New Shelters In Old Properties: The Tax Reform Act of 1976

by Richard J. Roddewig and Michael S. Young

THE NEW FEDERAL CONCERN FOR THE BUILT ENVIRONMENT

One facet of the new environmental concern of the 1960s was a realization that our built environment needed as much protection as our natural environment. Important components of the built environment were disappearing as quickly as the quality of our air and water. Since 1933 more than 25% of the buildings recorded by the first Historic American Buildings Survey have been destroyed.

In the late 1960s government began to respond to this new awareness. At the local level, historic district zoning or regulations began to appear, and at the federal level, matching grant programs to assist state preservation efforts were inaugurated. The National Trust for Historic Preservation, a private organization chartered by Congress in 1948, put its finger on the principal stumbling block to a wider acceptance of its preservation viewpoint when it quoted urbanologist Ada Louise Huxtable who said, "Cities are built and unbuilt by the forces of law and economics, supply and demand, cash flow and the bottom line, far more than by ideals, intentions, talents and visions or architects and planners."

Because federal income tax policy has long been an important contributor to making real estate deals work, Congress incorporated into the Tax Reform Act of 1976 the provisions of Section 2124, "Tax Incentives to Encourage the

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Richard J. Roddewig is an attorney-at-law in Chicago. He received his M.A. in political science and J.D. from the University of Chicago. Mr. Roddewig is the author of *Green Bans: The Birth of an Australian Politics of the Environment.*

Michael S. Young is a real estate consultant principally associated with Shlaes & Co., Chicago. He received his M.B.A. in finance from the University of Chicago and has had articles published in *Real Estate Issues, The Appraisal Journal,* and *The Real Estate Appraiser.*

Preservation of Historic Structures."[1] There were three incentives and two disincentives in the legislation as finally enacted into law. The first incentive provision allows rehabilitation expenditures incurred with respect to certifiable historic structures used in a trade or business or held for the production of income to be amortized over 60 months. The second incentive, an alternative to the first incentive, allows the owner to use accelerated depreciation methods as if the owner were the first owner of a new real estate asset when an historic structure is "substantially rehabilitated."[2] The third incentive was a new charitable contribution deduction of a partial interest in property (e.g., limited term conservation easements or remainder interests in real property granted exclusively for conservation purposes).

The two disincentives are potentially the widest reaching (and most controversial) provisions in the legislation. When a certified historic structure is demolished or when any structure located in an historic district listed in the National Register of Historic Places is demolished,[3] the owner will not be allowed to deduct for tax purposes the cost of demolition or even the undepreciated basis of the structure. Instead, both the demolition cost and the undepreciated cost of the building must be added to the basis in the land. Because land is not a depreciable asset, the owner or developer would lose two important tax deductions that heretofore were advantageous to developers of new buildings. In addition, the depreciable basis of any new structure erected on the site of a demolished National Register property or certified historic structure may only be depreciated at the straight-line rate.[4]

In the section-by-section analysis of the bill and the environmental impact statement that accompanied it, Maryland Senator Glenn Beall suggested strongly that central city commercial areas were intended to be the main beneficiaries of the tax incentives:

> The rehabilitation proposals are specifically aimed at preserving a variety in the size and architecture of urban structures by offering to the investor an attractive alternative to the demolition of older buildings. Center city commercial areas have been particularly affected by a tendency to convert land usage to large multistory structures or to parking lots and other low density uses often related to motor vehicle accommodation. The resultant loss in the character and charm of our cities is a permanent concession to economic realities.
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> . . . over the long term the effect of moving toward more equal tax treatment of demolition and rehabilitation should result in greater variety and character in the urban environment. More older structures should be retained and renovated. Downtown areas should provide a broader range in architecture as the ages of buildings will be more varied. Smaller older structures should be saved and used where before they might have been converted to parking lots. Residential areas with a high number of rental units should show greater numbers of rehabilitation structures. Fewer structures should be abandoned and left to decay.

The economic factors that make the bottom line in an investment in an older building unattractive are many. As the Department of the Treasury's Environmental Impact Statement on the proposed legislation made clear: "Present economic incentives do not favor the retention and restoration of these [historic] buildings, particularly those in private ownership. Main-

tenance costs are high and restoration expenses often exceed potential future returns for buildings held for commercial purposes." Do the historic preservation incentives of the Tax Reform Act of 1976 alter that bleak assessment of the prospects for rehabilitation? Does Section 2124 have a chance to accomplish all the grand goals its sponsor envisioned? Are the tax incentives strong enough to generate the amount of rehabilitation necessary to change the pattern of inner-city development and demolition? In this article we shall discuss the likely impact of the first two incentives, i.e., the alternative use of a 60-month amortization of rehabilitation expenditures or accelerated depreciation on the entire basis of a renovated building in designated historic districts in Chicago.

What magnitude of added tax savings would be provided by the 60-month amortization or accelerated depreciation deductions in a typical residential rehabilitation project? How does another aspect of the Tax Reform Act of 1976, the new punch given the minimum tax on preference items, offset the appeal of the historic preservation incentives?

THE TAX REFORM ACT OF 1976 AND THE PROSPECTS FOR NEIGHBORHOOD REVITALIZATION

The Scope of the Historic Preservation Provisions

The first flurry in the use of the preservation provisions of the Tax Reform Act of 1976 is likely to be in residential rehabilitation rather than in commercial office building rehabilitation. Neighborhoods near some major urban centers have undergone spontaneous rejuvenation during the last ten years. The catalyst has often been a combination of factors including proximity to downtown cultural and recreational amenities, easy and quick journeys to and from work, and an architecturally interesting stock of well-crafted, pre-1900 townhouses and small apartment buildings. Most of the rehabilitation effort has been by small developers or owner-occupiers of one- to six-flat buildings. Larger development companies have shown interest in six to 20-unit buildings or in adaptive reuse of commercial space for residential purposes once neighborhood rehabilitation reaches some undefined tipping point toward increasing property values. This residential rehabilitation phenomenon is poised to assimilate the Tax Reform Act rehabilitation incentives.

By contrast there has been relatively little experience with rehabilitation of commercial office buildings. Many of the highly touted commercial renovation attempts of recent years, such as Ghirardelli Square in San Francisco and Trolley Square in Salt Lake City, have been examples of adaptive reuse for new purposes rather than renovation of buildings to better serve the originally intended use. Because adaptive reuse projects usually involve major alterations of interior spaces, reducing the building to nothing more than an "historic container," certification of those projects for Tax Reform Act rehabilitation benefits is problematical.

The scope of the new provisions is quite narrow. The Tax Reform Act benefits only apply to individual buildings or historic districts listed on the National

Register of Historic Places. The Register was created pursuant to the National Historic Preservation Act of 1966 that requires the Secretary of the Interior "to expand and maintain a national register of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology and culture . . ."

