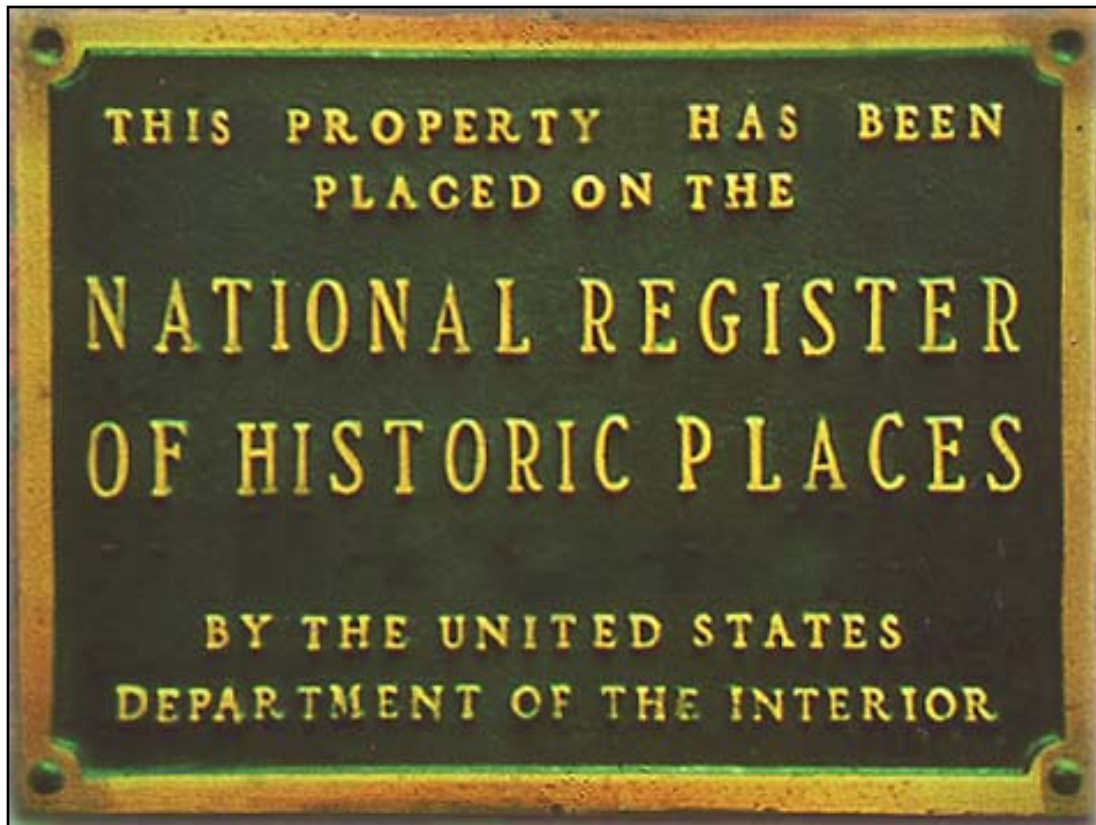




The Local Landmarker

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On the Cover: The National Register of Historic Places is the most widely known, but probably most misunderstood program in the National Park Service's Historic Preservation responsibilities. Inside, the main article discusses the basic concepts of National Register listing, and how it significantly differs from local landmarking or designation.

From the Coordinator

This issue

No, this issue of *The Landmarker* is not actually listed on the National Register. However, how many times have you seen such a marker but not fully understood what National Register listing means? Many people do not understand the difference between National Register listing and local landmarking or designation. This issue will address the difference and meaning of both, and also address what it means to be individually listed or in a historic district for both National Register and locally designated buildings. Hopefully by the end you can answer any National Register or local landmarking question from a property owner, local government officials, or even other commission members!

