

NCSHPO

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November 11, 2023

Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001
via email to housing@achp.gov

Re: Draft Policy Statement on Housing and Historic Preservation

Thank you for the opportunity to comment on the Advisory Council on Historic Preservation's proposed Housing Policy Statement which would replace the existing Affordable Housing Policy Statement from 2006. Overall, the National Conference of State Historic Preservation Officers certainly agrees with the need to update the existing statement, and we readily recognize the many challenges and likewise opportunities that form the basis of an intersection between historic preservation and the housing crisis.

We do, however, have a few concerns about the proposed revisions:

1. **Housing versus Affordable Housing:** While we understand the overall societal interest to increase housing availability in total, we do not support expansion of this policy statement to cover *all* housing – essentially placing preservation as subordinate to the concept of housing in virtually all cases.

It is one thing to focus on affordable housing in a broad sense, to include publicly assisted, workforce or other modest housing production that meets the needs of a public clamoring for affordable options. It is however another matter to expand a policy statement that would cover the production of any and all housing, including luxury or high-end housing, where incentives and “flexibility” may not be necessary – which would consequently result in less preservation. We think the better course would be for the ACHP to better define “housing” in this statement so as not to overreach and not to set a national expectation that whenever housing is involved, a lesser preservation standard should be followed. If that is the case that historic preservation should be subordinate and not considered complimentary to the question of housing, then why not prioritize small businesses over historic preservation considerations? Or mineral mines for battery production? Or renewable energy projects? These larger societal issues are all important priorities that need to be addressed and, in our view, having the ACHP state that preservation needs to be “flexible,” is to introduce an unwelcome slippery slope that is not fundamentally preservation-oriented in keeping with its core mission.

2. **Policy Principles versus Recommendations:** Several items in the revised policy statement are in fact not policies at all – rather they are simply recommendations for state and local governments and other “public-facing institutions” not subject to the ACHP's regulatory oversight, because

these principles to take certain actions are not intersecting directly with federal laws or undertakings.

While many of these items are laudable ideas, we question whether they belong in an ACHP policy statement when there is no nexus. A more appropriate approach rather might be for the ACHP to adopt a policy to “encourage public-facing institutions,” to take a desired action instead of telling them they “should.” Alternately, the items that fall within the ACHP’s direct jurisdiction could be consolidated as actual policy statements, while the others (#1, #3, #4, #5 and #11) pulled together into a set of recommendations to public-facing institutions.

3. **Zoning:** The inclusion of Zoning brings in a dimension that is necessary to the conversation as it has a direct impact upon housing. That said, we think this recommendation should be more nuanced than simply encouraging density and recommend the examination of codes for changes that balance numerous factors including location, historic preservation, transportation and the environment. Focusing on increasing density may be appropriate in many cases, but not all. Increasing allowable density can certainly increase units – but it raises the underlying value of the land and, without a form-based component, places tremendous pressure on historic neighborhoods that in some cases no amount of “flexibility” can reconcile. We believe this recommendation needs some more qualifiers noting that increasing density can be a potential solution, in some cases, instead of assuming it always is.
4. **Housing Commodification:** If the ACHP wants to wade more broadly into housing policy issues, and the issue of affordability, it should be encouraging research and dialogue about the impact of large institutional real-estate investment schemes that are buying up housing in cash for profit – taking potential homebuyers out of the equation. Short-term rentals have resulted in private investors purchasing multiple homes for short-term rental profit instead of housing. The nature of our housing market is being impacted by tax, investment and other federal policies that incentivize the commodification of the housing market that really should be analyzed.
5. **Avoiding Archaeology:** While we recognize that in some cases it may make sense to limit archaeological investigation in a housing rehabilitation project, we do have to acknowledge that even in some urban areas that are long-standing sites of human habitation, where even limited ground disturbance will take place, that archaeology could still a relevant concern. To allow for that, we would not suggest using the word “avoid.” Instead, we think language should reflect that if any archaeology is required, that it be kept to an amount reasonable and relative to the ground disturbance together with any state or tribal interests.
6. **Streamlining:** Many SHPOs are in a state of crisis. With high levels of staff vacancies, a competitive job market, and huge numbers of federal infrastructure projects – with zero additional federal financial support, we are extremely concerned with the calls for “streamlining” and faster review processes. Any references by the ACHP in this regard should be accompanied by a statement encouraging the making available of resources to SHPOs and THPOs to do their jobs. Since the ACHP is intent on advising state and local governments, this encouragement for

financial support should be a fundamental component. Too often the effort to streamline comes at the expense of SHPO and tribal involvement as the primary efficiency.

7. **Flexibility:** We believe the Secretary of Interior’s Standards are inherently flexible and they in fact do include direct statements that guide towards application in a reasonable and flexible manner, taking into consideration economic and technical feasibility on a case-by-case basis. We think instead of suggesting the Standards are something that are problematic from which there must be revision or relief to achieve a policy goal or, in some cases totally ignored, we think it would be more productive for the ACHP to cite the “reasonable” language in the standards to demonstrate how they can be used in alignment. In other words, the ACHP should be focused on how to harmonize historic preservation and housing needs to achieve positive results – not on how to revise historic preservation practice so it can be used as a housing incentive.

Thank you again for the opportunity to comment. We look forward to working with the ACHP on the intersections between historic preservation and housing policies.

Respectfully,

A handwritten signature in black ink, appearing to read 'Erik M. Hein', written in a cursive style.

Erik M. Hein
Executive Director