



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240



December 18, 2014

Re: **Rockaway Courthouse, 90-01 Beach Channel Drive, Rockaway Beach, New York**
Project Number: **29462**

Dear

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service, denying certification of the rehabilitation of the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 C.F.R. part 67) governing certifications for federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you, _____ and _____ for meeting with me in Washington on November 10, 2014, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the materials submitted as part of the appeal or after the appeal meeting, I have determined that the rehabilitation of the Rockaway Courthouse is consistent with the putative historic character of the property, and that the project meets the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denial issued by TPS on September 16, 2014, is hereby reversed.

In response to the submitted "Part 1 – Evaluation of Significance," for the Rockaway Courthouse, the National Park Service issued a Preliminary Determination of Individual Listing on October 25, 2013, stating that the property appeared to meet the National Register Criteria for Evaluation and would "likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer." Upon review of the "Part 2 – Description of Rehabilitation," TPS determined that the proposed rehabilitation did not meet the Standards owing principally to the construction of a new addition. Other issues figuring in the TPS decision included furring out the interior face of the exterior walls, changes to partitions from the first floor, and the demolition of a stair. TPS further noted that the application lacked drawings showing the replacement windows; therefore, it could not evaluate this aspect of the rehabilitation.

Built in 1931, the Rockaway Courthouse, as TPS noted, "is composed of a central three-story block flanked by... two-story east and west courtroom wings that contain double-height courtrooms." The prominent wings, angled back from the central block, give the building a

distinctive modified "V" configuration. The two wings enable the building to fit into the broad but shallow site; since the wings angle back to the corners at the rear of the property, they can be longer than if they were in line with the central section parallel to the street in front. The building is also noteworthy in another respect: the center block has no entrance, and the building has no one "main entrance"; rather, each of the two wings has "its own ornate Greek Revival entrance portico," as the Part 1 application for the project notes. The stairs at each of these imposing entrances lead not only to separate courtrooms, but to separate courts: Magistrate's Court on one side, Municipal Court on the other. The building's interior reflects this external organization: the separate two-story courtrooms are not only the most imposing spaces, but essentially determine the whole of the building itself. The central portion of the structure houses secondary administrative spaces, which were ancillary to the courtrooms, secondary in purpose and composition; equally secondary are the spaces behind the courtrooms.

The character-defining feature of the building is thus its geometric form, presenting essentially two fronts to the public, each demarcating a two-story courtroom. With this configuration as background, I have determined that, although the proposed three-story addition will cover most of the rear facades inside the "V" of the building, its massing is broken up and the addition is only one story in height along the rear property line. It will only project slightly beyond the southeast and southwest corners of the building. Even the elevator overrun that will rise slightly above but behind the east wing will not significantly impair the wing's visual appearance. And, because the side streets are narrow, and the neighborhood closely built up, the rear is essentially not visible except from two tightly constrained vantage points. Thus, given its limited public visibility, I find that the addition will not significantly impair the building's overall historic character. Consequently, I disagree with the TPS determination that the addition will "be visible from many public vantage points." In other respects, such as proposed massing, design, materials and colors, I have determined that the addition will be acceptable.

Accordingly, I find that the proposed addition will meet Standards 2, 9, and 10 of the Secretary's Standards for Rehabilitation. Standard 2 pertaining to the treatment of a property's historic character states: "*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*" Standards 9 and 10 govern new additions. Standard 9 states: "*New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*" Standard 10 states: "*New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*"

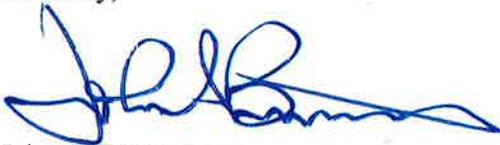
Regarding the interior aspects of the rehabilitation cited by TPS, I find that they are also generally respectful of the historic character of the Rockaway Courthouse. The two courtrooms will remain open, two-story spaces. This is no small matter given the size of these spaces relative to the building as a whole. As discussed during the meeting, flooring them over would have greatly increased the floor area and thus the building's utility to new tenants. However, the present plan will preserve those spaces, and the two-story windows will remain unencumbered by a new floor that might have divided them in two. Although the two-story windows at the side facing the new addition will no longer provide sunlight to the former courtrooms, the plan to light them from behind (shown in the drawing dated 11-18-14 submitted by _____ confirms that the visual appearance and character of the historic windows will be respected.

Regarding the other issues cited in that earlier decision, my examination of the record does not reveal that the entrance lobbies will be markedly changed, as it was charged. And, I do not find that the removal of the stair in the building's central block will contravene Standard 2, quoted above, or Standard 5, concerning "distinctive features." Standard 5 states: "*Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*" The stair affected was not accessible to the public entering the building to reach the courtrooms; as described during our meeting, it served as a "back of the house" feature reflecting the separate circulation patterns inherent in courthouse designs; and was thus secondary in any ranking of the building's character-defining features. The partitions that will be removed from other spaces are similarly secondary. I have determined that their loss is within the limits of permissible change in the rehabilitation tax incentives program. Finally, I note that the walls will be furred out only on lower portions of courtroom exterior walls, below the window sills, and that the additional depth cited by TPS will have only a marginal impact on the affected spaces.

Regarding the replacement windows to be inserted in the building, TPS did not deny this aspect of the Part 2 application, but only noted that it could not review it because drawings of the new windows were not made available to it. Accordingly, since the replacement windows were not a denial issue, I have not reviewed the information (including drawings submitted after our meeting). Although I am reversing TPS's denial of certification, please note that my decision reverses only the issues of denial cited by TPS in its letter of September 16, 2014, and does not constitute approval of the entire Part 2 application. Consequently, in order to secure an approved Part 2 application for the overall project, you must submit a Part 2 amendment for the replacement windows to TPS for its review and approval.

Please note that the project will not become a certified rehabilitation eligible for the tax incentives until it is completed and so designated. As Department of the Interior regulations state, my decision is the final administrative decision with respect to the September 16, 2014, denial that TPS issued regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-NY
IRS