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Governor



MICHAEL TRAILOR  
Director

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April 23, 2015

Mr. Jody Gibbs  
BARRIO HISORITICO  
HISTORIC ADVISORY BOARD  
Elected 106 Process Consulting Party  
c/o City Clerk's Office  
City Hall  
255 W. Alameda  
Tucson, Arizona 85701

Mr. Jack McClain  
ARMORY PARK HISTORIC DISTRICT  
ADVISORY BOARD  
Elected 106 Process Consulting Party  
c/o City Clerk's Office  
City Hall  
255 W. Alameda  
Tucson, Arizona 85701

connect up  
to

Mr. Demion Clinco  
TUCSON HISTORIC  
PRESERVATION FOUNDATION  
P.O. Box 40008  
Tucson, Arizona 85717

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Re: April 14, 2015 Letter re: ADOH April 1, 2015 Response to March 18, 2015 Letter and Additional Information ("4/14/2015 Letter")

Dear Messrs. Gibbs, McClain and Clinco:

The Arizona Department of Housing ("ADOH") is in receipt of your 4/14/2015 Letter, together with the enclosures consisting of copies of (i) Jeanne Redondo's May 7, 2014 Letter to Compass Affordable Housing, Inc. ("5/7/2014 Letter"); (ii) Jonathan B. Mabry's May 13, 2014 Letter ("5/13/2014 Letter"); and (iii) Sally Stang's April 8, 2015 Letter to the State Historic Preservation Officer, James W. Garrison ("4/8/2015 Letter"). Based upon the recent findings made in Ms. Stang's 4/8/2015 Letter, you request that ADOH revoke and cancel the reservation of GAP financing for the Downtown Motor Lodge located in Tucson, Arizona ("DML Project"). While not stated in the 4/14/2015 Letter, ADOH presumes that you also request that the 2014 Low Income Housing Tax Credit ("LIHTC") reservation awarded to the DML Project be revoked and cancelled as well. Accordingly, this letter is a response to both.

It is helpful to put your 4/14/2015 Letter and this reply into context as they relate to the factual background of the 2014 award of tax credits and GAP financing for the DML Project. As the housing credit agency responsible for allocating LIHTC tax credits, ADOH awarded a reservation of 2014 LIHTC tax credits and GAP financing, i.e., a loan to be made upon certain criteria and funding availability, for the DML Project. As you know, an award of tax

credits is made through a competitive process; applicants are awarded certain points based upon specific criteria set forth in the Qualified Allocation Plan ("QAP") in effect for that year. While the DML Project involves buildings that are 50 years or older, the applicant did not request or receive points as a "Historic Preservation Project" for scoring purposes under the 2014 QAP<sup>1</sup>, but did request GAP financing.

Because the Gap financing Application indicated that the DML project involves the demolition of buildings that are 50 years or older and will affect historical, archeological or cultural resources, ADOH requested confirmation from the Certifying Local Government, i.e., the Tucson Historic Preservation Officer, that the project will not have an adverse effect as proposed.<sup>2</sup> After consultation with the Arizona State Historic Preservation Office ("SHPO"), the Historic Preservation Officer, Mr. Mabry, advised that the adverse effect of partial demolition of the DML Project will be mitigated by architectural documentation to SHPO standards, with no additional "Adverse Effect" on any historical, archaeological or cultural resources. Such confirmation satisfied the HTF Guide and ADOH continued its threshold review of the DML Project for purposes of providing GAP financing and for an allocation of 2014 tax credits. A 2014 reservation of tax credits and GAP financing was made for the DML Project, and the applicant for the DML Project has until December 31, 2016 to satisfy both the 2014 QAP underwriting requirements and the financing terms and conditions imposed by ADOH's GAP financing and Tucson's HOME loan.<sup>3</sup>

On March 18, 2015, you made a Request for Reconsideration of the DML Project LIHTC Funds and Gap financing ("Reconsideration Request"). You suggested that the tax credit award and the GAP financing be revoked and cancelled because (i) Mr. Mabry issued his 5/13/2014 Letter based upon his consultation with SHPO without completion of the §106 consultation process at that time, and (ii) ADOH is using HTF funds even though the §106 consultation process may not be completed by December 31, 2016, which is the date by which the DML Project is to be placed in service in order to receive the tax credits. ADOH concluded that there was no basis to revoke and cancel the tax credit reservation and GAP financing at that time. Mr. Mabry's 5/13/2014 Letter satisfied the HTF Guide that requires consultation with SHPO in order to provide the GAP financing – the §106 consultation process does not apply to the use of HTF funds. Additionally, the applicant had another 11 months (at that time) to complete the §106 consultation process if HOME funds were to be loaned by the City of Tucson. (See April 1, 2015 Letter, a copy of which is attached for easy reference.)