Other News

Awards from the FY 2010 CLG grant round should be announced after the first of the year. In the meantime, don't be caught napping for the next round! Historic resource surveys are always good CLG grant ideas, particularly if your survey is outdated, or you've never had one done. Local educational materials are also excellent, providing the public with information to make your job easier and polish the image of your preservation program. Some of the more creative and high impact projects over the past few rounds have been workshops that provided training for more than one commission. Buffalo recently hosted a CLG grant assisted CAMP (Community Assistance and Mentoring Program), a training program through the National Alliance of Preservation Commissions (NAPC). This training was open to CLGs in the surrounding area, and attendees included members of the Buffalo, North Tonawanda, Lockport, East Aurora, Hamburg, and Lancaster Commissions. It was an excellent day-long program taught by nationally known preservation commission trainers.

Many of you know Lorraine Weiss in our office from working with her regarding annual reporting, the Listserv, and other CLG matters. Look for her to be in the field in 2010, undertaking Audits of existing CLGs (See the Summer 2009 *Landmarker*), and meeting with interested communities and groups about local preservation and the CLG program. The size of the CLG program, and interest in the program are both begging for more than just me to cover the state, and Lorraine will be stepping up to work in the field as well as the office. I'll still be out and about, so look for me as well!



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National Register Listing and Local Designation: Understanding the Differences.

The National Register of Historic Places

“The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the National Park Service's National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.” National Register of Historic Places Website, “About”, accessed 11-30-09, <http://www.nps.gov/nr/about.htm>

The National Register is the nation's official list of properties significant in history, architecture, engineering, landscape design, archeology, and/or culture within local, state, or national contexts. These properties can be large, small, urban, rural, individual buildings, collections of buildings, archeological sites, structures, houses, boats, parks, cemeteries.....as you can see the nature of what can listed is pretty wide. However, many people continue to be confused by what being on the Register means, and how it differs from being designated by a local preservation commission.

While it is a national level program, it is administered at the state level by each State Historic Preservation Office (SHPO). That means that the office works with interested individuals and groups in assisting people with developing National Register nominations.

The following sections are taken from our office's *“Frequently Asked Questions about the National Register”*, developed from our experiences from answering inquiries about the National Register. For a program that has been around since 1966, there still remains a lot of confusion and misunderstanding about the Register, the nomination process, and what it means to be listed.

How are properties placed on the National Register?

To begin, an application must be submitted to the SHPO for evaluation. Typically, National Register staff at the SHPO has already been in touch with a nomination sponsor, which can be a property owner or an interested person or group, and has worked with them to determine the potential eligibility of a property or properties for the Register. If the property is determined eligible for listing, the nomination sponsor is then responsible for providing documentation that describes the property's setting and physical characteristics, documents its history, conveys its significance in terms of its historic context and demonstrates how it meets the Register criteria. Staff then works with the nomination sponsor to ensure the completeness of the application. Once complete, the nomination is reviewed by the New York State Board for Historic Preservation. If the board recommends the nomination, the New York State Historic Preservation Officer (In New York, that is the Commissioner of the Office of Parks, Recreation and Historic Preservation) forwards it to the National Park Service for review and listing on the National Register

What kinds of properties can be included in the register?

As noted above, many different types of historic resources can be listed on the Register. Buildings and structures such as residences, churches, commercial and mixed used buildings; sites such as cemeteries, landscapes and archaeological sites; districts or groups of buildings, structures or sites that are significant as a whole, such as farmsteads, residential neighborhoods, industrial complexes

and cultural landscapes; structures such as water towers, bridges, fire towers, and in one listing, a radar antenna; and objects such as fountains and monuments.

What qualifies a property for listing?

The Register criteria recognize the value of all aspects of our state and nation's diverse culture. Properties must represent a significant historic theme (such as architecture, agriculture, industry, transportation) and retain sufficient physical integrity to illustrate their association with that theme. Using the Register criteria, a property or properties must possess integrity of location, design, setting, materials, workmanship, feeling and association. Typically, a resource must be at least 50 years old before it can be evaluated for eligibility. This time period is used to establish perspective and to provide for a more dispassionate evaluation of its eligibility. Properties less than 50 years of age are not typically considered eligible for listing, but exceptions can be made for recent properties of exceptional significance. A fairly recent example of this is the former New York State Pavilion that was constructed for the 1964-65 World's Fair. The Pavilion is significant for its association with the New York 1964-1965 New York World's Fair; it is a physical manifestation of the political, planning, and development interests of Nelson Rockefeller and Robert Moses; it is one of the most important and popular works of the modern architect Philip Johnson, and; it is an outstanding example of the innovative structural achievements of the firm of the engineering firm Lev Zetlin Associates. At the time of listing it was only 45 years of age, but its associations raise to the level of National Register listing.

