

**ASSEMBLY STANDING COMMITTEE ON TOURISM, PARKS, ARTS, AND SPORTS**

**Chair: Steve Englebright**

**ASSEMBLY STANDING COMMITTEE ON OVERSIGHT, ANALYSIS, AND INVESTIGATION**

**Chair: Michele Titus**

**Public Hearing on the Administration of Tourism, the Arts, and the Office of Parks, Recreation, and  
Historic Preservation**

Monday, December 13, 2010  
Roosevelt Hearing Room C, Legislative Office Building  
Albany, New York

**Comments of:**

**Daniel Mackay, Director of Public Policy**

**Erin Tobin, Regional Director of Technical and Grant Programs, Eastern New York**

**Preservation League of New York State**

As New York's statewide historic preservation advocacy not-for-profit, the League has worked diligently to advance historic preservation as a key component of economic redevelopment, community renewal, smart growth and sustainability policies at the local, state, and federal level.

We offer our testimony today regarding operations, programs and funding issues of the Office of Parks, Recreation and Historic Preservation and the New York State Council on the Arts. The League works closely with staff and programs at both agencies to advance a historic preservation agenda in New York State.

We fully recognize the fiscal challenges faced by New York State. Our message is this: a recommitment of state funding to parks, historic sites, and arts funding represents a productive investment by New York in programs and facilities that reach and enhance communities of all sizes across New York State, provide significant local and regional economic benefits, and attract significant private leveraging to New York State.

**OPRHP Priorities**

- 1) Stop cutting and restore funding for park and historic sites operations.
- 2) Increase capital funding to address deteriorated facilities and pressing health and safety issues.
- 3) Establish a new dedicated funding stream for the state park and historic sites system.

The Preservation League of New York State joins with Parks & Trails NY and the Alliance for New York State Parks to support the priority actions outlined in *Protect Their Future: New York's State Parks in Crisis*. In support of that agenda, we urge the Legislature and Executive to continue to acknowledge and support the continued stewardship and operation of historic sites in the state park system network.

- 4) Continue to improve and aggressively implement the New York State Rehabilitation Tax Credit Programs for historic commercial and homeowner properties.
- 5) Advance innovative programs and approaches to secure new investment and stewardship for park resources.

#### **NYSCA Priorities**

- 6) Stop cutting and restore funding for NYSCA programs. The Architectural, Design and Planning Program should be recognized for long-standing success and effectiveness.

#### **OPRHP Priorities**

The State Park System is one of New York's great treasures and has long been recognized as one of the best and most diverse park systems in the nation. This system currently provides affordable outdoor recreation and educational opportunities to more than 57 million visitors annually and represents a significant contribution to the economic vitality and quality of life of local communities and the Empire State. In 2010, as many as 88 parks and historic sites were threatened with closure as the Office of Parks, Recreation and Historic Preservation faced its third consecutive year of significant budget cuts, disproportionate to those of other state agencies. In response to the threat of this funding crisis, the Preservation League of New York State and Parks & Trails New York jointly nominated the New York State Park and Historic Sites system to the National Trust for Historic Preservation's 2010 "11 Most Endangered List" of threatened historic properties.

As advocacy campaigns and media coverage earlier this year clearly showed, there is clear public support for prioritizing funds to keep our state parks and historic sites open to the public. These facilities have proven their economic value at the local and state level. An independent study commissioned by Parks & Trails New York revealed that the NYS Park System contributes \$1.9 billion annually to the state's economy, a 5 to 1 return on investment. The 1.4 million additional park visitors in 2010 meant an additional economic impact to the state of \$29 million underscoring how a fully-functioning park system is a vital part of a healthy NYS economy. The state parks budget is a mere ¼ of 1 percent of the total state budget.

- 1) Stop cutting and restore funding for park operations. Make strategic increases to OPRHP's budget so the agency can perform critical park and historic site functions.