You have now provided "Additional Information" with your 4/14/2015 Letter to add to the administrative record that you believe is relevant to your Request for Reconsideration. Specifically, you refer to Ms. Stang's "Revision of Finding of Adverse Effects of HUD-funded Project at 383 South Stone Avenue, Tucson, Arizona – SHPO-2014-0485 (12354)" ("Revision"). (See 4/8/2015 Letter.) You propose that the Revision expands the determination of the adverse effect of the DML Project and that the determination contained in the Revision is not similar to the

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<sup>1</sup> Despite that points were not requested as a "Historic Preservation Project", we note that the 2014 QAP did not require a broader review through a §106 consultation process for an award of points as a "Historic Preservation Project", as the 2015 QAP now does.

<sup>2</sup> The Gap financing to be provided by ADOH is from "Housing Trust Funds", governed by the 2013-2014 State Housing Fund Program Summary & Application Guide, Revised 1-29-2014 ("HTF Guide"), §1.9(F), which provides that: "Projects funded solely with HTF are required to meet the requirements of the State Historic Preservation Act. Applicants must consult with the State Historic Preservation Officer ("SHPO"), including the Tribal Historic Preservation Officer, if applicable."

<sup>3</sup> For the City of Tucson to loan HOME Funds, the City would need to provide HUD's Authority to Use Grant Funds, which would signify that all applicable reviews, including the §106 consultation process, have been completed.

conclusions reached by Mr. Mabry about mitigation of the adverse effect. You therefore conclude that Mr. Mabry's 5/13/2014 Letter was "premature" and "the project did not and continues to not meet the threshold required by ADOH as detailed in Ms. Redondo's May 7, 2014 letter".

ADOH has reviewed the Revision in consideration of the Request for Reconsideration. ADOH concludes that the Revision, and the findings set forth therein, is not relevant to the continuation of threshold analysis by ADOH in May of 2014, for the same reasons set forth in the April 1, 2015 letter. That is, confirmation of no adverse effect from the Certifying Local Government (after consultation with SHPO) satisfied the HTF Guide for threshold purposes for the use of HTF funds as GAP financing. Additionally, the applicant for the DML Project has approximately 8 months remaining to complete the §106 consultation process in order to use Tucson's HOME loan. It is apparent from the Revision that the §106 consultation process is underway, as detailed below.

First, it is significant to note that the Revision concludes that demolition of the buildings of the DML Project will result in the de-listing of those buildings from the National Register of Historic Places, but that does not create an imminent threat of delisting of the Armory Park Residential Historic District ("Armory District"),<sup>4</sup> (4/8/2015 Letter, p. 1-2) The Revision further concludes that demolition of the majority of the buildings has a direct adverse effect on the Armory District because of the "loss of a historic property contributing to the [Armory] District; and [t]here is a contribution of cumulative adverse effects to the [Armory] District because of the additional loss of historic fabric." *Id.* Other than the foregoing, "there are no other reasonably foreseeable adverse effects of this undertaking on the Armory Park historic district." (4/8/2015 Letter, p. 3)

Second, ADOH notes that in light of the foregoing findings in the Revision, the City of Tucson Housing & Community Development Department (the "City") requested SHPO to review the findings and advise whether Arizona's SHPO concurs with the finding of adverse effects, and once it received concurrence, it would advise the Advisory Council for Historic Preservation ("ACHP") of the revised finding. (4/8/2015 Letter, p. 4) It appears that Arizona's SHPO has concurred with the Revision. (See 4/8/2015 Letter, p. 4 "Concur".)

Third, and most notably, the City will develop, in consultation with SHPO and ACHP, and other consulting parties, a "Memorandum of Agreement" to stipulate how the adverse effects of the DML Project will be resolved through mitigation measures. (4/8/2015 Letter, p. 4)

The foregoing notations from the Revision indicate that the City and other consulting parties will work with the applicant to resolve the adverse effects through mitigation measures, which may or may not be, or include, the mitigation solution suggested by Mr. Mabry. Until the §106 consultation process is completed, ADOH will not have sufficient information to determine whether the reservation of tax credits and GAP financing will be cancelled by the deadline, December 31, 2016. (Recall, the 2014 QAP had no requirement that the §106 consultation process be completed by threshold, only that any required §106 consultation process, if applicable at all, would need to be completed by the applicable deadline for the issuance of tax credits, i.e., December 31, 2016.)

Accordingly, to the extent that the §106 consultation process – because of the City's use of HOME funds for the DML Project – applies here, the §106 consultation process is underway, and time remains within which to complete

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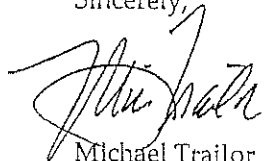
<sup>4</sup> The Revision finds that there are no direct, indirect, or cumulative adverse effects on the Barrio Libre Historic District. (4/8/2015 Letter, p. 3).

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the review process and develop mitigation solutions before the deadline of December 31, 2016. Therefore, revocation and cancellation of GAP financing and the reservation of tax credits would be premature at this time.

ADOH will further review the DML Project as the matter progresses. Please do feel free to contact ADOH if you wish to discuss the matter further or have additional information to share.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Traylor", written in a cursive style.

Michael Traylor  
Director

enclosure