What is a historic district?

A historic district is a group of buildings, structures, and sites related architecturally and/or historically. A district may include any number of properties, and can represent such things as a residential area that developed as an early streetcar suburb, a cohesive commercial "Main Street", a historic industrial area, or a rural area that has retained its historic use and agricultural land patterns. Proposed districts must retain integrity to their period of significance. Boundaries are established on the basis of significance and integrity. One of the more confusing things to people about historic districts is that within a district, there can be both contributing and non-contributing buildings and resources. Contributing resources are those that have integrity and contribute to the understanding of the district's "story". Non-contributing resources may be those that later buildings not associated with the original "theme", or older buildings were remodeled or altered in such a way as to impact their integrity. A "contributing" building or resource has the same status in the National Register as if it were individually listed.

Can an owner object to his or her property being listed on the register?

An individual privately owned property cannot be listed over the objection of its owner. Likewise, a proposed historic district cannot be listed over the objection of a simple majority (51%) of owners. However, it is the policy of the SHPO to work closely with nomination sponsors and communities to provide information about the registers program and opportunities for comment. We find that opposition is sometimes based on misconceptions or misunderstandings about what listing means, and that education can be key in resolving a property owner's concerns.

What are the benefits of being listed on the registers?

The National Register is a recognized and visible component of public and private planning. The register promotes heritage tourism, economic development and appreciation of historic resources. Some benefits of listing include:

- Official recognition that a property is of significance to the nation, the state, or the local community.
- Raising the community's awareness and pride in its past.
- Owners of historic commercial and rental properties listed on the National Register may qualify for a federal preservation tax credit. The Tax Reform Act of 1986 allows a 20 percent tax credit for the substantial rehabilitation of income-producing historic properties. The work performed must meet federal preservation standards.
- There is also a 20 percent New York State Credit that is available for the rehabilitation of historic commercial and rental properties listed on the National Register
- There is a New York State tax credit for owner/occupants of historic residential buildings that are listed on the National Register and also meet other program criteria
- Not-for-profit organizations and municipalities that own listed properties are eligible to apply for New York State historic preservation grants. There are additional public and private grant programs that also use listing on the register as part of their criteria for application and award. .
- Properties that are either listed on the Register or are determined for the Register receive a measure of protection from state and federal undertakings. Under state and federal law, state and federal agencies must consult with the SHPO to avoid, minimize, or mitigate adverse effects to listed or eligible properties.

Will Register listing prevent an owner from undertaking alterations or changes?

Listing on the Register does not prevent a property owner from remodeling, altering, painting, managing, selling, or even demolishing a historic property. I've heard people say "don't put my building on the National Register – it will restrict my ability to do as I please with my property!" Restrictions on what an owner can do with when that is never an outcome of Register listing. Of course, if a property is locally designated, there may be such protections in place (see *How does National Register listing differ from local landmark designation?* below).

As noted above, however, if state or federal funds are used, or if a state or federal permit is required, and the property is determined eligible for National Register listing, or is listed on the National Register, any proposed work will be reviewed by the SHPO staff.

Must owners of listed buildings open their buildings to the public?

No. There is absolutely no requirement to open listed properties to the public. This is an old tale, told in almost every place I've lived. I'm not sure where it originated, but it certainly persists, and is continually making its reappearance.

Will a property owner be able to leave his property to his children or anyone else he/she wishes?

Yes. Listing on the registers in no way affects the transfer of property from one owner to another. As far as selling a house listed on the National Register, studies have shown that listing a house or a district on the National Register has had no impact on price or salability. In fact some studies suggest that the recognition given houses by being listed can actually be a successful marketing angle for a savvy homeowner or realtor. There always is a set of potential owners looking for a house with history or historic character.

Will listing on the National Register, either individually or in a historic district, affect local property taxes or zoning?

No. Listing has no direct bearing on any of these actions. All local property taxes and zoning matters are the exclusive reserve of the local government.