Since 2008, OPRHP's operating budget has been cut \$35 million (18%) and caused the loss of more than 1400 permanent and seasonal staff. Service reductions in the form of shortened days and operating seasons have been undertaken at 100 state parks and historic sites. Further budget reductions will result in park and closures with virtually no resultant benefit to the state's fiscal situation.

- 2) Increase capital funding for facilities. Commit to investing \$100 million annually to address deteriorated facilities and health and safety issues throughout the system.

In 2010, OPRHP capital spending will fall to the smallest amount in the agency's 40-year history, matched against a documented backlog of more than \$100 billion in needs.

- 3) Secure parks and historic sites funding for the future.

OPRHP must evaluate implement a dedicated funding stream for the purpose of funding operations of New York State Parks and Historic Sites. A dedicated tax on plastic bags, for example, would have both positive funding and environmental consequences for New York State.

- 4) Improve and aggressively implement the New York State Rehabilitation Tax Credit Programs for historic commercial and homeowner properties.

#### **New York State Rehabilitation Tax Credit Programs**

The New York State Rehabilitation Tax Credit programs, newly expanded in 2009 and administered by the State Historic Preservation Office (SHPO) within OPRHP, underscores the strong connection between historic preservation and economic development and community renewal. The tax credit serves both commercial, income producing properties, and owner-occupied residential properties, and each program provides a 20% incentive to encourage reinvestment in historic properties located in distressed areas of New York State. The League and SHPO have been promoting these credits in a series of workshops across New York State, from Harlem to Buffalo, and we are beginning to see encouraging results on both the commercial and homeowner program sides.

Detailed analysis of program use will not be available until after the 2010 tax filings are submitted in April, but we are getting some early signals on program use:

- a) The commercial rehabilitation projects, through data available through August, 2010, are occurring in numbers similar to past years, when just a federal rehabilitation credit was available to catalyze these types of projects. Now that the federal credit has been joined by the state credit, doubling the incentive to rehabilitate these types of properties, we see, through August, a similar pace of use, but use across a much broader and more diverse part of New York State.
- b) The Homeowner Tax Credit for owner-occupied residential properties, has seen over 60 applications this year, and is now in use in 32 municipalities in 24 counties, across the state.

This program is a bright spot for OPRHP, demonstrating the ability to promote and implement a significant new tool in the historic preservation and economic development toolbox. Each project is leveraging 80% funding from non-state sources. Of equal importance is that these credits are last dollars in, awarded upon completion and certification of work, and once a rehabilitated building is placed back in service.

Implementation of this expanded program began January 1, 2010 but has been hampered by the recently enacted state tax credit deferral program and restrictions on the ability of project developers and investors to realize full value from the commercial rehabilitation credit program. Ultimately, we have a short window to implement a successful program, and final changes are needed this year to deliver the nationally-recognized economic development and community revitalization results that have been demonstrated in so many other states. Committed leadership from the Governor and Legislature is needed to secure the following improvements to this program to assure the long-term effectiveness of this program:

- **Remove the Rehabilitation Tax Credit from the State Tax Credit Deferral Program list.**

Chapter 57 of the Laws of 2010 amended the Tax Law to establish the temporary deferral of certain tax credits, including the NYS Rehabilitation Tax Credit programs among the list of thirty targeted programs. Subjecting this credit to deferral severely limits the ability of investors to invest in larger rehabilitation projects, or invest in multiple rehabilitation projects in New York State. It also limits the equity value of the credit. The Rehabilitation Tax Credit program paid its fiscal dues in 2009 in a successful effort to earn legislative and gubernatorial support, and was carefully tailored to deliver effective incentives in a fiscally-responsible manner. As such, this program should be removed from the list of state tax credits subject to deferral.

*New York Works*, the Cuomo 2010 policy document, commits to ending the deferral of the rehabilitation tax credits, owing to the importance of this program to revitalization efforts.

Legislation to carve out the rehabilitation tax credit program has been introduced in the Senate and Assembly, and there has been a push to pass this bill in special legislative session in 2010. If not, this legislation should be a program bill, to be passed and signed as early as possible in 2011 in order to catalyze project investment, starts, and job creation for New York State.