Anyone may nominate a property to the National Register. It need not even be the owner or a civic group. Nominations are sent to a designated State Historic Preservation Officer (SHPO) in the state in which the property is located. If the SHPO approves, the nomination is forwarded to the Office of Archaeology and Historic Preservation (OAHP), once a division of the National Park Service but now under the newly-created Heritage Conservation and Recreation Service (HCRS), for final approval. The criteria for evaluating the historic significance of a building nominated to the National Register include its association with significant events or persons in American history and its embodiment of a distinctive style or type of construction or work of a master.

By the end of 1977 there were approximately 12,500 individual properties on the National Register, and new additions are made annually. Nationwide about 1500 historic districts containing perhaps one million buildings have been listed, including 30 districts in Illinois and eight districts within the City of Chicago. However, not every property within a designated National Register historic district or individual listed property qualifies for the 1976 Tax Reform Act benefits. The property must be depreciable; that is, it must be used in a trade or business or in some other way to produce income. For example, commercial office buildings and apartment buildings are income-producing properties. An owner-occupied single-family home does not qualify.

The Dual Certification Process

Special Standards Govern Building Significance and Rehabilitation

Not every commercial office building or apartment complex in an historic district automatically qualifies for the historic preservation tax benefit. The property owner must have the building "certified" by the Secretary of the Interior if it is not already individually listed on the National Register of Historic Places. The certification process has been explained in the final regulations for implementing Section 2124 of the Tax Reform Act of 1976 issued by the National Park Service in October of 1977.[5] To qualify for the tax benefits, the owner of a property in a registered historic district must first convince the State Historic Preservation Officer that the property is "of historic significance to the district." The documentation which the owner must supply is not too rigorous:

> (1) Name of owner; (2) name and address of structure; (3) name of historic district; (4) current photographs of structure; (5) brief description of appearance including alterations, distinctive features and spaces, and date(s) of construction; (6) brief statement of significance (architectural and/or historical); and (7) signature of property owner requesting the evaluation.

The State Historic Preservation Officer makes a written recommendation to Washington concerning the application. The recommendation, pro or con, is based on the following standards:

(a) A structure contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development.

(b) A structure not contributing to the historic significance of a district is one which detracts from the district's sense of time and place and historical development intrinsically; or when the integrity or the original design or individual architectural features or spaces have been irretrievably lost.

(c) Ordinarily structures that have been built within the past 50 years shall not be considered eligible unless a strong justification concerning their historical or architectural merit is given or the historic attributes of the district are considered to be less than 50 years old.

As the 50 State Historic Preservation Officers gain experience, it is likely that the Secretary of the Interior will accept their recommendation on certification of the historic significance of individual buildings in almost every case.

Merely obtaining the certification of the building's historic character is not a carte blanche to begin gutting and rehabilitating. The property owner must have the program of rehabilitation certified as well. The standards for certification of the rehabilitation are lengthy and complex:

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alterations of the building structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguished original qualities or character of a building structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any rehabilitation project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Certification Ambiguities—Resolved and Otherwise

The Office of Archaeology and Historic Preservation within the HCRS handles the final certification reviews and it is beginning to clarify the many ambiguities in those two sets of certification standards. When the draft regulations on building certification were first proposed, it was widely feared that many buildings in a district might not qualify. Note that the standards for building certification require "location, design, setting, materials, workmanship, feeling, *and* association." What if a structure had the design, materials, workmanship, and feeling of the era which the district celebrates, but was boxed in by more structures? Did that mean it failed to meet the location, setting, and association standards? Suppose a district celebrated a particular style of architecture or use. Did a building from the same era but in a totally different architectural style or use qualify?

At a series of regional conferences on the historic preservation provisions of the Tax Reform Act of 1976, the Office of Archaeology and Historic Preservation indicated it would loosely interpret the language of paragraph (a) of the building certification standards. It would encourage State Historic Preservation Officers to certify as many buildings as possible within an historic district. For example, the OAHP has certified an historic 1830s hotel in an historic district in Paterson, New Jersey, even though the district was designated because it is the largest and finest assemblage of late eighteenth to early nineteenth century industrial buildings in the east. And in the New Orleans Vieux Carré Historic District, the OAHP would certify buildings from the late Victorian era even though the district commemorates an earlier era of the nation's history.

In broadly reading the certification standards, the OAHP is saying that a National Register historic district is not a highly polished museum for display of an historic architectural style, forgotten lifestyle, or particular building use. Rather it is an assemblage of various architectural forms, lifestyles, and building uses dynamically changing over time with the urban development process. Building uses out of character with the rest of the district, and even later stylistic additions, are certifiable as long as they "contribute to the space within the district, maintain the continuity of the district, and contribute to the streetscape."

The Sheffield neighborhood of Chicago is a designated National Register Historic District composed mainly of three- to six-flat red brick and graystone walkups from the 1880s and 1890s with a smattering of townhouses and single-family homes from the same era. Scattered throughout the district are a few

ten to 30-unit apartment buildings constructed in the 1920s. These larger "courtyard buildings" contrast sharply with their red brick and graystone Victorian neighbors, and inside they have none of the fancy oak or maple woodwork or ornate plaster ceiling medallions of the older buildings.

Yet under the broad interpretation of the standards, even these courtyard buildings could be certified. In doing so, the OAHP would be, in effect, inserting a new standard in the gap between standards (a) and (b). The courtyard building does not contribute to the historic character of the district (as required by paragraph (b)). Although wider and deeper than the Victorian era buildings, the courtyard buildings are generally the same height (three to four stories) as their Victorian neighbors. They at least "maintain the continuity" of the district and might contribute more to the district's streetscape than any new building which might replace them.

