United States Department of the Interior

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

May 9, 2013

[redacted]

Re: **Higbee Building, 100 Public Square, Cleveland, Ohio**
Project Number: **18773**

Dear [redacted]:

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service, denying certification of your proposed Amendment 9 to the previously certified Historic Preservation Certification Application, Part 3—Request for Certification of Completed Work, for the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank [redacted], for meeting with me in Washington on November 15, 2012, and for providing a detailed account of the project.

The Higbee Building is on the National Register of Historic Places, and it is a certified historic structure located within the Union Terminal Group Historic District. Proposed Amendment 9 incorporates three newly constructed components, a parking garage, a welcome center, and an elevated pedestrian bridge. The parking garage and welcome center would be connected to the second story of the Higbee Building by an elevated pedestrian bridge extending diagonally across the intersection of Ontario and Prospect Streets.

The Secretary of the Interior's Standards for Rehabilitation (the Standards) are the basis for determining whether a rehabilitation project may be certified as eligible for favorable tax treatment. [36 C.F.R. § 67.7]. The Standards ". . . encompass the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the buildings site and environment, as well as attached, adjacent or related new construction. To be certified, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structures(s) and, where applicable, the district in which it is located." [36 C.F.R. § 67.7(a)]. "In situations involving the rehabilitation of a certified historic structure in a historic district, the Secretary will review the rehabilitation project first as it affects the certified historic structure and second as it affects the district and makes a certification decision accordingly." [36 C.F.R. §67.6(b)(6)].

For the reasons discuss below, I find that the pedestrian bridge will negatively impact the historic character of both the Higbee Building and the Union Terminal Group Historic District. Therefore, I conclude that Amendment 9 would, if constructed as proposed, contravene Standards 2 and 9, and I affirm the October 1, 2011, denial of certification issued by TPS.

Impacts of the Proposed Pedestrian Bridge on the Higbee Building

With regard to the Higbee Building itself, although the bridge will cause a minimal loss of historic fabric at its point of attachment, the primary impact will be to the overall historic character of the property. When approaching the Higbee Building from the south on Ontario Street, the bridge will draw attention away from the architecturally-distinctive chamfered corner of the Higbee Building and will block the view along the historic building's facade, extending toward the Public Square. Additionally, when approaching from the east on Prospect Street, views of the historic building are similarly blocked. Consequently, I conclude that the proposed pedestrian bridge would contravene Standards 2 and 9 for the following reasons:

- Standard 2 provides that "*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.*" 36 C.F.R. 67.7(b)(2). The proposed pedestrian bridge would contravene Standard 2 because the historic character of the property would not be retained and preserved as is required by Standard 2. Additionally, Standard 2 would be contravened because exterior features and spaces that characterize the historic Higbee property would be obscured by the bridge.

- Standard 9 provides that "*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.*" The proposed pedestrian bridge would contravene Standard 9 because the bridge would not be compatible with the architectural features of the historic Higbee property and its environment.

Impacts of the Proposed Pedestrian Bridge on the Union Terminal Group Historic District

The proposed pedestrian bridge would have a significant visual impact on the Union Terminal Group Historic District (the District). Ontario Street is the north-south axis of the city centered on Public Square, a block to the north. When approaching from the south, the bridge would interrupt the historically-unimpeded views of the buildings within the historic district and the Public Square at its northern end. When approaching on Prospect Street, the bridge will similarly interrupt the historically-unimpeded views into and within the District. The bridge will significantly compromise both the historic streetscapes along Ontario and Prospect Streets within the District and the more distant view corridors into the District along those streets. Consequently, I conclude that the proposed pedestrian bridge will not meet Standards 2 and 9 for the following reasons:

- Standard 2 provides that "*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.*" The proposed pedestrian bridge would contravene Standard 2 because the historic character of the District would not be retained and preserved as is required by Standard 2. In the same vein, Standard 2 would be contravened because views of the exterior features and spaces that characterize the District would be compromised by construction of the bridge.

- Standard 9 provides that "*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.*" The proposed pedestrian bridge would contravene Standard 9 because the bridge would not be compatible with the architectural features and environment of structures in the District.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the October 1, 2011, 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-OH
IRS