- **Provide the ability for program users to allocate the state credit separately from the federal credit, so that the federal and state rehabilitation tax credits can be distributed to different investment partners.**

To increase the number and scope of redevelopment projects utilizing historic properties, the State Rehabilitation Tax Credit program needs to attract a larger and more diverse pool of investors. At this time, at the insistence of the Department of Taxation and Finance, the state credit program requires that the federal and state rehabilitation credits be limited to use by a single investor in a development partnership. This has several significant consequences:

- a) The state credit program will fail to attract national investors to New York redevelopment projects because the state credit value is not an asset to investors with no or limited New York State tax liability.
- b) The New York State credit program will not produce top value in equity investments for redevelopment partnerships. Not only does this limit the value of investments needed to start project construction, but
- c) New York State issues full credit value regardless of equity value contributed to a project.

For the State Rehabilitation Tax Credit program to act as an effective and catalytic redevelopment incentive, tax law must allow for development partners to separately allocate the state and federal rehabilitation tax credits.

- **Tax Credit Program Enhancements for Small Projects**

Smaller rehabilitation projects, such as those involving 3-5 story buildings on “Main Streets” in Upstate New York, may have trouble meeting the “adjusted basis” test required to access

Federal Rehabilitation Tax program, which, in turn, is required to access the state program. For smaller rehabilitation projects, such as between \$50,000 and \$250,000 in expenditures, decoupling the Federal and New York State tax credit programs would be an effective way to catalyze project starts for smaller buildings, in both rural and urban areas.

**5) Advance innovative programs to secure private investment and dedicated funding for park resources.**

**Establish a resident curator program for structures in the New York State Park system**

Authorize OPRHP to enter into “resident curator” agreements with private individuals and not-for-profits that are willing to invest private funds to rehabilitate and maintain vacant and deteriorated houses and buildings in state parks and historic sites. This program would provide a method for ensuring the long-term preservation of these historic buildings at no cost to the State of New York, and allow existing parks and historic sites funding to be used for the core mission of the system.

The Resident Curator Program would authorize OPRHP to enter into leases, through the state's normal competitive bidding process, with private individuals or not-for-profits that would rehabilitate vacant residential buildings at their own expense using private funds. A model curator program in Maryland was pioneered in 1982 and currently has 43 property curatorships in operation. To date, curators have contributed over \$8 million worth of improvements to publicly-owned historic structures in that state. Our neighboring states of Massachusetts and Connecticut have also launched successful programs.

**NYSCA**

The Preservation League has directly observed that NYSCA programs and funding provide tremendous leverage for nonprofit organizations throughout New York State. The technical assistance provided by NYSCA staff, coupled with the grant availability, has catalyzed many nonprofits to re-energize and restructure their boards and fundraising campaigns. Public NYSCA dollars are matched many times over with private donations, but NYSCA grants are critical catalysts for the private fundraising.

The League is a direct recipient of funding from the New York State Council of the Arts through the Architecture, Planning and Design program. The League receives funding for General Operating Support and Services to the Field, for both our Preservation Colleagues program and the Preserve New York ReGrant Program, administered on behalf of the Council.

**Preserve New York Program**

The Preserve New York (PNY) program is a long-standing and highly used source of funding for historic resource surveys and assessments that have served as an effective catalyst for realizing community preservation goals and saving some of the Empire State’s most significant places. Since 1993, Preserve New York has awarded over \$1.5 million in direct support to 250 projects in 58 counties across the state, leveraging over \$22 million in additional project support and over \$600,000 in donated labor, services and materials. A map of projects funded through this program is attached to this document and depicts how this program expands NYSCA’s reach into communities throughout New York State.

No other program in the state funds historic structure reports, historic landscape reports, and cultural resource survey projects of both not-for-profit and municipal applicants. Whether the monies of first instance or the final funds for project completion, PNY is critically important to a statewide constituency as an effective means of providing enhanced, high quality services and advancing historic preservation as an economic development tool that improves the quality of life for all New Yorkers.