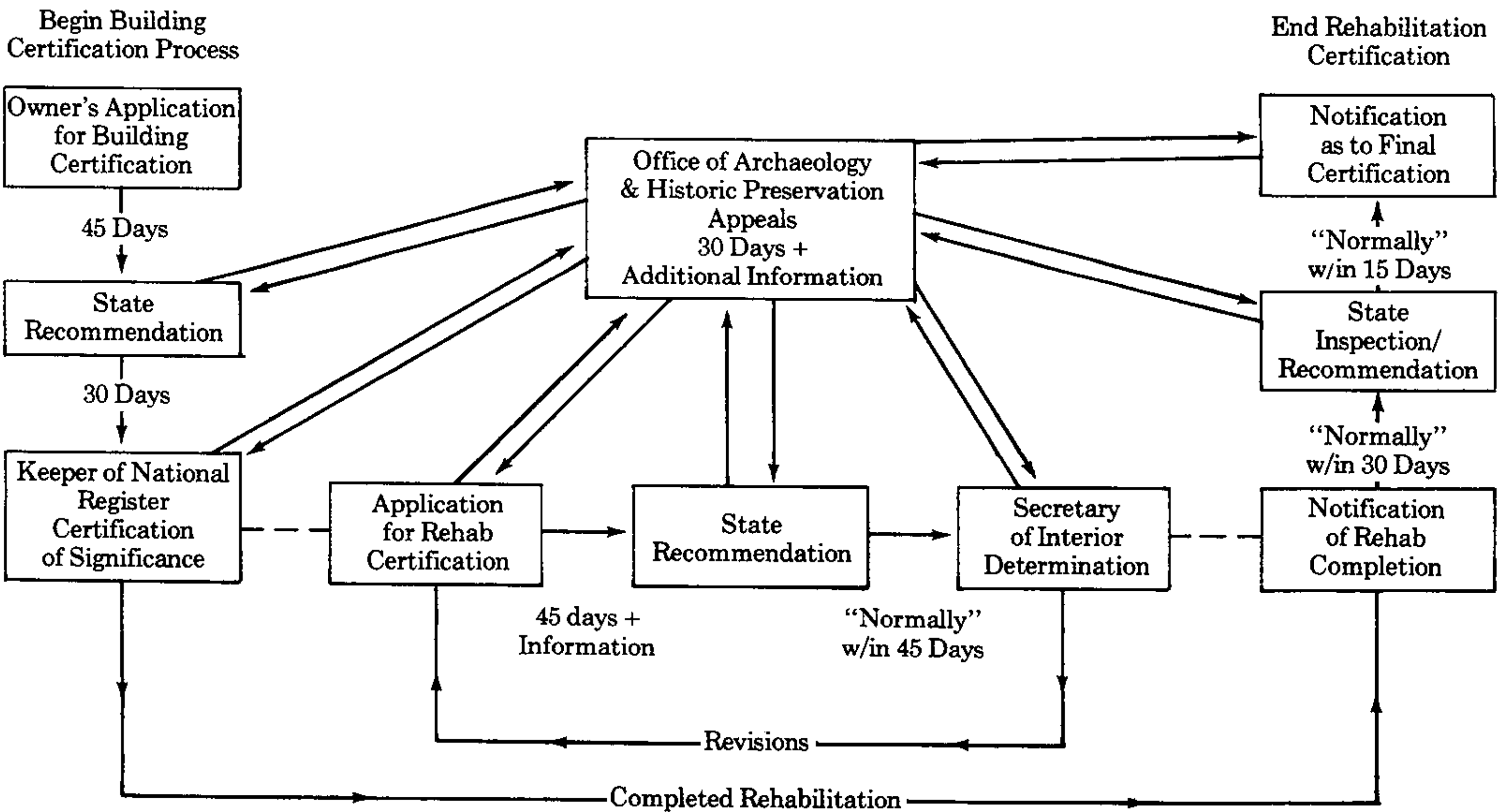
OAHP's willingness to certify as many individual buildings as possible within historic districts may be more than offset by finickiness in certifying their rehabilitation. Many redevelopers will take one look at the ten rehabilitation criteria and label the Tax Reform Act historic preservation provisions as nothing more than an invitation to a bureaucratic nightmare. However, the rehabilitation standards deserve more careful scrutiny. The chief of the Technical Preservation Services Division of OAHP has summarized the overriding principle by which the ten standards will be applied: "The Tax Reform Act of 1976 historic preservation provisions are about rehabilitation—not restoration." The standards are flexible enough to permit alterations important to the economic viability of a rehabilitation project and also to preserve the essential historic qualities of the building.

For instance, final standards (9) and (10) provide guidance for contemporary design alteration of interior spaces as well as exterior appearance. Contemporary interior layouts will not be "discouraged" as long as *significant* historical features are not destroyed and the design is compatible with the character of the building. The guiding principle is to design any interior alterations so that if the "alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired."

The Dual Certification Time Schedule

If OAHP scrutinizes small details of interior layouts there could be costly time delays for any property owner interested in the historic preservation tax benefits of the Tax Reform Act of 1976. As *Table I* makes clear, the certification that a building is of significance to the historic character of its district could take as long as seventy-five days. Then, if the proposed rehabilitation work has not already been completed, the owner must submit an application for rehabilitation certification to the SHPO. The state recommendation to Washington must be made within 45 days, but the state reviewing officer can delay the review by requesting more information. If more information is requested, the state reviewing officer presumably has another 45 days to digest it once it has been received. Judging from the scrutiny with which rehabilitation proposals will be reviewed, requests for more information could become routine.[6]

TABLE I
DUAL BUILDING AND REHABILITATION CERTIFICATION PROCESS



Once state review is completed and the SHPO has made his recommendation to Washington, the Secretary of the Interior must notify the owner of final approval or disapproval *"normally* within 45 days." The Secretary may also notify the owner directly (or indirectly through the state review officer) that revisions to the rehabilitation proposal are needed before he will give final certification. Presumably the entire rehabilitation certification process must be commenced again once the plans are revised accordingly.

When the owner has completed the rehabilitation work, or if he is seeking certification of an already completed project, he must have the completed project certified. Although there is an optional opportunity for state inspection of the completed rehabilitation, the final notification from the Secretary of the Interior "normally" occurs within 45 days after the owner informs the SHPO that the project is completed.

If an owner receives a denial at any stage of the double certification process, he may appeal directly to the OAHP. He has up to 30 days from denial to make his appeal, and, if successful, he then continues on from the point in the certification process where he had left off. However, in the course of the appeal, the OAHP has the right to ask for more information on which to judge the appeal; yet another delay in the process. The entire process from start of building certification to notification of the final certification could take seven months, or longer if appeals and requests for additional information are required.

Of course work may proceed while a developer puts his rehabilitation proposal through the certification mill, but, for obvious reasons, the OAHP prefers owners to request certification before rehabilitation is completed. That allows the SHPO and the OAHP to request changes in the plans according to their interpretation of the ten rehabilitation criteria. Once the pattern of National Park Service interpretation of the ten rehabilitation criteria becomes clear, it may actually be in a developer's best interest to seek certification only after rehabilitation is completed since the OAHP is likely to forgive mistakes in completed projects that it might otherwise try to alter when reviewing a proposed project. The developer must be confident in his interpretation of the ten rehabilitation criteria and sure that his historic preservation "pluses" outweigh the "mistakes."