How does listing protect a building and its surroundings?

The registers are a valuable tool in the planning of publicly funded, licensed or permitted projects. Government agencies are responsible for avoiding or reducing the effects of projects on properties that are eligible for or listed on the Register. Listing raises awareness of the significance of properties, helping to ensure that preservation issues are considered early and effectively in the planning process.

How does National Register listing differ from local landmark designation?

As can be seen in the questions and answers above, National Register listing is quite different from local designation. National Register listing is an honorific that recognizes and officially records the architectural, historic, cultural, or other significant of an historic resource. It can provide an entrée into tax incentive programs, grants, or other such benefits, but otherwise, it does **not** place any obligations on the property owner, and in the event of a wholly privately funded project, prevent any alterations, or changes, up to and including wholesale demolition.

A municipality that has adopted the New York State Model Historic Preservation Ordinance, through its commission, can:

- Designate a local historic landmark or district that meets the criteria stated in the local law without owner consent, which differs directly from National Register Processes.
- Require the owner of a property locally designated as a historic resource to come before historic preservation review for any proposed work other than normal maintenance and repair, unlike National register listing, which has no such requirement
- Actively pursue surveys of local resources in order to ascertain those may meet local designation criteria, either as individual resources or districts.
- Through local designation, enable the use of a local property tax abatement program for designated properties (if it has adopted the state enabling legislation), but NOT the federal and state tax credit.

Other differences between National Register listing and local designation include the following:

- A local historic preservation law is a local action, decided upon and enacted (or not enacted) by a local government. It is not required or mandated by any other governmental body outside the municipality. The National Register was created by the United States Government as part of the National Historic Preservation Act of 1966, and is administered at the state level by the New York SHPO, and is independent of local governmental action
- Local designation does not trigger review by the SHPO when a federal or state funded, permitted or licensed undertaking (road widening, housing development, cell tower construction, etc.) occurs at or near a local landmark or landmarks. Only National Register listing or eligibility triggers those necessary reviews under the appropriate federal or state preservation law.

Does Local Designation lead to National Register listing, and vice versa?

No: Local designation does not necessary lead to National Register listing, and conversely, National Register listing may not lead to local designation. The two processes are separate and distinct, and are not linked. However, there is likelihood of some overlap, since the National Register listing

criteria is reflected in the Model Law designation criteria. However, there are many properties on the Register than may never be locally designated, and likewise, there are many local designations that may never be listed on the National Register. This is an important point to consider. Recently we received a question about a local resource that is considered significant to a municipality's history due to local associations with industry, personages, etc. That same resource was reviewed by the National Register staff here at the State Historic Preservation Office due to state and federal funding, and determined non-eligible for listing on the National Register. This determination may be disappointing to friends and advocates of the resource, but in no way negates the possibility of it being locally designated as a local landmark. Local historic preservation is exactly that – local. A local preservation commission determines what is important to the municipality, and using the criteria in the local law, designates properties. As noted above, National Register listing and local designation are entirely separate and distinct.

Local Certified Districts: A useful but confusing similarity

Local designation in itself does not enable a property owner to take advantage of either state or federal tax incentive programs. However, there is a process wherein locally designated districts can be “certified” by the National Park Service. At that point, the local district becomes a “Local Certified District”. This is recognition by the Park Service (who is ultimately responsible for the National Register) that the local district has been documented essentially to the same level as a nomination for a National Register District. Note that this is different and far beyond in format and backup materials of the process that typically happens for local designation only. **The main benefit of a Local Certified District is that it allows owners of properties within such a district to take advantage of the federal tax credit.** The regulations for the New York State Tax Credits are still being written as of this newsletter, but it is expected that properties within a Local Certified District will also be able to use those credits as well.

Why would a local municipality pursue such a district? As noted before, it allows the use of tax incentives for areas where a majority of property owners would have potentially opposed National Register listing. Since the New York State Model Preservation Law does not require owner consent for local designation, this is a way that a local commission can act for the good of property owners, enabling the use of incentives that might otherwise be blocked. This is also an example where misconceptions of the impacts of National Register Listing can act to deprive property owners of an important benefit of listing.