This grant program is highly lauded and consistently over-subscribed; we have been able to fund only 27% of requests in recent years. As a result, well-qualified community-supported preservation projects do not receive the support they deserve, and thus historic neighborhood and downtowns languish and cultural institutions are not able to realize their important stewardship responsibilities.

### **Preservation Colleagues Program**

Local and regional preservation organizations play an invaluable role in providing advocacy and technical services regarding preservation issues

In order to strengthen the communication and effective partnerships between the League and these organizations, build local capacity and create a cohesive statewide network, the League established the Preservation Colleagues program in 1997. Members meet twice a year and are electronically networked to discuss emerging issues, participate in policy, technical, and organizational issue training sessions, and work in depth with League staff on individual or regional projects or workshop planning. The Colleagues program efforts have resulted in the establishment of historic districts, enactment of local preservation laws, and to counter threats to local historic sites.

Notably, since the program was founded, it has expanded to include all-volunteer organizations, growing the network from 24 organizational members in 1999 to 31 in 2010; offer training beyond the Colleague network to include other preservation professionals, thus expanding technical assistance with the same resources; and maintained consistent attendance levels for semi-annual meetings, with an average attendance of 18 organizations with 25 staff and board members – something no other program like this throughout the country has been able to achieve.

NYSCA program staff has commented that this program provides extremely efficient delivery of technical assistance and capacity-building. It has been a model for other programs nationally and for other types of professional organizations within NYS.

In summary, the New York State Council on the Arts provides catalytic funding that leverages other private and public money for non-profit organizations throughout New York State. The Architecture, Planning and Design (APD) Program in particular, reaches every corner of New York State. Preservation League programs funded by the APD Program provide extraordinarily well-leveraged support not only to New York State's population centers, but also small towns and rural communities from Chautauqua County to Franklin County to Suffolk County.

We continue to have a very positive working relationship with our Program Director through the NYSCA reorganization and look forward to continuing to make NYSCA APD funds among the best-leveraged grant dollar in New York State.

### **National Trust Conference, Fall 2011, Buffalo**

In fall 2011, Buffalo, New York will welcome historic preservation practitioners, advocates, and municipal officials from across the nation and internationally as host site to the National Trust for Historic Preservation's annual conference, the first time New York has hosted this event since the mid-1980s in New York State. With 3000 expected attendees, the regional economic impact of the conference will be strong, but this is also an opportunity to showcase and measure New York State's historic, cultural, and architectural assets at their best, as well as demonstrate the power of preservation as an economic and policy engine. The League welcomes this committee's thoughts and

actions for how we can best use state and local tools to prepare for and market this extraordinary showcase of New York State.

**Restore the Funding Integrity of the Environmental Protection Fund:**

The Environmental Protection Fund (EPF) is New York's core funding source for environmental programs, and the fund has improved environmental and economic quality in every county of New York State. Since 2008, there has been a 47% reduction in EPF appropriations, and since 2003, the program has seen \$500 million swept for General Fund relief. The program is currently operating on a month-to-month cash management plan, and many program areas, including farmland and open space protection, face significant backlogs in payments.

- Increase the annual EPF appropriation toward a goal of annual funding equal to 2% of the New York State budget by 2015, and increase the disbursement rate of the fund to address a significant backlog of existing projects.
- Ensure that this dedicated environmental funding stream is not swept into the General Fund under the pretense of balancing the budget.

**Preservation League of New York State - Overview**

Active since 1974 as New York's statewide not-for-profit historic preservation advocacy organization, the Preservation League of New York State has led efforts to establish and protect historic preservation policy, programming and funding at the local, state and federal levels for thirty-six years. Notable recent accomplishments include leading statewide advocacy to secure enactment and expansion of the New York State Rehabilitation Tax Credit programs, and reaching the milestone of distributing over \$1.5 million dollars in direct financial support to 250 preservation projects undertaken by municipalities and not-for-profit organizations across 59 counties. The League is based in Albany, New York and has a western New York field office in Ithaca.