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Tax credit programs help provide incentive for preserving historic downtown buildings

By Ellen Piligian
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Photo by ALOFT DETROIT The \$94 million restoration of the 19-story David Whitney Building opened late last year in Grand Circus Park as a mixed use development including a boutique hotel, apartments and a restaurant.

The 19-story, \$94 million restoration of the David Whitney building in Grand Circus Park, which opened late last year as a mixed use development including a boutique hotel and 108 apartments, is just one of the city's more recent achievements in historic preservation.

It joins other rehabilitation projects

Tax credit recipients

Properties in the city of Detroit that have been granted Historic Preservation Tax Incentives over the past decade, according to the National Park Service:

2005

Turning the federal rehabilitation credit into cash

Most investors don't have the taxable income to offset a 20 percent tax credit on a multimillion-dollar project. Even better is cash on hand to fund the project while it's being developed.

A common practice with historic projects is to transfer the credit to an investor,

— the Broderick Tower on Witherell Street, the Capitol Park Project with three buildings on Griswold, and the multi-phase Woodward Garden Block Development in Midtown — that were spurred by an improved economy and inspiration from the \$200 million restoration of the Book Cadillac hotel in 2008.

"In many respects, it's the golden age of historic restoration in Detroit," said David Di Rita, principal of **The Roxbury Group**, which developed and is a partner in the David Whitney building. "Detroit has put itself back on the map."

Many of these projects would likely not have happened at all, or with less commitment to historic detail, without the federal rehabilitation tax credit, a 20 percent credit on qualified investments that bring a building back to its original historic character.

The federal tax credit, introduced in 1976, was geared to getting developers to take on these landmark buildings — typically expensive and very time- and labor-intensive projects — by making them economically feasible.

"It's one of the most ecologically friendly credits we have. We don't want to tear down the core of a building if you have a good solid foundation. It's to encourage you to work with that," said Joseph Kopietz, an attorney at the Detroit office of **Clark Hill PLC** who focuses on real estate law and consults on historic projects from \$500,000 to well over \$100 million.

"Plus, people like the cool factor," he added, referring to the authenticity of historic buildings, from the exposed brick to the intangibles that attract tourists and residents to a city rich with history and architecture.

Martin Gardens House, 1737 25th St.

Martincheck Gardens Apartments, 1739-55 25th St.

Heyn's Department Store (Lerner), 1241 Woodward Ave.

The Bedell Building and Woolworth's, 1249 and 1261 Woodward Ave.

Albert's, 1437 Woodward Ave.

Clark Apartments, 1185 Clark St.

2006

Graphic Arts Building, 41-47 Burroughs Ave.

Kresge Headquarters Building, 76 W. Adams Ave.

Ferndale Apartments, 8715-41 W. Vernor Highway

2008

John Harvey House, 97 Winder St.

James Wilson House, 74 Charlotte St.

Pulford-Rennie House, 66 Charlotte St.

Detroit Fire Department Repair Shop, 3434 Russell St.

Richards-Oakland Motor Co., 440 Burroughs Ave.

Book-Cadillac Hotel, 1114 Washington Blvd.

Wesch Building, 4200-4222 W. Vernor Highway

Scotten Rowhouse, 1921-1923 Scotten St.

Whitdel Apartments, 1250 Hubbard St.

2009

Iodent Building, 2233 Park Ave.

Caille Brothers Building, 6200 Second

whether an individual or corporation, who provides cash for construction in exchange for the tax credit. To do this, the building owner must become a partner with the investor, who becomes and must remain an owner of the building for five years after the building is ready for occupancy.

David Schon, a partner with law firm **Nixon Peabody** who consults on projects in Detroit, said there is a small industry of institutional investors in federal historic tax credit products, usually financial services firms such as banks and insurance companies.

The amount the investor contributes to the partnership varies, he said. They could provide a dollar for every tax credit dollar or contribute more or less depending on such factors as project size and construction risk.

Playing catch-up

A lack of both vision and proper mothballing along with economic uncertainty over the years cost Detroit some iconic buildings from the late 1990s to 2015 — the Hudson's building, the Statler Hotel, the Lafayette Building, the Park Avenue Hotel, all gone.

"Every single one of those buildings was a potential historic tax credit building that's been lost forever," lamented native Detroiter David Schon, a partner with **Nixon Peabody** and co-chairman of the firm's historic tax credit team in Washington, D.C., who consults on projects in Detroit and nationwide.

Detroit has lagged behind other Rust Belt cities like Cleveland, Chicago, St. Louis and Baltimore, which have been using the federal credit the past two decades, said Robert McKay, an architect with the **State Historic Preservation Office**. "We're playing catch-up and playing it quite well," he said.

McKay, noting that the 2008 recession hit Detroit especially hard, said it took a while for the momentum to build. "(Now) Detroit is the busiest that I have seen it in 18 years."