The Best Bet For Rehabilitation: Plain Buildings in Fancy Neighborhoods

How much rehabilitation is likely to occur in neighborhoods on the National Register, and how much of that rehabilitation will be able to take advantage of the historic preservation provisions of the Tax Reform Act of 1976? As of February 1978, there were eight historic districts within the City of Chicago that had been listed on the National Register of Historic Places. In only four of those districts—the Sheffield District on the western fringe of the now fashionable Lincoln Park neighborhood, the Lakeview Historic District immediately to the north, the Pullman Historic District at the far south end of the city, and the South Loop Printing House Row Historic District on the

edge of downtown Chicago—is there a stock of income-producing properties that may qualify for the rehabilitation tax benefits.

As in the Sheffield District, the qualifying building stock in the Pullman and Lakeview Districts dates from the period 1880 to 1925, and is predominantly small two- to six-flat red brick or graystone apartment buildings. Those three neighborhoods in the late 1960s were among the first in Chicago to attract private rehabilitation capital. The Sheffield neighborhood had already experienced extensive interest in rehabilitation long before it was approved for National Register status in January of 1976, and the same pattern has been repeated in the Lakeview neighborhood recently added to the National Register. There is a strong demand for townhouses and small apartment buildings among young professionals who prefer the excitement of the city to the monotony of the suburbs—and enjoy having tenants make their monthly mortgage payments for them. As a result, property values in parts of the Sheffield and Lakeview Districts are among the highest in the city and still rising.

It was not until a large coterie of well-educated, white-collar singles and marrieds had moved into those areas that interest in National Register listing appeared. Strong new neighborhood organizations were formed, and old ones were given new animus, to promote the area's historic charm and encourage more renovation. The National Register listing was perhaps the culmination of the changeover of the neighborhood from lower- and middle-income blue collar status to middle to upper-income white-collar areas.

The National Register designation process was not designed to be an upper-income phenomenon; it just is. Anyone may propose a neighborhood for designation, but it is perhaps only the well-educated, well-heeled newcomers who can afford to appreciate the fine old architectural features and the invisible quality of the behind-the-walls construction. The old-time neighborhood residents see only the cracks in the plaster, the rotting window sashes, and the peeling paint which their limited incomes (or those of their landlords) cannot repair. The new neighborhood organizations are willing to take the time to research the neighborhood history and fill out (or hire an expert to fill out) the application form which starts the designation process rolling.

Will the rehabilitation benefits of the Tax Reform Act of 1976 make the National Register process something other than an upper-income phenomenon? In Chicago, at least, any change from this pattern is unlikely. Landlords in low-income areas with the architectural character to make the National Register are more interested in deferring maintenance and squeezing more dollars from deteriorating buildings. Rehabilitation is too risky in neighborhoods where property values have been steadily declining, and landlords fear the close supervision by city building inspectors that accompanies the rehabilitation process. When the OAHP is looking over your shoulder to protect the "historic integrity" of a building it is difficult to hide cracking plaster with imitation wood paneling, lower lofty cathedral ceilings to eight feet with the help of furring strips and cardboard acoustic tile, install inexpensive shag carpeting over the painted and battered hardwood floors, and plant plastic evergreens in the yard.

The Sheffield and Lakeview rehabilitation phenomenon was a spin-off from the earlier rehabilitation in the East Lincoln Park and Old Town neighborhoods. Now, areas adjoining Sheffield and Lakeview are experiencing rehabilitation spin-off interest as well. Redevelopers nibble at those neighborhoods as prices in the already rejuvenated neighborhoods soar. An early sign of redevelopment potential is investor interest in the larger courtyard buildings. Developers know that as the smaller historic buildings in the neighborhood are discovered and the neighborhood improves, they will be able to sharply escalate rents in line with the new demand for the ambience of the neighborhood—tenants are willing to pay dearly merely for the chance to walk by a block of turn-of-the-century red brick Victorians to get to their own comparatively dull building.

Are the owners of those 1920s courtyard buildings likely to take advantage of the rehabilitation provisions of the Tax Reform Act of 1976? The OAHP has expressed its intention to give them every opportunity for building certification, and, ironically, the ten rehabilitation certification standards will be less onerous for a 1920s courtyard building in a red brick Victorian district than for the truly historic buildings in that same district.

The courtyard building neither contributes to nor detracts from the historic character of the district. So according to what standard is its interior rehabilitation to be certified? It has none of the fine old woodwork or other historic materials or distinctive architectural features. Even if the renovation of a courtyard building is to be judged by its sensitivity to that building's own architectural style, by its concern for that building's own distinctive features, and by its compatibility with that building's own size, scale, color, material, and character, it will present far fewer problems in the rehabilitation certification process than in the certification process for rehabilitation of a red brick or graystone three-flat.

The older Victorian era apartments are narrow rectangles divided into a maze of small, closetless cubbyholes which require much moving of walls to make them functional by today's standards. The design of the courtyard buildings by contrast is more functional—bedrooms are large and even have closets! Plaster walls and floors are 30 years younger and in much better shape. Courtyard buildings generally only need new kitchens and baths, new carpeting in the common hallways, fresh paint, and perhaps a gas lamp in the courtyard to command significantly higher rents.

As courtyard building owners learn of the after-tax income benefits of the Tax Reform Act of 1976 now available for their kitchen and bathroom remodeling, they may be anxious to have their rehabilitation certified. To date it has primarily been the owners of the small Victorian era buildings who have sought National Register designation and the rehabilitation benefits of the Tax Reform Act of 1976, because their interest in historic buildings has made them more immediately aware of the rehabilitation incentives.

IMPACT OF THE REHABILITATION BENEFITS ON A SHEFFIELD THREE-FLAT: MAKING THE NUMBERS WORK

The High Costs of Acquisition and Rehabilitation (And the Low Cash Flows)

How truly conducive to rehabilitation are those tax benefits? In *Table II* we have analyzed the purchase and rehabilitation expenditures on an actual three-flat apartment building in the Sheffield Historic District. The previous owner had already initiated rehabilitation and had spent approximately $20,000. Therefore the relatively high purchase price of $86,000 reflects the building's partial rehabilitation. More importantly, however, it reflects the high demand for small apartment buildings in the Lincoln Park/Sheffield neighborhood of Chicago.

TABLE II

SHEFFIELD THREE-FLAT
REHABILITATION EXPENDITURES

Purchase Price (3540 sq. ft.)	$ 86,000	$24.30/sq. ft.
Second Floor Rehab (1500 sq. ft.)	$ 13,634	$ 9.09/sq. ft.
First Floor Front Rehab (1250 sq. ft.)	21,385	17.11/sq. ft.
First Floor Rear Rehab (750 sq. ft.)	4,661	6.21/sq. ft.
Common Areas Rehab	8,434	2.38/sq. ft.
Total Rehabilitation Expenditures	$ 48,114	$13.59/sq. ft.
Total Purchase Price & Rehab	$134,114	$37.89/sq. ft.

