

Landmarks Incentives

Questions directed to the JCAO

Presented By: ACA Travis Fiechter

Tax Incentives for Historic Properties

- Federal Level:
 - Federal Historic Rehabilitation Tax Credit
- State Level:
 - Kentucky Historic Preservation Tax Credit
 - Property Assessment Moratoria (KY Const. 172B and KRS 132.452 enable it)
- Local Level:
 - Property Assessment Moratoria (LMCO Chapter 154 enacts it)

Local Tax Incentives

- LMCO has a limited ability to impact taxation of landmarked properties
 - Ky Constitution Section 171
 - “The General Assembly shall have power to divide property into classes and to determine what class or classes of property shall be subject to local taxation.”
 - OAG 79-140
 - “No property is exempt from taxation except when provided in the text of the constitution. See §§ 3 and 170, Kentucky Constitution. Thus all property not exempted from taxation by the constitution must be assessed at its fair cash value, etc. Section 172, Kentucky Constitution.”
 - Property Assessment Moratoria (KY Const. 172B and KRS 132.452 enable it)
 - Enacted at local level via LMCO 154

LMCO Chapter 154

- Eligibility: Structure at least 25 years old and...
 - Cost of repair/rehab/etc. at least 25% of the value of improvements (buildings, not the land itself) based on last PVA evaluation; OR
 - Property is in a census tract where at least 70% of residents have income 80% below Jefferson County median or 20% of residents have income below the poverty line AND cost at least 10% of value of improvements; OR
 - Property will be LEED certified at conclusion of the project
- Effect: 5 year moratorium (maximum term allowed by KRS)
 - No re-application for 3 years after expiration of the moratorium LMCO 154.10

LMCO Chapter 154: Possible Changes

- Make landmarked properties a fourth category of eligibility
 - % value requirement?
 - Flat value requirement (e.g. \$20,000)?
- Waive associated fees for landmarked properties?
 - Currently \$40: \$20 to PVA and \$20 to Codes and Regulations
- Waive 3 year reapplication freeze for landmarked properties?

Façade and Maintenance Easements

- National Parks Service 2010 Pamphlet:
 - <https://www.nps.gov/tps/tax-incentives/taxdocs/easements-historic-properties.pdf>
 - Value Prior to Conveyance – Value After Conveyance = Charitable contribution
 - “When there is no further development potential for the property or the building is already under local regulations subject to the same conditions as those in the easement (including, for example, binding review by a local historic district commission to insure that the property’s historic character is preserved), the easement may be of little or no value”
- For federal tax deductions, rules differ based on being in a historic district (entire exterior) or individually listed in National Register (can cover parts of buildings, such as the façade)
- *Note: some Federal incentives were altered by the Tax overhaul

Questions to Guide Proposals

- What do you want to incentivize?
 - Status of being landmarked?
 - Proper maintenance and repair of a landmarked structure?
- When do you want to incentivize it?
 - At designation?
 - At proposal to repair?
 - After successful repair?
- How do you want to incentivize it?