

## **The Property Problem** **Confidential Facts: Williams**

Mark Williams (“Williams”) has owned the Samuel Hamilton Estate (“Hamilton Estate”) for almost twenty years. In those years, he has taken a dilapidated structure and restored it to its 1750s glory. His work represents a labor of love, but the repairs have been incredibly expensive. Even worse, his hard work on those improvements increased the value of the home beyond his ability to pay the property taxes on it. As a result, Williams is cash-strapped and in need of relief.

Williams has a few thoughts on how to get out of his financial predicament. One option is to sell the property, but to find a willing buyer, it is likely he would either need to sell it without its placement on the Register, or the historic preservation easement would need to have as few restrictions on it as possible. Williams already has a potential buyer – Johnny Smurkus – who offered to pay \$525,000 for the property. The Hamilton Estate was last appraised for about \$550,000. Williams is nervous about Smurkus because he seemed more interested in the land around the property and didn’t seem to care about all of the improvements that Williams made over the years. Smurkus also expressed little interest in the home’s rich history.

Williams would prefer not to sell the Hamilton Estate, but he doesn’t know how he can afford it. The maintenance has just become too expensive.<sup>1</sup> Because he cannot afford to pay anyone else to do the work, he has been making all the upgrades and doing all the maintenance on his own. However, Williams just married a woman with three children and took a new job in neighboring North Virginia, and with the hour commute each way and his new familial responsibilities, he no longer has the time to do the maintenance himself. Over the past five years, he spent on average \$2,000 each year on materials for upkeep; with labor costs, he projects he will need to spend \$5,000 a year in the future (\$2,000 on materials and \$3,000 on labor). Additionally, the house needs a new roof. It currently has asphalt shingles, which are not historically accurate. If he uses traditional slate shingles that the original house would have had, the roof will cost him \$30,000. He only has \$20,000 set aside for the roof.

Williams is hoping that inclusion on the Register will alleviate his financial condition. He needs the DHR to intervene with the county and get his taxes assessed at a lower “historic” rate. He thinks that the statute allows the DHR to pressure the county to lower his taxes (hopefully to nothing). He is currently paying \$7,500 a year in county property taxes and \$8,000 a year in state property taxes. He can only afford \$5,500 total in taxes. If the DHR cannot or will not agree to his terms, he will be forced to sell the property to Smurkus. Williams also needs financial help with the annual upkeep of the property. He can afford up to \$2,500 a year, but he needs help with the additional \$2,500 each year.

One of Williams’s concerns with his property being put on the Registry is the amount of control that the DHR will have over the appearance of the house. He has made some choices over the years that are not perfectly historical, and he wants the freedom to keep those changes and some control over future changes. He will only agree to restrictions if they give him flexibility on the following:

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<sup>1</sup> A historic house like this requires constant maintenance, including, but not limited to, painting, fixes to plumbing and fixtures, and constant repair of flooring and walls.

- **Paint Color:** Because Williams must paint the house every few years, he wants as broad of a choice for color palette as possible. Specifically, he would like at least ten colors to choose from.
- **Materials:** Williams has used and will continue to use historic building materials, such as brick and wood. But he insists on using modern sealants and paint that allow the house to go several years between re-painting.
- **Landscaping:** Williams wants to keep the landscaping as it currently stands, especially the historic boxwood trees that line the edge of the property. These boxwood trees are descendants of the original boxwood trees planted by Hamilton in 1754 and have significant historic and monetary value. He might be willing to move them and might even be willing to allow the DHR to use some at other properties, but only if his other demands are met. He would like to keep at least two in the back to provide shade.
- **Accessibility:** Williams will not agree to change the accessible entrance in the back of the house, as his stepson uses a wheelchair.
- **Alienation:** Williams is concerned about the number of restrictions on who he can sell the property to. He concedes that a restriction on credit score (above 700) and down payment (20%) make sense because maintaining the house is so expensive. He might be open to other “reasonable” restrictions but would need to know what those are before agreeing.

Last year, Williams became a member of an online group of people who own historic houses. As part of that group, he has come to know most of the members very well and knows that the DHR has unsuccessfully reached out to many of them about putting their own properties on the Register. He is particularly friendly with the owners of the Alexander Adams House, the Jefferson Franklin House, and the Madison Monroe House. He also knows that the DHR has repeatedly attempted to convince all three homeowners to include their properties on the Register. After repeated discussions with them, he knows that each homeowner will only agree to place their house on the Register if it is also included in the Greater Atlantic Historical Register (“GAHR”). Williams knows that inclusion on the GAHR brings additional benefits, though he’s not exactly sure what those benefits might be. He might be interested in the Hamilton Estate’s inclusion, but it is not critical to the agreement.

Williams is trusting you to make a deal for him that will allow him to stop struggling financially with this house. He tried to see other deals that the DHR has made, but he cannot find any. He is guessing that the DHR requires confidentiality as part of its agreement. He is fine with not talking about his agreement if the DHR is generous with the terms of its agreement.