension on the Powerhouse had not been original and had not achieved significance. While the developer would have preferred to have removed the smokestack entirely, the SHPO insisted on the retention of this element as it helped to define the "industrial" purpose of the building and the full use of the district. The seismic retrofit did increase costs as the smokestack had a tube inserted for stability.

What was the conclusion of the developer on this project? Originally he had hoped to demolish the buildings and replace them with new construction. This met community resistance, and he proceeded with a rehabilitation. The buildings were placed on the National Register and were designated locally which meant that the Landmarks Board had purview. "The decision to rehabilitate added at least $20,000 per unit in construction costs to his Southern Pacific Hospital project. The loss of units from the original plan for new construction and seismic repairs that will be required for the old structures both contributed to the added costs. But the equity funds raised through the combined preservation and housing tax credits will allow the developer to make up the difference in cost."
The rehabilitation of Mercy Family Plaza is an example of various sectors coming together to arrive at an agreeable solution. While housing activists may have been disappointed with the reduction in units from 68 to 36 necessitated by the historic rehabilitation so there would be no exterior changes to the site, the developer acknowledged that he would not have been able to build a new building as neighborhood opposition would have made the holding time too long. While the project was intended to be completed without government financing, the developer did obtain some money from the State albeit with some difficulty. The combination of equity funding and foundation money made the project feasible.
1. Historic photograph of main hospital building

2. Main hospital building after rehabilitation. Sandblasting of exterior had lost Investment Tax Credit on this original project (April 1991)
3. Huntingdon Social Hall (April 1991)

4. Nurses Annex (April 1991). Paint colors in the rehabilitation were not dictated, but had to maintain original tonal balances. Window trim is dark blue.
5. Powerhouse, east elevation (July 1988)

6. Powerhouse, east elevation with windows and doors preserved (April 1991)
7. Huntingdon Social Hall, masonry deterioration (Part 2 application)

8. Huntingdon Social Hall, masonry cleaned, repaired, and repainted.
9. Powerhouse smokestack without metal extension (1909)
10. Metal extension which the SHPO thought had gained significance and wanted retained (July 1988).

11. Smokestack after extension was removed and retrofitted seismically.
12. All replacement aluminum windows were removed and replaced with wood sash to match the original (April 1991)

13. Fixed steel windows with wire mesh to meet code on the ground level were designed with similar profile as wooden (April 1991)

16. Detail of interior of Nurses Annex prior to rehabilitation (Part 2)

17. Annex interior post-rehabilitation (Part 3)
18. Powerhouse doors to units. Much of the original fabric of the windows was repaired and integrated into the new design for the doors. (April 1991)

19. Powerhouse doors to units. Much of the original fabric of the windows was repaired and integrated into the new design for the doors. (April 1991)
20. Powerhouse interior prior to rehabilitation. Window at issue in insertion of second floor in to left (Part 2)

21. Powerhouse interior prior to rehabilitation. (Part 2)
22. Powerhouse interior showing moveable metal grate in down and upright positions with light behind. A compromise solution to preserve original function of the window. (Part 3)

23. Powerhouse exterior with recessed doors to units and metal grate barely showing (Part 3)
24. Seismic reinforcing - gunnite on interior walls (Part 3)
25. Seismic reinforcing - wall bracing on roof (Part 3)

26. Seismic reinforcing - balustrade (Part 3)
Name: Madrone Hotel (NPS Project Number 0657-87-CA-87-052)

Location: Oakland, California

Date: 1912

Building Type: Four-story concrete residential building. Second through fourth floors were relatively unaltered, and the storefront had changed while retaining some original elements. The interior had deteriorated but there was no significant change. The certification application notes that the building had had little loss of original elements in comparison with others in the district.

National Register Significance: Not yet placed on the Register although it must be within three years of completion. Contributing to Victorian Row, Old Oakland Historic District which is the most intact surviving section of Oakland's 19th century business district. The building's design was a reflection of post Victorian building styles and tastes in the district.

Developer: East Bay Asian Development Corporation

Housing Units: 32

Certified: October 26, 1990

The Madrone is a good example that a building can have contextual importance in a historic district without having prominent architectural or historical values. In this way, the building is much like those in existing or potential National Register districts in San Francisco.