In *Table III* we have forecast incomes and cash flows for the Sheffield three-flat over a seven-year period. Alternative net cash flows were calculated based on outside professional management and self-management by the building's owner. Because the pre-tax cash flows on a small apartment building are marginal, most owners attempt self-management at least until such time as cash flows can support a professional management fee. Even with the savings from self-management, the net cash flows as a percentage of cash equity ($34,114) in the project are quite low, but increase steadily.[7]

The Tax Reform Act Rehabilitation Benefits Applied: Double the After-Tax Return and Get Out Quickly

In *Table IV* we have forecast the after-tax income on the Sheffield three-flat before using either of the two alternative Tax Reform Act of 1976 historic preservation provisions, and after each alternative. We have assumed an investor in the 36% tax bracket because the individual most likely to be interested in this type of investment is a young professional with an income in the $24,000 to $28,000 range. We have also assumed a 20-year useful life for

TABLE III

SHEFFIELD THREE-FLAT
FORECASTED INCOME STATEMENT

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Gross Income[1]	$13,140	$14,100	$14,805	$15,545	$16,323	$17,139	$17,996
Expenses	$ 2,137	$ 2,244	$ 2,356	$ 2,475	$ 2,598	$ 2,728	$ 2,864
Management (6% Gross)	788	846	888	933	979	1,028	1,080
Property Taxes[2]	772	811	852	1,700	1,785	1,874	1,968
Total Expenses	$ 3,697	$ 3,901	$ 4,096	$ 5,108	$ 5,362	$ 5,630	$ 5,912
Debt Service[3]	10,694	10,694	10,694	10,694	10,694	10,694	10,694
(Closing Costs)	1,500						
Total Expenses	$15,800	$14,504	$14,699	$15,711	$15,965	$16,233	$16,515
Net Cash Flow	$(2,751)	$ (495)	$ 5	$ (257)	$ 257	$ 795	$ 1,380
Net Cash Flow (Self-managed)	$(1,963)	$ 351	$ 893	$ 676	$ 1,236	$ 1,823	$ 2,460
As % of Equity ($34,114)	(5.8%)	1.0%	2.6%	2.0%	3.6%	5.3%	7.2%

A 5% inflation factor was used except as follows:
1. 7% increase in year 2; 5% thereafter
2. 5% increase in non-reassessment years; 100% in year of quadrennial reassessment.
3. $100,000 principal amount, 9-3/4% interest, 25 years, monthly payments.

TABLE IV
SHEFFIELD THREE-FLAT: TAXABLE INCOME

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Gross Income	$13,140	$14,100	$14,805	$15,545	$16,323	$17,139	$17,996
Less:							
Mortgage Interest	9,706	9,606	9,495	9,372	9,238	9,089	8,926
Other Expenses	3,697	3,901	4,096	5,108	5,362	5,630	5,912
Depreciation	6,938	6,504	6,097	5,716	5,359	5,024	4,710
Total Deduction	$20,341	$20,011	$19,688	$20,196	$19,959	$19,743	$19,548
Taxable Income	$(7,201)	$(5,911)	$(4,883)	$(4,651)	$(3,636)	$(2,604)	$(1,552)
Tax Savings @ 36%	$ 2,592	$ 2,128	$ 1,758	$ 1,674	$ 1,309	$ 937	$ 559
Plus Net Cash Flow	(1,963)	351	893	676	1,236	1,823	2,460
Eff. After-Tax Income	$ 629	$ 2,479	$ 2,651	$ 2,350	$ 2,545	$ 2,760	$ 3,019
As % of Equity	1.8%	7.3%	7.8%	6.9%	7.5%	8.1%	8.8%
TAX ACT ALTERNATIVE I							
Depreciation							
Rehab	$ 9,600	$ 9,600	$ 9,600	$ 9,600	$ 9,600	$ 0	$ 0
Building	3,938	3,691	3,461	3,244	3,042	2,852	2,673
	$13,538	$13,291	$13,061	$12,844	$12,642	$ 2,852	$ 2,673
Taxable Income	$(13,801)	$(12,698)	$(11,847)	$(11,779)	$(10,919)	$(432)	$ 485
Tax Savings	$ 4,968	$ 4,571	$ 4,265	$ 4,240	$ 3,931	$ 156	$(175)
Eff. After-Tax Income	$ 3,005	$ 4,922	$ 5,158	$ 4,916	$ 5,167	$ 1,979	$ 2,285
As % of Equity	8.8%	14.4%	15.1%	14.4%	15.1%	5.8%	6.7%
TAX ACT ALTERNATIVE II							
Depreciation	$11,100	$ 9,990	$ 8,991	$ 8,092	$ 7,283	$ 6,554	$ 5,899
Taxable Income	$(11,363)	$(9,397)	$(7,777)	$(7,027)	$(5,560)	$(4,134)	$(2,741)
Tax Savings	$ 4,091	$ 3,383	$ 2,800	$ 2,530	$ 2,002	$ 1,488	$ 987
Eff. After-Tax Income	$ 2,128	$ 3,734	$ 3,693	$ 3,206	$ 3,238	$ 3,311	$ 3,447
As % of Equity	6.2%	10.9%	10.8%	9.4%	9.5%	9.7%	10.1%

depreciation calculations. Accelerated depreciation at the 125% declining balance rate is the maximum permissible for used residential rental property outside the historic preservation provisions of the Tax Reform Act of 1976. Although the after-tax incomes are higher than the pre-tax returns in *Table III,* they are not near the levels that a real estate investor in the 36% bracket might expect.

Note that the impact of the first alternative historic preservation provision of the Tax Reform Act of 1976, the 60-month amortization of rehabilitation expenditures, is to increase the first year's after-tax return from 1.8% to 8.8 %. For the next four years thereafter the after-tax return varies between 14.4 and 15.1%, an acceptable range for an investor in this tax bracket. By year six, however, all the added tax shelter from the 60-month amortization has been consumed, and the annual accelerated depreciation on the remainder of the building's basis is not enough to completely shelter the income generated.

Under the second alternative historic preservation provision of the Tax Reform Act of 1976, 200% declining balance depreciation on combined building basis and rehabilitation expenditure,[8] the after-tax incomes are lower in the first five years than under alternative one, but there is continued shelter after the fifth year. Therefore, deciding which alternative historic preservation provision to utilize depends on the objectives and circumstances of the investor. If the property is purchased with intent to sell within five years, the first alternative provides more shelter. If the investor intends to stay with the investment longer than five years, the second alternative may be the better choice.[9]

The Minimum Tax and Recapture: Pitfalls that Tarnish the Allure of the Historic Preservation Incentives

Table V emphasizes the potential capital gains over and above the annual after-tax return which makes real estate such an attractive (although risky) investment in today's high inflation economy. In no other class of investment in the last ten years has the effective after-tax return been in the 12 to 15% range and has there been capital value appreciation on equity investment at a rate of increase higher than the inflation rate.