The New York State Register of Historic Places

In addition to the National Register, New York State maintains its own Register of Historic Places. This register was created in 1980 as part of the New York State Historic Preservation Act. It is largely analogous to the National Register, since it uses the same criteria. During the National Register process, once a nomination has been approved by the New York State Board for Historic Preservation, and signed by the State Historic Preservation Officer, it is placed on the State Register. The nomination then goes to the National Park Service for their concurrence review and listing of the property on the National Register.

The Final Word (And Words to Use)

Knowing the differences between local designation and National Register listing is important in talking to property owners about the benefits of either. We rely on our Certified Local Governments to be important sources of historic preservation information for their communities, to aid in correcting misconceptions about historic preservation and promoting programs of interest and

benefit to property owners. Getting the nomenclature of each program right is important. There is a real difference between creating a local landmark or designation and listing a property on the National Register of Historic Places, and you should be careful to use the right terms. At SHPO, when we speak of a historic resource protected at the local level under local law, we typically say it is “locally designated”, or “locally landmarked”. A resource on the National Register is either “listed on the National Register”, or simply “listed”. These different terms help us keep the processes, benefits, and implications of the programs separate, and they may help your commission as well.

REMEMBER:

National Register Listing is a federal program operating under federal laws. The State Historic Preservation Office oversees the program at the state level, but it is ultimately the National Park Service that places a property on the Register. Register listing is an honor that recognizes and records the historic significance of a historic resource or collection of resources. It can provide access to funding or incentive programs, but does not provide any protection in the case of privately undertaken projects that could harm the architectural character of the building or its surrounding community.

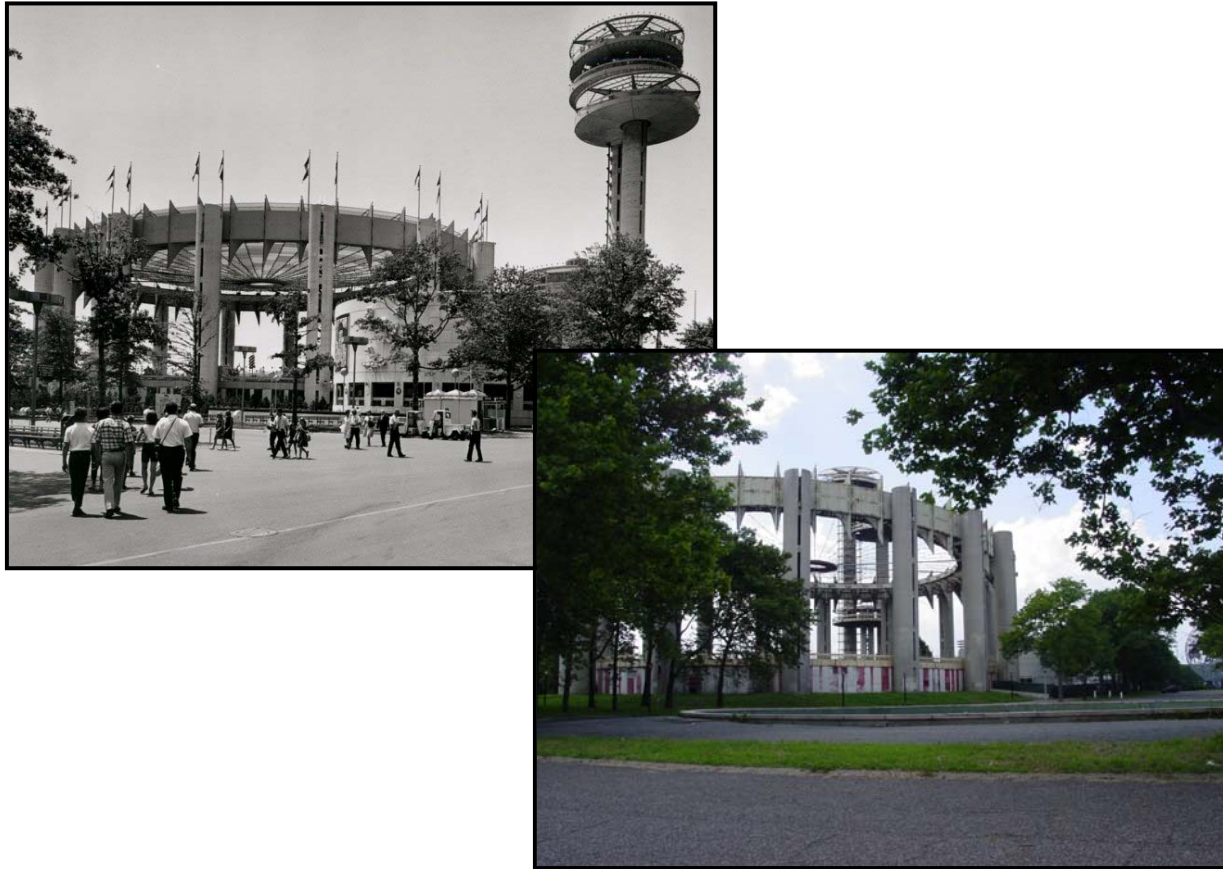
Local Designation is the primary tool wherein local historic resources important to the character and well being of a community are protected. The designation process is undertaken using a local law, and is a local program, overseen by a local preservation board or commission. The designation provides protection of character defining features and materials, regardless of the funding source. At SHPO we consider local historic preservation board and commissions the “front line” in the preservation of our shared historic heritage.