When the Part 1 application was filed, it noted that the building was relatively unaltered. The idea was to follow the original use of the building fairly closely in changing from a hotel to low-income housing without disrupting the neighborhood. The developer admitted that it needed ITC for funds through syndication. It was difficult to obtain much information in conversations with staff; they had little criticism of the process, thought that doing a historic rehabilitation had been a "net benefit," but said they were not considering undertaking another. Among their thoughts were that the process should be more specific.

One of the interesting issues was the unintended destruction of the storefront during construction. It appears from the files that the developer was concerned that this

action would jeopardize the tax credits. As a precaution, Arnold Lerner, a preservation architect, submitted a letter noting that the elements which had been removed due to dry rot were not character-defining, and that reconstruction had already been approved. Care was taken in demolition. This is an illustration that the Park Service can look at individual cases and that mistakes may not always be fatal. It is not as simple as believing this story: "the crane operator on [a] . . . project who made a mistake in lowering a steel beam. It took out two walls. Boom. That's the end of your historic tax credit." 13

Other issues were the storefront design, repair to skylights, abrasive cleaning and sealer application of the exterior stucco, and paint colors.

The Part 3 reviewers comments read:

"Project completion photos show that the project was completed as proposed. The hallways show the wainscots, stairs, door & other woodwork has been retained. The work on the facade shows the prism glass and decorative window moldings have been retained. Certify. 14


27. Main facade before rehabilitation (August 1987)
28. Main facade after rehabilitation (April 1991)

29. Main facade after rehabilitation (April 1991)
30. Chicago Style Windows, Metal Italian-Renaissance Cornice, and Prism Glass Transom before rehabilitation (Part 2)

31. Chicago Style Windows, Metal Italian-Renaissance Cornice, and Prism Glass Transom after rehabilitation (Part 3)
32. Reconstructed storefront which had been taken down by contractor due to dryrot (April 1991)

33. Reconstructed storefront which had been taken down by contractor due to dryrot (April 1991)
34. Entry stairs before rehabilitation (August 1987)

35. Entry stairs after rehabilitation (April 1991)
36. Corridor and doors showing wainscoting before rehabilitation (August 1987)
37. Corridor, doors, and stairs showing preserved wainscoting after rehabilitation (Part 3)

38. Corridor showing sprinkler and emergency light (April 1991)
39. Skylight in ground floor store which SHPO required to have an overhead grate to appear less modern (April 1991)

40. Store without drop ceiling (April 1991)
Name: Carquinez Hotel/Hotel Don (NPS Project Number 0707-89-CA-89-0563)

Location: Richmond, California

Date: 1926

Building Type: Five story brick-faced reinforced concrete structure showing elements of a Sullivanesque stylistic approach.

National Register Significance: Importance as prominent civic meeting place even with great level of alteration. One of few remaining historic buildings in Richmond. Symbolic of earlier prosperity. Has some architectural significance.

Developer: Bridge Housing Corporation, Inc.

Housing Units: 36

Certified: Conditional, September 21, 1989

The Hotel Don is the first historic rehabilitation for Bridge Housing, a well-established affordable housing developer which builds mainly new developments in the Bay Area. In many ways, the Don rehabilitation is an example of how far the tax credits can be extended to cover buildings which have qualified for the National Register, but which may be questionable in terms of their remaining integrity. Even though there was extensive loss of historic fabric, the importance of the Don in the civic life of the community had not been affected. As such, some liberties were allowed in the rehabilitation which might not have been possible if there had not been so much destruction. Since the windows had been removed previously, the State wanted the replacements to be wooden windows of similar profile to the original rather than the bronzed metal ones proposed. There was some argument over the profile, however. On inspection to the site in April 1991, bronzed metal windows have been installed. Additionally, the interior facade windows had their openings reduced or blocked in. The architect said he was unaware this would be done, and questioned the logic behind which wall openings were affected.¹⁵