In the Lincoln Park/Sheffield neighborhood of Chicago, high demand has caused some property values to appreciate at an average annual 15% rate over the last ten years. In forecasting future appreciation on our Sheffield three-flat example we have chosen a more conservative 10% rate. *Table V* forecasts the tax consequences on sale in three alternative years in the future.[10] Because our Sheffield example would not qualify for the second alternative historic preservation provision of the Tax Reform Act of 1976, we have made our forecasts on the basis of the first alternative (60-month amortization of rehabilitation expenditures).

The purpose of *Table V* is not merely to dramatize the capital appreciation which the real estate market can provide. The table also evidences the large preference taxes payable on sale which make the Tax Reform Act of 1976 a

two-edged sword. Although real estate was the only tax shelter left substantially intact by the Tax Reform Act of 1976, the rules for payment of the minimum tax on preference items were substantially altered.

TABLE V
SHEFFIELD THREE-FLAT
HISTORIC PRESERVATION ALTERNATIVE I
PROFIT ON SALE

	Year 3	Year 5	Year 7
Capital Gain on Sale:			
Market Value @ 10% Increase/Year (Purchase & Rehab $134,114)	$178,508	$215,995	$261,355
–Commission & Closing Costs @ 7%	12,496	15,120	18,295
Net Sales Price	$166,012	$200,875	$243,060
–Adjusted Basis	71,110	45,624	40,099
Gain Subject to Tax	$ 94,902	$155,251	$202,961
Accelerated Depreciation:			
Rehab Amortization	$ 28,800	$ 48,000	$ 48,000
+Building Basis	11,090	17,376	17,376
Total Accelerated Deprec.	$ 39,890	$ 65,376	$ 65,376
–Allowable Straight Line Deprec.	16,650	27,750	38,850
Gain Subject to Ord. Inc. Tax	$ 23,240	$ 37,626	$ 26,526
Gain Subject to Cap. Gain Tax	$ 71,662	$117,625	$176,435
Taxes Due on Sale:			
Ordinary Income Tax (Bracket)	$ 13,479 (58%)	$ 24,081 (64%)	$ 17,666 (66%)
+Capital Gain Tax	20,782	37,640	58,753
+Preference Tax @ 15%*	6,053	9,935	11,796
Total Taxes Payable	$ 40,314	$ 71,656	$ 88,215
Profit on Sale:			
Net Sales Price	$166,012	$200,875	$243,060
–Loan Balance	93,666	88,419	82,177
–Taxes	40,314	71,656	88,215
Net Profit	$ 32,032	$ 40,800	$ 72,668
Capital Appreciation:	$ (2,082)	$ 6,686	$ 38,554

*See *Table VI*

The minimum tax on preference items was first added to the tax code in 1969 to assure that income which might otherwise go untaxed (e.g., income from tax shelters or other types of income given preferential treatment in the Internal Revenue Code) would at least be assessed a minimum tax. The two preference items subject to the minimum tax when real property is sold are

accelerated depreciation (i.e., difference between accelerated depreciation and allowable straight-line depreciation), and the untaxed half of long-term capital gains. Prior to the Tax Reform Act of 1976, there was an annual exclusion of $30,000 plus the amount of the regular income tax due in the year of sale. The Tax Reform Act of 1976 slashed the annual preference income exclusion for individuals to $10,000 or one-half the regular income taxes due in year of sale, whichever amount is greater. The minimum tax rate was also raised from 10% to 15%.

Some of the allure of real estate as a tax shelter, and therefore the effectiveness of the historic preservation inducements of the Tax Reform Act of 1976, was tarnished by the tough new rules for the minimum tax on preference items. A sale in year three results in a net profit less than the equity invested in the project. That loss has the effect of reducing the annual after-tax returns. From *Table VI* it is clear that if the pre-1976 rules for calculating the minimum tax on preference items were still in effect, no minimum tax would have been payable. The elimination of the minimum tax otherwise payable would more than offset the loss on equity which actually occurs on an anticipated sale in year three.

TABLE VI

COMPARISON OF MINIMUM TAXES PAYABLE
BEFORE AND AFTER TAX REFORM ACT OF 1976

	Year 3	Year 5	Year 7
TOTAL PREFERENCE ITEMS	$59,071	$96,439	$114,744
Exclusions Prior to 1976:			
–Standard Exclusion	30,000	30,000	30,000
–Ord. Inc. Tax Deduction	37,441	60,421	72,208
Gain Subject to Minimum Tax	($8,370)	$ 6,018	$ 12,536
Minimum Tax (10%)	$ 0	$ 602	$ 1,254
Exclusions After Tax Reform Act of 1976:			
–Half Ordinary Inc. Tax	18,721	30,211	36,104
Gain Subject to Minimum Tax	$40,350	$66,228	$ 78,640
Minimum Tax (15%)	$ 6,053	$ 9,935	$ 11,796

The tightening of the standard exclusion and income tax deduction and the increased rate of the minimum tax is merely the latest step in a 15-year tightening of the permissible tax shelter in real estate. The recapture of accelerated depreciation at ordinary income rates is the most onerous limitation on tax shelter, but, in terms of the amount of tax payable on sale of our Sheffield three-flat, the capital gains tax is the most burdensome.

Only one-half of capital gains are taxed, but the size of even half the gain realized can push the investor into a much higher tax bracket. For our

investor in the Sheffield three-flat, the combination of that portion of his gain subject to ordinary income tax due to recapture of accelerated depreciation plus one-half the capital gain changes his tax bracket from 36% to 58% if he were to sell after year three. The gain on sale in year five would move him into the 64% bracket, and in year seven the 66% bracket.

The spectre of the large tax payment which must be made is rarely foreseen by the anxious real estate investor who quickly tallies the market appreciation and the expected sales price in the year of sale without a realistic analysis of the impact of the sale on his tax bracket. In our Sheffield example, almost 44% of the gain on sale in year three would be paid in taxes, 48% in year five, and 45% in year seven. What looks like a good short-term investment because of the rapidly accelerated depreciation in the first five years, looks much better as a long-term investment if the investor desires to realize significant net capital appreciation on his equity after paying all taxes due on sale.

THE LIMITED PROMISE OF THE TAX REFORM ACT OF 1976 FOR NEIGHBORHOOD REVITALIZATION

Problems in the Residential Rental Market: The Culprit for Poor After-Tax Performance

There is promise for neighborhood revitalization in the Tax Reform Act of 1976 but it is a limited one. The amortization deduction does, in our example, make the after-tax return on small apartment buildings at least competitive with other real estate tax shelters—for the first five years. Thereafter the shelter is depleted and the net cash flow as a percentage of equity investment is unattractive. The long-term net cash flow prospects are therefore less than desirable, but because of the preference tax, recapture, and increased bracket problems, the investor in a rehabilitation project under alternative one of the historic preservation provisions of the Tax Reform Act of 1976 may wish to remain with the project until year seven at least if he desires any significant capital appreciation after taxes.

