



Preserving America's Heritage

August 10, 2010

Ms. Jean Cutler
State Historic Preservation Officer
Pennsylvania State Historic Preservation Office
400 North Street
Harrisburg, PA 17120-0093

Re: *Proposed Demolition of the Mellon Arena*
Pittsburg, PA

Dear Ms. Cutler:

We received your letter on June 21, 2010 requesting our advice regarding anticipatory demolition of the Mellon Arena and possible future development of the site. Your letter also inquired whether the Advisory Council on Historic Preservation (ACHP) would be willing to enter into consultation at this early stage before there is a proposed federal action or Federal agency of record. Pursuant to Section 800.2(b)(2) of our regulations ("Protection of Historic Properties" (36 CFR Part 800)), we are providing the State Historic Preservation Office (SHPO) with the following advice for your consideration.

With regard to anticipatory demolition, the information provided about this undertaking does not establish that Section 110 (k) of the National Historic Preservation Act (NHPA) is applicable since there does not appear to be an applicant that has carried out an activity that would require Section 106 review. Further, all discussions regarding the Mellon Arena and its future prospects are more speculative than definitive with no firm assurances, to date, of future Federal funding.

Although the Sports Exhibition Authority (SEA) may anticipate federal funding for the redevelopment of the parking lot, there is no evidence that Federal applications are pending. Therefore, there would be no basis upon which a Federal agency could deny Federal funding as specified in 110(k). For anticipatory demolition to apply, the Federal involvement must be clear along with the intent to take actions to adversely affect a historic property and avoid the requirements of Section 106. While such a linkage is assumed, it would require evidence. Unless SEA has an application which is awaiting Federal review, it is

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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difficult to associate the proposed demolition of Mellon Arena with a Federal statutory requirement such as Section 110(k) of NHPA.

In terms of our involvement in the consultation, we would be amenable to consultation with the SHPO and others when, and if, a Federal action is proposed that is related to the Mellon Arena. Until that time, the ACHP has no jurisdiction over non-Federal actions proposed by local entities. If you have any questions regarding these comments or need further assistance, please contact Najah Duvall-Gabriel at (202) 606-8585, or via email at ngabriel@achp.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlene Dwin Vaughn". The signature is written in a cursive, flowing style.

Charlene Dwin Vaughn, AICP

Assistant Director

Office of Federal Agency Programs

Federal Permitting, Licensing and Assistance Section