



## United States Department of the Interior

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



May 21, 2024



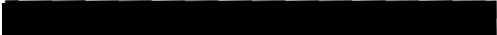
**PROPERTY: ASARCO Southwestern Department Headquarters, 1150 North 7th Avenue,  
Tucson, AZ**


**PROJECT NUMBER: 43540, Part 2**

**APPEAL NUMBER: 1684**

**ACTION: Final Administrative Decision**

Dear 

I have concluded my review of your appeal of the November 22, 2023 Decision of Technical Preservation Services (TPS), National Park Service, denying certification of the Part 2 – Description of Rehabilitation application for the property cited above (the Decision). 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, 

 for meeting with me via videoconference on February 5, 2024, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the materials presented as part of your appeal, submitted at my request after our appeal meeting, and online research I conducted, I have determined that the proposed rehabilitation of the ASARCO Southwestern Department Headquarters is not consistent with the historic character of the property and that the project does not meet the Secretary of the Interior's Standards for Rehabilitation (the Standards). I hereby affirm the denial of certification of the Part 2 – Description of Rehabilitation application issued in the TPS Decision of November 22, 2023.

The American Smelting and Refining Company Southwestern Department Headquarters (ASARCO Headquarters) was designed by the local architectural firm of Cain Nelson Wares and constructed in 1964-65. It is a two-story rectangular office building purpose-built to reflect Arizona's climate and the company's prominence in the copper industry, with copper plate spandrel panels above and below a uniform glazed window assembly shaded by concrete hoods on the north and south elevations, and open exterior stairs on the east and west elevations. The building's main entry is located at the center bay of the long south elevation, not facing the street but the company parking lot. The entrance had a small lobby with a floating cast concrete stair running from the first to the second floor, opposite an elevator with stairs to the basement beyond. Both floors had offices along a wide, double-loaded corridor linking the stairwells at either end of the building. The corridor was slightly off-center, the north wall of which engaged the round concrete columns supporting the floor plates at each structural bay.

In 1971, a third story was seamlessly added above the lower two floors. At that time, the exterior stairwells were extended to the new third floor and enclosed. On the interior, the elevator was extended to the new floor, but the floating stair was not. Historically, the floating stair was visually connected to the entrance and lobby, but a wall was added obscuring the view. The third floor was similarly arranged to the others, with a double-loaded corridor and offices extending from the centrally located elevator core and terminating at the east and west stairwells.

TPS received the Part 2 – Description of Rehabilitation application for the property on May 22, 2023. The proposed work included the removal of the historic stair at the elevator core and all corridors and office partitions throughout the building, stripping the interior of all three floors back to its reinforced concrete structure. Residential apartments would be constructed in place of the historic interiors. By the time TPS received the Part 2 application, the second and third floors had already been demolished, and by the time the of the appeal meeting the first floor and floating stair had been demolished and new construction was underway. TPS identified the wholesale demolition of all interior features as a primary denial issue and that the new construction will not match the old, contravening Standards 1, 2, and 6, and denied certification of the proposed work in its November 22, 2023 Decision.

In your appeal presentation, you argued that the interiors had lost integrity because of tenant alterations and thus did not contribute to the historic character of the property and that the interior will look the same when the new construction is complete. However, you did not offer evidence that the interior was so severely deteriorated that demolition was justified or evidence that the new work will match the old.

In my review, I determined that the fundamental issue in the TPS denial is this: Can the historic character of the building's historic interiors—gutted back to the underlying reinforced concrete structure—be reconstructed with new materials and finishes and comply with the Standards?

I first considered the preamble to the Standards in the regulations which states that, "*A rehabilitation project for certification purposes encompasses all work on the interior and*

*exterior of the certified historic structure(s) and its site and environment, as determined by the Secretary, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structure(s).*” [36 C.F.R. § 67.6(b)]. Thus, the treatments of interior and exterior features are given equal weight in assessing compliance with the Standards. Demolishing every interior feature except the elevator clearly contravenes this requirement.

Second, I considered Standard 2, which 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.”* Again, demolishing nearly all interior features clearly contravenes this requirement. The regulations state, *“All elements of the rehabilitation project must meet the Secretary’s ten Standards for Rehabilitation (§ 67.7); portions of the rehabilitation project not in conformance with the Standards may not be exempted.”* [36 C.F.R. § 67.6(b)(1)].

Third, the conversion of this office building into residential apartment units is a reasonable reuse of the property and could have been accomplished in compliance with the Standards. However, your program for the conversion dictated gutting the interiors, violating the “minimal change” requirement of Standard 1. Standard 1 states, *“A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.”*

Fourth, although TPS included Standard 6 as a denial issue, I have determined that it does not apply in this case. The proposed work will not replace significantly deteriorated or missing features in kind. Rather, it will demolish existing features in their entirety and replace them with new construction in a different configuration. Accordingly, I have not considered Standard 6 in my decision.

The loss of virtually all historic interior spaces, features, materials, and finishes of the building does not meet the Standards and greatly impacts the historic character and appearance of the building. These features could have been retained and preserved as part of the project but your program for the conversion from offices to apartments ignored that potential. And although you asserted that you will be replacing the center corridor, it will be narrower and shifted to the south, thus not matching the original. Historic integrity, once lost, cannot be fully restored through the reconstruction of removed features, as the new features will not match the original materials exactly in terms of their authenticity, design, evidence of workmanship, and other associations. In this instance, the entire interior would be completely new features, finishes, and materials.

I find that the proposed rehabilitation does not meet Standards 1 and 2 of the Secretary of the Interior's Standards for Rehabilitation due to the demolition of character-defining interior spaces, features, and materials throughout the building. Accordingly, I affirm the Part 2 denial of certification issued by TPS in its November 22, 2023 Decision.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the November 22, 2023 Decision 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** Digitally signed by JOHN A BURNS  
Date: 2024.05.21 12:10:38 -04'00'

John A. Burns, FAIA, FAPT  
Chief Appeals Officer  
Cultural Resources

cc: SHPO-AZ  
IRS

[REDACTED]