The unattractiveness of the bottom line in a five-year amortized rehabilitation project after the fifth year, and the general failure of the second alternative, double declining balance depreciation, to provide an attractive after-tax return in any year, is evidence of the severity of other problems which affect investments in small apartment buildings. The problems can be summarized quickly: low rents, high expenses. Chicago rents have failed to keep pace with the escalating price of small apartment buildings in attractive areas undergoing rehabilitation.

High purchase prices mean greater debt servicing costs to be carried by a rental base only adequate to carry a much smaller mortgage *and* still provide the desired net cash flow before taxes. The cost of that increased debt service has also increased. The 6.75% mortgages common eight years ago are history. The prevailing rate in Chicago at the end of 1977 was between 9.75 and 10%. The possible net cash flow is therefore squeezed by escalating purchase prices

and debt servicing costs at one end, and the resistance of the rental market to the incremental increases necessary to keep pace.

The situation in the rental market is a supply and demand phenomenon which may improve (much to the chagrin of renters) as a result of normal market pressures,[12] but it is unlikely to improve enough to keep pace with the continued rapid appreciation in the cost of unrehabilitated buildings. There are few expense items in *Table III,* the forecast income statement on our Sheffield three-flat example, where costs can be cut. Eliminating the 6% management expense through self-management is the most obvious cut. The general expenses line is composed of items such as insurance, maintenance and repairs, decorating, and utility service (electricity, gas, and water for common areas). They too have escalated rapidly in recent years and are the principal cause of the unprofitability of older apartment buildings that have not changed hands in recent years. In terms of government policy, none of these expense items present any opportunity for intervention and incentives.

Property Tax Abatements as a Preservation Incentive

The real property tax is an increasingly serious impediment to the profitability of small apartment buildings, and an expense area in which incentives and abatement are feasible. Properties in Chicago are reassessed once every four years, and in the Lincoln Park/Sheffield neighborhood the property tax bills after the 1976 reassessment increased by as much as 200 or 300% for many owners of rehabilitated buildings.

The real property tax could be utilized by local government to induce rehabilitation of buildings and conservation of neighborhoods. A 1977 study by the Chicago Commission on Historic and Architectural Landmarks recommended that Cook County adopt a contract assessment tax scheme in neighborhoods selected according to historic preservation criteria.[13] The proposed plan is similar to Oregon's preservation tax law[14] which allows owners of qualifying historic property to, in effect, freeze the value of the building for purposes of calculating the real property tax for a period of 15 consecutive years. An owner interested in rehabilitating a qualifying historic structure covenants with the tax assessor to rehabilitate and maintain the property in exchange for the 15 year freeze on reassessment which allows the property to be rehabilitated without fear of increased assessment.

Fifteen years may be an unnecessarily long freeze on reassessment. It seriously delays the day when the assessor's office may begin to recoup the increased tax assessments which rehabilitation will generate. It also subjects the property owner to a serious cash flow problem in the fifteenth year if he has not set aside a sinking fund to offset the tax which will be due.

Applying such a system to the cash flow on our Sheffield three-flat reveals both the benefits and potential problem. Property taxes paid by the previous owner in the year prior to initiation of our rehabilitation project were approximately $518. Freezing the property tax at that level over the first seven years of the project's life assures that by year five the pretax net cash flows are in the acceptable range for a real estate investment:

1	2	3	4	5	6	7
(5.0%)	1.9%	3.6%	5.4%	7.3%	9.3%	11.5%

Any change in the real property tax to generate historic preservation and neighborhood conservation can be implemented only by local and state government action. To the extent that the historic preservation incentives of the Tax Reform Act of 1976 stimulate private capital interest in rehabilitation of structures within National Register districts, it may also build a constituency to press state and local governments for corresponding tax incentives to add the necessary additional stimulus to make rehabilitation economically feasible.

Historic Preservation Incentives And the Future of Neighborhood Revitalization

Tables IV and *V* make it plain that the historic preservation incentives of the Tax Reform Act of 1976 do not brighten the bleak investment picture in small residential apartment buildings enough to make them clearly attractive. The 60-month amortization of rehabilitation expenditures does bring the annual after-tax returns close to an acceptable level, but, to stimulate capital to enter the central city rental housing market rather than the suburban housing market, the expectation of greater than ordinary returns is necessary. The historic preservation incentives of the Tax Reform Act of 1976 do not, at least in Chicago, create that expectation.

Without some further inducement, few investors will utilize the historic preservation provisions of the Tax Reform Act of 1976, at least in the rehabilitation of the predominant small, red brick and graystone apartment buildings in Chicago's National Register neighborhoods,[15] and in other neighborhoods of the Midwest and Northeast. And because of the willingness of the OAHP to certify them, and the relatively inexpensive remodeling of kitchen and baths needed to make them command top rental dollar, there may be greater interest in time in the certification of rehabilitation in the buildings of more recent vintage in those historic districts. The effect of the historic preservation incentives of the Tax Reform Act of 1976 may be to hasten the conversion of those 1920s courtyard buildings to condominiums once the five-year amortization shelter is depleted. By selling the building piecemeal as individual condominium units after the fifth year, the investor reaps the full advantage of the 60-month tax shelter and avoids the low return thereafter. Selling the apartments as individual condominium units also effectively accelerates the appreciation in market value which would otherwise occur. A rehabilitated apartment building sold as individual condominium units generally nets much more than if sold wholesale as a single apartment building.

Conversion of Chicago apartment buildings to condominiums has been occurring at a frenetic pace in the past few years. The dwindling stock of rental apartments has not been augmented by new rental unit construction. Under existing qualifications for National Register designation, there is only a limited stock of Chicago manufacturing or commercial buildings that could be placed on the National Register and then rehabilitated for residential uses

pursuant to the incentives of the Tax Reform Act of 1976 even if the city were to look favorably upon such conversions. The Chicago Fire of 1873 destroyed the city's stock of the fine old loft buildings which line the commercial streets of so many other cities of the Midwest and East. The boundaries of existing National Register Districts in Chicago and other cities are drawn to specifically exclude the industrial and manufacturing buildings that ring their edges. The readiness of the OAHP to certify buildings of a non-conforming age, style, and use as long as they do not detract from a district's character suggests that future National Register Districts should include any warehouses or manufacturing and commercial areas linked to the historic neighborhood by history or geography. Many of those commercial and manufacturing buildings are small and no longer profitable for their originally intended use. Conversion to residential uses rather than demolition may make sense for many of them.

