



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**New York Division**

May 21, 2009

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NewYork@fhwa@dot.gov

In Reply Refer To:  
HDO-NY

Mr. Ron Rienas  
General Manager  
Buffalo and Fort Erie Public Bridge Authority  
1 Peace Bridge Plaza  
Buffalo, NY 14213-2494

Dear Mr. Rienas:

This letter is in regards to PIN 5753.58 / 05PR00930, Peace Bridge Expansion Project, City of Buffalo, Erie County, New York and Town of Fort Erie, Ontario, Canada—Proposed Building Demolition of seven Busti Avenue properties presently owned by the Buffalo and Fort Erie Public Bridge Authority (Authority), specifically properties 757, 765, 771, 777, 783, 791, & 793. We have recently received letters of concern from the National Trust for Historic Preservation and Assemblymember Sam Hoyt regarding the Authority's proposed demolition of the structures located on these properties. More specifically, the concerns raised stem from an understanding that the Authority plans to demolish the structures on these seven properties prior to the completion of the Section 106 and the National Environmental Policy Act (NEPA) environmental processes for the subject project.

Our analysis and documentation indicates that three of these properties (771, 777, and 793) have been determined to be on or eligible for the National Register of Historic Places. All seven of these properties are located within the boundaries of the preferred alternative (Alternative 1B-R5) for the subject project and as such would require demolition in order to proceed with construction upon completion of the NEPA environmental process. Our Section 106 determination of *Adverse Effect* for Alternative 1B-R5 issued on May 12 has taken into consideration the demolition of these seven properties including National Register eligible properties 771, 777, and 793. It is our understanding that the Authority is considering demolition of these seven properties in the immediate future in an effort to address housing code violations cited by the city of Buffalo and in response to requests from neighboring property owners to attend to hazardous conditions existing on the properties.

Based on our review, it is our recommendation that the Authority does not progress with the demolition of these seven properties until the Section 106 process has been completed for the subject project. Ideally, demolition of these properties should not occur until the NEPA



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environmental process has been completed and the preferred alternative has been selected and identified in the Record of Decision (ROD).

If adverse circumstances arise requiring the immediate demolition of these seven properties prior to the completion of the Section 106 and/or NEPA environmental processes, the Authority should submit to FHWA a written request to do so for our review prior to taking any action. This request should include the following: a justification why immediate demolition of the properties is necessary in lieu of stabilizing and securing the properties; an analysis demonstrating that the immediate demolition of the properties is not predicated or biasing the outcome of the environmental decision making process; certification that no further project development activities will occur on the properties beyond what is necessary to safely demolish the structures; and any supporting documentation used by the Authority in reaching the decision that immediate demolition of the properties is required.

Upon receipt of the Authority's request, the Federal Highway Administration will coordinate with the Advisory Council on Historic Preservation (Council) and the New York State Historic Preservation Office (SHPO) regarding the demolition of the properties eligible for the National Register. FHWA will seek approval from the council to proceed with the demolition prior to the Section 106 process being completed in order to fulfill our responsibility established under Section 110(k) of the National Historic Preservation Act (NHPA) and 36 CFR 800.9 (c).

Our review and approval of any request to demolish the seven properties prior to the completion of the Section 106 and/or NEPA environmental processes will be needed in order to ensure Federal-aid funds will not be in jeopardy for this project.

If you have any questions, please feel free to contact me at (518) 431-4125, Extension 250.

Sincerely,

/Original signed by/

Robert M. Davies  
Upstate Team Leader

cc:

Farhan Haddad, NYSDOT Major Projects Office  
Alan E. Taylor, P.E., Regional Director, NYSDOT Region 5  
Carol Legard, ACHP  
Reid Nelson, ACHP  
Ruth Pierpont, NYSOPRHP / SHPO  
Mary Ann Naber, Federal Preservation Officer, FHWA  
The Honorable Sam Hoyt, Member of Assembly, 144<sup>th</sup> District, State of New York  
Roberta Lane, Program Officer and Regional Attorney, National Trust for Historic Preservation