Since so much of the building's interior and storefronts needed to be rebuilt, a great concern was that the work should not be confused with original. The SHPO wanted an accurate reconstruction of the original storefronts based on historic plans and photographs. This is often a problem if there is not an experienced preservationist involved with the rehabilitation. 16

Among the more contentious actions was the SHPO's insistence on the retention of tile floor in the lobby since so much else had been altered or lost. While Art Sullivan of Bridge Housing felt that his proposal to replace the tiles with similar ones was appropriate, the State disagreed. Bruce Judd, a preservation architect, suggested to the author that Bridge could have given alternatives for treatment, particularly if it planned to do something later with more money. Maybe the floor did not have to be visible and could have been conserved only. 17 When asked about this issue, Steade Craigo of the SHPO justified the action since "This is a comparatively small request considering that historic credits may be taken on all the interior work which in this particular case is about 90% new construction." 18 As a result, tiles from other portions of the first floor will be salvaged and used for the borders of the lobby. Other historic interior features which were retained were the paneling in the lobby which has been matched where it had deteriorated and an original decorative element from the lobby elevator is being repaired. Since so much is new, however, it may be difficult to know what, if anything, is original and if the remnants do add enough.


17. Bruce Judd, interview with author, March 10, 1990. Jo Ramsy Limenstill, "An Interior Perspective on Design Review," in Fisher et al, Interiors handbook, 1-16 - "Many times economic factors and other considerations may necessitate the covering over of original materials; however, when such decisions are required, careful consideration must be given to reversability."

A comparison with the other projects in this study leaves the Don lacking in richness on its exterior. Terry Cox, the architect, disagreed with the requirement by the SHPO that the capitals for the new columns flanking the front door be only of similar massing, but not detailed as they would have been historically. Cox likened this interpretation of the Secretary's Standards to a clay sculpture before the final carving.19

Art Sullivan, the original project manager for Bridge Housing, summed up his feelings about the project by reviewing the positive and negative aspects of doing a rehabilitation using the ITC. On the positive side, the State Historical Building Code is useful, the Tax Credits are real, and it is possible to accomplish something which "feels good." On the negative side, his belief that using the ITC reduces the effectiveness of the LIHTC so that there may be a wash. The major problem he saw was that of local jurisdiction over a project and the likelihood of opposition.20 Asked if Bridge could have completed the project without the ITC, Sullivan's replacement, Willis Baird replied, "Yes." Asked if the credits helped, he answered, "Maybe." In particular, the seismic problems were unanticipated. As a result of the credits, the development budget contained more money for this work.21

41. Drawing by James Plachek, architect, on proposed building (1925)

42. Street facades as they appeared c. 1929
43. Exterior showing changed storefronts (n.d.)

44. Main facades showing demolished storefronts and missing windows (February 1989)
45. Remnant of interior tile floor (Part 2)

46. Ground floor interior showing extensive loss of interior fabric by previous owner (Part 2)
47. Rehabilitated exterior (April 1991)

48. Detail of metal windows on rehabilitated exterior (April 1991)
49. Lobby tile floor (April 1991)

50. Lobby tile floor (April 1991)
51. New windows on interior facade showing partially blocked openings (April 1991)
52. New windows on interior facade showing partially and fully blocked openings (April 1991)

53. New windows on interior facade showing partially blocked openings (April 1991)
54. Seismic bracing installed and brick being repaired (April 1991)
55. New corridor with fire doors by elevator (April 1991)

56. New kitchen and sprinkler head (April 1991)
57. Lobby with replicated paneling - original to right (April 1991)

58. Original stair rails and posts (April 1991)
59. Manager’s office off lobby showing the only drop ceiling on ground floor (April 1991)

60. Transom window showing reinstalled muntins. Drop ceiling will block light from entering manager’s office against SHPO’s wishes (April 1991)
Name: California Hotel (NPS Project Number 0668-88-CA-88-0540)
Location: Oakland, California
Date: 1930
Building Type: Five story steel-frame with wood floor joists and floors and a non-load bearing brick facade.
National Register Significance: Criterion C, architecture, because it is a fine and essentially intact example of the large hotel building type in Mission/Spanish Colonial Revival Type by a prominent local architect, and situated as a prominent visual landmark. Although NPS thought that more connection with other Spanish Colonial buildings in Oakland would have made the nomination stronger, the buildings details and integrity were still good.
Developer: Oakland Community Housing, Inc.
Housing Units: 151
Certified: Conditional, April 29, 1991

The issues of the rehabilitation of the California Hotel were similar to the other projects. Among the concerns of the SHPO were the method of cleaning the brick facade, design of the Hotel entrance, replacement of roof tiles, repair of the marquee, window replacement, and the towers on the roof.

