



November 11, 2023

The Honorable Sara Bronin  
Chair  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001

**Re: Request for Comments on Draft ACHP Policy Statement on Housing and Historic Preservation**

Dear Chair Bronin:

The American Cultural Resources Association (ACRA), the trade association for private firms that specialize in cultural resource management (CRM), appreciates this opportunity to comment on the Advisory Council on Historic Preservation's (Council) Draft Policy Statement on Housing and Historic Preservation.

ACRA-member firms undertake much of the legally mandated CRM studies and investigations in the United States and employ thousands of CRM professionals, including archaeologists, architectural historians, ethnographers, historians, and an increasingly diverse group of other specialists. To help guide smart, sustainable economic development and safeguard important historic and cultural heritage assets, ACRA members apply specialized research skills within a framework of federal, state, local, and/or Tribal law and facilitate an open dialog where every stakeholder has a voice.

ACRA commends the Council for drafting this Policy Statement. Shortages of affordable housing – and the opportunities present in rehabilitating older and historic buildings to address the shortage – must be a national priority, as long as the rehabilitation process follows appropriate preservation review laws, regulations, and policies at every level of government.

ACRA offers the comments below for the Council to consider as it refines its Policy Statement.

### **Gathering Information**

As the Draft Policy Statement points out, “Projects to rehabilitate historic buildings for housing or build new housing may be subject to historic preservation review at the federal, state, and/or local levels. The existence of these processes sometimes gives rise to an assumption that historic preservation reviews will complicate or be a barrier to housing development, particularly of affordable housing. This need not be the case, and when fully integrated into regular project planning and scheduling, such reviews can benefit project development without causing delay or increasing project costs.”

CRM firms find that a primary factor that determines the success and timeliness of Section 106 review is the capacity and experience of government staff for whom the reviews are conducted. It is no secret that state and Tribal historic preservation offices are under-funded and under-staffed. Even at the federal level, there is a wide variety in the practical knowledge of the review process. Furthermore, as staff retire or leave the field, there are significant concerns about whether enough new people with appropriate experience are entering the field to fill those positions.

To that end, ACRA recommends that the Council add, as a topic for study and dissemination, surveying the current and anticipated future state of the public sector preservation workforce, including its capacity to handle reviews in a timely manner and its level of experience with the review process.

### **Accelerate Project Permitting and Environmental Review**

*Supporting State and Tribal Historic Preservation Offices.* In a similar vein to the recommendation above, ACRA believes that an efficient permitting review process depends upon the capacity, in terms of both money and staff, of state and Tribal historic preservation offices to handle an influx of Section 106 review requests. ACRA encourages the Council to add, as a recommendation, that public-serving institutions work to increase funding for preservation offices, particularly at the state and Federal levels. It is notable that this Request for Comments comes at a time when Congress has allowed the federal Historic Preservation Fund's authority to expire, threatening the potential long-term viability of the Fund to support the work of state and Tribal historic preservation offices.

In addition, as noted above, CRM firms often find a wide variation in the level of experience with, and knowledge of, the Section 106 process and other permitting review processes. This is no less true in the federal government as it is at the state and local levels. A timely review process demands that public-sector staff have the necessary training and understanding of how to facilitate a timely but comprehensive process. ACRA recommends that the Council recommend public-serving institutions work to provide more robust training for staff, particularly at agencies with a role in housing issues.

*The Role of Archaeological Investigations.* According to the Draft Policy Statement, “[a]rchaeological investigations should be avoided for housing projects limited to rehabilitation and requiring minimal ground disturbance. For all other projects, archaeological investigation may be needed, as determined in consultation with State and/or Tribal Historic Preservation Officers. Inadvertent discoveries related to any housing project once construction has begun should be addressed in accordance with the Section 106 regulations and the ACHP’s Policy Statement on Burial Sites, Human Remains, and Funerary Objects.”

The phrase “minimal disturbance” in archaeology is a term that can have different meanings in different contexts. While ACRA agrees that in-depth archaeological investigations may not be necessary for many rehabilitation projects, it is important to recognize that most archaeological sites are located on or near the surface where disturbance is the most likely and that historic archaeological sites or features are particularly prevalent adjacent to historic buildings. ACRA recommends that the Council consider developing clear criteria for when

undertakings should trigger a more in-depth archaeological investigation, such as trenching for new utilities or foundation work

In addition, the Draft Policy Statement should make clear that if archaeological surveys are needed, they should be undertaken in consultation with state and/or Tribal historic preservation officers. The Draft Policy Statement also should explicitly address the issue of human remains and when state laws or the Native American Graves Protection and Repatriation Act (NAGPRA) apply.

ACRA appreciates this opportunity to comment on the Draft Policy Statement.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amanda Stratton".

Amanda Stratton  
Executive Director