New challenges

As these projects have gained traction, most did so with the benefit of a 5 percent state historic tax credit that ended in 2011.

Paired with the federal credit, projects could expect at least a 25 percent credit in addition to enhancements, competitive credits that could be used with the state credit, that are also gone. In all, these gave developers about 50 percent in tax credits on projects including the David Whitney, the \$53 million Broderick Tower redevelopment, and the Capitol

Ave.

Hotel Fort Shelby, 525 W. Lafayette Blvd.

Odd Fellows Hall, 8701-8711 W. Vernor Highway

The Whittier Hotel, 415 Burns St.

Louise Spencer House, 39 Peterboro St.

Gillman House, 61 Peterboro St.

2010

Lafer Building, 1323-1325 Broadway Ave.

Beethoven Apartments, 4474 Third Ave.

52 E. Forest Ave.

General Motors Research Laboratory, 485 and 495 Milwaukee Ave.

2011

Garfield Manor Apartments, 71 Garfield Ave.

4107 Cass Ave.

2012

Parker Pharmacy, 3961-65 Woodward Ave.

Newberry Hall, 100 E. Willis St.

Standard Oil Co. gas station, 3169 Woodward Ave.

Second and Lothrop Apartment Building, 7409, 7411, 7415 and 7417 Second Ave.

2013

Michigan Bell and Western Electric Warehouse, 882 Oakman Blvd.

The David Broderick Tower, 10 Witherell St.

Detroit Candy Co. Building, 1528 Gratiot

Park Project, a roughly \$90 renovation of three buildings on Griswold.

Losing these credits "was certainly a blow to the development," said Kopietz.

The Michigan Community Revitalization Program, an incentive program through the **Michigan Strategic Fund**, took place of the state credit. Now developers compete with non-historic projects across the state for funds that have totaled \$170 million through Sept. 30 of this year.

According to MCRP manager Lisa Pung, \$37.5 million has been approved for Detroit rehabilitation projects, which have made up 20 of the total 98 projects they've approved throughout the state, including Capitol Park, the Grand Army of the Republic building and the recently approved Wurlitzer Building.

Still, according to Richard Hosey, a partner in **Capitol Park Partnership LLC**, which is part of the redevelopment of Capitol Park, that's not a lot of money. "It's a small pot and everyone has to go after that."

Added Elisabeth Knibbe, principal with **Quinn Evans Architects** of Ann Arbor who used the federal and state rehabilitation tax credits herself to develop Midtown's Sherbrooke Manor, a 14-unit apartment building that opened in 2013: "I don't think we've seen the effect yet. We're working on early phases of some projects and they're struggling."

The loss of the state credit didn't stop the restoration of the castle-like, three-sided GAR building on Grand River Avenue. "We just missed the cut," said Tom Carleton, who developed the project with his brother David, both principals with Detroit media company **Mindfield**, and business partner Sean Emery.

They used all the financial tools and incentives they could, said Tom Carleton. "All these little bits and pieces and the MCRP were a

Ave.

La Vogue Apartments, 225 Merton Road

Sheldor Apartments, 1025 Newport St.

Chalmers Building, 14436 E. Jefferson Ave.

Crestwood Apartments, 1099 Van Dyke St.

Kensington Apartments, 1085 Van Dyke St.

Chase Tower, 611 Woodward Ave.

Sherbrooke Apartments, 615-617 W. Hancock St.

2014

E & B Brewery Lofts, 1551 Winder St.

Charles Rischert Bakery, 2919-21 Woodward Ave.

Garden Theater, 3933 Woodward Ave.

The Security Trust Co. Building, 735 Griswold St.

Brentwood Apartments, 487 Prentis St.

2015

Davenport Apartments, 149 Davenport Ave.

Birchmont Apartments, 112 Seward St.

Newton Apartments (Delaware Court), 628 Delaware St.

Palmer Lodge Apartments, 225 Covington Road

David Whitney Building, 1553 Woodward Ave.

Dime Building, 719 Griswold St.

major influence in getting a traditional bank loan (for the project)."

Now nearly complete, the GAR building houses Mindfield's offices and two restaurants with event space and additional offices they plan to rent out in the five-story building.

How it works

Developers go through a three-step approval process, which is managed by the **State Historic Preservation Office** and the **National Park Service**.

First is determining the building's eligibility for the credit. Second is submitting a detailed rehabilitation plan, which may require amendments before it's approved. Last is the building certification, proof that the work was done to the Secretary of the Interior's Standards for Rehabilitation and that the building is ready for occupancy.

There is a five-year period of compliance or the developer risks recapture of the credit, which reduces each year by 20 percent, said Kopietz. That is, you cannot alter the building in a way that is inconsistent with the national standards or turn rental units into condominiums.

After five years, "You can do what you want," subject of course to local rules, said Kopietz.

The two key federal tax credits for older buildings are a 20 percent credit for historic buildings and a 10 percent credit for non-historic buildings built before 1936.