Doug Cole, the original project manager for Oakland Community Housing, said the issue on the windows was one of maintenance. Many developers of housing will insist they cannot afford to repaint and repair windows every few years. Cole had wanted to replace the windows with windows of metal in the same profile, but the SHPO required the developer to repair the wooden windows or replace only those totally damaged with wooden windows.22 On visiting the site and seeing the way the building sits on the site, one can make the argument that the developer should not have had to use wooden windows on the less significant interior facades, particularly if it could be demonstrated that there could be a cost savings. The project repaired most of the upper floor wooden windows. Those on the north side, facing the freeway, were replaced with

others of similar profile, but double-glazed and with other sound insulation. The SHPO does not like the windows, and the conditional certification is based, in part, on this. It seems that perhaps the SHPO could have compromised here.

The problem with the Hotel entrance and repair of marquee was essentially one of preventing false historicism. Over the years, many buildings with commercial spaces on the first floor will undergo alterations; to qualify for historic rehabilitation tax credits, developers have to negotiate a tricky balance of new work which is compatible with the historic and also obviously not historic.

As with the Don Hotel's lobby floor tiles, the SHPO was looking to require that the roof tiles be reused rather than replaced. In this situation, the repairs could be justified by the design importance of the tiles. Similarly, the cupolas on roof make a strong design statement. Since they were deteriorated, the developer wanted to remove them, but the SHPO said no. Doug Cole maintains that the repair added $200,000 to $300,000, and that the funding had to be obtained from the City of Oakland.

Cole said that the SHBC was not of use for lateral loads involved with earthquakes. As a result, the storefront grade beam and first floor diagonal braces which were installed are for compliance with lateral force requirements which the State Historical Building Code does not override. Additionally, the seismic retrofitting required that some material from the storefronts had to be sacrificed.
61. Historic photograph of exterior (n.d.)

62. Main street facade (April 1991)
63. Freeway immediately in front

64. North facade facing freeway with new windows (April 1991)
65. Interior facade prior to rehabilitation

66. Interior facade with repaired windows and ground floor seismic bracing (April 1991)
67. Deteriorated windows (August 1988)

68. Repaired windows (April 1991)
69. Marquee with chain supports

70. Marquee with seismic bracing (April 1991)
71. North facade facing freeway with contentious replacement windows. Although wood and of similar profile to historic, the SHPO does not like the double-glazing. Note also the white interiors of the frames which were also for sound insulation (April 1991).
72. Storefronts prior to rehabilitation (March 1988)

73. Storefronts with diagonal cross-bracing, reconstructed tile bases, and plate glass windows (April 1991)
74. Interior facade with seismic bracing (April 1991)

75. Limited masonry repair on interior facade (April 1991)
76. Lobby after rehabilitation (April 1991)

77. Lobby ceiling with recessed sprinkler head where beams cross (April 1991)
Fig. 78. Rehabilitated corridor. Note sprinkler heads recessed in wall to left (April 1991)

Fig. 79. Apartment door. While SHPO had wanted original doors saved, they were replaced with similar ones. The SHPO does not like the natural finish (April 1991)
Fig. 80. One of recast, inlaid bronze bears throughout on terrazzo stairs and floors (April 1991)

Fig. 81. Plaster was required to have texture (April 1991)
Within the Chinatown and Lower Nob Hill Districts, 387 UMBs are listed as significant or contributory (49% of City residential UMBs).

Source: Landmarks Board Survey

Map of residential Unreinforced Masonry Building areas and pending historic districts

Source: Recht Hausrath & Associates
Seismic Retrofitting Alternatives


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