Structures in districts designated by local landmarks commissions can also qualify for the historic preservation incentives of the Tax Reform Act of 1976. In regulations issued in August of 1977 by OAHP, the only criterion required is that the local landmark statute "generally must provide for a duly designated review body, such as a review board or commission, with power to review proposed alterations to structures within the boundaries of the district or districts designated under the statute."

Once a city has its statute certified by the Secretary of the Interior, every local historic district already designated, as well as every future historic district, qualifies for the Tax Reform Act incentives. That would allow a city to pursue a systematic program of neighborhood revitalization through local historic district designations. When combined with other possible local programs such as a freeze on reassessment increases due to rehabilitation, improvement of neighborhood amenities including parks, shopping areas, and schools, and even special building codes to make rehabilitation easier, historic district designations could become a powerful force for neighborhood conservation and revitalization.

The historic preservation incentives of the Tax Reform Act of 1976 are merely a starting point for neighborhood revitalization. They will encourage some rehabilitation from which we may learn the types of housing and housing markets in which the incentives are now enough, and help formulate proposals for the additional federal, state, and local tax incentives necessary to make the bottom-line work in markets where they presently are not enough.

REFERENCES

1. Pub. L. 94-455, October 4, 1976, 90 stat. 1520 *et seq.*
2. Defined to occur when "the additions to captial account for any certified rehabilitation . . . during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of— (a) the adjusted basis of such property, or (b) $5,000." 26 U.S.C. 167(o) (2).
3. Unless the owner has obtained the opinion of the Secretary of the Interior prior to demolition that the structure is not of historic significance to the district. 26 U.S.C. 280B.(b).
4. 26 U.S.C. 167(n)(1). The developer of a new building on the site of a structure within a National Register Historic District only loses the right to depreciate at accelerated rates if the demolished

structure had been individually listed on the National Register, or had been certified by the Secretary of the Interior as of significance to the historic character of the district. Proposed technical amendments to the Tax Reform Act of 1976 would apply the loss of accelerated depreciation disincentive to every replacement structure in a National Register district unless the developer had requested the Secretary of the Interior to rule that the structure to be demolished was *not* of historic significance to the district, and the Secretary had so ruled. Technical Corrections Bill of 1977 (H.R. 6715), #2 (f) (4), 64 CCH Fed. Tax Reports, no. 22, May 11, 1977, part II, pp. 14-15. That would bring treatment of the loss of accelerated depreciation in line with treatment of loss of demolition deduction. See note 3 *supra*.

5. *Federal Register* 42, no. 195, October 7, 1977, p. 54548 *et seq*.
6. At the discussion of our Sheffield rehabilitation example at the National Park Service Conference on the Tax Reform Act of 1976 in Chicago, the representative of the Illinois SHPO indicated he would want detailed information as to why totally new appliances were required in all three apartments, why fireplaces needed to be added at all, and what plans for cleaning and rehabilitation of the exterior facade of the structure had been considered even though the rehabilitation outlined for discussion included no mention of exterior changes to the front facade.
7. With the exception of year four in which real property taxes are expected to double and offset what would otherwise be an increase in the net cash flows. Real property taxes in Cook County in which Chicago is located are reassessed on a four-year cycle. Based on the increase in tax bills after the quadrennial reassessment for rehabilitated properties in Lincoln Park/Sheffield, a doubling of the tax bill is a conservative estimate. Some property owners received a 300% increase after the latest quadrennial reassessment.
8. One condition to the use of this alternative is that the dollar value of the rehabilitation expenditures must exceed the adjusted basis of the property, normally the purchase price in the situation in which the property is purchased with a view to its rehabilitation. See note 2 *supra*. Although our Sheffield rehabilitation example would not qualify because the purchase price was $86,000 and total rehabilitation expenditures approximately $48,000, if the $20,000 in rehabilitation expenditures incurred by the previous owner is added to the new owner's rehabilitation expenditure, the combined rehabilitation cost exceeds the adjusted depreciable basis (assuming the non-depreciable land value is approximately $25,000).
9. The second alternative is not automatically the better shelter for an investor desiring to hold longer than five years. The stream of effective after-tax income up to any projected year of sale provided by each alternative incentive should be reduced to present values and computed.
10. The forecasts in *Table V* are premised upon passage of the Technical Corrections Act of 1977 (H.R. 6715), *supra* note 4. In its rush to pass the complex Tax Reform Act of 1976, Congress overlooked many technical errors in the Act. One such error was to make the recapture of depreciation on certified historic structures upon sale subject to the rules for personal property (IRC #1245) but not real property (IRC #1250). The effect of that omission is to recapture the entire 60-month amortization at ordinary income rates. Under the Technical Corrections Act, the 60-month amortization is recaptured at ordinary income rates only to the extent that it exceeds otherwise allowable straightline depreciation, the usual rule for depreciable real property. If the Technical Corrections Act is not enacted, the heavy onus of the ordinary income tax due on sale will seriously diminish the appeal of the historic preservation provisions of the Tax Reform Act of 1976 as a viable tax shelter.
11. 26 U.S.C. 56-8. In effect the minimum tax is now a surtax added to other tax liabilities rather than a tax in lieu of substantial or total shelter. The minimum tax on preference items was added to the *Internal Revenue Code* to assure that at least some annual income tax would be paid by investors in highly leveraged, rapidly depreciated, real estate investments or other tax shelters. The various exclusions and deductions were originally intended to eliminate from minimum tax coverage those individuals who did in fact incur annual income tax payments. The Tax Reform Act of 1976, in severely tightening those exclusions and deductions and increasing the minimum tax rate, has effectively altered that purpose and made many more investors who otherwise incur some income tax liabilities subject to the minimum tax also.
12. There is some evidence that the rental market may be recovering. Vacancy rates in the Chicago area have dropped to under 3%, their lowest level since World War II. The principal cause of the resurgence in rental market demand is a combination of little new rental unit construction (1310, 1061, and 1258 multifamily building permits issued in Chicago in 1975, 1976, and through October of 1977 respectively) and conversion of existing rental units to condominiums.
13. *Property Tax Incentives for Landmark Preservation: Draft Program for Use in Chicago and Cook County, Illinois* (Chicago: Shlaes & Co., 1977).
14. Oregon, *Revised Statutes*, sec. 358.475-.565 (1975).
15. It could very well be that owner-occupiers of the small apartment buildings in Chicago's historic districts will take advantage of the Act in large numbers. They usually take the most rapid form of depreciation allowable on the rental portion of their buildings because, as owner-occupiers, they generally expect to live in the building long enough for the recapture problem to be minimized.