The 20 percent credit is for "qualified rehabilitation expenditures" on buildings listed on the **National Register of Historic Places** individually (these buildings must be at least 50 years old) or certified by the Secretary of the Interior as having significance to a registered historic district.

The project must follow the standards of the Secretary of the Interior, such as restoration of original windows or roof and using appropriate materials. Projects also must be income-producing, through any mix of office, retail, industrial or rental apartments, which can be converted to condominiums after five years.

"The standards are designed to make sure the work you do on the building maintains any remaining historic character, but they don't make you put back what was lost before you got there," said Schon. "People negotiate with the Park Service over their plans to make the building functional."

Sometimes plans change. In the case of the David Whitney Building, Di Rita said they thought many of the original mahogany window sashes on upper stories were too old to restore, so they got approval to replace half the windows as long as they appeared the same as the original ones when viewed from street-level.

Then during construction they discovered they were in better condition than expected; they saved 800 out of 1,100 windows.

"It didn't save us a penny, but it was the right thing to do. We thought if these could be made sound, they are a unique historic feature of the building," said Di Rita. "It was painful for us to think of taking those out."

The other federal credit for older buildings is a 10 percent credit for buildings constructed before 1936 that are not certified historic structures or part of a city's historic district. Projects using the 10 percent credit must be rehabilitated for non-residential use.

Kopietz points to the Madison Theatre building on Broadway Street as an example of a building restored with the 10-percent credit. Because the building, restored by Dan Gilbert's **Rock Holdings Inc.**, had undergone so many changes over the years, he said, there was little left of its original historic character.

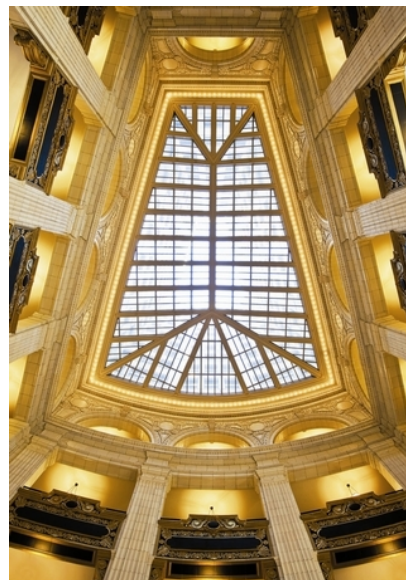


Photo by ALOFT DETROIT AT THE DAVID WHITNEY Significant effort was made to fully restore the David Whitney Building's dramatic atrium, including repairing original terra-cotta, mahogany and marble surfaces.

There are myriad and complex ways to finance historic and older buildings beyond these two credits, which is why most developers consult with experts. "I talk to a lot of really experienced real estate developers who know nothing about tax credits," said Kopietz.

For example, there are two federal credits often paired with the rehabilitation credits. One is the New Markets Tax Credit, which encourages investment in low income areas on commercial or mixed-use real estate projects with at least 20 percent of the income coming from sources other than residential rental property.

The other is the Low-Income Housing Tax credit for low- and moderate-income apartments, which was used to help finance the mixed income Strathmore Apartments Project on Alexandrine in Midtown, which had been an eyesore for decades, said Schon. "It's significant for including both market rate and low-income units in a very high demand neighborhood."

What about an old building that's not on the National Register of Historic Places? Schon advises developers to determine if it's eligible by first talking to a preservation consultant. "Buildings are added all the time."

What's next

Looking to the next five to 10 years, three downtown buildings are frequently mentioned as candidates for the 20 percent rehabilitation credit: The long-vacant 38-story Book Tower on Washington Boulevard, the art deco David Stott Building in the Capitol Park Historic District, and the former *Detroit Free Press* building on Lafayette Street, vacant since 1998.

But there is much more. Hosey said with most of the downtown and Midtown buildings either done or spoken for, the trend will radiate along the riverfront, especially as prices go up. One candidate: The Whittier Tower on the Detroit River, an example of Italian Renaissance architecture. "It has a long history," he said. "The Beatles once stayed there."

While Kopietz has hopes for the iconic Michigan Central Station, he sees many opportunities with the 10 percent federal credit. "We've got thousands of buildings in Detroit that can use (that)," he said. "It's highly underutilized."

Schon sees the city's many historic schools, commercial and industrial buildings, and smaller apartment buildings as excellent candidates for rehabilitation using the historic tax credit.

One building he's particularly interested in: the former manufacturing facility for Kelvinator refrigerators on the city's west side. "It's a building with a lot of historic significance," he said.

McKay at the state's preservation office said the big assembly and production plants are the next big thing, though financing will likely be very complicated at first. "It will happen. ... Someone will crack that nut and others will refine it."

Above all, Schon said, people need to understand that while these tax credits can be highly complex, it's not a reason to avoid jumping in.

"It's completely doable," he said. "Detroit is just ripe for more use of the program."