So, with that information in hand, be sure that as a commission or board member you are clear on the distinctions and differences between National Register listing and local designation. You are the first point of contact for most of your neighbors in matters regarding historic preservation, and can go far in helping them understand the tools and benefits available as you all work together to maintain your Village, City, Town, or County’s historic resources and sense of place.

Featured Website

If you haven't checked out our own website lately, please do so! The entire agency has recently overhauled its online presence to make it more attractive, user friendly, and interesting. The State Historic Preservation Office site has added preservation projects of interest, news relating to historic preservation, and access to our new 2009-2013 New York State Historic Preservation Plan. We are also working on posting user activated educational Powerpoint presentations and videos on matters important to the New York State historic preservation community. The Certified Local Government Section has been expanded, with access to all past *Local Landmarkers*, and other resources. We are always looking for improvements, so let us know what you would like to see online to help you in your local preservation duties.

<http://www.nysparks.state.ny.us/shpo/>



Here: Two views of the National Register listed New York State Pavilion, designed by Phillip Johnson and constructed for the 1964-1965 New York World's Fair. The one at the left is taken from a contemporary fair post card, showing it when new. It was one of the most striking and popular buildings of the fair, with theatrical presentations, demonstrations, and art exhibits. The floor of the "tent" was a giant road map of New York State. It was a favorite activity of New York fairgoers to have their picture taken standing on or by their hometown. The photo on the right is the Pavilion today, suffering from deterioration and neglect. Its listing on the National Register will bring new attention and recognition for this complex, and hopefully spur its restoration.

The Back Page

In keeping with last issue's Featured Website (the National Trust for Historic Preservation's Weatherization Guide for Older and Historic Buildings) comes another resource for historic preservation commissions dealing with the recent emphasis on energy efficiency and its potential impact on historic resources. With so many misconceptions about historic buildings and energy conservancy, the organization Clean Air-Cool Planet has produced a document entitled "Energy Efficiency, Renewable Energy, and Historic Preservation: A Guide for Historic District Commissions." In the forward to the report, they state their mission and the purpose for the production of the report:

"Clean Air-Cool Planet is a non-profit organization based in Portsmouth, New Hampshire that works to find practical solutions to the global climate change problems through civic engagement, education, and effective policy. Clean Air-Cool Planet works with Local Energy Committees (LECs) in numerous New England communities, and often fields questions regarding the treatment of historic resources in these towns. This guide is an attempt to answer these questions, by starting conversations between communities of experts in preservation and energy efficiency."

The report is an excellent guide to traditional passive energy saving features of historic buildings, as well to retrofitting existing buildings. You can download the report for free on their website, as well as sign up for a webinar introduction to its contents. The web address for the report is:

http://www.cleanair-coolplanet.org/for_communities/HDCGuide.pdf