

MEMORANDUM OF AGREEMENT
BETWEEN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
AND THE OHIO STATE HISTORIC PRESERVATION OFFICE (SHPO)
PURSUANT TO 36 CFR SECTION 800.6
REGARDING THE TRANSFER OF THE ELM STREET BUILDINGS OUT OF FEDERAL
CONTROL

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) proposes the transfer of the following properties out of Federal control: *517 Elm Street, 521 Elm Street, 529 Elm Street, and 612 Elm Street, Toledo, Ohio 43604.*

WHEREAS, consultation by HUD with the SHPO has resulted in the determination that all four properties are listed on the National Register as contributing resources to the Vistula Historic District,

WHEREAS, the properties listed above will be transferred as is, where is, to an as-yet-unidentified owner, and,

WHEREAS, HUD has determined that the property transfer will have an adverse effect upon the Vistula Historic District, a property included in the National Register of Historic Places, and has consulted with the Ohio State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

NOW THEREFORE, HUD, the City and the SHPO agree that, upon HUD's decision to proceed with the property transfer, HUD shall ensure that the following stipulations are implemented in order to take into account the effects of the undertaking on historic properties.

Stipulations

1. HUD will ensure that the agreement transferring *517 Elm Street, 521 Elm Street, 529 Elm Street, and 612 Elm Street* shall contain protective covenants stipulating that no future demolition of, alterations to, or physical or structural changes to the two buildings will be performed without the written approval of the Ohio State Historic Preservation Officer. Proposed physical and structural changes are expected to adhere to the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, U.S. Department of the Interior, National Park Service, 1983. Ordinary and necessary repairs and routine maintenance that do not materially affect historic features shall not be considered alterations under the covenant. Such covenants will be written into the deed transferring the property and shall obligate all future heirs, successors or assignees to the property.
2. HUD shall continue to provide security and preventive maintenance for *517 Elm Street, 521 Elm Street, 529 Elm Street, and 612 Elm Street* until such time as they are transferred out of Federal (HUD) control.

Administrative Conditions

A. Amendments

Any party to this MOA may propose to HUD that the MOA be amended, whereupon HUD shall consult with the other parties to this MOA to consider such an amendment in accordance with 36 CFR Part 800.6.

B. Resolving Objections

1. Should any party to this MOA object in writing to HUD regarding any action carried out or proposed with respect to the Property Transfer or implementation of this MOA, HUD shall consult with the objecting party to resolve the objection. If after initiating such consultation HUD determines that the objection cannot be resolved through consultation, HUD shall forward all documentation relevant to the objection to the Council including HUD's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - a) Advise HUD that the Council concurs in HUD's proposed response to the objection, whereupon HUD shall respond to the objection accordingly;
 - b) Provide HUD with recommendations, which HUD shall take into account in reaching a final decision regarding its response to the objection; or
 - c) Notify HUD that the objection will be referred for comment, and proceed to refer the objection and comment.
2. Should the Council not exercise one of the above options within 30 days after receipt of all pertinent documentation, HUD may assume the Council's concurrence in its proposed response to the objection.
3. HUD shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; HUD's responsibility to carry out all actions under this MOA that are not the subjects of the objection shall remain unchanged.
4. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to any such measure or its manner of implementation be raised by a member of the public, HUD shall notify the parties to this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

C. Review of Implementation

If the stipulations have not been implemented within five years after execution of this MOA, the parties to this agreement shall review the MOA to determine whether revisions are needed. If revisions are needed, the parties to this MOA shall consult in accordance with 36 CFR Part 800 to make such revisions.

D. Termination

1. If HUD determines that it cannot implement the terms of this MOA, or if the Council or the SHPO determines that the MOA is not being properly implemented, HUD or the Council or the SHPO may propose to the other parties to this MOA that it be terminated.
2. The party proposing to terminate this MOA shall so notify all parties to this MOA, explaining the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination. The parties shall then consult.
3. Should such consultation fail, HUD or the Council or the SHPO may terminate the MOA by so notifying all parties.
4. Should this MOA be terminated, HUD shall either:
 - a) Consult in accordance with 36 CFR Part 800.6 to develop a new MOA; or
 - b) Request the comments of the Council pursuant to 36 CFR Part 800.7.

Execution of this Memorandum of Agreement by HUD and the SHPO, and implementation of its terms, evidence that HUD has afforded the Council an opportunity to comment on the property transfer and its effects on historic properties, and that HUD has taken into account the effects of the undertaking on historic properties.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: Jeff D. McGregor Date: 05-01-01
Name

Jeff D. McGregor CHIEF, MANAGEMENT
Name/Title (printed)

OHIO STATE HISTORIC PRESERVATION OFFICER

By: M. J. Epstein Date: 5/7/01
Name

Mark J. Epstein, Depr. Head, Resource Protection and Review
Name/Title (printed)



U.S. Department of Housing and Urban Development
Texas State Office
Fort Worth Multifamily PD Center
801 Cherry Street
P. O. Box 2905
Fort Worth, Texas 76113-2905

May 17, 2001

Mr. Don L. Klima
Director, Office of Planning and Review
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, Suite 809
Washington, DC 20004

SUBJECT: Memorandum of Agreement (MOA) for Elm Street Homes

Dear Mr. Klima:

Pursuant to 36 CFR 800.6(b)(iv), the U.S. Department of Housing and Urban Development (HUD) is submitting to you a copy of the final MOA prepared in consultation with the Ohio Historic Preservation Office.

To date, there have been no substantial revisions to the documentation of adverse effect provided to the Council pursuant to 36 CFR 800.6(a)(1). The summary of the views of consulting parties and the public remains unchanged and may be found in our correspondence of March 29, 2001 informing the Council of the determination of adverse effect.

The MOA includes two measures to minimize adverse effects:

1. HUD will ensure that the agreement transferring 517 Elm Street, 529 Elm Street, and 612 Elm Street shall contain protective covenants stipulating that no future demolition of, alterations to, or physical or structural changes to the two buildings will be performed without the written approval of the Ohio State Historic Preservation Officer. Proposed physical and structural changes are expected to adhere to the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, U.S. Department of the Interior, National Park Service, 1983. Ordinary and necessary repairs and routine maintenance that do not materially affect historic features shall not be considered alterations under the covenant. Such covenants will be written into the deed transferring the property and shall obligate all future heirs, successors or assignees to the property.

2. HUD shall continue to provide security and preventative maintenance for *517 Elm Street, 521 Elm Street, 529 Elm Street, and 612 Elm Street* until such time as they are transferred out of Federal (HUD) control.

These provisions to the MOA ensure that these National Register-listed properties currently in HUD control will receive lasting protection through protective covenants once they leave HUD control.

This filing of the executed MOA completes HUD's responsibilities under Section 106 of the Nation Historic Preservation act.

If you have any questions, please contact me at (817) 978-5556.

Sincerely,



Jeff McGregor
Chief, Management Team
Multifamily PD Center

Enclosure: Signed MOA

cc:

Mike Simon, G&O
Chuck Barnes, AMI
Sandra Davies, OHPO
Laura Dean, ACHP